

TENTATIVE AGENDA

REGULAR CITY COUNCIL MEETING
CITY HALL
COUNCIL CHAMBERS
105 E. CENTER ST., SIKESTON MO
MONDAY, NOVEMBER 6, 2023
5:00 P.M.

- I. CALL TO ORDER
- II. RECORD OF ATTENDANCE
- III. OPENING PRAYER
- IV. PLEDGE OF ALLEGIANCE
- V. APPROVAL OF CITY COUNCIL MINUTES
 - A. Regular Council Minutes September 25, 2023
 - B. Regular Council Minutes October 2, 2023
- VI. ITEMS OF BUSINESS
 - A. 2nd Reading & Consideration, Bill #6324, Replat Tract 1 and Tract 2 of South Main Montgomery Plaza Subdivision from Two Parcels to One Parcel
 - B. 2nd Reading & Consideration, Bill #6325, Request to Vacate Utility Easements on Lot 1 of South Main Montgomery Plaza Subdivision
 - C. 2nd Reading & Consideration, Bill #6326, Request to Remove South Boundary Line of Tract 3 of South Main Montgomery Plaza Subdivision Combining Two Parcels into One Parcel
 - D. 2nd Reading & Consideration, Bill #6328, Creating Chapter 800 – Video Service Provider
 - E. 1st Reading, Bill #6322, Floodplain Regulations Amendments
 - F. Other Items as May Be Determined During the Course of the Meeting
- VII. ADJOURNMENT

Dated this 1st day of November 2023.

Rhonda Council

Rhonda Council, City Clerk

The City of Sikeston complies with ADA guidelines. Notify Rhonda Council at 471-2512 (TDD Available) to notify the City of any reasonable accommodation needed to participate in the City Council's Meeting.

REGULAR CITY COUNCIL MEETING
SEPTEMBER 25, 2023

The regular Sikeston City Council meeting of September 25, 2023 was called to order at 5:00 p.m. at City Hall located at 105 E. Center St., Sikeston. Present at the meeting were: Mayor Greg Turnbow, David Teachout, Onethia Williams, John Leible, Vest Baker, Ryan Lindsey, and Tom Robison. Staff in attendance were: City Manager Jonathan Douglass, City Counselor Tabatha Graham, City Clerk Rhonda Council, Finance Director Amanda Groves, Public Works Director Jay Lancaster, Street Superintendent Brian Dial, Street Supervisor Darren Martin, Community Development Director Barry Blevins, Public Safety Director James McMillen, and Public Safety Captain Derick Wheatley.

OATH OF OFFICE CEREMONY

City Clerk Rhonda Council conducted the oath of office ceremony to swear in citizens appointed to various City Boards and Commissions.

ITEMS OF BUSINESS

Reassignment of Airport Lease

James Lincoln & Associates own an airport hangar at the airport and currently pay \$2,688.00 per year for their ground lease which is set to expire May 31, 2042. Mr. Lincoln is requesting to assign the lease to James Ferris per Section 13. Mr. Ferris would like to enter into a new lease with the City once the sale of the hangar is completed.

Councilman Robison moved to approve assigning the airport ground lease to James Ferris. The motion was seconded by Councilwoman Williams, discussed and the following roll call vote recorded:

Baker Aye, Leible Aye, Robison Aye, Lindsey Aye, Teachout Aye,
Williams Aye, and Turnbow Aye, thereby being passed.

Authorization to Enter into Memorandum of Understanding with Board of Municipal Utilities for American Rescue Plan Act (ARPA) Funding

Sikeston Board of Municipal Utilities along with the Sikeston Area Economic Development Corporation applied for grant funds to be used toward the wastewater expansion project in Sikeston's North Industrial Park. The City of Sikeston was awarded \$2.5 million dollars for this project.

This Memorandum of Understanding authorizes the Board of Municipal Utilities to use the \$2.5 million awarded by the Missouri Department of Economic Development with funding from the American Rescue Plan Act Coronavirus State Fiscal Recovery Fund (CFDA#21.027) for improvements to the wastewater treatment plant located in the North Industrial Park.

Councilman Robison moved to approve authorization to enter into an agreement with Board of Municipal Utilities to use the \$2.5 million dollars awarded to the City of Sikeston for improvements to the wastewater treatment plant located in the North Industrial Park. The motion was seconded by Councilman Leible, discussed and the following roll call vote recorded:

Baker Aye, Leible Aye, Robison Aye, Lindsey Aye, Teachout Aye,
Williams Aye, and Turnbow Aye, thereby being passed.

Resolution 23-09-01, Scott County 2024 Hazard Mitigation Plan

RESOLUTION 23-09-01

A RESOLUTION OF THE CITY OF SIKESTON, MISSOURI ADOPTING THE SCOTT COUNTY 2024 HAZARD MITIGATION PLAN.

WHEREAS, The City of Sikeston recognizes the threat that natural hazards pose to people and property within the City of Sikeston; and

WHEREAS, The City of Sikeston has prepared a multi-hazard mitigation plan, hereby known as the 2024 Scott County Hazard Mitigation Plan in accordance with federal laws, including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended; the National Flood Insurance Act of 1968, as amended, and the National Dam Safety Program Act, as amended; and

WHEREAS, The 2024 Scott County Hazard Mitigation Plan identifies mitigation goals and actions to reduce or eliminate long-term risk to people and property in the City of Sikeston from the impacts of future hazards and disasters; and

WHEREAS, Adoption by the City of Sikeston demonstrates their commitment to hazard mitigation and achieving the goals outlined in the 2024 Scott County Hazard Mitigation Plan.

NOW THEREFORE, BE IT RESOLVED that in accordance with the City of Sikeston policies, the City of Sikeston adopts the 2024 Scott County Hazard Mitigation Plan. While content related to the City of Sikeston may require revisions to meet the plan approval requirements, changes occurring after adoption will not require the City of Sikeston to re-adopt any further iterations of the plan. Subsequent plan updates following the approval period for this plan will require separate adoption resolutions.

Because the majority of the city falls within Scott County, the New Madrid County plan will contain a reference to that fact and that Sikeston's hazards are contained in the Scott County plan.

Councilman Robison moved to approve Resolution 23-09-01, acknowledging the City's participation in the 2024 Scott County Hazard Mitigation Plan which is updated every five years as a requirement to receive certain FEMA disaster mitigation and recovery funds.. The motion was seconded by Councilman Baker, discussed and the following roll call vote recorded:

Baker Aye, Leible Aye, Robison Aye, Lindsey Aye, Teachout Aye,
Williams Aye, and Turnbow Aye, thereby being passed.

Authorization to Purchase Road Salt

This year staff received bids for 250 tons of salt from two vendors, Cargill and Swinter Group. The low bid was from Cargill Inc. with a price of \$108.18/ton for a total purchase of \$27,045.00. We are requesting that the City Council authorize the purchase of 250 tons of road salt from Cargill at a price of \$108.18/ton.

Councilman Lindsey motioned to authorize the purchase of road salt from Cargill Inc. in the amount of \$27,045.00. The motion was seconded by Councilman Leible, discussed and the following roll call vote recorded:

Baker Aye, Leible Aye, Robison Aye, Lindsey Aye, Teachout Aye, Williams Aye, and Turnbow Aye, thereby being passed.

Interim Appointment to Board of Municipal Utilities

City staff received notice from Brian Menz of his desire to resign as a member of the BMU Board. Mr. Menz term will expire in October 2024, leaving his unexpired term to be filled. There are currently seven resource bank applications on file: Chad Crowe, Missy Marshall, Yolanda Redd, Larry Hancock, Frankie Adams, Pershard Owens and Austin Curtis. Councilman Baker nominated Chad Crowe for appointment to the BMU Board. Councilman Leible seconded the nomination. No other nominations were made.

Councilman Teachout motioned to appoint Chad Crowe to the BMU Board for an interim term expiring October 2024. The motion was seconded by Councilman Lindsey and the following roll call vote recorded:

Baker Aye, Leible Aye, Robison Aye, Lindsey Aye, Teachout Aye, Williams Aye, and Turnbow Aye, thereby being passed.

ADJOURNMENT INTO EXECUTIVE SESSION

There being no further business before the City Council, Councilman Teachout moved to adjourn into Executive Session. The motion was seconded by Councilman Leible and the following vote was recorded:

Baker Aye, Leible Aye, Robison Aye, Lindsey Aye, Teachout Aye, Williams Aye, and Turnbow Aye, thereby being passed.

ADJOURNMENT INTO EXECUTIVE SESSION

Present at the Executive Session meeting were: Mayor Greg Turnbow, David Teachout, Onethia Williams, John Leible, Ryan Lindsey, Vest Baker and Tom Robison. Staff in attendance were: City Manager Jonathan Douglass, City Counselor Tabatha J. Graham, City Clerk Rhonda Council, Finance Director Amanda Groves, Public Works Director Jay Lancaster, Building Maintenance Supervisor Billy Smith, Public Safety Director James McMillen and Community Development Director Barry Blevins.

Councilman Leible motioned to lease the parking lot located on the south side of West Center St. from DAEOC at no cost for thirty (30) years. The motion was seconded by Councilman Baker, discussed and the following roll call vote recorded:

Baker Aye, Leible Aye, Robison Aye, Lindsey Aye, Teachout Aye, Williams Aye, and Turnbow Aye, thereby being passed.

Councilman Teachout motioned to authorize a General Warranty Deed with the Chamber of Commerce to transfer ownership of the old DPS/Post Office building from the City of Sikeston to the Chamber of Commerce. The motion was seconded by Councilman Leible, discussed and the following roll call vote recorded:

Baker Aye, Leible Aye, Robison Aye, Lindsey Aye, Teachout Aye, Williams Aye, and Turnbow Aye, thereby being passed.

Council asked City staff talk with Buchheit to see if they have an interest in purchasing the old Essex Building they are currently leasing. Their lease agreement ends February 1, 2025.

ADJOURNMENT OUT OF EXECUTIVE SESSION

There being no further business before the City Council, Councilman Teachout moved to adjourn out of Executive Session. The motion was seconded by Councilman Robison and the following roll call vote was recorded:

Baker Aye, Leible Aye, Robison Aye, Lindsey Aye, Teachout Aye,
Williams Aye, and Turnbow Aye, thereby being passed.

ADJOURNMENT

There being no further business before the City Council, Councilman Baker moved to adjourn. The motion was seconded by Councilman Leible and the following roll call vote was recorded:

Baker Aye, Leible Aye, Robison Aye, Lindsey Aye, Teachout Aye,
Williams Aye, and Turnbow Aye, thereby being passed.

APPROVED:

GREG TURNBOW, MAYOR

ATTEST:

RHONDA COUNCIL, CITY CLERK

SEAL:

REGULAR CITY COUNCIL MEETING
OCTOBER 2, 2023

The regular Sikeston City Council meeting of October 2, 2023 was called to order at 5:00 p.m. at City Hall located at 105 E. Center St., Sikeston. Present at the meeting were: Mayor Pro Tem Onethia Williams, John Leible, Tom Robison, Ryan Lindsey, and David Teachout. Mayor Greg Turnbow and Councilman Vest Baker were absent. Staff in attendance were: City Manager Jonathan Douglass, City Counselor Tabatha Graham, City Clerk Rhonda Council, Finance Director Amanda Groves, Public Works Director Jay Lancaster, Street Superintendent Brian Dial, Street Supervisor Darren Martin, Community Development Director Barry Blevins, Public Safety Director James McMillen, and Captain Jon Broom.

APPROVAL OF CITY COUNCIL MINUTES

City Council minutes of the regular meeting of July 5, July 31 and August 28, 2023 were presented for approval. Councilman Teachout moved to approve the minutes as presented. Councilman Leible seconded the motion and the following vote was recorded:

Baker Absent, Leible Aye, Robison Aye, Lindsey Aye, Teachout Aye,
Williams Aye, and Turnbow Absent, thereby being passed.

ACCEPTANCE OF BOARD AND COMMISSION MINUTES

Minutes from various board and commission meetings were presented to the City Council. Councilman Leible moved to approve the minutes as presented. The motion was seconded by Councilman Lindsey and voted as follows:

Baker Absent, Leible Aye, Robison Aye, Lindsey Aye, Teachout Aye,
Williams Aye, and Turnbow Absent, thereby being passed.

OATH OF OFFICE CEREMONY

City Clerk Rhonda Council conducted the oath of office ceremony to swear in citizens appointed to various City Boards and Commissions.

ITEMS OF BUSINESS

Award Domestic Violence Surcharge Funding

In 2002, the State established a funding source for domestic violence abuse shelters. A \$4.00 Domestic Violence Shelter Surcharge was placed on all municipal court convictions. These funds are retained by the City and distributed via an application process to domestic violence shelters serving the municipality.

On September 18, 2023 the House of Refuge for Abused and Battered Women submitted an application for funding in the amount of \$7,500. This amount would be distributed on a monthly basis during calendar year 2024. Their application meets all municipal requirements, and if Sikeston's municipal court caseload remains at current levels, at least \$5,000 in domestic violence shelter surcharge fees should be generated.

Councilman Teachout moved to award the funding for the Domestic Violence Surcharge to the House of Refuge for Abused and Battered Women in the amount not to exceed \$7,500 for calendar year 2024. The motion was seconded by Councilman Leible, discussed and the following roll call vote recorded:

Baker Absent, Leible Aye, Robison Aye, Lindsey Aye, Teachout Aye, Williams Aye, and Turnbow Absent, thereby being passed.

Approval of Grant Administration Selection for Legion Park Community Revitalization Project

A Request for Proposals for Grant Administration for the Legion Park Community Revitalization Project was posted on August 11, 2023 and three proposals were received: Bootheel Regional Planning Commission, MarksNelson, and ZGB Consulting. Staff met with the Professional Services Committee on September 20, 2023 to review the submitted proposals and recommend awarding Bootheel Regional Planning Commission as the Grant Administrator for the Legion Park Community Revitalization Project.

Councilman Leible motioned to award Bootheel Regional Planning Commission as the grant administrator for the American Rescue Plan Act (ARPA) Legion Park Community Revitalization Project. The motion was seconded by Councilman Leible, discussed and the following roll call vote recorded:

Baker Absent, Leible Aye, Robison Aye, Lindsey Aye, Teachout Aye, Williams Aye, and Turnbow Absent, thereby being passed.

Resolution 23-10-01, Surplus of Aviation Fuel Tanks

RESOLUTION 23-10-01

A RESOLUTION OF THE CITY OF SIKESTON, MISSOURI DECLARING CERTAIN EQUIPMENT IN THE CITY'S INVENTORY TO BE SURPLUS PROPERTY AND AUTHORIZING ITS DISPOSAL.

WHEREAS, Certain equipment, vehicles and items in the City's inventory, due to its age or state of disrepair can no longer adequately perform the day-to-day operations of the City; and

WHEREAS, the City of Sikeston seeks to remove such items from its inventories to maximize operations, and while providing a safe and efficient environment for its employees.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIKESTON, MISSOURI AS FOLLOWS:

The items enumerated below are hereby declared surplus and the City Manager is directed to proceed with the removal of this item from City inventories by sale at public auction, sale by sealed bid, or when the item is no longer usable, by disposal.

Equipment:

1. Aviation Fuel System, SN: 34452
2. Aviation Fuel System, SN: 1364438

Councilman Teachout motioned to surplus two (2) aviation fuel systems to be auctioned/sold. The motion was seconded by Councilman Robison, discussed and the following roll call vote recorded:

Baker Absent, Leible Aye, Robison Aye, Lindsey Aye, Teachout Aye, Williams Aye, and Turnbow Absent, thereby being passed.

Resolution 23-10-02, Surplus of Miscellaneous DPW Vehicles/Equipment

RESOLUTION 23-10-02

A RESOLUTION OF THE CITY OF SIKESTON, MISSOURI DECLARING CERTAIN EQUIPMENT, VEHICLES, AND ITEMS IN THE CITY'S INVENTORY TO BE SURPLUS PROPERTY AND AUTHORIZING ITS DISPOSAL.

WHEREAS, Certain equipment, vehicles and items in the City's inventory, due to its age or state of disrepair can no longer adequately perform the day-to-day operations of the City; and

WHEREAS, the City of Sikeston seeks to remove such items from its inventories to maximize operations, and while providing a safe and efficient environment for its employees.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIKESTON, MISSOURI AS FOLLOWS:

The items enumerated below are hereby declared surplus and the City Manager is directed to proceed with the removal of this item from City inventories by sale at public auction, sale by sealed bid, or when the item is no longer usable, by disposal.

Vehicles/Equipment:

1. 2008 Ford F350, VIN: 1FDWF36RX8ED0375
2. 2011 CAT Backhoe, VIN: CAT0420EADJLO1840
3. 2000 Ford F350, VIN: 1FDWF36SXYEA36727
4. 2006 Crown Vic, VIN: 2FAHP71W96X08644
5. 2000 Ford F150, VIN: 1FTRF18W5YNB10058
6. 2000 Ford Ranger, VIN: 1FTYR10V4YPB81228

Councilman Robison motioned to surplus miscellaneous Department of Public Works vehicles and equipment to be auctioned/sold. The motion was seconded by Councilman Leible, discussed and the following roll call vote recorded:

Baker Absent, Leible Aye, Robison Aye, Lindsey Aye, Teachout Aye, Williams Aye, and Turnbow Absent, thereby being passed.

Approve Contract with Gateway Design for ARPA Legion Park Project

On August 28th, 2023, Council approved Gateway Design for the American Rescue Plan Act (ARPA) Legion Park Community Revitalization Project. Gateway has provided a contract for execution by the city to proceed with the project.

Councilman Lindsey motioned to approve the execution of the contract with Gateway Design and issue a notice to proceed. The motion was seconded by Councilman Leible, discussed and the following roll call vote recorded:

Baker Absent, Leible Aye, Robison Aye, Lindsey Aye, Teachout Aye, Williams Aye, and Turnbow Absent, thereby being passed.

1st Reading, Bill #6327, Amend Chapter 505, Article III – Obstructing Public Ways

Councilman Leible moved for the first reading of Bill Number 6327. The motion was seconded by Councilman Teachout and the following roll call vote recorded:

Baker Absent, Leible Aye, Robison Aye, Lindsey Aye, Teachout Aye,
Williams Aye, and Turnbow Absent, thereby being passed.

City Counselor Graham presented the bill for reading. This bill as approved shall become Ordinance Number 6327 and shall amend Title V, Chapter 505, Article III, Section 505.310 in the Municipal Code of the City of Sikeston, Missouri.

To change the understanding of overhanging trees in sidewalks, streets and alleys, new parameters will be eight (8) feet for sidewalks and fifteen (15) feet for streets and alleys.

ADJOURNMENT

There being no further business before the City Council, Councilman Teachout moved to adjourn. The motion was seconded by Councilman Leible and the following roll call vote was recorded:

Baker Absent, Leible Aye, Robison Aye, Lindsey Aye, Teachout Aye,
Williams Aye, and Turnbow Absent, thereby being passed.

APPROVED:

GREG TURNBOW, MAYOR

ATTEST:

RHONDA COUNCIL, CITY CLERK

SEAL:

Council Letter

Date of Meeting: 23-11-06

Originating Department: Department of Community Development

To the Mayor and City Council:

Subject: 2nd Reading, Bill # 6324, Replat Tract 1 and Tract 2 of South Main Montgomery Plaza
Subdivision from two (2) parcels into one (1) parcel

Attachment(s):

1. Bill # 6324
2. Plat

Action Options:

1. Conduct 2nd Reading and approve request.
2. Other action the Council may deem appropriate.

Background:

Staff received a request from Rijo, Inc. to replat Tract 1, containing .09 acres and Tract 2, containing 1.00 acres of South Main Montgomery Plaza Subdivision, from two (2) parcels into one (1) parcel in the City of Sikeston, New Madrid County Missouri. The replat of the tracts will enable the development of the lot.

The Planning and Zoning committee met October 10, 2023 and passed a favorable recommendation to approve the subdivision request.

THIS BILL AS APPROVED SHALL BECOME ORDINANCE NUMBER 6324 PROVIDING FOR THE APPROVAL TO REPLAT TRACT 1, CONTAINING .09 ACRES AND TRACT 2, CONTAINING 1.00 ACRES OF SOUTH MAIN MONTGOMERY PLAZA SUBDIVISION, FROM TWO (2) PARCLES INTO ONE (1) PARCEL, IN THE CITY OF SIKESTON, NEW MADRID COUNTY MISSOURI. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SIKESTON, MISSOURI AS FOLLOWS:

SECTION I: This Ordinance shall not be codified in the City Municipal Code.

SECTION II: The Planning and Zoning Commission met on October 10, 2023 and voted to approve the replat of the tracts of land, the plat of which is attached hereto, marked Exhibit “A”, and incorporated by reference and legally described as follows and known as South Main Montgomery Plaza Subdivision:

THAT PART OF U.S.P.S. 1127, TOWNSHIP 26 NORTH, RANGE 14 EAST, NEW MADRID COUNTY, STATE OF MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGIN AT THE INTERSECTION OF THE NORTH LINE OF U.S.P.S. 1127 AND THE EAST RIGHT-OF-WAY LINE OF HIGHWAY 61, THENCE NORTH 80°37'49" EAST, 285.47 FEET; THENCE SOUTH 09°54'01" EAST, 169.07 FEET; THENCE SOUTH 79°27'20" WEST, 172.20 FEET; THENCE NORTH 36°03'23" WEST, 15.12 FEET; THENCE SOUTH 79°06'36" WEST, 107.41 FEET TO A POINT ON SAID RIGHT-OF-WAY LINE; THENCE WITH SAID RIGHT-OF-WAY LINE, NORTH 09°37'17" WEST, 161.94 FEET TO THE POINT OF BEGINNING, CONTAINING 1.09 ACRES, MORE OR LESS, AND BEING SUBJECT TO ANY EASEMENTS OF RECORD.

SECTION III: Said replat is accepted and approved subject to full compliance with all applicable building and other codes and the stormwater management plan.

SECTION IV: General Repealer Section: Any other ordinance or parts thereof inconsistent herewith, are hereby repealed.

SECTION V: Severability: Should any part or parts of this ordinance be found or held to be invalid by any court of competent jurisdiction, the remaining part or parts shall be severable and shall continue in full force and effect.

SECTION VI: Record of Passage

- A. Bill Number 6324 was introduced and read for the first time this 30th day of October 2023.
- B. Bill Number 6324 was read the second time and discussed on this 6th day of November 2023 and was voted as follows:

Lindsey, _____, Baker, _____, Leible, _____, Robison, _____

Teachout, _____, Williams, _____, and Turnbow _____ ,

hereby being _____.
- C. Ordinance 6324 shall be in full force and effect from and after December 6, 2023.

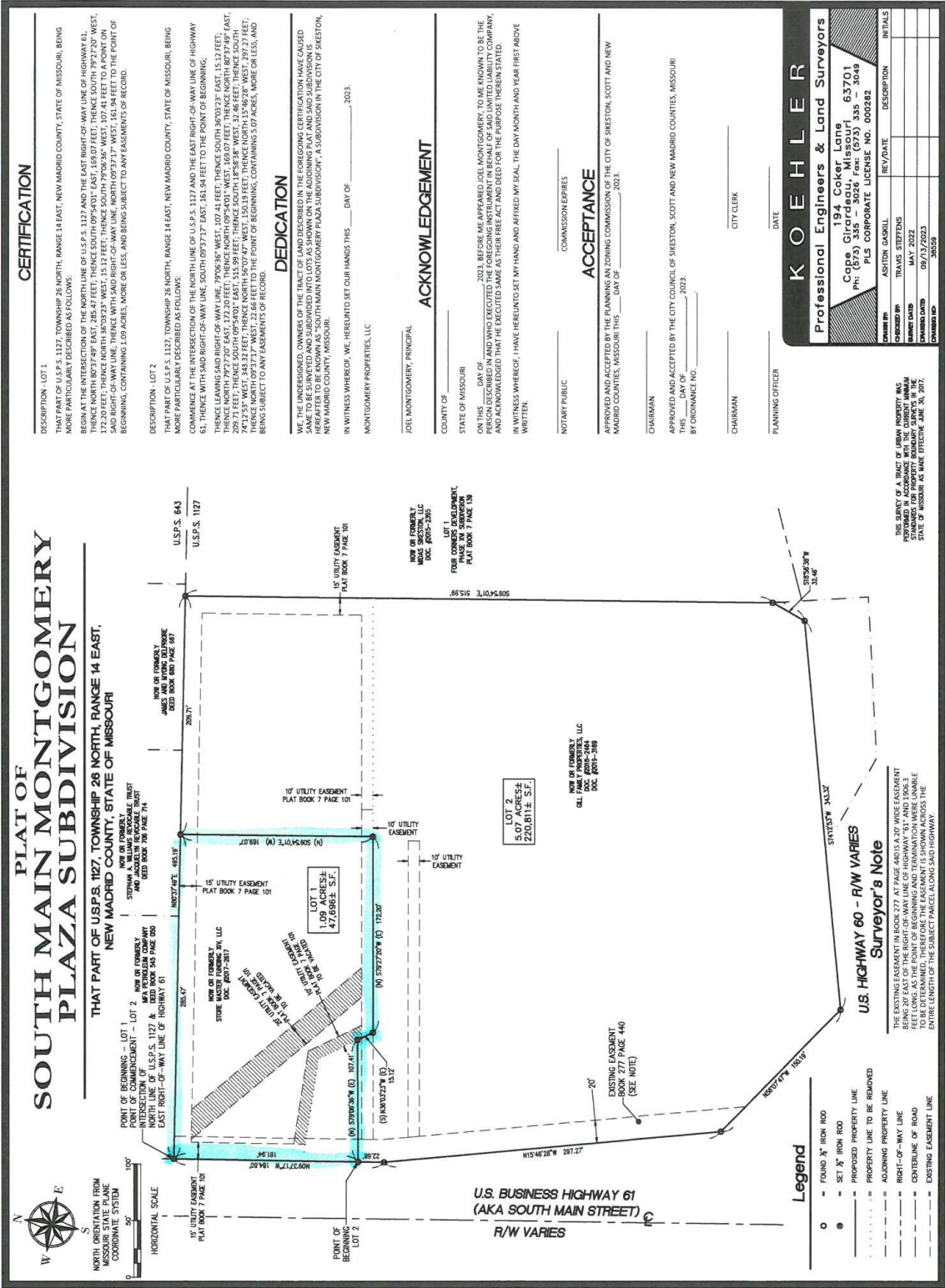
Greg Turnbow, Mayor

Approved as to form
Tabatha Graham, City Counselor

Seal / Attest:

Rhonda Council, City Clerk

Exhibit "A"



LEGAL DESCRIPTION - LOT 1:

THAT PART OF U.S.P.S. 1127, TOWNSHIP 26 NORTH, RANGE 14 EAST, NEW MADRID COUNTY, STATE OF MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGIN AT THE INTERSECTION OF THE NORTH LINE OF U.S.P.S. 1127 AND THE EAST RIGHT-OF-WAY LINE OF HIGHWAY 61, THENCE NORTH 80°37'49" EAST, 285.47 FEET; THENCE SOUTH 09°54'01" EAST, 169.07 FEET; THENCE SOUTH 79°27'20" WEST, 172.20 FEET; THENCE NORTH 36°03'23" WEST, 15.12 FEET; THENCE SOUTH 79°06'36" WEST, 107.41 FEET TO A POINT ON SAID RIGHT-OF-WAY LINE; THENCE WITH SAID RIGHT-OF-WAY LINE, NORTH 09°37'17" WEST, 161.94 FEET TO THE POINT OF BEGINNING, CONTAINING 1.09 ACRES, MORE OR LESS, AND BEING SUBJECT TO ANY EASEMENTS OF RECORD.

Council Letter

Date of Meeting: 23-11-06

Originating Department: Department of Community Development

To the Mayor and City Council:

Subject: 2nd Reading, Bill # 6325, Request to vacate two (2) utility easements on lot 1 of South Main Montgomery Plaza Subdivision

Attachment(s):

1. Bill # 6325
2. Exhibit A

Action Options:

1. Conduct 2nd Reading and approve request.
2. Other action the Council may deem appropriate.

Background:

Staff received a request from Rijo, Inc. to vacate a 10' utility easement and a 20' utility easement on Lot 1 of South Main Montgomery Plaza Subdivision in the City of Sikeston, New Madrid County Missouri. The abandonment of the utility easements will enable the development of the lot.

The Planning and Zoning committee met October 10, 2023 and passed a favorable recommendation to approve the request.

BMU has reviewed the request to abandon the utility easements and does not object.

THIS BILL AS APPROVED SHALL BECOME ORDINANCE NUMBER 6325 PROVIDING FOR THE APPROVAL TO VACATE TWO (2) UTILITY EASEMENTS LOCATED ON TRACT 1 OF SOUTH MAIN MONTGOMERY PLAZA SUBDIVISION IN THE CITY OF SIKESTON, SCOTT COUNTY, MISSOURI.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SIKESTON, MISSOURI AS FOLLOWS:

SECTION I: This Ordinance shall not be codified in the City Municipal Code.

SECTION II: The Planning and Zoning Commission met on October 10, 2023 and did pass a favorable recommendation to approve the request to vacate the two (2) utility easements, being more fully described by metes and bounds as follows and which is attached hereto, marked Exhibit “A” and incorporated by reference:

“Easement vacation: All of the ten (10) foot wide utility easement and all of the twenty (20) foot wide utility easement located on Lot 1 of South Main Montgomery Plaza Subdivision as recorded in plat book 7 on page 101”

SECTION III: Said utility easements abandonment is accepted and approved subject to full compliance with all applicable building and other codes and the stormwater management plan.

SECTION IV: General Repealer Section: Any other ordinance or parts thereof inconsistent herewith, are hereby repealed.

SECTION V: Severability: Should any part or parts of this ordinance be found or held to be invalid by any court of competent jurisdiction, the remaining part or parts shall be severable and shall continue in full force and effect.

SECTION VI: Record of Passage

- A. Bill Number 6325 was introduced and read the first time this 30TH day of October 2023.
- B. Bill Number 6325 was read the second time and discussed on this 6th day of November 2023 and was voted as follows:

Lindsey, _____, Baker, _____, Leible, _____, Robison, _____

Teachout, _____, Williams, _____, and Turnbow _____,

hereby being _____.
- C. Ordinance 6325 shall be in full force and effect from and after December 6, 2023.

Greg Turnbow, Mayor

Approved as to form
Tabatha Graham, City Counselor

Seal / Attest:

Rhonda Council, City Clerk

Council Letter

Date of Meeting: 23-11-06

Originating Department: Department of Community Development

To the Mayor and City Council:

Subject: 2nd Reading, Bill # 6326, Request to remove South boundary line of Tract 3 of South Main Montgomery Plaza Subdivision combining two (2) parcels into one (1) parcel

Attachment(s):

1. Bill # 6326
2. Plat

Action Options:

1. Conduct 2nd Reading and approve request.
2. Other action the Council may deem appropriate.

Background:

Staff received a request from Montgomery Associates, LP to remove the south boundary line of tract 3 of South Main Montgomery Plaza Subdivision containing .80 acres, thus combining two (2) parcels into one (1) parcel in the City of Sikeston, New Madrid County Missouri. The replat of the tracts will enable the development of the lot.

The Planning and Zoning committee met October 10, 2023 and passed a favorable recommendation to approve the subdivision request.

THIS BILL AS APPROVED SHALL BECOME ORDINANCE NUMBER 6326 PROVIDING FOR THE APPROVAL TO REPLAT TRACT 1, CONTAINING .09 ACRES AND TRACT 2, CONTAINING 1.00 ACRES OF SOUTH MAIN MONTGOMERY PLAZA SUBDIVISION, FROM TWO (2) PARCLES INTO ONE (1) PARCEL, IN THE CITY OF SIKESTON, NEW MADRID COUNTY MISSOURI. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SIKESTON, MISSOURI AS FOLLOWS:

SECTION I: This Ordinance shall not be codified in the City Municipal Code.

SECTION II: The Planning and Zoning Commission met on October 10, 2023 and voted to approve the replat of the tracts of land, the plat of which is attached hereto, marked Exhibit “A”, and incorporated by reference and legally described as follows and known as South Main Montgomery Plaza Subdivision:

“THAT PART OF U.S.P.S. 1127, TOWNSHIP 26 NORTH, RANGE 14 EAST, NEW MADRID COUNTY, STATE OF MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE NORTH LINE OF U.S.P.S. 1127 AND THE EAST RIGHT-OF-WAY LINE OF HIGHWAY 61, THENCE WITH SAID RIGHT-OF-WAY LINE, SOUTH 09°37'17" EAST, 161.94 FEET TO THE POINT OF BEGINNING;

THENCE LEAVING SAID RIGHT-OF-WAY LINE, 79°06'36" WEST, 107.41 FEET; THENCE SOUTH 36°03'23" EAST, 15.12 FEET; THENCE NORTH 79°27'20" EAST, 172.20 FEET; THENCE NORTH 09°54'01" WEST, 169.07 FEET; THENCE NORTH 80°37'49" EAST, 209.71 FEET; THENCE SOUTH 09°54'01" EAST, 515.99 FEET; THENCE SOUTH 18°58'38" WEST, 32.46 FEET; THENCE SOUTH 74°12'53" WEST, 343.32 FEET; THENCE NORTH 56°07'47" WEST, 150.19 FEET; THENCE NORTH 15°46'28" WEST, 297.27 FEET; THENCE NORTH 79°30'36" EAST 238.16 FEET; THENCE NORTH 10°29'24" WEST, 128.00 FEET; THENCE SOUTH 79°30'36" WEST, 250.00 FEET; THENCE NORTH 15°46'28" WEST, 31.01 FEET; THENCE NORTH 09°37'17" WEST, 22.66 FEET TO THE POINT OF BEGINNING, CONTAINING 4.35 ACRES, MORE OR LESS, AND BEING SUBJECT TO ANY EASEMENTS OF RECORD.”

SECTION III: Said replat is accepted and approved subject to full compliance with all applicable building and other codes and the stormwater management plan.

SECTION IV: General Repealer Section: Any other ordinance or parts thereof inconsistent herewith, are hereby repealed.

SECTION V: Severability: Should any part or parts of this ordinance be found or held to be invalid by any court of competent jurisdiction, the remaining part or parts shall be severable and shall continue in full force and effect.

SECTION VI: Record of Passage

- A. Bill Number 6326 was introduced and read for the first time this 30th day of October 2023.
- B. Bill Number 6326 was read the second time and discussed on this 6th day of November 2023 and was voted as follows:

Lindsey, _____, Baker, _____, Leible, _____, Robison, _____

Teachout, _____, Williams, _____, and Turnbow _____ .

hereby being _____.
- C. Ordinance 6326 shall be in full force and effect from and after December 6, 2023.

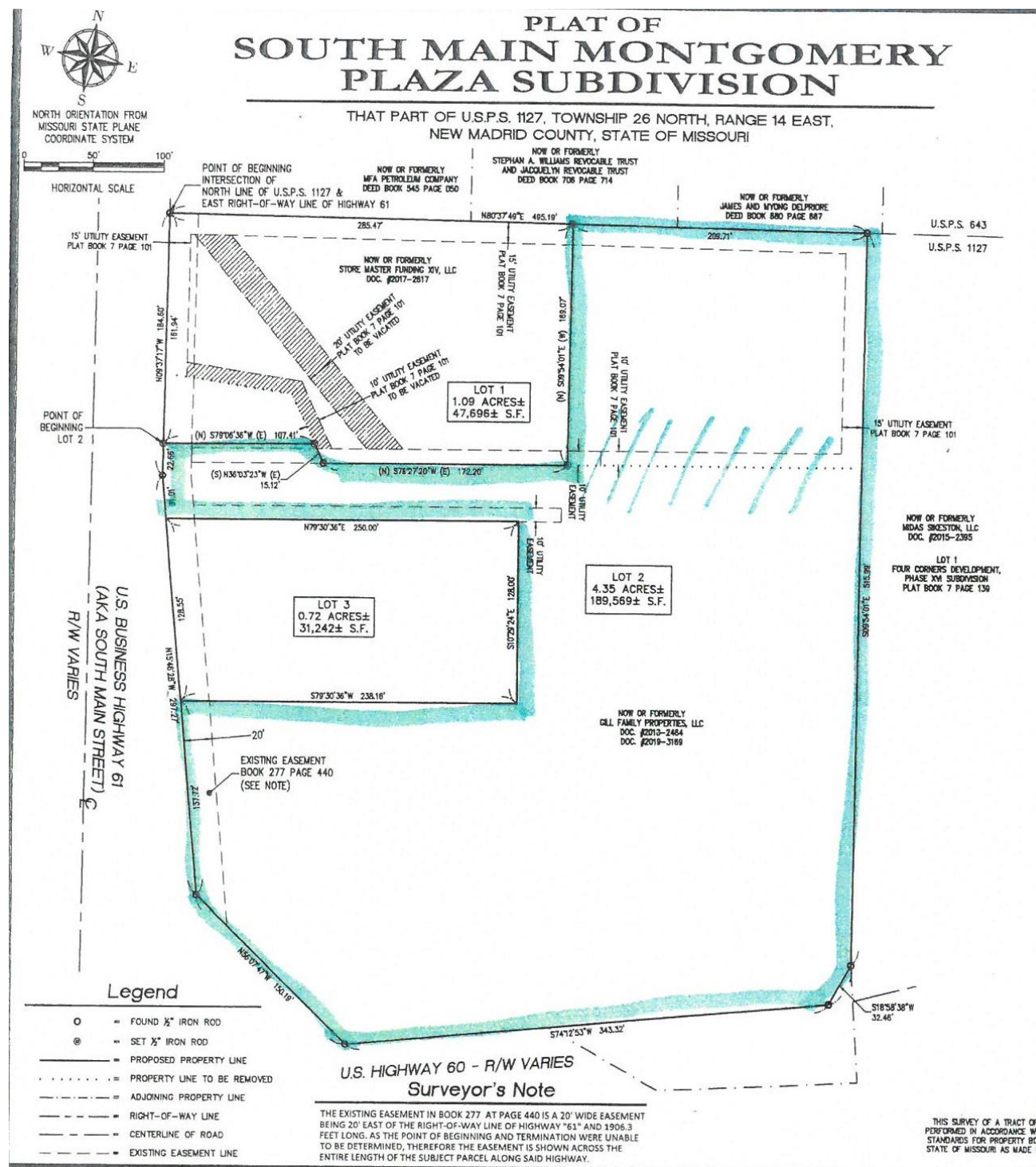
Greg Turnbow, Mayor

Approved as to form
Tabatha Graham, City Counselor

Seal / Attest:

Rhonda Council, City Clerk

Exhibit "A"



LEGAL DESCRIPTION - LOT 2:

THAT PART OF U.S.P.S. 1127, TOWNSHIP 26 NORTH, RANGE 14 EAST, NEW MADRID COUNTY, STATE OF MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE NORTH LINE OF U.S.P.S. 1127 AND THE EAST RIGHT-OF-WAY LINE OF HIGHWAY 61, THENCE WITH SAID RIGHT-OF-WAY LINE, SOUTH 09°37'17" EAST, 161.94 FEET TO THE POINT OF BEGINNING;

THENCE LEAVING SAID RIGHT-OF-WAY LINE, 79°06'36" WEST, 107.41 FEET; THENCE SOUTH 36°03'23" EAST, 15.12 FEET; THENCE NORTH 79°27'20" EAST, 172.20 FEET; THENCE NORTH 09°54'01" WEST, 169.07 FEET; THENCE NORTH 80°37'49" EAST, 209.71 FEET; THENCE SOUTH 09°54'01" EAST, 515.99 FEET; THENCE SOUTH 18°58'38" WEST, 32.46 FEET; THENCE SOUTH 74°12'53" WEST, 343.32 FEET; THENCE NORTH 56°07'47" WEST, 150.19 FEET; THENCE NORTH 15°46'28" WEST, 297.27 FEET; THENCE NORTH 79°30'36" EAST 238.16 FEET; THENCE NORTH 10°29'24" WEST, 128.00 FEET; THENCE SOUTH 79°30'36" WEST, 250.00 FEET; THENCE NORTH 15°46'28" WEST, 31.01 FEET; THENCE NORTH 09°37'17" WEST, 22.66 FEET TO THE POINT OF BEGINNING, CONTAINING 4.35 ACRES, MORE OR LESS, AND BEING SUBJECT TO ANY EASEMENTS OF RECORD.

Council Letter

Date of Meeting: 30-10-23

Originating Department: Finance Department

To the Mayor and City Council:

Subject: 2nd Reading of Bill Number 6328

Attachment(s):

1. Bill Number 6328

Action Options:

1. Approve Bill Number 6328
2. Other action Council may deem appropriate

Background:

In 2007 the 94th General Assembly enacted SB284, codified as Sections 67.2675 through 67.2714 RSMo., establishing a state-wide franchise scheme for cable television and video service providers. This act stated that municipalities could charge a fee on gross revenues of not more than 5% for use of public right-of-ways.

In August of 2023, SB153 was enacted making changes to RSMo 67.2689 and reduces the amount municipalities may charge by ½ percent annually until 2027. In 2027 municipalities may collect no more than 2.5% of gross revenues. This change will reduce the amount of revenues collected by the City by \$272,047 over the next five years.

Bill 6328 will repeal Bill 5542 known as the Cable Franchise Ordinance and created Title VII, Chapter 800-Video Service Provider and reflect the changes made to RSMo 67-2675 through 67.2714.

THIS BILL AS APPROVED SHALL BECOME ORDINANCE NUMBER 6328, REPEALING ORDINANCE NUMBER 5542 (CABLE FRANCHISE), AND CREATING TITLE VII, CHAPTER 800 – VIDEO SERVICE PROVIDER – AN ORDINANCE EXERCISING CERTAIN LIMITED AUTHORITY RELATING TO OPERATION OF VIDEO SERVICES PROVIDERS AND PROVIDING SUPPLEMENTARY REGULATIONS OF THE PLACEMENT OF FACILITIES OF VIDEO SERVICES PROVIDERS AND OTHER UTILITIES MAINTAINING FACILITIES WITHIN THE CITY OF SIKESTON, MISSOURI.

WHEREAS, the 94th General Assembly enacted SB284, codified as Sections 67.2675 through 67.2714 RSMo., inclusive, (“2007 Video Services Providers Act”) establishing a state-wide franchise scheme for cable television and video service providers; and

WHEREAS, the 2007 Video Services Providers Act authorizes municipalities to continue to regulate use of their rights-of-way, authorizes municipal fees on gross revenues attributable to providers of such services that use the public rights-of-way, and authorizes certain other requirements or obligations that may be imposed by franchise entities within which such services are provided; and

WHEREAS, the City was an entity authorized to require franchises and impose franchise fees prior to the enactment of the 2007 Video Services Providers Act and therefore has the authority of a “franchise entity” for purposes of such Act; and

WHEREAS, the City further is authorized to adopt the regulations herein applicable to video service providers and to utilities and other service providers installing facilities in the rights-of-way or on private property within the City pursuant to the City’s reasonable police powers, authority provided by Sections 67.2707 RSMo. and 67.1830 RSMo., et seq., and further by Chapter 89 RSMo., granting zoning authority and authority to regulate the extent and manner of the placement of public utilities and infrastructure, whether publicly or privately owned;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SIKESTON, MISSOURI AS FOLLOWS:

SECTION I: This ordinance shall be codified in the City Municipal Code.

SECTION II: Title VII, Utilities, Chapter 800 – Video Service Provider shall be created as follows:

Section 800.010. Code Inclusion

This ordinance shall be codified in the Sikeston Municipal Code and hereby repeals the Appendix Section of the Sikeston Municipal Code entitled “Cable Franchise Regulation” in its entirety and establishes Chapter 800 “Video Service Provider”; provided that if any portion of the Sections 67.2675 through 67.2714 RSMo., inclusive, are determined to be invalid, this Section One shall be of no force and effect and the repealed City Code sections shall continue in effect until or unless subsequently modified or repealed; and further provided that nothing in herein shall be deemed to alter the continuing obligations set forth in Section III(L) of this ordinance.

Section 800.020. Title and Purpose

A. Title.

This ordinance shall be known and may be cited as the “2007 Video Services Providers Act”.

B. Purpose Statement – preemption of regulation of video services – state-issued video services authorization required, procedure.

1. The general assembly finds and declares it to be the policy of the state of Missouri that consumers deserve the benefit of competition among all providers of video programming. Creating a process for securing a state-issued video service authorization best promotes the substantial interest of the state of Missouri in facilitating a competitive marketplace that will, in turn, encourage investment and the deployment of new and innovative services in political subdivisions and provide benefits to the citizens of this state. The general assembly further finds and declares that franchise entities will benefit from immediate availability of the state-issued video service authorization to all video service providers, including new entrants and incumbent cable operators. In addition to the benefits to franchise entities found in sections [67.2675 to 67.2714](#), this immediate availability of state-issued video service authorization will promote fair competition among all video service providers in a local market and thereby provide new revenues to political subdivisions derived from additional video service customers, and the purchase of additional video services by such customers, and the sale of additional advertising by video service providers. This policy will provide a more predictable source of funding for franchise entities which will continue beyond the natural terms of all existing franchise agreements. The franchise entities will also experience cost savings associated with the administrative convenience of the enactment of the state-issued video service authorization. These benefits are full and adequate consideration to franchise entities, as the term "consideration" is used in Article III, Section 39(5) of the Missouri Constitution.
2. Except to the extent expressly set forth herein, upon issuance of a video service authorization, any existing or future franchise or ordinance adopted by a franchise entity that purports to regulate video service or video service networks or the franchising of video service providers shall be preempted as applied to such video service provider.
3. No person shall commence providing video service or commence construction of a video service network in any area until such person has obtained a state-issued video service authorization, under the provisions of sections [67.2675 to 67.2714](#).
4. The public service commission shall have the exclusive authority to authorize any person to construct or operate a video service network or offer video service in any area of this state. Notwithstanding provisions of this section to the contrary, a person with an existing and valid authorization to occupy the public rights-of-way may construct a video service network without first obtaining a video service authorization, but such person must obtain a video service authorization prior to commencing the provision of video service and otherwise comply with the provisions of sections [67.2675 to 67.2714](#). For purposes of the federal Cable Act, 47 U.S.C. 521, et seq., the rules and regulations of the Federal Communications Commission, and all applicable state laws and regulations, the public service commission shall be considered the sole franchising authority for the state, except with respect to a person that continues to provide video service under a franchise, franchise extension, or expired franchise or ordinance previously granted by a franchise entity. The public service commission shall have no authority to regulate the rates, terms, and conditions of video service, except to the extent explicitly provided under sections [67.2675 to 67.2714](#).
5. Any person seeking to commence providing video service in this state shall file an application for a video service authorization covering a franchise area or franchise areas with the public service commission and provide written notice to the affected political subdivisions of its intent to provide video service. The

public service commission shall make such application public by posting a copy of the application on its website within three days of filing.

6. A holder of a video service authorization who seeks to include additional political subdivisions to be served must file with the public service commission a notice of change to its video service authorization that reflects the additional political subdivisions to be served.
7. The public service commission shall issue a video service authorization allowing the video service provider to offer video service in the franchise area of each political subdivision set forth in the application within thirty days of receipt of an affidavit submitted by the applicant and signed by an officer or general partner of the applicant affirming the following:
 - (1) That the video service authorization holder agrees to comply with all applicable federal and state laws and regulations;
 - (2) A list of political subdivisions to be served by the applicant;
 - (3) The location of the principal place of business and the names of the principal executive officers of the applicant;
 - (4) That the video service provider has filed or will timely file with the Federal Communications Commission all forms required by that agency prior to offering video service;
 - (5) That the video service provider agrees to comply with all applicable regulations concerning use of the public rights-of-way as provided in sections [67.1830 to 67.1846](#); and
 - (6) That the video service provider is legally, financially, and technically qualified to provide video service.
8. The video service authorization issued by the public service commission shall contain the following:
 - (1) A grant of authority to provide video service in the franchise area of each political subdivision set forth in the application; and
 - (2) A grant of authority to construct a video service network along, across, or on public rights-of-way for the delivery of video service to the extent the video service provider or an affiliate did not otherwise possess a valid authorization to occupy the public rights-of-way.
9. (1) No existing franchise or ordinance issued by a franchising entity shall be renewed or extended beyond the expiration date of such franchise. Any person providing video service under a franchise, franchise extension or expired franchise or ordinance previously granted by a franchise entity may, at its option:
 - (a) Continue to provide service under the terms and conditions of such franchise, franchise extension, or ordinance; or
 - (b) Apply for a video service authorization as provided under this section in lieu of any or all such franchises, franchise extensions, or expired franchises; or
 - (c) Automatically convert the franchise, franchise extension, or expired franchise in a political subdivision into a state-issued video service authorization, any time after a video service provider other than an incumbent cable operator obtains a video service authorization for such political subdivision, provided that notice of the automatic conversion to the public service commission and

the affected political subdivision is made and upon compliance with the provisions of sections [67.2675 to 67.2714](#).

- (2) The franchise, franchise extension, or expired franchise previously granted by the franchise entity will terminate upon issuance of a video service authorization to the video service provider. The terms of such video service authorization shall be as provided under the provisions of sections [67.2675 to 67.2714](#) and shall supersede the terms and conditions of the franchise, franchise extension, or expired franchise previously granted by the franchise entity.
- 10. At the time that any video service authorization is issued by the public service commission, the public service commission shall immediately make such issuance public by posting information on its website relating to the video service authorization, including specifically all political subdivisions covered by that authorization and the video service provider fee imposed.

C. Existing Franchise and Agreements

To the extent permitted by law and unless expressly agreed to otherwise, this Ordinance shall apply to Franchises and other Agreements in effect at the time of adoption of this Ordinance.

Section 800.030. Video Services Providers

The following provisions relating to video service providers are hereby adopted as ordinance provisions of a general and permanent nature, and if codified, included in the City Code of ordinances with such code section numbers and headings as deemed appropriate by the codifier:

A. *Definitions.*

The words and phrases used in this Ordinance shall have the meaning as set forth in Section 67.2677 RSMo. or, if not defined therein, shall have such meanings as established by City Code.

- B. *Franchise fee authorized, amount – exception – adjustment of fee, when.*
 - 1. Pursuant to Section 67.2689 RSMo., and as partial compensation for use of the City’s public rights-of-way, each video service provider or other person providing cable services or video services within the City shall, to the extent permitted by law, pay to the City a fee of five percent (5%) of the gross revenues from such video services provider in the geographic area of the City. Such payment shall be made as required by Section 67.2689 RSMo. The City shall have the right to audit any video service provider as authorized by Section 67.2691 RSMo. Late payments shall accrue interest due to the City compounded monthly at one and one-half percent (1.5%) or such other maximum rate as may be established by law.
 - 2. Beginning August 28, 2023, the video service provider fee shall be four and one-half percent (4.5%) of gross revenues. Beginning August 28, 2024, the video service provider fee shall be four percent (4%) of gross revenues. Beginning August 28, 2025, the video service provider fee shall be three and one-half percent (3.5%) of gross revenues. Beginning August 28, 2026, the video service provider fee shall be three percent (3%) of gross revenues. Beginning August 28, 2027, the video service provider fee shall be two and one-half percent (2.5%) of gross revenues.
 - 3. Except as otherwise expressly provided in sections [67.2675 to 67.2714](#), neither a franchise entity nor any other political subdivision shall demand any additional fees, licenses, gross receipt taxes, or charges on the provision of video services

by a video service provider and shall not demand the use of any other calculation method.

4. Not more than once per calendar year after the date that the incumbent cable operator's franchise existing on August 28, 2007, expires or would have expired if it had not been terminated pursuant to sections [67.2675 to 67.2714](#), or in any political subdivision where no franchise applied on the date of enactment of sections [67.2675 to 67.2714](#), no more than once per calendar year after the video service provider fee was initially imposed, a franchise entity may, upon ninety days notice to all video service providers, elect to adjust the amount of the video service provider fee subject to state and federal law, but in no event shall such fee exceed the calculation defined in subsections 1 and 2 of this section.
5. The video service provider fee shall be paid to each franchise entity requiring such fee on or before the last day of the month following the end of each calendar quarter. Any payment made pursuant to subsection 8 of section [67.2703](#) shall be made at the same time as the payment of the video service provider fee.
6. Any video service provider shall identify and collect the amount of the video service provider fee and collect any support under subsection 8 of section [67.2703](#) as separate line items on subscriber bills.

C. *Customer Service Requirements.*

All video service providers providing service within the City shall adopt and comply with the minimum customer service requirements set forth in Section 67.2692 RSMo. Notice or receipt of this Ordinance by the video service provider shall be deemed notice of the City invoking such customer service requirements.

D. *Report to be Issued by the Public Service Commission, contents.*

The public service commission shall, no later than August 28, 2008, and annually thereafter for the next three years, issue a report regarding developments resulting from the implementation of sections 67.2675 to 67.2714 and shall make such recommendations to the general assembly as it deems appropriate to benefit consumers. The commission shall conduct proceedings as it deems appropriate to prepare its report, including receiving comments from members of the public.

E. *Confidentiality of Subscriber Information.*

Video service providers shall not disclose the name or address of a subscriber for commercial gain to be used in mailing lists or for other commercial purposes not reasonably related to the conduct of the businesses of the video service provider or its affiliates, as required under 47 U.S.C. Section 551, including all notice requirements. Video service providers shall provide an address and telephone number for a local subscriber to use without toll charge to prevent disclosure of the subscriber's name or address.

F. *Immunity of Political Subdivisions, when – indemnification, when – exceptions.*

1. An entity holding a video service authorization shall, at its sole cost and expense, indemnify, hold harmless, and defend a political subdivision, 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:

- (1) The construction, maintenance, or operation of its video service network;

- (2) Copyright infringements or a failure by an entity holding a video service authorization to secure consents from the owners,

authorized distributors, or licensees of programs to be delivered by the video service network.

2. Any indemnification provided in subsection 1 of this section shall include, but not be limited to, the political subdivision's reasonable attorneys' fees incurred in defending against any such claim, suit, or proceeding prior to the entity holding the video service authorization assuming such defense. The political subdivision shall notify the entity holding the video service authorization of claims and suits within seven business days of its actual knowledge of the existence of such claim, suit, or proceeding. Failure to provide such notice shall relieve the entity holding the video service authorization of its obligations under this section. Once the entity holding the video service authorization assumes the defense of any such action, the political subdivision may, at its option, continue to participate in the defense at its own expense.
3. The obligation to indemnify, hold harmless, and defend contained in subsections 1 and 2 of this section shall not apply to any claim, suit, or cause of action related to the provision of public, educational, and governmental channels or programming or to emergency interrupt service announcements.

G. Transferability of Authorizations, procedure.

A video service authorization is fully transferable, with respect to one or more political subdivisions covered by such authorization, to any successor-in-interest to the holder whether such successor-in-interest arises through merger, sale, assignment, restructuring, change of control, or any other type of transaction. A notice of transfer shall be promptly filed with the public service commission and the affected political subdivisions upon completion of such transfer, but neither the public service commission nor any political subdivision shall have any authority to review or require approval of any transfer of a video service authorization, regardless of whether the transfer arises through merger, sale, assignment, restructuring, change of control, or any other type of transaction.

H. Designation of Noncommercial Channels, authorized, when – PEG Channels, Requirements.

1. A franchise entity may require a video service provider providing video service in such franchise entity to designate up to three channels for noncommercial public, educational, or governmental "PEG" use if such franchise entity has a population of at least fifty thousand, and up to two PEG channels if such franchise entity has a population of less than fifty thousand; provided, however, that a PEG channel that is shared among multiple political subdivisions served by a common headend on the effective date may continue to be shared among those political subdivisions served by that headend. Such limits shall constitute the total number of PEG channels that may be designated on all video service networks that share a common headend, regardless of the number of franchise entities or other political subdivisions served by such headend. The video service provider may provide such channels on any service tier that is purchased by more than fifty percent of its customers. All video service providers serving a political subdivision shall be required to provide the same number of PEG access channels as the incumbent video service provider existing on the date of enactment of sections 67.2675 to 67.2714.
2. Notwithstanding any franchise or ordinance granted by a franchise entity prior to the date of enactment of sections 67.2675 to 67.2714, this section, rather than the franchise or ordinance, shall apply to the designation of PEG

access channels by an incumbent cable operator operating under such franchise or ordinance; provided, however, that if such franchise or ordinance requires more PEG access channels than the applicable limit specified in subsection 1 of this section, the requirement in the franchise or ordinance shall apply in lieu of such limit; provided further, that the incumbent cable operator may nonetheless be required to activate additional PEG channel or channels, up to such limit, to the extent the political subdivision certifies that such additional channel or channels will be substantially utilized, as defined in subsection 4 of this section.

3. Any PEG channel designated pursuant to this section that is not substantially utilized, as defined in subsection 4 of this section, by the franchise entity shall no longer be made available to the franchise entity, but may be programmed at the video service provider's discretion. At such time as the governing body of a franchising entity makes a finding and certifies that a channel that has been reclaimed by a video service provider under this subsection will be substantially utilized, the video service provider shall restore the reclaimed channel within one hundred * twenty days, but shall be under no obligation to carry that channel on any specific tier.
4. For purposes of this section, a PEG channel shall be considered "substantially utilized" when forty hours per week are locally programmed on that channel for at least three consecutive months. In determining whether a PEG channel is substantially utilized, a program may be counted not more than four times during a calendar week.
5. Except as provided in this section, a franchise entity or political subdivision may not require a video service provider to provide any funds, services, programming, facilities, or equipment related to public, educational, or governmental use of channel capacity. The operation of any PEG access channel provided pursuant to this section and the production of any programming that appears on each such channel shall be the sole responsibility of the franchise entity or its duly appointed agent receiving the benefit of such channel, and the video service provider shall bear only the responsibility for the transmission of the programming on each such channel to subscribers.
6. The franchise entity must ensure that all transmissions of content and programming provided by or arranged by it to be transmitted over a PEG channel by a video service provider are delivered and submitted to the video service provider in a manner or form that is capable of being accepted and transmitted by such video service provider holder over its network without further alteration or change in the content or transmission signal, and which is compatible with the technology or protocol utilized by the video service provider to deliver its video services.
7. The franchise entity shall make the programming of any PEG access channel available to all video service providers in such franchise entity in a nondiscriminatory manner. Each video service provider shall be responsible for providing the connectivity to the franchise entity's or its duly appointed agent's PEG access channel distribution points existing as of effective date of enactment of sections 67.2675 to 67.2714. Where technically necessary and feasible, video service providers in the same franchise entity shall use reasonable efforts and shall negotiate in good faith to interconnect their video service networks on mutually acceptable rates, terms, and conditions for the purpose of transmitting PEG programming within such franchise entity. A video service provider shall have no obligation to provide such interconnection to a new video service provider at more than one point per headend, regardless of the number of

franchise entities or other political subdivisions served by such headend. The video service provider requesting interconnection shall be responsible for any costs associated with such interconnection, including signal transmission from the origination point to the point of interconnection. Interconnection may be accomplished by direct cable microwave link, satellite, or other reasonable method of connection acceptable to the person providing the interconnect.

8. (1) The obligation of an incumbent cable operator to provide monetary and other support for PEG access facilities contained in a franchise existing on August 28, 2007, shall continue until the term of the franchise would have expired if it had not been terminated pursuant to sections 67.2675 to 67.2714 or until January 1, 2012, whichever is earlier.

- (2) Each video service provider providing video service in a political subdivision shall have the same obligation to support PEG access facilities as the incumbent cable operator with the most subscribers in such political subdivision as of the date of enactment of sections 67.2675 to 67.2714. To the extent such incumbent cable operator provides such support in the form of a percentage of gross revenue or a per-subscriber fee, any other video service provider shall pay the same percentage of gross revenue or per-subscriber fee as the incumbent cable operator. To the extent the incumbent cable operator provides such support in the form of a lump sum payment without an offset to its gross receipts fee, any other video service provider shall be responsible for a pro rata share of such payment made by the incumbent cable operator after the date on which the other video service provider commences service in a particular political subdivision, based on its proportion of video service customers in such political subdivision. To the extent the incumbent cable operator provides such support on an in-kind basis after the date on which the other video service provider commences service in a particular political subdivision, any other video service provider shall pay the political subdivision a sum equal to the pro rata amount of the fair market value of such support based on its proportion of video service customers in such political subdivision.

- (3) For purposes of this section, the proportion of video service customers of a video service provider shall be determined based on the relative number of subscribers as of the end of the prior calendar year as reported by all incumbent cable operators and holders of video service authorizations. A franchising entity acting under this subsection shall notify a video service provider of the amount of such fee on an annual basis, beginning one year after issuance of the video service authorization.

9. Neither the public service commission nor any political subdivision may require a video service provider to provide any institutional network or equivalent capacity on its video service network. The obligation of an incumbent cable operator to provide such network or capacity contained in a franchise existing on August 28, 2007, shall continue until the term of the franchise would have expired had it not been terminated pursuant to sections 67.2676** to 67.2714, or until January 1, 2009, whichever is earlier, and shall be limited to providing the network as is on August 28, 2007.

I. Discrimination Prohibited – defense to alleged violation – annual report required – waiver permitted, when.

1. A video service provider shall not deny access to service to any group of potential residential subscribers because of the race or income of the

residents in the local area in which the group resides.

2. It is a defense to an alleged violation of subsection 1 of this section if the video service provider has met either of the following conditions:
 - (1) Within three years of the date it began providing video service under the provisions of sections 67.2675 to 67.2714, at least twenty-five percent of the households with access to the provider's video service are low-income households; or
 - (2) Within five years of the date it began providing video service under the provisions of sections 67.2675 to 67.2714 at least thirty percent of the households with access to the provider's video service are low-income households.
3. If a video service provider is using telecommunication facilities to provide video service and has more than one million telecommunication access lines in this state, the provider shall provide access to its video service to a number of households equal to at least twenty-five percent of the households in the provider's telecommunications service area in the state within three years of the date it began providing video service pursuant to authorization under sections 67.2675 to 67.2714 and to not less than fifty percent of such households within six years. A video service provider is not required to meet the fifty percent requirement provided in this subsection until two years after at least thirty percent of the households with access to the provider's video service subscribe to the service for six consecutive months.
4. Each provider described in subsection 3 of this section shall file an annual report with the franchising entities in which each provider provides service and the public service commission regarding the progress that has been made toward compliance with the provisions of subsection 3 of this section.
5. Except for satellite service, a video service provider may satisfy the requirements of this section through the use of alternate technology that offers service, functionality, and content which is demonstrably similar to that provided through the provider's video service network and may include a technology that does not require the use of any public right-of-way. The technology utilized to comply with the requirements of this section shall include local public, education, and government channels as required under section 67.2703 and messages over the emergency alert system as required under section 67.2683.
6. A video service provider may apply to the public service commission for a waiver of or an extension of time to meet the requirements of this section if one or more of the following apply:
 - (1) The inability to obtain access to public and private rights-of-way under reasonable terms and conditions;
 - (2) Developments or buildings not being subject to competition because of existing exclusive service arrangements;
 - (3) Developments or buildings being inaccessible using reasonable technical solutions under commercially reasonable terms and conditions;
 - (4) Natural disasters; or
 - (5) Factors beyond the control of the video service provider.

7. The public service commission may grant the waiver or extension only if the provider has made substantial and continuous effort to meet the requirements of this section. If an extension is granted, the public service commission shall establish a new compliance deadline. If a waiver is granted, the public service commission shall specify the requirement or requirements waived.
8. Notwithstanding any other provision of sections 67.2675 to 67.2714, a video service provider using telephone facilities to provide video service shall not be obligated to provide such service outside the provider's existing telephone exchange boundaries.
9. Except as otherwise provided in sections 67.2675 to 67.2714, a video service provider shall not be required to comply with, and a franchising entity may not impose or enforce, any mandatory build-out or deployment provisions, schedules, or requirements except as required by this section.
10. Any franchising entity in which a video service provider operates may file a complaint in a court of competent jurisdiction alleging a violation of subsection 1 or 3 of this section. The court shall act on such complaint in accordance with section 67.2711.

J. Rights-of-Way Regulation; Indemnification; Permits and Compliance with Other Laws.

Video service providers shall comply with the requirements of Sections 67.2707, 67.2709 and all applicable ordinances and regulations consistent with Sections 67.1830 to 67.1846 RSMo. relating to use of the City rights-of-way. Each video service provider shall indemnify and hold harmless the City and its officers, employees and agents from any loss or damage, including , but not limited to attorneys' fees, as provided in such ordinances or regulations, but in no event less than the obligation on video service providers set forth in Section 67.2695 RSMo. The City may require documentation of such indemnification by written agreement or other instrument to the extent permitted by law. In addition, video service providers shall be subject to and comply with such supplementary provisions relating to placement, screening and relocation of facilities as provided in Section Three of this Ordinance, and such other applicable laws of the City, except as may be otherwise validly preempted. Notwithstanding any other ordinance to the contrary, no facilities to be used for video services shall be installed without obtaining a permit from the City authorizing the location and plans for such facilities; provided that this provision shall not apply to installation of otherwise lawful and authorized poles or wires.

K. Public, Educational and Governmental Channels.

Each video service provider shall designate a number of channels for public, educational and governmental programming consistent with Section 67.2703 RSMo; provided that any greater number of channels, as may be required in the incumbent cable franchise or franchise ordinance, shall be required pursuant to Section 67.2703.2 RSMo. The City shall bear no cost relating to the transmission, availability or maintenance of such channels unless expressly authorized by the City in writing and approved by the governing body. Incumbent Cable operators and other video service providers shall provide support for such public, educational and governmental channels consistent with Section 67.2703.8 RSMo.

L. Continued Obligations.

The obligations of a cable service provider or video service provider as set forth in any existing cable services or video services franchise or ordinance shall also continue to apply to the full extent permitted by applicable law.

M. *Full Service to Municipal Buildings.*

A cable service provider or video service provider shall, on request of the City, install, at no charge, if economically feasible, at least one service outlet at all City buildings and all primary and secondary education public, private and parochial schools within the Franchise Area, and shall install and charge only its reasonable costs for any additional service outlets requested for such locations, so long as such additional installations will not interfere with the quality and operation of the Franchisees Cable System or signal thereon, and the quality and manner of installation of such additional outlets shall have been approved by the Franchisee (which approval shall not be unreasonably withheld) and shall comply with all City, state and federal laws and regulations. The Franchisee shall provide Basic Cable Service and Expanded Basic Cable Service to all outlets in such buildings free of charge. A Franchise may specify other requirements regarding the availability of facilities for municipal use.

N. *Public Emergency.*

In the event of a public emergency or disaster as determined by the City, a Franchisee immediately shall make the Cable System, employees, and property, as may be reasonably necessary, available for use by the City or other civil defense or governmental agency designated by the City for the term of such emergency or disaster for emergency purposes. In the event of such use, a Franchisee shall waive any claim that such use by the City constitutes a use of eminent domain, provided that the City shall return use of the System, employees, and property to the Franchisee promptly after the emergency or disaster has ended. The parties agree nothing herein shall create or expand the right of the City to exercise its power of eminent domain to acquire, purchase, or own the Cable System.

O. *Reservation of Rights.*

The City retains all rights in Sections 67.2675 through 67.2714 RSMo., inclusive, and may take any and all actions permitted by law to exercise such rights or to enforce such obligations on providers of video service.

P. *Notice.*

A copy of this Ordinance shall be delivered to each video service provider operating in the City after notice to the City that such provider is authorized to provide service within the City; provided that the provisions of this Ordinance shall, to the extent permitted by law, not be affected by any claimed or actual failure of a service provider to have received delivery of a copy of this Ordinance.

Section 800.040. Supplementary Regulations.

The following supplementary regulations are adopted as part of the general ordinances of the City; provided that nothing herein shall be deemed to apply in circumstances where such requirements are preempted or would be inconsistent with applicable laws:

Accessory Utility Facilities; Supplementary Regulations.

Every public utility, cable company, video service provider and other users of the City rights-of-way or adjacent easements to provide services shall comply with the supplemental regulations in this section regarding the placement of accessory utility facilities on public or private property. For purposes of this section, "accessory utility facilities" shall mean such facilities, including pedestals, boxes, vaults, cabinets, or other ground-mounted or below-ground facilities that directly serve the property or local area in which the facility is placed, are not primarily for transmission or distribution to other locations, do not materially alter the character of the neighborhood or area, and otherwise are customarily found in such areas.

Except where limited by other provisions of City ordinance, accessory utility facilities shall be subject to the following supplementary regulations:

- a. Approval; design; location; application. The design, location, and nature of all accessory utility facilities on private or public property shall require approval of the City, which approval shall be considered in a nondiscriminatory manner, in conformance with this Ordinance, and subject to reasonable permit conditions as may be necessary to meet the requirements of this Ordinance. In considering applications individual or multiple location applications, the City shall review the request to ensure the proposed facilities do not impair public safety, harm property values or significant sight-lines, or degrade the aesthetics of the adjoining properties or neighborhood, and taking into consideration reasonable alternatives. Any material changes or extensions to such facilities or the construction of any additional structures shall be subject to the requirements and approvals as set forth herein. Unless otherwise prohibited, utility facilities subject to this subsection may be located in minimum setback areas provided that all other requirements are met. To the extent permitted by Section 67.2707.3 RSMo., the time, method, manner or location of facilities to be located in the rights-of-way may be established or conditioned by the City to protect the rights-of-way or to ensure public safety. An inspection fee shall be required as may be established by the City to reimburse the City for the costs of review and inspection of accessory utility facilities as may be permitted by applicable law.
- b. General regulations. The following general regulations apply to all accessory utility facilities:
 - i. All such facilities shall be placed underground, except as otherwise provided in subsections (c) and (d) herein or as approved by special use permit.
 - ii. All such facilities shall be constructed and maintained in such a manner so as not to emit any unnecessary or intrusive noise.
 - iii. All facilities and utility boxes shall be deemed abandoned after six (6) continuous months of non-use, and shall therefore be removed within thirty (30) days thereafter at the cost of the utility.
 - iv. Unless otherwise restricted, utility poles for authorized above ground lines or facilities shall be permitted **up to forty-five (45) feet** in height where utilities are not otherwise required to be placed underground; provided that such poles shall be no higher than necessary, maintained so as to avoid leaning from upright position, and without use of guy wires crossing rights-of-way or pedestrian routes except where approved by the City as necessary due to the lack of feasible alternatives.
 - v. Utility facilities placed in designated historic areas may be subject to additional requirements regarding the placement and appearance of facilities as may be necessary to reasonably avoid or reduce any negative impact of such placement.
 - vi. Any damage to landscaping or vegetation on private or public property during installation or maintenance of facilities shall be promptly remedied by the facility owner.
 - vii. At least 48 hours prior to any installation, replacement or expansion of any facility located on private property, the facility owner shall provide notice to all property owners within one hundred and eighty-five (185) feet from the site. Notice shall include detailed description of work to be done, the exact

location of work and the time and duration when it will be undertaken.

- viii. No facilities may be located so as to interfere, or be likely to interfere, with any public facilities or use of public property.
- ix. All utility facilities not authorized by this subsection or specifically addressed elsewhere in this Code shall be authorized only as a special use permit.
- c. Residential districts. In residential districts, accessory utility facilities **less than three and one-half (3.5) feet in height** and covering **less than eight (8) square feet** in area may be installed above ground with the prior approval of the City. Except as otherwise may be authorized herein, any larger utility facility shall be installed underground or authorized to be installed above ground only by special use permit. All above ground facilities, where authorized, shall be placed in the rear yard wherever practical. If locating these facilities in the rear yard is not practical, then such facilities may be located in the side yard. Such facilities shall not be located in the front yard or within the public right-of-way unless otherwise approved by the City upon a determination that all other alternatives are not feasible.
- d. Non-residential districts. In non-residential districts, accessory utility facilities with a **height of less than five (5) feet** and covering **less than sixteen (16) square feet in area** may be installed aboveground with the prior approval of the City. Except as otherwise may be authorized herein, any larger facility shall be installed underground or authorized to be installed above ground only by special use permit. All aboveground facilities, where authorized, shall be placed in the rear yard wherever practical. If locating these facilities in the rear yard is not practical, then such facilities may be located in the side yard. Such facilities shall not be located in the front yard or within the public right-of-way unless otherwise approved by the City upon a determination that all other alternatives are not feasible.
- e. Landscape screening. A sight-proof landscape screen shall be provided for all authorized aboveground facilities taller than **three (3) feet in height** or covering in excess of **four (4) square feet in size**. Such screen shall be required to sufficiently conceal the facility. A landscape plan identifying the size and species of landscaping materials shall be submitted by the utility and approved by the City prior to installation of any facility requiring landscape screening. The utility shall be responsible for the installation, repair, or replacement of screening materials. Alternative screening or concealment may be approved by the City to the extent it meets or exceeds the purposes of these requirements. Facilities located in rear yards may be exempted from screening where located so as not to be visible from (1) any public property and (2) more than two residential dwelling units.
- f. Compliance with other laws. All accessory utility facilities shall be subject to all other applicable regulations and standards as established as part of the City Code, including but not limited to building codes, zoning requirements and rights-of-way management regulations in addition to the supplementary regulations herein. The provisions of this Section Three shall not apply to any circumstance or entity in which application under such circumstances is preempted or otherwise precluded by superseding law.

Section 800.050. National Electric Safety Code, compliance with required.

Every holder of a video service authorization shall, with respect to its construction practices and installation of equipment, comply with all applicable sections of the National Electric Safety Code.

Section 800.060. Noncompliance, effect of.

In the event a video service provider is found by a court of competent jurisdiction to be in noncompliance with the requirements of sections 67.2675 to 67.2714, the court shall issue an order to the video service provider directing a cure for such noncompliance within a specified reasonable period of time. If the video service provider meets the requirements of the provisions of sections 67.2675 to 67.2714 within the court-ordered period of time, the court shall dismiss the claim of noncompliance.

Section 800.070. Effective Date.

Sections 67.2675 to 67.2714 shall apply to any franchise in effect on August 28, 2007, to the extent specifically provided in sections 67.2675 to 67.2714.

SECTION III: General Repealer Section. Any other ordinance or parts thereof inconsistent herewith, are hereby repealed.

SECTION IV: Severability. Should any part or parts of this ordinance be found or held to be invalid by any court of competent jurisdiction, the remaining part or parts shall be severable and shall continue in full force and effect.

SECTION V: Record of Passage.

- A. Bill Number 6328 was introduced and read the first time this 30th day of October, 2023.
- B. Bill Number 6328 was read the second time, discussed and voted upon this 6th day of November, 2003, as follows:

Baker _____, Leible _____, Lindsey _____,
Robison _____, Teachout _____, Williams _____,
and Turnbow _____,
thereby being _____.

- C. Ordinance 6328 shall be in full force and effect from and after December 6, 2023.

Greg Turnbow, Mayor

Approved As to Form
Tabatha Graham, City Counselor

ATTEST

SEAL

Rhonda Council, City Clerk

Council Letter

Date of Meeting: 23-11-06

Originating Department: Community Development Department

To the Mayor and City Council:

Subject: Bill 6322, Amending Chapter 410, Floodplain Regulations

Attachment(s):

1. Bill 6322

Action Options:

1. First reading of Bill 6322
2. Other action Council may deem appropriate

Background:

This is to update the Floodplain Regulations as required with compliance with SEMA (State Emergency Management Agency). We updated due to several item changes with the state statues and FEMA regulations.

Council's approval of the ordinance will be requested at the November, 27th 2023, meeting.

THIS BILL AS APPROVED SHALL BECOME ORDINANCE NUMBER 6322 AND SHALL AMEND TITLE IV: LAND USE, CHAPTER 410 FLOODPLAIN REGULATIONS IN THE MUNICIPAL CODE OF THE CITY OF SIKESTON, MISSOURI.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SIKESTON, MISSOURI AS FOLLOWS:

SECTION I: This Ordinance shall be codified in the City Municipal Code.

SECTION II: Title IV: LAND USE – Chapter 410 – Floodplain Regulations shall be amended as follows:

Article I Statutory Authorization, Findings of Fact, Purpose and Objectives

Section 410.010 Statutory Authorization.

The legislature of the State of Missouri has in ~~Section 77.260~~, RSMo., **89.020** delegated the responsibility to local units to adopt **floodplain management** regulations designed to ~~promote~~ **protect** the ~~public~~ health, safety, and general welfare of ~~its citizenry~~ **the public**. Therefore, the City Council of Sikeston, Missouri, does ordain as follows.

Section 410.020 Finding of Fact.

- A. The **special** flood hazard areas of Sikeston, Missouri, are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- B. These flood losses are caused by:
 1. The cumulative effect of ~~obstructions in~~ **development in any delineated floodplains** causing increases in flood heights and velocities; **and**
 2. ~~by~~ The occupancy ~~in~~ **of** flood hazard areas by uses vulnerable to floods, or ~~hazards~~ **uses hazardous** to others, ~~lands which are~~ inadequately elevated, ~~floodproofed~~ or otherwise unprotected from flood damages.

Section 410.030 Statement of Purpose.

- A. It is the purpose of this Chapter to promote the public health, safety and general welfare **of the public; and** to minimize ~~public and private~~ **those** losses ~~due to flood conditions in specific areas by provisions designed~~ **described in Article 1, Section 410.020 (1); to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) § 59.22(a) (3); and to meet the requirements of 44 CFR § 60.3(d) by applying the provisions of this ordinance to:**
 1. To protect human life and health;
 2. To minimize expenditures of public money for costly control projects;
 3. To minimize the need of rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 4. To minimize prolonged business interruptions;
 5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
 6. To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas;

- 7. To insure that potential home buyers are notified that property is in a flood area; and
- 8. To insure that those who occupy the areas of special hazard assume responsibilities for their actions.

Section 410.040 **Methods of Reducing Flood Losses.**

- A. In order to accomplish its purposes, this Chapter includes methods and provisions for:
 - 1. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion or to flood heights or velocities.
 - 2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
 - 3. Controlling the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.
 - 4. Controlling filling, grading, dredging and other development which may increase erosion or flood damage.
 - 5. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

Article II Definitions

Section 410.050 **Definitions.**

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

ACCESORY STRUCTURE

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

ACTUARIAL RATES OR RISK PREMIUM RATES

Those rates established by the Federal Insurance Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the Act and accepted actuarial principles. "*Risk premium rates*" include provisions for operating cost and allowances.

AGENCY

Governing body of floodplain regulations: FEMA and/or SEMA.

APPEAL

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

AREA OF SPECIAL FLOOD HAZARD

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

BASE FLOOD

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

BASE FLOOD ELEVATION

The elevation of the surface of the water during a (1%) annual chance flood event.

BASEMENT

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

BUILDING

Principle structure on the parcel of property.

CHANNEL

A natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow, thus, is that water which is flowing within the limits of a defined channel.

COMMUNITY

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

DEVELOPMENT

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

ELEVATED BUILDING

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

ELIGIBLE COMMUNITY” OR “PARTICIPATING COMMUNITY

A community for which the Federal Insurance Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

EXISTING CONSTRUCTION

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

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION

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

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION

The preparation of additional sites by the construction of facilities for serving the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD OR FLOODING

1. General and temporary condition of partial or complete inundation of normally dry land areas from (1) The overflow of inland; and/or (2) The unusual and rapid accumulation or runoff of surface waters from any source.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural

body of water, accompanied by a severe storm or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection (1) of this definition.

FLOOD ELEVATION DETERMINATION

A determination by the Federal Insurance Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

FLOOD FRINGE

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

FLOOD INSURANCE RATE MAP (FIRM)

An official map of a community on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY OR FLOOD ELEVATION STUDY

An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslides (i.e., mudflow) and/or flood-related erosion hazards.

FLOOD PROTECTION SYSTEM

Those physical structural works for which funds have been authorized, appropriated and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such system typically includes dams, reservoirs, levees or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

FLOODPLAIN ADMINISTRATOR OR CERTIFIED FLOODPLAIN MANAGER

Designated city employee who reviews floodplain/building permits for structures within floodplains and inspects developments to determine compliance with the community development standards and NFIP requirements. Explains floodplain development requirements to community leaders, citizens, and the general public when requested. Maintains records and documents that keep the community eligible to participate in the FEMA's NFIP and Community Rating System (CRS).

FLOODPLAIN OR FLOOD-PRONE AREA

Any land area susceptible to being inundated by water from any source, as designated by FEMA.

FLOODPLAIN MANAGEMENT

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

FLOODPLAIN MANAGEMENT REGULATIONS

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

FLOODPROOFING

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

FLOODWAY OR REGULATORY FLOODWAY

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FLOODWAY FRINGE

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

FLOODWAY ENCROACHMENT LINES

Lines marking the limits of floodways on Federal, State and local floodplain maps.

FREEBOARD

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

HIGHEST ADJACENT GRADE

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

HISTORIC STRUCTURE

Any structure that is:

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

LOWEST FLOOR

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

MANUFACTURED HOME

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

MANUFACTURED HOME PARK OR SUBDIVISION

A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

NEW CONSTRUCTION

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

NEW MANUFACTURED HOME PARK OR SUBDIVISION

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

(NFIP)

National Flood Insurance Program

ONE PERCENT ANNUAL CHANCE FLOOD

See "base flood."

PARTICIPATING COMMUNITY

Known as an "eligible community," a community in which the Federal Insurance Administrator has authorized the sale of flood insurance.

PERSON

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

PERMIT

A signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as : (1) the site plan; (2) an elevation certificate; and (3) any other necessary or applicable approvals or authorizations from local, state or federal authorities.

PRINCIPAL STRUCTURE

The main structure of building on a lot or parcel in which the primary permitted use by right occurs.

RECREATIONAL VEHICLE

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

REPETITIVE LOSS

Flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, equals or exceeds twenty-five percent of the market value of the structure before the damage occurred.

SPECIAL FLOOD HAZARD AREA
See “*area of special flood hazard.*”

START OF CONSTRUCTION

For other than new construction or substantial improvement under Coastal Barrier Resources Act Pub. L. 97-348, includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within one hundred eighty (180) days of permit date. The “*actual start*” means either the first (1st) placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and filling; nor does it include the installation of street and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the “*actual start of the construction*” means the first (1st) alteration of any wall, ceiling, floor or other structural part of building, whether or not that alteration affects the external dimensions of the building.

STATE COORDINATING AGENCY

Agency of the state government, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

STRUCTURE

For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. “*Structure*”, for insurance purposes, means a walled and roofed building, other than gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

SUBSTANTIAL DAMAGE

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT

Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the “start of construction” or the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local Code Enforcement Official and which are the minimum necessary to assure safe living conditions, or
2. Any alteration of a “historic structure”, provided that the alteration will not preclude the structure's continued designation as a “historic structure”.

VARIANCE

A grant of relief to a person from the requirements of this Chapter, which permits construction in manner otherwise prohibited by this Chapter, where specific enforcement would result in unnecessary hardship.

VIOLATION

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

Article III General Provisions

Section 410.060 Lands To Which This Chapter Applies.

This Chapter shall apply to all lands within the jurisdiction of the City of Sikeston identified as numbered and unnumbered A Zones, AE, AO, and AH Zones on the Flood Insurance Rate Map (FIRM) for Scott County, Missouri on map panels 29201C0295D, 29201C0300D, 29201C0305D, 29201C0314D, 29201C0315D, 29201C0316D, 29201C0318D, 29201C0319D, 29201C0402D, 29201C0406D, 29201C0407D, and 29201C0425D dated June 5, 2012, as amended, and any future revisions thereto. In all areas covered by this Chapter, no development shall be permitted except through the issuance of a floodplain development permit granted by the Sikeston City Council or its duly designated representative under such safeguards and restrictions as the Sikeston City Council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in Article IV.

Section 410.070 Basis For Establishing The Areas of Special Flood Hazard.

The Flood Insurance Study (FIS) that is the basis of this ordinance uses a standard engineering method of analyzing flood hazards, which consist of a series of interrelated steps.

- A.** Selection of a base flood that is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this Chapter is representative of large floods which are characteristic of what can be expected to occur on the particular streams subject to this Chapter. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one (1) year as delineated on the Federal Insurance Administrator's FIS and illustrative materials for Scott County dated June 5, 2012 as amended, and any future revisions thereto.
- B.** Calculation of water surface profiles are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
- C.** Computation of a floodway required to convey this flood without increasing flood heights mor than one (1) foot at any point.
- D.** Delineation of floodway encroachment lines within which no development is permitted that would cause **any** increase in flood height.
- E.** Delineation of flood fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

Section 410.080 Penalties For Non-Compliance.

- A.** No structure or other development without a floodplain development permit or other evidence of compliance is presumed to be in violation until such documentation is provided. ~~land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this Chapter and other applicable regulations.~~ Imposition of such fines or penalties for

any violation for non-compliance with this Chapter shall not excuse the violation or noncompliance or allow it to continue. All such violations or non-compliant actions shall be remedied within an established and reasonable time.

- B. Violation of the provisions of this Chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor.
- C. Any person, firm, corporation, or other entity that ~~who~~ violates this Chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than ninety (90) days, or both, and in addition shall pay all cost and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
- D. Nothing herein contained shall prevent the City of Sikeston or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 410.090 Abrogation and Greater Restrictions.

- A. This Chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Chapter ~~and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.~~ imposes greater restrictions, the provisions of this Chapter shall prevail. All other Chapters inconsistent with this Chapter are hereby repealed to the extent of the inconsistency only.

B. Compliance

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

Section 410.100 Interpretation.

- A. In the interpretation and application of this Chapter, all provisions shall be:
 - 1. Considered as minimum requirements;
 - 2. Liberally construed in favor of the Governing Body; and
 - 3. Deemed neither to limit nor repeal any other powers granted ~~under State~~ by Missouri Statutes.

Section 410.110 Warning and Disclaimer of Liability.

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on ~~scientific and engineering considerations~~ engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not increase liability on the part of the City of Sikeston, Missouri, or by any officer or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

Article IV Administration

Section 410.120 Establishment of A Floodplain Development Permit.

- A. A development permit shall be ~~obtained before construction or development begins within any area of special flood hazard~~ required for all proposed construction or other development, including the placement of manufactured homes, in areas as established in Article III, Section 410.060. No person, firm or

corporation or unit of government shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate permit for each development. Application for a development permit shall be made on forms furnished by the ~~Planning Coordinator~~ **Community Development Department** and may include, but not limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

1. Elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures.
2. Elevation, in relation to mean sea level, to which any non-residential structure is to be floodproofed.
3. Certification from a **Missouri** registered professional engineer or architect that non-residential floodproofed structure will meet the floodproofing criteria in Article **V**, Section **410.180**.
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

Section 410.130 **Designation of ~~The Local~~ Floodplain Administrator.**

The ~~Planning Coordinator~~ **City Manager** or his/her designee is hereby appointed to administer and implement the provisions of this Chapter by granting or denying development permit applications in accordance with its provisions.

Section 410.140 **Duties and Responsibilities of The ~~Planning Coordinator~~ Floodplain Administrator.**

- A. Duties of the ~~Planning Coordinator~~ **Floodplain Administrator** shall include, but not be limited to:
1. Review all **applications for floodplain** development permits to assure that sites are reasonably safe from flooding and that the permit requirements of this Chapter have been satisfied.
 2. Review **all applications for floodplain development** permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required **by Federal, State, or local law**.
 3. When base flood elevation data have not been provided, then the ~~Planning Coordinator~~ **Floodplain Administrator** shall obtain, review and reasonably utilize any base flood elevation or floodway data available from a Federal, State or other source in order to administer the provision of Article **V**.
 4. Verify, ~~record~~ and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
 5. Verify, ~~record~~ and maintain a record of the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed.
 6. When floodproofing is utilized for a particular **non-residential** structure, the ~~Planning Coordinator~~ **Floodplain Administrator** shall obtain certification from the permittee's **Missouri** registered professional engineer or architect that floodproofing standards have been met.
 7. Notify adjacent communities and the Missouri State Emergency Management Agency (**MoSEMA**) prior to any alteration or relocation of a watercourse and shall submit evidence of such notification to the Federal Emergency Management Agency (**FEMA**).

8. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
9. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions, the ~~Planning Coordinator~~ Floodplain Administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in the Article.
10. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
11. Issue floodplain development permits for all approved applications.

B. Application For Floodplain Development Permit

1. To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:
 - a. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;
 - b. Identify and describe the work to be covered by the floodplain development permit;
 - c. Indicate the use or occupancy for which the proposed work is intended;
 - d. Indicate the fair market value of the structure and the fair market value of the improvement;
 - e. Specify whether development is located in designated flood fringe or floodway;
 - f. Identify the existing base flood elevation and the elevation of the proposed development;
 - g. Give such other information as reasonably may be required by the floodplain administrator;
 - h. Be accompanied by plans and specifications for proposed construction; and
 - i. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

Section 410.150 Variance Procedures.

A. Establishment of Appeal Board

The Board of Adjustment as established by the City of Sikeston, Missouri, shall hear and decide appeals and requests for variances from the requirements of this Chapter.

B. Responsibility of Appeal Board

1. Where an application for a floodplain development permit or request for a variance from the floodplain management regulations is denied by the Floodplain Administrator, the

applicant may apply for such floodplain development permit or variance directly to the appeal board, as defined in Article IV, Section A.

2. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the ~~Planning Coordinator~~ Floodplain Administrator in the enforcement or administration of this Chapter.

C. Further Appeals

Any person aggrieved by the decision of the Board of Adjustment, or any taxpayer may appeal such decision to the Scott County or New Madrid County Circuit Court as provided in ~~Chapter 89~~, RSMo 89.110.

D. Floodplain Management Variance Criteria

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

1. The danger that materials may be swept onto other lands causing injury to persons or property;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the Comprehensive Plan and Floodplain Management Program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and ~~the effects of wave action,~~ sediment transport of flood waters, if applicable, expected at the site; and
11. The cost of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electric and water systems and streets and bridges.

E. Conditions ~~Of~~ For Approving Floodplain Management Variances.

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (2—6) below have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justification required for issuing the variance increases.

2. Variances may be issued for the repair or rehabilitation of ~~historic~~ structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination provided the proposed activity ~~repair or rehabilitation~~ will not preclude the structure's continued historic designation ~~as a historic structure~~ and the variance is the minimum necessary to preserve the historic character and design of the structure.
3. Variances shall not be granted within any designated floodway unless an engineer has submitted an evaluation of the hydraulic impact of the proposed development as well as signed, sealed and dated "no rise" certification.
4. Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to avoid relief.
5. Variances shall only be issued upon:
 - a. A showing of good and sufficient cause,
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - c. A determination that granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, increase nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
6. Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
7. A community shall maintain a record of all variance actions, including justification for their issuance.
8. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of items 1 through 5 of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

F. Conditions For Approving Variances Of Accessory Structures

1. Any permit granted for an accessory structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Permits shall meet the following conditions.
2. In order to minimize flood damages during the one percent annual chance flood event, also referred to as the 100-year flood and the threat to public health and safety, the following conditions shall be required for any permit issued for accessory structures that are constructed at-grade and wet-floodproofed:
 - a. Use of the accessory structures must be solely for parking and limited storage purposes in any special flood hazard area as identified on the community's Flood Insurance Rate Map (FIRM).
 - b. For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and

interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Article 4, Section A (4)(b) of this ordinance.

- c. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with Article 4, Section A (4)(a) of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
- d. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Article 4, Section A (4)(d) of this ordinance.
- e. The accessory structures must meet all NFIP opening requirements. The NFIP requires that enclosure or foundation walls, subject to the one percent annual chance flood event, also referred to as the 100-year flood, contain openings that will permit the automatic entry and exit of flood waters in accordance with Article 4, Section B (1)(c) of this ordinance.
- f. The accessory structures must comply with the floodplain management floodway encroachment provisions of Article 4, Section D (2) of this ordinance. No permits may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.
- g. Equipment, machinery, or other contents must be protected from any flood damage.
- h. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.
- i. Wet-floodproofing construction techniques must be reviewed and approved by the community. The community may request approval by a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction. Cost for any required professional certification to be paid by the developer.

G. Conditions For Approving Variances Of Agricultural Structures

- 1. Any permit granted for an agricultural structure shall be decided individually based on a case by case analysis of the building's unique circumstances.
- 2. In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any permit issued for agricultural structures that are constructed at-grade and wet-floodproofed:
 - a. All proposed agricultural structures shall demonstrate that no other alternate location outside of the special flood hazard area exists for the agricultural structure. Residential structures, such as farm houses, cannot be considered agricultural structures.
 - b. Use of the structures must be limited to agricultural purposes.

es in any special flood hazard area only as identified on the community's Flood Insurance Rate Map (FIRM).

- c. For any new or substantially damaged agricultural structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Article 4, Section A (4)(b) of this ordinance.
- d. The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with Article 4, Section A (4)(a) of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
- e. Any mechanical, electrical, or other utility equipment must be located *one (1) foot above the base flood elevation*. or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Article 4, Section A (4)(d) of this ordinance. The elevation shall be certified by a licensed land surveyor or professional engineer.
- f. The agricultural structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the one percent annual chance flood event, also referred to as the 100-year flood, contain openings that will permit the automatic entry and exit of flood waters in accordance with Article 4, Section B (1)(c) of this ordinance.
- g. The agricultural structures must comply with the floodplain management floodway encroachment provisions of Article 4, Section D (2) of this ordinance. No permits may be issued for agricultural structures within any designated floodway, if any increase in flood levels would result during the one percent annual chance flood event, also referred to as the 100-year flood.
- h. Major equipment, machinery, or other contents must be protected from any flood damage.
- i. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the agricultural structures.
- j. Wet-floodproofing construction techniques must be reviewed and approved by the community. The community may request approval by a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction. Cost for any required professional certification to be paid by the developer.

Article V Provisions For Flood Hazard Reduction

Section 410.160 General Standards.

No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured

homes, within any numbered or unnumbered A zones, AE, AO, and AH zones, unless the conditions of this section are satisfied.

A. ~~In all areas of special flood hazards (Zones A, AE, A1-30, AO, AH), the following provisions are required:~~ All new construction, subdivision proposals, substantial-improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:

1. All new construction, including manufactured homes and substantial improvements, shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
2. All new construction and substantial improvements shall be constructed with materials resistant to flood damage.
3. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
4. All new construction and substantial improvements shall be constructed with electrical, heating, ventilating, plumbing and air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. All new and replacement water supply systems be designed to minimize or eliminate infiltration of floodwaters into the system.
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwater into the systems and discharges from the systems into floodwaters. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
7. ~~The storage or processing of materials that are in time of flooding, buoyant, flammable, explosive or could be injurious to human, animal or plant life is prohibited. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.~~ All areas identified as unnumbered A zones on the FIRM are subject to inundation of the one percent annual chance (aka 100-year) flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this ordinance. If Flood Insurance Study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources.
8. Until a floodway has been designated, no ~~development~~ new construction, ~~including landfill~~ substantial improvements, including fill, may be permitted within any unnumbered or numbered A zones ~~Zones A1-30, or AE zones~~ on the City's FIRM unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and reasonably anticipated ~~uses development~~, will not increase the water surface elevation of the 100-year flood more than (1) foot on the average cross section of the reach in which the development or landfill is located as shown on the Flood Insurance Rate Study.

B. Storage, Material, and Equipment

1. The storage or processing of materials that are in time of flooding, buoyant, flammable, explosive or could be injurious to human, animal or plant life is prohibited.

2. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

C. Accessory Structures

1. Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 400 square feet, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; the accessory structure meets the following floodplain management requirements; and a floodplain development permit has been issued. Wet-floodproofing is only allowed for small low-cost structures.

D. Agricultural Structures

1. Structures used solely for agricultural purposes in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; there is no permanent retail, wholesale, or manufacturing use included in the structure; the structure meets the following floodplain management requirements; and a floodplain development permit has been issued.

Section 410.170 **Standards For Subdivision Proposals.**

- A. All subdivision proposals and other proposed new developments, including manufactured home parks or subdivisions, shall be consistent with the need to minimize flood damage.
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- D. ~~Base flood elevation data shall be provided for subdivision proposals and other development~~ (All proposals for development, including proposals for manufactured home park and subdivisions) ~~which is~~ greater than either ~~five (5) fifty (50) lots or five (5) acres~~, whichever is lesser, include within such proposals base flood elevation data.

Section 410.180 **Specific Standards.**

- A. In all areas identified as numbered and unnumbered A zones, AE, and AH zones, ~~of the special flood hazards~~ where **base flood elevation** data has been provided as set forth in Article IV, Section **410.140** ~~(Zones A1-30, AE and AH)~~, the following provisions are required:
 1. *Residential construction.* New construction or substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated one (1) foot above the base flood elevation. The elevation of the lowest floor shall be certified by a Missouri licensed land surveyor, engineer, or architect.
 2. *Non-residential construction.* New construction or substantial improvement of any commercial, industrial or other non-residential structure, including manufactured homes, shall either have the

lowest floor, including basement, elevated to at least one (1) foot above the level of the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below such a level the structure is water-tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A Missouri registered professional engineer or architect shall certify that the standards of this Subsection are satisfied. Such certification shall be provided to the official as set forth in Article IV, Section 410.140(6).

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

Section 410.190 **Manufactured Homes.**

- A. All manufactured homes to be placed within all unnumbered and numbered A zones, AE, and AH zones, on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and ~~shall be~~ anchored to resist flotation, collapse or lateral movement. Manufactured homes must be anchored in accordance with State and local building codes and FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
 1. Over-the-top ties shall be provided at each of the four (4) corners of the manufactured home with two (2) additional ties per side at intermediate locations and manufactured homes less than fifty (50) feet long requiring only one (1) additional tie per side;
 2. Frame ties shall be provided at each corner of the manufactured home with five (5) additional ties per side at intermediate points and manufactured homes less than fifty (50) feet long requiring only four (4) additional ties per side;
 3. All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds; and
 4. Any additions to the manufactured home be similarly anchored.
- B. Require that all manufactured homes to be placed within ~~Zones A1-30, AH and AE~~ or substantially improved within unnumbered or numbered A zones, AE, and AH zones, on the community's FIRM on site:
 - a. Outside of manufactured home park or subdivision;
 - b. In a new manufactured home park or subdivision;

- c. in an expansion to and existing manufactured home park or subdivision; or
 - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial-damage as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is one (1) foot above the base flood elevations and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement in accordance with the provisions of this Section. The elevation of the lowest floor shall be certified by a Missouri licensed land surveyor, engineer, or architect.
- C.** Require that manufactured homes to be placed or substantially improve on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones, AE and AH zones, on the community's FIRM, that are not subject to the provisions of Article V, Section 410.190 (B) of this Chapter, be elevated so that either:
- 1. The lowest floor of the manufactured home is at one (1) foot above the base flood level; or
 - 2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade, and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- D.** Require that recreational vehicles placed on sites within all unnumbered and numbered A Zones, AO, AE and AH Zones on the community's FIRM either:
- 1. Be on a site for fewer than one hundred eighty (180) consecutive days, or
 - 2. Be fully licensed and ready for highway use,*or
 - 3. Meet the permitting, elevation and anchoring requirements for manufactured homes of this Chapter
- *A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices and has no permanently attached additions.

Section 410.200 Areas of Shallow Flooding (AO and AH Zones).

- A.** Located within the areas of special flood hazard established in Article III, Section 410.060 are areas designated as ~~shallow-flooding~~ AO zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and intermediate; therefore, the following provisions apply:
- 1. ~~Within~~ AO Zones.
 - a. All new construction and substantial improvements of residential structures, including manufactured homes, shall have the lowest floor (including basement) elevated above the highest adjacent grade at least ~~as high as the one (1) foot above~~ depth number specified in feet on the community's FIRM (at least two (2) feet ~~plus one (1) foot of freeboard~~ if no depth number is specified).
 - b. All new construction and substantial improvements of non-residential structures, including manufactured homes, shall:

- (1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least ~~as high as the~~ one (1) foot above feet above the depth number specified in feet on the community's FIRM (at least two (2) feet plus one (1) foot of freeboard if no number is specified), or
 - (2) Together with attendant utility and sanitary facilities be completely floodproofed to or above the level so that any space below that level is water-tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- c. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
 - d. The anchoring requirements for manufactured homes established in Article V, Section 410.190 shall be required.

2. ~~Within~~ AH Zones.

- a. The specific standards for all areas of special flood hazard where base flood elevation data has been provided shall be required as set forth in Article V, Section 410.180.
- b. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

3. Floodway

Located within areas of special flood hazard established in Article 3, Section 410.060 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters that carry debris and potential projectiles, the following provisions shall apply:

- a. The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.
- b. The community shall prohibit any encroachments, including fill, new construction, substantial- improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in **any** increase in flood levels within the community during the occurrence of the base flood discharge.
- c. A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and Floodway revision, fulfills the requirements of such revisions as established under the provisions of 44 CFR § 65.12, and receives the approval of FEMA.
- d. If Article V, Section 410.200 (3) (b) is satisfied, all new construction and substantial improvements shall comply with

all applicable flood hazard reduction provisions of Article V.

- e. In unnumbered A zones, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources as set forth in Article V, Section 410.160 (A) (7).

Article VI Non-Conforming Use of Federal Floodplain Regulations

Section 410.210 Non-Conforming Use.

- A. A structure or the use of a structure or premises which was lawful before the passage or amendment of the original floodplain ordinance, but which is not in conformity with the provisions of this Chapter, may be continued subject to the following conditions:
 - 1. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Chapter. The Board of Municipal Utilities (Utility Department) shall notify the ~~Planning Coordinator~~ Floodplain Administrator in writing of any location that has had utility services disconnected for a period of twelve (12) months.
 - 2. Uses of adjuncts thereof, which are or become nuisances, shall not be entitled to continue as non-conforming uses.
- B. If any non-conforming use structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty percent (50%) of the market value of the structure before the damage occurred, except that if it is reconstructed in conformity with the provisions of this Chapter.

This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Article VII Amendments

Section 410.220 Amendments.

- A. The regulations, restrictions, boundaries set forth in this Chapter may from time to time be amended, supplemented, changed or repealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Sikeston.
- B. At least twenty (20) days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Federal Emergency Management Agency (FEMA). The regulations of this Chapter are in compliance with the National Flood Insurance Program (NFIP) Regulations as published in Title 44 of the Code of Federal Regulations.

SECTION III: General Repealer Section: Any ordinance or parts thereof inconsistent herewith are hereby repealed.

SECTION IV: Severability: Should any part or parts of this ordinance be found or held to be

invalid by any court of competent jurisdiction, then the remaining part or parts shall be severable and shall continue in full force and effect.

SECTION V: Record of Passage:

- A. Bill Number 6322 was introduced and read the first time this 6th day of November, 2023.
- B. Bill Number 6322 was read the second time and discussed this 27th day of November, 2023, and voted as follows:

Lindsey, _____, Baker, _____, Leible, _____, Robison, _____
Teachout, _____, Williams, _____, and Turnbow _____,
hereby being _____.
becoming ordinance 6322.

- C. Ordinance 6322 shall be in full force and effect from and after Wednesday, December 27th, 2023.

Greg Turnbow, Mayor

Approved as to form
Tabatha Graham, City Counselor

Seal / Attest:

Rhonda Council, City Clerk