

Chapter 5

BUILDINGS

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ARTICLE I
FAIR HOUSING

Sec. 5-1. Declaration of policy.

The city council of the City of Potosi hereby declares it to be the public policy of the City to eliminate discrimination and safeguard the right of any person to sell, purchase, lease, rent or obtain real property without regard to race, color, religion, sex, handicap, familial status or national origin. This Article shall be deemed an exercise of the police powers of the City of Potosi, for the protection of the public welfare, prosperity, health and peace of the people of the City of Potosi, Missouri. (Ord. 641, §1; Ord. 671, §1; Ord. 881, §1)

Sec. 5-2. Definitions.

For the purpose of this Article the following terms, phrases, words and their derivations shall have the meaning given herein unless the context otherwise indicates.

Person shall include any individual, firm, partnership or corporation.

Aggrieved person shall include any person who is attempting to provide housing for himself/herself and/or his/her family in the City of Potosi, Missouri.

Discriminate shall mean distinctions in treatment because of race, color, religion, sex, handicap, familial status, or national origin of any person. (Ord. 641, §2; Ord. 671, §2; Ord. 881, §2)

Sec. 5-3. Discriminatory practices.

It shall be a discriminatory practice and a violation of this Article for any person to:

(a) Refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, handicap, familial status or national origin of any person.

(b) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, handicap, familial status or national origin.

(c) Make, print, or publish, or cause to be made, printed or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status or national origin, or an intention to make any such preference, limitation, or discrimination.

CROSS REFERENCES:

Buildings as nuisances, see §18-2; Fire Protection, see Ch. 11; Flood control, see Ch. 12; Planning and Zoning, see Ch. 26; Utilities, see Ch. 25; Subdivisions, see Ch. 26, Art. II.

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(d) Represent to any person because of race, color, religion, sex, handicap, familial status, or national origin, that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status, or national origin.

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(f) Discriminate in the sale or rental of housing on the basis of a handicap of that buyer or renter; a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or any person associated with that buyer or renter. The design and construction of new multi-family dwellings containing four (4) or more units is required to meet certain adaptability and accessibility requirements in accordance with Section 804 of the 1988 Fair Housing Amendments Act.

(g) Discriminate in the sale or rental of housing on the basis of familial status or because a family has children, exempting certain types of buildings that house older persons (e.g. Section 202 housing) in accordance with Section 807 of the 1988 Fair Housing Amendments Act. (Ord. 641, §3; Ord. 671, §3; Ord. 881, §3)

Sec. 5-4. Discrimination in the financing of a house.

It shall be unlawful for any bank, building and loan association, insurance company, or other corporation, association, firm, or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan to a person applying therefore for the purpose of purchasing, constructing, repairing, or maintaining a dwelling, or to discriminate against any person in the fixing of the amount or conditions of such loan, because of the race, color, religion, sex, handicap, familial status, or national origin of such person, or of any person therein associated in connection with such financing. (Ord. 641, §4; Ord. 671, §4; Ord. 881, §4)

Sec. 5-5. Administration.

(a) (1) There is hereby created a Fair Housing Committee, whose members shall also serve as the Directors of the Potosi Housing Authority, a not for profit corporation. The committee shall consist of five (5) at large members, who shall be appointed by the Mayor of the City with the approval of the Board of Aldermen, and a sixth member who shall be the Tenant member, who, after selection in accord with the applicable HUD regulations, shall be appointed by the Mayor of the City.

(2) The members shall be appointed to terms of four years, and the terms shall be staggered so that no more than two terms normally expire in one calendar year.

(3) Should any vacancy occur, the Mayor shall appoint a qualified person to fill the remainder of that term with the approval of the Board of Aldermen.

(4) Qualifications of the at large members shall consist of United States of America citizenship, residency in the City of Potosi, Missouri, and without any conviction, or plea of guilty or no contest to any felony, or to any offense or adverse Judgment concerning discrimination.

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(5) Qualifications for the Tenant Member shall be as those for the at large members, and in addition, the requirements put forth in Section 964.405 through 964.430 inclusive of the HUD regulations. The Potosi Housing Authority shall be required to certify to the Mayor of the City of Potosi that all applicable requirements of the Tenant Member have been met, including either election as provided in Section 964.420, or request after publishing notice, as permitted in Section 964.425. (Ord. 941, §1)

(b) Every complaint of a violation of this Article shall be referred to the Fair Housing Committee. The Fair Housing Committee shall forthwith notify the person against whom the complaint is made. The identity of the aggrieved person shall be made known to the person against whom the complaint is made at that time. If the Fair Housing Committee, after investigation, finds there is no merit to the complaint, the same shall be dismissed. If the Fair Housing Committee finds that there is merit in the complaint, in their opinion, then and in that event, the Fair Housing Committee will endeavor to eliminate the alleged discriminatory practice by conference and conciliation.

(c) If the Fair Housing Committee is unable to eliminate the alleged discriminatory practice by conference and conciliation, then and in that event, the Fair Housing Committee shall forward said complaint to the City Attorney for handling. The final determination of whether to prosecute in Municipal Court on said complaint shall be left to the City Attorney.

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(d) Nothing in this Article shall be construed in such manner as to limit administrative enforcement mechanisms and recourse against alleged discriminatory housing practices through the U.S. Department of Housing and Urban Development, as specified under Section 810 of the Fair Housing Act as amended effective March 12, 1989, or through the Missouri Commission on Human Rights, as specified in applicable state statutes. (Ord. 641, §5; Ord. 671, §6; Ord. 881, §5)

Sec. 5-6. Enforcement.

(a) Any person convicted in Municipal Court of a violation of this Article shall be punished by a fine of not more than one hundred dollars (\$100.00) or by confinement in the city jail for not more than three (3) days, or both such fine and imprisonment.

(b) The City Attorney, instead of filing a complaint in Municipal Court of said city, may, as an alternative remedy, seek to have the alleged discriminatory practices abated by an action for an injunction to be maintained in the appropriate Circuit Court of the State of Missouri. (Ord. 641, §6; Ord. 671, §7; Ord. 881, §6; Ord. 881, §6)

Sec. 5-7. Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of these standards shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Article which shall continue in full force and effect. To this end, the provisions of this Article are hereby declared to be severable. (Ord. 641, §7; Ord. 671, §8; Ord. 881, §7)

Sec. 5-8. Savings clause.

This Article shall not affect violations of any other ordinance, code or regulation of the City of Potosi existing prior to the effective date hereof. Any such violations shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes, or regulations in effect at the time the violation was committed. (Ord. 641, §8; Ord. 671, §9; Ord. 881, §8)

Secs. 5-9 to 5-21. Reserved.

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ARTICLE II
MINIMUM HOUSING STANDARDS

DIVISION 1. GENERALLY

Sec. 5-22. Definitions.

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

Approved water and sewer system - The public water system and sewer system of the City of Potosi, or another water source or sewerage disposal system or method which has been approved by the building official or building inspector of the City of Potosi.

Basement - A portion of a building located partly underground but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

A basement building - A cellar or basement, upon which the main or upper parts of the building have not been completed.

Building inspector - Shall be the chief of police unless otherwise delineated from time to time by the city council of the City of Potosi, Missouri.

Cellar - A portion of a building located partly or wholly underground, and having half of more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Dwelling - Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.

Dwelling unit - Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

Extermination - The control and elimination of insects, rodents, or other pests.

Garbage - The animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

Habitable room - A room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers, or communicating corridors, closets, and storage spaces.

Infestation - The presence, within or around a dwelling, of any insects, rodents, or other pests.

Multiple dwelling - Any dwelling containing more than two dwelling units.

Occupant - Any person, over one year of age, living, sleeping, cooking, or eating in, or having actual possession, of a dwelling unit or rooming unit.

A rooming unit - That part of a dwelling which has been let or is offered for rent or license to a person for occupancy.

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Operator - Any person who has charge, care, or control of a building, or part thereof, in which dwelling units or rooming units are let.

Owner - Any person who, alone or jointly or severally with others:

- (1) Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
- (2) Shall have charge, care, or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner.

Plumbing - Shall mean and include all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes - washing machines, catch basins, drain vents, and any other similar supplied fixtures, together with and connections to water, sewer, or gas lines.

Rubbish - Shall mean combustible and non-combustible waste materials, except garbage; and the term shall include the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust.

Single-family dwelling - A dwelling containing one dwelling unit.

Supplied - Shall mean paid for, furnished, or provided by or under the control of, the owner or operator.

Two-family dwelling - A dwelling containing two dwelling units.

Meaning of certain words - Whenever the words "dwelling", "dwelling unit", "rooming house", "rooming unit", "premises", are used in this Chapter, they shall be construed as though they were followed by the words "or any part thereof". (Ord. 419, §1; Ord. 660, §2; Ord. 664, §2)

Sec. 5-23. This section is reserved.

Sec. 5-24. Minimum standard enforceable against existing dwellings and dwellings hereafter built.

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit regardless of date of construction which does not comply with the following requirements:

(A) Sanitation:

(1) Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with a screen or such other device as will effectively prevent their entrance.

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(2) Every dwelling unit shall be supplied with adequate rubbish storage facilities, adequate garbage disposal facilities or garbage storage containers.

(3) Every yard or court or vacant land within one hundred feet of any dwelling shall be kept free of weeds, stagnant water, rubbish piles of material, garbage, junk, and free of any vehicles, trucks and machinery which have been left in a dangerous state of neglect.

(4) Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks and obstructions.

(5) Whenever any dwelling or any building, structure, excavation, business pursuit, matter or thing, in or about a dwelling, or the lot on which it is situated, or the plumbing, sewerage, or drainage thereof, is in the opinion of the building official in a condition or in effect dangerous or detrimental to life or health, the building inspector or building official may declare that the same to the extent he may specify is a public nuisance, and may order the same to be removed, abated, suspended, altered or otherwise improved or purified as the order shall specify.

(B) Structural conditions:

(1) Every inside and outside stair, every porch, and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in sound condition and good repair.

(2) Every window, exterior door, and basement hatchway shall be reasonably weathertight, watertight and rodentproof; and shall be kept in sound working condition and good repair.

(3) Every dwelling unit shall have safe, unobstructed means of egress leading to safe and open space at ground level. All dwelling units above the first floor shall have safe and unobstructed access to two such means of egress, which shall be as nearly as possible, at opposite ends of the building.

(C) Heat and light:

(1) Every dwelling shall have heating facilities which are properly installed, are maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms located therein to a temperature of at least 70 degrees F., at a distance three feet above floor level, under ordinary minimum winter conditions.

(2) Every public hall and stairway in every multiple dwelling shall be adequately lighted.

(D) Responsibilities of owners and occupants:

(1) Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(2) Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit, and premises thereof which he occupies and controls.

(3) Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish, garbage and other forms of waste in a clean and sanitary manner.

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(4) Every owner of a multiple dwelling shall furnish and maintain in good condition two standard sized garbage cans for each dwelling unit. One shall be clearly printed "garbage" and the other "refuse". The covers shall be fastened to the cans by a nonremovable chain. It shall be the duty of the occupant to keep covers firmly in place at all times.

(5) Every occupant of a dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises. Whenever infestation is caused by failure of the owner to maintain a dwelling in a ratproof or reasonably insectproof condition, extermination shall be the responsibility of the owner.

(6) Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise or reasonable care in the proper use and operation thereof.

(E) General:

(1) Every improvement, piece of equipment, or facility which is required under this section shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.

(2) No owner shall occupy or let to any other occupant any vacant dwelling unit unless it is clean, sanitary and fit for human occupancy, conforming with the requirements of Section 5-25.

(3) A dwelling damaged by fire, collapse, or an act of God to such an extent that the cost of repair and reconstruction exceeds three-quarters of the assessed valuation of the dwelling at the time the damage occurred, shall not be repaired or reconstructed unless made to comply in all respects with the provisions of this act relative to dwellings hereafter erected. (Ord. 419, §3; Ord. 660, §2)

Sec. 5-25. Additional minimum standards enforceable against existing dwellings and dwellings hereafter built.

No person shall occupy or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

(A) Minimum space to use:

(1) Every dwelling unit shall have a minimum floor area as shown below, exclusive of garages, porches, breezeways, vestibules, basements, cellars, and any space within the building where the ceiling height is less than seven (7) feet. Floor space may be measured from the outside of the building walls.

<u>Location of dwelling unit</u>	<u>Minimum floor area.</u>
A single-family dwelling	700 square feet
A two-family dwelling	700 square feet
A multiple dwelling	600 square feet

(2) In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant thereof, all of which shall have a ceiling height of at least seven feet.

(3) No dwelling or dwelling unit containing two or more sleeping rooms shall have such room arrangements that access to a bathroom or water closet compartment intended for use by occupants of more than one sleeping room can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment.

(4) No cellar, basement, or basement building shall be used as a dwelling unit.

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(5) Buses, railroad cars, trailers and tents shall not be placed on a lot and used as a habitable room nor shall any dwelling unit be moved into Potosi from beyond the city limits unless a certificate has been obtained by the owner from the building official or health officer that such dwelling conforms to all the requirements of this Chapter.

(B) Light and ventilation:

(1) Every habitable room shall have at least one window facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be one-tenth of the floor area of such room.

(2) Every habitable room shall have at least one window which can easily be opened, or such other device as will adequately ventilate the room.

(3) Every bathroom and water closet compartment shall have adequate light and ventilation.

(C) Structural condition:

Every foundation, floor, wall, ceiling, and roof shall be reasonably weather tight, watertight, capable of affording privacy, and shall be kept in good repair.

(D) Sanitary facilities:

(1) Every dwelling unit shall contain, within a room which affords privacy to a person within said room, a bathroom or shower in good working condition and properly connected to an approved water and sewer system.

(2) Every required kitchen sink, lavatory basin, and bathtub or shower shall be properly connected with both hot and cold water lines. Every dwelling shall have supplied water-heating facilities which are properly installed, are maintained in safe and good working condition, and are properly connected with the hot water lines.

(3) Every dwelling unit shall contain a kitchen sink in good working condition and properly connected to an approved water and sewer system.

(4) Every dwelling unit shall contain a room which affords privacy to a person within said room and which is equipped with a flush water closet and a lavatory basin in good working condition and properly connected to an approved water and sewer system.

(E) General:

(1) Every improvement, piece of equipment, or facility which is required under this section be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

(2) No owner shall occupy or let to any other occupant any vacant dwelling unit unless it is clean, sanitary and fit for human occupancy, conforming with the requirements of Section 5-25. (Ord. 419, §4; Ord. 660, §2; Ord. 664, §5)

Sec. 5-26. Earthquake preparedness - Seismic design of new construction and major renovations.

(a) Any new construction or major structural renovations begun after January 1, 1991, all buildings for which leases are executed by political subdivisions of the State of Missouri after January 1, 1994, and all buildings for which leases are executed by the state or any institution of higher education after January 1, 1994, shall comply with the standards for seismic design and construction of the Building Officials and Code Administrators Code or of the Building Officials and Code Administrators International, Inc..

(b) This Section shall not apply to any building owned by the state, any building owned by an institution of higher education, any political subdivision upon which construction was begun or finished before the effective date of this Section, any single family private residential structure with less than ten thousand square feet in total area, or any duplex residence.

(c) As used in this Section, the term "*major structural renovation*" means any reconstruction, rehabilitation, addition or other improvement of an existing structure, the cost of which exceeds fifty percent of the market value of the structure before the start of construction of the major structural renovation. (Ord. 620, §§1-3; Ord. 621, §§1-3; Ord. 660, §2; Ord. 664, §7; Ord. 793, §1)

Sec. 5-27. Inspection of dwellings, dwelling units, and premises.

(A) Right of entry:

The code official shall have the authority to enter at any reasonable time any structure or premises for which a permit has been issued but has not received a certificate of occupancy.

For all other structures or premises, when the code official has reasonable cause to believe that a code violation exists, the code official is authorized to enter the structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law. (Ord. 696, §1)

(B) Certificate of compliance:

No building constructed as or altered into a dwelling shall be occupied in whole or in part for human habitation until the issuance of a certificate by the building official that said dwelling substantially conforms in all respects to the requirements of this act. Such certificate shall be issued within 15 days after written application therefore if said dwelling at the date of such application shall be entitled thereto. (Ord. 419, §5; Ord. 660, §2)

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Sec. 5-28. Adoption of Building Code.

(1) **Adoption** That a certain document, three (3) copies of which are on file in the office of the city clerk of the City of Potosi, Missouri, being marked and designated as "International Building Code." be and is hereby adopted as the Building Code of the City of Potosi, Missouri; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code are hereby referred to, adopted and made a part hereof as if more fully set out in this Chapter, with the additions, insertions, deletions and changes, if any, prescribed in the most recent revision thereof, except as specifically set out below.

(2) **Additions, insertions and changes.**

(A) Wherever the Code refers to "City" or "Authority" it shall be read as the City of Potosi, Missouri.

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- (B) The fee schedule for plan examination for construction on single family and two family residential, non-commercial property shall be as follows:
 - \$150.00 for buildings whose construction costs do not exceed \$100,000.00
 - \$250.00 for buildings whose construction costs exceed \$100,000.00 but do not exceed \$250,000.00.
 - \$500.00 for buildings whose construction costs exceed \$250,000.00.
- (C) The fee schedule for Plan Examination for construction on commercial property shall be as follows: the greater of \$500.00 or 8.5 cents per square foot of floor space.
- (D) Wherever an action or inaction is denoted as an offense, the punishment shall be by a fine of not more than \$500.00, or by confinement not to exceed thirty (30) days. or both fine and confinement.

(3) ***This subsection is reserved.***

(4) ***Savings clause.*** That nothing in this Ordinance or in the building code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in subsection (2) or (3) of this Ordinance nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

(5) ***Date of effect.*** That the city clerk shall certify to the adoption of this Ordinance and cause same to be published as required by law; and this Ordinance shall take full force and effect after the date of final passage and approval.

(6) ***Application.*** This Ordinance shall apply to all building properties in the City except one and two family residential properties not part of a large residential complex, except as the Building Code specifically states that provisions apply to one and two family residential properties.

If Section 327.091, RSMo, 1969, or its subsequent revisions, does not require professional architectural and engineering certification, then this Ordinance shall not require professional certification. All other permit requirements of this Ordinance shall remain in force and effect and the City reserves the right to establish certain construction regulations and requirements on a case by case basis as needed. (Ord. 654, §§I-V; Ord. 663, §§2-6; Ord. 793, §1; Ord. 951, §1)

Secs. 5-29 to 5-31. Reserved.

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ARTICLE II
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STANDARDS

DIVISION 2. DANGEROUS BUILDINGS AS NUISANCES

Sec. 5-32. Purpose and scope.

It is the purpose of this Chapter to provide a just, equitable and practicable method for the repairing, vacation or demolition of buildings or structures that may endanger the life, limb, health, property, safety or welfare of the occupants of such buildings or the general public, and this Chapter shall apply to all dangerous buildings, as herein defined, that now are in existence or that may hereafter exist in the City of Potosi, Missouri. (Ord. 640, §1; Ord. 660, §2, Ord. 1097, §1)

Sec. 5-33. Building commissioner.

The Mayor and City Council shall appoint a building commissioner within the meaning of this Chapter unless otherwise delineated from time to time by the city council of the City of Potosi, Missouri. (Ord. 640, §1; Ord. 660, §2; Ord. 664, §4, Ord. 1097, §1)

Sec. 5-34. Duties of building commissioner; procedure and notices.

The building commissioner shall have the duty under this Chapter to:

(a) Inspect, or cause to be inspected, as often as may be necessary, all residential, institutional, assembly, commercial, industrial, garage, special or miscellaneous occupancy buildings for the purposes of determining whether any condition exist that render such places dangerous when he has reasonable grounds to believe that any such building is dangerous.

(b) Inspect prior to occupancy, change in occupancy or ownership, any building which shall contain any dwelling, dwelling unit, rooming unit, temporary housing or habitable room, to determine such dwelling, dwelling unit, rooming unit, temporary housing or habitable room is fit for human occupancy, is clean, sanitary, and complies with all provisions of this Chapter with regard to minimum standards for habitation, and is not in a dangerous condition or contaminated by methamphetamine precursor chemicals or methamphetamine production.

(c) Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this Chapter, and the building commissioner determines that there are reasonable grounds to believe that such building is dangerous or not fit for human occupancy.

(d) Inspect any building, wall or structure reported by the fire or police departments of this City as probably existing in violation of this Chapter.

(e) Provide to the owner or occupant of each residence inspected a certificate of compliance for occupancy permit if the premises complies with all ordinances, or provide to the owner or occupant a list of repairs needed to bring the premises into compliance with the ordinances prior to issuing a

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certificate of compliance for an occupancy permit. In the event that repairs are necessary, the building commissioner shall reinspect the premises, at no additional charge to the owner, upon notification that the repairs have been completed.

(f) Seek any additional professional inspection services deemed necessary by the building commissioner.

(g) Notify in writing, either by personal service or by certified mail, return receipt requested, or if service cannot be had by either of these modes of service, then service may be had by publication in a newspaper qualified to publish legal notices for two (2) successive weeks, the owner, occupant, lessee, mortgagee, agent and all other persons having an

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interest in said building as shown by the land records of the Recorder of Deeds of Washington County, of any building found by him to be a dangerous building within the standards set forth in Section 5-35.

(h) Report in writing to the city council, the noncompliance with any notice to vacate, repair or demolish or the failure to proceed continuously with the work without delay.

(i) Appear at all hearings conducted by the city council and testify as to the condition of dangerous buildings.

(j) Immediately report to the city council concerning any building found by him to be inherently dangerous and that he determined to be a nuisance per se. The building may be marked or posted with a written notice reading substantially as follows:

"This building has been found to be a dangerous building by the building commissioner. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice that has been given the owner, occupant, lessee, mortgagee or agent of this building, and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Washington County. It is unlawful to remove this notice until such notice is complied with."

Provided, however, that the order and the posting of said notice, shall not be construed to deprive all persons entitled thereto by this Chapter to the notice and hearing prescribed herein.

The notice required shall state that:

(a) The owner must vacate, vacate and repair or vacate and demolish said building in accordance with the terms of the notice and this Chapter; or

(b) The occupant or lessee must vacate said building or have it repaired in accordance with the notice and remain in possession; or

(c) The mortgagee, agent or other persons having an interest in said building as shown by the land records of the Recorder of Deeds of the county wherein the land is located, may, at his own risk, repair, vacate or demolish any building, shall be given such reasonable time not exceeding thirty (30) days to commence the required work.

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(d) The notice provided for in this section shall state a description of the building or structure deemed dangerous, a statement of the particulars that make the building or structure a dangerous building and an order requiring the designated work to be commenced within the time provided for in the above subsection.

(e) A hearing date and time, which shall not be more than fifteen (15) days from the date of notice, upon which all parties shall be heard by the Building Commissioner.

(f) If the building commissioner finds that the building is in a dangerous condition or not fit for human habitation, he shall in addition to the notice to vacate, repair or demolish, issue an order to vacate said premises within a reasonable time, however not to exceed seven (7) days to the owner and all occupants of the concerned dwelling. (Ord. 640, §1; Ord. 660, §2; Ord. 871, §1, Ord. 1097, §1)

Sec. 5-35. Dangerous buildings defined.

All buildings that are detrimental to the health, safety or welfare of the residents of the city and that have any or all of the following defects shall be deemed "dangerous buildings";

(a) Those with interior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.

(b) Those that, exclusive of the foundation, show thirty-three (33) percent or more damage or deterioration of the supporting member or members, or fifty (50) percent damage or deterioration of the nonsupporting enclosing or outside walls or covering.

(c) Those that have improperly distributed loads upon the floors or roof, or in which the same are overloaded or that have insufficient strength to be reasonably safe for the purpose used.

(d) Those that have been damaged by fire, wind or other causes so as to become dangerous to life, safety or the general health and welfare of the occupants or the people of the city.

(e) Those that are so dilapidated, decayed, unsafe, unsanitary or that so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or welfare of those occupying such building.

(f) Those having light, air and sanitation facilities that are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.

(g) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other adequate means of evacuation.

(h) Those that have parts thereof that are so attached that they may fall and injure members of the public or property.

(i) Those that, because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this city. (Ord. 640, §1; Ord. 660, §2)

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(j) Those having contamination by reason of the operation of a methamphetamine laboratory or the manufacturing of methamphetamines or serving as storage for methamphetamine precursors and other noxious chemicals. (Ord. 1097, §1)

Sec. 5-36. Dangerous buildings declared nuisance.

All dangerous buildings, as defined by Section 5-35, are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as provided herein. (Ord. 640, §1; Ord. 660, §2, Ord. 1097, §1)

Sec. 5-37. Standards for repair, vacation or demolition.

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

(a) If the dangerous building reasonably can be repaired so that it no longer will exist in violation of the terms of this Chapter, it shall be ordered repaired.

(b) If the dangerous building is in such condition as to make it dangerous to the health, safety or general welfare of its occupants, it shall be ordered to be vacated and repaired.

(c) In all cases where a building cannot be repaired so that it no longer will exist in violation of the terms of this Chapter, it shall be demolished. Demolition of the building shall include the removal of foundation, footings, basement walls and all components of the basement. The lot shall be graded, made level and restored to good condition.

(d) In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this Chapter or any ordinance of this city or statute of the State of Missouri, it shall be repaired or demolished. (Ord. 640, §1; Ord. 660, §2, Ord. 1097, §1)

Sec. 5-38. City Attorney to serve as hearing officer and Building Commissioner.

(a) Except in cases where it would be a direct conflict with his other duties for the City, the City Attorney shall serve as hearing officer in any matter where a hearing is requested or required concerning complaints or citations by the Building Commissioner for dangerous buildings, and property nuisance violations. When acting in said capacity, the City Attorney shall serve as Building Commissioner.

(b) All hearings shall be conducted under the Missouri Rule for Administrative Hearings, and the Building Commissioner shall make written findings of the facts so found, and appropriate written Orders.

(Ord. 1037, §1, Ord. 1097, §1)

Sec. 5-39. Duties of the city council regarding dangerous buildings.

The city council shall have the power pursuant to this Chapter to:

(a) Supervise all inspections required by this Chapter, and cause the building commissioner to make inspections and perform all the duties required of him by this Chapter. Upon receiving a complaint or report from any source, that a dangerous building exists in the city, the city council shall

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cause an inspection to be made forthwith. If the city council deems it necessary, the city council may request an inspection and report be made by any other city department or retain the services of an expert whenever the city council deems such service necessary.

(b) Upon receipt of a report from the building commissioner indicating failure by the owner, lessee, occupant, mortgagee, agent or other person(s) having interest in said building to commence the work of reconditioning or demolition within the time specified by this Chapter or upon failure to proceed continuously with work without unnecessary delay, the city council shall hold a hearing giving the affected parties full and adequate hearing on the matter. The city council, if it deems necessary, may cause all city utilities to be turned off at said building prior to this hearing.

Written notice, either by personal service or by certified mail, return receipt requested, or by publication for two (2) successive weeks, in a newspaper qualified to publish legal notices, at least twenty-one (21) days in advance of a hearing date, to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the land records of the recorder of deeds of the county wherein the land is located, to appear before the city council on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated or demolished in accordance with the statement or particulars set forth in the building commissioner's notice as provided herein.

Any party may be represented by counsel and all parties shall have an opportunity to be heard.

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(c) Make written findings of fact from the evidence offered at said hearing as to whether or not the building in question is a dangerous building within the terms of Section 5-35.

(d) If the evidence supports a finding based upon competent and substantial evidence that the building or structure is a dangerous building, the city council shall issue an order based upon its findings of fact commanding the owner, occupant, mortgagee, lessee, agent or other person(s) having an interest in said building as shown by the land records of the county wherein the land is located, to repair, vacate or demolish any building found to be a dangerous building, provided that any person so notified, shall have the privilege of either repairing or vacating and repairing said building, if such repair will comply with the ordinances of this city or any person having an interest in said building as shown by the land records of the county wherein the land is located, may vacate and demolish said dangerous building at his own risk to prevent the acquiring by the city of the lien against the land where the dangerous building stands. If the evidence does not support a finding that a building or structure is a dangerous building, no order shall be issued.

(e) If the owner, occupant, mortgagee or lessee fails to comply with the order within thirty (30) days, the city council shall cause such building or structure to be repaired, vacated or demolished as the facts may warrant; and the city council shall certify the cost of the work borne by the city for such repair, vacation or demolition to the city clerk as a special assessment represented by a special tax bill against the real property affected; said tax bill shall be a lien upon said property and shall be deemed a personal debt against the property owner(s). Except as provided in subsection (f) of this section, at the request of the taxpayer this special tax bill may be paid in installments over a period of not more than ten (10) years; said assessment shall bear interest at the rate of nine percent per annum until paid.

(f) As to damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, if an order is issued by the city council as provided in subsection (e) of this section, and a special tax bill or assessment is issued against the property, it shall be deemed a

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personal debt against the property owner. If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, the following procedure is established for the payment of up to ten (10) percent of the insurance proceeds, as set forth in subdivisions (1) and (2) of this subsection. This subsection shall apply only to a covered claim payment that is in excess of fifty (50) percent of the face value of the policy covering a building or other structure:

(1) The insurer shall withhold from the covered claim payment up to ten (10) percent of the covered claim payment, and shall pay such moneys to the city to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over obligation under the Chapter.

(2) The city shall release the proceeds and any interest that has accrued on such proceeds received under subdivision (1) of this subsection to the insured or as the terms of the policy and endorsements thereto provide within thirty (30) days after receipt of such insurance moneys, unless the city has instituted legal proceedings under the provisions of subsection (e) of this section. If the city has proceeded under the provisions of subsection (e) of this section, all moneys in excess of that necessary to comply with the provisions of subsection (e) of this section for the removal of the buildings or structure, less salvage value, shall be paid to the insured.

(g) If there are no proceeds of any insurance policy as set forth in subsection (f) of this section, at the request of the taxpayer, for (10) years. The tax bill from date of its issuance shall be a lien on the property and a personal debt against the property owner(s) until paid.

(h) Subsection (f) of this section shall apply to fire, explosion or other casualty loss claims arising on all buildings and structures.

(i) Subsection (f) of this section does not make the city a party to any insurance contract, and the insurer is not liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

(j) The city council may certify in lieu of payment of all or part of the covered claim under subsection (f) that it has obtained satisfactory proof that the insured has removed or will remove the debris and repair, rebuild or otherwise make the premises safe and secure. In this event, the city council shall issue a certificate within thirty (30) days after receipt of proof to permit covered claim payment to the insured without the deduction pursuant to subsection (f) of this section. It

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shall be the obligation of the insured or other person making the claim to provide the insurance company with the written certificate provided from this subsection. (Ord. 640, §1; Ord. 660, §2, Ord. 1097, §1)

Secs. 5-40 & 5-41. Reserved.

Sec. 5-42. Violations; disregarding notices or orders.

(a) The owner, occupant or lessee in possession of any dangerous building who shall fail to comply with the order to repair, vacate or demolish said building given by the building commissioner shall be guilty of a misdemeanor and upon conviction shall be punishable as set forth in Section 5-43.

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(b) Any person removing any notices provided for in this Chapter shall be guilty of a misdemeanor and upon conviction shall be punished in accordance with Section 5-43. (Ord. 640, §1; Ord. 660, §2, Ord. 1097, §1)

Sec. 5-43. Penalties.

Any person violating the provisions of Section 5-42 of this Chapter is guilty of a misdemeanor and upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00). Each day that a person fails to comply with an order of the city council may be deemed a separate offense. (Ord. 640, §1; Ord. 660, §2, Ord. 1097, §1)

Sec. 5-44. Occupancy permits; Application; Fees.

(a) No owner shall occupy or let to any other occupant occupy any vacant dwelling, dwelling unit, rooming unit, or temporary housing unless it is clean, sanitary, and fit for human occupancy, and unless it complies with all provisions of this Chapter, and the owner has obtained a residential occupancy permit from the City Clerk of the City of Potosi, Missouri. The residential occupancy permit shall include an inspection report by the building inspector stating that the building, dwelling, dwelling unit, rooming unit, or temporary housing has been inspected and meets the requirements of Chapter 5 of the Potosi Code.

(b) An application for a residential occupancy permit shall be in the form required by the city building inspector.

(c) The City Clerk shall not issue a residential occupancy permit, nor transfer or begin utility service to any premises unless such premises have been inspected by the building inspector and he/she has certified on the application that said premises meet the minimum standard set forth in this Chapter.

(d) Premises presently occupied by owner, being leased, or rented shall not require a residential occupancy permit until such time as there is a change in the present occupant.

(e) Landlords of rental property shall notify the building inspector within seven (7) days of a vacancy in their rental property.

(f) A fee of fifteen dollars (\$15.00) shall be collected by the City Clerk prior to issuing any occupancy permit.

(g) Inspection of a premises by any other governmental entity for the purpose of government payment or subsidy does not satisfy the requirements of this Chapter. (Ord. 871, §2; Ord. 1008, §1)

Sec. 5-45. Definitions.

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

Basement or cellar: That portion of the dwelling between the floor and ceiling which is partly or wholly below grade.

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City: The City of Potosi, Missouri.

City building inspector: Such person as is appointed city building inspector by the Mayor of the City of Potosi and approved by the Board of Aldermen.

Dwelling: Any building which is wholly or partly used, or intended to be used, for living or sleeping by human occupants provided that temporary housing as herein after defined shall not be regarded as a dwelling.

Dwelling unit: Any room or group of rooms located within a dwelling and forming a single habitable unit with the facilities that used or intended to be used for living, sleeping, cooking, eating and a part of which is exclusively or occasionally appropriated by cooking.

Habitable room: A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, toilet room, laundries, pantries, foyers, communicating corridors, closets, storage spaces and basement rooms used only for recreational purposes.

Occupant: Any person living, sleeping, cooking or eating in or having actual possession of a dwelling, dwelling unit or rooming unit.

Owner or operator: Any person who, alone or jointly or severally with others:

- (1) Shall record legal title to any building, dwelling, dwelling unit with or without accompanying any actual possession thereof;
- (2) Shall have charge, care or control of any dwelling, dwelling unit or habitable room as owner, or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person representing the owner shall be bound to comply with the provisions of this Chapter and of the rules and regulations adopted pursuant thereto to the same extent as if he/she were the owners.
- (3) An operator is any person who has charge, care or control of a building or part thereof in which dwelling units or rooming units are let.

Person: A natural person for the purposes of the occupancy standards hereof and for other purposes shall mean a natural person or legal entity such as a firm, corporation, association or partnership.

Premises: A lot, plot or parcel of land including the dwelling and structures located thereon.

Rooming house: Any dwelling or group of dwellings located on one premises, or that part of any dwelling containing one or more rooming units in which space is available and used or intended to be used to be let by the owner or operator to five or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or the operator; provided that any portion of the dwelling containing one or more dwelling units in which is located one or more rooming units

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shall not be deemed a rooming house, unless one or more of the dwelling units has space available and used, or intended to be used, to let by the owner or operator to five or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.

Rooming unit: Any room or group of rooms forming a single habitable unit used, or intended to be used, for living and sleeping, but no part of which is exclusively or occasionally appropriated to cooking.

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Temporary housing: Any trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground to another structure or to any utility system on the same premises for more than thirty (30) days provided that any such trailer parked as authorized by the City shall be deemed as temporary housing. (Ord. 871, §3; Ord. 1008, §1)

Sec. 5-46. Penalties.

Any person who violates the residential occupancy permit requirements of the City of Potosi, Missouri, shall be guilty of a misdemeanor and the punishment will be fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each violation. For purposes of this Chapter, each day a violation of the occupancy permit ordinance exists shall constitute a separate offense. (Ord. 871, §4; Ord. 1008, §1)

Secs. 5-47 to 5-49. Reserved.

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ARTICLE II
MINIMUM HOUSING STANDARDS

DIVISION 3. HOUSING REHABILITATION GRANT GUIDELINES

Sec. 5-50. Purpose.

The purpose of the rehabilitation program is to correct code violations, overcrowded or unsanitary conditions to improve the housing and living environment for persons of low to moderate income levels living in the City of Potosi, Missouri. (Ord. 617, §1)

Sec. 5-51. Scope.

(a) This is a voluntary program. All interested persons must make application before any action can be taken.

(b) Qualified applicants who participated in the initial survey to assist in the application process will be given first priority. Others shall be considered on a first come-first serve basis, with the exception that an emergency situation shall receive priority. All decisions pertaining to emergencies shall be made by the housing inspector and the city building inspector and/or the mayor, whose decision must be approved by the governing body of the city before becoming effective.

(c) A complete inspection will be made by the program housing inspector. A work write-up will be prepared, as well as a cost estimate. All decisions concerning repairs to be made to the structure will be made by the housing inspector, with the right of appeal by the owner to the governing body of the city if said appeal is filed in writing with the city clerk within 10 days after said decision is made. Upon receipt of such notice of appeal, the governing body of the city shall set a time and place for a hearing on the appeal and shall give said owner written notice thereof. Upon hearing testimony presented at such hearing, the governing body of the city shall issue its order in writing and mail to said owner.

(d) All items on the work write-up, as well as other pertinent information, will be discussed with the owner, housing inspector, city building inspector and/or mayor, project administrator, and contractor. After approval of the governing body, the city reserves the right to withdraw its assistance to any owner who in any way holds up the progress of the project by not responding to, or providing required documents in a timely manner.

City reserves the right to walk away from any property after property has been bid 3 times without a contract being approved and awarded. (Ord. 617, §2)

Sec. 5-52. General objectives.

(a) The program shall be devised to conserve the city's present housing stock.

(b) Low to moderate income families, as hereinafter defined in Section 5-53, shall receive priority.

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- (c) A quarterly review of the program shall be conducted to determine if changes or refinements are needed.
- (d) City codes shall be followed in all work performed and in the installation of all materials.
- (e) All work shall be done by qualified and licensed contractors.
- (f) Grants shall be limited to one per property.
- (g) The program shall encompass the target area as outlined in the community development application, as noted herein in Section 5-53(e).
- (h) The housing inspector and the city building inspector and/or mayor shall be responsible for making all decisions as to the method used in rehabilitating the property with the right of appeal by the owner to the governing body of the city.
- (i) Competitive bids shall be let on each project and the lowest qualified responsible bid shall be selected. In the event the owner does not select the lowest qualified bid, the owner shall be responsible to pay the difference between the two bids unless the owner cites a valid reason for disqualifying the low bidder. The housing inspector, with the approval of the city building inspector and/or mayor shall dismiss a contractor not performing construction according to specifications and contract agreements.
- (j) A final inspection of the work shall be made by the housing inspector to insure that it fulfills the terms of the grant and contract agreements.
- (k) City council members, housing inspector, city employees and city officers shall not be eligible for grant assistance, contract or subcontract for any work, or have any personal interest, direct or indirect, in any contract under this project. (Ord. 617, §3)

Sec. 5-53. Qualifications.

To be eligible for a rehabilitation grant, the applicant and property shall satisfactorily meet the following requirements:

- (a) Income limits for applicants:

<u>Number of persons/household</u>	<u>Total annual gross household income</u>
1	\$13,150.00
2	15,050.00
3	16,900.00
4	18,800.00
5	20,000.00
6	21,150.00
7	22,350.00
8+	23,500.00

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(b) The property to be rehabilitated must be owned by the applicant prior to submission of the application. Rental property shall be eligible only if the owner qualifies under the income guidelines; has a renter that qualifies under the income guidelines, signs a two year rent freeze agreement with the renter, rent must meet the Fair Market Rents as calculated by DED; and the owner agrees to pay 25% of the construction cost if owner income exceeds the LMI limits.

(c) The owner must have a recorded deed of ownership. A contract for deed properly executed shall not constitute ownership, but shall be considered rental. The buyer and the seller will be required to make joint application and jointly execute the contract for rehabilitation work.

(d) Any person who rents to another member of his immediate family shall not be considered a landlord, and the occupant of the house may be considered as an owner occupant for the purposes of this program. An immediate family member includes: fathers, mothers, sons, daughters, brothers, and sisters.

(e) Only properties within the target area will be eligible for grant assistance, without prior written approval from the Department of Economic Development.

(f) 80% of the funds will be used to bring housing up to DED's Livability Standards, and 20% of the funds will be used to bring housing units up to DED's Health and Safety Standards, or used on houses outside the target area. Units which cannot feasibly be brought up to Livability Standards for less than \$11,000.00 shall be brought up to Health and Safety Standards. If a unit cannot be brought up to Health and Safety, Housing Quality Standards for \$11,000.00 or if the cost of rehabilitation exceeds 75% of the appraised value of the property after rehabilitation, or if the cost of the rehabilitation exceeds \$11.00 per square foot of necessary living space, the unit will be left alone.

(g) Vacant houses: Owner must provide documentation that the property will be, and continue to be occupied by a low or moderate income person for a period of one year after the Certificate of Completion is signed.

(h) If DED funds are used to rehabilitate a house that is demolished within three years of the time final payment has been made to the rehabilitation contractor, owner shall repay funds to the State.

(i) If DED funds are used to rehabilitate a housing unit, the unit must remain occupied by a low to moderate income person for a period of one year. If property is sold and not occupied by LMI persons, applicant must pay the amount of funds used for rehabilitation back to the State.

(j) Discovery of fraud on the part of any applicant shall result in the applicant(s) being responsible to repay the full grant amount of the property rehabilitated. (Ord. 617, §4)

Sec. 5-54. Grant amount.

The amount of any approved grant per housing unit, will be the total cost of the rehabilitation, not to exceed the sum of \$11,000.00, without prior written approval from the Department of Economic Development. (Ord. 617, §5)

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Sec. 5-55. Repayment.

Recipients do not repay grants unless a violation of Section 5-53, Qualification, of this Ordinance occurs or a violation of Chapter XII of the Housing Rehabilitation regulations as set forth by the Department of Economic Development occurs. (Ord. 617, §6)

Secs. 5-56 to 5-60. Reserved.

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ARTICLE III
SWIMMING POOLS

Sec. 5-61. Swimming pools - General.

Swimming and bathing pools shall conform to the requirements of this Article, provided that these regulations shall not be applicable to any such pool less than 24 inches (610 mm) deep or having a surface area less than 250 square feet (23.25m²), except where such pools are permanently equipped with a water-recirculating system or involve structural materials. For the purposes of this Article, pools are classified as private swimming pools or public swimming pools, as defined in Section 5-62. Materials and construction used in swimming pools shall comply with the applicable requirements of this Article. (Ord. 700, §1)

Sec. 5-62. Definitions.

The following words and terms shall, for the purposes of this Article and as used elsewhere in this Code, have the meanings shown herein.

Pools, swimming, hot tubs and spas

Above-ground/on-ground pool: See definition of private swimming pool.

Barrier: A fence, a wall, a building wall, the wall of an above-ground swimming pool or a combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool.

Hot tub: See definition of private swimming pool.

In-ground-pool: See definition of private swimming pool.

Power safety cover: A pool cover which is placed over the water area, and is opened and closed with a motorized mechanism activated by a control switch.

Private swimming pool: Any structure that contains water over 24-inches (610 mm) in depth and which is used, or intended to be used, for swimming or recreational bathing in connection with an occupancy in Use Group R-3 and which is available only to the family and guests of the householder. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas.

Private swimming pool, indoor: Any private swimming pool that is totally contained within a private structure and surrounded on all four sides by walls of said structure.

Private swimming pool, outdoor: Any private swimming pool that is not an indoor pool.

Public swimming pool: Any swimming pool other than a private swimming pool.

Spa: See definition of private swimming pool. (Ord. 700, §2)

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Sec. 5-63. Permits and construction documents.*

A swimming pool or appurtenances thereto shall not be constructed, installed, enlarged or altered until construction documents have been submitted and a permit has been obtained from the code official. The approval of all city, county and state authorities having jurisdiction over swimming pools shall be obtained before applying to the code official for a permit. Certified copies of these approvals shall be filed as part of the supporting data for the permit application.

Construction documents. Construction documents shall accurately show dimensions and construction of the pool and appurtenances and properly established distances to lot lines, buildings, walks and fences, as well as details of the water supply system, drainage and water disposal systems, and all appurtenances to the swimming pool. Detailed construction documents of structures, vertical elevations and sections through the pool showing depth shall be included. (Ord. 700, §3)

*NOTE: Swimming pool permit fees, see §26-218.

Sec. 5-64. Location.

Private swimming pools shall not encroach on any front or side yard required by this Article or by the governing zoning law, unless in accordance with specific rules of the jurisdiction in which the pool is located. A wall of a swimming pool shall not be located less than 6 feet (1829 mm) from any rear or side property line or 10 feet (3048 mm) from any street property line, unless in accordance with specific rules of the jurisdiction in which the pool is located. (Ord. 700, §4)

Sec. 5-65. Structural design.

The pool structure shall be engineered and designed to withstand the expected forces to which the pool will be subjected.

(a) **Wall slopes:** To a depth up to 2 feet 9 inches (838 mm) from the top, the wall slope shall not be more than one unit horizontal in five units vertical (1:5).

(b) **Floor slopes:** The slope of the floor on the shallow side of the transition point shall not exceed one unit vertical to seven units horizontal (1:7). For public pools greater than 1,200 square feet (111.6 m^2), the slope of the floor on the shallow side of the transition point shall not exceed one unit vertical to ten units horizontal (1:10). The transition point between shallow and deep water shall not be more than 5 feet (1524 mm) deep.

(c) **Surface cleaning:** All swimming pools shall be provided with a recirculating skimming device or overflow gutters to remove scum and foreign matter from the surface of the water. Where skimmers are used for private pools, there shall be at least one skimming device for each 1,000 square feet (93 m^2) of surface area or fraction thereof. For public pools where water skimmers are used, there shall be at least one skimming device for each 600 square feet (55.8 m^2) of surface area or fraction thereof. Overflow gutters shall not be less

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than 3 inches (76 mm) deep and shall be pitched to a slope of one unit vertical to 48 units horizontal (1:48) toward drains and constructed so that such gutters are safe, cleanable and that matter entering the gutters will not be washed out by a sudden surge of entering water.

(d) **Walkways:** All public swimming pools shall have walkways not less than 4 feet (1219 mm) in width extending entirely around the pool. Curbs or sidewalks around any swimming pool shall have a slip-resistant surface for a width of not less than 1 foot (305 mm) at the edge of the pool, and shall be so arranged as to prevent return of surface water to the pool.

(e) **Steps and ladders:** At least one means of egress shall be provided from private pools. Public pools shall provide ladders to other means of egress at both sides of the diving section and at least one means of egress at the shallow section, or at least one means of egress in the deep section and the shallow section if diving boards are not provided. Treads of steps and ladders shall have slip-resistant surfaces and handrails on both sides, except that handrails are not required where there are not more than four steps or where the steps extend the full width of the side or end of the pool. Treads and risers of the pool steps shall conform to the following:

- (1) Step treads shall have a minimum unobstructed horizontal depth of 10 inches (254 mm) and a minimum unobstructed surface area of 240 square inches (0.15 m^2).
- (2) Risers shall have a maximum uniform height of 12 inches (305 mm) as measured at the centerline of the tread. The height of the bottom riser shall not vary more than plus or minus 2 inches (51 mm) from the uniform riser height. (Ord. 700, §5)

Sec. 5-66. Water supply.

All swimming pools shall be provided with a potable water supply, free of cross connections with the pool or its equipment.

(a) **Water treatment:** Public swimming pools shall be designed and installed so that there is a pool water turnover at least once every 8 hours. Filters shall not filter water at a rate in excess of 3 gallons per minute per square foot (123 L/min/m^2) of surface area. The treatment system shall be designed and installed so that at all times when the pool is occupied, the water is provided with excess chlorine of not less than 0.4 parts per million (ppm) or more than 0.6 ppm, or excess chloramine between 0.7 and 1.0 ppm, or disinfection shall be provided by other approved means. Acidity/alkalinity of the pool water shall not be below 7.0 or more than 7.5. All recirculating systems shall be provided with an approved hair and lint strainer installed in the system ahead of the pump.

Private swimming pools shall be designed and installed so that there is a pool water turnover at least once every 18 hours. Filters shall not filter water at a rate in excess of 5 gallons per minute per square foot (205 L/min/m^2) of surface area. The pool owner shall be instructed in the care and maintenance of the pool by the supplier or builder, including

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treatment with high-test calcium hypochlorite (dry chlorine), sodium hypochlorite (liquid chlorine) or equally effective germicide and algaecide, and the importance of proper pH (alkalinity and acidity) control.

(b) **Drainage system:** The swimming pool and equipment shall be equipped to be emptied completely of water and the discharged water shall be disposed of in an approved manner that will not create a nuisance to adjoining property. (Ord. 700, §6)

Sec. 5-67. Appurtenant structures.

All appurtenant structures, installations and equipment, such as showers, dressing rooms, equipment houses or other buildings and structures, including plumbing, heating and air conditioning systems, shall comply with all applicable requirements of this Code.

(a) **Accessories:** All swimming pool accessories shall be designed, constructed and installed so as not to be a safety hazard. Installations or structures for diving purposes shall be properly anchored to insure stability. (Ord. 700, §7)

Sec. 5-68. Equipment installations.

Pumps, filters and other mechanical and electrical equipment for public swimming pools shall be enclosed in such a manner as to provide access only to authorized persons and not to bathers. Construction and drainage shall be arranged to avoid the entrance and accumulation of water in the vicinity of electrical equipment. (Ord. 700, §8)

Sec. 5-69. Enclosures for public swimming pools.

Public swimming pools shall be provided with an enclosure surrounding the pool area. The enclosure shall meet the provisions of subsections (a) through (c) of this section.

(a) **Enclosure:** The enclosure shall extend not less than 4 feet (1219 mm) above the ground. All gates shall be self-closing and self-latching with latches placed at least 4 feet (1219 mm) above the ground.

(b) **Construction:** Enclosure fences shall be constructed so as to prohibit the passage of a sphere larger than 4 inches (102 mm) in diameter through any opening or under the fence. Fences shall be designed to withstand a horizontal concentrated load of 200 pounds (896 N) applied on a 1-square-foot (0.093 m²) area at any point of the fence.

(c) **Alternative devices:** A natural barrier, pool cover or other protective device approved by the governing body shall be an acceptable enclosure as long as the degree of protection afforded by the substituted device or structure is not less than the protection afforded by the enclosure, gate and latch described herein. (Ord. 700, §9)

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Sec. 5-70. Enclosures for private swimming pools, spas and hot tubs.

Private swimming pools, spas and hot tubs shall be enclosed in accordance with subsections (a) through (d) of this section or by other approved barriers.

(a) **Outdoor private swimming pool:** An outdoor private swimming pool, including an in-ground, above-ground or on-ground pool, hot tub or spa shall be provided with a barrier which shall comply with the following:

(1) The top of the barrier shall be at least 48 inches (1219 mm) above finished ground level measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between finished ground level and the barrier shall be 2 inches (51 mm) measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above finished ground level, such as an above-ground pool, the barrier shall be at finished ground level, such as the pool structure, or shall be mounted on top of the pool structure. Where the barrier is mounted on the pool structure, the opening between the top surface of the pool frame and the bottom of the barrier shall not allow passage of a 4-inch (102 mm) diameter sphere.

(2) Openings in the barrier shall not allow passage of a 4-inch (102 mm) diameter sphere.

(3) Solid barrier shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.

(4) Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches (1143 mm), the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 1 3/4 inches (44 mm) in width. Decorative cutouts shall not exceed 1 3/4 inches (44 mm) in width.

(5) Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches (1143 mm) or more, spacing between vertical members shall not exceed 4 inches (102 mm). Decorative cutouts shall not exceed 1 3/4 inches (44 mm) in width.

(6) Maximum mesh size for chain link fences shall be a 1 1/4 inch (32 mm) square unless the fence is provided with slats fastened at the top or the bottom which reduce the openings to not more than 1 3/4 inches (44 mm).

(7) Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall be not more than 1 3/4 inches (44 mm).

(8) Access gates shall comply with the requirements of items (1) through (7) of this section, and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outwards away from the pool and shall be self-closing and have a self-latching device. Gates other than pedestrian access gates shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches (1372 mm) from the

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bottom of the gate: (a) the release mechanism shall be located on the pool side of the gate at least 3 inches (76 mm) below the top of the gate; and (b) the gate and barrier shall not have an opening greater than 1/2 inch (13 mm) within 18 inches (457 mm) of the release mechanism.

(9) Where a wall of a dwelling unit serves as part of the barrier and contains a door that provides direct access to the pool, one of the following shall apply:

(i) All doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and its screen, if present, are opened. The audible warning shall commence not more than 7 seconds after the door and door screen, if present, are opened and shall sound continuously for a minimum of 30 seconds. The alarm shall have a minimum sound pressure rating of 85 dBA at 10 feet (3048 mm) and the sound of the alarm shall be distinctive from other household sounds such as smoke alarms, telephones and door bells. The alarm shall automatically reset under all conditions. The alarm shall be equipped with manual means, such as touchpads or switches, to deactivate temporarily the alarm for a single opening from either direction. Such deactivation shall last for not more than 15 seconds. The deactivation touchpads or switches shall be located at least 54 inches (1372 mm) above the threshold of the door.

(ii) All doors with direct access to the pool through that wall shall be equipped with a self-closing and self-latching device with the release mechanism located a minimum of 54 inches (1372 mm) above the floor. Swinging doors shall open away from the pool area.

(iii) The pool shall be equipped with a power safety cover. Where in a closed position, the cover shall be capable of holding a weight of 485 pounds (2157N), shall not have any openings that allow passage of a 4 1/2 inch (114 mm) sphere and shall incorporate a system to drain standing water that collects on the cover. The cover control switch shall be permanently installed in accordance with NFPA 70 listed in Chapter 35 (BOCA Code), and be key-operated and of a springloaded or momentary-contact type. Where the switch is released, the operation of the cover shall stop instantly and be capable of reversing direction immediately. The switch shall be in the line of sight of the complete pool cover.

(10) Where an above-ground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a fixed or removable ladder or steps, the ladder or steps shall be surrounded by a barrier which meets the requirements of items (1) through (9) of subsection (a). A removable ladder shall not constitute an acceptable alternative to enclosure requirements.

(b) **Indoor private swimming pool:** All walls surrounding an indoor private swimming pool shall comply with Section 10 (a) (9).

(c) **Prohibited locations:** Barriers shall be located so as to prohibit permanent structures, equipment or similar objects from being used to climb the barriers.

(d) **Exemptions:** The following shall be exempt from the provisions of this section:

(1) A spa or hot tub with an approved safety cover.

(2) Fixtures which are drained after each use. (Ord. 700, §10)

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Sec. 5-71. Diving boards.

Minimum water depths and distances for diving hoppers for pools, based on board height above water, shall comply with the attached Table A for public pool and Table B for private pools.

The maximum slope permitted point D, and the transition point shall not exceed one unit vertical to three units horizontal (1:3) in private and public pools, D₁ if the point directly under the end of the diving boards. D₂ is the point at which the floor begins to slope upwards to the transition point.

TABLE A & B

Secs. 5-72 to 5-76. Reserved.

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**ARTICLE IV. LEAD BAN IN PUBLIC AND PRIVATE
DRINKING WATER PLUMBING**

Sec. 5-77. General Policy.

(a) Purpose. The purpose of this Article is:

- (1) To ban the use of lead materials in the public drinking water system and private plumbing connected to the public drinking water system; and
- (2) To protect city residents from lead contamination in the city's public drinking water system and their own private plumbing systems.

(b) Applications. This Article shall apply to all premises served by the public drinking water system of the City of Potosi.

(c) Policy. This Article will be reasonably interpreted by the water purveyor. It is the purveyors intent to ban the use of lead based material in the construction or modification of the city's drinking water system or private plumbing connected to the city system. The cooperation of all consumers is required to implement the lead ban.

If, in the judgment of the water purveyor or his authorized representative, lead base materials have been used in new construction or modifications after January 01, 1989, due notice shall be given to the customer. The consumer shall immediately comply by having the lead base materials removed from the plumbing system and replaced with lead free materials. If the lead base materials are not removed from the plumbing system, the water purveyor shall have the right to discontinue water service to the premises. (Ord. 715, §1)

Sec. 5-78. Definitions.

(a) The following definitions shall apply in the interpretation and enforcement of this Article:

(1) "*Consumer*" means the owner or person in control of any premises supplied by or in any manner connected to a public water system;

(2) "*Lead base materials*" means any material containing lead in excess of the quantities specified in Section 5-78(a)(3);

(3) "*Lead free*" means:

- (A) When used with respect to solder and flux, refers to solders and flux containing not more than 0.2 percent (0.2%) lead; and
- (B) When used with respect to pipes and pipe fittings, refers to pipes and pipe fittings containing not more than eight percent (8.0%) lead.

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(4) "Public drinking water system" means any publicly or privately owned water system supplying water to the general public which is satisfactory for drinking, culinary and domestic purposes and meets the requirements of the Missouri Department of Natural Resources; and

(5) "Water purveyor" means the owner, operator, or individual in responsible charge of a public water system. (Ord. 715, §2)

Sec. 5-79. Lead banned from drinking water plumbing.

(a) No water service connection shall be installed or maintained to any premises where lead base materials were used in new construction or modifications of the drinking water plumbing after January 01, 1989.

(b) If a premises is found to be in violation of Section 5-79(a), water service shall be discontinued until such time that the drinking water plumbing is lead free. (Ord. 715, §3)

Secs. 5-80 to 5-84. Reserved.

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