

Chapter 6

BUILDINGS AND BUILDING REGULATIONS

Cross References — Fire prevention and protection, § 9-1 et seq.; Unsafe structures declared a nuisance, § 18-91; Municipal auditorium, § 16-1 et seq.; Planning and zoning generally, § 20-1 et seq.; Streets, sidewalks and public grounds, § 23-1 et seq.; Subdivisions, § 24-1 et seq.; Water and sewers, § 28-1 et seq.; Building inspector/code enforcement officer — authorized to enforce ch. 6, § 2-209.

ARTICLE I

Dangerous Buildings

The provisions contained in this Article are referred to as the "Dangerous and Nuisance Building Code of the City of Lexington, Missouri," and may be cited as such in any proceedings under this Article.

SECTION 6-1. Conditions of Buildings or Structures Constituting a Dangerous Building and/or Public Nuisance. [Ord. No. 2014-06 § I, 3-11-2014¹]

A. Definitions Specific To Chapter 6:

DANGEROUS BUILDING — Any building or structure having any of the conditions listed in Section 6-1(B) below.

DILAPIDATED — Any one (1) or all of the following: decayed, decaying, deteriorated, or fallen into partial ruin especially through neglect or misuse, abandoned, battered, broken-down, crumbling, decrepit, fallen in, falling apart, in ruins, ramshackle, rickety, ruined, run-down, shabby, shaky, tumbledown, uncared for, worn-out.

GENDER — A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

INTERESTED PARTIES — The owner, occupant, lessee, mortgagee, agent and all other persons having an interest in the building, structure, premises, or equipment as shown by the land records of the Recorder of Deeds for Lafayette County, will be considered as a party/parties as that term is used within this Chapter.

OCCUPIED — A structure, building, mobile home, vehicle, or other place suitable for human occupancy which has a person/persons living in, dwelling in, inhabiting, residing in, or working in said structure, building, mobile home, vehicle, or other place and such structure, building, mobile home, vehicle, or other place is legally connected to and using all of the following:

1. An approved and functioning method of wastewater treatment and disposal;

1. Editor's Note: This ordinance superseded former Art. I, Dangerous Buildings, adopted 3-5-1985 by Ord. No. 03-85-05, as amended.

2. The public electrical system;
3. An approved and functioning water supply.

PUBLIC NUISANCE — All buildings or structures defined by the terms of Section 6-1(B) as dangerous buildings or structures.

B. *Dangerous Buildings or Structures.* Any building or structure having any of the following conditions is hereby declared a dangerous building:

1. Those whose interior walls or other vertical structure members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle one-third (1/3) of its base.
2. Those which, exclusive of the foundation, show thirty-three percent (33%) or more of damage or deterioration of the supporting members, or fifty percent (50%) of damage or deterioration of the non-supporting enclosing or outside walls or covering.
3. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used or intended to be used.
4. Those which have been substantially damaged by fire, earthquake, wind, flood, neglect, or by any other cause(s).
5. Those which are unoccupied and are open at door, window, wall or roof. As used herein, an "unoccupied" building is one which is: abandoned or uninhabited for any residential or nonresidential purpose; "open" at door, window, wall or roof when, because of removal, breakage, deterioration, destruction, disrepair, or decay, the interior has become exposed to the elements and the structure has become an attractive nuisance, including being accessible for entry by animals, trespassers or others acting without the building owner's consent.
6. Those under construction upon which work has ceased to the point that substantial progress has not been made for a period of thirty (30) consecutive calendar days after a notice has been issued under Section 6.6 for the completion or demolition thereof.
7. Those in the process of demolition upon which work has ceased to the point that substantial progress has not been made for a period of seven (7) consecutive calendar days after a notice has been issued under Section 6.6 for the completion or demolition thereof.
8. Those containing therein substantial accumulations of trash, garbage or other materials susceptible to fire, or constituting or providing a harboring place for vermin or other obnoxious animals or insects, or in any way threatening the health of the occupants thereof or the health of persons in the vicinity thereof.
9. Those condemned as unfit for human occupancy under Section 108.1.3 of the 2009 International Property Maintenance Code, or subsequent versions thereof, and upon which no substantial work has been performed to remedy the conditions causing the condemnation thereof for a period of thirty (30) consecutive calendar days after a notice has been issued under Section 6-6 for the demolition or repair of the building.

10. Those having inadequate facilities for egress in case of fire or other panic or those having insufficient stairways, elevators, fire escapes or other means of exit.
11. Those which have parts thereof which are so attached or deteriorated that they may fall upon public ways or upon the property of others or may injure members of the public or the occupants thereof.
12. Those buildings existing in violation of any building, plumbing, mechanical, electrical, fuel gas, fire, or zoning codes or other ordinances of the City of Lexington and used in violation thereof, which makes the building unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the building occupants, adjacent properties, or their occupants, or the general public.
13. Those which are used or intended to be used for dwelling purposes and, because of inadequate maintenance, dilapidation, decay, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, are determined by the Building Official or his representatives to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease, or a detriment to the safety or general welfare of those occupying such buildings.
14. Those buildings or structures which, because of obsolescence, dilapidated condition(s), deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, are determined by the Building Official and Fire Chief to be a fire hazard.

SECTION 6-2. Dangerous Buildings are Nuisances. [Ord. No. 2014-06 § I, 3-11-2014]

All dangerous buildings and structures, as defined by the terms of Section 6-1(B) of this Chapter, are hereby declared to be public nuisances and shall be repaired, vacated or demolished as provided by this Chapter.

SECTION 6-3. Building Commissioner. [Ord. No. 2014-06 § I, 3-11-2014]

The Mayor of the City of Lexington or his designee shall be the Building Commissioner.

SECTION 6-3.1. Duties of Building Commissioner. [Ord. No. 2014-06 § I, 3-11-2014]

The Building Commissioner shall:

1. The Building Commissioner shall supervise all inspections required by this Chapter and cause the Building Official and Building Inspector to make inspections and perform all of the duties required of him by this Chapter.
2. Upon receipt of a report from the Building Official of failure to vacate or to commence work of reconditioning or demolition within the time specified or upon failure to proceed continuously with the work without unnecessary delay, the Building Commissioner shall call and have a full and adequate hearing upon the matter.
3. Give at least ten (10) business days' written notice to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in the dangerous building, as shown

by the land records of the Recorder of Deeds of Lafayette County, to appear before him on the date specified in the notice to show cause why the building, structure, premises or equipment reported to be a dangerous building should not be repaired, vacated and repaired, or vacated and demolished in accordance with the statement of particulars set forth in notice of the Building Official. Such notice shall be served either personally or by certified mail, return receipt requested, and by posting such notice on the premises. If service cannot be had by the methods set forth above, a notice to the owner of the hearing shall be had by publication in a newspaper qualified to publish legal notices. Any party may be represented by counsel, and all parties shall have an opportunity to be heard. The City is to be notified in writing, no later than ten (10) calendar days before the hearing date, if any party will be bringing legal counsel so arrangements for the attendance of the City Attorney may be made.

4. Make written findings of fact from the evidence offered at the hearing as to whether or not the building or structure in question is a dangerous building within the terms of Section 6-1(B) of this Chapter.
5. After the hearing, if the evidence supports a finding that the building, structure, premises or equipment is a nuisance or detrimental to the health, safety or welfare of the residents of the City, the Building Commissioner or designated officer shall issue an order making specific findings of fact, based upon competent and substantial evidence, that shows the building, structure, premises or equipment to be a nuisance and detrimental to the health, safety or welfare of the residents of the City and ordering the building, structure, premises or equipment to be demolished and removed or repaired. If the evidence does not support a finding that the building, structure, premises or equipment is a nuisance or detrimental to the health, safety or welfare of the residents of the City, no order shall be issued.
6. If the owner, occupant, mortgagee, or lessee fails to comply with the order, or extension of time, within thirty (30) days, the Building Official shall cause the building or structure to be repaired, vacated and repaired, or vacated and demolished, as the facts may warrant, under the standards herein provided for in Section 6-8 of this Chapter, and the Building Official shall certify the charge for such repair, vacation or demolition and its administrative costs to the City Clerk as a special assessment represented by a special tax bill against the real property affected in accordance with Section 6-9 of this Article.

SECTION 6-4. Building Official. [Ord. No. 2014-06 § I, 3-11-2014]

If the City employs only one Building Inspector, that Inspector shall act as the City Building Official.

SECTION 6-4.1. Duties of Building Official or Building Inspector. [Ord. No. 2014-06 § I, 3-11-2014]

A. The Building Official or Building Inspector shall:

1. Inspect or cause to be inspected, as often as may be necessary, all residential, institutional, assembly, commercial, industrial, garage, special or miscellaneous occupancy buildings for the purpose of determining whether any conditions exist that render that place to be a dangerous building when he has reasonable grounds to

believe that the building is dangerous.

2. Inspect any building, wall, or structure about which complaints are filed by any person or any department of the City alleging that the building or structure contains any of the conditions described in Section 6-1(B).
 3. Post any building, structure or property, when it reasonably appears to the Inspector that there is an immediate danger to the health, safety or welfare of any persons because of any condition described in Section 6-1(B), with a notice reading substantially as follows: "DANGEROUS BUILDING, THIS STRUCTURE IS UNSAFE AND ITS OCCUPANCY HAS BEEN PROHIBITED BY THE CITY CODE OFFICIAL."
 4. Serve notice of the declaration of nuisance for buildings or structures deemed to be dangerous buildings in accordance with Section 6-6 of this Article.
- B. Absent exigent or emergency circumstances, whenever it is necessary to make an inspection to enforce any of the provisions of this Chapter, the Building Official or his representative may enter the building, structure or premises at all reasonable times to inspect the same or to perform any duty imposed by this Article, provided that, if the building or structure is occupied, he has first presented proper credentials and has requested and received permission to make the inspection from the owner, occupant or other person having possession, management or control of the building, structure or premises. Reasonable effort shall be made to locate the owner, occupant or other person having possession, management or control of the building, structure or premises. In the event that permission to conduct the inspection is denied, the Building Official shall have recourse to every remedy provided by law to secure entry, including, but not limited to, requesting an appropriate order from a Judge of the Municipal or Circuit Court having competent jurisdiction. The Building Official or his representative may enter abandoned buildings, structures or premises without consent or a search warrant for the purpose of conducting an inspection pursuant to this Chapter.

SECTION 6-5. Inspections by Persons Other Than Building Official or Building Inspector. [Ord. No. 2014-06 § I, 3-11-2014]

Whenever the Building Official shall deem it advisable, he may also request inspections be made by the Fire Department, Health Department, or by any other department of the City or appropriate agency, or by any person who might have knowledge and information useful in the determination of whether a building or structure is a public nuisance or, if so, how it might be alleviated. In addition, the Building Official, if he deems it advisable, may request such an inspection be made by an architect or engineer at the expense of the property owner, with approval from the City Administrator or the Mayor.

SECTION 6-6. Notice of Public Nuisance and Order of Abatement. [Ord. No. 2014-06 § I, 3-11-2014]

Whenever the Building Official or Building Inspector has determined that any building or structure is a public nuisance under the provisions of this Article, he shall, as soon as possible thereafter, serve notice to the owner, occupant, lessee, mortgagee, agent and all other persons

having an interest in the building or structure, as shown by the land records of the Recorder of Deeds for Lafayette County, that such building or structure has been found to be a public nuisance under the provisions of this Article. The notice shall set forth the description of the conditions found in the building or structure so as to constitute the building or structure as a public nuisance under Section 6-1(B). The notice shall also provide for abatement of the nuisance by ordering the building or structure to be vacated, if such be the case, reconditioned, repaired, removed or demolished, giving a reasonable time for commencement of the work, but not exceeding thirty (30) days' time, and requiring the work to proceed continuously without unnecessary delay. The Building Official may grant an extension of time to complete the abatement process, and such extension of time must be given in writing. The notice of public nuisance and order of abatement may be served in the manner set forth in Section 6-6.1.

SECTION 6-6.1. Service of Notices. [Ord. No. 2014-06 § I, 3-11-2014]

- A. Whenever, under this Article, a notice is required to be served upon the persons with a vested interest in the building or structure, the notice shall be in writing and signed by the Building Official or on his behalf by an inspector of buildings who shall have made an inspection of the building or structure of which the notice is to be given. The notice shall be served by one (1) of the following methods:
1. *Delivered personally.* The notice may be served by handing the notice to the person to be served by anyone competent to be a witness or by leaving the notice at the usual place of abode of the one to be served with a member of the household over the age of eighteen (18) years.
 2. *Service may be made by certified mail, return receipt requested, addressed to the person's last known address.* Mail returned by the United States Post Office marked "refused" shall constitute proof of service; if the certified mailing shall be returned by the United States Post Office marked "address unknown" or "unclaimed," it shall not be considered legal service.
 3. If the party to whom such notice is addressed cannot be found after diligent effort to do so, service may be made upon such party by posting the order on the building or structure described in the order.

SECTION 6-6.2. Posting Notice on Building; Removal of Notice; Entry. [Ord. No. 2014-06 § I, 3-11-2014]

- A. A notice of the dangerous condition of a building shall be posted on any building determined to be a dangerous building. The notice shall contain the words, "DANGEROUS BUILDING. This structure is unsafe and its occupancy has been prohibited by the Code Official." followed by text authorized by the Building Official.
- B. Any person removing, defacing, or mutilating the "DANGEROUS BUILDING" notice placed on a dangerous building shall be guilty of a misdemeanor punishable, upon conviction, by a fine not exceeding three hundred dollars (\$300.00) for each offense.
- C. No person shall enter a building that has been posted as provided above unless such entry is authorized by the Building Official. This does not prevent entry at their own risk by the

owner or an agent of the owner for the purpose of repair or demolition. Any person entering a building without authorization shall be guilty of an ordinance violation and, upon conviction, shall be punished as set forth in Lexington City Code, Chapter 1, Section 1-8.

SECTION 6-7. Standards for Determining Action Required to Alleviate Public Nuisance. [Ord. No. 2014-06 § I, 3-11-2014]

Whenever a notice shall be given that any building or structure constitutes a public nuisance under the provisions of this Article, the Building Official or Building Inspector giving the notice shall base his order as to the necessary actions to abate the nuisance by observance of the following standards:

1. If the conditions which cause the building or structure to be a public nuisance can be reasonably repaired or maintained so that the building or structure will no longer exist in violation of the terms of this Article, the building or structure shall be ordered so repaired or maintained, and if it is not repaired or maintained by the owner, then the City may abate the nuisance by repairing, securing, boarding, demolition or other appropriate means.
2. In any case where the state of deterioration of a building or structure constituting the public nuisance is such that necessary repairs would amount to a substantial reconstruction of the building or structure, it shall be ordered repaired or demolished, and if it is not repaired or demolished by the owner, then the City may abate the nuisance by repairing, securing, boarding, demolition or other appropriate means.
3. In all cases where the conditions causing the building or structure to be a public nuisance cannot be reasonably repaired or maintained so that the building or structure will no longer exist in violation of the terms of this Article, the building or structure shall be demolished.
4. If the conditions are such as to make the building or structure immediately dangerous to the health, safety or welfare of its occupants, the building or structure shall be ordered vacated pending abatement of the nuisance.
5. Any building or structure constituting a public nuisance because of the conditions described in Section 6-1(B)(6) shall be ordered to be completed in accordance with lawful plans and specifications; and if it shall not be so completed or demolished by the owner within the time specified in the order of abatement, then the City shall abate the nuisance by demolition.
6. Any building or structure found to be a public nuisance because of the conditions described in Section 6-1(B)(7) shall be ordered demolished by the owner within the time specified in the order of abatement; and if the owner fails to do so, then the City shall abate the nuisance by demolition. The owner may appeal this decision according to Section 6-14.

SECTION 6-8. Failure to Comply with Building Commissioner Decision. [Ord. No. 2014-06 § I, 3-11-2014]

Non-Compliance. If, within sixty (60) days, the record owner, appellant, or any other person entitled to service of notice pursuant to Section 6-6 fails to comply with the decision and order of the Building Commissioner, the Building Official shall advise the City Administrator/Mayor,

who will authorize abatement of the violation. The Building Official shall cause the building or structure to be repaired, vacated and repaired, or vacated and demolished, as the facts may warrant, under the standards herein provided for in Section 6-7, Subsection (6), of this Chapter.

SECTION 6-9. Issuance of Tax Bill for Cost of Work; Manner of Payment. [Ord. No. 2014-06 § I, 3-11-2014]

- A. Whenever the City shall have caused the work to be done as provided by Section 6-2, 6-8, or 6-16 or incurred costs for emergency abatement as provided in Section 6-8 or 6-10, the Building Official shall certify the cost of the work to the City Clerk. The City Clerk shall cause the amount of unrecovered costs to be included in a special tax bill or added to the annual real estate tax bill for the property, at the collecting official's option, and the costs shall be collected by the City Collector collecting taxes in the same manner and procedure for collecting real estate taxes. This tax bill shall be issued against the lot, tract or parcel of land upon which the building or structure is located and against the property owner. The special tax bill, from the date of its issuance, shall be deemed the personal debt of the property owner and shall also be a lien on the lot, tract, or parcel of land until paid and shall be registered in the office of the City Clerk in a book kept by her for such purposes.
- B. At the written request of the taxpayer delivered to the City Clerk, a tax bill for repair or demolition of a building or structure may be paid in ten (10) equal annual installments, which installments, with interest thereon to date on the unpaid balance, shall be due annually on the anniversary of the date of issuance of the bill. Interest shall be at the rate of eight percent (8%) per annum on the unpaid balance of the special assessment, computed from the date of issuance. If any annual payment of principal or interest shall not be paid within thirty (30) days of its due date, the entire remaining balance of the tax bill shall immediately become due and payable.
- C. If a request for ten (10) annual payments is not made prior to the time the Building Official shall certify the cost of the work to the City Clerk, the tax bill shall be payable in sixty (60) days from its date of issuance, with interest thereon at eight percent (8%) per annum until paid.

SECTION 6-9.1. Enforcement of Tax Bills. [Ord. No. 2014-06 § I, 3-11-2014]

- A. Special tax bills issued under Section 6.9 shall be prima facie evidence of the validity of the bill, the doing of the work and the liability of the property and the property owner for the charges stated in the bill and shall be collected if default should occur by suit brought in a court of competent jurisdiction on behalf of the City. Judgment in any such suit may, at the election of the City, order the property sold under special writ of execution, with the proceeds thereof being applied first to the costs of sale, and the remainder to the amount of the judgment, provided the property owner shall remain personally liable for the amount of any deficiency remaining if the proceeds of sale are not sufficient to pay the full amount of the lien, or the City may forego the lien and elect to take a personal judgment against the property owner for the entire amount of the unpaid special tax bill, with a general execution to issue therefor.
- B. Notwithstanding any provision above to the contrary, the City may discharge the special

tax bill upon a determination by the City that a public benefit will be gained by such discharge, and such discharge shall include any costs of tax collection, accrued interest, or attorneys' fees related to the special tax bill.

SECTION 6-10. Emergency Cases. [Ord. No. 2014-06 § I, 3-11-2014]

In all cases where it reasonably appears that an immediate danger to the health, safety or welfare of any person exists, the Building Official may take emergency measures to vacate, repair or demolish a building or structure which is a public nuisance under the provisions of this Article.

SECTION 6-11. Unlawful to Allow an Unoccupied Building to Become Open. [Ord. No. 2014-06 § I, 3-11-2014]

It shall be unlawful for the owner of any unoccupied building to allow the same to become open at door, window, wall or roof for a period of time exceeding twenty-four (24) hours, except when such building is being boarded, repaired or demolished under a valid permit issued by the Codes Administration Department of the City.

SECTION 6-11.1. Administrative Liability. [Ord. No. 2014-06 § I, 3-11-2014]

- A. No officer, agent or employee of this City shall be personally liable for any damage that may occur to persons or property as a result of any act required of him or permitted to be taken by him in the discharge of his duties under this Chapter.
- B. Any person who prevents, obstructs, resists or otherwise interferes with a City officer or official in the administration of his duties under this Chapter shall be guilty of a misdemeanor punishable, upon conviction, by a fine not exceeding five hundred dollars (\$500.00) and/or thirty (30) days in jail for each offense.

SECTION 6-11.2. Insurance Proceeds. [Ord. No. 2014-06 § I, 3-11-2014]

- A. If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or structure caused by or arising out of any fire, explosion, or other casualty loss, and if the covered claim payment is in excess of fifty percent (50%) of the face value of the policy covering a building or other structure, then the following procedure shall apply:
 - 1. The insurer shall withhold from the covered claim payment twenty-five percent (25%) of the covered claim payment and shall pay the amount to the City to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under this Section.
 - 2. The City shall release the proceeds and any interest which has accrued on such proceeds received under Subsection (A)(1) of this Section to the insured, or as the terms of the policy and endorsements thereto provide, within thirty (30) days after receipt of such insurance monies, unless the City has instituted legal proceedings under the provisions of Chapter 6. If the City has proceeded under the provisions of Chapter 6, all monies in excess of that necessary to comply with the provisions of this Section for the removal of the building or structure, less salvage value, shall be paid

to the insured.

3. The City may certify that, in lieu of payment of all or part of the covered claim payment under this Section, it has obtained satisfactory proof that the insured has or will remove debris and repair, rebuild or otherwise make the premises safe and secure. In this event, the City shall issue a certificate within thirty (30) days after receipt of proof to permit covered claim payment to the insured without deduction. It shall be the obligation of the insured or other person making claim to provide the insurance company with the written certificate provided for in this Subsection.
4. No provisions of this Section shall be construed to make the City a party to any insurance contract.

ARTICLE II Appeals

SECTION 6-12. Appeal to the Board of Code Appeals. [Ord. No. 96-25 § 3, 11-12-1996]

- A. *Appeal.* Any person entitled to service of the notice and order of the Building Official may appeal from such notice and order, or any other action of the Building Official under this Chapter, by filing at the office of the Building Official a written appeal containing:
 1. A heading in the words. "Before the Board of Code Appeals of the City of Lexington, Missouri. . ."
 2. A caption reading. "Appeals of . . ." giving the names of all appellants participating in the appeal.
 3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
 4. A brief statement in ordinary and concise language of that specific order or action protested, together with any material fact claimed to support the contentions of the appellant. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.
 5. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.
 6. The signatures of all parties named as appellants and their official mailing addresses.
 7. The verification by declaration under penalty of perjury of at least one (1) appellant as to the truth of the matters stated in the appeal.
- B. *Fees.* The fee for such appeal shall be one hundred dollars (\$100.00) and shall accompany the application for appeal. The application fee shall not be refundable.
- C. *Timing Of Appeal.* The appeal shall be filed within thirty (30) days from the date of the service of such notice and order or action of the Building Official. However, if the building or structure is in such condition as to make it an immediate danger to the health, life, or safety of any person, or any adjacent property as defined in Section 6-10, and is ordered

vacated and is posted in accordance with Section 6-10, such appeal shall be filed within ten (10) days from the date of service of the notice and order of the Enforcement Officer.

- D. *Stay Of Order.* Except for orders to vacate the premises made pursuant to Section 6-10, enforcement of any notice and order of the Building Official issued under this Chapter shall be stayed during the pendency of a properly and timely filed appeal.
- E. *Failure To Appeal.* Failure of any person to file an appeal in accordance with the provisions of this Section shall constitute a waiver of the right to request an administrative hearing and adjudication of the notice and order, or to any portion thereof.

SECTION 6-13. Board of Code Appeals. [Ord. No. 96-25 § 3, 11-12-1996]

The Municipal Code of the City of Lexington establishing a Board of Code Appeals is hereby adopted with the duties and powers as set forth in Section 6-14 herein to be in addition to all other powers, duties and responsibilities referred to in Chapter 6 of the Municipal Code of the City of Lexington.

1. *Creation, composition, qualifications.* The Board of Code Appeals shall consist of five (5) members and two (2) alternate members, who shall be electors of the City and who shall have the qualifications as follows: building maintenance, building construction and business experience and knowledge.
2. *Appointment, term of office.* The members of such Board of Code Appeals shall be appointed by the Mayor, subject to confirmation of the City Council. One (1) member shall be appointed to serve a one-year term; two (2) members shall be appointed to serve a two-year term; and two (2) members shall be appointed to serve a three-year term. Each of the two (2) alternate members shall be initially appointed to a one-year term and shall be designated as "*first alternate*" or "*second alternate*." All appointments shall be made effective from the same date, and annually thereafter, the Mayor shall appoint as before, or reappoint members whose terms have expired, to three-year terms of office, including the alternate members. Appointments to fill unexpired terms of members or alternates shall be for the remainder of the term. Members and alternates shall serve until their successors are appointed, confirmed, and qualified.
3. *Election of officers.* At the first regular meeting of the Board and annually thereafter, the Board shall elect one (1) of its members as President and another as Vice-President.
4. *Rules, by-laws, meetings, quorum.*
 - a. The Board shall have the power to adopt such rules of procedure and by-laws, subject to City Council approval, as it shall deem proper and necessary to carry out the provisions of this Article, which are not inconsistent with the laws of the State or ordinances of the City.
 - b. The rules shall fix the time and place for regular meetings of the Board; however, the President of the Board may call special meetings by providing notice to each member at least twenty-four (24) hours prior to such meeting. All meetings of the Board shall be open to the public and conducted in compliance with Chapter 610, RSMo.
 - c. The Board shall appoint a Secretary, who shall keep the minutes of all proceedings of

the Board which shall show the vote of each member upon each question. The Secretary shall keep records of all official actions of the Board, and all minutes and records shall be kept and filed in the office of the City Clerk and shall be open to the public.

- d. Three (3) members or alternate members shall constitute a quorum of the Board. If one (1) member is absent, the first alternate shall be designated as a voting member; if the first alternate is also absent, the second alternate shall be designated as a voting member. If two (2) members are absent, both the first and second alternate shall be designated voting members. Every determination by the Board, in order to carry, must be decided by a quorum of the Board and must receive the affirmative vote of not less than three (3) members of the Board.
 - e. No member or alternate member of the Board shall take part in any hearing or determination in which they have a personal or financial interest.
5. *Removal of members-filling vacancy-compensation of members.* The Mayor may, by and with the consent of the City Council, remove any member or alternate member for misconduct or neglect of duty. The unexpired term of any member or alternate member who shall be so removed, or who shall resign or for any other reason cease to be a member of the Board, shall be filled by appointment in the same manner as described in this Article. No member or alternate member shall receive compensation for his/her services on the Board of Code Appeals.

SECTION 6-14. Duties of Board of Code Appeals. [Ord. No. 96-25 § 3, 11-12-1996]

The Board of Code Appeals shall have and perform the following duties pursuant to this Chapter:

1. *Date of hearing.* As soon as practicable after receiving the written appeal under Section 6-12, or after the receipt of the report of the Building Official pursuant to Section 6-3.1, the Board of Code Appeals shall fix a date, time and place for the hearing. Such date shall be not less than ten (10) working days nor more than sixty (60) days from the date the appeal was filed with the City Clerk's office from the date the Building Official filed the report with the Board, whichever is applicable, unless continued by the Board of Code Appeals for good cause shown.
2. *Notice.* The notice shall be substantially in the following form, but may include other information:

2. "You are hereby notified that a hearing will be held before the Board of Code Appeals at ___ on the ___ day of _____ 20 ___, at the hour _____, related to the property described as, to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated and/or demolished in accordance with the state of particulars set forth in the Building Official's notice as provided for in this Chapter. You may be present at the hearing. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you." Said notice shall advise the recipient of the procedures involved in the hearing pursuant to this Section.
3. *Service of notice.* Written notice of the time and location of the hearing, and any amended

or supplemental notice, shall be served upon each appellant and/or the record owner of the dangerous building. Additionally, one (1) copy shall be served on each of the following if known to the Board of Code Appeals or disclosed from the land records of the Recorder of Deeds of Lafayette County, Missouri:

- a. The holder of any mortgage, deed of trust or other lien or encumbrance of record;
- b. The owner or holder of any lease of record;
- c. The holder of any other estate or legal interest in or to the building or the land on which it is located; and
- d. Any tenant in possession of the premises.

4. *Method of service.*

- a. Service of the notice of the hearing shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice by certified mail, postage prepaid, return receipt requested, to each such person at their address as it appears on the last equalized assessment roll of Lafayette County or as known to the Board of Code Appeals. Such notice shall be served or received at least fourteen (14) days prior to the hearing date.
- b. If no address of any such person so appears or is known to the Board of Code Appeals, then notice shall be given by publication in a newspaper qualified to publish legal notices at least fourteen (14) days prior to the hearing date, specifically addressed to the person for whom no address is known and all other persons having an interest in said building, to appear before the Board of Code Appeals on the date specified and to show cause why the structure or building reported to be a dangerous building should be repaired, vacated or demolished in accordance with the statement of particulars set forth in the Code Building Official's notice or decision. Said notice shall notify the recipient of the procedures involved in the hearing pursuant to this Section.

5. *Proof of service.* If service is obtained by personal service, proof of service of the notice and order shall be certified as to the time of service by a written declaration executed by the person effecting service, declaring the time, date and manner in which service was made. This declaration, together with any receipt card returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the notice and order retained by the Board of Code Appeals.

6. *Failure of service.* The failure of the Board of Code Appeals to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this Section.

7. *Hearing.* Upon receipt of the report of the Building Official or duly filed appeal, and after having given the required notice, the Board of Code Appeals shall hold a full and adequate hearing and hear such relevant testimony as the Code Enforcement Official, any appellant, the record owner, any other person entitled to service of notice shall offer relative to the dangerous building.

8. *Decision.* Upon conclusion of the hearing, the Board of Code Appeals shall make written findings of fact based upon competent and substantial evidence offered at the hearing as to whether or not the building in question is a "*dangerous building*" as defined by Section 6-1 herein, and:
- a. If the evidence supports a finding that the building or structure is a dangerous building, detrimental to the health, life or safety of any person or to any adjacent property, the Board of Code Appeals shall issue an order based upon the findings of fact, commanding the appellant and/or the record owner, as well as any other person entitled to notice of the hearing, to vacate and ordering the demolition of the building or structure.
 - b. It is further provided that the appellant and/or the record owner, as well as any other person entitled to notice of the hearing, shall have the privilege of either repairing or vacating and repairing said building, if such repair will bring such building into compliance with the ordinances and codes of the City of Lexington, provided that such repair is completed within sixty (60) days of the order being entered by the Board of Code Appeals.
 - c. The appellant and/or the record owner, as well as any other person entitled to notice of the hearing, shall have the privilege of vacating and demolishing said dangerous building at their own risk, to prevent the City of Lexington from acquiring a lien against said land on which the dangerous building is located, provided that such demolition is completed within sixty (60) days of the order entered by the Board of Code Appeals.
 - d. If the evidence does not support a finding that the building or structure is a dangerous building, then no order shall be issued.
 - e. The findings of fact shall be in writing and shall contain findings, a determination of the issues presented, and an order as to any requirements to be satisfied. A copy of the decision shall be personally delivered to the appellant and/or the record owner as well as any other person entitled to notice of the hearing, or shall be sent by certified mail, postage prepaid, return receipt requested to each such person. The effective date of the decision shall be as stated therein.

SECTION 6-15. Recording of Certificate of Dangerous Building. [Ord. No. 96-25 § 3, 11-12-1996]

- A. *Non-Compliance.* If compliance is not had with the order of the Board of Code Appeals within the time provided, and no appeal is properly and timely filed pursuant to Section 6-17, a certificate shall be filed in the Recorder's Office in Lafayette County, Missouri, certifying:
1. The legal description and street address of the property;
 2. The building is a dangerous building; and
 3. The landowner and all other persons with known interests of record in the property have been so notified;
 4. The decision rendered by the Board of Code Appeals.

- B. *Subsequent Compliance.* In the event that, subsequent to the filing of the certificate of dangerous building, the corrections ordered shall be completed or the building demolished, so that the building or structure no longer exists as a dangerous building on the property described in the certificate, a new certificate shall be filed in the Recorder's Office of Lafayette County, Missouri, certifying that the building is no longer a dangerous building.

SECTION 6-16. Failure to Comply with Board Decision — Lien. [Ord. No. 96-25 § 3, 11-12-1996]

- A. *Non-Compliance.* If, within sixty (60) days, the record owner, appellant, or any other person entitled to service of notice pursuant to Section 6-14 fails to comply with the decision and order of the Board of Code Appeals, the Board of Code Appeals or the Building Official shall so advise the City Administrator, who shall cause such building or structure to be repaired, vacated and/or demolished as the facts may warrant.

B. *Tax Bill.*

1. Whenever the City shall have caused repair or demolition work to be completed as provided in the Municipal Code of the City of Lexington, the Building Official shall certify costs of the repair or demolition work to the City Clerk, who shall cause a special tax bill to be issued against the lot, tract or parcel of land until paid, and shall cause the same to be registered in the office of the Recorder of Lafayette County and to be mailed by certified mail to all owners of record of the property. The tax bill shall be collected by the official collecting taxes.
2. Upon written request of the taxpayer delivered to the City Clerk within thirty (30) days after completion of the demolition or repair work, a tax bill for repair or demolition of a building or structure may be paid in ten (10) equal, annual installments, which installments, with interest thereon to date on the unpaid balance, shall be due annually on the anniversary of the date of issuance of the bill. Interest shall be paid at the maximum rate per annum allowable by law on the unpaid balance of the special assessment computed from the date of issuance. If any annual payment or principal or interest shall not be paid within thirty (30) days of its due date, the entire remaining balance of the tax bill shall immediately become due and payable.
3. If said request for the payment plan is not made within thirty (30) days after the completion of the repair or demolition work, then the entire tax bill shall be payable within sixty (60) days of issuance, with interest thereon.
4. Tax bills so issued shall be prima facie evidence of the validity of the bill, the doing of the work and the liability of the property for the damages stated in the bill. If default should occur, said amounts shall be collected by suit brought in a court of competent jurisdiction by the City Attorney on behalf of the City.

SECTION 6-17. Appeal to Circuit Court. [Ord. No. 96-25 § 3, 11-12-1996]

Within thirty (30) days of the receipt of the decision of the Board of Code Appeals, any person entitled to notice pursuant to Section 6-14 as to dangerous building may appeal such decision to the Circuit Court of Lafayette County pursuant to the procedure established in Chapter 536, RSMo.

SECTION 6-18. Violations and Punishment. [Ord. No. 96-25 § 3, 11-12-1996]

A. It is violation of this Chapter to:

1. Fail to comply with an order to repair, vacate or demolish a dangerous building given by the Building Official, unless a proper appeal is duly filed; or
2. Fail to proceed continuously with the repair or demolition of any dangerous building without unnecessary delay; or
3. Fail to comply with an order to repair, vacate or demolish a dangerous building given by the Board of Code Appeals unless a proper appeal is duly filed; or
4. Violate any other provision of this Chapter.

Each and every person violating any of the foregoing shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed five hundred dollars (\$500.00), or be imprisoned in jail for not more than three (3) months, or both such fine and imprisonment. A separate offense shall be deemed committed upon each day during or on which a person violates any provision of this Chapter.

SECTION 6-19. Duties of the City Attorney. [Ord. No. 96-25 § 3, 11-12-1996]

The City Attorney shall prosecute all persons failing to comply with the terms of the notices and orders provided for herein; appear at all hearings before the Board of Code Appeals pursuant to this Chapter; bring suit to collect all municipal liens, assessments or costs incurred by the City in the repairing or demolishing of dangerous buildings; and take all such other legal actions as are necessary to carry out and enforce the terms and provisions of this Chapter.

SECTION 6-20. (Reserved)

ARTICLE III
Construction, Renovation and Demolition of Structures

SECTION 6-21. Waste Disposal and Site Management. [Ord. No. 2014-10 § I, 4-22-2014²]

- A. The Missouri Department of Natural Resources (DNR) regulates, pursuant to Chapter 260, RSMo., demolition and renovation projects for institutional, commercial, public and industrial structures, and residential structure projects such as apartment buildings with more than four (4) units or two (2) or more residential structures within five hundred (500) feet of each other. Single residential structures containing four (4) units or less that have never been used for any commercial activity, including child or adult care, are "exempt" from regulation.
- B. Disposal of construction, renovation, and demolition waste shall be according to provisions set forth in this section and current DNR standards.
- C. *City of Lexington Regulatory Requirements.* In addition to State and Federal regulations,

2. Editor's Note: Sections II and III of this ordinance also provided for the renumbering of former Arts. III and IV as Arts. IV and V, respectively.

the City of Lexington, Missouri, herein sets forth the following additional site safety, cleanup, backfill, disposal, and permit requirements for all construction, renovation and demolition activities within the City.

D. Definitions Explicit To Section 6-21.

ACCESSORY BUILDING — A building less than one thousand (1,000) square feet in floor area and less than fifteen (15) feet high, having no basement and not used as a dwelling, the use of which is incidental and appurtenant to the principal use of the lot on which it is located.

CLEAN DIRT/EARTH — Any type of soil not containing any rock, wood, brush, vegetation, litter, trash, or construction or building materials.

CLEAN FILL — Uncontaminated soil, rock, sand, gravel, concrete, asphaltic concrete, cinder blocks, brick; and minimal amounts of wood (but not lumber), metal and inert solids used for fill [§ 260.200(5), RSMo.]. DNR's "minimal amounts" is an amount of less than ten percent (10%) based on the total volume of material. — Concrete containing wire mesh or rebar, when used as clean fill, must have protruding rebar or mesh cut off before use.

EXEMPT FROM REGULATION — "Exempt," as used in this Article, means notification to DNR of asbestos or hazardous materials abatement is not required. All other regulations apply.

HAZARDOUS WASTE/REGULATED WASTE — Asbestos-containing material, lead paint and objects contaminated by lead paint are examples of the most common hazardous materials encountered during demolition and renovation projects.

RECOVERED MATERIALS — Those materials removed for reuse (lumber, doors, windows, ceramic tile and glass) and those removed to be recycled into new products.

REGULATED WASTES — Those wastes that cannot be used as clean fill and cannot be recovered for reuse or recycling. These wastes must be taken to a permitted landfill or transfer station for proper disposal.

RENOVATION — Construction work that results in significant envelope modifications or major interior rehabilitation and is extensive enough to prevent normal residential occupation or where normal commercial operations cannot be performed within a commercial building while the work is in progress. This does not apply to a homeowner performing minor maintenance or repair activities or painting work in his/her own home.

TOPSOIL — Soil suitable for growing grass and containing no contamination, rock, wood, brush, vegetation, litter, trash, or construction or building materials.

WASTE — The word "waste," as used in this Section, shall apply equally to all and any solid building material waste, whether generated by construction, renovation, demolition, disaster, or other means.

SECTION 6-22. Certificates, Approvals and Permits Required. [Ord. No. 2014-10 § I, 4-22-2014]

- A. A certificate of inspection and clearance for asbestos and a letter of approval to proceed from DNR are required for those structures regulated by RSMo. Chapter 260 prior to the issuance of any demolition permit.

- B. No person, firm or corporation shall wreck, demolish, or raze a building or other structure within the corporate limits of the City of Lexington without first obtaining a permit therefor from the Building Inspector. Such permit shall be issued only to an insured person, firm or corporation as hereinafter provided. However, a permit may be issued to an uninsured owner of record of land who desires to wreck or demolish or raze any building thereon; except that if such building shall be more than two (2) stories high or shall be less than ten (10) feet back from the street property line, such owner shall be required to give a certificate of insurance to the City of Lexington as hereinafter provided and required from persons, firms, or corporations engaged in the business of wrecking, demolishing, or razing buildings.
- C. A person who has made arrangements for the demolition of a building by burning by the Fire Department for training purposes shall not be relieved from complying with the provisions of this Section.

SECTION 6-23. Liability Insurance Requirements. [Ord. No. 2014-10 § I, 4-22-2014]

- A. Except as otherwise provided in Section 6-22(B) above, every person renovating or demolishing [see Definitions, Section 6-21, Subsection (D), definition of "renovation"] a building or portion of a building, except an accessory building, in the City of Lexington shall file with the City Clerk one (1) of the following:
 - 1. A liability insurance policy issued by a solvent corporation holding a certificate of authority to do insurance business in Missouri; or
 - 2. A certificate of insurance issued by an insurance corporation; or
 - 3. Other evidence of liability and property damage insurance. (Note: For homeowners doing their own renovation or demolition, some insurance companies will provide the required coverage under the homeowners insurance policy).
- B. The insurance required under this Section shall insure the person demolishing or renovating the building against loss from the liability imposed by law for injury to, or death of, any person or damage to any property growing out of the demolition or renovation of such building, with a cap of one million dollars (\$1,000,000.00), exclusive of interest and costs, on account of injury to, or death of, any one (1) person, and of one million dollars (\$1,000,000.00) for damage to property of others resulting from demolishing or renovation of any one (1) building.
- C. Such insurance coverage shall indemnify the City and save it harmless against any and all claims, demands or causes of action whatsoever which might arise or accrue against it by reason of the granting of such permit or the exercise of any privilege thereby conferred and to repay all damages which may be suffered by the City or by any other person by reason of the exercise of the permit, including, by way of illustration, but not limited to, injury or damage to pavement, curbs, sidewalks, poles, wires or trees.

SECTION 6-24. Bonding Requirements. [Ord. No. 2014-10 § I, 4-22-2014]

- A. Prior to the issuance of a permit, the owner of the property and building which is to be renovated or demolished, or his licensed contractor, shall file with the City Clerk bonds or

other form of security or a cash deposit in favor of the City, conditioned as follows:

1. A license or permit bond; and
 2. A performance bond.
- B. Bonds shall be for a sum no less than the contract price plus ten percent (10%) and shall name the City as obligee and shall be in a form approved by the City Attorney.

SECTION 6-25. Safety and Site Management. [Ord. No. 2014-10 § I, 4-22-2014]

- A. Before a regulated project begins, a licensed inspector must inspect the structure for asbestos-containing material. If the inspector finds regulated quantities of asbestos-containing material or assumes, based on a preponderance of evidence, for it to be in the structure, an asbestos abatement contractor must complete the project. Copies of both the asbestos report and the asbestos removal contractor's certification report of proper asbestos removal shall be provided to the City.
- B. When requested by the Building Official, the applicant shall provide: a structural engineer's report that describes the methods of demolition, including all necessary shoring; and plans and information necessary to determine that no hazards will be created that will damage adjoining properties or endanger the occupants or the general public.
- C. When the construction, renovation or demolition site is near or adjacent to a pedestrian walkway, public site or public street, the site must be fenced, barricaded, signed against trespassing, or otherwise restricted to prevent unauthorized entry or injury to persons or damage to vehicles or property. Required safety fencing, barricades, or other restrictions must be coordinated with the Police Department and Building Inspector to ensure that traffic and pedestrian access to other properties, streets, public walkways, and public areas is not unnecessarily impeded.
- D. All walkways, sidewalks, and streets open to the public must be kept clean and free of debris at all times. Failure to observe this requirement will result in citations in accordance with Chapter 18, Section 18-14, of the City Code.
- E. Demolition and debris removal will occur during daylight hours only.
- F. Dust must be controlled by wetting. All material to be removed shall be wetted sufficiently to lay the dust incidental to its removal.

SECTION 6-26. Waste Disposal. [Ord. No. 2014-10 § I, 4-22-2014]

- A. All construction, renovation and demolition waste, other than clean fill, must be properly disposed of at a permitted transfer station or landfill regardless of whether it was generated from a commercial or residential structure. Burying construction waste, other than clean fill, anywhere on the property is illegal (§ 260.210.1, RSMo.).
- B. Open burning of construction or demolition waste or other debris requires approval and a permit from the City Fire Department. Burn permits may be issued in accordance with City Ordinance, Chapter 9, Section 9-3. Only untreated waste lumber may be burned.

SECTION 6-27. Cleanup and Restoration of Site. [Ord. No. 2014-10 § I, 4-22-2014]

- A. When the primary structure on a building site is demolished, all wells, cisterns, septic tanks, cesspools and storage caves/cellars/pits on that building site must be listed on the building permit and be secured, removed, or filled in accordance with current DNR regulations and Lexington City Codes.
 - 1. Abandoned wells may not be filled without prior DNR approval. The owner or contractor shall submit an abandonment registration record form (780-1603) to the Missouri Department of Natural Resources' Water Protection Program for the plugging of an abandoned well. A copy of the approval document must be provided to the Building Inspector prior to filling the well.
 - 2. Abandoned cisterns must have the covers, domes, and as much of the vertical walls removed as possible before backfilling.
 - 3. Abandoned cesspools and septic tanks must first be emptied of all sewage by a qualified professional waste hauling company that disposes of the waste at a permitted landfill application site or wastewater treatment facility. Maximum effort must be made to keep the effluent away from human contact and from seeping into the soil. Cesspools must have covers, domes, and as much of the vertical walls removed as possible before backfilling. Septic tanks must be removed.
 - 4. Caves/cellars/storage pits must have all building materials removed before backfilling.
- B. Rubbish and all building material waste shall be removed from the site.
 - 1. Basement walls that also serve as retaining walls for adjacent grade levels may remain in place if approved by the Building Inspector.
- C. Sidewalks and concrete slabs shall be removed unless:
 - 1. Required for access to other structures or areas.
 - 2. They are to be part of any reconstruction.
 - 3. Existing sidewalks located on street rights-of-way are not to be removed; however, the Building Inspector may waive this requirement if the existing sidewalk is in an unsafe condition prior to demolition.
- D. Foundations shall be removed unless:
 - 1. They are to be incorporated into any reconstruction.
 - 2. They are part of a necessary retaining wall.
- E. A building permit for new construction must be issued within sixty (60) days of final cleanup if any of the above items are to be incorporated into new construction. Otherwise, they must be removed.
- F. Backfill material shall be clean earth free from organic matter. Use of any other type of backfill material shall require authorization of the Code Official and shall be stated on the

permit. Should stone, brick or concrete be authorized as a supplement for a portion of the backfill, it must be a minimum of twelve (12) inches below grade level. The supplement shall not exceed ten percent (10%) of the total backfill and shall be thoroughly compacted.

- G. The lot surface shall be returned to a grade level compatible with surrounding property and be leveled with excavations and depressions filled. The applicant shall remove all rubbish and materials and fill excavations to existing grade so that the premises are left in a safe and sanitary condition and can be maintained in accordance with the International Property Maintenance Code within twenty-eight (28) days from the date of the demolition. Provisions for stormwater control and runoff must be approved by the Building Inspector.
- H. Where demolished buildings shared a party wall/common wall with another building or where attached to an adjacent building:
 - 1. It shall be the responsibility of the property owner of the demolished structure to ensure that the remaining exterior wall and roof complies with City Code, Article V, Section 6-34. No residual plaster, outlines of rooms, boarded or missing windows, remnants of the demolished building, or other evidence shall be visible from public areas or nearby private property. Roof joining lines on adjoining walls must be obliterated as much as possible and approved by the Building Inspector. The remaining exterior wall shall be properly weather protected.

SECTION 6-28. Penalties. [Ord. No. 2014-10 § I, 4-22-2014]

The Missouri Solid Waste Management Law provides for civil penalties for persons who dispose of or allow the disposal of regulated construction and demolition wastes in unpermitted areas. The law also contains criminal provisions for some types of illegal construction and demolition waste disposal. Additionally, and except as provided in Section 6-25(D) above, each and every person violating provisions of Article III shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed three hundred dollars (\$300.00). Each day any such violation shall continue shall constitute a separate offense.

ARTICLE IV

Building Code Adoption — Permit Fees

SECTION 6-29. Building Code Adoption. [Ord. No. 96-27 §§ 2-3, 11-26-1996; Ord. No. 96-38 § 1, 2-25-1997; Ord. No. 2002-06 § 1, 1-8-2002; Ord. No. 2005-07 § 1, 3-8-2005; Ord. No. 2009-39 § 1, 9-22-2009; Ord. No. 2012-02 § 1, 1-10-2012]

- A. This Building Code is an ordinance for the purpose of prescribing, regulating and governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, maintenance and all matters relating thereto for the prevention of conditions hazardous to life and property and for the common welfare, protection and benefit of the residents of the City. [Ord. No. 2015-19 § 1, 7-14-2015]
- B. *General Regulations.* Construction, demolition and property development within the City of Lexington, Missouri, both on private and public properties, shall be regulated under the provisions of this Code. In the event of conflicting standards, this Code shall apply. In the event of duplication the more restrictive shall apply. [Ord. No. 2015-19 § 1, 7-14-2015]

- C. The following codes, and any subsequent amendments thereto, are hereby adopted as the Building Codes of the City of Lexington, in the State of Missouri, with additions, insertions, deletions and changes, if any, set forth herein, and each and all of the regulations, provisions, penalties, conditions and terms of said codes are hereby adopted, and made a part hereof, as if fully set out in this Section:
1. International Building Code 2009®.
 2. International Residential Building Code 2009®.
 3. International Property Maintenance Code 2009®.
 4. National Electrical Code®, NFPA 70, 2008 Edition.
 5. International Fire Code 2009®.
 6. International Mechanical Code 2009®.
 7. International Plumbing Code 2009®.
 8. International Fuel Gas Code 2009®.
 9. International Private Sewage Disposal Code 2009®.
 10. International Existing Building Code 2009®.
- D. The following Appendices to the International Residential Code, 2009 Edition, shall be adopted by the City:
1. Appendix E: Manufactured Housing Used as Dwelling.
 2. Appendix G: Swimming Pools, Spas and Hot Tubs.
 3. Appendix H: Patio Covers.
 4. Appendix J: Existing Buildings and Structures.
 5. Appendix M: Home Day Care R-3 Occupancy.
- E. The following Appendices to the International Building Code, 2009 Edition, shall be adopted by the City:
1. Appendix E: Supplementary Accessibility Requirements.
 2. Appendix G: Flood-Resistant Construction.
 3. Appendix I: Patio Covers.
 4. Appendix J: Grading.
 5. Appendix K: Administrative Provisions.
- F. Section R313.1 of the International Residential Code, 2009 Edition, as adopted by the City, is hereby amended to read as follows:
- F. *Section R313.1. Townhouse automatic fire sprinkler systems.* A builder of single-family dwellings or residences or multi-family dwellings of four (4) or fewer units shall offer to

any purchaser, on or before the date of entering into a purchase contract, the option to install or equip such dwellings or residences with a fire sprinkler system at the purchaser's cost. The requirement that the builder offer the purchaser the option to install a fire sprinkler system in a multi-family dwelling of four (4) or fewer units (not including single-family dwellings) shall expire on December 31, 2019. Effective January 1, 2020, an automatic residential fire sprinkler system: (1) shall be required to be installed in townhouses in accordance with Section R313.1.1; and (2) shall not be required when additions or alterations are made to existing town houses that do not have an automatic residential fire sprinkler system installed.

- G. Section R313.2 of the International Residential Code, 2009 Edition, as adopted by the City, is hereby amended to read as follows:
 - G. *Section R313.2. One- and two-family dwellings automatic fire sprinkler systems.* A builder of single-family dwellings, or residences or multi-family dwellings of four (4) or fewer units shall offer to any purchaser, on or before the date of entering into a purchase contract, the option to install or equip such dwellings or residences with a fire sprinkler system at the purchaser's cost. The requirement that the builder offer the purchaser the option to install a fire sprinkler system in a multi-family dwelling of four (4) or fewer units (not including single-family dwellings) shall expire on December 31, 2019. Effective January 1, 2020, an automatic residential fire sprinkler system: (1) shall be required to be installed in two-family dwellings in accordance with Section R313.2.1; and (2) shall not be required for additions or alterations to existing two-family dwellings that are not already provided with an automatic residential sprinkler system. At no time are automatic residential fire sprinkler systems required to be installed in one-family (or single-family) dwellings.
- H. Section 903.2.8 of the Uniform Fire Code, 2009 Edition, as adopted by the City, is hereby amended to read as follows:
 - H. *Section 903.2.8. Automatic Sprinkler Systems.* An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area, except for single-family dwellings or residences or multi-family dwellings of four (4) or fewer units. A builder of single-family dwellings or residences or multi-family dwellings of four or fewer units shall offer to any purchaser, on or before the date of entering into a purchase contract, the option to install or equip such dwellings or residences with a fire sprinkler system at the purchaser's cost. The requirement that the builder offer to purchaser the option of installing a sprinkler system at the purchaser's cost shall expire on December 31, 2019. Effective January 1, 2020, automatic sprinkler systems shall be required in all multi-family dwellings of two (2) or more units, except automatic sprinkler systems shall not be required for additions or alterations to existing multi-family dwellings that are not already provided with an automatic residential sprinkler system. At no time are automatic residential fire sprinkler systems required to be installed in single-family dwellings.
- I. The 2009 Edition of the International Codes, Appendices and subsequent amendments to said codes shall remain on file for public use, inspection and examination in the office of the City Clerk. The Building Official shall perform the functions provided for the Building Official in the 2009 International Codes and shall have such other functions as may be provided from time to time.

SECTION 6-30. Permits and Fees for Residential/Commercial New Construction. [Ord. No. 96-27 §§ 4-5, 11-26-1996; Ord. No. 96-38 §§ 2 — 3, 2-25-1997; Ord. No. 99-11 § 1, 3-9-1999; Ord. No. 2005-07 § 2, 3-8-2005; Ord. No. 2007-06 § 1, 3-13-2007; Ord. No. 2012-02 § 2, 1-10-2012]

- A. All building permits shall be issued for a maximum period of one hundred eighty (180) calendar days, except where the permit holder can demonstrate in a written report that unusual circumstances have created unavoidable delays. The Building Official may at his/her discretion issue an extension not to exceed one hundred eighty (180) calendar days. [Ord. No. 2015-19 §1, 7-14-2015]
- B. *Permit Fees.* All permit fees shall be assessed in accordance with Table A. The Building Official shall make determination of the valuation of a project regulated by the private work code. Churches, schools and not-for-profit organizations will not be charged a permit fee. However, permit applications shall be submitted and all other requirements of the building permit will be applicable. [Ord. No. 2015-19 §1, 7-14-2015]

**Table A
Building Permits and General Inspection Fees**

Valuation	Permit Fee
\$1.00 to \$500.00	\$15.00
\$501.00 to \$2,000.00	\$15.00 for the first \$500.00, plus \$2.00 for each additional \$100.00 or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$45.00 for the first \$2,000.00, plus \$8.00 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$229.00 for the first \$25,000.00, plus \$6.00 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$379.00 for the first \$50,000.00, plus \$4.00 for each additional \$1,000.00 or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$579.00 for the first \$100,000.00, plus \$3.00 for each additional \$1,000.00 or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$1,779.00 for the first \$500,000.00, plus \$2.00 for each additional \$1,000.00 or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 and up	\$2,779.00 for the first \$1,000,000.00, plus \$1.00 for each additional \$1,000.00 or fraction thereof
Demolition	Flat fee of \$25.00
Water heater replacement	Flat fee of \$10.00

Sidewalk and driveway	Flat fee of \$20.00
Fencing, residential [reference Section 29-37.1(B)], commercial or industrial	Flat fee of \$10.00

C. *Work Exempt From Permit.* With the exceptions/additions of those items listed below, work exempt from permit shall be as specified in the 2009 International Residential Code 105.2 and the 2009 International Building Code 105.2: [Ord. No. 2015-19 §1, 7-14-2015]

1. *Requires permit.*

- a. Garages and accessory buildings on foundations or otherwise designed or anchored to be non-movable, regardless of size.
- b. Portable buildings/structures with footprint area greater than one hundred (100) square feet.
- c. Fencing as required by residential [over three and one-half (3 1/2) feet in height, reference Section 29-37.1(B)], commercial, or industrial zoning regulations.
- d. All sidewalks and driveways.
- e. Prefabricated swimming pools greater than twenty-four (24) inches deep. Also see Chapter 29, Section 29-32, for permitted locations.

2. Permit not required.

- a. Repair or replacement of roofing.
- b. Installation or repair of siding on existing structures.

D. *Violation And Penalties.*

1. *Notice of violation.* Whenever the Code Official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, the Code Official is authorized to serve a notice of violation or order on the person responsible for violations of this code, or in violation of a permit or certificate issued under the provisions of this code. Such order shall be in writing and direct the discontinuance of the illegal action or condition and the abatement of the violation.
2. *Penalties.* Any person, firm or organization found in violation of this code or who shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents, or of a permit or certificate used under provisions of the codes adopted herein, shall be guilty of a misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment not exceeding ninety (90) days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

3. *Abatement of violation.* In addition to the imposition of the penalties herein described, the Code Official is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.
4. *Interference with enforcement.* It shall be unlawful for any person, firm or organization to hinder the Codes Enforcement Officer in the lawful performance of his/her duties as set forth in this code.
5. *Means of appeal.* Any person directly affected by a decision of the Code Official, a notice of violation, or an order issued under this code shall have the right to appeal to the Board of Appeals. The appeal shall be in writing on a form provided by the Code Official and shall be filed at City Hall within twenty (20) days after the decision, notice or order was served. The Board shall meet upon notice from the Chairman within twenty (20) days of the filing of an appeal or at stated periodic meetings.
6. *Limitations on authority.* An application for appeal shall be based on a claim that the true intent of this Chapter and/or codes promulgated therein and/or the rules legally adopted thereunder has been incorrectly interpreted and/or that the provisions of this code do not fully apply, and/or that at least an equivalent method of health, welfare, protection or safety is proposed. The Board shall have no authority to otherwise waive the requirements of this code or legislate changes thereto.
7. *Building without permit.* [Ord. No. 2015-10 §I, 3-24-2015]
 - a. It is a violation of City Code to begin construction without having obtained all required permits. Failure to obtain a building permit may result in assessment of a double permit fee and requiring the contractor to remove construction for which required inspection fees have not been obtained. No inspections will be made until required permits have been obtained.
 - b. In the event any person, firm or corporation shall fail to obtain the necessary permit within one (1) week after being notified in writing to do so by the Building Official, said person, firm or corporation shall pay, in addition to the customary fee or the increased fee as above provided, the sum of ten dollars (\$10.00) for each day in excess of the aforesaid one (1) week that transpires prior to obtaining the necessary permit.

ARTICLE V
Exterior of Buildings

SECTION 6-31. Applicability. [Ord. No. 99-51 § 1, 2-8-2000]

It is unlawful and a public nuisance for any portion of a building or structure within the corporate limits of the City to fail to comply with the requirements of this Article, irrespective of when such building or structure shall have been constructed, altered or repaired.

SECTION 6-32. Conflict with Other Ordinances. [Ord. No. 99-51 § 1, 2-8-2000]

In any case where a provision of this Article is found to be in conflict with a provision of any zoning, fire, safety, health, building, mechanical, electrical or plumbing code or ordinance of the City existing on February 8, 2000, the provision which establishes the higher standard for the promotion and protection of the safety and health of the people shall prevail. In any case where a provision of this Article is found to be in conflict with a provision of any other ordinance or code of the City existing on February 8, 2000, which establishes a lower standard for the promotion and protection of the safety and health of the people, the provisions of this Article shall prevail, and such other ordinances or codes are hereby declared to be repealed to the extent that they may be found in conflict with this Article.

SECTION 6-33. Minimum Exterior Property Standards. [Ord. No. 99-51 § 1, 2-8-2000]

This Section's provisions shall govern the minimum exterior conditions of buildings and structures. Every building or structure within the corporate limits of the City shall comply with the provisions of this Article. It shall be unlawful and a public nuisance for a person to own, occupy or let to another for occupancy any building or structure which does not comply with the requirements of this Article.

SECTION 6-34. Foundations, Walls and Roof. [Ord. No. 99-51 § 1, 2-8-2000]

- A. *Generally.* Every foundation, exterior wall, roof, and all other exterior surfaces shall be maintained in a workmanlike state of maintenance and repair.
- B. *Foundations.* The foundation elements shall adequately support the building at all points. Every foundation shall be reasonably weathertight and kept in good repair.
- C. *Exterior Walls.* Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain or dampness to the interior portion of the walls or to the occupied spaces of the building. All exterior surfaces must be kept in good repair.
- D. *Roofs.* The roof shall be structurally sound, weathertight, and have no defects which might admit rain or birds into the interior portion of the building or structure. Roof drainage shall be adequate to prevent rainwater from causing dampness in the walls or interior portion of the building. Every building and structure in excess of one hundred fifty (150) square feet in floor space (not including unfinished attics, basements and garages) shall be guttered where appropriate and equipped with ample downspouts properly positioned and in good repair. Roof water shall not be channeled directly to adjacent property.

SECTION 6-35. Stairs, Porches and Railings. [Ord. No. 99-51 § 1, 2-8-2000]

- A. *Generally.* Stairs and other exit facilities shall be adequate for safe exit from the interior of the building or structure in case of fire.
- B. *Structural Safety.* Every outside stair or porch, or railings or balustrades attached thereto, shall be so constructed as to be able to use and capable of supporting the loads to which it is subjected as required by the Building Code and shall be kept in sound condition and good repair. No outside stair or porch shall have rotting, loose or deteriorating supports or floor.

SECTION 6-36. Windows, Doors and Other Openings. [Ord. No. 99-51 § 1, 2-8-2000]

Every window, exterior door, basement hatchway and other exterior opening shall be waterproof and weathertight and kept in good repair. In the commercial districts of the City, windows above the main floor shall have proper decor, curtains or draperies hung to give the appearance of quality inhabited property. No profanity or obscenities will be permitted on curtain material. All curtains or draperies used shall be maintained in good condition.

SECTION 6-37. Windows and Other Openings. [Ord. No. 99-51 § 1, 2-8-2000]

The boarding up of windows in the commercial district will only be permitted until glass can be replaced. Glass damage shall be replaced within fourteen (14) calendar days.

SECTION 6-38. Property Violations. [Ord. No. 99-51 § 1, 2-8-2000; Ord. No. 2012-01 § I, 1-10-2012]

All properties located within the commercial districts of the City can only be utilized for storage pertaining to the business operation of the property. However, second floors (above street level) or higher may be used as residential (29-21-Residential-A.13).

SECTION 6-39. Violations and Punishment. [Ord. No. 99-51 § 1, 2-8-2000; Ord. No. 2014-10 § III, 4-22-2014]

Each and every person violating provisions of Article V shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not to exceed three hundred dollars (\$300.00). Each day any such violation shall continue shall constitute a separate offense.