

**AN ORDINANCE OF THE CITY OF OSBORN, MISSOURI, AMENDING
THE ORDINANCES OF THE CITY OF OSBORN, MISSOURI, TO PROVIDE
THAT THE BOARD OF ALDERMEN BE ELECTED AT-LARGE.**

WHEREAS, Section 79.060, RSMo., provides for cities of the 4th class to be divided into not less than two wards and that two aldermen shall be elected from each ward thereof. However, Sub-section 2 of Section 79.060 permits cities of the 4th class with a population of 1,000 or less at the most recent census to choose to elect aldermen at-large, instead of by ward.

**BE IT ORDAINED BY THE BOARD OF ALDERMAN OF THE CITY OF OSBORN
AS FOLLOWS:**

Section 1. At-large Elections. Election to the board of aldermen shall be at-large. The seats of current aldermen shall be filled at-large as soon as the current term expires. Each year thereafter, one-half the board of aldermen shall stand for election at-large for a two-year term.

Section 2. That at the last census count, the City of Osborn had a population of less than 1,000 persons. That pursuant to Section 79.060.2, and this ordinance, the City of Osborn does hereby choose, to elect aldermen at-large rather than aldermen by ward beginning with the April 5, 2016 election.

Section 3. The election wards are hereby abolished.

Section 4. This ordinance shall be in full force and effect from and after its passage and approval.

**PASSED BY THE BOARD OF ALDERMEN AND APPROVED BY THE MAYOR THIS
12TH DAY OF NOVEMBER, 2015.**

David E. Meek, Mayor

Attest:

Jody Barlow, City Clerk

AN ORDINANCE PROVIDING FOR A LEASE AGREEMENT FOR THE OSBORN BALLFIELD

The City of Osborn, Missouri, does hereby enter into this Agreement with the Osborn Ball Association.

The following represents the terms for an agreement between the parties:

SECTION 1. DEFINITIONS:

For the purpose of this Agreement, the following words and phrases are defined, and shall be construed as hereinafter set out, unless it shall be apparent from the context that a different meaning is intended.

<u>City</u>	City of Osborn, Missouri
<u>Facility</u>	Osborn Ball Field, located at East Wells Street, consisting of one field
<u>Osborn Ball Association</u>	Osborn Missouri Ball Association
<u>Agreement</u>	A lease and contract duly executed and legally binding.

SECTION 2. RIGHTS AND PROMISES:

A. **City.** *The City hereby agrees to provide the following:*

- 1) Grant an agreement for the use of the Osborn Ball Field, for the specific term set forth in Section 4 of this Agreement, for the purpose of playing the game of baseball.
- 2) Grant admission and concession rights throughout the duration of the specific term set forth in this Agreement to the Team.

- 3) The City shall be responsible for the maintenance and operation of the ball fields and facilities used by the Team. More specifically, the City shall be responsible for the maintenance and/or replacement of the individual field assets, which include, but are not limited to: (i) concession facilities; (ii) infield and outfield playing surfaces; and (iii) restrooms.
- 4) The City shall be responsible for repair and replacement of all mechanical, electrical, and structural systems owned by the City due to normal wear and tear and aging. The City will also be responsible for all plumbing and electrical maintenance associated with its own equipment.
- 5) The City shall be responsible for the upkeep and cleanliness of the ball fields, as well as the field's concession area, restroom facilities, bleachers, trash pick-up, mowing, fences, lighting.
- 6) The City shall maintain and repair the parking lots located adjacent to the facility.

B. Osborn Ball Association. *Osborn Ball Association hereby agrees to provide the following:*

- 1) To conduct approved league play and tournaments promoting the advancement of youth baseball and softball, with the understanding that the Team reserves the right to schedule any and all games.
- 2) All of the Team personnel and volunteers, including, but not limited to, umpires, scorekeepers and ball shags, shall be the sole responsibility of the Team for all events sponsored by the Team.
- 3) The Team shall determine the field's playability for all games, practices, and events.
- 4) The Team shall provide general field and Facility maintenance and preparation for all games scheduled by or through the Team, as well as Facility clean-up, including, but not limited to, bleachers, walkways and restrooms, at the conclusion of each game scheduled by or through the Team.
- 5) The Team shall provide the equipment necessary to provide the appropriate and required level of maintenance of the field areas.
- 6) The Team will be responsible for providing any and all equipment necessary to play games at the field. Including bases and equipment to mark the field.

- 7) The Team will be responsible for stocking and maintaining supplies for concessions including equipment to store and cook the food.
- 8) The Team shall be responsible to communicate to the City any emergency repairs to the Facility prior to authorizing the repair.
- 9) The Team shall lock all gates, for security purposes, at the end of each and every use of the Facility.
- 10) The Team shall have the right to sell Team oriented or promotional souvenirs (hard goods). All proceeds from any such sales shall belong to the Team.
- 11) The Team shall provide prior written notice to the City of any intent to alter the Facility in any way; and refrain from proceeding with any such alteration unless having obtained the prior written approval of the City. The City will consider all reasonable requests.
- 12) The Team shall be responsible for the operation and maintenance of all ticket and concession areas, excluding any repair and/or replacement to be provided by the City as set forth in Section 2A of this Agreement. All ticket sales and concession proceeds in the Facility for all events scheduled by or through the Team shall belong to the Team.
- 13) Hiring and employment of all personnel and independent contractors, if any, for any and all activities and events scheduled by or through the Team shall be the responsibility of the Team. These responsibilities shall include, but are not necessarily limited to, employee payroll, payroll tax deposits, payroll tax reports, and associated duties, as well as procurements from vendors and contractors and timely payments to said vendors and contractors and the filing of 1099 and related reports as may be required by the Internal Revenue Service, the Social Security Administration, and/or other regulatory enforcement agencies.
- 14) The Team shall maintain the playing conditions of the Facility throughout the season. (Refer to Section 2A and 2B3 for specific required maintenance activities.)
- 15) The Team shall have the right to use all areas of the Facility or such other areas adjacent to the Facility on an as needed basis for purposes of corporate advertising during the term of this Agreement, as long as advertising does not permanently alter the physical appearance of the Facility. Any exterior commercial signage shall be approved and permitted by the City. All proceeds from any such advertising (interior and exterior) shall belong to the Team.

- 16) The Team shall refrain from using the Facility for any special event(s) and/or use(s) other than those for which the Facility is designed and intended, unless authorized by the City. In no event shall the Facility be used for political events or purposes. The City will consider any reasonable requests regarding the scheduling of special events at the Facility.
- 17) The Team shall refrain from the sublease or rental of the Facility, or any portion thereof, including the surrounding premises, to, or otherwise allow the Facility to be used by, any other person and/or entity for a purpose other than providing a season of softball games for the enjoyment of visitors to the Facility. However, if the Team is approached by a person or entity with a request to sublease or rent the Facility for a purpose other than that specifically set forth in this Agreement, then the Team may, if it chooses, submit this request, in writing, to the City. This written request must be received at least *thirty (30) calendar days prior* to the event and written approval of such request must be received from the City at least *ten (10) calendar days prior* to the event.
- 18) The Team and all patrons attending any events at the Facility shall have the right of ingress into and egress from the Facility over and across the real property on which the Facility is located by means of any existing walkways, roads and lanes thereon. The primary parking area shall be the parking lot, and parking in the grassy areas adjacent to the Facility. The parties agree to use reasonable efforts to encourage patrons to park accordingly. The Team shall be responsible for repairing any damage to the grassy areas adjacent to the Facility caused by patrons of the Facility parking in such areas.
- 19) Outside vendors who would like to set up for special events (tournaments, camps, etc.) are required to work with Osborn Ball Association in accordance with the terms and conditions, if any, of this Agreement.
- 20) If the Team engages in, or attempts to engage in, any activity other than that specifically granted to them under this Agreement, the Team will cease and desist from such activity upon receipt of written notice from the City.

SECTION 3. SCHEDULE:

The Team's schedule will start on April 1 and end on July 31 each year. This will result in the Team having a (4) four month long season each year that the Agreement is in effect.

SECTION 4. ORGANIZATION:

The Team shall be organized as a registered association that is administered to by a Board of Directors, elected by its users, which shall have full authority to set all policies, rules and regulations of said organization; said policies, rules and regulations shall be set out in its By-Laws.

SECTION 5. TERM

The term of this Agreement shall be effective from April 1, 2015 through March 31, 2016; unless terminated earlier, as provided. Thereafter, so long as the Team is performing all of its obligations under this Agreement, the City shall renew, by Resolution of the City Council, this Agreement for additional one-year terms under the same terms and conditions.

SECTION 6. FACILITY USE FEE

The City of Osborn will waive the facility use fee for the Osborn Ball Association for each baseball season.

SECTION 7. REVIEW AND MODIFICATION

The City and the Team may review and, if desirable, revise this Agreement in a manner that is mutually satisfactory to the City and the Team, at any time. No change or addition to, or deletion of, any portion of this Agreement shall be valid or binding upon the parties hereto unless the same is approved in writing and signed by each of the parties

SECTION 8. CANCELLATION OR TERMINATION

This Agreement shall govern all transactions between the parties until cancelled or terminated by the City or the Team. It is agreed that either party shall have the right to cancel or terminate this Agreement at any time upon thirty (30) days' prior written notice by certified mail, or by personal delivery, to the other party. Notwithstanding the foregoing, once the Team has commenced a season of games, this Agreement shall not be terminated prior to the conclusion of such season.

SECTION 9. SURRENDER AND POSSESSION

No notice to quit possession at the expiration date of the term of this Agreement shall be necessary. The Team hereby agrees that at the expiration date of the term of this Agreement, or at the earlier termination thereof, it will peaceably surrender possession of the Facility, the key to all locks, in good condition, reasonable wear and tear and acts of God excepted, and the City shall have the right to take possession of the Facility, with or without due process of law.

SECTION 10. SEPARATE PROPERTY OF TEAM

During the term of this Agreement, The Team may install, keep and maintain certain supplies and items of equipment on and in the Facility in which the City shall have no property interest (“the Team’s Separate Property”). The Team’s Separate Property shall not be considered part of the Facility and may be removed at any time provided that the Team repairs any damage to the Facility caused by such removal.

SECTION 11. INSURANCE

- A. This Agreement is conditioned upon The Team providing the City Clerk with evidence that it has a policy for general liability insurance with a minimum limit of One Million Dollars (\$1,000,000.00) per occurrence as required by law, for the term of the Agreement. The general liability policy shall contain an endorsement naming the City of Osborn, Missouri as an additional insured, covering any and all claims arising out of this Agreement.
- B. The City only maintains blanket property insurance for its property, thus the Team should maintain insurance for its own property.

SECTION 12. ADJUSTMENT OF CLAIMS

The Team shall provide for the prompt and efficient handling of all claims arising out of this Agreement.

SECTION 13. INDEMNIFICATION

- A. The Team agrees to indemnify and save harmless the City, its City Council, and its officers, agents and employees from and against any and all loss or damage to property of third persons, or injuries to, or death of, any person or persons, and from any and all claims, damages, suits, costs, expense, liability, actions or proceedings of any kind whatsoever, in any way resulting from, or arising out of, the acts or omissions of officers, employees and volunteers of the Team in connection with this Agreement.
- B. To the extent permitted by law, the City agrees to indemnify and save harmless the Team, its officers, agents and employees from and against any and all loss or damage to property of third persons, or injuries to, or death of, any person or persons, and from any and all claims, damages, suits, costs, expense, liability, actions or proceedings of any kind whatsoever, in any way resulting from, or arising out of, the acts or omissions of officers and employees of the City pursuant to the City’s ownership responsibilities of the Facility in connection with this Agreement.

SECTION 14. AMENDMENTS

It is understood that this Agreement shall not be amended, except by Ordinance of the City Council of the City of Osborn, Missouri.

SECTION 15. COMPLIANCE WITH APPLICABLE LAWS

The Team shall comply with all applicable laws, ordinances, rules and regulations.

SECTION 16. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement between the parties hereto and all other representations or statements heretofore made, whether verbal or written, are merged herein and this Agreement may be amended only in writing and executed by duly authorized representatives of the parties hereto.

SECTION 17. GOVERNING LAW

It is mutually understood and agreed that this Agreement shall be governed by the laws of the State of Missouri, both as to interpretation and performance.

SECTION 18. NO IMPLIED WAIVERS

The right of any party under any provision of this Agreement shall not be affected by its prior failure to require the performance by the other party under such provision or any other provision of this Agreement, nor shall the waiver by any party of a breach of any provision hereof constitute a waiver of any succeeding breach of the same or any other provision or constitute a waiver of the provision itself. A waiver of any right or obligation hereunder must be in writing and signed by the parties to this Agreement.

SECTION 19. NO PERSONAL LIABILITY

No councilmember, director, officer, employee or other agent of either party shall be personally liable under, or in connection with, this Agreement.

SECTION 20. USE AND CARE OF CITY PROPERTY

No activities will be allowed that might cause damage to the Facility, or property location in the general vicinity of said Facility. At the conclusion of the Team's season, the Facility, or property located in the general vicinity of said Facility, shall be left in substantially the same condition it was in prior to the Team's season, including, but not limited to, removal of all trash. If damages occur to the Facility, or property located in the general vicinity of said Facility, as a result of the Team's season, including, but not limited to, damages to the grounds (grass, trees, etc.). The Team agrees to take all steps necessary to restore the same to the condition they were in prior to the softball season, or, in the alternative, to reimburse the City for its cost (labor and materials) associated with doing so.

SECTION 21. NOTICES

Except as otherwise expressly provided herein, all notices required to be given to the City hereunder shall be in writing and shall be sent to the City Clerk, City of Osborn, 151 W Georgie, P.O. Box 67, Osborn, Missouri, 64474; all notices, demands and requests by the City to the Team shall be sent to the Osborn Ball Association.

SECTION 22. SEVERABILITY

It is further understood and agreed by the parties that if any part, term or provision of this Agreement is held by the courts to be illegal or in conflict with any law of the State where made, the validity of the remaining portions or provisions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.

SECTION 23. SUCCESSORS AND ASSIGNS

All of the terms, provisions, covenants, stipulations, conditions and considerations of this Agreement shall extend to and bind the legal representatives, successors, sublessees and assigns of the respective parties hereto.

SECTION 24. TITLE TO SITE

The Facility from the date hereof, until the termination of this Agreement, shall be owned in fee simple by the City, or in such lesser estate as, in the opinion of the City's Attorney, is sufficient to permit the licensing or letting thereof by the City as herein provided, for the full term provided in this Agreement.

IN WITNESS WHEREOF, the parties hereto for themselves, their successors and assigns, have executed this Agreement this ____ day of _____, 2014.

CITY OF OSBORN, MISSOURI

Scott Bowman, Mayor

A T T E S T:

Jody Barlow, City Clerk

OSBORN BALL ASSOCIATION

A T T E S T:

APPROVED AS TO FORM:

Ed Proctor, City Attorney

INTERGOVERNMENTAL AGREEMENT FOR THE OSBORN BALLFIELD

The City of Osborn, Missouri, does hereby enter into this Intergovernmental Agreement with the Osborn, Missouri School District.

The following represents the terms for an agreement between the parties:

SECTION 1. DEFINITIONS:

For the purpose of this Agreement, the following words and phrases are defined, and shall be construed as hereinafter set out, unless it shall be apparent from the context that a different meaning is intended.

<u>City</u>	City of Osborn, Missouri
<u>Facility</u>	Osborn Ball Field, located at East Wells Street, consisting of one field
<u>Osborn R-O</u>	Osborn Missouri School District
<u>Superintendent</u>	Current Superintendent of Osborn R-O School District
<u>Agreement</u>	A lease and contract duly executed and legally binding.

SECTION 2. RIGHTS AND PROMISES:

A. **City.** *The City hereby agrees to provide the following:*

- 1) Grant an agreement for the use of the Osborn Ball Field, for the specific term set forth in Section 4 of this Agreement, for the purpose of playing the game of softball.
- 2) Grant admission and concession rights throughout the duration of the specific term set forth in this Agreement to Osborn R-O.
- 3) The City shall be responsible for the maintenance and operation of the ball fields and facilities used by Osborn R-O. More specifically, the City shall be responsible

for the maintenance and/or replacement of the individual field assets, which include, but are not limited to: (i) concession facilities; (ii) infield and outfield playing surfaces; and (iii) restrooms.

- 4) The City shall be responsible for repair and replacement of all mechanical, electrical, and structural systems owned by the City due to normal wear and tear and aging. The City will also be responsible for all plumbing and electrical maintenance associated with its own equipment.
- 5) The City shall be responsible for the upkeep and cleanliness of the ball fields, as well as the field's concession area, restroom facilities, bleachers, trash pick-up, mowing, fences, lighting.
- 6) The City shall maintain and repair the parking lots located adjacent to the facility.

B. Osborn R-O. *Osborn R-O hereby agrees to provide the following:*

- 1) To conduct ASA sanctioned or other approved league play and tournaments promoting the advancement of girls' softball, with the understanding that the Director reserves the right to schedule high school girls' play.
- 2) All Osborn R-O personnel and volunteers, including, but not limited to, umpires, scorekeepers and ball shags, shall be the sole responsibility of Osborn R-O for all events sponsored by Osborn R-O.
- 3) Osborn R-O shall determine the field's playability for all games, practices, and events.
- 4) Osborn R-O shall provide general field and Facility maintenance and preparation for all games scheduled by or through the Team, as well as Facility clean-up, including, but not limited to, bleachers, walkways and restrooms, at the conclusion of each game scheduled by or through the Team.
- 5) Osborn R-O shall provide the equipment necessary to provide the appropriate and required level of maintenance of the field areas.
- 6) Osborn R-O will be responsible for providing any and all equipment necessary to play games at the field. Including bases and equipment to mark the field.
- 7) Osborn R-O will be responsible for stocking and maintaining the supplies for concessions including equipment to store and cook the food.

- 8) Osborn R-O shall be responsible to communicate to the City any emergency repairs to the Facility prior to authorizing the repair.
- 9) Osborn R-O shall lock all gates, for security purposes, at the end of each and every use of the Facility.
- 10) Osborn R-O shall have the right to sell Team oriented or promotional souvenirs (hard goods). All proceeds from any such sales shall belong to Osborn R-O.
- 11) Osborn R-O shall provide prior written notice to the City of any intent to alter the Facility in any way; and refrain from proceeding with any such alteration unless having obtained the prior written approval of the City. The City will consider all reasonable requests.
- 12) Osborn R-O shall be responsible for the operation and maintenance of all ticket and concession areas, excluding any repair and/or replacement to be provided by the City as set forth in Section 2A of this Agreement. All ticket sales and concession proceeds in the Facility for all events scheduled by or through Osborn R-O shall belong to Osborn R-O.
- 13) Hiring and employment of all personnel and independent contractors, if any, for any and all activities and events scheduled by or through the Osborn R-O shall be the responsibility of Osborn R-O. These responsibilities shall include, but are not necessarily limited to, employee payroll, payroll tax deposits, payroll tax reports, and associated duties, as well as procurements from vendors and contractors and timely payments to said vendors and contractors and the filing of 1099 and related reports as may be required by the Internal Revenue Service, the Social Security Administration, and/or other regulatory enforcement agencies.
- 14) Osborn R-O shall maintain the playing conditions of the Facility throughout the season. (Refer to Section 2A and 2B3 for specific required maintenance activities.)
- 15) Osborn R-O shall have the right to use all areas of the Facility or such other areas adjacent to the Facility on an as needed basis for purposes of corporate advertising during the term of this Agreement, as long as advertising does not permanently alter the physical appearance of the Facility. Any exterior commercial signage shall be approved and permitted by the City. All proceeds from any such advertising (interior and exterior) shall belong to Osborn R-O.
- 16) Osborn R-O shall refrain from using the Facility for any special event(s) and/or use(s) other than those for which the Facility is designed and intended, unless authorized by the City. In no event shall the Facility be used for political events or

purposes. The City will consider any reasonable requests regarding the scheduling of special events at the Facility.

- 17) Osborn R-O shall refrain from the sublease or rental of the Facility, or any portion thereof, including the surrounding premises, to, or otherwise allow the Facility to be used by, any other person and/or entity for a purpose other than providing a season of softball games for the enjoyment of visitors to the Facility. However, if Osborn R-O is approached by a person or entity with a request to sublease or rent the Facility for a purpose other than that specifically set forth in this Agreement, then Osborn R-O may, if it chooses, submit this request, in writing, to the City. This written request must be received at least *thirty (30) calendar days prior* to the event and written approval of such request must be received from the City at least *ten (10) calendar days prior* to the event.
- 18) Osborn R-O and all patrons attending any events at the Facility shall have the right of ingress into and egress from the Facility over and across the real property on which the Facility is located by means of any existing walkways, roads and lanes thereon. The primary parking area shall be the parking lot, and parking in the grassy areas adjacent to the Facility. The parties agree to use reasonable efforts to encourage patrons to park accordingly. Osborn R-O shall be responsible for repairing any damage to the grassy areas adjacent to the Facility caused by patrons of the Facility parking in such areas.
- 19) Outside vendors who would like to set up for special events (tournaments, camps, etc.) are required to work with Osborn R-O in accordance with the terms and conditions, if any, of this Agreement.
- 20) If Osborn R-O engages in, or attempts to engage in, any activity other than that specifically granted to them under this Agreement, Osborn R-O will cease and desist from such activity upon receipt of written notice from the City.

SECTION 3. SCHEDULE:

The Team's schedule will start on August 1 and end on October 31 each year. This will result in Osborn R-O having a (3) three month long season each year that the Agreement is in effect.

SECTION 4. ORGANIZATION:

Osborn R-O is a duly organized political subdivision of the State of Missouri and is administered to by a Board of Directors, elected by its users, which shall have full authority to set all policies, rules and regulations of said organization; said policies, rules and regulations shall be set out in its By-Laws.

SECTION 5. TERM

The term of this Agreement shall be effective from June 1, 2015 through May 31, 2016; unless terminated earlier, as provided. Thereafter, so long as the Team is performing all of its obligations under this Agreement, the City shall renew, by Resolution of the City Council, this Agreement for additional one-year terms under the same terms and conditions.

SECTION 6. FACILITY USE FEE

The City of Osborn will waive the facility use fee for the Osborn R-0 for the 2015-2016 ball season.

SECTION 7. REVIEW AND MODIFICATION

The City and Osborn R-O may review and, if desirable, revise this Agreement in a manner that is mutually satisfactory to the City and Osborn R-O, at any time. No change or addition to, or deletion of, any portion of this Agreement shall be valid or binding upon the parties hereto unless the same is approved in writing and signed by each of the parties

SECTION 8. CANCELLATION OR TERMINATION

This Agreement shall govern all transactions between the parties until cancelled or terminated by the City or Osborn R-O. It is agreed that either party shall have the right to cancel or terminate this Agreement at any time upon thirty (30) days' prior written notice by certified mail, or by personal delivery, to the other party. Notwithstanding the foregoing, once Osborn R-O has commenced a season of games, this Agreement shall not be terminated prior to the conclusion of such season.

SECTION 9. SURRENDER AND POSSESSION

No notice to quit possession at the expiration date of the term of this Agreement shall be necessary. Osborn R-O hereby agrees that at the expiration date of the term of this Agreement, or at the earlier termination thereof, it will peaceably surrender possession of the Facility in good condition, reasonable wear and tear and acts of God excepted, and the City shall have the right to take possession of the Facility, with or without due process of law.

SECTION 10. SEPARATE PROPERTY OF TEAM

During the term of this Agreement, Osborn R-O may install, keep and maintain certain supplies and items of equipment on and in the Facility in which the City shall have no property interest ("Osborn R-O's Separate Property"). Osborn R-O's Separate Property shall not be considered part of the Facility and may be removed at any time provided that Osborn R-O repairs any damage to the Facility caused by such removal.

SECTION 11. INSURANCE

- A. This Agreement is conditioned upon Osborn R-O providing the City Clerk with evidence that it has a policy for general liability insurance with a minimum limit of One Million Dollars (\$1,000,000.00) per occurrence and workers' compensation insurance, as required by law, for the term of the Agreement. The general liability policy shall contain an endorsement naming the City of Osborn, Missouri as an additional insured, covering any and all claims arising out of this Agreement.
- B. The City only maintains blanket property insurance for its property, thus Osborn R-O should maintain insurance for its own property.

SECTION 12. ADJUSTMENT OF CLAIMS

Osborn R-O shall provide for the prompt and efficient handling of all claims arising out of this Agreement.

SECTION 13. INDEMNIFICATION

- A. Osborn R-O agrees to indemnify and save harmless the City, its City Council, and its officers, agents and employees from and against any and all loss or damage to property of third persons, or injuries to, or death of, any person or persons, and from any and all claims, damages, suits, costs, expense, liability, actions or proceedings of any kind whatsoever, in any way resulting from, or arising out of, the acts or omissions of officers, employees and volunteers of Osborn R-O in connection with this Agreement.
- B. To the extent permitted by law, the City agrees to indemnify and save harmless Osborn R-O, its officers, agents and employees from and against any and all loss or damage to property of third persons, or injuries to, or death of, any person or persons, and from any and all claims, damages, suits, costs, expense, liability, actions or proceedings of any kind whatsoever, in any way resulting from, or arising out of, the acts or omissions of officers and employees of the City pursuant to the City's ownership responsibilities of the Facility in connection with this Agreement.

SECTION 14. AMENDMENTS

It is understood that this Agreement shall not be amended, except by Ordinance of the City Council of the City of Osborn, Missouri.

SECTION 15. COMPLIANCE WITH APPLICABLE LAWS

Osborn R-O shall comply with all applicable laws, ordinances, rules and regulations.

SECTION 16. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement between the parties hereto and all other representations or statements heretofore made, whether verbal or written, are merged herein and this Agreement may be amended only in writing and executed by duly authorized representatives of the parties hereto.

SECTION 17. GOVERNING LAW

It is mutually understood and agreed that this Agreement shall be governed by the laws of the State of Missouri, both as to interpretation and performance.

SECTION 18. NO IMPLIED WAIVERS

The right of any party under any provision of this Agreement shall not be affected by its prior failure to require the performance by the other party under such provision or any other provision of this Agreement, nor shall the waiver by any party of a breach of any provision hereof constitute a waiver of any succeeding breach of the same or any other provision or constitute a waiver of the provision itself. A waiver of any right or obligation hereunder must be in writing and signed by the parties to this Agreement.

SECTION 19. NO PERSONAL LIABILITY

No councilmember, director, officer, employee or other agent of either party shall be personally liable under, or in connection with, this Agreement.

SECTION 20. USE AND CARE OF CITY PROPERTY

No activities will be allowed that might cause damage to the Facility, or property location in the general vicinity of said Facility. At the conclusion of Osborn R-O's softball season, the Facility, or property located in the general vicinity of said Facility, shall be left in substantially the same condition it was in prior to the Osborn R-O's softball season, including, but not limited to, removal of all trash. If damages occur to the Facility, or property located in the general vicinity of said Facility, as a result of the Osborn R-O's softball season, including, but not limited to, damages to the grounds (grass, trees, etc.). Osborn R-O agrees to take all steps necessary to restore the same to the condition they were in prior to the softball season, or, in the alternative, to reimburse the City for its cost (labor and materials) associated with doing so.

SECTION 21. NOTICES

Except as otherwise expressly provided herein, all notices required to be given to the City hereunder shall be in writing and shall be sent to the City Clerk, City of Osborn, 151 W Georgie, P.O. Box 67, Osborn, Missouri, 64474; all notices, demands and requests by the City to Osborn R-O shall be sent to Osborn R-O, Superintendent, 275 Clinton Ave., Osborn, Missouri 64474.

SECTION 22. SEVERABILITY

It is further understood and agreed by the parties that if any part, term or provision of this Agreement is held by the courts to be illegal or in conflict with any law of the State where made, the validity of the remaining portions or provisions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.

SECTION 23. SUCCESSORS AND ASSIGNS

All of the terms, provisions, covenants, stipulations, conditions and considerations of this Agreement shall extend to and bind the legal representatives, successors, sublessees and assigns of the respective parties hereto.

SECTION 24. TITLE TO SITE

The Facility from the date hereof, until the termination of this Agreement, shall be owned in fee simple by the City, or in such lesser estate as, in the opinion of the City's Attorney, is sufficient to permit the licensing or letting thereof by the City as herein provided, for the full term provided in this Agreement.

IN WITNESS WHEREOF, the parties hereto for themselves, their successors and assigns, have executed this Agreement this 13th day of May, 2015.

CITY OF OSBORN, MISSOURI

David E. Meek, Mayor

A T T E S T:

Jody Barlow, City Clerk

OSBORN R-O SCHOOL DISTRICT

Rick Goin, Superintendent

A T T E S T:

Secretary

APPROVED AS TO FORM:

Ed Proctor, City Attorney

ORDINANCE FOR A LEAD BAN IN PUBLIC AND PRIVATE DRINKING WATER PLUMBING

Ordinance No: 2015-03

Be it ordained by the governing body of the City of Osborn, state of Missouri:

Section I. Lead Ban – General Policy

- A. Purpose. The purpose of this ordinance is:
- 1) To ban the use of lead materials in the public drinking water system and private plumbing connected to the public drinking water system; and
 - 2) To protect city residents from lead contamination in the city's public drinking water system and their own private plumbing systems.
- B. Application. This ordinance shall apply to all premises served by the public drinking water system of the City of Osborn.
- C. Policy. This ordinance will be reasonably interpreted by the water purveyor. It is the purveyors intent to ban the use of lead based material in the construction or modification of the city's drinking water system or private plumbing connected to the city system. The cooperation of all consumers is required to implement the lead ban.

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

Section II. Definitions

- A. The following definitions shall apply in the interpretation and enforcement of this ordinance.
- 1) "Consumer" means the owner or person in control of any premises supplied by or in any manner connected to a public water system;
 - 2) "Lead base materials" means any material containing lead in excess of the quantities specified in Section II. A. 3;
 - 3) "Lead free" means:
 - A. In General.
 - 1) When used with respect to solder and flux, refers to solders and flux containing not more than 0.2 percent (0.2%) lead; and

- 2) When used with respect to pipes and pipe fittings, refers to pipes and pipe fittings containing not more than 0.25 percent (0.25%) lead.

B. Calculation

The weighted average lead content of a pipe, pipe fitting, plumbing fitting, or fixture shall be calculated by using the following formula: For each wetted component, the percentage of lead in the component shall be multiplied by the ratio of the wetted surface area of that component to the total wetted surface area of the entire product to arrive at the weighted percentage of lead of the component. The weighted percentage of lead of each wetted component shall be added together, and the sum of these weighted percentages shall constitute the weighted average lead content of the product. The lead content of the material used to produce wetted components shall be used to determine compliance with paragraph (A)(2). For lead content of materials that are provided as a range, the maximum content of the range shall be used.

- 4) "Public drinking water system" means any publicly or privately owner water system supplying water to the general public which is satisfactory for drinking, culinary and domestic purposes and meets the requirements of the Missouri Department of Natural Resources; and
- 5) "Water purveyor" means the owner, operator, or individual in responsible charge of a public water system.
- 6) "Exemptions"
 - (A) pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for non-potable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption; or
 - (B) toilets, bidets, urinals, fill valves, flush-o-meter valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are 2 inches in diameter or larger.

Section III. Lead Banned from Drinking Water Plumbing

- A. No water service connection shall be installed or maintained to any premises where lead base materials were used in new construction or modifications of the drinking water plumbing after January 1, 1989.
- B. If a premises is found to be in violation of Section III. A., water service shall be discontinued until such time that the drinking water plumbing is lead free.

Date of Adoption: May 13, 2015

Mayor, David E. Meek

Attest: _____
City Clerk, Jody Barlow

BILL NO. 2015-01

ORDINANCE NO. 2015-01

**AN ORDINANCE ADOPTING PROPOSED BUDGET FOR THE
FISCAL YEAR 2015 - 2016.**

WHERE AS, adoption of the proposed Budget for the Fiscal Year 2015-2016; and

WHERE AS, authorization of expenditures from general uncommitted tax funds of the City in accordance with the budget so adopted

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF OSBORN, MISSOURI THAT:

SECTION 1. This ordinance shall be in full force and effect for Fiscal Year April 01, 2015 – March 31, 2016 after its passage and approval.

PASSED by the Board of Aldermen and **APPROVED** by the Mayor this 3rd day of March 2015.

Mayor, Scott Bowman

Attest: _____
City Clerk, Jody Barlow

Bill No.: 2015-06

Ordinance No.: 2015-06

An Ordinance approving the Public Tax Levy Rate for 2015.

BE IT ORDAINED BY THE BOARD OF ALDERMAN OF THE CITY OF OSBORN, MISSOURI THAT:

The levy for the year 2015 shall be in the sum of 0.7766 cents per one hundred dollar valuation. The Levy proceeds going to the general fund.

PASSED, SIGNED, AND APPROVED THIS 31st DAY OF AUGUST, 2015.

David E. Meek, Mayor

Attest:

Jody Barlow, City Clerk

**AN ORDINANCE AMENDING SECTION 1, SECTION 3 AND SECTION 6 OF
ORDINANCE 2014-05 PROVIDING FOR THE SALE OF MALT LIQUOR,
INTOXICATING LIQUOR AND LIGHT WINES AT RETAIL AND LICENSE
REGULATIONS.**

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE
CITY OF OSBORN, MISSOURI, AS FOLLOWS:**

SECTION 1. DEFINITIONS:

For the purposes of this ordinance the following terms shall have the meanings ascribed to them by this Section, except where the context clearly indicates a different meaning:

INTOXICATING LIQUOR – means and includes alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt or other liquors, or combinations of liquors, a part of which is spirituous, vinous or fermented, and all preparations or mixtures for beverage purposes, containing in excess of one-half of one percent by volume, except for non-intoxicating beer as defined in RSMo 312.010. All beverages having an alcoholic content of less than one-half of one percent by volume shall be exempt from the provisions of this Chapter, but subject to inspection as provided by RSMo 196.365 – 196.445.

MALT LIQUOR - means and includes all beer having an alcoholic content of more than three and two-tenths percent by weight and not in excess of five percent by weight.

WINE - means and includes light wines containing not in excess of fourteen percent of alcohol by weight exclusively from grapes, berries and other fruits and vegetables.

NON-INTOXICATING BEER - means and includes any beer manufactured from pure hops or pure extract of hops and pure barley malt or other wholesome grains or cereals and wholesome yeast and pure water and free from all harmful substances, preservatives and adulterants and having an alcoholic content of more than one-half of one percent by volume and not exceeding 3.2 percent by weight.

RESTAURANT BAR - Any establishment having a restaurant or similar facility on the premises at least fifty percent (50%) of the gross income of which is derived from the sale of prepared meals or food consumed on such premises or which has an annual gross income of at least two

hundred thousand dollars (\$200,000.00) from the sale of prepared meals or food consumed on such premises.

WINE SHOP - Any establishment that uses automated wine dispensing equipment to dispense wine tastings by the glass at retail for consumption on the premises where sold, so long as at least fifty percent (50%) of the total sales of the wine shop are from package sales.

WHOLESALE – A person holding a license to sell alcoholic beverages to wholesalers or to retailers.

WINE – A vinous liquor produced by fermentation of juices of grapes, berries, or other fruits or a preparation of certain vegetables by fermentation, and containing alcohol not in excess of twenty-two percent (22%) by volume.

SECTION 2. SALE BY THE DRINK DEFINED:

The sale of any intoxicating liquor except malt liquor, in the original package, in any quantity less than fifty (50) milliliters shall be deemed "*sale by the drink*" and may be made only by a holder of a retail liquor dealer's license and, when so made, the container in every case shall be emptied and the contents thereof served as other intoxicating liquors sold by the drink are served.

SECTION 3. LICENSE REQUIRED:

A. *Compliance with State law and compliance with all City Ordinances.* Before any applicant shall be entitled to procure a license from the city, the applicant must first satisfy all the requirements of the State liquor laws and obtain a license from the State supervisor of liquor control to engage in such business. Any person, having proven to satisfy the requirements of the liquor laws of the State and compliance with all City ordinances, shall be eligible to make application for a license to sell intoxicating liquors within the City, at retail or wholesale, for consumption on the premises where sold in the original package, in accordance with the type of license obtained from the state supervisor of liquor control.

B. It shall be unlawful for any person to sell or offer for sale intoxicating liquor in the City of Osborn without a currently valid liquor license issued by the City. A separate liquor license shall be required for each of the categories and subcategories of liquor sales in which the licensee desires to engage as set forth herein. The following classes of liquor licenses issued under the provisions of this section are hereby established for the manufacturing, distilling, brewing, distributing or selling at wholesale or retail any alcoholic beverages within the City.

C. *General Licenses.* Any person possessing the qualifications and meeting the requirements of this section may apply for the following licenses to sell intoxicating liquor:

1. *Package liquor--malt liquor only:* Sales of malt liquor at retail by grocers and other merchants and dealers for sale in the original package direct to consumers but not for resale and not for consumption on the premises where sold.

2. *Package liquor--all kinds:* Sales of all kinds of intoxicating liquors in the original package at retail not for consumption on the premises where sold.

3. *Liquor by the drink--malt liquor/light wine only:* Sales of malt liquor and light wines at retail by the drink for consumption on the premises where sold.

4. *Malt liquor by the drink:* Sales of malt liquor at retail by the drink for consumption on the premises. This license may include Sunday sales from 12:00 P.M. to Midnight.

5. *Liquor by the drink--all kinds:* Sales of intoxicating liquor of all kinds at retail by the drink for consumption on the premises where sold.

6. *Wholesaler of Intoxicating Liquor:* Sales of intoxicating liquor to retailers or other wholesalers, but not directly to the public.

7. *Wholesaler of Malt Liquor, Nonintoxicating Beer and Intoxicating Liquor Not in Excess of Twenty-Two Percent by Weight:* Sale of malt liquor, nonintoxicating beer and intoxicating liquor not in excess of twenty-two percent by weight to retailers or other wholesalers, but not directly to the public.

8. *Wholesaler of Malt Liquor:* Sale of malt liquor to retailers or other wholesalers, but not directly to the public.

D. *Sunday Sales.* Any person who is licensed under the provisions of this Section or who otherwise possesses the qualifications and meets the requirements of this Section may apply for the following licenses to sell intoxicating liquor on Sundays between the hours of 12:00 P.M. and Midnight:

1. *Package liquor--all kinds:* Sales of liquor of all kinds in the original package at retail not for consumption on the premises where sold.

2. *Liquor by the drink--restaurant bar:* Sales of liquor of all kinds by the drink at retail for consumption on the premises of any restaurant bar.

3. *Liquor by the drink--amusement place:* Sales of liquor of all kinds by the drink at retail for consumption on the premises of any amusement place.

4. *Liquor by the drink--place of entertainment:* Sales of liquor of all kinds by the drink at retail for consumption on the premises of any place of entertainment.

E. *Permits.*

1. *Temporary permit for sale by drink.* Any person who possesses the qualifications, meets the requirements and complies with the provisions of the license

regulations section below may apply for a special permit to sell intoxicating liquor for consumption on premises where sold.

2. *Tasting permit--winery, distiller, manufacturer, retailers, etc.*

- a. Notwithstanding any other provisions of this Section to the contrary, any person who is licensed to sell intoxicating liquor in the original package at retail under Sections (C) and (D) may apply for a special permit to conduct wine, malt beverage and distilled spirit tastings on the licensed premises; however, nothing in this Section shall be construed to permit the licensee to sell wine, malt beverages or distilled spirits for on-premises consumption.

SECTION 4. LICENSE REGULATIONS:

- A. *Package Sales, Limitations.* No license shall be issued for the sale of intoxicating liquor in the original package, not to be consumed upon the premises where sold, except to a person engaged in, and to be used in connection with, the operation of one (1) or more of the following businesses: a drug store, a cigar and tobacco store, a grocery store, a general merchandise store, a confectionery or delicatessen store, nor to any such person who does not have and keep in his/her store a stock of goods having a value according to invoices of at least one thousand dollars (\$1,000.00), exclusive of fixtures and intoxicating liquors. Under such license, no intoxicating liquor shall be consumed on the premises where sold nor shall any original package be opened on the premises of the vendor except as otherwise provided in this Section or law.
- B. *Any winery, distiller, etc., may provide or furnish distilled spirits, wine or malt beverage samples on a licensed retail premises--when.*

Distilled spirits, wine, or malt beverage samples may be dispensed by an employee of the retailer, winery, distiller, manufacturer or brewer or by a sampling retained by the retailer, winery, distiller, manufacturer or brewer. All sampling service employees that provide and pour intoxicating liquor samples on a licensed retail premises shall be required to complete a server training program approved by the Division of Alcohol and Tobacco Control.

- C. *Newly-Opened Restaurant Bars or Amusement Places.*

1. Any new restaurant bar having been in operation for less than ninety (90) days may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises between the hours of 12:00 P.M. and Midnight on Sunday for a period not to exceed ninety (90) days if the restaurant bar can show a projection of annual business from prepared meals or food consumed on the premises of at least fifty percent (50%) of the total gross income of the restaurant bar for the year or can show a projection of annual business from prepared meals or food consumed on the premises

which would exceed not less than two hundred thousand dollars (\$200,000.00). The license fee shall be prorated for the period of the temporary license based on the cost of the annual license for the establishment.

2. Any new amusement place having been in operation for less than ninety (90) days may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises between the hours of 12:00 P.M. and Midnight on Sunday for a period not to exceed ninety (90) days if the amusement place can show a projection of gross receipts of at least one hundred thousand dollars (\$100,000.00) of which at least fifty thousand dollars (\$50,000.00) of such gross receipts are in non-alcoholic sales for the first (1st) year of operation. The license fee shall be prorated for the period of the temporary license based on the cost of the annual license for the establishment.

D. *Temporary Permit for Sale by Drink--Certain Organizations.*

1. The City Clerk may issue a temporary permit for the sale of intoxicating liquor and non-intoxicating beer for consumption on premises where sold to any church, school, civic, service, fraternal, veteran, political or charitable club or organization for sale at a picnic, bazaar, fair or similar gathering. The permit shall be issued only for the day or days named therein and it shall not authorize the sale of intoxicating liquor for more than seven (7) days by any such club or organization.

2. If the event will be held on a Sunday, the permit shall authorize the sale of intoxicating liquor and non-intoxicating beer on that day beginning at 12:00 P.M.

3. Organizations desiring such licenses shall make application to the City Clerk.

4. No provision of law or rule or regulation of the City shall be interpreted as preventing any wholesaler or distributor from providing customary storage, cooling or dispensing equipment for use by the permit holder at such picnic, bazaar, fair or similar gathering.

E. *Operating Hours, Days.*

1. No person having a license issued pursuant to this Ordinance, nor any employee of such person, shall sell, give away or permit the consumption of any intoxicating liquor or non-intoxicating beer in any quantity between the hours of 1:30 A.M. and 6:00 A.M. on weekdays and between the hours of 1:30 A.M. on Sunday and 6:00 A.M. on Monday upon or about his/her premises, except as otherwise authorized and licensed for Sunday sales. Any person licensed to sell intoxicating liquor or non-intoxicating beer by the drink shall keep a closed place during the aforementioned prohibited times.

2. When January first (1st), March seventeenth (17th), July fourth (4th) or December thirty-first (31st) falls on Sunday and on the Sundays prior to Memorial Day and Labor Day and on the Sunday on which the national championship game of the National Football League is played, commonly known as "Super Bowl Sunday", any person having a license to sell intoxicating liquor by the drink may be open for business and sell

intoxicating liquor by the drink under the provisions of his/her license on that day from the time and until the time which would be lawful on another day of the week, notwithstanding any provisions of this Ordinance to the contrary.

F. Number of Licenses Limited.

The maximum number of licenses issued under the provisions of this Section shall be limited to one (1) license, for each one hundred (100) population, or fraction thereof, of the City of Osborn, based on the latest official Federal, State or City census:

F. General License Regulations.

1. Each license issued hereunder shall be conspicuously posted on the premises for which the license has been issued.
2. A separate license shall be required for each place of business. Every license issued under the provisions of this Ordinance shall particularly describe the premises at which intoxicating liquor may be sold thereunder, and such license shall not be deemed to authorize or permit the sale of intoxicating liquor at any place other than that described therein.

G. Druggists May Sell And Physicians Prescribe Liquor. Any druggist may have in his/her possession intoxicating liquor purchased by him/her from a licensed vendor under a license pursuant to State law, or intoxicating liquor lawfully acquired at the place of acquisition and legally transported into this State, and lawfully inspected, gauged and labeled as provided by State law; such intoxicating liquor to be used in connection with the business of a druggist in compounding medicines or as a solvent or preservative; provided, that nothing in this Ordinance shall prevent a regularly licensed druggist, after he/she procures a license therefor, from selling intoxicating liquor in the original package but not to be drunk or the packages opened on the premises where sold; and provided further, that nothing in this Ordinance shall be construed as limiting the right of a physician to prescribe intoxicating liquor in accordance with his/her professional judgment for any patient at any time or prevent a druggist from selling intoxicating liquor to a person on prescription from a regularly licensed physician as above provided.

SECTION 5. SALES OF LIQUOR PROHIBITED NEAR SCHOOLS AND CHURCHES:

A. No license shall be granted for the sale of intoxicating liquor, as defined in this Ordinance, within one hundred (100) feet of any school, church or other building regularly used as a place of religious worship, unless the applicant for the license shall first obtain the consent in writing of the Board of Aldermen, except that when a school, church or place of worship shall hereafter be established within one hundred (100) feet of any place of business licensed to sell intoxicating liquor, the license shall not be denied for this reason. Such consent shall not be granted until at least ten (10) days' written notice has been provided to all owners of property within one hundred (100) feet of the proposed licensed premises.

B. Subsection (A) of this Section shall not apply to a license issued by the Supervisor of Alcohol and Tobacco Control for the sale of intoxicating liquor pursuant to Section 311.218, RSMo., or to a license issued to any church, school, civic, service, fraternal, veteran, political or charitable club or organization which has obtained an exemption from the payment of Federal taxes.

C. Subsection (A) of this Section shall not apply to any premises holding a license issued before January 1, 2004, by the Supervisor of Alcohol and Tobacco Control for the sale of intoxicating liquor. To retain a license under this Subsection, the licensed premises shall not change license type, amend the legal description, or be without a liquor license for more than ninety (90) days.

SECTION 6. ANNUAL LICENSE FEES:

The following categories and subcategories of licenses shall be issued upon compliance with the provisions of this Ordinance and payment of the license fee indicated. The following fees for each such license issued under the provisions of this section are hereby established for the manufacturing, distilling, brewing, distributing or selling at wholesale or retail any alcoholic beverages within the City:

1. *General licenses.*

a. Malt liquor--original package	\$ 75.00
b. Non-intoxicating beer--original package	\$ 22.50
c. Intoxicating liquor (all kinds)--original package	\$ 150.00
d. Malt liquor--by drink	\$ 75.00
e. Malt liquor and light wines--by drink	\$ 75.00
f. Non-intoxicating beer--by drink	\$ 37.50
g. Intoxicating liquor (all kinds)--by drink	\$ 450.00
h. Wholesaler of Intoxicating Liquor	\$750.00
i. Wholesaler of Malt Liquor, Nonintoxicating Beer and Intoxicating Liquor Not in Excess of Twenty- Two Percent by Weight	\$300.00
j. Wholesaler of Malt Liquor	\$150.00

2. *Sunday sales.* (Additional fees)

- | | |
|--|-----------|
| a. Intoxicating liquor (all kinds)--original package | \$ 300.00 |
| b. Restaurant bars | \$ 300.00 |
| c. Amusement places | \$ 300.00 |
| d. Liquor by the drink--charitable organizations | \$ 300.00 |

3. *Permits.*

- a. Temporary permit--by the drink for certain organizations (7 days max.) \$ 37.50
- b. Tasting permit \$ 37.50

SECTION 7. PRORATING OF LICENSE FEES:

Of the license fee to be paid for any such license, the applicant shall pay as many twelfths (12ths) as there are months (part of a month counted as a month) remaining from the date of the license to the next succeeding July first (1st).

SECTION 8. APPLICATION FOR LICENSE AND RENEWAL:

A. *Filing Of An Application.* Each application for an original or renewal license shall be filed with the City Clerk on a form to be provided by the City, signed and sworn to by the applicant. Each application shall be accompanied by a proper remittance reflecting the appropriate license fee made payable to the City.

B. *Qualifications.* Neither the applicant nor any officer, director or shareholder of a corporate applicant shall have been convicted of a felony or of any distribution, sale or possession of any controlled substances or dangerous drugs.

C. *Issuance.* When the applicant presents a state liquor license the city clerk shall then issue a city liquor license permitting him/her to conduct such business for a term expiring on June thirtieth succeeding the date of issuance of such license unless such license shall be revoked, withdrawn or cancelled before the expiration of such time. Every license issued under this Ordinance shall particularly describe the premises at which intoxicating liquors may be sold there under, and such license shall not be deemed to authorize the sale of intoxicating liquors at any other place than that described therein.

D. *Renewal.* Applications for renewal of licenses must be filed on or before the first (1st) day of June of each calendar year. Upon payment of the license fee provided herein, the Clerk shall renew the license.

SECTION 9. ISSUANCE:

If the council shall find that the applicant for a license required by this division, is a person of good moral character, a registered voter and a taxpaying citizen of the county of his/her residence; that the applicant plans and proposes to conduct business in compliance with the laws of the state and with this article; and that the premises where the business is to be conducted is safe and sanitary.

SECTION 10. TERM:

A license issued under this Article shall be valid for a period of one (1) year from July 1 to the following June 30.

SECTION 11. TRANSFER:

Transfer to other person. No license for the sale of intoxicating liquor shall be transferable to another person. In the event of the death of the licensee, the widow or widower or the next of kin of such deceased licensee, who shall meet the other requirements of this Ordinance, may make application and the Clerk may transfer such license to permit the operation of the business of the deceased for the remainder of the period for which a license fee has been paid by the deceased. Whenever one (1) or more members of a partnership withdraws from the partnership, the Clerk, upon being requested, shall permit the remaining partner or partners originally licensed to continue to operate for the remainder of the period for which the license fee has been paid without obtaining a new license.

Transfer to different location. No license for the sale of intoxicating liquor shall be transferable to another location. An application must be completed for each location.

SECTION 12. MINORS:

A. Persons Eighteen Years Of Age Or Older May Sell Or Handle Liquor Or Beer, When.

1. Except as otherwise provided in this Section, no person under the age of twenty-one (21) years shall sell or assist in the sale or dispensing of intoxicating liquor or non-intoxicating beer.

2. In any place of business licensed in accordance with this Chapter, persons at least eighteen (18) years of age may stock, arrange displays, operate the cash register or scanner connected to a cash register, accept payment for, and sack for carry-out intoxicating liquor or non-intoxicating beer. Delivery of intoxicating liquor or non-intoxicating beer away from the licensed business premises cannot be performed by anyone under the age of twenty-one (21) years. Any licensee who employs any person under the age of twenty-one (21) years, as authorized by this Subsection, shall, when at least fifty percent (50%) of the licensee's gross sales does not consist of non-alcoholic

sales, have an employee twenty-one (21) years of age or older on the licensed premises during all hours of operation.

3. Persons eighteen (18) years of age or older may, when acting in the capacity of a waiter or waitress, accept payment for or serve intoxicating liquor or non-intoxicating beer in places of business which sell food for consumption on the premises if at least fifty percent (50%) of all sales in those places consists of food; provided that nothing in this Section shall authorize persons under twenty-one (21) years of age to mix or serve across the bar intoxicating beverages or non-intoxicating beer.

B. Sales To Minor--Exceptions.

1. No licensee, his/her employee, or any other person shall procure for, sell, vend, give away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of twenty-one (21) years, except that this Section shall not apply to the parent or guardian of the minor nor to the supplying of intoxicating liquor to a person under the age of twenty-one (21) years for medical purposes only or to the administering of such intoxicating liquor to such person by a duly licensed physician. No person shall be denied a license or renewal of a license issued under this Chapter solely due to a conviction for unlawful sale or supply to a minor while serving in the capacity as an employee of a licensed establishment.

2. Any owner, occupant, or other person or legal entity with a lawful right to the exclusive use and enjoyment of any property who knowingly allows a person under the age of twenty-one (21) to drink or possess intoxicating liquor or knowingly fails to stop a person under the age of twenty-one (21) from drinking or possessing intoxicating liquor on such property, unless such person allowing the person under the age of twenty-one (21) to drink or possess intoxicating liquor is his/her parent or guardian, is guilty of an ordinance violation.

3. It shall be a defense to prosecution under this Subsection if:

a. The defendant is a licensed retailer, club, drinking establishment, or caterer or holds a temporary permit, or an employee thereof;

b. The defendant sold the intoxicating liquor to the minor with reasonable cause to believe that the minor was twenty-one (21) or more years of age; and

c. To purchase the intoxicating liquor, the person exhibited to the defendant a driver's license, Missouri non-driver's identification card, or other official or apparently official document, containing a photograph of the minor and purporting to establish that such minor was twenty-one (21) years of age and of the legal age for consumption of intoxicating liquor.

C. Misrepresentation Of Age By Minor To Obtain Liquor--Use Of Altered Driver's License, Passport Or I.D. Cards, Penalties.

1. No person under the age of twenty-one (21) years shall represent, for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, that he/she has attained the age of twenty-one (21) years, except in cases authorized by law.

2. In addition to Subsection (C) (1) of this Section, no person under the age of twenty-one (21) years shall use a reproduced, modified or altered chauffeur's license, motor vehicle operator's license, identification card issued by any uniformed service of the United States, passport or identification card established in Section 302.181, RSMo., for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor.

D. Minors In Possession Of Intoxicating Liquor, Non-Intoxicating Beer.

1. Any person under the age of twenty-one (21) years who purchases or attempts to purchase, or has in his/her possession, any intoxicating liquor or non-intoxicating beer or who is visibly intoxicated as defined in Section 577.001, RSMo., or has a detectable blood alcohol content of more than two-hundredths of one percent (.02%) or more by weight of alcohol in such person's blood is in violation of this Section.

E. For purposes of prosecution under this Section, a manufacturer-sealed container describing that there is intoxicating liquor or non-intoxicating beer therein need not be opened or the contents therein tested to verify that there is intoxicating liquor or non-intoxicating beer in such container. The alleged violator may allege that there was no intoxicating liquor or non-intoxicating beer in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor or any non-intoxicating beer therein contains intoxicating liquor or non-intoxicating beer.

SECTION 13. LEWD OR INDECENT CONDUCT OR ENTERTAINMENT PROHIBITED:

A. No person licensed under the provisions of this Ordinance, his agent, servant or employee shall suffer or permit any disorderly, lewd or indecent conduct on his licensed premises. Nor shall any person licensed under the provisions of this Ordinance, his agent, servant or employee suffer or permit the exhibition of any motion picture or any form of video display which contains, portrays or depicts any act defined herein as lewd or indecent conduct.

SECTION 15. MISCELLANEOUS OFFENSES:

A. *Mixing Liquor With Drugs Prohibited.* No licensee, or any other person, shall for any purpose whatsoever mix or permit or cause to be mixed with any intoxicating liquor kept for sale, sold or supplied by him/her as a beverage any drug or form of methyl alcohol or impure form of alcohol.

B. *Unlawful To Sell Unlabeled Liquor--Penalty.* It shall be unlawful for any person to sell any intoxicating liquor which has not been inspected and labeled according to the provisions of the Liquor Control Law of Missouri, and any such person upon conviction shall have his/her license revoked and shall be ineligible to receive any subsequent liquor license for a period of two (2) years thereafter.

C. *Only Those Liquors Authorized By License To Be Kept On Premises.*

1. It shall be unlawful for any licensee licensed for the sale of intoxicating liquor at retail by the drink for consumption on the premises to keep in or upon the premises described in such license any intoxicating liquor other than the kind of liquor expressly authorized to be sold by such licensee.

2. Any retailer licensed pursuant to this Ordinance shall not:

a. Sell intoxicating liquor with an alcohol content of less than five percent (5%) by weight to the consumer in an original carton received from the wholesaler that has been mutilated, torn apart or cut apart; or

b. Repackage intoxicating liquor with an alcohol content of less than five percent (5%) by weight in a manner misleading to the consumer or that results in required labeling being omitted or obscured.

D. *Persons Apparently Intoxicated Not To Be Provided With Intoxicating Liquor.* It shall be unlawful for any licensee, or his/her employee or agent, to sell or supply intoxicating liquor, or permit such to be sold or supplied, to a habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor.

E. *Drinking In Public Places Prohibited.*

1. For purposes of this Section, the term "*public place*" shall mean any public street, highway, alley, sidewalk, thoroughfare or other public way of the City, or any parking lot.

2. No person shall drink or ingest any intoxicating liquor in or on any public place.

3. No person shall possess or have under his/her control any unsealed glass, bottle, can or other open container of any type containing any intoxicating liquor while in or upon any public place.

4. No person shall possess or have under his/her control any unsealed glass, bottle, can or other open container of any type containing any intoxicating liquor while within or on any motor vehicle while the same is being operated upon, or parked or standing in or upon, any public place. Any person operating a motor vehicle shall be deemed to be in possession of an open container contained within the motor vehicle he/she has control of whether or not he/she has actual physical possession of the open container.

SECTION 16. ADMINISTRATION OF LAW -- LICENSE SUSPENSION:

A. Suspension Or Revocation Of License--When--Manner. The Board may suspend or revoke the license of any person for cause shown. In such cases the City Clerk shall schedule a hearing before the Board not less than ten (10) days prior to the effective date of revocation or suspension, and prior to the hearing the Clerk shall give not less than ten (10) days' written notice specifying grounds for the suspension or revocation thereof to the licensee of the grounds upon which the license is sought to be revoked or suspended and the time, date and place of the hearing. Notice may be accomplished by personal delivery, U.S. mail or by posting on the licensed premises.

B. Grounds For Suspension Or Revocation. A license may be suspended or revoked for any of the following reasons:

1. Violating any of the provisions of either this Ordinance, Chapters 311 or 312, RSMo., or any ordinance of the City;
2. Failing to obtain or keep a license from the State Supervisor of Alcohol and Tobacco Control;
3. Making a false affidavit in an application for a license under this Ordinance;
4. Failing to keep an orderly place or house;
5. Selling, offering for sale, possessing or knowingly permitting the consumption on the licensed premises of any kind of intoxicating liquors, the sale, possession or consumption of which is not authorized under the license;
6. Selling, offering for sale, possessing or knowingly permitting the consumption of any intoxicating liquor which has not been inspected and labeled according to the laws of the State of Missouri; or
7. Selling, giving or otherwise supplying intoxicating liquor to:
 - a. Any person under the age of twenty-one (21) years,
 - b. Any person during unauthorized hours on the licensed premises,
 - c. A habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor, or
 - d. Any person on the licensed premises during a term of suspension as ordered by the Board.

C. Automatic Revocation/Suspension. A license shall be revoked automatically if the licensee's State liquor license is revoked or if the licensee is convicted in any court of any

violation of Chapter 311 or Chapter 312, RSMo., or of any felony violation of Chapter 195, RSMo., in the course of business. A license shall be suspended automatically if the licensee's State liquor license is suspended, and the suspension shall be for a term not less than that imposed by the State.

D. Effect Of Suspension. No person whose license shall have been suspended by order of the Board shall sell or give away any intoxicating liquor or non-intoxicating beer during the time such suspension is in effect. Any licensee desiring to keep premises open for the sale of food or merchandise during the period of suspension shall display the Board's order of suspension in a conspicuous place on the premises so that all persons visiting the premises may readily see the same.

SECTION 17. HEARINGS UPON SUSPENSION OR REVOCATION OF LICENSES:

A. Testimony--Evidence. Hearings before the Board shall be in the nature of informal investigations. Testimony of witnesses and other evidence pertinent to the inquiry may be taken in such hearings, and all proceedings in such hearings shall be recorded. Any person residing or conducting a business within two hundred (200) feet of the proposed establishment shall have the right to produce witnesses and testimony.

B. Witnesses--How Summoned. Subpoenas may be issued by the Board for any person whose testimony is desired at any hearing. Such subpoenas may be served and returns thereon made by any agent and in the same manner as provided by law for the service of subpoenas in civil suits in the Circuit Courts of this State. The Board also may issue subpoenas duces tecum requiring the production of documents or other items pertaining to the subject of the inquiry.

C. Witnesses To Be Sworn. Before any witness shall testify in any such hearing, he/she shall be sworn by the City Clerk to tell the truth and nothing but the truth.

D. Decision--Suspension Or Revocation. If the evidence supports a finding that the license should be revoked or suspended pursuant to this Ordinance, the Board shall issue a written order which shall include specific findings of fact setting forth the grounds for the action taken. If the evidence fails to support a finding that the license should be revoked or suspended, then no such order shall be issued.

E. Appeal. Any applicant or licensee aggrieved by a decision of the Board may appeal such decision to the Circuit Court as provided in Chapter 536, RSMo., provided such appeal is filed within ten (10) days of the date of the Board's decision. The Board may delay the implementation of its order pending appeal.

SECTION 18. REVOCATION TO FORFEIT LICENSE FEE:

In case of revocation or forfeiture of any license granted and issued under the provisions of this Ordinance for cause or otherwise, the City shall in no event return any part of the fee paid for such license.

SECTION 19. WARNING SIGN DISPLAYED -- LIQUOR LICENSES:

A. Any person who is licensed to sell or serve alcoholic beverages at any establishment shall place on the premises of such establishment a warning sign as described in this Section. Such sign shall be at least eleven (11) inches by fourteen (14) inches and shall read "WARNING: Drinking alcoholic beverages during pregnancy may cause birth defects". The licensee shall display such sign in a conspicuous place on the licensed premises.

B. Any employee of the Supervisor of Alcohol and Tobacco Control may report a violation of this Section to the Supervisor, and the Supervisor shall issue a warning to the licensee of the violation.

SECTION 20.

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 21.

This Ordinance shall be in full force and effect from and after the date of passage and approval.

PASSED AND APPROVED BY THE BOARD OF ALDERMEN OF THE CITY OF OSBORN, MISSOURI THIS 10th DAY OF MAY 2015.

MAYOR, David E. Meek

ATTEST:

CITY CLERK, Jody Barlow

Resolution 2015-01

**A RESOLUTION FOR THE CITY OF OSBORN, CLINTON AND DEKALB
COUNTIES, MISSOURI PROVIDING FOR THE AUTHORIZATION FOR THE
MAYOR TO SIGN AN AGREEMENT FOR THE RELEASE OF MIDWEST
INJECTIONS FROM THEIR BOND**

WHEREAS, the City has resolved that Midwest Injection, Inc. will pay a payment in the sum of three thousand dollars (\$3000.00); and

WHEREAS, the City agrees to release, acquit, and forever discharge Midwest Injection, Inc from any connection with the sludge removal and land application project in Osborn, Missouri;
and

NOW, THEREFORE, BE IT RESOLVED by the Board of Alderman of the City of Osborn, Clinton and Dekalb Counties, Missouri that the Board of Alderman fully approves, and authorizes the Mayor to sign the bond release agreement with Midwest Injection, Inc.

Passed and approved this 13th day of May 2015.

David E. Meek, Mayor

Attest:

Jody Barlow, City Clerk

Resolution No. 2015-02

**A RESOLUTION FOR THE CITY OF OSBORN, CLINTON AND DEKALB
COUNTIES, MISSOURI PROVIDING FOR THE AUTHORIZATION OF THE
EXECUTION OF AGREEMENT (C-520), BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT.**

NOW, THEREFORE, BE IT RESOLVED by the Board of Alderman of the City of Osborn, Clinton and Dekalb Counties, Missouri that the Board of Alderman fully approves, and authorizes the Mayor to sign the C-520 agreement with Sundstrom's Pit Pumping, LLC.

Passed and approved this 8th day of July 2015.

David E. Meek, Mayor

Attest:

Jody Barlow, City Clerk