

January 10, 2017

JOURNAL OF THE BOARD OF ALDERMEN OF THE CITY OF PERRYVILLE, PERRY COUNTY, MISSOURI.

The Board of Aldermen of the City of Perryville, Perry County, Missouri, met at City Hall in said City on the above date in regular session pursuant to adjournment. Present: Ken Baer, Mayor; Curt Buerck, Tom Guth, Prince Hudson, Douglas Martin, Larry Riney, and Gary J. Schumer, Aldermen; Brent Buerck, City Administrator; Tracy Prost, City Clerk; and Thomas Ludwig, City Attorney.

Mayor Baer opens the meeting with the Pledge of Allegiance and invocation.

Mayor Baer now opens the meeting for citizens' participation from the floor.

Mr. Mark Hotop, of 105 East Ste. Marie Street, expresses his concerns about the amount of litter and candy left along parade routes. He suggests that the organization sponsoring the parade be responsible for cleaning up the streets afterwards. Mr. Hotop also expresses his concerns regarding the streets closed during the Mayfest. He distributes a map with street closings and states that the street closings make it difficult for customers to get to his business and also make it difficult for him to make deliveries. He also notes that the closed streets cause problems for emergency vehicles to get across town.

The Board will take these comments under advisement.

There being no one else coming forth, Mayor Baer closes the citizens' participation portion of the meeting.

Public Works Director Brown introduces newly hired Public Works employee, Nicholas Clifton.

Mayor Baer now opens a public hearing for a request from Ruth Pohlman to rezone Lots 1 and 2 of the Werner Subdivision, 1st Addition, from R-1 Single Family Residential to R-4 Two-Family Residential for the construction of a duplex on each lot.

City Administrator Buerck explains that Ms. Pohlman would like to rezone Lots 1 and 2 of the Werner Subdivision, 1st addition, located at the end of Michael Street, west of Bruce Street from R-2 Single Family Residential to R-4 Two-Family Residential. He notes that the property is surrounded by a C-2 General Commercial zone, MH Mobile Home zone, and R-2 Single Family Residential zone. He informs the Board that, if the property is rezoned, it will be used for duplexes. He informs the Board that the request was met with resistance by the neighborhood and, therefore, the request was not supported by P&Z.

There being no one else coming forth, Mayor Baer closes the public hearing for a request from Ruth Pohlman to rezone Lots 1 and 2 of the Werner Subdivision, 1st Addition, from R-1 Single Family Residential to R-4 Two-Family Residential for the construction of a duplex on each lot.

Mayor Baer now opens a public hearing for a request from Luis Talamantes for a special use permit at 411 Mulberry Lane to hold conceal and carry classes.

City Administrator Buerck informs the Board that Mr. Talamantes would like to hold conceal and carry classes on his property located at 411 Mulberry Lane. He has recently been certified as an instructor by the NRA. He has stated that the range portion of the training would be held off-site. This concept was met with resistance by the neighborhood and the request was not supported by P&Z.

Mr. Luis Talamantes presents a petition to the Board of Aldermen signed by 42 individuals expressing support for his special use permit request. He informs the Board that he plans to hold classes in his home on Saturdays about once a month for approximately 12 students per class. He states that

students will not be allowed to bring firearms into his house and that the firearms practice will take place at a firing range at another location.

Those people present who offer comments on this special use permit are:

- Joanne Ernsting of 207 Old Pine Drive – States that she has taken a class from Mr. Talamantes and supports his request;
- Ray Mehner of 114 Briar Drive – States that he is opposed to the special use permit because the subdivision has restrictions regarding opening businesses in the subdivision, and he also expresses his concerns about the additional traffic in the subdivision;
- Nancy House of 110 Raven Lane – States she is in favor of the special use permit, noting that there is adequate off-street parking and stating that the additional traffic would be no more than someone having a party at their home;
- Sandy Walker – States that she will be moving to the subdivision in March and expresses her support of the special use, stating that she does not feel that traffic should be an issue and suggests that it would not be more than someone having a yard sale once a month;
- Jackie Patton of 107 Rambling Hills – States that Mr. Talamantes was very respectful when he let the neighbors know his plans and he supports the special use permit;
- Orville Baer of 104 Raven Lane – States he supports the special use permit request and has no problem with the additional traffic. Mr. Baer then informs the Board that a City of Perryville Police Officer who lives in the neighborhood continues to park his vehicle along a turn in the street, causing a nuisance;
- Frank Ryan of 412 Mulberry – States that he has no issue with the request or the additional traffic;
- Terry Keller of 115 Briar Drive – Expresses his concerns about additional traffic in the neighborhood.

Alderman Martin, Chairman of the Liaison Committee informs the Board that he was present at the Planning & Zoning Committee meeting. He noted that the reason the Planning & Zoning Commission suggested to deny the request was because there were several people present who were against the special use permit.

Alderman Hudson informed the Board that he was contacted by Mr. Mike Warren. Mr. Warren lives in the neighborhood and expressed his support of the request.

There being no one else coming forth, Mayor Baer closes the public hearing for a request from Luis Talamantes for a special use permit at 411 Mulberry Lane to hold conceal and carry classes

CONSENT AGENDA ITEMS

6. Approve minutes from meeting of December 20, 2016.
7. Approve bills for December, 2016.

At this time Alderman Riney, Chairman of the Finance Committee, presents the following bills and invoices for the month of December, 2016, vendor checks numbered 103011 – 103106 and 103116 - 103299, and 7 ACH transfers; payroll checks numbered: 657719 - 657768.

The following bills are presented to be paid for the month of December, 2016. Board finds that \$379,489.94 is chargeable to and payable out of the General Revenue Account; \$55,044.48 is out of Transportation Trust; \$121,683.59 is out of Perry Park Center; \$430.25 is out of Veterans Memorial Field; \$1,400.00 is out of Ball Field Improvements; \$754.12 is out of TIF #1; \$3,942.50 is out of TIF #2; \$2,334.21 is out of TIF #3; \$12,652.75 is out of Street Improvement; \$100.00 is out of Debt Service; \$63,173.15 is out of Refuse; \$194,325.91 is out of CWSS; and \$368,789.05 is out of Gas Operation. The Board, upon investigation, found the sum to be \$1,204,119.95.

8. Approve request from Mary Jane Burgers & Brew and Main Street Signs to hold the 4th Annual Polar Beer 5K Run on March 11, 2017.
9. Approve Pay Application 4 to Control Technology Solutions relative to Perry Park Center Energy Efficiency Project - \$757,998.55.
10. Correction to Part-Time Pay Plan.
11. Approve letter of notice to retain current ISO rating.

END OF CONSENT AGENDA

At this time, Mayor Baer asks if anyone wishes to remove anything from the Consent Agenda.

Item #11 – Alderman Schumer asks staff to speak with the Cape Girardeau Building Inspector and contractors regarding the code changes. He states that he believes that some of the changes are very stringent and he does not want to deter contractors from building in Perryville. City Administrator Buerck states that the proposed changes will be presented to the Board and that the Board can pick and choose the changes they want to adopt.

Alderman Buerck presents motion to approve the Consent Agenda. Alderman Riney seconds the motion, and on vote the motion passes.

At this time, the Board of Aldermen review the request from Ruth Pohlman to rezone Lots 1 and 2 of the Werner Subdivision, 1st Addition, from R-1 Single Family Residential to R-4 Two-Family Residential for the construction of a duplex on each lot.

Alderman Schumer expresses his concerns that the Planning & Zoning Committee meetings have become the place for the public hearing rather than at the Board of Aldermen meeting, noting that no one has appeared at this public hearing for this matter; however, people were present at the Planning & Zoning Committee meeting. He suggests that the Planning & Zoning Commission should base their decision on the legal aspect of the request rather than public opinion or sentiment.

Alderman Martin informs the Board that a petition against the rezoning request was signed by 30 people and presented at the Planning & Zoning Committee meeting.

City Attorney Ludwig comments that the Planning & Zoning Commission should be looking at exceptions in the statutes and that the public hearings should be held at the Board of Aldermen meetings.

After further discussion and review, Alderman Buerck presents motion to approve the recommendation from the Planning & Zoning Commission to deny the rezoning request from Ruth Pohlman to rezone Lots 1 and 2 of the Werner Subdivision, 1st Addition, from R-1 Single Family Residential to R-4 Two-Family Residential for the construction of a duplex on each lot. Alderman Martin seconds the motion. Roll call showed the aye and nay vote as follows: Curt Buerck, aye; Tom Guth, aye; Prince Hudson, aye; Douglas K. Martin, aye; Larry Riney, aye; Gary J. Schumer, aye. Totals: aye, six; nay, none. Motion carries.

At this time, the Board reviews the request from Luis Talamantes for a special use permit at 411 Mulberry Lane to hold conceal and carry classes.

Alderman Hudson states that he agrees that conceal and carry classes are needed in the area. Alderman Buerck expresses his concerns that the subdivision regulations state that the residents in the subdivision cannot open a business out of their home. City Administrator Buerck informs the Board that the City does not enforce subdivision contracts; noting that the neighbors would have to do that through a civil suit. Alderman Schumer questions whether or not Mr. Talamantes' property is part of the subdivision

regulations since the previous owner was the developer of the subdivision and ran his own business out of the property currently under discussion.

Alderman Schumer suggests that the class could be considered a school, which is allowed in every zone, but suggests that conditions be included if the request is approved. The Board then discusses possible restrictions, such as classes held only one weekend a month; class size limited to 12; the special use permit be reviewed in two years.

After further discussion and review, Alderman Schumer makes a motion to authorize City staff to work with Mr. Talamantes to prepare an ordinance with restrictions as reviewed above. Alderman Hudson seconds the motion, and on vote the motion carries.

The Board of Aldermen now reviews proposed schedule policies for the Building Department and for the Utility Billing Department. City Administrator Buerck states that it is important that we have a standard to communicate with our customers regarding building department inspections and utility service work. Public Works Director Brown informs the Board that it is staff's goal to perform services as quickly as possible; however, sometimes it isn't possible and these policies will give our contractors and residents some parameters and guarantees.

After further discussion and review, it is the consensus of the Board of Aldermen that staff prepare resolutions regarding these policies for their approval at the January 24th meeting.

The Board now reviews proposed modifications to Chapter 15 of the Code of Ordinances relative to issuance of liquor licenses. City Administrator Buerck notes that this matter was discussed previously with the Board and cursory approval was given. He states that these changes will allow staff to simply issue liquor licenses based on the rules and criteria established by the Board of Aldermen instead of bringing each permit to the Board. Staff believes this will result in a more efficient process and better customer service.

After discussion and review, it is the consensus of the Board to authorize staff to prepare an ordinance with these modifications to the City's code regarding liquor license approval.

The Board now reviews a draft ordinances defining "Grandfathering." City Administrator Buerck states that the "grandfathering" term relative to zoning violations can serve as a point of confusion for staff and citizens alike. He explains that, legally the unacceptable use terminates when the property changes owners; however, in reality, such changes are not always known to City staff and are difficult, at best, to enforce after the fact. The proposed ordinance will do two things for the City of Perryville. First, it will clearly define the concept of grandfathering. Second, it will provide an avenue for staff to better communicate these exceptions to potential buyers by registering notice with the recorder of deeds by way of a "Memorandum of Nonconforming Use." This notice will then show up anytime there is a title search on the property.

During discussion, the Board reviews nonconforming uses such as Winkler Wrecker Service's salvage yard on St. Joseph Street and Andy's Garage's salvage yard on Spring Street. City Administrator Buerck states that it is hoped that the proposed process will help with any future sales of those properties.

After further discussion and review, it is the consensus of the Board of Aldermen to place this ordinance on the January 24th agenda.

City Administrator Buerck presents a letter of intent regarding the Perryville Higher Education Center sign, stating that the Board of Aldermen previously discussed and approved the City accepting ownership of the Perryville Higher Education Center Sign. He notes that City Attorney Ludwig has worked with the Higher Education Board regarding this matter and determined the letter is the best way to accomplish this transfer of ownership, and, since there will be no corresponding contract or deed, staff wanted the Board to approve this letter prior to it being sent. The essence of the letter is as follows:

"To Kim Moore on behalf of the Perryville Higher Education Center:

Let this letter confirm our conversation wherein the following points were agreed to between us:

- Southeast Missouri State University will no longer be involved in the Edgemont Sign Location.
- Currently sign updates are handled by Mineral Area College and that will continue to be the case until the Perryville Higher Education Center Board and the City establish a different procedure. The City will continue to be able to post messages to the sign through Mineral Area College staff.
- The City will be responsible for the utilities, upkeep, and maintenance of the Edgemont Sign Location.
- The City will accept all ownership and maintenance responsibilities of the Edgemont Sign Location.
- The City will make changes to the Edgemont Sign Location as it deems fit including technological changes to the sign as those become available and affordable.
- Before transfer of ownership the Perryville Higher Education Center Board will utilize funds held by it to install City and other community logos as per the original plan and agreement.”

After discussion and review, Alderman Schumer makes a motion to approve the Letter of Intent relative to the Perryville Higher Education Center sign. Alderman Riney seconds the motion, and on vote the motion carries.

SECOND READING AND FINAL PASSAGE:

Now, at this time, the Board proceeds to approve Bill No. 5612, AN ORDINANCE AMENDING TITLE 8, CHAPTER 8.20, OF THE CODE OF ORDINANCES OF THE CITY OF PERRYVILLE, MISSOURI, RELATIVE TO NUISANCES; AND REPEALING ALL ORDINANCES IN CONFLICT THEREWITH . Bill No. 5612 is read a second time on motion by Alderman Martin, seconded by Alderman Buerck. Thereupon on motion by Alderman Buerck, seconded by Alderman Martin, and on vote carried, it is ordered that the bill be placed on final passage. Roll call showed the aye and nay vote as follows: Curt Buerck, aye; Tom Guth, aye; Prince Hudson, aye; Douglas K. Martin, aye; Larry Riney, aye; Gary J. Schumer, aye. Totals: aye, six; nay, none. The Mayor thereupon declared the bill passed and approved and the bill thereupon became Ordinance No. 5834 of the City of Perryville, and is in words and figures as follows:

BILL NO. 5612

ORDINANCE NO. 5834

AN ORDINANCE AMENDING TITLE 8, CHAPTER 8.20, OF THE CODE OF ORDINANCES OF THE CITY OF PERRYVILLE, MISSOURI, RELATIVE TO NUISANCES; AND REPEALING ALL ORDINANCES IN CONFLICT THEREWITH.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF PERRYVILLE, MISSOURI, AS FOLLOWS:

Section 1. That Title 8, Chapter 8.20, Article 1, Section 8.20.010, of the Code of Ordinances of the City of Perryville, Missouri, is hereby amended to read as follows:

“8.20.010 Purpose and findings.

The mayor and board of aldermen of the city find that unkept, unsafe, unsanitary and otherwise improperly maintained premises and structures, sidewalks and easements within the city, in addition to the obvious hazards which these conditions pose to the public health, safety and welfare adversely affect the value, utility and habitability of property within

the city as a whole and specifically cause substantial damage to adjoining and nearby property. A property which is merely unkept may reduce the value of adjoining property by more than thirty (30) percent and a significant number of properties which are unkept, unsightly and dangerous may materially affect the habitability and economic well-being of the overall city. This chapter conveys to the city administration, in accordance with the procedures set out below, all necessary and proper powers to abate nuisances and other improperly maintained structures and properties as they are described or found to exist and to charge the costs of their abatement to those responsible, the owners and occupants of the property upon which nuisances exist, and those properties themselves. This chapter is an exercise of the city's police power and it shall be liberally construed to effect this purpose."

Section 2. That Title 8, Chapter 8.20, Article 1, Section 8.20.030, of the Code of Ordinances of the City of Perryville, Missouri, is hereby amended by amending the definition of "Junk" to read as follows:

"8.20.030 Definitions.

* * *

'Junk' means any metal, glass, paper, rags, wood, machinery, parts, rubbish, debris, cloth or other waste or discarded material of any nature or substance whatsoever, or any scrap or salvage materials."

Section 3. That Title 8, Chapter 8.20, Article 1, Section 8.20.030, of the Code of Ordinances of the City of Perryville, Missouri, is hereby amended by amending the definition of "Nuisance" at Paragraph 3 to read as follows:

"8.20.030 Definitions.

* * *

'Nuisance' includes:

* * *

3. An attractive nuisance, whether in or on a building, a building premises or an unoccupied lot and whether realty, fixture or chattel, which might reasonably be expected to attract children and constitute a danger to them including, but not limited to, abandoned wells, ice boxes or refrigerators, shafts, basements or other excavations, abandoned or inoperative vehicles or other equipment, structurally unsound fences or other fixtures, lumber, fencing, vegetation or other debris;"

Section 4. That Title 8, Chapter 8.20, Article 1, Section 8.20.030, of the Code of Ordinances of the City of Perryville, Missouri, is hereby amended by adding the definition of "Tenant" to read as follows:

"8.20.030 Definitions.

* * *

'Tenant' means any person or corporation that rents or leases property, in whole or in part, from the owner."

Section 5. That Title 8, Chapter 8.20, Article 1, Section 8.20.040, Subsection B, of the Code of Ordinances of the City of Perryville, Missouri, is hereby amended to read as follows:

“8.20.040 Building inspections—Notice of hearing.

* * *

- B. Procedure. Whenever a complaint is made to the director regarding the existence of an unfit or substandard building, the director shall promptly cause the building to be inspected. Upon the discovery of an unfit or substandard building, the inspecting officer shall submit a written report of the building to the director and a hearing will be scheduled for a determination of the building fitness. Photographs and findings shall be included in the report.”

Section 6. That Title 8, Chapter 8.20, Article 1, Section 8.20.065, of the Code of Ordinances of the City of Perryville, Missouri, is hereby amended to read as follows:

“8.20.065 Offense of failure to abate a nuisance.

Any owner or tenant who fails to abate a nuisance within ten (10) days of notice under this chapter shall be guilty of the offense of failure to abate a nuisance and shall be punished in accordance with Section 1.16.010 of this code. Punishment under this section shall be in addition to all other civil or administrative remedies set forth in this chapter.”

Section 7. That Title 8, Chapter 8.20, Article 1, Section 8.20.070, Subsection B, Paragraph 14, of the Code of Ordinances of the City of Perryville, Missouri, is hereby amended to read as follows:

“8.20.070 Public nuisance defined.

* * *

14. Any container manufactured, custom-made or homemade designed for storage which is stored, discarded, abandoned or left in any place accessible to children and which has not had the door or latching mechanism removed to prevent the latching or locking of the door;”

Section 8. That Title 8, Chapter 8.20, Article 1, Section 8.20.070, Subsection B, Paragraph 17, of the Code of Ordinances of the City of Perryville, Missouri, is hereby amended to read as follows:

“8.20.070 Public nuisance defined.

* * *

17. Weeds or plants grown in excess of seven (7) inches in height on property and adjoining easements or rights-of-way. ‘Weeds’ shall be defined as all grasses, annual plants and vegetation, other than trees or decorative shrubs, cultivated flowers, ornamentals and garden plants. Vegetation harmful or irritating to the human touch shall be removed including poison ivy, poison oak and poison sumac;”

Section 9. That Title 8, Chapter 8.20, Article 1, Section 8.20.070, Subsection B, Paragraph 21, of the Code of Ordinances of the City of Perryville, Missouri, is hereby amended to read as follows:

“8.20.070 Public nuisance defined.

* * *

21. Any outdoor publicly visible storage of items including, but not limited to, tools, equipment, machinery, nonworking automobiles, parts of derelict cars or trucks, household appliances and broken furniture;”

Section 10. That Title 8, Chapter 8.20, Article 1, Section 8.20.070, Subsection B, Paragraph 22, of the Code of Ordinances of the City of Perryville, Missouri, is hereby DELETED IN ITS ENTIRETY **and all subsequent paragraphs shall be renumbered accordingly.**

Section 11. That Title 8, Chapter 8.20, Article 1, Section 8.20.070, Subsection B, Paragraph 24 (**which will be renumbered by the codifier as Paragraph 23**), of the Code of Ordinances of the City of Perryville, Missouri, is hereby amended to read as follows:

“8.20.070 Public nuisance defined.

* * *

24. Inoperable, wrecked, damaged or demolished motor vehicle, whether licensed or unlicensed, or junk as defined herein which is left or permitted to remain upon any property or street area, unless the vehicle or junk is completely enclosed inside a building and out of public view;”

Section 12. That Title 8, Chapter 8.20, Article 1, Section 8.20.070, Subsection B, of the Code of Ordinances of the City of Perryville, Missouri, is hereby amended by adding new Paragraphs 24, 25, 26, 27 and 28 (**which numbers reflect the renumbering by the codifier**) to read as follows:

“8.20.070 Public nuisance defined.

* * *

24. Whoever shall, in the city, fail, neglect or refuse to keep any sidewalk or gutter in front of any property owned, occupied or under his management or control swept clean and clear of dirt, mud, filth or other substances, excluding snow and ice;
25. Any worksite, construction, landscaping, building project, etc., where work has begun but is not finished within twelve (12) months and has been without notable progress for thirty (30) days, absent adverse weather conditions, natural disaster or other significant event beyond human control;
26. Any foul or dirty liquid discharged through any drainpipe or spout or thrown or leaked into or upon the street, alley, right-of-way or city lot, whether public or private;
27. Any tenement, boardinghouse, lodging house or residential unit in the city leased, let, rented or occupied by any person other than the owner which:
 - a. Is not sufficiently ventilated or heated;
 - b. Does not have working doors or windows;
 - c. Does not have working plumbing;
 - d. Contains visible mold on the interior of the structure;
 - e. Is not kept in a clean and sanitary condition; or
 - f. Otherwise found to be dangerous, injurious, obnoxious, offensive or unsafe to the occupant or public;
28. Any property found to be infested with bugs, cockroaches, lice, bed bugs or rodents and left untreated and/or dispersed among and to adjoining properties.”

Section 13. That Title 8, Chapter 8.20, Article 1, Section 8.20.080, Subsection A, Paragraph 1, of the Code of Ordinances of the City of Perryville, Missouri, is hereby amended to read as follows:

"8.20.080 Summary abatement of nuisances.

* * *

1. Complaint. All complaints alleging the existence of a nuisance shall be made to the director. Any resident, including any city elected official, officer or employee, may initiate a complaint."

Section 14. That Title 8, Chapter 8.20, Article 1, Section 8.20.090, Subsection B, of the Code of Ordinances of the City of Perryville, Missouri, is hereby amended to read as follows:

"8.20.090 Abatement of nuisances in other cases.

* * *

- B. Abatement by Owner. Within ten (10) days after the posting or personal service or mailing of a notice to abate a nuisance, the owner, or individual in possession of the affected property, shall remove and abate such nuisance or show that the actions for abating the nuisance have commenced. Such showing shall be made by filing a written statement or other proof of such actions with the director."

Section 15. That Title 8, Chapter 8.20, Article 1, Section 8.20.100, Subsection A, Paragraph 2, of the Code of Ordinances of the City of Perryville, Missouri, is hereby amended to read as follows:

"8.20.100 Notice.

* * *

2. Mailing a copy of the notice to such owner or occupant at such place and address by first class mail."

Section 16. That Title 8, Chapter 8.20, Article 1, Section 8.20.100, Subsection B, Paragraph 2, of the Code of Ordinances of the City of Perryville, Missouri, is hereby amended to read as follows:

"8.20.100 Notice.

* * *

2. A description of the condition or conditions alleged to constitute a public nuisance, what action will remedy the nuisance, and ordering the owner to abate the nuisance."

Section 17. That Title 8, Chapter 8.20, Article 2, Section 8.20.130, Subsections C and D, of the Code of Ordinances of the City of Perryville, Missouri, are hereby amended to read as follows:

"8.20.130 Debris defined.

* * *

- C. It is unlawful and is declared a nuisance for any owner, lessee or occupant, or any representative of such, having control of any lot or land or any part thereof in the city which is bounded on two or more sides by occupied land, to permit or maintain on any such lot or land or on or along the sidewalk, street or alley adjacent to the same between the property line and the curb or edge of hard surface any growth of weeds, grass or vegetation (other than trees, decorative shrubs or cultivated

flowers) to a greater height than ten (10) inches on the average or any accumulation of dead weeds, grass or brush or any accumulation of vegetation harmful or irritating to the human touch including poison ivy, poison oak and poison sumac.

- D. Any tract of land which meets the requirements of this subsection shall be excluded from the requirements of subsection C above:
1. Any lot or tract of land in excess of two (2) acres which is not being used for industrial purposes around which there is maintained a border twenty-five (25) feet deep from any public right-of-way and from any adjoining tract of land used for an industrial, commercial or residential purpose within which border all weeds, grass or vegetation (other than trees, decorative shrubs or cultivated flowers) are maintained at a height of less than ten (10) inches on the average and within which border there is no accumulation of dead weeds, grass or brush or any accumulation of vegetation harmful or irritating to the human touch including poison ivy, poison oak and poison sumac.
 2. Any lot or tract of land in excess of two (2) acres which is used exclusively for agricultural purposes. For purposes of this subsection, agricultural purposes shall be defined as row crops, vegetable crops, orchards or livestock grazing when said land is completely enclosed with appropriate agricultural fencing.
 3. Any portion of a lot or tract of land on which it is dangerous to effectively control vegetative growth such as a wooded area, detention basin, fence row, flood plain, excessively steep slope or similar situation.”

Section 18. That Title 8, Chapter 8.20, Article 2, Section 8.20.140, of the Code of Ordinances of the City of Perryville, Missouri, is hereby amended to read as follows:

“8.20.140 Notice—Delivery and contents.

Enforcement of this article shall be the responsibility of the director. Enforcement shall commence by providing service of a notice to the owner of the property and, if the property is not owner occupied, to any occupant of the property by a written notice. Written notice may be given by personal service or by first class mail to both the occupant of the property at the property address and the owner of the property at the last known address of the owner, if not the same. If the notice is sent by first class mail, there will be a rebuttable presumption that the notice was delivered three (3) days after the date it was sent. If the name or address of the owner or the owner’s agent is unknown or if the mail is returned, then service shall be made by posting such notice on the property.

- A. The notice shall generally describe the nature of the nuisance, what action will remedy the nuisance, the location of the property (using the mailing or popular address rather than a legal description when reasonably possible to do so), and ordering the property owner to, within a period of ten (10) days from the receipt of the notice or after posting of the notice on the property, abate the nuisance.
- B. Any owner who wishes to challenge the order of abatement may do so provided that within the ten-day period said owner requests a hearing on the validity of the order under the appeal provision set out in Article 1 of this chapter. If no such request is made within that time period, the order becomes final and is not subject to challenge elsewhere. If such request is made, the hearing shall be conducted by the city administrator.”

Section 19. That Title 8, Chapter 8.20, Article 2, Section 8.20.150, of the Code of Ordinances of the City of Perryville, Missouri, is hereby amended to read as follows:

“8.20.150 Nuisance abatement.

Upon a failure of the owner to pursue the removal or abatement of such nuisance without unnecessary delay, the director may cause the condition which constitutes the nuisance to be removed or abated. If the director causes such condition to be removed or abated, the cost of such removal or abatement and the proof of notice to the owner of the property shall be certified to the city clerk who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill for the property at the option of the city clerk. The certified cost shall be collected by the county collector or other official collecting taxes in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent and the collection of the delinquent tax bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall be a lien on the property from the date the tax bill is delinquent until paid. (See Section 67.398, RSMo.)”

Section 20. That Title 8, Chapter 8.20, Article 2, Section 8.20.160, of the Code of Ordinances of the City of Perryville, Missouri, is hereby amended to read as follows:

“8.20.160 Violation--Offense.

An owner who fails to remove a nuisance within ten (10) days of being notified to do so by the notice/abatement order described in Section 8.20.140 shall be guilty of an offense and may (at the option of the city) be charged in municipal court with the offense of ‘failure to abate a nuisance.’”

Section 21. That Title 8, Chapter 8.20, Article 2, Section 8.20.170, of the Code of Ordinances of the City of Perryville, Missouri, is hereby amended by amending the first paragraph thereof (**all other paragraphs shall remain the same**) to read as follows:

“8.20.170 Definitions.

As used in this article, the following terms shall have the following meanings unless the context clearly indicates that a different meaning is intended:”

Section 22. It is the intent of the Mayor and Board of Aldermen and it is hereby ordained that this ordinance shall become and be made a part of the Code of Ordinances of the City of Perryville, Missouri, and that sections of this ordinance may be renumbered to accomplish such intention.

Section 23. If any section, subsection, sentence, clause, phrase or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 24. That this ordinance shall take effect and be in force from and after its passage and approval.

Section 25. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

FIRST READING: December 20, 2016.

SECOND READING: January 10, 2017.

PASSED AND APPROVED this 10th day of January, 2017, by a vote of 6 ayes, 0 nays, 0 abstentions and 0 absent.

CITY OF PERRYVILLE, MISSOURI

By: Ken Baer, Mayor

ATTEST:

Tracy Prost, City Clerk

Now, at this time, the Board proceeds to approve Bill No. 5613, AN ORDINANCE AMENDING TITLE 12, CHAPTER 12.04, SECTION 12.04.050, OF THE CODE OF ORDINANCES OF THE CITY OF PERRYVILLE, MISSOURI, RELATIVE TO CLEANING SIDEWALKS AND GUTTERS; AND REPEALING ALL ORDINANCES IN CONFLICT THEREWITH. Bill No. 5613 is read a second time on motion by Alderman Guth, seconded by Alderman Riney. Thereupon on motion by Alderman Guth, seconded by Alderman Riney, and on vote carried, it is ordered that the bill be placed on final passage. Roll call showed the aye and nay vote as follows: Curt Buerck, aye; Tom Guth, aye; Prince Hudson, aye; Douglas K. Martin, aye; Larry Riney, aye; Gary J. Schumer, aye. Totals: aye, six; nay, none. The Mayor thereupon declared the bill passed and approved and the bill thereupon became Ordinance No. 5835 of the City of Perryville, and is in words and figures as follows:

BILL NO. 5613

ORDINANCE NO. 5835

AN ORDINANCE AMENDING TITLE 12, CHAPTER 12.04, SECTION 12.04.050, OF THE CODE OF ORDINANCES OF THE CITY OF PERRYVILLE, MISSOURI, RELATIVE TO CLEANING SIDEWALKS AND GUTTERS; AND REPEALING ALL ORDINANCES IN CONFLICT THEREWITH.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF PERRYVILLE, MISSOURI, AS FOLLOWS:

Section 1. That Title 12, Chapter 12.04, Section 12.04.050, of the Code of Ordinances of the City of Perryville, Missouri, is hereby amended to read as follows:

“12.04.050 Clean sidewalks and gutters—Property owner and occupant responsibility.

Whoever shall, in the city, fail, neglect or refuse to keep any sidewalk or gutter in front of any property owned, occupied or under his management or control swept clean and clear of dirt, mud, filth or other substances, excluding snow and ice, shall be deemed guilty of a misdemeanor.”

Section 2. It is the intent of the Mayor and Board of Aldermen of the City of Perryville, Missouri, and it is hereby ordained that this ordinance shall become and be made a part of the Code of Ordinances of the City of Perryville, Missouri, and that sections of this ordinance may be renumbered to accomplish such intention.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 4. That this ordinance shall take effect and be in force from and after its passage and approval.

Section 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

FIRST READING: December 20, 2016.

SECOND READING: January 10, 2017.

PASSED AND APPROVED this 10th day of January, 2017, by a vote of 6 ayes, 0 nays, 0 abstentions and 0 absent.

CITY OF PERRYVILLE, MISSOURI

By: Ken Baer, Mayor

ATTEST:

Tracy Prost, City Clerk

Now, at this time, the Board proceeds to approve Bill No. 5614, AN ORDINANCE AMENDING TITLE 17, CHAPTER 17.60, SECTION 17.60.050, OF THE CODE OF ORDINANCES OF THE CITY OF PERRYVILLE, MISSOURI, RELATIVE TO SCHEDULE OF MINIMUM PARKING SPACES REQUIRED—EXCEPTION FOR BUILDINGS ON OR ADJACENT TO THE COURTHOUSE SQUARE; AND REPEALING ALL ORDINANCES IN CONFLICT THEREWITH. Bill No. 5614 is read a second time on motion by Alderman Martin, seconded by Alderman Buerck. Thereupon on motion by Alderman Martin, seconded by Alderman Buerck, and on vote carried, it is ordered that the bill be placed on final passage. Roll call showed the aye and nay vote as follows: Curt Buerck, aye; Tom Guth, aye; Prince Hudson, aye; Douglas K. Martin, aye; Larry Riney, aye; Gary J. Schumer, aye. Totals: aye, six; nay, none. The Mayor thereupon declared the bill passed and approved and the bill thereupon became Ordinance No. 5836 of the City of Perryville, and is in words and figures as follows:

BILL NO. 5614

ORDINANCE NO. 5836

AN ORDINANCE AMENDING TITLE 17, CHAPTER 17.60, SECTION 17.60.050, OF THE CODE OF ORDINANCES OF THE CITY OF PERRYVILLE, MISSOURI, RELATIVE TO SCHEDULE OF MINIMUM PARKING SPACES REQUIRED—EXCEPTION FOR BUILDINGS ON OR ADJACENT TO THE COURTHOUSE SQUARE; AND REPEALING ALL ORDINANCES IN CONFLICT THEREWITH.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF PERRYVILLE, MISSOURI, AS FOLLOWS:

Section 1. That Title 17, Chapter 17.60, Section 17.60.050, Subsection C, of the Code of Ordinances of the City of Perryville, Missouri, is hereby amended by adding Paragraph 6 to read as follows:

“17.60.050 Schedule of minimum parking spaces required.

C. Exceptions.

6. Buildings existing prior to January 1, 2016, and located on or adjacent to the square surrounding the county courthouse shall be exempt from the requirements of this section as it relates to residential and commercial parking.”

Section 2. It is the intent of the Mayor and Board of Aldermen of the City of Perryville, Missouri, and it is hereby ordained that this ordinance shall become and be made a part of the Code of Ordinances of the City of Perryville, Missouri, and that sections of this ordinance may be renumbered to accomplish such intention.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 4. That this ordinance shall take effect and be in force from and after its passage and approval.

Section 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

FIRST READING: December 20, 2016.

SECOND READING: January 10, 2017

PASSED AND APPROVED this 10th day of January, 2017, by a vote of 6 ayes, 0 nays, 0 abstentions and 0 absent.

CITY OF PERRYVILLE, MISSOURI

By: Ken Baer, Mayor

ATTEST:

Tracy Prost, City Clerk

FIRST AND SECOND READING AND FINAL PASSAGE:

Now, at this time, Bill No. 5615, AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF PERRYVILLE, MISSOURI, TO EXECUTE A CONTRACT BY AND BETWEEN THE CITY AND **JANICE A. SCHUMER, JUDITH M. WINSHEL, JOAN M. SELF, AND DOROTHY A. SCHERER** RELATIVE TO **SALE OF REAL ESTATE**; FURTHER SAID ORDINANCE SHALL AUTHORIZE AND DIRECT THE CITY CLERK TO ATTEST THE SIGNATURE OF THE MAYOR, is read with an emergency clause for the first time upon motion by Alderman Buerck, seconded by Alderman Riney. On motion by Alderman Buerck, seconded by Alderman Riney, and on vote carried, Bill No. 5615 is read for the second time. Thereupon on motion by Alderman Buerck, seconded by Alderman Riney, and on vote carried, it is ordered that the Bill be placed on final passage. Roll call showing the aye and nay vote showed as follows: Curt Buerck, aye; Tom Guth, aye; Prince Hudson, aye; Douglas K. Martin, aye; Larry Riney, aye; Gary J. Schumer, aye. Totals: aye, 6; nay, 0. The Mayor thereupon declared the bill passed and approved and the bill thereupon became Ordinance No. 5837 of the City of Perryville, and is in words and figures as follows:

BILL NO. 5615

ORDINANCE NO. 5837

AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF PERRYVILLE, MISSOURI, TO EXECUTE A CONTRACT BY AND BETWEEN THE CITY AND **JANICE A. SCHUMER, JUDITH M. WINSHEL, JOAN M. SELF, AND DOROTHY A. SCHERER** RELATIVE TO **SALE OF REAL ESTATE**; FURTHER SAID ORDINANCE SHALL AUTHORIZE AND DIRECT THE CITY CLERK TO ATTEST THE SIGNATURE OF THE MAYOR.

WHEREAS, the Mayor and Board of Aldermen of the City of Perryville, Missouri, have heretofore reviewed a contract, marked Exhibit A and attached hereto and incorporated herein as if fully set forth; and,

WHEREAS, the Mayor and Board of Aldermen of the City of Perryville, Missouri, deem it advisable to enter into said contract;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF PERRYVILLE, MISSOURI, AS FOLLOWS:

1. That the Mayor and Board of Aldermen of the City of Perryville, Missouri, approve the contract marked Exhibit A and attached hereto and incorporated herein as if fully set forth between the City of Perryville, Missouri, a municipal corporation, and **Janice A. Schumer, Judith M. Winschel, Joan M. Self, and Dorothy A. Scherer**. It is the belief of the Mayor and Board of Aldermen that it is in the best interest of the citizens of the City of Perryville, Missouri, that the City enter into said contract.

2. That the Mayor of the City of Perryville, Missouri, be and he is hereby authorized and directed to execute said contract for and on behalf of the City of Perryville, Missouri.

3. That the City Clerk of the City of Perryville, Missouri, is hereby authorized and directed to attest the signature of the Mayor on the attached contract.

4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

5. The Mayor and Board of Aldermen of the City of Perryville, Missouri, hereby declare this ordinance to be an emergency ordinance for the immediate preservation of public peace, property, health, safety, morals, or other good cause for the citizens of the City of Perryville. and for that reason, this ordinance may be acted on in one meeting.

6. This ordinance shall take effect and be in force from and after its passage and approval.

FIRST READING: January 10, 2017.

SECOND READING: January 10, 2017.

PASSED AND APPROVED this 10th day January, 2017, by a vote of 6 ayes, 0 nays, 0 abstentions and 0 absent.

CITY OF PERRYVILLE, MISSOURI

By: Ken Baer, Mayor

ATTEST:

Tracy Prost, City Clerk

FIRST READINGS:

Alderman Martin presents motion, seconded by Alderman Riney, and on vote carried Bill No. 5616, approving the 2017-18 Pay Plan, is read for the first time by title only. The heading is as follows:

AN ORDINANCE APPROVING THE **2017-18 PAY PLAN** AS AMENDED, FOR THE CITY OF PERRYVILLE, MISSOURI, WHICH SHALL BECOME AND BE MADE A PART OF THE 2017-18 BUDGET AS MADE AND PROVIDED IN SECTION 67.010, ET SEQ., RSMO, 2000.

Alderman Buerck presents motion, seconded by Alderman Guth, and on vote carried Bill No. 5617, entering into a contract with CNG Source Solutions, Inc., relative to Compressed Natural Gas Time Fill Fueling Station, is read for the first time by title only. The heading is as follows:

AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF PERRYVILLE, MISSOURI, TO EXECUTE A CONTRACT BY AND BETWEEN THE CITY AND **CNG SOURCE SOLUTIONS, INC.**, RELATIVE TO **CONSTRUCTION OF A COMPRESSED NATURAL GAS TIME FILL FUELING STATION AT 304 SOUTH KINGSHIGHWAY**; FURTHER SAID ORDINANCE SHALL AUTHORIZE AND DIRECT THE CITY CLERK TO ATTEST THE SIGNATURE OF THE MAYOR.

Alderman Buerck, as Chairman of the Public Safety Committee, commends the Public Works Department regarding the recent ice/snow event.

Alderman Schumer, as Chairman of the Economic Development Committee, asks EDA Director Sattler to update the Board of Aldermen on any recent economic activity. EDA Director Sattler mentions: (a) 573 Article regarding the Solar Mudfest; (b) the Missouri Partnership CEO spoke at the recent Chamber Breakfast; and (c) ribbon-cutting ceremony at Route AC on January 11, 2017.

City Administrator Buerck updates the Board on the following:

- **FBO Maintenance** - We have had to spend a little bit of money bringing this building back up to speed. The fire systems have been internally maintained and haven't been given the attention they perhaps needed. They needed to be winterized so we had them inspected as well. We had to add several contracts relating to the AWOS and NOTAM systems. We have had to purchase a tug (found used for \$2,200 through surplus) and other minor things that probably should have been done long ago. We are now getting quotes for work to trouble shoot the fire pump controller and fire pump and are trying to figure out how to get viable internet onsite. At the end of the day, all this is necessary to operate the airport.

- **Article "Small Town, Big Success"** - Business in Focus did a great job capturing Perryville and who we are. The audience is estimated at over 400,000 people. Before we even sent it out our previous EDA Director, Larry Tucker, saw it and commented.

- **City Administrator's Schedule** - Unknowingly, I suggested scheduling our next meeting on a night that I was out of town for the DLN conference. I apologize and will adjust the next agenda accordingly or have staff prepared to answer questions I may have otherwise gotten.

- **MML Legislative Conference – Feb 14-15, 2017** - We have a couple of rooms reserved for this event. The Mayor and I have both confirmed our attendance. Did anyone else want to go? We will plan on supper with our elected officials and otherwise fill the time with conference updates and office visits.

- **Downtown Plaza** - The work on the Plaza is underway. They hope to pour footings tomorrow, weather permitting. The Board should know we haven't yet acquired that 20' strip from Eagle Bank. They preferred to wait until the bank is officially sold but have assured us there is no issues, most likely around mid-January.

- **Federal Reserve Bank Data** - This came from a Chamber Lunch and Learn. It was interesting data and shows Perry County is doing pretty good when compared to our neighbors.

- **Chamber of Commerce Annual Mtg – Jan 26, 2017** - If you want tickets, please let us know as early registration discounts will be closing.

- **Snow Storm #2** - Thanks to some pre-treatment work during regular business hours, this snow storm was not quite as expensive but the guys still did a great job.

- **Refuse Rates** - The ordinance here specifies I will let you know what rates are doing by January 15 of every 3rd year. In this case, inflation looks to have run about 10.10% between December 2010 and November 2016, the last time we raised the rates. It has increased 3.56% since the last time we declined an automatic increase in 2014. We are now actually costing labor against the department the work is being done for which has increased the costs in the refuse department significantly. I would like to continue to research this matter and present our findings to the Finance Committee next week. I will bring our recommendations to the Board at our first meeting in February.

City Engineer Baer updates the Board on the following:

- **School Street Lift** – The new generator was started up last week and it worked well. The Water Treatment Plant staff is now being trained to operate the transfer switches.

- **Edgemont Design** – We are in the final design stage for the Edgemont Construction Project; also working on easements for the project. We plan to start this project the 1st of April and will make sure the Main Street connection is done before school starts in August. We plan to include the demolition of the house at 325 South Jackson in with the contractor's bid.

Alderman Hudson informs the Board that he was contacted by a citizen with a request to have the curb near his house painted so people wouldn't park in front of his mailbox. (David C. Bohnert at 17 Richardet Street).

Alderman Riney informs the Board that Sabreliner Aviation has reduced its janitorial staff to one person, and the remaining staff person does not have time to monitor the sewer plant at the airport. Public Works Director Brown tells the Board that staff is working on how to remedy the situation.

Alderman Riney also informs the Board that his son will be opening an extension of his physical therapy practice in Perryville in the Tilley building at the corner of Highway T and Highway 51.

There being no further business, it is upon motion by Alderman Buerck, seconded by Alderman Riney, and on vote carried, ordered that the Board now adjourn until Tuesday, January 24, 2017, at 6:30 p.m., the regular meeting in course.

MAYOR

ATTEST:

CITY CLERK