

City of Arnold, Missouri

**Public Hearing
Council Chamber**

**February 21, 2019
7:00 p.m.**

- A. A City-Initiated Request to Amend Chapter 405 Zoning, of the Code of Ordinances to Modify Definitions and Regulations Related to Temporary Structures, Trailers, and the Non-Conformities.

City Council

Immediately following the Public Hearing

Agenda

1. Pledge of Allegiance:
2. Opening Prayer: First Baptist Church - Jason Ervin –Next Gen. Pastor
3. Roll Call:
4. Business from the Floor:
5. Consent Agenda:
 - A. Regular Minutes **February 7, 2019**
 - B. Payroll Warrant **#1310 in the Amount of \$284,482.20**
 - C. General Warrant **#5732 in the Amount of \$302,685.26**
6. Ordinances:
 - A. **Bill No. 2726:** An Ordinance of the City Council of the City of Arnold, MO. Amending Chapter 405 of the Arnold Code or Ordinances (Temporary Structures, Trailers, Nonconformities).
7. Resolutions:
 - A. **Resolution No.19-09:** A Resolution Appointing Various Individuals to Serve on Different Boards with Different Expiration Dates.
 - B. **Resolution No. 19-10:** A Resolution Approving an Intergovernmental Agreement with the City of Eureka for Police Canine Training.
 - C. **Resolution No. 19-11:** A Resolution of Official Intent of the City of Arnold, MO. Toward the Issuance of Industrial Revenue Bonds to Finance an Industrial Development Project, and Authorizing Certain

Actions Relating Thereto.

- D. **Resolution No. 19-12:** A Resolution Approving the Purchase of the Budgeting Module for the OpenGov Financial System.
- E. **Resolution No. 19-13:** A Resolution Opposing any Statewide Vote or Legislative Mandate on Governmental Reorganization Regarding the City of St. Louis and St. Louis County and the Municipalities Therein.

8. Motion:

A. None

9. Reports from Mayor, Council, and Committees:

10. Administrative Reports:

11. Adjournment:

Next Regular City Council Meeting March 7, 2019 @ 7:00 p.m.
Next Work Session March 14, 2019 at 7:00 p.m.

Mayor Ron Counts called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was recited.

Councilman Gary Plunk offered the opening prayer.

Those present per roll call taken by City Clerk Tammi Casey: Mayor Counts, McArthur (arrived at 7:13 p.m.), Seidenstricker, Cooley, Fleischmann (excused), Plunk, Sullivan, Fulbright, Hood, Richison, Bookless, Lehmann, Sweeney, Brown, Kroupa and Major Carroll.

BUSINESS FROM THE FLOOR

Bill McIlwee, 3195 Rosedale – Was in the audience representing Clean Street Team 211 and informed council that the next clean up event for Arnold will be held March 2nd. Mayor Counts thanked the organization for all of their hard work.

CONSENT AGENDA

- A. MINUTES FROM JANUARY 17, 2019 MEETING**
- B. PAYROLL WARRANT NO. 1308 IN THE AMOUNT OF \$296,281.26**
- C. PAYROLL WARRANT NO. 1309 IN THE AMOUNT OF \$345,740.01**
- D. GENERAL WARRANT NO. 5731 IN THE AMOUNT OF \$287,678.03**

Butch Cooley made a motion and so moved to approve the consent agenda. Seconded by Vern Sullivan. Roll call vote: McArthur (not yet in attendance); Seidenstricker, yes; Cooley, yes; Fleischmann, (excused); Plunk, yes; Sullivan, yes; Fulbright, yes; Hood, yes; 6 Yeas: **Consent agenda approved.**

ORDINANCES

Before the first reading of Bill No 2726 Bob Sweeney asked council for a motion to table the Bill, as a Public Hearing needs to be held before this Bill is approved. City Clerk Tammi Casey gave the first reading of Bill No. 2726.

BILL NO. 2726 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARNOLD, MISSOURI AMENDING CHAPTER 405 OF THE ARNOLD CODE OF ORDINANCES (TEMPORARY STRUCTURES, TRAILERS, NON CONFORMITIES)

Jason Fulbright made a motion and so moved to table Bill No. 2726 until such time as a Public Hearing can be held. Seconded by Gary Plunk. Roll call vote: McArthur (not yet in attendance); Seidenstricker, yes; Cooley, yes; Fleischmann, (excused); Plunk, yes; Sullivan, yes; Fulbright, yes; Hood, yes; 6 Yeas: **Motion carried.**

RESOLUTIONS

RESOLUTION NO. 19-06 – A RESOLUTION APPOINTING VARIOUS INDIVIDUALS TO SERVE ON DIFFERENT BOARDS WITH DIFFERENT EXPIRATION DATES

Jason Fulbright made a motion and so moved to approve Resolution No. 19-06. Seconded by Mark Hood. Roll call vote: McArthur (not yet in attendance); Seidenstricker, yes; Cooley, yes; Fleischmann, (excused); Plunk, yes; Sullivan, yes; Fulbright, yes; Hood, yes; 6 Yeas: **Resolution approved.**

Before City Clerk Tammi Casey read Resolution 19-07, Bob Sweeney informed council that he wrote the agreement on behalf of both the city of Arnold and the city of Byrnes Mill and asked that the Resolution be amended to waive any conflict of interest.

Butch Cooley made a motion and so moved to amend Resolution No. 19-07 to waive any conflict of interest. Seconded by Gary Plunk. Roll call vote: McArthur (not yet in attendance); Seidenstricker, yes; Cooley, yes; Fleischmann, (excused); Plunk, yes; Sullivan, yes; Fulbright, yes; Hood, yes; 6 Yeas: **Resolution passed.**

RESOLUTION NO. 19-07 – A RESOLUTION AUTHORIZING THE CHIEF OF POLICE TO ENTER INTO A JAIL USE AGREEMENT WITH BYRNES MILL, MISSOURI (AS AMENDED)

Butch Cooley made a motion and so moved to approve Resolution No. 19-07 as amended. Seconded by Gary Plunk. Roll call vote: McArthur (not yet in attendance); Seidenstricker, yes; Cooley, yes; Fleischmann, (excused); Plunk, yes; Sullivan, yes; Fulbright, yes; Hood, yes; 6 Yeas: **Resolution passed.**

RESOLUTION NO. 19-08 – A RESOLUTION AWARDED A BID TO SPENCER CONTRACTING FOR THE JEFFCO-TENBROOK INTERSECTION PROJECT

Jason Fulbright made a motion and so moved to approve Resolution No. 19-08. Seconded by Mark Hood. Roll call vote: McArthur (not yet in attendance); Seidenstricker, yes; Cooley, yes; Fleischmann, (excused); Plunk, yes; Sullivan, yes; Fulbright, yes; Hood, yes; 6 Yeas: **Resolution passed.**

Brian McArthur arrived in the council chambers at 7:13 p.m .

MOTIONS

A MOTION TO HOLD A CLOSED SESSION IMMEDIATELY FOLLOWING THE CITY COUNCIL MEETING FOR THE PURPOSE OF DISCUSSING LITIGATION PURSUANT TO RSMo SECTION 610.021 (1)

Jason Fulbright made a motion and so moved to hold a Closed Session immediately following the council meeting. Seconded by Tim Seidenstricker. Roll call vote: McArthur, yes; Seidenstricker, yes; Cooley, yes; Fleischmann, (excused); Plunk, yes; Sullivan, yes; Fulbright, yes; Hood, yes; 7 Yeas: **Motion carried.**

REPORTS FROM MAYOR, COUNCIL AND COMMITTEES

Mayor Counts – Informed council that he has been appointed to the East-West Gateway Committee and is very excited to represent our area.

The council congratulated Mayor Counts on his appointment.

Vern Sullivan, Ward 3 – Thanked council for the appointments approved to the Veterans Commission tonight. Mr. Sullivan also stated he received phone calls from residents who were concerned with the traffic back up at Tiger Express Car Wash after the last snow.

Mark Hood, Ward 3 – Informed council that the Aging and Disabilities Committee met last month. Invitations are being sent for the Mayor’s Summit which will be held on February 26th for the purpose of developing an action plan to make the city a more livable place for all ages, as the city is part of the AARP Livable Communities program.

ADMINISTRATIVE REPORTS

Bryan Richison – Informed everyone that next week’s Work Session has been canceled.

Mayor Counts announced a five minute recess before going into Closed Session.

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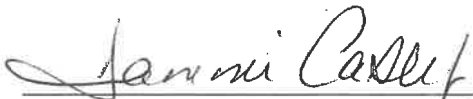
Closed Session ended at 8:02 p.m.

4
Regular Meeting
February 7, 2019

A motion to adjourn the meeting was made by Jason Fulbright. Seconded by Vern Sullivan.

Voice vote: All yeas.

Meeting adjourned at 8:02 p.m.



City Clerk Tammi Casey, CMC/MRCC-C

Draft

CITY OF ARNOLD, MISSOURI

ROLL CALL

MEETING: REGULAR

DATE: 2/8/2019

PAGE: 1

BILL NO - RESOLUTION - MOTION

		ROLL CALL	CONSENT AGENDA	MOTION TO TABLE BILL NO 2726	RESOLUTION NO 19-06	MOTION TO AMEND RESOLUTION NO 19-07	RESOLUTION NO 19-07 AS AMENDED	
COUNCIL MEMBERS:								
MAYOR	RON COUNTS	PRESENT						
COUNCIL:	BRIAN MCARTHUR	ARRIVED 7:13 P.M.	NOT IN ROOM	NOT IN ROOM	NOT IN ROOM	NOT IN ROOM	NOT IN ROOM	
COUNCIL:	TIM SEIDENSTRICKER	PRESENT	YES	YES	YES	YES	YES	
COUNCIL:	BUTCH COOLEY	PRESENT	YES	YES	YES	YES	YES	
COUNCIL:	EJ FLEISCHMANN	EXCUSED	EXCUSED	EXCUSED	EXCUSED	EXCUSED	EXCUSED	
COUNCIL:	GARY PLUNK	PRESENT	YES	YES	YES	YES	YES	
COUNCIL:	VERN SULLIVAN	PRESENT	YES	YES	YES	YES	YES	
COUNCIL:	JASON FULBRIGHT	PRESENT	YES	YES	YES	YES	YES	
COUNCIL:	MARK HOOD	PRESENT	YES	YES	YES	YES	YES	
CITY ADMINISTRATOR	BRYAN RICHISON	PRESENT	PARKS DIR:		DICKIE BROWN		PRESENT	
CITY CLERK	TAMMI CASEY	PRESENT	PUBLIC WORKS:		-			
COM DEV	DAVID BOOKLESS	PRESENT	TREASURER:		DAN KROUPA		PRESENT	
FINANCE DIRECTOR	BILL LEHMANN	PRESENT	POLICE DEPT.		MAJOR CARROLL		PRESENT	
CITY ATTORNEY	BOB SWEENEY	PRESENT						

CITY OF ARNOLD, MISSOURI

ROLL CALL

MEETING: REGULAR

DATE: 2/8/2019

PAGE: 2

BILL NO - RESOLUTION - MOTION

COUNCIL MEMBERS:

MAYOR RON COUNTS

COUNCIL: BRIAN MCARTHUR

COUNCIL: TIM SEIDENSTRICKER

COUNCIL: BUTCH COOLEY

COUNCIL: EJ FLEISCHMANN

COUNCIL: GARY PLUNK

COUNCIL: VERN SULLIVAN

COUNCIL: JASON FULBRIGHT

COUNCIL: MARK HOOD

CITY ADMINISTRATOR BRYAN RICHISON

CITY CLERK TAMMI CASEY

COM DEV DAVID BOOKLESS

FINANCE DIRECTOR BILL LEHMANN

CITY ATTORNEY BOB SWEENEY

RESOLUTION NO 19-08	MOTION TO HOLD CLOSED SESSION				
NOT IN ROOM	YES				
YES	YES				
YES	YES				
EXCUSED	EXCUSED				
YES	YES				
YES	YES				
YES	YES				
		PARKS DIR:	DICKIE BROWN		
		PUBLIC WORKS:	-		
		TREASURER:	DAN KROUPA		
		POLICE DEPT.	MAJOR CARROLL		



CITY COUNCIL

AGENDA ITEM STAFF REPORT

MEETING DATE:	February 7, 2019
TITLE:	Temporary Structures, Trailers, Nonconformities (Text Amendment)
DEPARTMENT:	Community Development
PROJECT MANAGER:	David B. Bookless, Community Development Director
REQUESTED ACTION:	Ordinance approval
ATTACHMENTS:	(1) Staff Report to Planning Commission; (2) Staff Memo to the Planning Commission (3) Draft Planning Commission Meeting Minutes (4) Draft Ordinance

EXECUTIVE SUMMARY:

A City-initiated request to amend Chapter 405, Zoning, of the Code of Ordinances to modify definitions and regulations related to temporary structures, trailers, and the non-conformities.

REVIEW & ANALYSIS:

The City has received a number of complaints about semitrailers, trailers, and shipping containers being used in commercial districts as though they were storage structures. The City had previously recognized the problem, and in 2017, adopted regulations allowing trailers for “holiday seasonal storage” in commercial districts with the belief that by making them permissible under specific circumstances that they were otherwise not allowed. However, the City has found semitrailers, etc. being used for long-term storage on a number of commercially zoned properties, issued citations for their removal, and found enforcement through the Court system to be problematic due to a lack of clarity in the ordinance language. Therefore, Staff is proposing additional changes to the Zoning Ordinance to make very clear what is not allowed and how to deal with pre-existing nonconformities.

Staff presented, and the Planning Commission reviewed, the proposed amendments at their January 8, 2019 meeting and the Commission offered comments. At the Commission’s January 22, 2019 meeting, Staff presented revisions to the proposed amendment.

RECOMMENDATION:

At their January 22nd meeting, the Planning Commission, by a vote of 9 to 0, voted to recommend approval of the proposed text amendments to the Zoning Ordinance contained in the attached draft.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARNOLD, MISSOURI,
AMENDING CHAPTER 405 OF THE ARNOLD CODE OF ORDINANCES
(TEMPORARY STRUCTURES, TRAILERS, NONCONFORMITIES)**

WHEREAS, the aesthetics of the City of Arnold and the health, safety and welfare of the general public are impacted by the use of temporary structures, trailers and other nonconformities; and

WHEREAS, the staff of the City of Arnold has reviewed the City's Code of Ordinances and circumstances involving temporary structures, trailers and other nonconformities; and

WHEREAS, staff has determined that certain modifications to the City's Code of Ordinances are warranted; and

WHEREAS, the City Council of the City of Arnold desires to amend Chapter 405 of the Arnold Code of Ordinances; and

WHEREAS, the proper public hearings have been held, pursuant to City Ordinance and the laws of the state of Missouri; and

WHEREAS, the Planning Commission has submitted its report and recommendation to the City Council on the proposed amendments to Chapter 405 of the Arnold Code of Ordinances; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARNOLD, MISSOURI, AS FOLLOWS:

SECTION 1. Section 405.060 of the Arnold Code of Ordinances is hereby amended by deleting the definition of "Trailer" and substituting in lieu the following:

"TRAILER

Any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a self-propelled vehicle, except those running exclusively on tracks, including a semitrailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle, which does not meet Building Code requirements. A permanent foundation shall not change the character of a trailer unless the entire structure is erected in accordance with the City Building Code. The term "trailer" shall not include cotton trailers as defined in Subsection (8) of Section 301.010, RSMo. and shall not include manufactured homes as defined in Section 700.010, RSMo."

SECTION 2. Section 405.760.R. of the Arnold Code of Ordinances is hereby deleted in its entirety and substituting in lieu the following:

"R. Temporary Structures

1. Temporary structures constructed and placed on an individual parcel for thirty-one (31) or more days, whether cumulative or consecutively,

per twelve-month period shall require a conditional use permit.

2. Temporary structures may not be constructed or placed on an individual parcel for more than one hundred eighty (180) days, whether cumulative or consecutively, per calendar year.
3. All temporary structures, regardless of duration, shall comply with the respective zone district regulation in which it is placed.
4. *Exception.* Recycle bins and clothing drop boxes, construction office trailers, and portable toilets subject to conditions contained herein.
5. Construction office trailers are governed by the following restrictions:
 - a. Shall meet applicable district structure setbacks.
 - b. Exterior shall be maintained with no rusting, dents, broken windows, etc.
 - c. The area around the construction trailer shall be maintained by cutting grass and keeping free from litter.
 - d. The construction trailer shall be removed before an occupancy permit (temporary or permanent) is issued.
6. Portable toilets are governed by the following restrictions:
 - a. Portable toilets shall be provided when adequate toilet facilities are not provided on a site associated with a building or demolition permit or City-authorized special event.
 - b. Portable toilets shall be located on the site and not on public property unless expressly authorized by the City when associated with a special event.
 - c. Portable toilets shall be located a minimum of fifteen (15) feet from all curb lines, ten (10) feet from side property lines, and at such locations so as to limit public view. The doors to portable toilets shall not face any street or adjacent property line.
 - d. Portable toilets shall be serviced at regular intervals to maintain sanitary conditions and minimize odors.
 - e. Portable toilets shall be locked and secured from tipping over when no construction, demolition, or special event activity is present.
7. Recycle bins and clothing drop boxes are governed by the following

restrictions:

- a. Shall be prohibited on unimproved properties and on developed properties, which are unoccupied.
- b. Shall be located on a paved surface.
- c. Maximum height shall not exceed 8 feet.
- d. Maximum floor area shall not exceed 36 square feet
- e. Maximum number of bins/boxes per property:
 - (1) Two upon properties with an area up to two acres.
 - (2) Three upon properties with an area greater than two acres but less than or equal to four acres
 - (3) Four upon properties with an area greater than four acres.
- f. Shall be prohibited from being located in required parking spaces, public or private right of way, driving aisles, fire lanes, required landscaped areas, pedestrian areas, sight distance triangles, or within 5 feet of a fire hydrant.
- g. Shall be setback a minimum of 25 feet from residential districts or properties with residential uses, 25 feet from public or private rights-of-way, and 5 feet from all other property lines.
- h. Shall only be permitted upon properties within nonresidential zoning districts and upon properties with any zoning classification that are primarily used by not-for-profit organizations.
- i. Signage on bins and boxes shall be limited to 5 square feet per side.
- j. Ownership information, to include address and telephone number, shall displayed upon all bins and boxes.
- k. Shall utilize a mailbox or safety chute and locked access door to prevent unauthorized entry.
- l. Outdoor display or storage of materials shall be prohibited.
- m. The collection or storage of perishable items shall be prohibited.

per twelve-month period shall require a conditional use permit.

2. Temporary structures may not be constructed or placed on an individual parcel for more than one hundred eighty (180) days, whether cumulative or consecutively, per calendar year.
3. All temporary structures, regardless of duration, shall comply with the respective zone district regulation in which it is placed.
4. *Exception.* Recycle bins and clothing drop boxes, construction office trailers, and portable toilets subject to conditions contained herein.
5. Construction office trailers are governed by the following restrictions:
 - a. Shall meet applicable district structure setbacks.
 - b. Exterior shall be maintained with no rusting, dents, broken windows, etc.
 - c. The area around the construction trailer shall be maintained by cutting grass and keeping free from litter.
 - d. The construction trailer shall be removed before an occupancy permit (temporary or permanent) is issued.
6. Portable toilets are governed by the following restrictions:
 - a. Portable toilets shall be provided when adequate toilet facilities are not provided on a site associated with a building or demolition permit or City-authorized special event.
 - b. Portable toilets shall be located on the site and not on public property unless expressly authorized by the City when associated with a special event.
 - c. Portable toilets shall be located a minimum of fifteen (15) feet from all curb lines, ten (10) feet from side property lines, and at such locations so as to limit public view. The doors to portable toilets shall not face any street or adjacent property line.
 - d. Portable toilets shall be serviced at regular intervals to maintain sanitary conditions and minimize odors.
 - e. Portable toilets shall be locked and secured from tipping over when no construction, demolition, or special event activity is present.
7. Recycle bins and clothing drop boxes are governed by the following

restrictions:

- a. Shall be prohibited on unimproved properties and on developed properties, which are unoccupied.
- b. Shall be located on a paved surface.
- c. Maximum height shall not exceed 8 feet.
- d. Maximum floor area shall not exceed 36 square feet
- e. Maximum number of bins/boxes per property:
 - (1) Two upon properties with an area up to two acres.
 - (2) Three upon properties with an area greater than two acres but less than or equal to four acres
 - (3) Four upon properties with an area greater than four acres.
- f. Shall be prohibited from being located in required parking spaces, public or private right of way, driving aisles, fire lanes, required landscaped areas, pedestrian areas, sight distance triangles, or within 5 feet of a fire hydrant.
- g. Shall be setback a minimum of 25 feet from residential districts or properties with residential uses, 25 feet from public or private rights-of-way, and 5 feet from all other property lines.
- h. Shall only be permitted upon properties within nonresidential zoning districts and upon properties with any zoning classification that are primarily used by not-for-profit organizations.
- i. Signage on bins and boxes shall be limited to 5 square feet per side.
- j. Ownership information, to include address and telephone number, shall displayed upon all bins and boxes.
- k. Shall utilize a mailbox or safety chute and locked access door to prevent unauthorized entry.
- l. Outdoor display or storage of materials shall be prohibited.
- m. The collection or storage of perishable items shall be prohibited.

- n. The property owner, the entity which granted permission for placement, and the bin/box owner shall be individually and jointly responsible for abating and removing all garbage, trash, debris and other refuse material in the area surrounding any donation bin within 72 hours written or oral notice by the City.
- o. Responsibility and Liability. The owner of the donation bin/box, the entity which granted permission for placement, and the owner of any private property upon which a violation of these regulations occur may be held individually and severally responsible and liable for such violation.”

SECTION 3.

Section 405.760 of the Arnold Code of Ordinances is hereby amended by adding paragraph “T.” as follows:

“T. Use of vehicle or trailers for storage prohibited.

Neither vehicles (whether operable or inoperable) nor trailers (whether on or off axles) may be used as storage buildings. This shall apply to all vehicles and trailers, including commercial vehicles, recreational vehicles, panel vans, semi-trailers, railroad box-cars, intermodal shipping containers, CONEX boxes, ISO containers, etc., except as follows:

1. Tractor and semi-trailers combinations (i.e. “Tractor-trailers) may be used for temporary storage (e.g. up to 3 months), for businesses located on the same property, where the property is zoned M-1, M-2, or M-3, or as explicitly authorized in property zoned C-4, subject to conditions contained in Section 405.760(T)(2), paragraphs b, c, d, e, f, g, h, and i, below.
 - a. The Community Development Director may grant a one-time extension upon written request for a period not to exceed 3 months. The City Council, after review and recommendation of the Planning Commission, may grant an additional one-time, non-renewable additional extension of up to 6 months, upon written request.
2. Trailers, as referenced herein, may be utilized for seasonal storage on property zoned “C-2” or “C-3,” or as explicitly authorized in property zoned C-4, between November 1 and January 31, subject to the following:
 - a. A permit must be submitted for review and approval by staff, prior to the placement of seasonal storage trailers, to include an application and support documentation delineating the location on the property where the trailers shall be located, all buildings and structures, drive lanes, parking areas, points of ingress/egress, and all information necessary to demonstrate compliance with this section, as directed by staff.

- b. Trailers shall not be located in right-of-way, easements, internal drive aisles or roads, required yard setbacks, required parking spaces, fire lanes, in prominent view from rights-of-way or access lanes (i.e. the public viewshed), or so positioned to block access to utilities or public services (e.g., manholes, meters, fire hydrants, fire lanes, etc.).
- c. The exterior of the trailers must be maintained with no rusting, dents or peeling paint.
- d. Trailers shall be located on a hardened surface (e.g., concrete, asphalt).
- e. Trailers shall be located directly on the ground (i.e., stacking of trailers shall not be permitted).
- f. Trailers shall be prohibited from connecting to utility services, from tapping into the services of the primary facility (i.e., using extension cords to provide electricity, garden hoses to provide water, etc.), or from connecting to peripheral devices such as, but not limited to, air compressors, refrigeration/heating units, generators, etc.
- g. Trailers shall be prohibited from storing perishable goods.
- h. Trailers shall be prohibited from storing hazardous or dangerous materials (e.g., chemicals, solvents, propane, explosives, etc.), except when the applicant provides documentation from the appropriate governing authorities (e.g., Building Department, Fire, Police, EPA, MoDNR, etc.) that all required safety and security requirements have been met.
- i. Failure to satisfy any of the requirements of this section shall be considered a separate misdemeanor offense for each trailer where such offense has occurred and is punishable by a fine of two hundred dollars (\$200.00) per offense without further warnings or notices being issued. Each day that the offense(s) shall continue shall be considered a separate violation. For purposes of clarification, each trailer on a property which is in violation of this Section shall be a separate violation, and each day that such trailer remains in violation of this Section shall be a separate violation, such that the fine of two hundred dollars (\$200.00) shall apply per trailer per day.”

SECTION 4.

Section 405.050 is hereby deleted in its entirety and substituting in lieu the following:

“Section 405.050 Non-Conforming Lots, Non-Conforming Uses of Land,

Non-Conforming Structures, Non-Conforming Uses of Structures and Land, and Non-Conforming Characteristics of Use.

A. Intent. Within the districts established by this Chapter or amendments that may later be adopted there exist:

1. Lots,
2. Structures,
3. Uses of land and/or structures, and
4. Characteristics of use, which were lawful before this Chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Chapter or future amendment. It is the intent of this Chapter to permit these non-conformities to continue, except as delineated herein, until they are removed, cease operation, or damaged beyond fifty percent (50%), but not to encourage their survival. It is further the intent of this Chapter that non-conformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for additions, expansions of operations of the use, and/or adding other structures or uses prohibited elsewhere in the same district.

Non-conforming uses are declared by this Chapter to be incompatible with permitted, or in some situations, conditional uses in the districts involved. A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of structure and land in combination shall not be enlarged upon, expanded, or extended, nor be used as grounds for additions, expansions of operations of the use, and/or adding other structures or uses prohibited elsewhere in the same district after passage of this Chapter by attachment on a building or lands of additional signs intended to be seen from off the lands, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this Chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Chapter and upon which actual building construction has been carried on diligently. "Actual construction" is hereby defined to include the planning of construction materials in permanent position and fastened in a permanent manner.

5. The existence of any present nonconformity anywhere in the City shall not itself be considered grounds for the issuance of a variance for other property.

B. Non-Conforming Lots of Record.

For purposes of this Chapter, the terms single ownership and same ownership shall be interchangeable, and shall refer to contiguous lots or parcels owned by single or multiple individuals, trusts, corporations, partnerships, or other parties of interest, and shall include contiguous lots or parcels owned by any combination of husband and/or wife, or other legal spousal relationships pursuant to State statute.

1. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Chapter, notwithstanding limitations imposed by other provisions of this Chapter. Such lot must be in separate ownership and not of contiguous frontage with other lots in the same ownership, provided however, that if the said lot is of record in a subdivision of record as of the passage of this Chapter and if said subdivision of record has constructed residences upon seventy percent (70%) or more of its platted lots of record, then single-family residences may be constructed on each of said platted lots as non-conforming lots of record. This provision shall apply even though such lot fails to meet the requirement for area or width, or both, that are generally applicable in the district, provided that yard and dimensions and requirements other than these applying to area or width, or both, of lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.
2. If two (2) or more lots or combination of lots and portions of lots with contiguous frontage in single ownership are of record at the time of passage or amendment of this Chapter, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Chapter, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Chapter, nor shall any division of any parcel be made which created a lot with width or area below the requirements stated in this Chapter, provided however, that if the said lots or combinations of lots and portions of lots with contiguous frontage in single ownership are of record in a subdivision of record as of the passage of this Chapter and if said subdivision of record has constructed residences upon seventy percent (70%) or more of its platted lots of record, then platted lots in said subdivision shall be one (1) lot and not an undivided parcel.

C. Non-Conforming Structures. Where a lawful structure exists at the

effective date of adoption or amendment of this Chapter that could not be built under the terms of this Chapter by reason of restrictions on area, lot coverage, height, yard, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its nonconformity.
2. Should such non-conforming structure or non-conforming portion of structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Chapter.
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulation for the district in which it is located after it is moved.

D. Non-Conforming Uses of Structures, Land, or Structures and Lands in Combination. If lawful use involving individual structures with a replacement cost of ten thousand dollars (\$10,000.00) or more, or of structure and lands in combination, exists at the effective date of adoption or amendment of this Chapter, that would not be allowed in the district under the terms of this Chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming use shall be enlarged, expanded or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Chapter.
2. No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Chapter.
3. If any such non-conforming use of a structure, land or structure and land in combination ceases for any reason for a period of more than sixty (60) days (except when government action impeded access to the lands), any subsequent use of such structure, land or structure and land in combination shall conform to the regulations specified by this Chapter for the district in which such structure, land or structure and land in combination is located.
4. No additional structure or structures shall be erected in connection with such nonconforming use of land.
5. No existing structure devoted to a use not permitted by this

Chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

6. If no structural alterations are made, any non-conforming use of a structure, land or structure and lands may as a special exception be changed to another non-conforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this Chapter.
7. Any structure, land or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed.
8. Where non-conforming use status applies to a structure, land or structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. "Destruction," for the purpose of this Subsection, is defined as damage to an extent of more than fifty percent (50%) of the replacement cost at time of destruction.

E. Repairs and Maintenance.

1. On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten percent (10%) of the current replacement cost of the nonconforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased.
2. If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conforming with the regulations of the district in which it is located.
3. Nothing in this Chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or

part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

F. **Non-Conforming Uses Which Otherwise Require A Conditional Use Permit.** Any use which is permitted with a conditional use permit in a district under the terms of this Chapter (other than a change through Board of Adjustment action from a non-conforming use to another use not generally permitted in the district) shall be deemed a non-conforming use in such district, and will be permitted to continue under the terms for non-conforming uses or until such time as a conditional use permit has been granted by the City under the terms contained in Section 405.870 Conditional Use Permits.

G. **Non-Conforming Mobile Home Parks and Non-Conforming Mobile Homes.** All nonconforming mobile home parks and other non-conforming mobile homes lawfully existing at the effective date of the adoption of this Chapter, that would not be allowed in the zoning district or under the terms of this Chapter, may be continued so long as it remains otherwise lawful, subject to the following special provisions:

1. **Non-conforming mobile home parks within "MHD" Mobile Home Districts.** Mobile home parks located in "MHD" Mobile Home Districts that are non-conforming due to lot size, setback, or other such characteristics shall be subject to the following special provisions:

a. Shall not be expanded or modified except in conformance with the guidelines of the "MHD" Mobile Home District.

b. Non-conforming mobile home parks or parts thereof that are made to conform with the regulations of the "MHD" Mobile Home District shall thereafter be required to conform and shall not be altered to create a non-conforming use.

c. Any non-conforming mobile home park destroyed by any means to an extent of more than fifty percent (50%) of its reconstruction cost at the time of destruction including streets, pads and utilities shall not be reconstructed except in conformance with the provisions of the "MHD" Mobile Home District.

d. Notwithstanding other provisions of the "MHD" Mobile Home District regulations to the contrary, mobile home parks that are located within "MHD" Mobile Home Districts that existed at the time of adoption of this Chapter shall meet the following minimum requirements:

(1) Mobile homes shall not be located closer than ten

(10) feet from any street right-of-way, road easement, or street that is located within the boundaries of the mobile home park. No mobile home shall be located closer than twenty (20) feet from any street right-of-way or road easement that is located outside the boundaries of the mobile home park.

(2) Mobile home pads may not be expanded and larger mobile homes may not be placed in the mobile home park.

(3) Mobile homes shall be located so that there is a clear space of not less than fifteen (15) feet between it and any other mobile home, building, or structure of any kind, except storage sheds not exceeding ten (10) feet by ten (10) feet in dimension or any required fencing. Any deck, carport, patio cover, or other appurtenance that is constructed of combustible material shall be considered to be a part of the mobile home and shall not be located closer than fifteen (15) feet from any other mobile home, building, or structure of any kind.

(4) For the purposes of this Chapter, the above setback provisions shall be applied without regard to any internal side or rear property lines for lots that are platted within the mobile home park.

2. Non-conforming mobile home parks not located in a "MHD" Mobile Home District. All mobile home parks that are not located within "MHD" Mobile Home Districts are considered as non-conforming uses and as such are subject to the following special provisions:

a. All mobile home parks or parts of mobile home parks that are not located within "MHD" Mobile Home Districts are prohibited from expanding upon the nonconforming use by adding additional pads, lots, or other facilities to enable the placement of additional mobile homes.

b. Notwithstanding other provisions of this Chapter to the contrary, mobile home parks that are not located within "MHD" Mobile Home Districts that existed at the time of adoption of this Chapter shall meet the following minimum

c. requirements:

- (1) Mobile homes shall not be located closer than ten (10) feet from any street right-of-way, road easement, or road that is located within the boundaries of the mobile home park. No mobile home shall be located closer than twenty (20) feet from any street right-of-way or road easement that is located outside the boundaries of the mobile home park.
- (2) Mobile home pads may not be expanded and larger mobile homes may not be placed in the mobile home park.
- (3) Mobile homes shall be located so that there is a clear space of not less than fifteen (15) feet between it and any other mobile home, building, or structure of any kind, except storage sheds not exceeding ten (10) feet by ten (10) feet in dimension or any required fencing. Any deck, carport, patio cover, or other appurtenance that is constructed of combustible material shall be considered as a part of the mobile home and shall not be located closer than fifteen (15) feet from any other mobile home, building, or structure of any kind.
- (4) For the purposes of this Chapter, the above setback provisions shall be applied without regard to any internal side or rear property lines for lots that are platted within the mobile home park.

d. Non-conforming mobile home parks destroyed by any means to an extent of more than fifty percent (50%) of its reconstruction cost at the time of its destruction, to include streets, pads, and utilities, shall not be reconstructed.

e. Any non-conforming mobile home parks, not located in a "MHD" Mobile Home District, that is abandoned for sixty (60) days shall not be used thereafter as a mobile home park.

3. Non-conforming mobile homes not located within mobile home parks. All mobile homes lawfully existing at the date of the adoption and approval of this Chapter that are not located within mobile home parks or "MHD" Mobile Home Districts are considered as non-conforming uses and as such are subject to the following special provisions:

a. Mobile homes which are not located in a mobile home park existing on the effective date of this Chapter may

not be replaced with another mobile home; and

- b. Mobile homes which are not located in a mobile home park existing on the effective date of this Chapter may only be repaired or renovated as permitted in Section 405.050(E) Repairs and Maintenance.

H. Termination and Removal of Non-Conforming Use.

1. The period of time during which the following non-conforming uses of buildings, structures or land may continue or remain shall be limited to two (2) years from the effective date of the original ordinance, or for two (2) years from any amendment thereto which causes the use to be non-conforming. Every such non-conforming use shall be completely removed from the premises at the expiration of the two (2) year period. Those uses to which the above applies are as follows:

- a. Any non-conforming building or structure having a fair cash market value not in excess of one thousand dollars (\$1,000.00) on the effective date of this Chapter.

- b. Any of the following non-conforming structures, vehicles or other outdoor equipment, which are not attached to a building and existed lawfully on the effective date of this Chapter:

- (1) Non-conforming signs;

- (2) Billboards;

- (3) Outdoor advertising structures; and

- (4) Commercial vehicles, recreational vehicles, panel vans, semi-trailer, railroad box-cars, intermodal shipping containers, CONEX boxes, ISO containers, etc. being utilized for the purpose of storage or as storage buildings, except as expressly allowed in the Zoning Ordinance.

- c. Any non-conforming use of land where no enclosed building is involved, or where the only buildings employed are accessory or incidental to such use, or where such use is maintained in connection with a conforming building other than automobile wrecking yards and junk yards. However, public or private off-street parking lots lawfully established prior to the effective date of this Chapter shall not be affected by this provision.

2. No junk or automobile salvage yard shall be operated or maintained for more than thirty-six (36) months after a zoning change to a use district within which such use is not permitted, except that in an "M-3" Limited Manufacturing District, the City Council may permit, for a specified time, the continued use of an area containing a junk or automobile salvage yard provided that a six (6) foot high masonry wall or durable, decorative, site-proof fence be constructed around such areas."

SECTION 5. If any part of this Ordinance is found to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or effectiveness of the remaining provisions of this Ordinance or any part thereof and said Ordinance shall be read as if said invalid provision was struck therefrom and the context thereof changed accordingly with the remainder of the Ordinance to be and remain in full force and effect.

SECTION 6. All ordinances, resolutions or orders, or parts thereof, which conflict with the provisions of this Ordinance, are, to the extent of such conflict, hereby repealed.

SECTION 7. This ordinance shall be in full force and effect from and after its passage and approval.

READ TWO TIMES, PASSED AND APPROVED ON THIS _____ DAY OF FEBRUARY, 2019.

Presiding Officer of the Council

Mayor Ron Counts

ATTEST:

City Clerk Tammi Casey

First Reading: _____

Second Reading: _____

APPROVED AS TO FORM:

City Attorney Robert Sweeney



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

APPLICATION #: 2018-40

APPLICATION NAME: Application to Amend Municipal Code Chapter 405 (Zoning) - Trailers

APPLICANT: City of Arnold

REQUEST: A City-initiated request to amend Chapter 405, Zoning, of the Code of Ordinances to modify definitions and regulations related to trailers and the non-conforming uses of buildings, structures, or land.

MEETING DATE: January 8, 2019

REPORT DATE: January 2, 2019

CASE MANAGER: David B. Bookless, AICP

RECOMMENDATION: APPROVAL



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

BACKGROUND

The City's Zoning Ordinance (Ord. No. 14.2) was adopted by the City Council on June 30, 1977. A number of amendments have been approved since that time with the most recent being on April 5, 2018. Even the best ordinances become out of date. Periodic revision is essential if the ordinances are to establish and maintain a rational land use pattern. Changes, however, should not be made in an arbitrary manner. Significant updates to the Zoning and Subdivision Ordinances are best undertaken following an update of the Comprehensive Plan. The rationale for this approach is that the Ordinances are the implementation tools of the Plan and should reflect its goals and policies. Nevertheless, clarification of information contained in the Zoning Ordinance may be appropriate at any time. Occasionally, unforeseen issues may need to be addressed on an ad hoc basis.

A major update to the Comprehensive Plan is anticipated to be completed, and a significant update of the Zoning Ordinances that may include significant policy or regulatory changes would likely follow. However, the purpose of this request is to provide clarification and consistency in interpretations of the Zoning Ordinance.

DISCUSSION/ANALYSIS

The City has received a number of complaints about semitrailers, trailers, and shipping containers being used in commercial districts as though they were storage structures. The City had previously recognized the problem, and in 2017, adopted regulations allowing trailers for "holiday seasonal storage" in commercial districts with the belief that by making them permissible under specific circumstances that they were otherwise not allowed.

However, the City has found semitrailers, etc. being used for long-term storage on a number of commercially zoned properties, issued citations for their removal, and found enforcement through the Court system to be problematic due to a lack of clarity in the ordinance language. A recently conducted survey of the City found approximately 20* such semitrailers, etc. present on five non-industrial properties in the City, many of which may have been in place for quite a few years. Therefore, Staff is proposing additional changes to the Zoning Ordinance to make very clear what is not allowed and how to deal with pre-existing nonconformities.

The Zoning Ordinance references "trailers" a limited number of times. "Trailers" are defined in Section 405.060 of the Zoning Ordinance as:

Any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a self-propelled vehicle, except those running exclusively on tracks, including a semitrailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle. The term "trailer" shall not include cotton trailers as defined in Subsection (8) of Section 301.010, RSMo., and shall not include manufactured homes as defined in Section 700.010, RSMo.

***NOTE: Staff's inventory was limited to areas visible from the street and publically accessible parking areas; and there for additional semitrailers, etc. may be present in the City.**

Trailers

REPORT TO PLANNING COMMISSION

CITY OF ARNOLD



They are also referenced as being an item that could be present under the definition of a “salvage yard.” “House trailers,” otherwise known as “mobile homes” or “manufactured homes” are defined and regulated separately.

Section 405.100 “FP” Floodplain mentions trailers relative to the need for docks and boat ramps needing sufficient parking area for “motor vehicles, trailers, and trucks associated with boating activity”.

The only other explicit references to trailers is Section 405.760 Supplementary District Regulations, where it discusses “Temporary Structures.” In this context, it directly refers to “construction trailers” and “trailers [used] for holiday storage.” In both cases, there are specific standards that apply to their location, maintenance, and the duration for which they may be present.

While not mentioned directly, their presence is implied where the presence of trucks is allowed as it relates to the permitted uses in the particular zoning district (e.g. Truck terminals, loading docks, delivery, warehousing, used car sales, requirements for the provision of turning radii for truck movement, etc.).

Staff believes the issue can be best approached by making a number of changes to the Code , summarized as follows:

- The definition for trailer can be strengthened to make it clear that they are not buildings (i.e., structures).
- “Holiday seasonal storage” will continue to be permissible; however, this provision will be removed from the regulations governing “temporary structures” and relocated to a section speaking directly to trailers.
- Establish a section that prohibits the use of trailers for storage purposes with several exceptions, including “holiday seasonal storage,” in manufacturing districts, etc.
- Revise the nonconforming uses section of the Zoning Ordinance to specifically reference trailers being used for storage purposes and provide an amortization period for the removal of pre-existing trailers.

Additionally, Staff has included a few other nonconformities to be covered under the amortization language, revised regulations related to non-conforming mobile homes that are not located on properties zoned “MHD” Mobile Home District, and new language addressing portable toilet facilities on job sites and at special events relative to their placement and maintenance.





REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

FINDINGS AND RECOMMENDATION

SUCH AMENDMENT IS REQUIRED BY PUBLIC NECESSITY AND CONVENIENCE AND GENERAL WELFARE

The Community Development Director finds that the text amendments contained within application number 2018-40 are warranted by the public necessity and convenience to provide clarification in the enforcement of the Zoning Ordinance.

The Community Development Director finds that the text amendments contained within application number 2018-40 are warranted by the need to promote and protect the general welfare by protecting the economic and tax base of the City, preserving and enhancing the values of property owners and users, promoting the orderly and harmonious development and redevelopment of the City, preserving and promoting the character and stability of the City and its various residential and commercial neighborhoods, improving the appearance of the City, and promoting the best use and development of commercial land in accordance with the Comprehensive Plan.

RECOMMENDATION

The Director of Community Development finds that the proposed text amendments meet or exceed review criteria and further advances the intent of Chapter 405. Based on this finding the Director of Community Development requests favorable consideration of the draft amendments.

A handwritten signature in black ink that reads "David B. Bookless".

David B. Bookless, AICP
Community Development Director



ATTACHMENTS



REPORT TO PLANNING COMMISSION CITY OF ARNOLD



TRAILERS BEING USED FOR STORAGE

Trailers

**REPORT TO PLANNING COMMISSION
CITY OF ARNOLD**



TRAILERS BEING USED FOR STORAGE



REPORT TO PLANNING COMMISSION CITY OF ARNOLD



TRAILERS BEING USED FOR STORAGE

Trailers

REPORT TO PLANNING COMMISSION

CITY OF ARNOLD



Proposed Amendments

Unchanged text in black

Additions are in blue underscored text

Deletions are in ~~red-strikethrough-text~~

CHAPTER 405 ZONING

Section 405.060 Definitions

TRAILER

Any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a self-propelled vehicle, except those running exclusively on tracks, including a semitrailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle, which does not meet Building Code requirements. A permanent foundation shall not change the character of a trailer unless the entire structure is erected in accordance with the City Building Code. The term "trailer" shall not include cotton trailers as defined in Subsection (8) of Section 301.010, RSMo., and shall not include manufactured homes as defined in Section 700.010, RSMo.

Section 405.760 Supplementary District Regulations.

R. Temporary Structures

1. Temporary structures constructed and placed on an individual parcel for thirty-one (31) or more days, whether cumulative or consecutively, per twelve-month period shall require a conditional use permit.
2. Temporary structures may not be constructed or placed on an individual parcel for more than one hundred eighty (180) days, whether cumulative or consecutively, per calendar year.
3. All temporary structures, regardless of duration, shall comply with the respective zone district regulation in which it is placed.
4. *Exception.* Recycle bins and clothing drop boxes for not-for-profit, tax-exempt charities and organizations, construction office trailers, and ~~trailers for holiday seasonal storage portable toilets.~~ However, these such recycle bins/clothing drop boxes, and construction office trailers must meet the setback requirements of the respective zone district.
5. Construction office trailers are governed by the following restrictions:
 - a. Meet applicable setbacks.
 - b. Exterior maintained with no rusting, dents, broken windows, etc.

DRAFT AMENDMENT LANGUAGE

2018-40 TEXT AMENDMENT



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

- c. The area around the construction trailer will be maintained by cutting grass and keeping free from litter.
- d. The construction trailer will be removed before an occupancy permit (temporary or permanent) is issued.

~~6. Trailers for holiday seasonal storage are governed by the following:~~

- ~~a. Applicable for all "C-2" and "C-3" Commercial Zone district properties.~~
- ~~b. A permit is applied for, showing the below information on a site plan, for review and approval by staff.~~
- ~~c. Trailer(s) may not be placed sooner than November 1 and removed no later than January 31.~~
- ~~d. Trailers may not be located in the right-of-way.~~
- ~~e. Trailers may not be placed in setbacks required for the zone district, required parking spaces, fire lanes, internal travel lanes, or prominent view from the right-of-way or access lanes.~~
- ~~f. The exterior of the trailers must be maintained with no rusting, dents or peeling paint.~~

6. Portable toilets are governed by the following restrictions:

- a. Portable toilets shall be provided when adequate toilet facilities are not provided on a site associated with a building or demolition permit or City-authorized special event.
- b. Portable toilets shall be located on the site and not on public property unless expressly authorized by the City when associated with a special event.
- c. Portable toilets shall be located a minimum of fifteen (15) feet from all curb lines, ten (10) feet from side property lines, and at such locations so as to limit public view. The doors to portable toilets shall not face any street or adjacent property line.
- d. Portable toilets shall be serviced at regular intervals to maintain sanitary conditions and minimize odors.
- e. Portable toilets shall be locked and secured from tipping over when no construction, demolition, or special event activity is present.

T. Use of vehicle or trailers for storage prohibited.

Neither vehicles (whether operable or inoperable) nor trailers (whether on or off axles) may be used as storage buildings. This shall apply to all vehicles and trailers, including commercial vehicles, recreational vehicles, panel vans, semi-trailers, railroad box-cars.

DRAFT AMENDMENT LANGUAGE—CONTINUED

Trailers

REPORT TO PLANNING COMMISSION

CITY OF ARNOLD



intermodal shipping containers, CONEX boxes, ISO containers, etc., except as follows:

1. Tractor and semi-trailers combinations (i.e. "Tractor-trailers) may be used for temporary storage (e.g. up to 3 months), for businesses located on the same property, where the property is zoned M-1, M-2, or M-3, or as explicitly authorized in property zoned C-4, subject to conditions contained in Section 405.760(T)(2), paragraphs b, c, d, e, f, g, h, and i, below.
2. Trailers, as referenced herein, may be utilized for seasonal storage on property zoned "C-2" or "C-3," or as explicitly authorized in property zoned C-4, between November 1 and January 31, subject to the following:
 - a. A permit must be submitted for review and approval by staff, prior to the placement of seasonal storage trailers, to include an application and support documentation delineating the location on the property where the trailers shall be located, all buildings and structures, drive lanes, parking areas, points of ingress/egress, and all information necessary to demonstrate compliance with this section, as directed by staff.
 - b. Trailers shall not be located in right-of-way, easements, internal drive aisles or roads, required yard setbacks, required parking spaces, fire lanes, in prominent view from rights-of-way or access lanes (i.e. the public viewshed), or so positioned to block access to utilities or public services (e.g., manholes, meters, fire hydrants, fire lanes, etc.).
 - c. The exterior of the trailers must be maintained with no rusting, dents or peeling paint.
 - d. Trailers shall be located on a hardened surface (e.g., concrete, asphalt).
 - e. Trailers shall be located directly on the ground (i.e., stacking of trailers shall not be permitted).
 - f. Trailers shall be prohibited from connecting to utility services, from tapping into the services of the primary facility (i.e., using extension cords to provide electricity, garden hoses to provide water, etc.), or from connecting to peripheral devices such as, but not limited to, air compressors, refrigeration/heating units, generators, etc.
 - g. Trailers shall be prohibited from storing perishable goods.
 - h. Trailers shall be prohibited from storing hazardous or dangerous materials (e.g., chemicals, solvents, propane, explosives, etc.), except when the applicant provides documentation from the appropriate governing authorities (e.g., Building Department, Fire, Police, EPA, MoDNR, etc.) that all required safety and security requirements have been met.
 - i. Failure to satisfy any of the requirements of this section shall be considered

DRAFT AMENDMENT LANGUAGE—CONTINUED

2018-40 TEXT AMENDMENT



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

a separate misdemeanor offense for each trailer where such offense has occurred and is punishable by a fine of two hundred dollars (\$200.00) per offense without further warnings or notices being issued. Each day that the offense(s) shall continue shall be considered a separate violation. For purposes of clarification, each trailer on a property which is in violation of this Section shall be a separate violation, and each day that such trailer remains in violation of this Section shall be a separate violation, such that the fine of two hundred dollars (\$200.00) shall apply per trailer per day.

Section 405.050 Non-Conforming Lots, Non-Conforming Uses of Land, Non-Conforming Structures, Non-Conforming Uses of Structures and Land, and Non-Conforming Characteristics of Use.

- A. Intent. Within the districts established by this Chapter or amendments that may later be adopted there exist:
1. Lots,
 2. Structures,
 3. Uses of land and/or structures, and
 4. Characteristics of use, which were lawful before this Chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Chapter or future amendment. It is the intent of this Chapter to permit these non-conformities to continue, except as delineated herein, until they are removed, cease operation, or damaged beyond fifty percent (50%), but not to encourage their survival. It is further the intent of this Chapter that non-conformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for additions, expansions of operations of the use, and/or adding other structures or uses prohibited elsewhere in the same district.

Non-conforming uses are declared by this Chapter to be incompatible with permitted, or in some situations, conditional uses in the districts involved. A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of structure and land in combination shall not be enlarged upon, expanded, or extended, nor be used as grounds for additions, expansions of operations of the use, and/or adding other structures or uses prohibited elsewhere in the same district after passage of this Chapter by attachment on a building or lands of additional signs intended to be seen from off the lands, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this Chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Chapter and upon which actual building construction has been

DRAFT AMENDMENT LANGUAGE—CONTINUED

Trailers

REPORT TO PLANNING COMMISSION

CITY OF ARNOLD



carried on diligently. "Actual construction" is hereby defined to include the planning of construction materials in permanent position and fastened in a permanent manner.

5. The existence of any present nonconformity anywhere in the City shall not itself be considered grounds for the issuance of a variance for other property.

B. Non-Conforming Lots Of Record.

For purposes of this Chapter, the terms single ownership and same ownership shall be interchangeable, and shall refer to contiguous lots or parcels owned by single or multiple individuals, trusts, corporations, partnerships, or other parties of interest, and shall include contiguous lots or parcels owned by any combination of husband and/or wife, or other legal spousal relationships pursuant to State statute.

- A. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Chapter, notwithstanding limitations imposed by other provisions of this Chapter. Such lot must be in separate ownership and not of contiguous frontage with other lots in the same ownership, provided however, that if the said lot is of record in a subdivision of record as of the passage of this Chapter and if said subdivision of record has constructed residences upon seventy percent (70%) or more of its platted lots of record, then single-family residences may be constructed on each of said platted lots as non-conforming lots of record. This provision shall apply even though such lot fails to meet the requirement for area or width, or both, that are generally applicable in the district, provided that yard and dimensions and requirements other than these applying to area or width, or both, of lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.
- B. If two (2) or more lots or combination of lots and portions of lots with contiguous frontage in single ownership are of record at the time of passage or amendment of this Chapter, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Chapter, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Chapter, nor shall any division of any parcel be made which created a lot with width or area below the requirements stated in this Chapter, provided however, that if the said lots or combinations of lots and portions of lots with contiguous frontage in single ownership are of record in a subdivision of record as of the passage of this Chapter and if said subdivision of record has constructed residences upon seventy percent (70%) or more of its platted lots of record, then platted lots in said subdivision shall be one (1) lot and not an undivided parcel.

DRAFT AMENDMENT LANGUAGE—CONTINUED

2018-40 TEXT AMENDMENT



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

- C. **Non-Conforming Structures.** Where a lawful structure exists at the effective date of adoption or amendment of this Chapter that could not be built under the terms of this Chapter by reason of restrictions on area, lot coverage, height, yard, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
1. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its nonconformity.
 2. Should such non-conforming structure or non-conforming portion of structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Chapter.
 3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulation for the district in which it is located after it is moved.
- D. **Non-Conforming Uses Of Structures, Land, Or Structures And Lands In Combination.** If lawful use involving individual structures with a replacement cost of ten thousand dollars (\$10,000.00) or more, or of structure and lands in combination, exists at the effective date of adoption or amendment of this Chapter, that would not be allowed in the district under the terms of this Chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:
1. No such non-conforming use shall be enlarged, expanded or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Chapter.
 2. No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Chapter.
 3. If any such non-conforming use of a structure, land or structure and land in combination ceases for any reason for a period of more than sixty (60) days (except when government action impeded access to the lands), any subsequent use of such structure, land or structure and land in combination shall conform to the regulations specified by this Chapter for the district in which such structure, land or structure and land in combination is located.
 4. No additional structure or structures shall be erected in connection with such nonconforming use of land.
 5. No existing structure devoted to a use not permitted by this Chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or

DRAFT AMENDMENT LANGUAGE—CONTINUED

Trailers

REPORT TO PLANNING COMMISSION

CITY OF ARNOLD



structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

6. If no structural alterations are made, any non-conforming use of a structure, land or structure and lands may as a special exception be changed to another non-conforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this Chapter.
 7. Any structure, land or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed.
 8. Where non-conforming use status applies to a structure, land or structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. "Destruction," for the purpose of this Subsection, is defined as damage to an extent of more than fifty percent (50%) of the replacement cost at time of destruction.
- E. Repairs And Maintenance.
1. On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten percent (10%) of the current replacement cost of the nonconforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased.
 2. If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conforming with the regulations of the district in which it is located.
 3. Nothing in this Chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
- F. ~~Uses Under Conditional Use Permits Not~~ Non-Conforming Uses Which Otherwise Require A Conditional Use Permit. Any use which is permitted with a conditional use permit in a district under the terms of this Chapter (other than a change through Board of Adjustment action from a non-conforming use to another use not generally permitted in the district)

DRAFT AMENDMENT LANGUAGE—CONTINUED

2018-40 TEXT AMENDMENT



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

shall ~~not~~ be deemed a non-conforming use in such district, ~~but shall without further action be considered a conforming use~~ and will be permitted to continue under the terms for non-conforming uses or until such time as a conditional use permit has been granted by the City under the terms contained in Section 405.870 Conditional Use Permits.

- G. **Non-Conforming Mobile Home Parks And Non-Conforming Mobile Homes.** All nonconforming mobile home parks and other non-conforming mobile homes lawfully existing at the effective date of the adoption of this Chapter, that would not be allowed in the zoning district or under the terms of this Chapter, may be continued so long as it remains otherwise lawful, subject to the following special provisions:
1. **Non-conforming mobile home parks within "MHD" Mobile Home Districts.** Mobile home parks located in "MHD" Mobile Home Districts that are non-conforming due to lot size, setback, or other such characteristics shall be subject to the following special provisions:
 - a. Shall not be expanded or modified except in conformance with the guidelines of the "MHD" Mobile Home District.
 - b. Non-conforming mobile home parks or parts thereof that are made to conform with the regulations of the "MHD" Mobile Home District shall thereafter be required to conform and shall not be altered to create a non-conforming use.
 - c. Any non-conforming mobile home park destroyed by any means to an extent of more than fifty percent (50%) of its reconstruction cost at the time of destruction including streets, pads and utilities shall not be reconstructed except in conformance with the provisions of the "MHD" Mobile Home District.
 - d. Notwithstanding other provisions of the "MHD" Mobile Home District regulations to the contrary, mobile home parks that are located within "MHD" Mobile Home Districts that existed at the time of adoption of this Chapter shall meet the following minimum requirements:
 - (1) Mobile homes shall not be located closer than ten (10) feet from any street right-of-way, road easement, or street that is located within the boundaries of the mobile home park. No mobile home shall be located closer than twenty (20) feet from any street right-of-way or road easement that is located outside the boundaries of the mobile home park.
 - (2) Mobile home pads may not be expanded and larger mobile homes may not be placed in the mobile home park.
 - (3) Mobile homes shall be located so that there is a clear space of not less than fifteen (15) feet between it and any other mobile home, building, or structure of any kind, except storage sheds not exceeding ten (10) feet by ten (10) feet in dimension or any required fencing. Any deck, carport, patio cover, or other

DRAFT AMENDMENT LANGUAGE—CONTINUED

REPORT TO PLANNING COMMISSION

CITY OF ARNOLD



appurtenance that is constructed of combustible material shall be considered to be a part of the mobile home and shall not be located closer than fifteen (15) feet from any other mobile home, building, or structure of any kind.

(4) For the purposes of this Chapter, the above setback provisions shall be applied without regard to any internal side or rear property lines for lots that are platted within the mobile home park.

2. Non-conforming mobile home parks not located in a "MHD" Mobile Home District. All mobile home parks that are not located within "MHD" Mobile Home Districts are considered as non-conforming uses and as such are subject to the following special provisions:

a. All mobile home parks or parts of mobile home parks that are not located within "MHD" Mobile Home Districts are prohibited from expanding upon the nonconforming use by adding additional pads, lots, or other facilities to enable the placement of additional mobile homes.

b. Notwithstanding other provisions of this Chapter to the contrary, mobile home parks that are not located within "MHD" Mobile Home Districts that existed at the time of adoption of this Chapter shall meet the following minimum requirements:

(1) Mobile homes shall not be located closer than ten (10) feet from any street right-of-way, road easement, or road that is located within the boundaries of the mobile home park. No mobile home shall be located closer than twenty (20) feet from any street right-of-way or road easement that is located outside the boundaries of the mobile home park.

(2) Mobile home pads may not be expanded and larger mobile homes may not be placed in the mobile home park.

(3) Mobile homes shall be located so that there is a clear space of not less than fifteen (15) feet between it and any other mobile home, building, or structure of any kind, except storage sheds not exceeding ten (10) feet by ten (10) feet in dimension or any required fencing. Any deck, carport, patio cover, or other appurtenance that is constructed of combustible material shall be considered as a part of the mobile home and shall not be located closer than fifteen (15) feet from any other mobile home, building, or structure of any kind.

(4) For the purposes of this Chapter, the above setback provisions shall be applied without regard to any internal side or rear property lines for lots that are platted within the mobile home park.

c. Non-conforming mobile home parks destroyed by any means to an extent of more than fifty percent (50%) of its reconstruction cost at the time of its destruction, to include streets, pads, and utilities, shall not be reconstructed.

DRAFT AMENDMENT LANGUAGE—CONTINUED

2018-40 TEXT AMENDMENT



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

- d. Any non-conforming mobile home parks, not located in a "MHD" Mobile Home District, that is abandoned for sixty (60) days shall not be used thereafter as a mobile home park.
3. Non-conforming mobile homes not located within mobile home parks. All mobile homes lawfully existing at the date of the adoption and approval of this Chapter that are not located within mobile home parks or "MHD" Mobile Home Districts are considered as non-conforming uses and as such are subject to the following special provisions:
- ~~a. May be replaced as necessary provided that the following guidelines are met:~~
- ~~(1) Shall not be replaced with a mobile home having a greater floor area except as may be authorized by the Board of Adjustment.~~
- ~~(2) May be replaced provided the replacement mobile home is placed upon the tract or lot within fifteen (15) days after the original mobile home is removed.~~
- ~~b. If any non-conforming mobile home is removed but not replaced within fifteen (15) days as authorized in this Section, no mobile home shall thereafter occupy the lot, tract, or pad but shall conform to the zoning district regulations.~~
- a. Mobile homes which are not located in a mobile home park existing on the effective date of this Chapter may not be replaced with another mobile home; and
- b. Mobile homes which are not located in a mobile home park existing on the effective date of this Chapter may only be repaired or renovated as permitted in Section 405.050(E) Repairs and Maintenance.
- H. Termination And Removal Of Non-Conforming Use.
1. The period of time during which the following non-conforming uses of buildings, structures or land may continue or remain shall be limited to two (2) years from the effective date of the original ordinance, or for two (2) years from any amendment thereto which causes the use to be non-conforming. Every such non-conforming use shall be completely removed from the premises at the expiration of the two (2) year period. Those uses to which the above applies are as follows:
- a. Any non-conforming building or structure having a fair cash market value not in excess of one thousand dollars (\$1,000.00) on the effective date of this Chapter.
- b. Any of the following non-conforming structures, vehicles or other outdoor equipment, which are not attached to a building and existed lawfully on the effective date of this Chapter:
- (1) Non-conforming signs;
- (2) Billboards;
- (3) Outdoor advertising structures; and

DRAFT AMENDMENT LANGUAGE—CONTINUED

Trailers

REPORT TO PLANNING COMMISSION
CITY OF ARNOLD



- (4) Commercial vehicles, recreational vehicles, panel vans, semi-trailer, railroad box-cars, intermodal shipping containers, CONEX boxes, ISO containers, etc. being utilized for the purpose of storage or as storage buildings, except as expressly allowed in the Zoning Ordinance.
- c. Any non-conforming use of land where no enclosed building is involved, or where the only buildings employed are accessory or incidental to such use, or where such use is maintained in connection with a conforming building other than automobile wrecking yards and junk yards. However, public or private off-street parking lots lawfully established prior to the effective date of this Chapter shall not be affected by this provision.
2. No junk or automobile salvage yard shall be operated or maintained for more than thirty-six (36) months after a zoning change to a use district within which such use is not permitted, except that in an "M-3" Limited Manufacturing District, the City Council may permit, for a specified time, the continued use of an area containing a junk or automobile salvage yard provided that a six (6) foot high masonry wall or durable, decorative, site-proof fence be constructed around such areas.

THIS SECTION INTENTIONALLY LEFT BLANK.



Date: January 22, 2019
To: Planning Commission
From: David B. Bookless
Subject: 2018-40: Trailers – revised language

At the January 8, 2019 meeting of the Planning Commission, project 2018-40, an amendment to Municipal Code Chapter 405 (Zoning) – Trailers, was discussed. Specifically, the Commission requested revisions to the draft addressing donation bins/boxes and the use of trailers for storage in industrial districts. For your consideration, the following revisions are proposed:

(Requested revisions highlighted in yellow)

CHAPTER 405 ZONING

Section 405.060 Definitions

TRAILER

Any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a self-propelled vehicle, except those running exclusively on tracks, including a semitrailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle, which does not meet Building Code requirements. A permanent foundation shall not change the character of a trailer unless the entire structure is erected in accordance with the City Building Code. The term "trailer" shall not include cotton trailers as defined in Subsection (8) of Section 301.010, RSMo., and shall not include manufactured homes as defined in Section 700.010, RSMo.

Section 405.760 Supplementary District Regulations.

R. Temporary Structures

1. Temporary structures constructed and placed on an individual parcel for thirty-one (31) or more days, whether cumulative or consecutively, per twelve-month period shall require a conditional use permit.
2. Temporary structures may not be constructed or placed on an individual parcel for more than one hundred eighty (180) days, whether cumulative or consecutively, per calendar year.
3. All temporary structures, regardless of duration, shall comply with the respective zone district regulation in which it is placed.
4. *Exception.* Recycle bins and clothing drop boxes for not-for-profit, tax-exempt charities and organizations, construction office trailers, and portable toilets. However, such recycle bins/clothing drop boxes, and construction office trailers must meet the setback requirements of the respective zone district.
5. Construction office trailers are governed by the following restrictions:
 - a. Meet applicable setbacks.
 - b. Exterior maintained with no rusting, dents, broken windows, etc.
 - c. The area around the construction trailer will be maintained by cutting grass and keeping free from litter.
 - d. The construction trailer will be removed before an occupancy permit (temporary or permanent) is issued.

6. Portable toilets are governed by the following restrictions:
- a. Portable toilets shall be provided when adequate toilet facilities are not provided on a site associated with a building or demolition permit or City-authorized special event.
 - b. Portable toilets shall be located on the site and not on public property unless expressly authorized by the City when associated with a special event.
 - c. Portable toilets shall be located a minimum of fifteen (15) feet from all curb lines, ten (10) feet from side property lines, and at such locations so as to limit public view. The doors to portable toilets shall not face any street or adjacent property line.
 - d. Portable toilets shall be serviced at regular intervals to maintain sanitary conditions and minimize odors.
 - e. Portable toilets shall be locked and secured from tipping over when no construction, demolition, or special event activity is present.
7. Recycle bins and clothing drop boxes for not-for-profit, tax-exempt charities and organizations are governed by the following restrictions:
- a. Shall be prohibited on unimproved properties and on developed properties, which are unoccupied.
 - b. Shall be located on a paved surface.
 - c. Maximum height shall not exceed 8 feet.
 - d. Maximum floor area shall not exceed 36 square feet
 - e. Maximum number of bins/boxes per property:
 1. Two upon properties with an area up to two acres.
 2. Three upon properties with an area greater than two acres but less than or equal to four acres
 3. Four upon properties with an area greater than four acres.
 - f. Shall be prohibited from being located in required parking spaces, public or private right of way, driving aisles, fire lanes, required landscaped areas, pedestrian areas, sight triangles, or within 5 feet of a fire hydrant.
 - g. Shall be setback a minimum of 25 feet from residential districts or properties with uses, 25 feet from public or private rights-of-way, and 5 feet from all other property lines.
 - h. Shall only be permitted upon properties within nonresidential zoning districts and upon properties with any zoning classification that are primarily used by not-for-profit organizations.
 - i. Signage on bins and boxes shall be limited to 5 square feet per side.
 - j. Ownership information, to include address and telephone number, shall be displayed upon all bins and boxes.
 - k. Shall utilize a mailbox or safety chute and locked access door to prevent unauthorized entry.

- l. Outdoor display or storage of materials shall be prohibited.**
- m. The collection or storage of perishable items shall be prohibited.**
- n. The property owner, the entity which granted permission for placement, and the bin/box owner shall be individually and jointly responsible for abating and removing all garbage, trash, debris and other refuse material in the area surrounding any donation bin within 72 hours written or verbal notice by the City.**
- o. Responsibility and Liability. The owner of the donation bin/box, the entity which granted permission for placement, and the owner of any private property upon which a violation of these regulations occur may be held individually and severally responsible and liable for such violation.**

T. Use of vehicle or trailers for storage prohibited.

Neither vehicles (whether operable or inoperable) nor trailers (whether on or off axles) may be used as storage buildings. This shall apply to all vehicles and trailers, including commercial vehicles, recreational vehicles, panel vans, semi-trailers, railroad box-cars, intermodal shipping containers, CONEX boxes, ISO containers, etc., except as follows:

- a. Tractor and semi-trailers combinations (i.e. "Tractor-trailers) may be used for temporary storage (e.g. up to 3 months), for businesses located on the same property, where the property is zoned M-1, M-2, or M-3, or as explicitly authorized in property zoned C-4, subject to conditions contained in Section 405.760(T)(2), paragraphs b, c, d, e, f, g, h, and i, below.
 - i. The Community Development Director may grant a one-time extension upon written request for a period not to exceed 3 months. The City Council, after review and recommendation of the Planning Commission, may grant an additional one-time, non-renewable additional extension of up to 6 months, upon written request.**
- b. Trailers, as referenced herein, may be utilized for seasonal storage on property zoned "C-2" or "C-3," or as explicitly authorized in property zoned C-4, between November 1 and January 31, subject to the following:
 - i. A permit must be submitted for review and approval by staff, prior to the placement of seasonal storage trailers, to include an application and support documentation delineating the location on the property where the trailers shall be located, all buildings and structures, drive lanes, parking areas, points of ingress/egress, and all information necessary to demonstrate compliance with this section, as directed by staff.
 - ii. Trailers shall not be located in right-of-way, easements, internal drive aisles or roads, required yard setbacks, required parking spaces, fire lanes, in prominent view from rights-of-way or access lanes (i.e. the public viewshed), or so positioned to block access to utilities or public services (e.g., manholes, meters, fire hydrants, fire lanes, etc.).
 - iii. The exterior of the trailers must be maintained with no rusting, dents or peeling paint.
 - iv. Trailers shall be located on a hardened surface (e.g., concrete, asphalt).
 - v. Trailers shall be located directly on the ground (i.e., stacking of trailers shall not be permitted).

- vi. Trailers shall be prohibited from connecting to utility services, from tapping into the services of the primary facility (i.e., using extension cords to provide electricity, garden hoses to provide water, etc.), or from connecting to peripheral devices such as, but not limited to, air compressors, refrigeration/heating units, generators, etc.
- vii. Trailers shall be prohibited from storing perishable goods.
- viii. Trailers shall be prohibited from storing hazardous or dangerous materials (e.g., chemicals, solvents, propane, explosives, etc.), except when the applicant provides documentation from the appropriate governing authorities (e.g., Building Department, Fire, Police, EPA, MoDNR, etc.) that all required safety and security requirements have been met.
- ix. Failure to satisfy any of the requirements of this section shall be considered a separate misdemeanor offense for each trailer where such offense has occurred and is punishable by a fine of two hundred dollars (\$200.00) per offense without further warnings or notices being issued. Each day that the offense(s) shall continue shall be considered a separate violation. For purposes of clarification, each trailer on a property which is in violation of this Section shall be a separate violation, and each day that such trailer remains in violation of this Section shall be a separate violation, such that the fine of two hundred dollars (\$200.00) shall apply per trailer per day.

Section 405.050 Non-Conforming Lots, Non-Conforming Uses of Land, Non-Conforming Structures, Non-Conforming Uses of Structures and Land, and Non-Conforming Characteristics of Use.

A. Intent. Within the districts established by this Chapter or amendments that may later be adopted there exist:

1. Lots,
2. Structures,
3. Uses of land and/or structures, and
4. Characteristics of use, which were lawful before this Chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Chapter or future amendment. It is the intent of this Chapter to permit these non-conformities to continue, except as delineated herein, until they are removed, cease operation, or damaged beyond fifty percent (50%), but not to encourage their survival. It is further the intent of this Chapter that non-conformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for additions, expansions of operations of the use, and/or adding other structures or uses prohibited elsewhere in the same district.

Non-conforming uses are declared by this Chapter to be incompatible with permitted, or in some situations, conditional uses in the districts involved. A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of structure and land in combination shall not be enlarged upon, expanded, or extended, nor be used as grounds for additions, expansions of operations of the use, and/or adding other structures or uses prohibited elsewhere in the same district after passage of this Chapter by attachment on a building or lands of additional signs intended to be seen from off the lands, or by the addition of other uses, of a nature

which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this Chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Chapter and upon which actual building construction has been carried on diligently. "Actual construction" is hereby defined to include the planning of construction materials in permanent position and fastened in a permanent manner.

5. The existence of any present nonconformity anywhere in the City shall not itself be considered grounds for the issuance of a variance for other property.

B. Non-Conforming Lots Of Record.

For purposes of this Chapter, the terms single ownership and same ownership shall be interchangeable, and shall refer to contiguous lots or parcels owned by single or multiple individuals, trusts, corporations, partnerships, or other parties of interest, and shall include contiguous lots or parcels owned by any combination of husband and/or wife, or other legal spousal relationships pursuant to State statute.

1. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Chapter, notwithstanding limitations imposed by other provisions of this Chapter. Such lot must be in separate ownership and not of contiguous frontage with other lots in the same ownership, provided however, that if the said lot is of record in a subdivision of record as of the passage of this Chapter and if said subdivision of record has constructed residences upon seventy percent (70%) or more of its platted lots of record, then single-family residences may be constructed on each of said platted lots as non-conforming lots of record. This provision shall apply even though such lot fails to meet the requirement for area or width, or both, that are generally applicable in the district, provided that yard and dimensions and requirements other than these applying to area or width, or both, of lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.
2. If two (2) or more lots or combination of lots and portions of lots with contiguous frontage in single ownership are of record at the time of passage or amendment of this Chapter, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Chapter, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Chapter, nor shall any division of any parcel be made which created a lot with width or area below the requirements stated in this Chapter, provided however, that if the said lots or combinations of lots and portions of lots with contiguous frontage in single ownership are of record in a subdivision of record as of the passage of this Chapter and if said subdivision of record has constructed residences upon seventy percent (70%) or more of its platted lots of record, then platted lots in said subdivision shall be one (1) lot and not an undivided parcel.

C. Non-Conforming Structures. Where a lawful structure exists at the effective date of

adoption or amendment of this Chapter that could not be built under the terms of this Chapter by reason of restrictions on area, lot coverage, height, yard, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its nonconformity.
2. Should such non-conforming structure or non-conforming portion of structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Chapter.
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulation for the district in which it is located after it is moved.

D. Non-Conforming Uses Of Structures, Land, Or Structures And Lands In Combination. If lawful use involving individual structures with a replacement cost of ten thousand dollars (\$10,000.00) or more, or of structure and lands in combination, exists at the effective date of adoption or amendment of this Chapter, that would not be allowed in the district under the terms of this Chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming use shall be enlarged, expanded or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Chapter.
2. No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Chapter.
3. If any such non-conforming use of a structure, land or structure and land in combination ceases for any reason for a period of more than sixty (60) days (except when government action impeded access to the lands), any subsequent use of such structure, land or structure and land in combination shall conform to the regulations specified by this Chapter for the district in which such structure, land or structure and land in combination is located.
4. No additional structure or structures shall be erected in connection with such nonconforming use of land.
5. No existing structure devoted to a use not permitted by this Chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
6. If no structural alterations are made, any non-conforming use of a structure, land or structure and lands may as a special exception be changed to another non-conforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this Chapter.
7. Any structure, land or structure and land in combination, in or on which a non-

conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed.

8. Where non-conforming use status applies to a structure, land or structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. "Destruction," for the purpose of this Subsection, is defined as damage to an extent of more than fifty percent (50%) of the replacement cost at time of destruction.

E. Repairs And Maintenance.

1. On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten percent (10%) of the current replacement cost of the nonconforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased.
2. If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conforming with the regulations of the district in which it is located.
3. Nothing in this Chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

F. Non-Conforming Uses Which Otherwise Require A Conditional Use Permit. Any use which is permitted with a conditional use permit in a district under the terms of this Chapter (other than a change through Board of Adjustment action from a non-conforming use to another use not generally permitted in the district) shall be deemed a non-conforming use in such district, and will be permitted to continue under the terms for non-conforming uses or until such time as a conditional use permit has been granted by the City under the terms contained in Section 405.870 Conditional Use Permits.

G. Non-Conforming Mobile Home Parks And Non-Conforming Mobile Homes. All nonconforming mobile home parks and other non-conforming mobile homes lawfully existing at the effective date of the adoption of this Chapter, that would not be allowed in the zoning district or under the terms of this Chapter, may be continued so long as it remains otherwise lawful, subject to the following special provisions:

1. Non-conforming mobile home parks within "MHD" Mobile Home Districts. Mobile home parks located in "MHD" Mobile Home Districts that are non-conforming due to lot size, setback, or other such characteristics shall be subject to the following special provisions:
 - a. Shall not be expanded or modified except in conformance with the guidelines of the "MHD" Mobile Home District.
 - b. Non-conforming mobile home parks or parts thereof that are made to conform with the regulations of the "MHD" Mobile Home District shall thereafter be required to conform and shall not be altered to create a non-conforming use.

- c. Any non-conforming mobile home park destroyed by any means to an extent of more than fifty percent (50%) of its reconstruction cost at the time of destruction including streets, pads and utilities shall not be reconstructed except in conformance with the provisions of the "MHD" Mobile Home District.
 - d. Notwithstanding other provisions of the "MHD" Mobile Home District regulations to the contrary, mobile home parks that are located within "MHD" Mobile Home Districts that existed at the time of adoption of this Chapter shall meet the following minimum requirements:
 - (1) Mobile homes shall not be located closer than ten (10) feet from any street right-of-way, road easement, or street that is located within the boundaries of the mobile home park. No mobile home shall be located closer than twenty (20) feet from any street right-of-way or road easement that is located outside the boundaries of the mobile home park.
 - (2) Mobile home pads may not be expanded and larger mobile homes may not be placed in the mobile home park.
 - (3) Mobile homes shall be located so that there is a clear space of not less than fifteen (15) feet between it and any other mobile home, building, or structure of any kind, except storage sheds not exceeding ten (10) feet by ten (10) feet in dimension or any required fencing. Any deck, carport, patio cover, or other appurtenance that is constructed of combustible material shall be considered to be a part of the mobile home and shall not be located closer than fifteen (15) feet from any other mobile home, building, or structure of any kind.
 - (4) For the purposes of this Chapter, the above setback provisions shall be applied without regard to any internal side or rear property lines for lots that are platted within the mobile home park.
2. Non-conforming mobile home parks not located in a "MHD" Mobile Home District. All mobile home parks that are not located within "MHD" Mobile Home Districts are considered as non-conforming uses and as such are subject to the following special provisions:
- a. All mobile home parks or parts of mobile home parks that are not located within "MHD" Mobile Home Districts are prohibited from expanding upon the nonconforming use by adding additional pads, lots, or other facilities to enable the placement of additional mobile homes.
 - b. Notwithstanding other provisions of this Chapter to the contrary, mobile home parks that are not located within "MHD" Mobile Home Districts that existed at the time of adoption of this Chapter shall meet the following minimum requirements:
 - (1) Mobile homes shall not be located closer than ten (10) feet from any street right-of-way, road easement, or road that is located within the boundaries of the mobile home park. No mobile home shall be located closer than twenty (20) feet from any street right-of-way or road easement that is located outside the boundaries of the mobile home park.

- (2) Mobile home pads may not be expanded and larger mobile homes may not be placed in the mobile home park.
 - (3) Mobile homes shall be located so that there is a clear space of not less than fifteen (15) feet between it and any other mobile home, building, or structure of any kind, except storage sheds not exceeding ten (10) feet by ten (10) feet in dimension or any required fencing. Any deck, carport, patio cover, or other appurtenance that is constructed of combustible material shall be considered as a part of the mobile home and shall not be located closer than fifteen (15) feet from any other mobile home, building, or structure of any kind.
 - (4) For the purposes of this Chapter, the above setback provisions shall be applied without regard to any internal side or rear property lines for lots that are platted within the mobile home park.
- c. Non-conforming mobile home parks destroyed by any means to an extent of more than fifty percent (50%) of its reconstruction cost at the time of its destruction, to include streets, pads, and utilities, shall not be reconstructed.
 - d. Any non-conforming mobile home parks, not located in a "MHD" Mobile Home District, that is abandoned for sixty (60) days shall not be used thereafter as a mobile home park.
3. Non-conforming mobile homes not located within mobile home parks. All mobile homes lawfully existing at the date of the adoption and approval of this Chapter that are not located within mobile home parks or "MHD" Mobile Home Districts are considered as non-conforming uses and as such are subject to the following special provisions:
- a. Mobile homes which are not located in a mobile home park existing on the effective date of this Chapter may not be replaced with another mobile home; and
 - b. Mobile homes which are not located in a mobile home park existing on the effective date of this Chapter may only be repaired or renovated as permitted in Section 405.050(E) Repairs and Maintenance.

H. Termination And Removal Of Non-Conforming Use.

1. The period of time during which the following non-conforming uses of buildings, structures or land may continue or remain shall be limited to two (2) years from the effective date of the original ordinance, or for two (2) years from any amendment thereto which causes the use to be non-conforming. Every such non-conforming use shall be completely removed from the premises at the expiration of the two (2) year period. Those uses to which the above applies are as follows:
- a. Any non-conforming building or structure having a fair cash market value not in excess of one thousand dollars (\$1,000.00) on the effective date of this Chapter.
 - b. Any of the following non-conforming structures, vehicles or other outdoor equipment, which are not attached to a building and existed lawfully on the effective date of this Chapter:
 - (1) Non-conforming signs;
 - (2) Billboards;

- (3) Outdoor advertising structures; and
 - (4) Commercial vehicles, recreational vehicles, panel vans, semi-trailer, railroad box-cars, intermodal shipping containers, CONEX boxes, ISO containers, etc. being utilized for the purpose of storage or as storage buildings, except as expressly allowed in the Zoning Ordinance.
- c. Any non-conforming use of land where no enclosed building is involved, or where the only buildings employed are accessory or incidental to such use, or where such use is maintained in connection with a conforming building other than automobile wrecking yards and junk yards. However, public or private off-street parking lots lawfully established prior to the effective date of this Chapter shall not be affected by this provision.
2. No junk or automobile salvage yard shall be operated or maintained for more than thirty-six (36) months after a zoning change to a use district within which such use is not permitted, except that in an "M-3" Limited Manufacturing District, the City Council may permit, for a specified time, the continued use of an area containing a junk or automobile salvage yard provided that a six (6) foot high masonry wall or durable, decorative, site-proof fence be constructed around such areas.



**PLANNING COMMISSION MEETING
CITY HALL COUNCIL CHAMBERS
JANUARY 22, 2019**

MINUTES

The regular meeting of the Arnold Planning Commission was called to order by Chairman Andrew Sutton at 7:00 p.m. The Pledge of Allegiance was recited by those in attendance.

ROLL CALL OF COMMISSIONERS: Del Williams, John Tucker, Brian McArthur, Alan Bess, Frank Kutilek, Jeff Campbell, Andrew Sutton, Chris Ford, Justin Lurk, David Bookless, Christie Hull-Bettale and Bob Sweeney. 9 voting members present.

REVIEW AND APPROVAL OF AGENDA: Motion by Jeff Campbell to approve the agenda as presented. Second by Del Williams. Voice Vote – *Unanimously Approved.*

APPROVAL OF MINUTES: Motion by Jeff Campbell to approve the minutes from the January 8, 2019 meeting as presented. Second by Del Williams. Voice Vote - *Unanimously Approved.*

PUBLIC COMMENT: None

PUBLIC HEARINGS: None

OLD BUSINESS

- **2018-40 AN AMENDMENT TO MUNICIPAL CODE CHAPTER 405 (ZONING) – TRAILERS-REVISED LANGUAGE:** David Bookless briefly went over the requested revisions made to Chapter 405 (Zoning), Section 405.760 Supplementary District Regulations. The first group of changes has to do with recycle bins where he basically spelled out a number of performance measures and criteria for recycle bins and clothing drop boxes, such as how many, how big, where they can be located, setbacks, etc. In this section, the City Attorney suggested striking “not-for-profit, tax-exempt charities and organizations”

Andrew Sutton asked Bob Sweeney if the intention for striking those words is to address the potential for a “for profit agency” coming in and doing the same. Mr. Sweeney stated it was.

The next change is in the last line of sub-paragraph n.; changing the word “verbal” to “oral”.

The next change deals with granting extensions for tractor and semi-trailers being used for temporary storage in Industrial Districts. He added that the Community Development Director may grant a one-time extension upon written request for a period not to exceed three (3) months and if more time is needed, the City Council may grant an additional one-time extension of up to six (6) months.

The last change requested had to do with language relative to a recycler using a semi truck temporarily for a special event. This will be addressed at a later date under a section dealing with all types of special events.

Brian McArthur likes the three (3) month extension but feels the second extension of six (6) months is too long. David Bookless stated that is why he worded the second extension “up to six months.”

John Tucker asked why oral instead of verbal. David Bookless explained that in order to mean telling someone something you should use the word oral.

Motion by Jeff Campbell to approve 2018-40, an amendment to Municipal Code Chapter 405 (Zoning) – Trailers - as amended. Second by Chris Ford. Roll call vote: Del Williams, yes; John Tucker, yes; Justin Lurk, yes; Brian McArthur, yes; Alan Bess, yes; Frank Kutilek, yes; Jeff Campbell, yes; Andrew Sutton, yes; Chris Ford, yes. 9 yeas, 0 nays – *Motion Approved.*

NEW BUSINESS

- **2018-42 AMENDMENT TO THE COMMERCIAL SITE PLAN FOR TEXAS ROADHOUSE AT 806 ARNOLD COMMONS FOR A TAKE-OUT BUILDING ADDITION:** Christie Hull-Bettale presented the request to amend the Commercial Site Plan for Texas Roadhouse for a take-out building addition. She explained that the existing outside patio waiting area with seating will be removed to allow for the building addition. All materials and colors will be consistent with the existing building. Christie commented that this request meets the site plan approval requirements; the permitted uses are zoning by right and Staff finds that it substantially fulfills the requirements of the zoning ordinance and recommends approval.

Justin Lurk asked if they have done this before at other locations. Tim Spiegelglass (applicant), 18 Worthington Access Dr., Maryland Heights, MO 63043, stated that they have done this in many locations and reserving the two (2) parking spaces for the take-out, has not caused any problems.

Brian McArthur concerned since they will be cutting down the area where patrons sit to wait for their table, will more benches be added somewhere. Tim Spiegelglass stated that there will be another row added but on the inside instead of outside the building.

Jeff Campbell asked if they have thought about any other additions since the restaurant is always packed. Tim Spiegelglass stated that the only thing that was talked about at one time was putting up a pavilion.

Motion by Jeff Campbell to approve 2018-42, amendment to the Commercial Site Plan for Texas Roadhouse at 806 Arnold Commons for a take-out building addition. Second by Chris Ford. Roll call vote: Del Williams, yes; John Tucker, yes; Justin Lurk, yes; Brian McArthur, yes; Alan Bess, yes; Frank Kutilek, yes; Jeff Campbell, yes; Andrew Sutton, yes; Chris Ford, yes. 9 yeas, 0 nays – *Motion Approved.*

STAFF UPDATE

- Christie Hull-Bettale informed the Commission that the Cedarhurst Assisted Living development has re-submitted.
- David Bookless introduced the new Planner, Sarah Turner. He also mentioned that the City Council denied the rezoning and tabled the consolidation plat for I-55 Store It. Mr. Bookless informed the Commission that there will be a fence variance coming before them in the near future.
- Bob Sweeney – No Report

COMMISSIONERS UPDATE

- Del Williams – no report
- John Tucker – no report
- Justin Lurk – no report

- Alan Bess – no report
- Frank Kutilek – no report
- Jeff Campbell – welcomed Justin
- Chris Ford – no report

PAGE THREE
PLANNING COMMISSION MTG.
JANUARY 22, 2019

- Andrew Sutton – welcomed Justin. Referred to new furniture store at the end of Church Rd. commenting that they still have signs that were spray painted on the building “parking in rear” and asked Staff to see about having them remove it.

COUNCIL LIAISON REPORT

- Brian McArthur – welcomed Justin.

NEXT SCHEDULED MEETING: February 12, 2019

ADJOURNMENT: Meeting adjourned at 7:20 p.m.

Respectfully Submitted,

Alan Bess
Planning Commission Secretary

RESOLUTION NO: 19-09

A RESOLUTION APPOINTING VARIOUS INDIVIDUALS TO SERVE ON DIFFERENT
BOARDS WITH DIFFERENT EXPIRATION DATES.

BE IT RESOLVED by the Council of the City of Arnold, Missouri, that the following individuals are hereby appointed to serve on various Boards until their term expires or a successor has been duly appointed and qualified.

SECTION 1. POLICE PENSION BOARD

1. Sgt. Clinton Wooldridge is hereby re-appointed to serve on the Police Pension Board for A Two-Year Term that will terminate on June 16th, 2020 or until a successor has been Appointed and qualified.

SECTION 2.

1. Dan Jones is hereby appointed to serve on the Police Personnel Board for a the remainder of a Two-Year Term that will expire on May 1st, 2020 or until a successor has been Appointed and qualified.
2. Joan Boyles is hereby appointed to serve as an Alternate on the Police Personnel Board for a Two-Year Term that will expire on February 21, 2021 or until a successor has been appointed and qualified.

Presiding Officer of the City Council

Mayor Ron Counts

ATTEST:

City Clerk Tammi Casey

Date: _____

RESOLUTION NO. 19-10

**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT
WITH THE CITY OF EUREKA FOR POLICE CANINE TRAINING.**

WHEREAS, the City of Arnold is seeking training for our police canine units; and

WHEREAS, the City of Eureka is qualified and willing to provide such services;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
ARNOLD, MISSOURI:

Section 1. The attached intergovernmental agreement with the City of Eureka is hereby approved and the Mayor and/or Police Chief are authorized to execute any documents necessary to implement it.

Presiding Officer of the City Council

Mayor Ron Counts

ATTEST:

City Clerk Tammi Casey

Date: _____

INTERGOVERNMENTAL AGREEMENT BETWEEN EUREKA POLICE DEPARTMENT AND THE ARNOLD POLICE DEPARTMENT, MISSOURI

This Intergovernmental Agreement (hereinafter, the "Agreement"), made and entered into by and between City of Eureka, Missouri, (hereinafter, "Eureka"), specifically its police department and the City of Arnold, Missouri, ("Arnold"), specifically its police department.

WHEREAS, pursuant to Sections 70.210 et seq. RSMo, the governing bodies of political subdivisions may contract and cooperate for the development, construction, acquisition or operation of any public improvement or facility, or for a common service; and

WHEREAS, Eureka and Arnold are political subdivisions for purposes of Sections 70.210 et seq. RSMo; and

WHEREAS, Arnold has requested that Eureka provide police canine training for the Arnold Police Department; and

WHEREAS, Eureka is equipped and qualified to provide such canine training; and

WHEREAS, Eureka has agreed to provide such canine training;

NOW THEREFORE, in consideration of the mutual promises and covenants of the parties, it is agreed as follows:

1. Eureka shall:

- A. Provide all necessary and required canine training necessary to ensure proper qualification for Arnold police officers and canines.
- B. Provide all equipment necessary to perform the canine training referenced in paragraph 1(A).
- C. Maintain its insurance coverage for any of its employees engaged in the training

2. Arnold shall:

- A. Pay to Eureka the equivalent of eight (8) hours pay at time and one-half of the hourly rate of the eureka patrol officer providing the training.
- B. Maintain its insurance coverage for any of its employees engaged in the training referenced in this Agreement.

3. Amendments:

Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of Eureka and Arnold.

4. Assignment:

Neither Eureka nor Arnold shall assign, transfer or delegate any interest in the Agreement without the prior written consent of the other Party.

5. Term and Termination:

The Agreement shall remain in effect for one (1) year from the effective date below; and, shall renew for consecutive one (1) year periods unless either party informs the other, in writing, of its determination to terminate the Agreement.

6. Law Of Missouri To Govern:

This Agreement shall be construed according to the laws of the State of Missouri. Eureka and Arnold shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

7. Venue:

It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of St. Louis or Jefferson County, Missouri.

8. Section Headings:

All section headings contained in this Agreement are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

9. Sole Beneficiary:

This Agreement is made for the sole benefit of the parties hereto and nothing in this Agreement shall be construed to give any rights or benefits to anyone other than Eureka and Arnold.

10. Authority To Execute:

Eureka and Arnold shall each enact an ordinance or resolution to authorize the execution of the Agreement. The signers of this Agreement warrant that they are acting officially and properly on behalf of their respective institutions and have been duly authorized, directed and empowered to execute this Agreement.

Dated and effective _____, _____.

CITY OF ARNOLD, MISSOURI:

CITY OF EUREKA, MISSOURI:

By: _____

By: _____

Printed Name

Printed Name

Title: Chief of Police

Title: Chief of Police

ATTEST: _____

ATTEST: _____

RESOLUTION No. 19-11

**RESOLUTION OF OFFICIAL INTENT OF THE CITY OF
ARNOLD, MISSOURI, TOWARD THE ISSUANCE OF
INDUSTRIAL REVENUE BONDS TO FINANCE AN
INDUSTRIAL DEVELOPMENT PROJECT, AND
AUTHORIZING CERTAIN ACTIONS RELATING THERETO.**

WHEREAS, the City of Arnold, Missouri (the “City”) is authorized and empowered under the provisions of Article VI, Section 27(b) of the Missouri Constitution, as amended, and Sections 100.010 to 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the “Act”), to purchase, construct, extend and improve certain projects (as defined in the Act) for the purposes set forth in the Act and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, warehousing and industrial development purposes upon such terms and conditions as the City deems advisable; and

WHEREAS, Cedarhurst of Arnold Real Estate, LLC (the “Company”) has requested that the City issue its industrial development revenue bonds in a principal amount of approximately \$10,000,000 (the “Bonds”) to provide funds to pay the costs of acquiring, constructing and equipping an approximately 70,000 square foot senior living facility on approximately nine acres of land located in the City (the “Project”); and

WHEREAS, the Bonds will be payable solely out of payments, revenues and receipts derived from the lease of the Project by the City to the Company; and

WHEREAS, the City has determined that it is necessary and desirable to declare the official intent of the City to finance the costs of the Project from the proceeds of the Bonds, subject to certain terms and conditions set forth in this Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARNOLD, MISSOURI, AS FOLLOWS:

Section 1. Finding of Public Benefit. The City Council hereby finds and determines that the Project will promote the economic well-being and industrial development of the City and the taxing districts encompassing the area of the Project, and that the issuance of the Bonds to pay the costs of the Project will be in furtherance of the public purposes set forth in the Act.

Section 2. Declaration of Intent. The City Council hereby declares the intent of the City to issue the Bonds to provide funds to finance the costs of the Project, subject to the conditions set forth in this Resolution.

Section 3. Limited Obligations. The Bonds shall be limited, special revenue obligations payable solely out of payments, revenues and receipts derived from the lease of the Project by the City to the Company. The Bonds and the interest thereon shall not be a debt of the City or the State of Missouri, and neither the City nor the State shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

Section 4. Conditions to Issuance of Bonds. This Resolution constitutes a statement of intent of the City Council. The issuance of the Bonds and the execution and delivery of any documents related to financing the Project are subject, in the sole discretion of the City, to the following conditions:

- (a) approval by the City Council of a plan for industrial development in accordance with Section 100.050 of the Act;
- (b) authorization by ordinance of the City Council;
- (c) obtaining any other necessary governmental approvals for the Project;
- (d) agreement by the City, the Company and the purchaser of the Bonds on (1) mutually acceptable terms for the Bonds and for the sale and delivery thereof and (2) mutually acceptable terms and conditions of any documents related to the issuance of the Bonds and the Project, the sale of which Bonds is the sole responsibility of the Company; and
- (e) receipt by the City of satisfactory indemnification for all matters relating to the Project.

Section 5. Reimbursement for Project Costs. The Company is hereby authorized to proceed with the acquisition, construction and equipping of the Project, including the entering of contracts and purchase orders in connection therewith, and to advance such funds as may be necessary to accomplish such purposes. If the Bonds are issued, the Company may be reimbursed solely out of the proceeds thereof for expenditures paid or incurred in connection with the Project. Notwithstanding the foregoing, the issuance of the Bonds by the City is subject to the conditions in **Section 4** hereof.

Section 6. Sales Tax Relief. The City will provide a sales tax certificate (the "Certificate") for the purpose of enabling the Company to obtain sales tax exemption on all construction materials for the Project, upon (a) the issuance of the Bonds or (b) upon the Company's agreement to fully indemnify and protect the City from any judgments or actions arising from the use of the Certificate should the City not issue the Bonds for any reason.

Section 7. Notice to Taxing Districts. The City Clerk, on behalf of the City Council, shall send such notices as are required by the Act in connection with the issuance of the Bonds.

Section 8. Preparation of Documents. The City Attorney, Gilmore & Bell, P.C., as Bond Counsel, and the officers, employees and representatives of the City, are hereby authorized to work with the Company, its counsel and others, to prepare for submission to and final action by the City Council all documents necessary to effect the authorization, issuance and sale of the Bonds and other actions contemplated hereunder in connection with the financing of the Project.

Section 9. Further Authority. The City hereby authorizes and empowers the officers and representatives of the City to do all such acts and things and to execute, acknowledge and deliver all such documents as may in their discretion be deemed necessary or desirable in order to carry out or comply with the terms and provisions of this Resolution in connection with the structure and sale of the Bonds. All of the acts and undertakings of such officers and representatives which are in conformity with the intent and purposes of this Resolution, whether heretofore or hereafter taken or done shall be and the same are hereby in all respects, ratified, confirmed and approved.

Section 10. Cancellation. If for any reason the Bonds are not issued within one year after the date of adoption of this Resolution, this Resolution shall be deemed canceled, and neither party will thereafter have any rights under this Resolution against the other, except that the Company will reimburse the City for all fees and out-of-pocket expenses incurred by the City, its counsel and Bond Counsel in connection with the Project.

Section 11. Effective Date. This Resolution shall be in full force and effect from and after the date of its passage.

PASSED by the City Council of the City of Arnold, Missouri on this 21st day of February, 2019.

Presiding Officer of the City Council

Mayor Ron Counts

ATTEST:

City Clerk

Date

RESOLUTION NO. 19-12

**A RESOLUTION APPROVING THE PURCHASE OF THE BUDGETING
MODULE FOR THE OPENGOV FINANCIAL SYSTEM.**

WHEREAS, the City of Arnold is currently using OpenGov for advanced financial analysis and reporting; and

WHEREAS, OpenGov offers a budgeting module that the Finance Director and City Administrator believe will help with the preparation of the City's budget;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARNOLD, MISSOURI:

Section 1. The attached agreement with OpenGov to add the budgeting module is hereby approved and the Mayor and/or City Administrator are authorized to execute any necessary documents to complete the transaction.

Presiding Officer of the City Council

Mayor Ron Counts

ATTEST:

City Clerk Tammi Casey

Date: _____



OpenGov Inc. 955 Charter Street
 Redwood City, CA 94063
 United States

Order Form Number: OG-00003779
Created On: 2/8/2019
Order Form Expiration: 2/22/2019
Subscription Start Date: 4/1/2019
Subscription End Date: 3/31/2024

Prepared By: Alex Martinez
Email: alex.martinez@opengov.com
Contract Term: 5 Years

Customer Information		
Customer:	City of Arnold, MO	Contact Name: Bill Lehmann
Bill To/Ship To:	2101 Jeffco Blvd. Arnold, MO 63010 United States	Email: blehmann@arnoldmo.org Phone: 636-282-2383
		Billing Contact: Bill Lehmann Email: blehmann@arnoldmo.org 636-282-2383

Order Details	
Billing Frequency: Annual	Description: See Billing Table Below
Payment Terms: Net Thirty (30) Days	

SOFTWARE SERVICES:

Product / Service	Start Date	End Date	Annual Term	Annual Fee
Budget Builder, Management Reporting, Financial Integration (Year 1)	4/1/2019	3/31/2020	1	\$22,142.00
Budget Builder, Management Reporting, Financial Integration (Years 2-5)	4/1/2020	3/31/2024	4	\$26,692.00

Annual Subscription Total: See Billing Table

PROFESSIONAL SERVICES:

Product / Service	Description	Total
OpenGov Deployment — One Time Fee Basic Budget Builder Deployment	Product configuration and setup, training, and ongoing support to help organizations deploy and adopt the OpenGov solutions described above (See SOW attached).	

Professional Services Total: \$4,550.00

Billing Table:

Billing Date	Amount Due
April 1, 2019	\$26,692.00
April 1, 2020	\$26,692.00
April 1, 2021	\$26,692.00
April 1, 2022	\$26,692.00
April 1, 2023	\$26,692.00

Order Form Legal Terms

Welcome to OpenGov! Thanks for using our Software Services. This Order Form is entered into between OpenGov, Inc., with its principal place of business at 955 Charter Street, Redwood City, 94063 ("OpenGov"), and you, the entity identified above ("Customer"), as of the Effective Date. This Order Form includes and incorporates the OpenGov Software Services Agreement ("SSA") executed by the parties and attached, or if no such SSA is executed or attached, the SSA at <https://opengov.com/terms-of-service> and the applicable Statement of Work ("SOW") incorporated herein in the event Professional Services are purchased. The Order Form, SSA and SOW shall hereafter be referred to as the "Agreement". Unless otherwise specified above, fees for the Software Services and Professional Services shall be due and payable, in advance, on the Effective Date. By signing this Agreement, Customer acknowledges that it has reviewed, and agrees to be legally bound by, the OpenGov Terms and Conditions. Each party's acceptance of this Agreement is conditional upon the other's acceptance of the terms in the Agreement to the exclusion of all other terms.

City of Arnold, MO

Signature:

Name:

Title:

Date:

OpenGov, Inc.

Signature:

Name:

Title:

Date:

OPENGOV SOFTWARE SERVICES AGREEMENT

This Software Services Agreement (this “**Agreement**”) is entered into by OpenGov, Inc., a Delaware corporation with a principal place of business at 955 Charter Street, Redwood City, California 94063 (“**OpenGov**”) and the customer listed on the signature block below (“**Customer**”), as of the date of last signature below (the “**Effective Date**”). This Agreement sets forth the terms under which Customer will be permitted to use OpenGov’s hosted software services.

1. DEFINITIONS

“**Customer Data**” means data that is provided by Customer to OpenGov pursuant to this Agreement (for example, by email or through Customer’s software systems of record). Customer Data shall not include any confidential personally identifiable information.

“**Documentation**” means the documentation for the Software Services at the Customer Resource Center page found at <https://opengov.zendesk.com>.

“**Feedback**” means suggestions, comments, improvements, ideas, or other feedback or materials regarding the Software Services provided by Customer to OpenGov, including feedback provided through online developer community forums.

“**Initial Term**” means the initial license term specified in number of years on the Order Form, commencing on the Effective Date.

“**Intellectual Property Rights**” means all intellectual property rights including all past, present, and future rights associated with works of authorship, including exclusive exploitation rights, copyrights, and moral rights, trademark and trade name rights and similar rights, trade secret rights, patent rights, and any other proprietary rights in intellectual property of every kind and nature.

“**Order Form**” means OpenGov’s Software Services order form that: (a) specifies the Software Services provided by OpenGov; (b) references this Agreement; and (c) is signed by authorized representatives of both parties.

“**Renewal Term**” means each additional renewal period, which shall be for a period of equal duration as the Initial Term, for which this Agreement is extended pursuant to Section 7.2.

2. SOFTWARE SERVICES, SUPPORT AND PROFESSIONAL SERVICES

2.1 **Software Services.** Subject to the terms and conditions of this Agreement, OpenGov will use commercially reasonable efforts to perform the software services identified in the applicable Order Form entered into by OpenGov and Customer (“**Software Services**”).

2.2 **Support.** Customer support is available by email to support@opengov.com or by using the chat messaging functionality of the Software Services, both of which are available during OpenGov’s standard business hours. Customer may report issues any time. However, OpenGov will address issues during business hours.

2.3 **Professional Services.**

(a) If OpenGov or its authorized independent contractors provides professional services to Customer, such as implementation services, then these professional services will be described in a statement of work (“**SOW**”) agreed to by the parties (the “**Professional Services**”). For Professional Services performed on a time and materials basis, any pre-paid Professional Services Fees must be utilized within one (1) year from the Effective Date. Any unused pre-paid Professional Services Fees shall be forfeited.

(b) Unless the SOW provides otherwise, all reasonable travel expenses, pre-approved by Customer and incurred by OpenGov in performing the professional services will be reimbursed by Customer. Travel expenses include cost of coach airfare travel round trip from the individual’s location to Customer’s location, reasonable hotel accommodations, ground transportation and meals.

3. RESTRICTIONS AND RESPONSIBILITIES

3.1 **Restrictions.** Customer may not use the Software Services in any manner or for any purpose other than as expressly permitted by the Agreement. Customer shall not, and shall not permit or enable any third party to: (a) use or access any of the Software Services to build a competitive product or service; (b) modify, disassemble, decompile, reverse engineer or otherwise make any derivative use of the Software Services (except to the extent applicable laws specifically prohibit such restriction); (c) sell, license, rent, lease, assign, distribute, display, host, disclose, outsource or otherwise commercially exploit the copy, rent, lease, distribute, assign, sell, or otherwise commercially exploit the Software Services; (d) perform or disclose any benchmarking or performance testing of the Software Services; (e) remove any proprietary notices included with the Software Services; (f) use the Software Services in violation of applicable law; or (g) transfer any confidential personally identifiable information to OpenGov or the Software Services platform.

3.2 **Responsibilities.** Customer shall be responsible for obtaining and maintaining computers and third party software systems of record (such as Customer's ERP systems) needed to connect to, access or otherwise use the Software Services. Customer also shall be responsible for: (a) ensuring that such equipment is compatible with the Software Services, (b) maintaining the security of such equipment, user accounts, passwords and files, and (c) all uses of Customer user accounts by any party other than OpenGov.

4. INTELLECTUAL PROPERTY RIGHTS; LICENSE GRANTS; ACCESS TO CUSTOMER DATA

4.1 **Software Services.** OpenGov retains all right, title, and interest in the Software Services and all Intellectual Property Rights in the Software Services. The look and feel of the Software Services, including any custom fonts, graphics and button icons, are the property of OpenGov and Customer may not copy, imitate, or use them, in whole or in part, without OpenGov's prior written consent. Subject to Customer's obligations under this Agreement, OpenGov hereby grants to Customer a non-exclusive, royalty-free license during the Term to use the Software Services.

4.2 **Customer Data.** Customer retains all right, title, and interest in the Customer Data and all Intellectual Property Rights therein. Customer hereby grants to OpenGov a non-exclusive, royalty-free license to, and permit its partners to, use, store, edit and reformat the Customer Data, and to use Customer Data for purposes of sales, marketing, business development, product enhancement, customer service, or for analyzing such data and publicly disclosing such analysis ("**Insights**"), provided that in all such uses Customer Data is rendered anonymous such that Customer is no longer identifiable.

4.3 **Access to Customer Data.** Customer may download the Customer Data from the Software Services at any time during the Term, other than during routine software maintenance periods. OpenGov has no obligation to return Customer Data to Customer.

4.4 **Feedback.** Customer hereby grants to OpenGov a non-exclusive, royalty-free, irrevocable, perpetual, worldwide license to use and incorporate into the Software Services and Documentation Customer's Feedback. OpenGov will exclusively own any improvements or modifications to the Software Services and Documentation based on or derived from any of Customer's Feedback including all Intellectual Property Rights in and to the improvements and modifications.

5. CONFIDENTIALITY

5.1 Each party (the "**Receiving Party**") agrees not to disclose any Confidential Information of the other party (the "**Disclosing Party**") without the Disclosing Party's prior written consent, except as provided below. The Receiving Party further agrees: (a) to use and disclose the Confidential Information only in connection with this Agreement; and (b) to protect such Confidential Information using the measures that Receiving Party employs with respect to its own Confidential Information of a similar nature, but in no event with less than reasonable care. Notwithstanding the above, the Receiving Party may disclose Confidential Information to the extent required by law or court order, provided that prior written notice of such required disclosure and an opportunity to oppose or limit disclosure is given to the Disclosing Party.

5.2 "**Confidential Information**" means all confidential business, technical, and financial information of the disclosing party that is marked as "Confidential" or an equivalent designation or that should reasonably be understood to be confidential given the nature of the information and/or the circumstances surrounding the

disclosure (including the terms of the applicable Software Agreement). OpenGov's Confidential Information includes, without limitation, the software underlying the Software Services and all Documentation.

5.3 Notwithstanding the foregoing, "Confidential Information" does not include: (a) "**Public Data**," which is data that the Customer has previously released to the public, would be required to release to the public, upon request, according to applicable federal, state, or local public records laws, or Customer requests OpenGov make available to the public in conjunction with the Software Services. Confidential Information does not include (b) information that has become publicly known through no breach by the receiving party; (c) information that was rightfully received by the Receiving Party from a third party without restriction on use or disclosure; or (d) information independently developed by the Receiving Party without access to the Disclosing Party's Confidential Information.

6. PAYMENT OF FEES

6.1 Fees; Invoicing; Payment; Expenses.

(a) Fees. The fees for the Software Services for the Initial Term and any Renewal Term ("**Software Services Fees**") and the fees for Professional Services ("**Professional Services Fees**") are set forth in the applicable Order Form. Software Services Fees and Professional Services Fees shall hereafter be referred to as "**Fees**".

(b) Inflation Adjustment. OpenGov shall increase the Fees payable for the Software Services during any Renewal Term by 4% each year of the Renewal Term.

(c) Invoicing and Payment. OpenGov will invoice the Customer according to the Billing Frequency listed on the Order Form. Customer shall pay all invoices according to the Payment Terms listed on the Order Form.

(d) Travel Expenses. Unless the SOW provides otherwise, OpenGov will invoice Customer for pre-approved travel expenses incurred in connection with each SOW as they are incurred. Customer shall pay all such valid invoices within thirty (30) days of receipt of invoice. Each invoice shall include receipts for the travel expenses listed on the invoice.

6.2 Credit Card Customers. If applicable, Customer will provide OpenGov with valid credit card information and promptly notify OpenGov of any changes necessary to charge the credit card at billing@opengov.com. Please update your credit card information when necessary. The provision of credit card information to OpenGov authorizes OpenGov to charge the credit card for all applicable Fees plus a 3% credit card processing fee. OpenGov processes credit card payments through a secure third party processing partner and does not take receipt of credit card information itself.

6.3 Taxes. All Fees under this Agreement are exclusive of any applicable sales, value-added, use or other taxes ("**Sales Taxes**"). Customer is solely responsible for any and all Sales Taxes, not including taxes based solely on OpenGov's net income. If any Sales Taxes related to the Fees under this Agreement are found at any time to be payable, the amount may be billed by OpenGov to, and shall be paid by, Customer. If Customer fails to pay any Sales Taxes, then Customer will be liable for any related penalties or interest, and will indemnify OpenGov for any liability or expense incurred in connection with such Sales Taxes. In the event Customer or the transactions contemplated by the Agreement are exempt from Sales Taxes, Customer agrees to provide OpenGov, as evidence of such tax exempt status, proper exemption certificates or other documentation acceptable to OpenGov.

7. TERM & TERMINATION

7.1 Term. Subject to compliance with all terms and conditions, the term of this Agreement shall commence on the Effective Date and shall continue until the Subscription End Date specified on the Order Form (the "**Initial Term**").

7.2 Renewal. Unless either party terminates this Agreement in writing no less than thirty (30) days before the end of the Initial Term, this Agreement shall renew for another period of the same duration as the Initial Term (the "**Renewal Term**" and together with the Initial Term, the "**Term**").

7.3 Termination. If either party materially breaches any term of this Agreement and fails to cure such breach within thirty (30) days after notice by the non-breaching party (ten (10) days in the case of non-payment), the non-breaching party may terminate this Agreement.

7.4 Effect of Termination.

(a) In General. Upon termination or expiration of this Agreement: (a) Customer shall pay in full for all Software Services and Professional Services performed up to and including the effective date of termination, (b) all Software Services provided to Customer hereunder shall immediately terminate; and (c) each party shall return to the other party or, at the other party's option, destroy all Confidential Information of the other party in its possession.

(b) Deletion of Customer Data. If Customer requests deletion of its Customer Data in writing prior to the date of termination or expiration of this Agreement, then OpenGov will permanently and irrevocably delete Customer Data, excluding any Insights, stored by its cloud hosting provider within ten (10) days of the date of termination or expiration of this Agreement. Such request must be addressed to "OpenGov Vice President, Customer Success" at OpenGov's address for notice described at Section 10.

7.5 Survival. The following sections of this Agreement shall survive termination: Section 5 (Confidentiality), Section 6 (Payment of Fees), Section 7.4(b) (Deletion of Customer Data), Section 8.3 (Warranty Disclaimer), Section 9 (Limitation of Liability) and Section 10 (Miscellaneous).

8. REPRESENTATIONS AND WARRANTIES; DISCLAIMER

8.1 By OpenGov.

(a) General Warranty. OpenGov represents and warrants that: (i) it has all right and authority necessary to enter into and perform this Agreement; and (ii) the Professional Services, if any, will be performed in a professional and workmanlike manner in accordance with the related statement of work and generally prevailing industry standards. For any breach of the Professional Services warranty, Customer's exclusive remedy and OpenGov's entire liability will be the re-performance of the applicable services. If OpenGov is unable to re-perform all such work as warranted, Customer will be entitled to recover all fees paid to OpenGov for the deficient work. Customer must make any claim under the foregoing warranty to OpenGov in writing within ninety (90) days of performance of such work in order to receive such warranty remedies.

(b) Software Services Warranty. OpenGov further represents and warrants that for a period of ninety (90) days, the Software Services will perform in all material respects in accordance with the Documentation. The foregoing warranty does not apply to any Software Services that have been used in a manner other than as set forth in the Documentation and authorized under this Agreement. OpenGov does not warrant that the Software Services will be uninterrupted or error-free. Any claim submitted under this Section 8.1(b) must be submitted in writing to OpenGov during the Term. OpenGov's entire liability for any breach of the foregoing warranty is to repair or replace any nonconforming Software Services so that the affected portion of the Software Services operates as warranted or, if OpenGov is unable to do so, terminate the license for such Software Services and refund the pre-paid, unused portion of the Fee for such Software Services.

8.2 By Customer. Customer represents and warrants that (i) it has all right and authority necessary to enter into and perform this Agreement; and (ii) OpenGov's use of the Customer Data pursuant to this Agreement will not infringe, violate or misappropriate the Intellectual Property Rights of any third party.

8.3 Disclaimer. OPENGOV DOES NOT WARRANT THAT THE SOFTWARE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SOFTWARE SERVICES. EXCEPT AS SET FORTH IN THIS SECTION 8, THE SOFTWARE SERVICES ARE PROVIDED "AS IS" AND OPENGOV DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

9. LIMITATION OF LIABILITY

9.1 By Type. NEITHER PARTY, NOR ITS SUPPLIERS, OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS OR EMPLOYEES, SHALL BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES; OR (C) FOR

ANY MATTER BEYOND SUCH PARTY'S REASONABLE CONTROL, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

9.2 By Amount. IN NO EVENT SHALL EITHER PARTY'S AGGREGATE, CUMULATIVE LIABILITY FOR ANY CLAIMS ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT EXCEED THE FEES PAID BY CUSTOMER TO OPENGOV (OR, IN THE CASE OF CUSTOMER, PAYABLE) FOR THE SOFTWARE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY.

9.3 Limitation of Liability Exclusions. The limitations of liability set forth in Sections 9.1 and 9.2 above do not apply to, and each party accepts liability to the other for: (a) claims based on either party's intentional breach of its obligations set forth in Section 5 (Confidentiality), (b) claim arising out of fraud or willful misconduct by either party and (c) either party's unauthorized use, distribution, or disclosure of the other party's intellectual property.

9.4 No Limitation of Liability by Law. Because some jurisdictions do not allow liability or damages to be limited to the extent set forth above, some of the above limitations may not apply to Customer.

10. MISCELLANEOUS

10.1 Logo Use. OpenGov shall have the right to use and display Customer's logos and trade names for marketing and promotional purposes in connection with OpenGov's website and marketing materials, subject to Customer's trademark usage guidelines provided to OpenGov.

10.2 Notice. Ordinary day-to-day operational communications may be conducted by email, live chat or telephone communications. However, for notices required by the Agreement (in Sections where the word "notice" appears) the parties must communicate more formally in a writing given by personal delivery, by pre-paid first-class mail or by overnight courier to the address specified in the most recent Order Form (or such other address as may be specified in writing in accordance with this Section).

10.3 Anti-corruption. OpenGov has not offered or provided any bribe, kickback, illegal or improper payment, gift, or thing of value to any Customer personnel in connection with the Agreement, other than reasonable gifts and entertainment provided Customer in the ordinary course of business. If OpenGov become aware of any violation of the above restriction then OpenGov shall promptly notify Customer.

10.4 Injunctive Relief. The parties acknowledge that any breach of the confidentiality provisions or the unauthorized use of a party's intellectual property may result in serious and irreparable injury to the aggrieved party for which damages may not adequately compensate the aggrieved party. The parties agree, therefore, that, in addition to any other remedy that the aggrieved party may have, it shall be entitled to seek equitable injunctive relief without being required to post a bond or other surety or to prove either actual damages or that damages would be an inadequate remedy.

10.5 Force Majeure. Neither party shall be held responsible or liable for any losses arising out of any delay or failure in performance of any part of this Agreement, other than payment obligations, due to any act of god, act of governmental authority, or due to war, riot, labor difficulty, failure of performance by any third-party service, utilities, or equipment provider, or any other cause beyond the reasonable control of the party delayed or prevented from performing.

10.6 Severability; Waiver. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. Any express waiver or failure to exercise promptly any right under this Agreement will not create a continuing waiver or any expectation of non-enforcement. There are no third-party beneficiaries to this Agreement.

10.7 Assignment. Except as set forth in this Section, neither party shall assign, delegate, or otherwise transfer this Agreement or any of its rights or obligations to a third party without the other party's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. Either party may assign, without such consent but upon written notice, its rights and obligations under this Agreement to: (i) its corporate affiliate; or (ii) any entity that acquires all or substantially all of its capital stock or its assets related to this Agreement, through purchase, merger, consolidation, or otherwise. Any other attempted assignment shall be void. This Agreement shall inure to the benefit of and bind each party's permitted assigns and successors.

10.8 Independent Contractors. No agency, partnership, joint venture, or employment is created as a result of this Agreement and neither party has any authority of any kind to bind the other party in any respect.

10.9 Attorneys' Fees. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees.

10.10 Governing Law and Jurisdiction. This Agreement shall be governed by the laws of the State of California without regard to its conflict of laws provisions. Exclusive jurisdiction for litigation of any dispute, controversy or claim arising out of or in connection with this Agreement shall be only in the Federal or State court with competent jurisdiction located in San Mateo County, California, and the parties hereby submit to the personal jurisdiction and venue therein.

10.11 Complete Agreement. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications, and other understandings relating to the subject matter of this Agreement. No modification of this Agreement will be binding, unless in writing and signed by an authorized representative of each party.

Signatures

Customer:	_____	OPENGOV, INC.
Signature:	_____	Signature: _____
Name:	_____	Name: _____
Title:	_____	Title: _____
Date:	_____	Date: _____

RESOLUTION NO. 19-13

A RESOLUTION OPPOSING ANY STATEWIDE VOTE OR LEGISLATIVE MANDATE ON GOVERNMENTAL REORGANIZATION REGARDING THE CITY OF ST. LOUIS AND ST. LOUIS COUNTY AND THE MUNICIPALITIES THEREIN.

WHEREAS, the Missouri Constitution outlines a process for the residents of St. Louis City and St. Louis County to vote on their governmental structure through the establishment of a Board of Freeholders by petition or appointment by the County Executive, Mayor of St. Louis, and Governor of Missouri; and

WHEREAS, some Missourians may seek a statewide vote on a constitutional amendment to bypass the voters of St. Louis City and St. Louis County; and

WHEREAS, a statewide vote on such an important matter of local government structure would set a precedent that could lead to subsequent statewide votes mandating the consolidation of counties, school districts, and other political subdivisions throughout Missouri, against the wishes of voters in those political subdivisions; and

WHEREAS, in 1962, the voters of Missouri overwhelmingly rejected, by a vote of 74% to 26%, a constitutional amendment to merge the governments of St. Louis and St. Louis County; and

WHEREAS, the appropriate way for those wishing to change the structure of St. Louis City and County government is to convince the voters of St. Louis City and County of the benefits of such changes, not to convince voters elsewhere in Missouri; and

WHEREAS, the St. Louis County Council, which governs the largest county in the state of Missouri with nearly one million residents, and the Board of Aldermen of the City of St. Louis, which governs the second-largest city in the state of Missouri with over 315,000 residents, should have a major voice in all discussions of St. Louis regional governance; and

WHEREAS, the governing bodies of all municipalities in St. Louis County should also have significant involvement in any such discussions to advance the best interests of their residents; and

WHEREAS, the St. Louis County Council and 57 of the 89 municipalities in St. Louis County have passed resolutions opposing a statewide vote on a constitutional amendment to change the structure of St. Louis City and County government:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARNOLD, MISSOURI:

Section 1. The City of Arnold opposes any statewide vote or legislative mandate on governmental reorganization regarding the City of St. Louis and St. Louis County and the municipalities therein.

Section 2. The City of Arnold does not take a position on whether St. Louis City and St. Louis County should consolidate or should otherwise change their government structure.

Section 3. The City of Arnold supports the people of St. Louis City and St. Louis County having a productive discussion about the reorganization and/or consolidation of their governments and improving their regional governance however they best see fit.

Presiding Officer of the City Council

Mayor Ron Counts

ATTEST:

City Clerk Tammi Casey

Date: _____