

Bill No. 5085

Ordinance No. \_\_\_\_\_

Requested by: Joe Brazil, David Hammond

Sponsored by: Joe Brazil, David Hammond

AN ORDINANCE AMENDING SECTIONS 405.060, 410.180 AND 412.080 OF THE ORDINANCES OF ST. CHARLES COUNTY MISSOURI, THE UNIFIED DEVELOPMENT ORDINANCE, REGARDING PERFORMANCE GUARANTEES TO INCLUDE SURETY BONDS

WHEREAS, Art. II, Section 2.529 of the St. Charles County Charter provides that the Council may exercise legislative power pertaining to public health and welfare, police and traffic, building construction, and planning and zoning in the unincorporated part of St. Charles County; and

WHEREAS, Sections 410.180 and 412.080 of the Unified Development Ordinance of St. Charles County require performance guarantees to secure installation of subdivision improvements and sediment and erosion controls, respectively; and

WHEREAS, Sections 410.180 and 412.080 currently authorize the use of lenders' agreements, escrow agreements, letters of credit or (for small projects) certified checks as performance guarantees; and

WHEREAS, Sections 410.180 and 412.080 are being revised to authorize surety bonds in addition to lenders' agreements, escrow agreements, letters of credit or (for small projects) certified checks as performance guarantees.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF ST. CHARLES COUNTY, MISSOURI, AS FOLLOWS:

Section 1. Section 405.060 OSCCMO, is amended as follows (added text in **bold type**, deleted text in [~~bracketed and stricken type~~]).

Section 405.060 Definitions.

For the purpose of Chapter 405, Chapter 410 and Chapter 412, the following words and terms used herein are defined to mean the following:

Words used in present tense include the future; words in the singular number include the plural, and words in the plural number include the singular; the word "*building*" includes the word "*structure*"; the word "*shall*" or the word "*must*" is mandatory and not directory; the term "*used for*" includes the meaning "*designed for*" or "*intended for*."

ACCESSORY BUILDING

A subordinate building having a use customarily incidental to and located on the lot occupied by the main building.

ACCESSORY STRUCTURE

See APPURTENANT STRUCTURE.

ACCESSORY USE

A use customarily incidental to the main use of the property.

ADMINISTRATOR

The Federal Insurance Administrator.

ADULT ARCADE

Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to

five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas".

#### ADULT BOOKSTORE—ADULT NOVELTY STORE—ADULT VIDEO STORE

A commercial establishment that has as a substantial or significant portion of its stock-in-trade and offers for sale, for any form of consideration, any one (1) or more of the following:

1. Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes or disks, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or
2. Instruments, devices, or paraphernalia that are designed or marketed for use in connection with specified sexual activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as "*adult bookstore*", "*adult novelty store*" or "*adult video store*". Such other business purposes will not serve to exempt such commercial establishments from being categorized as an "*adult bookstore*", "*adult novelty store*" or "*adult video store*" so long as one (1) of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of specified sexual activities or specified anatomical areas

#### ADULT CABARET

A nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes or disks, slides, or other photographic reproductions in which a substantial or significant portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

#### ADULT DAY CARE

A group program designed to provide care and supervision to meet the needs of five (5) or more functionally impaired adults (age eighteen (18) or older) for periods of less than twenty-four (24) hours but more than two (2) hours per day in a place other than the adult's own home.

#### ADULT MOTEL

A hotel, motel or similar commercial establishment which:

1. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes or disks, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;
2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
3. Allows a tenant or occupant of the sleeping room to subrent the room for a period of time that is less than ten (10) hours.

Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel

#### ADULT MOTION PICTURE THEATER

An establishment where, for any form of consideration, films, motion pictures, video cassettes or disks, slides, or similar photographic reproductions are shown, and in which a substantial or significant portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

#### ADULT THEATER

A theater, concert hall, auditorium, or similar establishment in which a substantial or significant portion of the presentation time is devoted to the exposure of specified anatomical areas or to specified sexual activities.

#### AGRICULTURAL AND FARM BUILDINGS

Any building which is necessary or incidental to the normal conduct of a farm as defined herein (see *Farm*), including, but not limited to, residence of the operator, residence of full-time farm employees; barns, buildings and sheds for housing livestock, poultry and farm machinery; buildings for the storage or shelter of grain, hay and other crops; silos, windmills and water storage tanks.

#### AGRICULTURAL COMMODITIES

Agricultural products and livestock.

#### AGRICULTURAL STRUCTURE

Any structure used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities.

#### AGRICULTURE OR FARMING

The planting, cultivating, harvesting, and storage of grains, hay, or plants, vineyards, or trees commonly grown in St. Charles County. The raising and feeding of livestock and poultry shall be considered an agricultural venture if the area in which the livestock or poultry is kept contains ten (10) acres or more in area, and if such raising of livestock and poultry is incidental or supplemental to the raising of crops.

#### AIRPORT

A facility for servicing take-off/landing aircraft having a runway or runways and open to public use, but not necessarily to all types of aircraft.

#### ALLEY

A right-of-way which affords a secondary means of access to abutting property.

#### ALTERATION

As applied to a building or a structure, a change or rearrangement in the structural parts; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another.

#### AMUSEMENT GAME MACHINE

A coin or token-operated machine or device which, whether mechanical, electrical, or electronic, shall be ready for play by the insertion of a coin or token, and may be operated by the public for use as a game, entertainment, or amusement, the object of which is to achieve either a high or low score, which, by comparison to the

score of other players, whether playing concurrently or not, demonstrates relative skill or competence, or indicates in any other way competitive advantage of one (1) player or team over another, regardless of skill or competence. It shall include devices such as pinball machines or any device which utilizes a video tube to reproduce symbolic figures and lines intended to be representative of real games or activities.

#### AMUSEMENT GAME MACHINE COMPLEX

A group of more than three (3) amusement games or other amusement machines, in the same place, location, or premises.

#### ANIMAL, EXOTIC OR WILD

An animal which is not of a species customarily used as a household pet, but one which would ordinarily be confined to a zoo, or one which would ordinarily be found in the wilderness of this or any other country, or one which otherwise causes a reasonable person to be fearful of bodily harm or property damage.

#### ANIMAL FEEDLOT

A lot or building, or combination of contiguous lots and buildings, intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these parts, open lots used for feeding and rearing of poultry (poultry ranges) and barns, dairy facilities, swine facilities, beef lots and barns, horse stalls, mink ranches and domesticated animal zoos, shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these parts.

#### ANIMAL, PET

See PETS.

#### ANIMAL, PET, DOMESTIC OTHER

See PETS, DOMESTIC OTHER.

#### ANIMAL UNIT

Unit of measure used by the Environmental Protection Agency and the State of Missouri in the regulation of animal feedlots. The average weight of animal divided by one thousand (1,000) pounds equals animal units. The following animals are rated in terms of animal units and adopted by the State of Missouri and St. Charles County.

Animal	Head per Animal Unit
broiler	100.0
horse	.5
laying hen	30.0
dairy cow	.7
sheep	10.0
slaughter steer or heifer	1.0
swine over 55 lbs.	2.5
swine under 55 lbs.	15.0
turkey	55.0

#### ANTENNAS

Any device used to collect or radiate electromagnetic waves for the provision of cellular, paging, personal communications services (PSC) and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes and omnidirectional antennas, such as whips.

#### APARTMENT

A room or a suite of rooms within a building, provided with separate cooking facilities and intended as a single dwelling unit.

#### APPEAL

A request for a review of the Director of the Division of Planning and Zoning's interpretation of any provision of this Chapter or Chapter 410 or a request for a variance.

#### AREA, GROSS

The entire area within the boundary lines of the territory proposed for the subdivision, including the area to be dedicated for street and alley right-of-way and public use.

#### AREA, NET

The entire area within the boundary lines of the territory proposed for the subdivision, less the area to be dedicated for street and alley right-of-way and public use.

#### AREA OF LOT

The extent of space within a lot, not including right-of-ways of streets and alleys.

#### AREA OF SPECIAL FLOOD HAZARD

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

**ARTERIAL**

A highway or street designated as a major thoroughfare in the current Master Plan as approved by the Governing Body for St. Charles County, Missouri.

**BAR OR TAVERN**

An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for the consumption on the premises.

**BASE AREA OF MAIN STRUCTURE**

The square feet of floor space within the outside line of walls and includes the total of all finished space on the main floor of a building. It does not include porches, garages or rooms without heating and/or air-conditioning.

**BASE FLOOD**

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

**BASEMENT**

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

**BED AND BREAKFAST INN**

A facility for overnight lodging where five (5) or more bedrooms are available to the transient public for overnight stay; where there is one (1) off-street parking space for each guest room and for the host; also where breakfast is served. Typically, the host personally interacts with guests in order to better acquaint the guests with the community, and provides hospitality such as that being afforded any house guest.

**BED AND BREAKFAST RESIDENCE**

A single-family residence where the host must live in the residence; where there are between one (1) and five (5) guest rooms to house transient guests for overnight stay; where there is one (1) off-street parking space for each guest room and two (2) off-street parking spaces for the residence; also where breakfast is served. Typically the host personally interacts with guests in order to better acquaint the guests with the community, and provides hospitality such as that being afforded any house guest.

**BENCHMARK**

An identifiable definite point of known elevation and location and of more or less permanent character on M.S.G.S. Datum.

**BILLBOARD**

Any structure, or portion thereof, not exceeding six hundred seventy two (672) square feet upon which an advertisement is placed, painted, or printed, advertising a person, thing, product, or service not located or sold on the property on which the sign is located, but not including official governmental notices.

**BLACKSMITH SHOP**

A workshop with a furnace where metal is heated and wrought, where wrought iron is produced, where iron is made malleable, and/or where metal is formed by heating and hammering.

**BLOCK**

A piece or parcel of land entirely surrounded by public or private highways or streets, other than alleys. In cases where the platting is incomplete or disconnected, the Director of the Division of Planning and Zoning shall determine the outline of the block.

**BOARDING HOUSE OR LODGING HOUSE**

A building other than a hotel, occupied as a single housekeeping unit, where lodging or meals are provided for three (3) or more persons for compensation, pursuant to previous arrangements, but not for the traveling public or transients.

**BOARD OF ZONING ADJUSTMENT (BZA)**

A body of persons which may determine and vary the regulations contained within the ordinance in accordance with the provisions within Part 7, Sections 405.590 et seq.

**BOAT**

A water vessel propelled by oars, paddles, sail or power.

**BOAT BROKERAGE**

An agent who negotiates contracts of purchase and sale of boats.

**BODY PIERCING**

Any method of piercing the skin or mucosa in order to place any object including, but not limited to, rings, studs, bars or other forms of jewelry through the skin or mucosa. Chapter 645 expressly excludes ear piercing, as defined in Section 645.080(B), as a body piercing procedure.

## BREWERY

An industrial use that brews ales, beers, meads and/or similar beverages for sale and consumption off premises.

## BREWHOUSE

One (1) or more buildings, structures and open spaces utilized for brewing of beer, or cider and/or distilling of spirits for both on-site and off-site sale and consumption, with or without subsidiary accessory uses including but not limited to the preparation of food, sale and service of prepared food indoors and outdoors, conducting of weddings and/or wedding receptions or other private parties, and tours of the brewhouse.

## BROADCAST FACILITY

A facility that generally consists of an equipment building and a guyed or self-support tower, typically constructed of lattice or tubular steel that supports AM/FM radio and/or VHF or UHF television antennas. The antenna weight ranges from three thousand (3,000) to ten thousand (10,000) pounds. With the exception of AM, these towers are usually located on high ground, as the technology requires "line of sight" between the transmitter and the signal receivers. The facility transmits power levels, measured at the antenna as effective radiated power (ERP), that typically exceed fifty thousand (50,000) watts and may reach five million (5,000,000) watts.

## BUILDING

An enclosed structure, anchored to permanent foundation, having exterior or party walls and a roof, designed for the shelter of persons, animals, or property.

## BUILDING LINE, FRONT

A line which establishes the required front yard and is generally parallel with the front property line.

## CABIN

A building used primarily as weekend or short-term living quarters by persons partaking of recreational activities in the general vicinity. The same regulations shall apply to cabins as apply to dwellings, except when specifically excluded.

## CALIPER

The diameter of a trunk six (6) inches above grade.

## CAMPGROUNDS

Land used or intended to be used, let, or rented for temporary occupancy for recreational purposes by one (1) or more persons for camping.

#### CANOPY

A roof-like cover having no supporting walls, but supported otherwise from the ground, deck, floor, or walls of the building.

#### CENTRALIZED YARD WASTE COMPOSTING FACILITY

A commercial facility where yard waste is accepted from the public for composting. Composting is an aerobic (oxygen-dependent) degradation process by which organic wastes decompose under controlled conditions. Yard waste shall be defined as leaves, grass clippings, yard and garden vegetation, Christmas trees, shrubs, vegetable and flower garden waste, and brush, produced as a result of lawn and garden care and maintenance.

#### CHANNEL

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

#### CHURCH

A building principally used for religious purposes, which shall include, but not be limited to, rectories, parish houses, convents, monasteries, temples, and synagogues.

#### CLEAN FILL

Uncontaminated soil, rock, sand, gravel, concrete, asphaltic concrete, cinder blocks, brick, minimal amounts of wood and metal, and inert solids as approved by rule or policy of the Missouri Department of Natural Resources for fill, reclamation, or other beneficial use. This definition does not include the use of clean fill for raising any residentially zoned property above the existing grade unless the purpose of the clean fill is to raise the first (1st) floor of a structure one (1) foot above the 100-year floodplain. The exclusion of clean fill in residentially zoned subdivisions above the existing grade would only be applicable after the completion of an interim grading and sediment and erosion control plan by the developer.

#### CLEARING

Any activity that removes, cuts down or covers up vegetative cover of land.

#### CLINIC

An establishment where patients are not lodged overnight, but are admitted for examination and treatment.

**CLUB (private)**

A building or portion of a building intended to be used as a center of informal association for a selective membership not open to the general public. The building could be used by persons for recreational and eating purposes, but not for dwelling purposes other than managerial or transient lodging.

**CLUSTER DEVELOPMENT**

A residential use that divides land into not more than the number of lots permissible in a conventional subdivision of the same property in the same zoning district, but where the lot areas are reduced in order to gain common open space and reductions in other lot requirements may be considered. Residential units may be single-family or attached single-family, however, units platted through this procedure must all have ground floor living space and not stacked vertically on top of another unit.

**COLLECTOR**

See STREET, COLLECTOR.

**COMMERCIAL VEHICLE**

A vehicle, truck or bus designed to carry passengers, freight and/or merchandise with one (1) or more of these characteristics:

1. Licensed by a State as a commercial vehicle;
2. Exceeds twenty-four (24) feet in length;
3. Conveys a commercial message; or
4. Has materials stored on the vehicle's exterior such as ladder, tools, etc.

**COMMISSION**

The Planning and Zoning Commission of St. Charles County.

**COMMON GROUND**

That land set aside for open space or recreational use for the owners of the residential lots in a subdivision, which land is conveyed by the developer to trustees whose trust indenture shall provide that said common ground be used for the sole benefit, use, and enjoyment of the lot owners present and future. No lot owner shall

have the right to convey interest in the common ground, except as an incident of the ownership of a regularly platted lot.

#### COMMUNITY

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

#### COMPOSTING FACILITY

See CENTRALIZED YARD WASTE COMPOSTING FACILITY.

#### CONDITIONAL USE

A use allowed in a zoning district after a permit is granted, in accordance with the provisions within Part 4 of Chapter 405, Sections 405.510, et seq.

#### CONDOMINIUM

A form of ownership in which the interior space of a living unit is held by an individual owner, with all individual owners sharing in the ownership of common areas.

#### CONFERENCE/EVENTS/LODGING CENTER

A facility with meeting rooms and places for conferences, meetings, weddings and other public assemblies, which may include a hotel or motel to accommodate either persons attending such public assemblies or travelers.

#### CONIFEROUS TREES

Trees at least ten (10) feet tall at maturity, which usually have green foliage throughout all seasons of the year in Missouri.

#### CONCEPT PLAN

A drawing or plan illustrating the intended use of the property, and any proposed improvements, prepared in accordance with the requirements in Section 405.523 of the Unified Development Ordinance.

#### CONSTRUCTION, EXISTING (for the purpose of determining rates)

Structures for which the "start of construction" commenced before September 15, 1978. "Existing construction" may also be referred to as "existing structures." This term applies to the "FW", "FF", and "DF" Overlay Districts.

#### CONSTRUCTION, NEW

New construction means those structures where new construction or substantial improvement which commenced after September 15,

1978, the effective date of the Flood Insurance Rate Map. This term applies to the FW, FF, and DF Overlay Districts.

#### CONSTRUCTION PLANS

Complete construction drawings of a facility or improvement, including, but not limited to, road plans and profiles, drainage plans, and utility plans (see *Improvement Plans*).

#### CONSTRUCTION, START OF

Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means 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 or mobile home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory 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 construction means the first (1st) alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. This term applies to the "FW" and "FF" Overlay Districts.

#### COUNTY

St. Charles County, Missouri.

#### COUNTY COUNCIL

The body established by Article II of the St. Charles County Charter (1992) as the legislative branch of the government of St. Charles County.

#### COUNTY ENGINEER

The office established by Article IV, Section 4.700 et seq., of the St. Charles County Charter.

#### COUNTY EXECUTIVE

The office established by Article III of the St. Charles County Charter (1992) to hold executive power of St. Charles County.

#### CO-USE

The location of two (2) or more telecommunication antenna or devices (providers) on a single telecommunication tower.

#### CUSTOM BUTCHERING

Custom butchering activity that is licensed by the Missouri Meat and Poultry Inspection Program as a custom exempt operation, with no retail or wholesale sales.

#### DAYCARE CENTER

A building used for the supervision and care of more than four (4) preschool children, other than those of the operator.

#### DEBRIS OR SEDIMENT BASIN

A barrier or dam built across a waterway or at other suitable locations to retain rock, sand, gravel, silt, or other materials.

#### DENSITY

The number of dwelling units developed on one (1) acre of land.

#### DENSITY FLOODWAY

The adjacent portion of the floodway of the Missouri and Mississippi Rivers, as depicted on the Flood Insurance Rate Map, which permits island development on eighteen percent (18%) of a lot/parcel in the floodplain without cumulatively increasing the water surface elevation by more than one (1) foot.

#### DESIGN CRITERIA FOR THE PREPARATION OF IMPROVEMENT PLANS

St. Charles County's "Design Criteria for the Preparation of Improvement Plans" last published February 2002, as amended thereafter in the most recent update dated January 2021, and as amended hereinafter from time to time.

#### DETENTION BASIN

A man-made or natural water collector facility designed to collect surface and subsurface water in order to impede its flow and to release the same gradually at a rate not greater than that prior to the development of the property, into natural or man-made outlets.

#### DEVELOPMENT

Any man-made 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.

#### DEVELOPMENT SITE

A site in which one (1) or more lots, tracts or parcels of land are to be developed or redeveloped as a coordinated site for a complex of uses, units or structures included on a single site plan, conceptual site plan or preliminary plat.

#### DIRECTOR OF COMMUNITY DEVELOPMENT

The County officer responsible for the administration of the Department of Community Development pursuant to Chapter 132, Ordinances of St. Charles County, Missouri, who shall possess all other powers previously vested by order or ordinance in the former, and now abolished, Departments of Planning and Building and in the Plan Review and Neighborhood Improvement District functions of the County Highway Department.

#### DIRECTOR OF THE DIVISION OF BUILDING AND CODE ENFORCEMENT

The County officer appointed pursuant to Chapter 132 to direct the work of the Division of Building and Code Enforcement of the Department of Community Development and to enforce the provisions of this Chapter and Chapter 410.

#### DIRECTOR OF THE DIVISION OF DEVELOPMENT REVIEW

The County officer appointed pursuant to Chapter 132 to direct the work of the Division of Development Review of the Department of Community Development and to perform the functions assigned to the Division's Director by Chapter 132, this Chapter and Chapters 410 and 412.

#### DIRECTOR OF THE DIVISION OF PLANNING AND ZONING

The County officer appointed pursuant to Chapter 132 to direct the work of Division of Planning and Zoning of the Department of Community Development and to enforce the provisions of this Chapter and Chapter 410.

#### DISTRICT

A part of the unincorporated portion of the County wherein regulations of this Chapter or Chapter 410 are uniform.

#### DIVERSION

A channel with or without a supporting ridge on the lower side constructed across or at the bottom of a slope.

**DRIP LINE**

The outermost perimeter of the crown of a plant as projected vertically to the ground.

**DRY-FLOODPROOF**

To protect against flood-damage as provided in 44 C.F.R. Sections 60.3(c) and 78.12(e).

**DUPLEX**

See DWELLING, TWO-FAMILY.

**DWELLING**

A building, or portion thereof, designed and used exclusively for residential occupancy.

**DWELLING, MULTIPLE**

A building, or portion thereof, arranged, intended or designed for occupancy by three (3) or more families, including apartment houses, row houses, tenements, and apartment hotels.

**DWELLING, ONE-FAMILY**

A detached building arranged, intended, or designed for occupancy by one (1) family.

**DWELLING, TWO-FAMILY**

A building designed exclusively for occupancy by two (2) families living independently of each other, including a duplex (one (1) dwelling unit above the other), or a semi-detached dwelling (one (1) dwelling unit beside the other).

**EASEMENT**

The right to use another person's property, but only for a limited and specifically named purpose.

**EASEMENT OF ACCESS**

A grant by a property owner to the public, a corporation, or a person for ingress and egress purposes only.

**ENGINEER**

A registered professional engineer licensed by the State of Missouri.

**EROSION**

The wearing away of the land surface by the action of wind, water, or gravity.

**ESCORT**

A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person or who agrees to privately model lingerie or to privately perform a striptease for another person.

#### ESCORT AGENCY

A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one (1) of its primary business purposes for a fee, tip or other consideration.

#### ESTABLISHMENT (SEXUALLY ORIENTED)

Any of the following:

1. The opening or commencement of any sexually oriented business as a new business;
2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
3. The additions of any sexually oriented business to any other existing sexually oriented business; or
4. The relocation of any sexually oriented business.

#### EXCAVATION OR CUT

The removal, stripping, or disturbance of soil, earth, sand, rock, gravel, or other similar substances from the ground.

#### EXEMPTED QUANTITY

For each hazardous substance, a weight less than the Final Reportable Quantity listed on the U.S. Environmental Protection Agency's List of Hazardous Substances, 40 CFR 302.4. For each extremely hazardous substance, a weight less than the Reportable Quantity listed on the U.S. Environmental Protection Agency's List of Extremely Hazardous Substances, 40 CFR 355, Appendix A. For any liquid petroleum product not listed as a hazardous or extremely hazardous substance, a quantity of sixty (60) gallons or less. Where regulated substances are dissolved in or mixed with other non-regulated substances, only the actual quantity of the regulated substance present shall be used to determine compliance with the provisions of this Chapter. The exempted quantity shall be measured as the total quantity of that substance per facility at any one time.

#### EXISTING CONSTRUCTION

See CONSTRUCTION, EXISTING.

#### EXISTING GRADE

The vertical location of the existing ground surface prior to excavation or filling.

#### EXTREMELY HAZARDOUS SUBSTANCE

See REGULATED SUBSTANCE.

#### FAMILY

One (1) or more persons who are related by blood, marriage or adoption, living together and occupying a single housekeeping unit.

#### FARM

A parcel of land used for growing or raising agricultural products, including related structures thereon.

#### FARM STAND

A temporary structure and/or land area not to exceed a gross floor and/or ground area of five hundred (500) square feet from which agricultural products produced on the premises are sold to the general public.

#### FARM STAND, COMMERCIAL

A structure used for the retail sales of fresh fruits, vegetables, flowers, herbs or plants grown on the premises and may be augmented by imported products of the same type. The accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces or baked goods and homemade handicrafts may also be considered. The floor area devoted to the sales of these accessory items shall not exceed fifty percent (50%) of the total sales area. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold at a commercial farm stand.

#### FEMA

Federal Emergency Management Agency.

#### FENCES

An enclosure or barrier, such as wooden posts, wire, iron, etc., used as a boundary, means of protection, privacy screening or confinement, but not including hedges, shrubs, trees or other natural growth.

#### FILL OR FILLING

The placing of any soil, earth, sand, rock, gravel, or other substance on the ground.

#### FINAL PLAT

See PLAT, FINAL.

#### FINISHED GRADE

The final grade or elevation of the ground surface conforming to the proposed design.

#### FLOOD OR FLOODING

A 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 of runoff of surface waters from any source.

#### FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)

An official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

#### FLOOD ELEVATION DETERMINATIONS

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 (1%) or greater chance of occurrence in any given year.

#### FLOOD ELEVATION STUDY

An examination, evaluation, and determination of flood hazards.

#### FLOOD INSURANCE RATE MAP (FIRM)

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

#### FLOOD INSURANCE STUDY (FIS)

An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

#### FLOOD PROOFING

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.

## 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 depth of associated flooding. Such a system typically includes dams, reservoirs, levees, or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

## FLOODPLAIN MANAGEMENT

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

## FLOODPLAIN OR FLOOD PRONE AREA

Any land area susceptible to being inundated by water from any source (see FLOOD OR FLOODING).

## 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 one (1) foot.

## FLOODWAY FRINGE

That area of the floodplain, outside of the floodway, that has a one percent (1%) chance of a flood of a 100-year magnitude in any one (1) year.

## FLOOR AREA

The square feet of floor space within the outside line of walls and includes the total of all finished space on all floors of a building. It does not include porches, garages, or unfinished space in a basement.

## FLOOR AREA RATIO

The ratio between the total square feet of floor area in a structure and the total square feet of land in the lot or tract on which the structure is located.

## 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.

#### FRONTAGE

All property on one (1) side of a street or highway, measured along the right-of-way line of the street.

#### GARAGE, COMMUNITY

A building, or portion thereof, providing private parking of motor vehicles for persons residing on the premises.

#### GARAGE, PRIVATE

An accessory building for storage of private motor vehicles located on the same property as the residence.

#### GARDEN CENTER

A place of business where retail and wholesale products and produce are sold to the consumer. These centers, which may include a nursery and/or greenhouses, import most of the items sold and may include plants, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels and other lawn and garden variety tools, lawn and garden supplies, water gardens, outdoor furniture, irrigation equipment, mulch and yard ornaments.

#### GENERAL SERVICE OR REPAIR ESTABLISHMENT

Establishments primarily engaged in the provision of repair services to individuals and households, rather than businesses, but excluding automotive and equipment repair use types. Typical uses include appliance repair shops, shoe repair, watch or jewelry repair shops or repair of musical instruments but excludes those classified more specifically by definition.

#### GOVERNING BODY

The executive and/or legislative branches of St. Charles County government as defined and empowered by the County Charter.

#### GRADE

The slope of a surface measured by the change in vertical distance versus the change in horizontal distance and specified in percent, as a ratio, or in feet per feet, and shown on a surface profile plan as required herein.

#### GRADE LEVEL, FINISHED

The final elevation of the ground surface after development.

#### GRADE LEVEL, NATURAL

The elevation of the ground surface in its natural state, before man-made alterations.

#### GRADING

Any excavation or filling or land disturbance, or combination thereof.

#### GREENBELT

A visual barrier composed of evergreen plants, trees and grass arranged to form both a low-level and a high-level screen.

#### GREENHOUSES

A structure whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants. The term includes cold frame structures which are temporary in nature including inflatable structures.

#### GROUP HOME FACILITY

A non-medical facility providing shelter, counseling and, where necessary, other rehabilitative services, supervision or assistance to no more than eight (8) unrelated persons who, due to mental or physical disability, pregnancy or status as a minor who is unable to live with parents or guardians, reside together in a family-type environment as a single, housekeeping unit. Such a group home facility shall have the appearance of a conventional single-family residence with a single kitchen facility. Homes recognized as Oxford Homes shall be considered group homes. Excluded from the definition of group home facility are homes established for or occupied by residents who are permitted to live in "halfway houses" including residences in which the residents are criminal offenders in work-release sentence or on parole or probation, or persons who use or are addicted to a controlled substance. A group home facility shall be a permitted use only if it has received administrative approval from the Director of the Division of Planning and Zoning as set out in Section 405.078(8)<sup>[2]</sup> and is operated in conformance with conditions and standards specified in that Subsection and all other applicable governmental regulations and requirements.

#### GUYED TOWER

A structure composed of three (3) or four (4) support legs, that is, "guyed" by wires to anchors in the ground placed at radial distances from the tower, and is used to support telecommunications

equipment and antennas. Generally, heights range from sixty (60) feet to five hundred (500) feet. Guyed towers are less bulky than self-support towers at the same height, location and loads.

#### HALFWAY HOUSE

A facility in which persons reside together by reason of probation or parole from incarceration or by reason of the terms of a criminal conviction.

#### HANDICAPPED PARKING SPACE

A reserved surface area not less than thirteen (13) feet wide and identified by an above-grade sign designating the space for parking by the physically disabled.

#### HAZARDOUS SUBSTANCE

See REGULATED SUBSTANCE.

#### HEIGHT OF BUILDINGS

The vertical distance from the average grade of the front yard to the highest roof surface.

#### HIGH PRESSURE PIPELINE

A pipeline for the transmission of any substance, including, but not limited to, crude oil, highly volatile liquids (including anhydrous ammonia), petroleum products, carbon dioxide, jet fuel, natural gas or any other derivative product thereof, any of which products are under pressure of more than three hundred fifty (350) pounds per square inch and regulated by the United States Department of Transportation.

#### HIGHEST ADJACENT GRADE

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

#### HIGHWAY

See ARTERIAL.

#### HISTORIC SITE

A structure or place of historical significance; may be designated as such by local, State or Federal Government.

#### HISTORIC STRUCTURE

Any structure that is (a) listed individually in the National Register of Historic Places (a) listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National

Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a State Inventory of Historic Places in States with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a Local Inventory of Historic Places in communities with historic preservation programs that have been certified either (1) by an approved State program as determined by the Secretary of the Interior, or (2) directly by the Secretary of the Interior in States without approved programs.

#### HOME OCCUPATION

An occupation or profession carried on by one (1) or more members of the household, residing on the premises, which is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and which conforms to the standards and provisions contained within Part 3, Article IV, Section 405.495 of this Chapter.

#### HOSPITAL

A building used for the diagnosis, treatment, or other care of human ailments and having room facilities for overnight medical or psychiatric patients, a staff of physicians and nurses, and other related services.

#### HOTEL

A building occupied or used as a more or less temporary abiding place of individuals or groups of individuals who are lodged, with or without meals, including related customary services and in which there are no provisions for cooking in individual rooms.

#### HOUSEHOLD

Any of the following groups of individuals provided the number of individuals in a home is further regulated by Title V Building and Construction of St. Charles County, Missouri:

1. Any number of persons related by blood, marriage or adoption, plus:
  - a. A domestic employee serving residents on the premises;
  - b. Children under the age of eighteen (18) who may not be related to any or all of the other residents but who are under the guardianship or in foster care of an adult resident;

2. A group including not more than two (2) adults together with any number of children related by blood or legal adoption to at least one (1) of the adults; or
3. A group of not more than three (3) adults whether or not related to one another living together as a single housekeeping unit.

#### IMPROVEMENT PLANS

The engineering plans showing types of materials and construction details for the physical structures and facilities to be installed both in or in conjunction with the proposed subdivision.

#### IMPROVEMENTS (LAND)

Refers to site grading, street pavement, monuments, sidewalks, water mains, sanitary sewers, storm sewers, street signs, and special structures, to be installed or agreed to be installed by the subdivider on land to be used for public streets.

#### IMPROVEMENTS (STRUCTURAL)

See ALTERATION.

#### INSTITUTION

A non-profit or quasi-public use, such as a church, library, public or private school, hospital, or municipally owned or operated building, structure, or land used for public purpose.

#### JUNK YARD

See SALVAGE YARD.

#### KENNEL

An establishment where dogs, cats, or other small animals are boarded for compensation, bred, or raised on a commercial scale.

#### LAND DISTURBANCE

Clearing or grading or any other action which results in removal, covering up or cutting down of the natural site vegetation and/or destruction of the root zone or otherwise results in leaving the ground surface exposed to soil erosion through the action of wind or water.

#### LAND SURVEYOR

A land surveyor registered in the State of Missouri.

#### LANDING FIELD

A facility for take-off and landing of aircraft, with or without services available for aircraft, which is operated for private use.

#### LANDSCAPE CONTRACTOR

A business principally engaged in the decorative and functional alteration, planting and maintenance of grounds. Such a business may engage in the installation and construction of underground improvements but only to the extent that such improvements (e.g., drainage systems) are accessory to the principal business and are necessary to support or sustain the landscaped surface of the ground. Vehicles, equipment and materials used in the business may be stored on-site including rock, mulch, soil and some plant material which is not grown on the site. Retail and wholesale sales of products and services are not accomplished from the site.

#### LANDSCAPING

The development and decorative planting of gardens, grounds, or other natural landscapes.

#### LARGE TREES

Deciduous shade trees with a mature height of thirty (30) feet or greater and a mature spread of thirty (30) feet or greater.

#### LAWN CARE SERVICE

A business devoted to cutting grass on private or public property. Such service shall not include materials or equipment used for landscaping.

#### LIQUID PETROLEUM PRODUCT

See REGULATED SUBSTANCE.

#### LIVESTOCK

Animals kept or raised for use, pleasure, or profit; typically farm animals. Shall include, but not be limited to: cattle, horses, poultry, sheep, and swine.

#### LOADING SPACE

A space within the main building or on the same lot for standing, loading, or unloading trucks.

#### LOT

A parcel of land occupied or to be occupied by one (1) main building or unit group of buildings and the accessory buildings or uses customarily incidental thereto, including such open spaces as are required under this Chapter or Chapter 410, and having its principal frontage upon a public or private street.

**LOT AREA**

The total horizontal area within the boundaries of a lot, exclusive of any land designated for street or alley purposes.

**LOT, CORNER**

A lot abutting upon two (2) or more streets at their intersection. A corner lot shall be deemed to have a front yard setback for each street.

**LOT, FLAG**

A lot with access provided to the bulk of the lot by means of a narrow corridor. The bulk of the lot with the exception of the access area must meet the minimum lot width and area requirements for the district in which the lot is located.

**LOT LINE, FRONT**

The boundary line between a lot and the street right-of-way on which it borders.

**LOT LINE, REAR**

The boundary line which is opposite and most distant from the front street line, except that, in the case of uncertainty, the Director of the Division of Planning and Zoning shall determine the rear line.

**LOT LINE, SIDE**

Any lot boundary line not a front or rear line thereof.

**LOT LINES**

The lines bounding a lot as defined herein.

**LOT OF RECORD**

A lot or parcel of land, the plat or deed of which has been recorded in the office of the Recorder of Deeds of St. Charles County, Missouri, prior to the adoption of this ordinance.

**LOT, THROUGH**

An interior lot having frontage on two (2) streets. A through lot shall be deemed to have a front yard setback for each street.

**LOT WIDTH**

The horizontal distance between side lines, measured at the front building line.

**LOWEST FLOOR**

The lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this Chapter or Chapter 410.

#### MANUFACTURED HOME

A residential dwelling built after June 15, 1976, in accordance with the Federal Manufactured Home Construction and Safety Standards, which standards apply to homes to be constructed on a non-removable steel chassis.

#### MANUFACTURED/MOBILE HOME PARK SUBDIVISION, EXISTING

Any area, tract, or site of land zoned "RM", Mobile Home District, whereupon manufactured or mobile homes, as defined within the ordinance, are placed or located on individual lots, and intended to be used, let, leased, or rented, for dwelling purposes.

#### MANUFACTURED HOME SUBDIVISIONS

A subdivision designed and/or intended for the sale of all lots for sitting manufactured and/or modular structures.

#### MARINA

A dock or basin providing secure moorings for motorboats and yachts and often offering supply, repair and other facilities.

#### MARKET VALUE OR FAIR MARKET VALUE

An estimate of what is fair, economic, just, and equitable value under normal local market conditions.

#### MASSAGE PARLOR

A commercial establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the State. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

#### MASTER PLAN

The long-range plan for the County intended to guide the future growth and development of the area. Includes analysis, recommendations, and goals and objectives for the community's population, economy, housing, transportation, community facilities, and land use.

#### MEAN SEA LEVEL

For purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

#### MICROBREWERY

A restaurant that prepares handcrafted natural beer as an accessory use for consumption on the premises. Such accessory use may occupy up to thirty percent (30%) of the gross floor area of the restaurant.

#### MINING

The extraction of minerals including: solids such as coals and ores, liquids, such as crude petroleum, and gases, such as natural gases. The term also includes quarrying, milling, such as crushing, screening, washing and flotation; and other preparation customarily done at the mine site or as a part of mining activity.

#### MOBILE HOME

A residential dwelling unit that was fabricated in an off-site manufacturing facility, designed to be a permanent residence, built prior to enactment of the Federal Manufactured Home Construction and Safety Standards. Such structure has a chassis, axles and a hitch which are part of the structure and which may reasonably be equipped with wheels for transporting the structure from place to place. (Does not include recreational vehicles or travel trailers.)

#### MODULAR STRUCTURE

A factory fabricated building unit, exclusive of manufactured homes and mobile homes, designed to be incorporated with one (1) or more similar units at a building site into a modular structure to be used for residential purposes. Such a modular unit is delivered with a seal issued by the Missouri Public Service Commission certifying the unit as a modular structure and also with a purchaser's certificate of compliance certifying that the unit as a modular structure has been constructed to applicable standards by the Missouri Public Service Commission for modular units.

#### MONOPOLE

A structure composed of a single spire used to support telecommunications equipment and antennas. Generally, constructed of steel and at heights typically ranging from twenty (25) to one hundred twenty-five (125) feet. The structure is usually circular in sections, with base diameters increasing with height and loads from about twenty-four (24) to about forty-eight (48) inches.

#### MOTEL

Any building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space located on the lot, and designed, used, or intended wholly or in part for the accommodation of automobile transients.

#### NATIVE VEGETATION

Plant life or total plant cover indigenous to the surrounding area.

#### NATURAL WATERCOURSE

A channel formed in the existing surface topography of the earth prior to changes made by unnatural conditions.

#### NEW CONSTRUCTION

See CONSTRUCTION, NEW.

#### NEW MANUFACTURED HOME PARK OR SUBDIVISION

See MANUFACTURED HOME SUBDIVISIONS.

#### NIGHTCLUB

A commercial establishment dispensing alcoholic beverages for consumption on the premises and where a dance floor or entertainment is provided.

#### NON-CONFORMING USE

The lawful use of land or a building, or a portion thereof, which use does not conform with the use regulations of the district in which it is located and which use existed at the time of the adoption of this ordinance.

#### NURSERY

An enterprise that conducts the retail and/or wholesale sales of trees, shrubs, flowers and grasses grown on or off the premises for transplanting as well as accessory items. Accessory products for sale may include, but are not limited to, fertilizers, mulch, edging material, top soil. Services associated with the nursery include landscape design and installation of materials sold from the nursery.

NURSERY, DAY  
See DAYCARE CENTER.

NURSERY SCHOOL  
See PRESCHOOL.

NURSING HOME (CONVALESCENT CARE FACILITY)  
Any premises which provides twenty-four (24) hour accommodation, board, personal care, and nursing care or skilled nursing care services under the daily supervision of a licensed nurse or registered professional nurse and under the direction of a licensed physician to the aged or infirmed; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

OFF-PREMISE SIGN  
See BILLBOARD.

ON-PREMISE SIGN  
See SIGN (ON-PREMISE).

100-YEAR FLOOD  
The base flood having a one percent (1%) chance of annual occurrence.

OPEN CHANNEL  
A constructed ditch or channel designed for water flow.

OPEN SPACE  
Area within a development which can be graded, landscaped or left in its natural state and is intended to be maintained for active or passive recreational use. Such areas shall be grassed and landscaped or covered only for a recreational purpose. Roofs, driveways, parking areas, required landscaped areas and required setbacks shall not constitute open space.

OPEN STORAGE  
Storage of material or goods on the ground outside a building.

OVERLAY DISTRICT  
A district which acts in conjunction with the underlying zoning district or districts. The original underlying zoning district designation does not change.

PARCEL OF LAND

A separately designated area of land delineated by identifiable legally recorded boundary lines.

#### PARKING SPACE

A surfaced area, enclosed or unenclosed, sufficient in size to store one (1) automobile, and not less than nine (9) feet wide and nineteen (19) feet long, together with a parking aisle or driveway connecting the parking space with a street, road, or alley, and permitting ingress and egress for automobiles.

#### PASSENGER CAR

A motor vehicle designed for carrying ten (10) persons or less and used for the transportation of persons; except that, the term "passenger car" shall not include motorcycles, motorized bicycles, motor tricycles, ATV's, recreational vehicles and trucks that meet the definition of a commercial vehicle.

#### PERFORMANCE GUARANTEE

Escrow agreement, lender's agreement, certified check, [~~or~~] standby letter of credit, **or surety bond** as required by Chapter 410 or 412 and authorized by ordinance to secure installation of improvements or erosion and sediment controls.

#### PERMEABILITY TEST

A test designed to determine the ability of ground to absorb water, and used to determine the suitability of a soil for drainage or for the use of a septic system.

#### PERSON

An individual, proprietorship, partnership, corporation, association, or other legal entity.

#### PERSONAL SERVICE ESTABLISHMENT

An establishment which offers specialized goods or services purchased frequently by the consumer. Included are barbershops, beauty shops, massage facilities, chiropractic clinics, garment repair, laundry cleaning, pressing, dyeing, tailoring, shoe repair, and other similar establishments.

#### PET

A domesticated animal kept for pleasure rather than utility. Small animals including fish or fowl permitted in the house or yard and are customarily kept for personal use or enjoyment within the home.

Shall include but not be limited to: dogs, cats, rabbits, small mammals, common aquarium animals, fish, domestic tropical birds (i.e. canaries, parrots, parakeets), rodents and animals which may be classified as "domestic other" (not defined as exotic or wild animals). The number of particular type of pet may be further regulated under Exhibit 1, Permitted Animal Regulations.

#### PET, DOMESTIC OTHER

An animal that may be considered appropriate as a pet which is not classified as an exotic or wild animal. The animal is kept for personal use and is customarily kept within the home. This classification may include such animals as pot bellied pigs, ferrets, or other animals that may be allowed as pets by the County Community Health and the Environment Director.

#### PLANNED DEVELOPMENT DISTRICT

A planned development district is a comprehensively planned development containing residential, commercial, industrial, and/or other land uses on an area of land in single, partnership, or corporate ownership, and under unified control.

#### PLANNED UNIT DEVELOPMENT (PUD)

A single parcel or contiguous parcels of land intended to be developed in accordance with an overall design plan (preliminary development plat), which may or may not have a mixture of land uses.

#### PLANNING AND ZONING COMMISSION

St. Charles County Planning and Zoning Commission.

#### PLAT

A map, plan, or layout of a subdivision indicating to scale the location and boundaries of individual properties.

#### PLAT, BOUNDARY ADJUSTMENT

A plat which depicts a change in a recorded subdivision that affects any lot line, provided that no new lot or illegal zoning lot is created.

#### PLAT, FINAL

A map of land subdivision prepared in form suitable for filing of record with necessary affidavits, dedications, and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets and alleys, public areas, and other dimensions of land.

#### PLAT, PRELIMINARY

Preliminary engineering maps, drawings, or charts, and supportive material indicating the proposed layout of the subdivision.

#### PLAT, RESUBDIVISION

A final plat which depicts a change in a recorded final subdivision plat that affects any street layout, easement of access, right-of-way, design concept, or creates a new lot, provided that no illegal zoning is created.

#### POLITICAL SIGN

A sign identifying and urging voter support for a particular election issue, political party or candidate for public office.

#### PRESCHOOL

A pre-kindergarten school for children, primarily between the ages of three (3) and five (5).

#### PUBLIC HEARING

A meeting announced and advertised in advance and open to the public, with the public given an opportunity to talk and participate.

#### QUARRY

A place where rock, ore, stone, and similar materials are excavated for sale or off-tract use.

#### RECREATION, COMMERCIAL OUTDOOR

Predominantly participant recreational uses conducted in the open or partially enclosed facilities. Typical uses include swimming pools, tennis courts, racquetball courts, athletic fields, archery ranges and shooting ranges. Enclosed facilities providing accessory functions including concessions, locker rooms, restrooms and indoor space for those activities that are provided outdoors shall be permitted. The total area of the enclosed structures shall not exceed three percent (3%) of the total site area.

#### RECREATION, COMMERCIAL INDOOR

A commercial recreational use conducted entirely within a building, including arcade, arena, athletic clubs, fitness and health clubs, auditorium, bowling alley, gymnasium, billiard hall, skating rink, swimming pool, basketball, soccer, volleyball, racquetball, handball, tennis court.

#### RECREATIONAL EQUIPMENT

Any recreational vehicle, motorized off-road vehicle, any watercraft regardless of propulsion, or any trailer designed or customarily used

to transport such off-road vehicle or watercraft. See also RECREATIONAL VEHICLE.

#### RECREATIONAL USES

Uses for the conduct of sports, leisure-time activities, and other customary and usual recreational activities.

#### RECREATIONAL VEHICLE

A vehicle which is:

1. Built on a single chassis;
2. Four hundred (400) square feet or less, when measured at the largest horizontal projection;
3. Designed to be self-propelled or towable by a vehicle; and
4. Designed primarily as temporary living quarters for recreational, camping, travel, or seasonal use, but not for use as a permanent dwelling.

#### RECYCLING CENTER

A facility at which recyclable and recoverable material already separated from the waste stream is deposited, collected, and prepared for shipment elsewhere. Treatment of the collected material is limited to that which is necessary to prepare it for shipment, such as dismantling, crushing, shredding, and compacting. No manufacturing or conversion of the material into another product is allowed at a recycling center.

#### RECYCLING COLLECTION FACILITY

A collection or drop-off facility designed to allow turn-in of recyclable or reusable materials. Such a facility may utilize outdoor collection receptacles, such as bins, boxes, cans, kiosks, and igloos, as well as collection vans and trailers. A recycling collection facility must be maintained free of litter, and all collected material must be secure from unauthorized removal. A recycling collection facility may not process or treat the collected material other than ordinary sorting, baling, and similar preparation for shipment elsewhere. The total area utilized by a recycling collection facility shall not exceed five hundred (500) square feet.

#### REGULATED SUBSTANCE

Any hazardous substances, extremely hazardous substances, or liquid petroleum products which are more particularly defined as follows:

1. *Extremely hazardous substance.* Any substance so designated by the U.S. Environmental Protection Agency on their official "List of Extremely Hazardous Substances", 40 CFR 355 Appendix A, as last amended, and which is either a solid (including granular and gel) or liquid at room temperature.
2. *Hazardous substance.* Any substance so designated by the U.S. Environmental Protection Agency on their official "List of Hazardous Substances", 40 CFR 302.4, as last amended, and which is either a solid (including granular and gel) or liquid at room temperature.
3. *Liquid petroleum product.* Any flammable liquid hydrocarbon product refined from bituminous materials, including but not limited to gasoline, diesel fuel, benzene, toluene, lubricants for internal combustion engines, home heating oil, kerosene, creosote, coal oil, and naphtha.

#### REGULATORY FLOOD ELEVATION

Elevation indicated on the Flood Insurance Rate Map as the elevation of the 100-year flood.

#### REGULATORY FLOOD PROTECTION ELEVATION

An elevation one (1) foot above the regulatory flood elevation.

#### RESIDENCE

Any single or multi-family living space containing kitchen and bathroom facilities and which is used, or intended by design to be used, by one (1) or more persons as a place of occupancy.

#### RESIDENTIAL STRUCTURE, PRIMARY

The main residential structure on the property which has kitchen and bedroom facilities, not including any detached buildings.

#### RESOURCE RECOVERY FACILITY

A facility at which recyclable and recoverable material is separated and removed from the waste stream for reuse or remanufacture. Once removed from the waste stream, the material is processed for shipment elsewhere. Said processing may include shredding, crushing, baling, grinding, and compacting, as well as manufacturing or converting the material into another product.

#### RESTAURANT

An establishment where food and drink are prepared, served, and consumed by persons seated within the building (this includes cafes, cafeterias, ice cream parlors, and tea rooms).

#### RESTAURANT, FAST-FOOD

Restaurants where customers order and are served their food at a counter or in a motor vehicle in packages prepared to leave the premises, or able to be taken to a table or counter to be consumed.

#### RETENTION BASIN

A pond, lake or basin used for the permanent storage of water runoff without release except by means of evaporation, infiltration or emergency by-pass.

#### RIGHT-OF-WAY

A dedication of land to be used generally for streets, alleys, or other public uses, wherein the owner gives up owner's rights to the property as long as it is being used for the dedicated purpose. Right-of-way is also a land measurement term meaning the distance between lot property lines which generally contains not only the street pavement, but also the sidewalks, grass area, underground utilities, and sometimes above ground utilities.

#### RIVERBOAT GAMBLING VESSEL

A boat or ferry, whether floating or permanently docked, licensed by the Missouri Gaming Commission, on which gambling activities are allowed.

#### ROAD BED

The entire improved portion of the street, including shoulders, parking lanes, travel ways, curbs, and gutters which lie between the right-of-way lines.

#### RURAL RECREATIONAL ACTIVITY

A permanent or seasonal commercial activity drawing clients or customers to a rural property either for such recreational purposes as picking produce for purchase (pick-your-own apple orchards or pumpkin farms, for example), visiting pumpkin patches or corn mazes or petting farms, taking sleigh or hay-wagon rides.

#### SALVAGE YARD

A parcel of land on which waste material, dismantled or inoperative vehicles, equipment, and other machinery is collected, stored, salvaged, or sold.

#### SANITARY LANDFILL

Land used or intended to be used, let, leased, rented, or sold for occupancy by the establishment of a landfilling method of disposing of garbage, rubbish, and ashes on land without nuisance, fire, or public health hazard.

**SEDIMENT**

Solid material, mineral or organic, that has been moved by erosion and deposited in a location other than the point of origin.

**SEMI-PUBLIC**

A private non-profit organization open to some persons outside the regular constituency (i.e., American Legion and VFW).

**SETBACK, FRONT**

The distance between the street right-of-way line and the front line of a building or any projection thereof, excluding uncovered steps.

**SETBACK LINE**

The line parallel to the front, side, or rear lot line establishing the minimum space to be provided as the front, street, or shoreline of a lake or a river.

**SETBACK, SIDE/REAR**

The distance between the property line and the building or any projection thereof.

**SEXUAL ENCOUNTER ESTABLISHMENT**

A commercial establishment other than a hotel, motel, or similar establishment offering public accommodations which, for any form of consideration, provides a place where two (2) or more persons may congregate, associate, or consort in connection with specified sexual activities or the exposure of specified anatomical areas. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State engages in sexual therapy.

**SEXUALLY ORIENTED BUSINESS**

An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, massage parlor or sexual encounter establishment.

**SHRUBS**

A low, woody plant, either evergreen or deciduous, with a mature height usually less than ten (10) feet, having several stems but no trunk.

**SIGHT TRIANGLE**

A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

**SIGN (OFF-PREMISE)**

See BILLBOARD.

**SIGN (ON-PREMISE)**

Any words, numerals, figures, devices, designs, or trademarks by which information is made known concerning the existence of a commercial enterprise, service, or other activity conducted, sold, or offered on the premises on which the sign is erected.

**SITE**

A lot or parcel of land, or a contiguous combination thereof, where grading work is performed as a single unified operation.

**SITE DEVELOPMENT**

Altering terrain and/or vegetation and constructing improvements.

**SITE PLAN**

A drawing or plan illustrating a proposed development and prepared in accordance with the regulations outlined in the various Sections of the ordinance, with special reference to Part 4, Section 405.525, Site Plan Review.

**SKEET/TRAP SHOOTING CLUB**

A facility for the shooting of clay pigeons. The clay targets are sprung from a trap away from the shooter, or are thrown in such a way as to simulate the angles of the flight of birds.

**SMALL TREES/LARGE SHRUBS**

Deciduous trees or shrubs with a mature height of ten (10) to thirty (30) feet.

**SPECIFIED ANATOMICAL AREAS**

Any of the following:

1. Bare human male or female genitals, buttocks, anus or pubic area with less than full opaque clothing covering;
2. The female breast below a horizontal line across the top of the areola, or a simulation thereof, at its highest point with

less than fully opaque clothing covering. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, shirt, leotard, bathing or swimsuit, or other wearing apparel, provided the areola is not exposed in whole or in part; or

3. The covered male genitals in a discernibly turgid state.

#### **SPECIFIED SEXUAL ACTIVITIES**

Any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
3. Excretory functions as part of or in connection with any the activities set forth in (1) through (2) above.

#### **STABLE, BOARDING**

A structure designed for the feeding, housing and exercising of horses not owned by the owner of the premises where the owners of the horses on the property train the horses and the horses are not utilized for remuneration or hire.

#### **STABLE, PRIVATE**

An accessory building for the keeping of horses, ponies, or mules owned by occupants of the premises, and not kept for remuneration, hire, or sale.

#### **STABLE, RIDING**

A facility used principally for pleasure riding, polo or driving of horses and ponies which may also include uses such as shows in riding arenas and the training, hire or sale of horses or ponies as additional uses to the principal use of the facility.

#### **START OF CONSTRUCTION**

See CONSTRUCTION, START OF.

#### **STEALTH TELECOMMUNICATION TOWER**

Any telecommunication tower that is integrated as an architectural feature of a structure so that the purpose of supporting antennas is not readily apparent to a casual observer.

#### **STORM WATER MANAGEMENT FACILITY**

A facility designed and installed to intercept, detain, retain, infiltrate, evaporate, transpire, filter, and/or convey surface storm water runoff, including but not limited to such facilities as detention basins, storm water harvesting facilities, rain gardens, bio-swales, bio-retention basins, engineered wetlands, sand and other proprietary filter systems, pervious pavement, etc., for the purposes of removing pollutants, reducing or controlling storm water volume and rate, maintaining pre-development hydrology, and/or flood control.

**STREAM BANK, TOP OF EXISTING**

The top of the natural incline bordering a natural watercourse.

**STREET**

A thoroughfare which affords principal means of access to property abutting thereon, and including all State and County highways.

**STREET, COLLECTOR**

Collector streets interconnect the major arterial system with local streets; provide internal circulation within residential, commercial, and industrial areas; provide access to abutting properties; and have a moderate volume and design capacity and travel speeds.

**STREET, CUL-DE-SAC**

A short, minor, local street, having only one (1) end for vehicular traffic, and the other permanently terminated by a turnaround for vehicles.

**STREET, MINOR**

Minor streets provide access to abutting properties, have relatively short travel distance, and have a low-volume design capacity and travel speeds.

**STREET RIGHT-OF-WAY LINE**

The line separating a lot, tract, or parcel of land from the contiguous right-of-way of a street.

**STRUCTURAL ALTERATIONS**

Any change which would prolong the life of the supporting member of a building or structure, such as bearing walls, columns, beams, or girder, not including openings in bearing walls permitted by other ordinances.

**STRUCTURE**

Anything erected, reconstructed, altered, repaired, relocated, or portable, the use of which requires a location on a parcel of land. It

includes a movable structure: it is located on land which can be used for housing, business, commercial, industrial, agricultural, or office purposes, either temporarily or permanently.

#### SUBDIVIDER

Any person, firm, partnership, association, corporation, estate, trust, or any other group or combination acting as a unit, dividing or proposing to divide land so as to constitute a subdivision as defined herein.

#### SUBDIVISION

Shall, for the purpose of these regulations, be the division of a tract of land:

1. Into three (3) or more lots, tracts, sites or parcels, where each of which are less than ten (10) acres in area, providing that no illegal zoning lot is created; or
2. The division of a tract of land into any number of lots, tracts, sites or parcels of any size in which a public street is to be dedicated, reserved, platted, opened, or constructed, or the dedication or platting, or recording of any streets; or
3. The division of a tract of land into three (3) or more lots, tracts, sites or parcels which front on and utilize an easement of access.

#### 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 ENLARGEMENT OF SEXUALLY ORIENTED BUSINESS

An increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on the date this Article takes effect.

#### 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 "start of construction" of 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 that 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", or
3. An improvement that does not require a building permit under applicable codes enacted in Title V, Ordinances of St. Charles County, Missouri.

#### TATTOOING

Any method of placing ink or other pigment into or under the skin or mucosa by the use of needles or any other instruments used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This includes all forms of cosmetic tattooing.

#### TATTOOING AND BODY PIERCING

The practice of physical body adornment by any method including, but not limited to, the following: body piercing, tattooing, cosmetic tattooing, branding and scarification. This definition does not include practices that are considered medical procedures by a State Medical Board, such as implants under the skin. This definition also does not include ear piercing as fully defined in Section 645.080(B).

#### TATTOOING AND BODY PIERCING ESTABLISHMENT

Any place of business which performs tattooing and body piercing.

#### TELECOMMUNICATION FACILITY

An unmanned facility consisting of equipment buildings, shelters or cabinets, accessory equipment, and an existing or new structure or tower to support antennas used for the reception, switching, and/or transmission of wireless communications, including, but not limited to, paging, enhanced specialized mobile radio (ESMR), Personal Communications Services (PCS), domestic public cellular radio telecommunications service (Traditional Cellular), and similar technologies.

#### TELECOMMUNICATION TOWER

A lattice-type, guyed or monopole structure that supports one (1) or more antennas.

#### TELECOMMUNICATION TOWER FARM

The placement of more than one (1) telecommunication tower on a lot.

#### TOWNHOUSE

A one (1) family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one (1) or more common fire-resistant walls.

#### TRAILERS

A vehicle standing on wheels, towed or hauled by another vehicle and used for carrying materials, goods or objects.

#### TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS

Any of the following:

1. The sale, lease, or sublease of the business;
2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

#### TRASH TRANSFER STATION

A facility at which municipal solid waste is unloaded from small collection vehicles and loaded onto a larger means of transport for hauling. A trash transfer station may or may not be operated in conjunction with a resource recovery facility.

#### TRAVEL TRAILERS

A vehicular portable structure designed as a temporary dwelling for travel, recreational, and vacation uses.

#### TRAVEL TRAILER PARK

A parcel of land under a single ownership that has been planned and improved for the placement of travel trailers and recreational vehicles.

#### TREE CANOPY

The area in square feet of a tree's spread. Existing tree canopy is determined by measuring the ground's surface area that is covered by the branch spread of a single tree. Ultimate tree canopy is determined by assigning the following values for planted trees: one thousand (1,000) square feet for a large deciduous tree, seven hundred (700) square feet for each medium deciduous tree or conifer and three hundred (300) square feet for each small flowering tree.

#### TREE PROTECTION AREA

All land within the canopy drip line of a tree.

#### TWINHOME

See DWELLING, TWO-FAMILY.

#### VARIANCE

Relief from or variation of the provisions of these regulations, other than use regulations, and as applied to a specific piece of property, as distinct from rezoning, as further set out hereinafter within Part 7 of this Chapter 405, Sections 405.590 et seq. Also, a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

#### VEGETATED BUFFER

Area of plant life or total plant cover established adjacent to and in order to protect a natural watercourse.

#### VEHICLE IMPOUND FACILITY

A parcel of land or a building that is used for the temporary storage of wrecked motor vehicles or vehicles towed due to a law enforcement directive. Vehicles stored at the facility are to be claimed by title holders or their agent. No vehicle shall remain on the property for a period to exceed ninety (90) days.

#### VILLA

Typically an attached row of houses. Two (2) or more single-family dwellings sharing common wall areas, each on its own individual lot with a front and rear yard.

#### 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 or Chapter 410 is presumed to be in violation until such time as that documentation is provided.

#### WAREHOUSE

A structure for use as a storage place for goods, materials, or merchandise.

#### WAREHOUSE, MINI

A building containing individual storage areas which may be rented or leased for a period of time.

#### WIND TURBINE

Any mechanism or device designed for the purpose of converting wind energy into electrical or mechanical power.

#### WIND TURBINE FARM

The use of more than one (1) wind turbine on a parcel that converts wind energy into electrical power for the primary purpose of resale.

#### WINERY

Any establishment that makes more than two hundred (200) gallons of wine annually, including grape crushing, fermenting, and bottling, with or without subsidiary accessory uses, including, but not limited to, the sale of wine and related products, public wine tasting, sale and service of food, and tours of the winery. Any such establishment shall have five (5) acres or more of wine grapes cultivated on the premises. All wine produced at the winery must be produced under a State of Missouri domestic winery license. At least fifty percent (50%) of the grapes used in the wine produced on site must be grown within St. Charles County.

#### WINERY FARMERS' MARKET

A facility accessory to and on the same tract of land as a duly permitted and functioning winery that is for the weekly sale by multiple vendors of produce and that may also be for the weekly sale by multiple vendors of other food and craft products or for instruction or demonstration of cooking or farming skills.

#### WINERY LODGING

A hotel or motel that is accessory to and on the same tract of land as a duly permitted and functioning winery, that has no more than three (3) sleeping rooms for each five (5) acres of that tract of land, and that does not include a food establishment as defined and regulated by the St. Charles County Food Code, Chapter 230, Ordinances of St. Charles County, Missouri.

#### WOODLAND

Any tree canopy over five thousand (5,000) square feet having at least thirty percent (30%) of the trees with a caliper of at least two and one-half (2½) inches.

#### WOODLAND CANOPY

Ultimate woodland tree canopy is determined by assigning two hundred (200) square feet for each tree within a designated woodland.

#### YARD

An open space, other than a court on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Chapter or Chapter 410.

#### YARD, FRONT

A yard across the full width of the lot extending from the front line of the main building to the front line of the lot.

#### YARD, REAR

A yard between the rear lot line and the rear line of the main building and the side lot lines.

#### YARD, REQUIRED FRONT

A yard across the full width of the lot extending from the minimum front yard setback distance to the front line of the lot.

#### YARD, SIDE

A yard between the main building and the adjacent side line of the lot, and extending entirely from a front yard to the rear yard.

#### ZONING DISTRICT MAP

A series of maps of unincorporated St. Charles County with all notations, dimensions, references, and symbols shown thereon depicting the individual zoning districts in accordance with Section 405.065.

Section 2. Section 410.180 OSCCMO, is amended as follows (added text in **bold type**, deleted text in [~~bracketed and stricken type~~]).

Section 410.180 *Performance Guarantee*

- A. After the improvement plans have been approved, but before recording the record subdivision plat, the subdivider, or a contractor for the subdivider, must:
  - 1. Either complete the improvements, under the inspection of the appropriate inspecting agency and in accordance with the approved improvement plans, and post a performance guarantee for ten percent (10%) of the estimated sum; or
  - 2. Post a performance guarantee ensuring or guaranteeing the installation of all said improvements.
  
- B. If the performance guarantee is a lender's or escrow agreement, that agreement shall:
  - 1. Be prepared on forms developed by the Director of the Division of Development Review and approved by the County Counselor and be signed by the Director of the Division of Development Review and County Registrar;
  - 2. Ensure or guarantee the construction and completion of all the improvements as set forth in the approved improvement plans based on the cost estimate prepared by the consulting engineer and approved by the Director of the Division of Development Review; and

3. Be held in a special account by the escrow holder or lender at offices in St. Charles County, the City of St. Louis or Missouri counties contiguous to St. Charles County and the funds shall be subject to the audit of St. Charles County.
- C. If the performance guarantee is a standby letter of credit or a certified check, the subdivider, or a contractor for the subdivider, and the County shall enter into a fully executed deposit agreement prepared on forms developed by the Director of the Division of Development Review and approved by the County Counselor and signed by the Director of the Division of Development Review and the County Registrar, which shall require the subdivider and/or contractor to fulfill the obligations imposed in this Section. A standby letter of credit may be prepared on forms provided by the financial institution on which it is drawn but must be approved by the County Counselor and must, at a minimum, provide for:
1. Drafts to be drawn at offices in St. Charles County, the City of St. Louis or Missouri counties contiguous to St. Charles County; and
  2. Automatic extensions without amendment for additional one-year terms unless, at least forty-five (45) days prior to the letter's then-current expiration date, the financial institution issuing the letter gives written notice of non-renewal to St. Charles County's Department of Community Development by

registered or certified mail or by overnight courier.

**D. If the performance guarantee is a surety bond, that bond shall be a performance bond that shall:**

- 1. Be prepared on forms developed by the Director of the Division of Development Review and approved by the County Counselor; and**
- 2. Ensure or guarantee the construction and completion of all the improvements as set forth in the approved improvement plans based on the cost estimate prepared by the consulting engineer and approved by the Director of the Division of Development Review; and**
- 3. Be in a sum equal to the cost estimate of all the Improvements set forth in the approved improvement plans; and**
- 4. Be to St. Charles County as the Obligee; and**
- 5. Ensure the proper and prompt completion of the work for the construction of the improvements in accordance with the approved improvement plans, and the contractor's compliance with all of the terms and conditions of the approved improvement plan; and**

**6. Be executed by a surety that (1) is a corporation organized in the state of Missouri, or signed by an agent or broker licensed by the Missouri Department of Insurance; (2) that has on file with or furnish to the County a certified copy of the surety's certificate of authority to transact business in the State of Missouri; and (3) listed in the current Unites States Department of the Treasury, Fiscal Service, Department Circular 570 *Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies*; and**

**7. Provide that the surety's liability under the performance bond shall not be limited to the penal sum as set forth in the performance bond, but it shall be liable and responsible to the County for the subdivider's entire performance of, and of all obligations arising under or from, the construction of the improvements, which shall include, but is not limited to any change orders issued that increase the cost of the improvements.**

**[D]E. Any performance guarantee shall be administered as follows:**

**1. The estimated sum shall be held by the escrow holder, lender, surety or the County Director of Finance as the agreement**

provided until such time as the Director of the Division of Development Review authorizes release of funds as provided herein. Authorization shall be written and addressed to the escrow holder, lender, **surety** or Director of Finance. The Director of the Division of Development Review may authorize release for disbursement by the escrow holder, lender, **surety** or Director of Finance per line item of the approved cost estimate as items are completed and inspected and, in the event of delays caused by unforeseen circumstances such as weather, may also authorize partial releases based upon partial completion. At no time will the amount to be released depreciate the account to less than the cost of completing said remaining improvements. This sum shall be determined by using current market value of the materials and labor. In no case shall the escrow holder, lender, **surety** or County release more than ninety percent (90%) of the estimated sum until improvements and installations have been completed in a satisfactory manner in accordance with the subdivision regulations and approved by the County Engineer and the Director of the Division of Development Review. The remaining ten percent (10%) of all said improvements shall be released upon acceptance of all public improvements by the Governing Body or final approval of all private improvements by the Director of the Division of Development Review. The estimated sum shall be held by the surety or

the County as in the agreement provided, until such time as the Director of the Division of Development Review shall, by written authorization addressed to the surety or the County Director of Finance, release the total sum.

2. This amount shall only be authorized to be released in its entirety after the County Engineer and the Director of the Division of Development Review certify that all the improvements have been constructed in accordance with the approved plans, all the requirements of this Chapter have been met, all the streets and storm sewers and storm sewer structures to be publicly maintained located within the right-of-way or a recorded easement have been approved by the Governing Body, and all private improvements have been approved by the Director of the Division of Development Review.
3. Upon request of the person posting the performance guarantee, the Director of the Division of Development Review shall release funds for any completed line item of the work within thirty (30) days after the County inspects such work, provided the inspection report does not note any deficiencies in such work. Inspections for partial release requests shall be completed within a reasonable period of time, and, if such inspections do not note any deficiencies in the completed portions of the work, the

County shall make corresponding releases of funds promptly.

4. In the event that the improvements are not satisfactorily completed within two (2) years after approval of the improvement plans, the Director of the Division of Development Review has the right to remove said monies **or seek the surety issuing the performance bond** to complete the guaranteed improvements, unless an extension in time is granted by the Director of Community Development.

Section 3. Section 412.080 OSCCMO, is amended as follows (added text in **bold type**, deleted text in [~~bracketed and stricken type~~]).

Section 412.080 *Performance Guarantee*

In order to obtain a land disturbance permit, the applicant must insure or guarantee the stabilization of the site upon completion or stoppage of the land disturbance activity.

- A. The applicant, or a contractor for the applicant, shall post a performance guarantee with the County in the amount established in this Section.
  1. If the performance guarantee is a lender's or escrow agreement, that agreement shall:
    - a. Be prepared on forms developed by the Director of the Division of Development Review and approved by the County Counselor and be signed by the Director of the Division of

Development Review and County Registrar;

- b. Ensure or guarantee the installation of sediment and erosion controls and the final stabilization of ground cover based on amounts established in Section 412.080(B) and approved by the Director of the Division of Development Review; and
  - c. Be held in a special account by the escrow holder or lender at offices in St. Charles County, the City of St. Louis or Missouri counties contiguous to St. Charles County, and the funds shall be subject to the audit of St. Charles County.
2. If the performance guarantee is a standby letter of credit or a certified check, the applicant, or a contractor for the applicant, and the County shall enter into a fully executed deposit agreement prepared on forms developed by the Director of the Division of Development Review and approved by the County Counselor and signed by the Director of the Division of Development Review and the County Registrar, which shall require the applicant, or a contractor for the applicant, to fulfill the obligations imposed in this Section. A standby letter of credit may be prepared on forms provided by the financial institution on which it is drawn but must be approved by the

County Counselor and must, at a minimum, provide for:

- a. Drafts to be drawn at offices in St. Charles County, the City of St. Louis, or Missouri counties contiguous to St. Charles County; and
  - b. Automatic extensions for additional one-year terms unless, at forty-five (45) days prior to the letter's then-current expiration date, the financial institution issuing the letter gives written notice of non-renewal to St. Charles County's Department of Community Development by registered or certified mail or by overnight courier.
- 3. If the performance guarantee is a surety bond, that bond shall be a performance bond that shall:**
- a. **Be prepared on forms developed by the Director of the Division of Development Review and approved by the County Counselor; and**
  - b. **Ensure or guarantee the installation of sediment and erosion controls and the final stabilization of ground cover based on amounts established in Section 412.080(B) and approved by the Director of the Division of Development Review; and**

- c. Be to St. Charles County as the Obligee; and**
- d. Be executed by a surety that (1) is a corporation organized in the state of Missouri, or signed by an agent or broker licensed by the Missouri Department of Insurance; (2) that has on file with or furnish to the County a certified copy of the surety's certificate of authority to transact business in the State of Missouri; and (3) listed in the current Unites States Department of the Treasury, Fiscal Service, Department Circular 570 *Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies*; and**
- e. Provide that the surety's liability under the performance bond shall not be limited to the penal sum as set forth in the performance bond, but it shall be liable and responsible to the County for the applicant's installation of sediment and erosion controls and the final stabilization of ground cover, which shall include, but is not limited to any change orders issued that increase the cost of said work.**

B. Amount Of Performance Guarantee. The amount of the performance guarantee shall be determined by a line-item cost estimate prepared by or on behalf of the applicant and approved by the Director of the Division of Development Review using current market value of the materials and labor for all erosion and sediment controls and other proposed construction items referenced in Section 412.060(A)(1)(t), (2)(c), (2)(d), and/or (3)(a).

C. Release Of Performance Guarantee Funds.

1. The Director of the Division of Development Review may authorize release up to fifty percent (50%) of any performance guarantee funds upon confirming by inspection that all erosion and sediment controls and other proposed construction items referenced in Section 412.060(A)(1)(t), (2)(c), (2)(d), and/or (3)(a) are in place and functioning properly, including establishment of vegetation.

2. The Director of the Division of Development Review may authorize release up to ninety percent (90%) of any performance guarantee funds upon confirming by inspection that vegetation has been established, ongoing maintenance has been provided for all installed erosion and sediment controls, and all stormwater management facilities are completed and protected where performance guaranty funds are being held for stormwater management facilities in a non-subdivision

development per Section 405.525(D)(12). However, the amount retained shall not be reduced to less than the cost of maintaining the erosion and sediment controls and completing said remaining stormwater management facility improvements.

3. The Director of the Division of Development Review shall authorize release of all remaining performance guarantee funds only when the County Inspector certifies that all land disturbance work has been completed, all temporary sediment and erosion control measures have been properly removed or abandoned, all tree preservation requirements have been met, all permanent site improvements have been constructed and approved, including stormwater management facilities in a non-subdivision development required per Section 405.525(D)(12), and all soil subject to the land disturbance permit is stabilized, including permanent vegetation.

Section 4. This ordinance is subject to penalty provisions for its violation and therefore, for penal purposes, shall be effective thirty-one (31) days after its posting in six public places, its publication in full on the web site of St. Charles County, and the publication of its title and the location in St. Charles County where it may be viewed in its entirety in a legal publication or a newspaper of general circulation in St. Charles County.

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DATE PASSED

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DATE APPROVED BY COUNTY EXECUTIVE

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CHAIR OF THE COUNCIL

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COUNTY EXECUTIVE

ATTEST:

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COUNTY REGISTRAR