

Amended Bill No. 4666, an Ordinance of the City of Wentzville, Missouri, Amending Title IV Land Use, Chapter 405 Zoning Regulations; Article II District Regulations pertaining to Section 405.270 "PD" Planned Development District Board of Aldermen Voting Procedures; Section 405.300 "WP" Wentzville Parkway Overlay District pertaining to pedestrian access; Article III Supplementary District Regulation; Section 405.405 pertaining to Marijuana Land Use Separation Requirements; Article V Off-Street Parking and Loading Requirements; Section 405.550 Design Requirements pertaining to surface materials and access near street corners; Article X Amendments; Section 405.1120 pertaining to Overruling Planning and Zoning Commission Recommendations within the City Limits of Wentzville; and Chapter 410 Subdivisions, Article II Submission and Review of Subdivision Plats, Section 410.160 Trust Indentures Pertaining to the Establishment of Trust Indentures or Declarations of Covenants; and Matters Relating Thereto, as Per Application 23-87-PZ

WHEREAS, pursuant to Chapter 405, Article X Amendments, the City's Planning Division has been directed to draft Text Amendments to Chapter 405 of the City of Wentzville's Zoning Code (the "Text Amendments"); and

WHEREAS, Chapter 10 of the City's adopted Comprehensive Plan has established Land Use & Growth Management objectives which direct the community to update and monitor the Community's ordinances to ensure compatibility, desired development activities, and to maintain a progressive ordinance; and

WHEREAS, due to state law regarding the voting procedure to overturn a recommendation for denial by the City's Planning and Zoning Commission it is recommended that the City amend Section 405.270(f)(3)h and 405.1120(b)(c) of the Code of Ordinances to ensure that the City's regulations comport with state law regarding proper regulation of voting procedures; and

WHEREAS, in an effort to further encourage and support pedestrian access and bicycle transportation within the City's "WP" Wentzville Parkway Overlay District, it is recommended that language requiring new developments to provide sidewalk connections and bike racks be added to Section 405.300(f)(12); and

WHEREAS, it has been identified that amendments to Section 405.405 of the Code of Ordinances regarding marijuana land use separation requirements are needed to restore previously deleted verbiage and to maintain consistency with state law; and

WHEREAS, it has been identified that amendments to Section 405.550 of the Code of Ordinances regarding surface materials should be amended in regards to property exceptions; and

WHEREAS, it has been identified that amendments to Section 410.160 of the Code of Ordinances regarding *trust indentures* are needed to clarify existing terminology and provide specific language regarding quorums and majority votes during trustee meetings; and

WHEREAS, that after proper notice in accordance with applicable legal provisions, a public hearing was held in regard to the Text Amendments by the City's Planning and Zoning Commission (the "Commission") on November 1, 2023, and the Commission made a recommendation to the Board of Aldermen (the "Board") that the Board approve the Text Amendments; and

WHEREAS, the Board, after careful and due deliberation, following a duly noticed public hearing held on November 8, 2023, has concluded that the proposed Text Amendments are desired and necessary and accordingly would be in the interests of the health, safety and welfare of the citizens of the City.

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

Section 1: Section 405.270.f "PD" Planned Development District of Title IV Land Use, Chapter 405 Zoning, Article II District Regulations is hereby amended to repeal Subsection 3.h in its entirety and enact a new Subsection 3.h to read as follows:

(3)h. Board of aldermen approval. If the preliminary development plan is approved by the board of aldermen, it shall adopt an ordinance establishing the appropriate "PD" district. The ordinance shall include reference to an approved preliminary development plan citing all conditions imposed on the plan and requiring the submission of a final development plan for review and certification by the city. A two-thirds vote of the entire membership of the board of aldermen shall be required to overrule the planning and zoning commission recommendations.

Section 2: Section 405.300.f "WP" Wentzville Parkway Overlay District of Title IV Land Use, Chapter 405 Zoning, Article II District Regulations is hereby amended to enact a new Subsection 12.e to read as follows:

(12)e. All non-residential buildings shall provide a bicycle rack and have the site designed with pedestrian access with walk paths and a connection to adjacent public sidewalks. All residential developments shall be designed with pedestrian access to common ground and adjacent public sidewalks.

Section 3: Section 405.405 Marijuana Land Use Separation Requirements of Title IV Land Use, Chapter 405 Zoning Regulations; Article III Supplementary District Regulations is hereby repealed in its entirety and a new Section 405.405 shall be enacted to read as follows:

Section 405.405. - Marijuana Land Use Separation Requirements.

New medical or comprehensive marijuana facilities, marijuana microbusiness facilities, or marijuana testing facilities located within the City shall not be sited, at the time of application for license or for local zoning approval, whichever is earlier, within one thousand (1,000) feet of any then existing elementary or secondary school, daycare, church or other marijuana facilities. The distance shall be measured along the shortest path between the demarcation points that can be lawfully traveled by foot in accordance with the following:

1. *Freestanding marijuana facilities. In the case of a new freestanding marijuana facility, the 1,000 foot distance requirement shall be measured from the external wall of the proposed marijuana facility closest in proximity to the existing school, daycare, church or marijuana facility to the closest point of the property line of the existing school, daycare, church or marijuana facility. In situations where the existing school, daycare, church or marijuana facility is part of a larger structure, such as an office building or strip mall, the distance shall be measured to the entrance or exit of the existing school, daycare, church, or marijuana facility closest in proximity to the new marijuana facility.*
2. *Marijuana facilities within larger structures. In the case of a new marijuana facility which is part of a larger structure, such as an office building or strip mall, the distance between the proposed facility and the existing school, daycare, church or marijuana facility shall be measured from the property line of the existing school, daycare, church or marijuana facility to the proposed facility's closest entrance or exit. In situations where the existing school, daycare, church or marijuana facility is also part of a larger structure, the distance shall be measured to the entrance or exit of the existing school, daycare, church, or marijuana facility closest in proximity to the new marijuana facility.*

Section 4: Section 405.550.a *Design Requirements* of Title IV Land Use, Chapter 405 Zoning Regulations; Article V Off-Street Parking and Loading Requirements is hereby repealed in its entirety, and a new Section 405.550.a is enacted to read as follows:

(a) *Surface Material.*

(1) a. *Areas used for standing, parking, storage and maneuvering of motor vehicles, accessory trailers, recreational vehicles, equipment or product inventory and materials, including access points to public or private streets, shall have Portland concrete or asphaltic concrete surfaces constructed and maintained adequately for all-weather use and be so drained as to avoid flow of water across sidewalks. All driveways and access points to public or private streets shall be paved. Use of permeable pavement as a surface material is permissive subject to site plan review and approval under the requirements of article VII of this chapter, with soil type and base preparations as reviewed and approved by the city engineer.*

b. *Exceptions:*

- (1) *Existing residential gravel driveways may continue to exist, so long as they are properly maintained.*
- (2) *Proposed new residential driveways upon property zoned agricultural may be gravel if greater than one hundred (100) feet in length and properly installed and maintained. The first twenty (20) feet of the approach to a public or private street of a qualifying gravel driveway shall be paved.*
- (3) *Commercial and industrial existing gravel parking lots that were legally installed and are properly maintained may continue to be used until such time as there is a change in the ownership of the property. If property is owned by a corporation, partnership or similar entity, the change in ownership of 100% or more of such an entity shall be deemed a change in*

ownership of the property for purposes of this section. Upon change in ownership of such property, any existing gravel parking lot on such property and all points of access to public and private streets must be paved with a minimum parking surface of eight inches of rock base and three inches of asphalt, or four inches of concrete on a prepared subgrade.

- (4) Proposed new commercial driveways or parking areas upon property (i) zoned agricultural; (ii) in excess of three acres in size; and (iii) proposed to be used for a greenhouse (commercial), farmstand, nursery, orchard, pumpkin patch, or similar agricultural use may be gravel if properly installed and maintained, provided the first twenty (20) feet of the approach to a public or private street of a qualifying gravel driveway shall be paved.*

Section 5: Section 405.550.c *Design Requirements* of Title IV Land Use, Chapter 405 Zoning Regulations; Article V Off-Street Parking and Loading Requirements is hereby repealed in its entirety, and a new Section 405.550.c is enacted to read as follows:

- (c) Access near street corners. No entrance or exit for any commercial or industrial off-street parking area with over four parking spaces, nor any loading berth, shall be located within 150 feet of the intersection of any two streets. Residential driveways located on corner lots shall be placed adjacent to the interior or side property lines most distant from the street corner.*

Section 6: Section 405.1120 *Approval of request* of Title IV Land Use, Chapter 405 Zoning Regulations; Article X "Amendments" is hereby amended to repeal Subsections b through c and to enact new Subsections to read as follows:

- (b) Overruling planning and zoning commission recommendation. In those instances where the planning and zoning commission recommends denial of the request, a two-thirds majority vote of the entire membership of the board of aldermen shall be required to reverse the recommendation of the commission.*
- (c) Citizen protests. In case a protest against such revision or amendment is presented, duly signed, notarized and acknowledged by the owners of 30 percent or more of the areas of the land (exclusive of streets and alleys) included in such proposed change, or by the owners of 30 percent or more of the land within an area determined by lines drawn parallel to and 185 feet distant from the boundaries of the district proposed to be changed, such revision or amendment shall not become effective except by the favorable vote of two-thirds of all of the members of the board of aldermen.*

Section 7: Section 410.160 *Trust Indentures* of Title IV Land Use, Chapter 410 Subdivision Regulations, Article II Submission and Review of Subdivision Plats is hereby repealed in its entirety, and a new Section 410.160 is enacted to read as follows:

Sec. 410.160. Trust Indentures/Declarations of Covenants.

- (a) In any case where the establishment of common land (including pedestrian walkways and cul-de-sac islands), private streets, upgraded/enhanced street lighting exceeding standard installation equipment, upgraded/enhanced street signage exceeding standard*

installation equipment, upgraded/enhanced pavement exceeding standard construction, United States Postal Service centralized box units (CBU) (mail receptacles and associated components and pavement in right-of-way or upon common land), stormwater drainage facilities, stormwater best management practices, such as detention structures or basins and drainage pipe and ditches, tree preservation areas or any other improvements that require continuous maintenance, a trust indenture or declaration of covenants shall be recorded simultaneously with the record plat. The indenture or declaration shall provide for proper maintenance and supervision by the trustees or directors of the home owners association who are selected to act in accordance with the terms of such indenture or declaration and the applicable provisions of these regulations. For single-lot developments and developments with no common ground, the city may accept script certifying the means of maintenance on the record plat. Common land shall be conveyed by the owner in fee simple absolute title by deed to the homeowners' association and the trust indentures or declaration of covenants shall provide that the common land and any permanent landscape easement be for the benefit, use and enjoyment of the lot owners present and future and shall be the maintenance responsibility of the homeowners' association of the subdivision and that no lot owner shall have the right to convey his/her interest in the common land except as an incident of the ownership of a regularly platted lot.

- (b) Any trust indenture or declaration of covenants required to be recorded or recorded for compliance with provisions of these regulations or the zoning regulations shall provide for not less than the following representation of purchasers of developed lots among the trustees: one-third of the trustees or board of directors shall be elected by purchasers of developed lots after 33 percent of the lots have been sold; two-thirds of the trustees or board of directors shall be elected by purchasers of developed lots after 65 percent of the lots have been sold; and all of the trustees or board of directors shall be elected by purchasers of developed lots after 90 percent of the lots have been sold. The trust indenture or declaration shall provide that within a timeframe not to exceed five years from the recording of the initial record plat for the subdivision, at least two-thirds of the trustees or board of directors shall be elected by purchasers of developed lots irrespective of whether 65 percent or more of the developed lots of the subdivision have been sold. The trust indenture or declaration shall further state, "So long as the provision regarding selection of [trustees/directors] exists in this Code, the corresponding provision of the [trust indenture/declaration of covenants] may not be amended without permission of the board of aldermen of the city."*
- (c) A trust indenture or declaration of covenants shall be required for a large lot subdivision only in the event that common land or other private improvement is contained within the subdivision.*
- (d) Term of indentures or declarations for all types of subdivisions, including planned districts, shall be for the duration of the subdivision. In the event the subdivision is vacated, fee simple title shall vest in the lot or unit owners as tenants in common. The rights of the tenants shall only be exercisable appurtenant to, and in conjunction with, their lot or unit ownership. Any conveyance or change of ownership of any lot or unit shall convey with it ownership in the common land and no interest in the common land shall be conveyed by a lot or unit owner except in conjunction with the sale of a lot or unit. The sale of any lot or unit shall carry with it all the incidents of ownership of the common land although such is not expressly mentioned in the deed; provided however, that no right or power conferred upon the trustees shall be abrogated.*

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- (e) *If a project provides for common property, a trust indenture or declaration of covenants shall provide for the payment of assessments by the property owners on no greater than a yearly basis beginning within one year of recording of the final plat; however, a payment schedule on less than a yearly basis may be included. For that period of time in which the developer appoints the majority of the trustees, the homeowners' association shall be responsible for the management of the assessment account.*
- (f) *Subdivision indentures or declarations shall not prohibit builders of homes from maintaining signage on common ground and any private (non-public) right-of-way advertising the subdivision and homes for sale until the last home is sold in the subdivision.*
- (g) *Any trust indenture or declaration of covenants required to be recorded for the purposes of compliance with the provisions of these regulations or the zoning regulations shall state the following:*
 - (1) *"Where the provisions of this [trust indenture/declaration of covenants] cannot be fulfilled by reason of unfilled vacancies among the directors or trustees arising due to default or inaction by the developer, the board of aldermen of the city or its successors may, upon petition of any concerned resident or owner in the subdivision and upon providing advance written notice to such developer, appoint one or more directors or trustees to fill the vacancies until such time as directors or trustees are elected or selected in the manner provided in this [indenture/declaration]. So long as the provision regarding the city's appointment of directors and trustees to fill vacancies exists in this Code, the corresponding provision of the trust indenture or declaration of covenants may not be amended without permission of the board of aldermen;" and*
 - (2) *"Business. Any business relevant or pertinent to the affairs of the subdivision that requires the approval of the Owners shall be transacted at any annual or special meeting of the Owners. All actions of the Owners at annual or special meetings shall be by a majority of votes cast, either in person or by proxy at such meetings, provided that at least one-quarter (1/4) of all Owners of Lots in the Subdivision (hereinafter referred to as a "Quorum") are present at such meeting. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. If the required quorum is not present at such subsequent meeting, another meeting may be called subject to the same notice requirement, and the required quorum at the second subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. At each annual meeting described above, a budget shall be adopted by the Owners."*

Section 8: The portions of this Ordinance shall be severable. In the event that any portion of

this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this Ordinance shall be deemed valid, unless the court finds the valid portions of this Ordinance are so essential and inseparably connected with and dependent upon the void portion that it cannot be presumed that the governing body of the City has enacted the valid portions without the invalid ones, or unless the court finds that the valid portions standing alone are incomplete and are incapable of being executed in accordance with the legislative intent. All prior Ordinances in conflict herewith shall be and are hereby repealed.

Section 9: This ordinance shall be in full force and effective immediately upon enactment and approval.

READ TWO TIMES AND PASSED BY THE BOARD OF ALDERMEN OF THE CITY OF WENTZVILLE, MISSOURI THIS 10 DAY OF January, 2024.


Mayor, Nickolas Guccione

Attest:


City Clerk, Kathryn Bowman

APPROVED BY THE MAYOR OF THE CITY OF WENTZVILLE, MISSOURI THIS 11 DAY OF January, 2024.


Mayor, Nickolas Guccione

Attest:


City Clerk, Kathryn Bowman

Approved as to Form:


Attorney

