

[DESIGNATION OF RECOVERY ZONE - SAMPLE FORM]

[IMPORTANT NOTICE - This Form is designed to provide Gilmore & Bell clients and contacts with a sample Ordinance/Resolution they can use to designate a Recovery Zone under the American Recovery and Reinvestment Tax Act of 2009 (ARRA). This Form is being provided for informational purposes only. This Form does not constitute legal or other professional advice or opinions on specific facts or matters. *Gilmore & Bell assumes no liability in connection with the use of this Form. Anyone using this Form is advised to contact an attorney*].

[If you have any questions regarding this Form or how the Recovery Zone Bond allocation is allocated and/or reallocated or ARRA, please contact any Gilmore & Bell attorney in the St. Louis or Kansas City office. If you do not have a regular contact at Gilmore & Bell please contact Nancy Morris in the Kansas City office at nmorris@gilmorebell.com or (816) 218-7542.]

BILL NO. _____

ORDINANCE NO. _____

Or

RESOLUTION NO. _____

AN [ORDINANCE] [RESOLUTION] DESIGNATING A RECOVERY ZONE PURSUANT TO THE AMERICAN RECOVERY AND REINVESTMENT TAX ACT OF 2009 FOR THE PURPOSE OF ISSUING RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS AND RECOVERY ZONE FACILITY BONDS.

WHEREAS, _____ [Name of County or City] (the "Public Entity") has received an allocation of the national Recovery Zone Economic Development Bonds limitation in the amount of \$ _____ and an allocation of the national Recovery Zone Facility Bonds limitation in the amount of \$ _____ pursuant to the American Recovery and Reinvestment Tax Act of 2009, codified in Title 26 of the United States Code and Internal Revenue Service, Notice 2009-50, issued on June 12, 2009 (collectively, the "Allocations"); and

WHEREAS, the Public Entity understands that the Allocations are to be used for the issuance of Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds pursuant to Section 1400U-2 or 1400U-3, respectively, of the Internal Revenue Code of 1986, as amended (the "Code"), such bonds referred to collectively as "Recovery Zone Bonds"; and

WHEREAS, the Public Entity understands that Recovery Zone Bonds are to be issued with respect to or to finance certain expenditures located in or attributable to an area within the jurisdiction of the Public Entity that the Public Entity determines has a significant level of one or more of the following factors: poverty, unemployment, home foreclosures, or general distress (such factors referred to herein as the "Distress Factors"); and

WHEREAS, the Public Entity has determined that the Distress Factors have been caused by one or more of the "Underlying Conditions of Distress" described in Section 1 hereof; and

WHEREAS, the Public Entity desires to designate the area described in Section 3 as a "Recovery Zone" to provide for the possible issuance of Recovery Zone Bonds (such area being referred to herein as the "Recovery Zone");

NOW, THEREFORE, BE IT [ORDAINED] [RESOLVED] BY THE GOVERNING BODY OF THE PUBLIC ENTITY, AS FOLLOWS:

Section 1. Underlying Conditions of Distress. The [Name of Governing Body] of the Public Entity (the “Governing Body”) hereby finds and determines that the Recovery Zone identified in Section 3 suffers from one or more of the following conditions (each an “Underlying Condition of Distress”):

Check those that apply	
<input type="checkbox"/>	The Recovery Zone has experienced significant increases in unemployment during the calendar years 2008 and 2009.
<input type="checkbox"/>	The Recovery Zone has experienced significant increases in home foreclosures and business failures [during the calendar years 2008 and 2009].
<input type="checkbox"/>	The Recovery Zone suffers from significant poverty.
<input type="checkbox"/>	Within the entire Recovery Zone there is a significant number of buildings and improvements which, by reason of dilapidation, deterioration, age or obsolescence, illegal use of individual structures, presence of structures below minimum code standards, abandonment, excessive vacancies, inadequate provision for ventilation, light, air sanitation, utilities or open spaces, high density of population and overcrowding of buildings, overcrowding of land, the existence of conditions which endanger life or property by fire and other causes, excessive land coverage, deleterious land use or layout, depreciation of physical maintenance, and lack of community planning, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime or constitutes an economic or social liability and is detrimental to the public health, safety, morals, or welfare of the Recovery Zone.
<input type="checkbox"/>	There are substantial real properties on which there is a vacant structure and on which real property taxes have been delinquent for one year or more and orders have been issued by the Recovery Zone's fire official, building official or health official, and there has been no compliance with those orders within the prescribed time given by such official or within ninety days, whichever is longer, or the owner has declared in writing to the building official that the property is abandoned or there has been a determination by the Governing Body that the vacant structure contributes to housing blight.
<input type="checkbox"/>	The Recovery Zone has generally suffered from declining population or an increase in property tax delinquency.
<input type="checkbox"/>	The Recovery Zone has suffered from a material decline (using historical numbers) in retail sales.
<input type="checkbox"/>	The Recovery Zone has experienced a decline in property tax or sales tax revenues, resulting in budget cuts and an ensuing reduction in the governmental services provided by the Public Entity within the Recovery Zone since 2008.
<input type="checkbox"/>	The Recovery Zone has experienced economic distress by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990.
<input type="checkbox"/>	A significant portion of the Recovery Zone has been designated as an empowerment zone or renewal community before February 17, 2009.

Section 2. Distress Factors. The Governing Body hereby finds and determines that, as a result of the Underlying Condition(s) of Distress, the Recovery Zone has experienced a significant level of one or more of the Distress Factors (*i.e.* poverty, unemployment, home foreclosures, or general distress):

Section 3. Designation of Recovery Zone. Based upon the findings and determinations of the Underlying Condition(s) of Distress and the resulting Distress Factors, the Governing Body hereby designates the following area as the “Recovery Zone” for the Public Entity:

Check one	
<input type="checkbox"/>	The Recovery Zone includes the <u>entire area</u> within the jurisdictional boundaries of the Public Entity.
<input type="checkbox"/>	The Recovery Zone includes the entire area within the jurisdictional boundaries of the Public Entity, <u>excluding</u> the area(s) identified in the attachment hereto.
<input type="checkbox"/>	The Recovery Zone includes only the area(s) identified in the attachment hereto.

Section 4. Further Action. The appropriate staff and officers of the Public Entity are authorized and directed: to take all necessary steps to identify appropriate projects for which the issuance of bonds will further the goals established for Recovery Zone Bonds in order to cure the Distress Factors within the Recovery Zone; to identify other economic development incentives and programs which may be available under Federal or Missouri laws for such projects which will further the goals established for Recovery Zone Bonds; and to work with the Missouri Department of Economic Development to plan for the issuance of Recovery Zone Bonds for identified projects.

Adopted by the [Name of Governing Body] of [Name of County or City] this ____ day of [Date].

[COUNTY] [CITY]

[Authorized Official]

(Seal)

ATTEST:

[Clerk]

July 13, 2009 – 1

[Exhibit A – Description of Zone or Map Showing Zone Designation]

[Only attach a description of the area if the entire County or City will not be designated a Recovery Zone.
If the entire County/City will be designated a Recovery Zone this Exhibit A should be left blank]