

**CITY OF CLAYTON BOARD OF ALDERMEN**  
**EXECUTIVE SESSION – 6:30 P.M.**  
**TUESDAY, MAY 28, 2019**  
**CLAYTON CITY HALL**  
**10 N. BEMISTON AVENUE**

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**CITY OF CLAYTON BOARD OF ALDERMEN MEETING AGENDA**  
**TUESDAY, MAY 28, 2019 – 7:00 P.M.**  
**CITY HALL COUNCIL CHAMBERS, 2<sup>ND</sup> FL**  
**10 N. BEMISTON AVENUE**

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**ROLL CALL**

**MINUTES** – May 14, 2019

**PUBLIC REQUESTS & PETITIONS**

**UNFINISHED BUSINESS**

1. Ordinance – To approve an amendment to Chapter 410 (overlay and Urban Design Districts) to allow for an Entertainment Overlay District. (Bill No. 6727.1) – 2<sup>ND</sup> Reading
  - *To consider a proposed amendment to Chapter 410 (Overlay and Urban Design Zoning Districts) related to a new overlay district.*

**PUBLIC HEARING**

1. Ordinance – (Discussion Only) – An amendment to Title IV “Land Use”, Chapter 405 (Zoning Regulations) of the Municipal Code of the City of Clayton, Missouri, Article X “Planned Unit Development District”.
  - *A public hearing to solicit input regarding a staff-initiated amendment to Chapter 405 (Zoning Regulations) Article X. Planned Unit Development District. Staff and the City Attorney’s office have identified areas of the regulations that are unclear, contradictory to other code required processes and in general, need updating.*

**REPORT FROM THE CITY MANAGER**

1. Ordinance – An amendment to Chapter 225 of the Clayton Municipal Code to Prohibit Housing Discrimination based on a person’s source of income. (Bill No. 6733)
  - *To consider approving as one of many ways to help support more inclusive housing options.*

**ADJOURNMENT**

Subject to a motion duly made in open session and a roll call vote pursuant to Section 610.022 the Board of Aldermen may also hold a closed meeting, with a closed vote and record for one or more of the reasons as authorized by Section 610.021(1), (2) and (3) Revised Statutes of Missouri, relating to legal issues, real estate and/or personnel, negotiation of a contract pursuant to Section 610.021(12) RSMO., proprietary information pursuant to Section 610.021(15), and/or information related to public safety and security measures pursuant to Section 610.021(18) and (19) RSMO.

THE CITY OF CLAYTON

Board of Aldermen  
City Hall – 10 N. Bemiston Avenue  
May 14, 2019  
7:00 p.m.

Minutes

Mayor Harris called the meeting to order and requested a roll call. The following individuals were in attendance:

Aldermen: Mark Winings, Joanne Boulton, Rich Lintz, Ira Berkowitz, and Bridget McAndrew.

Mayor Harris  
City Manager Owens  
City Attorney O'Keefe

Mayor Harris welcomed the students of the Mayor's Youth Advisory Council and asked if former Mayor Harold Sanger would present the students with the certificates of participation. Mr. Sanger gave special recognition to Mac Redohl for his outstanding participation presenting him with an award.

PUBLIC REQUESTS AND PETITIONS

None

A PUBLIC HEARING AND AN ORDINANCE TO CONSIDER APPROVING AN AMENDMENT TO CHAPTER 410: OVERLAY AND URBAN DESIGN ZONING DISTRICTS BY THE ADDITION OF ONE NEW ARTICLE, ESTABLISHING THE ENTERTAINMENT OVERLAY DISTRICT

**Mayor Harris opened the public hearing and requested proof of publication.**

City Manager Owens reported that this is a public hearing to solicit input regarding a proposed amendment to Chapter 410 (Overlay and Urban Design Zoning Districts) related to a new overlay district. The proposed overlay district is in response to a long-term initiative set by this Board to enhance the vibrancy of the Central Business District. During strategic planning discussions there was a re-occurring discussion about different types of destination and entertainment venues. A mixture of venues bringing people into the City at different times creates a vibrant and lively downtown area.

Alderman Lintz commented that there should be no arcades or game rooms allowed.

Alderman Berkowitz agreed with Aldermen Lintz that although those two items should be eliminated, he feels that we are moving in a direction that is good for Clayton.

Alderman Boulton agreed and noted that it is in line with the Master Plan. She also commented that Blueberry Hill is a good example of a restaurant with "arcades" and "game rooms."

Alderman Winings reminded everyone that each proposed concept would be thoroughly discussed during the Conditional Use Permit (CUP) process. He added that we should look at the proposed ordinances as providing different concepts than what is now available.

Alderman McAndrew stated that the CUP process is crucial and that restrictions should be more explicitly established in the ordinance.

Albert Van Amburg, 119 N. Bemiston Avenue, addressed the Board suggesting the proposed district would be better suited further south on Bemiston.

Charlie Claggett, 123 N. Bemiston Avenue, addressed the Board with concerns of noise violations and parking issues after 5:00 p.m.

Peter Smith, 23 Brighton Way, addressed the Board with concerns of bar patronage and excessive drinking; feels it is not appropriate for the area.

Jennifer Volk, 124 A N. Central addressed the Board stating that the City needs to do something to encourage people to be downtown after 5:00 p.m. and she is in full support of the ordinance.

Jim Kerly, 139 N. Central Avenue, addressed the Board with concerns for a prohibition of age limits for patrons.

Peter Burkowski, representing Graybar, addressed the Board as being opposed to the overlay district due to concerns of safety and excessive drinking.

Spencer Burk, 121 N. Hanley Road, addressed the Board suggesting them to consider the alleyway as a preferred site; the change would increase traffic and he also had concerns for pedestrian safety.

Marina Matoesian, 119 N. Bemiston Avenue, addressed the Board stating that she does not like the proposed location. There is already noise (music) from Café Napoli, and Parties in the Park. She suggests moving the location further south on Bemiston.

Mayor Harris noted that the Board can always review and change the ordinances. She reminded everyone that there would be a CUP process for compliance. Also reminding everyone of the venue, Finale, the former nightclub located at Clayton on the Park.

**Mayor Harris closed the public hearing.**

**Alderman Winings introduced Bill No. 6727, to approve an amendment to Chapter 410 to allow for an Entertainment Overlay District to be read for the first time by title only. Alderman Boulton seconded.**

**City Attorney O’Keefe reads Bill No. 6727, first reading, An Ordinance Amending Title IV “Land Use”, Chapter 410 (Overlay and Urban Design Zoning Districts) of the Municipal Code of the City of Clayton, Missouri, Adding Article XV “Entertainment Overlay District” and Other Actions Related Thereto by title only.**

**The motion passed on a 5 – Aye to 1 – Nay (Alderman Lintz) vote.**

**AN ORDINANCE TO CONSIDER AMENDING TABLE III H OF THE PARKING REGULATIONS IN TITLE III OF THE CITY CODE**

City Manager Owens reported that this is an ordinance to amend Title III Traffic Code by adding a section of Lee Avenue to Table III-H Parking Restrictions. Specifically, the section impacted is between Forsyth Boulevard and Maryland Avenue. This section of street is proposed to be designated as a

residential parking zone where parking is restricted to two hours between 8:00 a.m. and 5:00 pm except on Saturdays, Sundays and holidays and further except by valid resident and visitor permit. This proposed restriction impacts both the east and west sides of the street; however, the portion closest to Forsyth does have meters installed on both sides of the street and this condition is not changed by the attached ordinance. The purpose of this bill is to match legislation with current demand. The adoption of this bill will alter the signs on Lee Avenue only to the extent of adding the resident permit exception.

**Alderman Winings introduced Bill No. 6728, to approve an amendment to Title III Traffic Code by adding a section of Lee Avenue to Table III-H Parking Regulations to be read for the first time by title only. Alderman Boulton seconded.**

**City Attorney O’Keefe reads Bill No. 6728, first reading, an Ordinance Amending Table III H of Title III of the Clayton City Code by title only.**

**The motion passed unanimously on a voice vote.**

**Motion made by Alderman Winings that the Board give unanimous consent to consideration for adoption of Bill No. 6728 on the day of its introduction.**

**The motion passed unanimously on a voice vote.**

**Alderman Winings introduced Bill No. 6728, to approve an amendment to Title III Traffic Code by adding a section of Lee Avenue to Table III-H Parking Regulations to be read for the second time by title only. Alderman Boulton seconded.**

**City Attorney O’Keefe reads Bill No. 6728, second reading, an Ordinance Amending Table III H of Title III of the Clayton City Code by title only.**

**The motion passed on a roll call vote: Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Lintz – Aye; Alderman Berkowitz – Aye; Alderman McAndrew – Aye; and Mayor Harris – Aye. The bill, having received majority approval was adopted and became Ordinance No. 6591 of the City of Clayton.**

**AN ORDINANCE TO CONSIDER APPROVING AN AMENDMENT TO THE SALES AGREEMENT FOR 227 SOUTH CENTRAL AVENUE**

City Manager Owens reported that HB Clayton, LLC (developer) has proposed that the sales agreement be amended a second time.

**Alderman Winings introduced Bill No. 6729, to approve an amendment to the Sales Agreement for 227 S. Central Avenue to be read for the first time by title only. Alderman Boulton seconded.’**

**City Attorney O’Keefe reads Bill 6729, first reading, an Ordinance Approving and Authorizing Execution of Second Amendment to Agreement Heretofore Approved and Executed for Sale and Development of 227 South Central Avenue by title only.**

**The motion passed unanimously on a voice vote.**

**Motion made by Alderman Winings that the Board give unanimous consent to consideration for adoption of Bill No. 6729 on the day of its introduction. Alderman Boulton seconded.**

**The motion passed unanimously on a voice vote.**

**Alderman Winings introduced Bill No. 6729, to approve an amendment to the Sales Agreement for 227 S. Central Avenue to be read for the second time by title only. Alderman Boulton seconded.'**

**City Attorney O'Keefe reads Bill 6729, second reading, an Ordinance Approving and Authorizing Execution of Second Amendment to Agreement Heretofore Approved and Executed for Sale and Development of 227 South Central Avenue by title only.**

**The motion passed on a roll call vote: Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Lintz – Aye; Alderman Berkowitz – Aye; Alderman McAndrew – Aye; and Mayor Harris – Aye. The bill, having received majority approval was adopted and became Ordinance No. 6592 of the City of Clayton.**

**AN ORDINANCE TO CONSIDER APPROVING A CONTRACT WITH BYRNE & JONES CONSTRUCTION CO. FOR THE MICROSURFACING FY2019 PROJECT**

City Manager Owens reported that the Public Works Department is requesting approval of a construction contract for the Microsurfacing FY2019 Project with Byrne and Jones Construction Company. This bid scope included the application of microsurfacing to Davis Place, Hunter, S. Gay, and portions of Shaw Park Drive (reference attached maps). Existing curb ramps will be replaced in order to bring them into ADA compliance.

**Alderman Winings introduced Bill No. 6730, approving a contract with Byrne and Jones Construction Company for the FY2019 Micro-surfacing Project to be read for the first time by title only. Alderman Boulton seconded.**

**City Attorney O'Keefe reads Bill No.6730, first reading, an Ordinance Approving a Contract With Byrne & Jones Construction Company for the Microsurfacing FY2019 Project by title only.**

**The motion passed unanimously on a voice vote.**

**Motion made by Alderman Winings that the Board give unanimous consent to consideration for adoption of Bill No. 6730 on the day of its introduction. Alderman Boulton seconded.**

**The motion passed unanimously on a voice vote.**

**Alderman Winings introduced Bill No. 6730, approving a contract with Byrne and Jones Construction Company for the FY2019 Micro-surfacing Project to be read for the second time by title only. Alderman Boulton seconded.**

**City Attorney O'Keefe reads Bill No.6730, second reading, an Ordinance Approving a Contract With Byrne & Jones Construction Company for the Microsurfacing FY2019 Project by title only.**

**The motion passed on a roll call vote: Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Lintz – Aye; Alderman Berkowitz – Aye; Alderman McAndrew – Aye; and Mayor Harris – Aye. The bill, having received majority approval was adopted and became Ordinance No. 6593 of the City of Clayton.**

**AN ORDINANCE TO CONSIDER APPROVING A CONTRACT RENEWAL FOR PROFESSIONAL SERVICES/CITY ATTORNEY**

City Manager Owens reported that this is an ordinance for renewal of the city attorney contract. In August 1999, Kevin O’Keefe was appointed to his position as City Attorney for the City of Clayton, effective October 1, 1999. Compensation for Kevin’s services has not been adjusted since 2007.

**Alderman Winings introduced Bill No. 6731, to consider approving a contract renewal with Curtis, Heinz, Garrett, and O’Keefe for City Attorney services to be read for the first time by title only. Alderman Boulton seconded.**

**City Attorney O’Keefe reads Bill NO. 6731, first reading, an Ordinance Approving an Agreement for Legal Services and Authorizing Execution Thereof by title only.**

**The motion passed unanimously on a voice vote.**

**Motion made by Alderman Winings that the Board give unanimous consent to consideration for adoption of Bill No. 6731 on the day of its introduction. Alderman Boulton seconded.**

**The motion passed unanimously on a voice vote.**

**Alderman Winings introduced Bill No. 6731, to consider approving a contract renewal with Curtis, Heinz, Garrett, and O’Keefe for City Attorney services to be read for the second time by title only. Alderman Boulton seconded.**

**City Attorney O’Keefe reads Bill No. 6731, second reading, an Ordinance Approving an Agreement for Legal Services and Authorizing Execution Thereof by title only by title only.**

**The motion passed on a roll call vote: Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Lintz – Aye; Alderman Berkowitz – Aye; Alderman McAndrew – Aye; and Mayor Harris – Aye. The bill, having received majority approval was adopted and became Ordinance No. 6594 of the City of Clayton.**

**AN ORDINANCE TO CONSIDER APPROVING A CONTRACT WITH CHIODINI ARCHITECTS FOR DESIGN SERVICES FOR THE SHAW PARK ALL-SEASON RECREATION COMPLEX PROJECT**

City Manager Owens reported that it has been determined that the City should pursue a new course for the design and construction of the Ice Rink/Shaw Park All-Season Recreation Complex in order to have greater assurance of meeting the budget allocation of \$10.2 million. The new approach will be to use the construction management-at-risk (“CM at Risk”) method for building the facility. The selection requirements for determining a CM at Risk will include the experience and capability of the firm as it relates to similar projects and facilities, the experience of key personnel on the project team, the financial stability of the firm and finally, a demonstrated ability of the firm to bring projects in on schedule and within budget.

Lou Chiodini and Chris Chiodini addressed the Board to answer questions.

**Alderman Winings introduced Bill No. 6732, to approve a contract with Chiodini Architects for the Shaw Park All-Season Recreation Complex Project to be read for the first time by title only. Alderman Boulton seconded.**

**City Attorney O’Keefe reads Bill No. 6732, first reading, an Ordinance Approving a Contract with Chiodini Architects for the Shaw Park All-Season Recreation Complex Project by title only.**

**The motion passed unanimously on a voice vote.**

**Motion made by Alderman Winings that the Board give unanimous consent to consideration for adoption of Bill No. 6732 on the day of its introduction. Alderman Boulton seconded.**

The motion passed unanimously on a voice vote.

**Alderman Winings introduced Bill No. 6732, to approve a contract with Chiodini Architects for the Shaw Park All-Season Recreation Complex Project to be read for the second time by title only. Alderman Boulton seconded.**

**City Attorney O’Keefe reads Bill No. 6732, second reading, an Ordinance Approving a Contract with Chiodini Architects for the Shaw Park All-Season Recreation Complex Project by title only.**

**The motion passed on a roll call vote: Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Lintz – Aye; Alderman Berkowitz – Aye; Alderman McAndrew – Aye; and Mayor Harris – Aye. The bill, having received majority approval was adopted and became Ordinance No. 6595 of the City of Clayton.**

A RESOLUTION TO CONSIDER APPROVING ADDITIONAL FUNDING FOR THE CENTER OF CLAYTON PROJECT

Patty DeForrest, Director, provided a brief summary to the Board.

**Motion made by Alderman Winings to approve Resolution No. 19-07, grant additional funding for the Center of Clayton Project. Alderman Boulton seconded.**

The motion passed unanimously on a voice vote.

A PRESENTATION ON THE FY2020 SPECIAL EVENTS PLAN

Kristin Bryant, Events Specialist, gave a presentation on the FY2020 Special Events Plan, previously provided to the Board.

Other

Mayor Harris reported that she attended the St. Louis County Council meeting last week. They had discussion on the proposed Board of Freeholders as it relates to the Better Together proposal.

Alderman Lintz reported that the Plan Commission/ARB discussed the allowance of medical marijuana dispensaries which no action was taken.

**Motion was made by Alderman McAndrew that the Board adjourn to a closed meeting, with a closed vote and record, as authorized by Section 610.021(1), (2) and (3) Revised Statutes of Missouri, relating to legal issues, real estate and/or personnel, and to discuss matters related to negotiation of a contract pursuant to Section 610.021(12), RSMo. and/or proprietary information pursuant to Sec. 610.021(15), and/or information related to public safety and security measures pursuant to Section 610.021(18) and (19) RSMO. Alderman Berkowitz seconded the motion.**

**The motion passed on a roll call vote: Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Lintz – Aye; Alderman Berkowitz – Aye; Alderman McAndrew – Aye; and Mayor Harris – Aye.**

There being no further regular business the meeting adjourned at 9:20 p.m.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

DRAFT



City Manager  
10 N. Bemiston Avenue  
Clayton, MO 63105

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## REQUEST FOR BOARD ACTION

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**TO:** MAYOR HARRIS; BOARD OF ALDERMEN

**FROM:** CRAIG S. OWENS, CITY MANAGER  
SUSAN M. ISTENES, AICP, DIRECTOR OF PLANNING & DEV.  
SERVICES

**DATE:** MAY 28, 2019

**SUBJECT:** ORDINANCE - AMENDING CHAPTER 410: OVERLAY AND URBAN  
DESIGN ZONING DISTRICTS BY THE ADDITION OF ONE NEW  
ARTICLE, ESTABLISHING THE ENTERTAINMENT OVERLAY  
DISTRICT (2<sup>ND</sup> READING)

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On May 14, 2019, the Board of Aldermen considered this amendment to Chapter 410: Overlay and Urban Design Zoning Districts. This is the second public hearing to solicit input regarding a proposed amendment to Chapter 410 (Overlay and Urban Design Zoning Districts) related to a new overlay district. The proposed overlay district is in response to a long term initiative set by this Board to enhance the vibrancy of the Central Business District. During strategic planning discussions there was a re-occurring discussion about different types of destination and entertainment venues. A mixture of venues bringing people into the City at different times creates a vibrant and lively downtown area. The proposed overlay district was first presented to the Plan Commission on March 5, 2019. The Plan Commission and members of the public asked questions and made comments before the Plan Commission voted to continue the public hearing until April 1, 2019.

Staff is not proposing to modify the existing noise regulations through the overlay district. Currently, amplification of music outdoors is not permitted after 10:00 p.m. within 500 feet of residential areas (Section 215.765.A.2). Any entertainment uses that qualify under the proposed ordinance would also have to abide by the existing regulations and would be required to obtain an Outdoor Dining Permit to operate any outdoor seating area.

The proposed location of the district is intended to have an immediate impact by targeting existing tenant spaces for the entertainment uses that may require renovations, but not larger new development or construction. By locating the district in an area of Downtown that already has a fabric of smaller scale first floor tenant spaces, the target venue size of the Board of Aldermen is achieved.

The Plan Commission considered this request at their April 1, 2019, meeting and voted to recommend approval of the text changes to the Board of Aldermen.

**Recommendation:** To approve the Ordinance.

BILL NO. 6727.1

ORDINANCE NO.

**AN ORDINANCE AMENDING TITLE IV “LAND USE”, CHAPTER 410 (OVERLAY AND URBAN DESIGN ZONING DISTRICTS) OF THE MUNICIPAL CODE OF THE CITY OF CLAYTON, MISSOURI, ADDING ARTICLE XV “ENTERTAINMENT OVERLAY DISTRICT” AND OTHER ACTIONS RELATED THERETO**

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**WHEREAS**, the Mayor and Board of Aldermen set a long-term initiative to enhance the vibrancy of the Central Business District; and

**WHEREAS**, on April 1, 2019, the Plan Commission held a public hearing, after due notice as provided by law, to solicit input regarding amendments to the City’s land use regulations to add an Entertainment Overlay District; and

**WHEREAS**, following public comment and review, the Plan Commission voted unanimously to recommend that the Board of Aldermen enact the amendments hereinafter set forth; and

**WHEREAS**, on May 14, 2019, after due notice as provided by law, the Board of Aldermen held a public hearing for the purpose of receiving public comment on the question of the adoption of the provisions hereinafter set forth; and

**WHEREAS**, the Board of Aldermen has determined that it is in the best interest of the City of Clayton to adopt the amendments hereinafter set forth and that such amendments best serve the public health, safety and welfare of the City and its residents; and

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

**Section 1.**

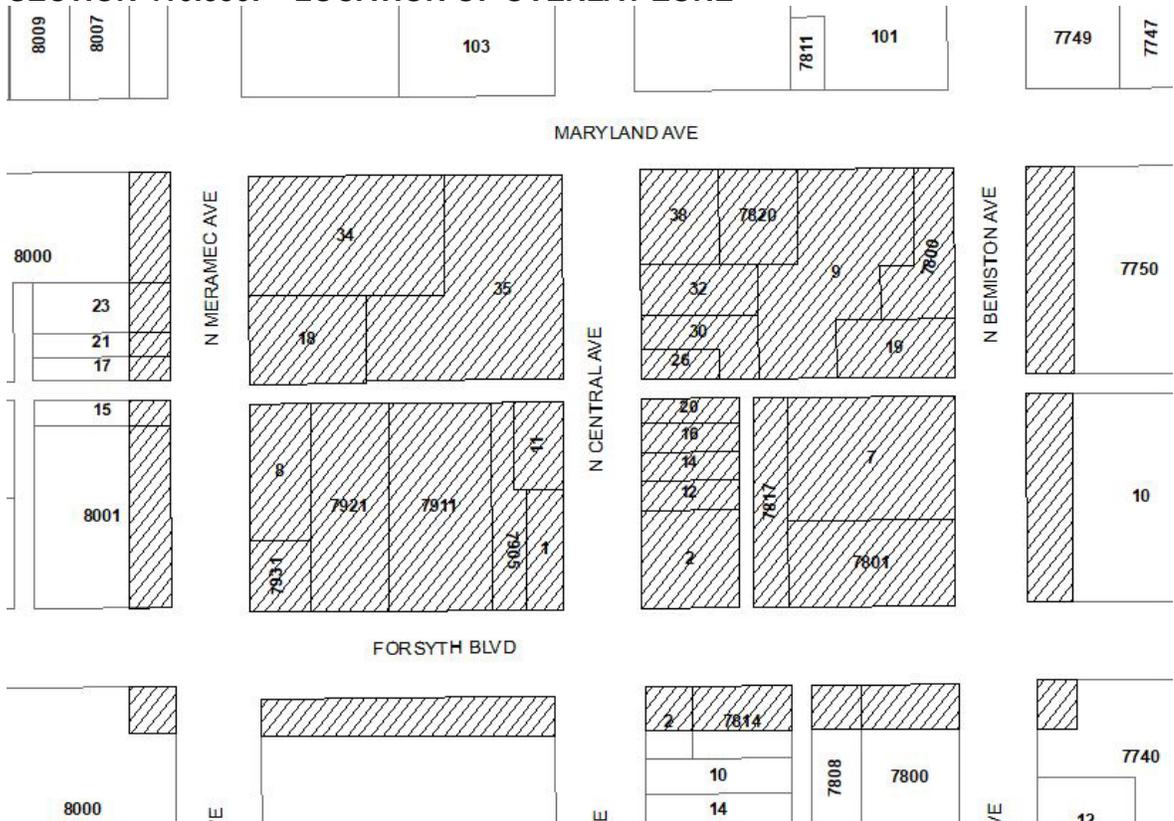
Chapter 410 (Overlay and Urban Design Districts) of Title IV (Land Use) of the Code of Ordinances of the City of Clayton, Missouri, is hereby amended by the addition of one new Article and eight new Sections, initially to be designated as Article XV and Sections 410.845 through 410.870, to read as follows:

**ARTICLE XV ENTERTAINMENT OVERLAY ZONING DISTRICT (EO)**

**SECTION 410.845: PURPOSE STATEMENT**

The Entertainment Overlay District is intended to allow for entertainment uses to establish a more vibrant and active downtown area. The overlay district applies to select downtown Clayton blocks generally located between the boundaries of Maryland Avenue, Forsyth Boulevard, North Bemiston Avenue and North Meramec Avenue. The purpose of these regulations is to expand entertainment opportunities in the pedestrian-focused commercial and service node of downtown, allowing for more destination venues. The Entertainment Overlay District modifies the underlying zoning district regulations and any other overlay districts only to the extent specifically set forth in this Article. If not specifically modified in this Article, all the regulations in effect in the underlying zoning districts and other overlay districts will remain in full force and effect.

**SECTION 410.850: LOCATION OF OVERLAY ZONE**



The Entertainment Overlay District consists of property within the following boundaries:

- a. The northern boundary consists of those properties having frontage on the south side of Maryland Avenue;
- b. The eastern boundary consists of those properties having frontage on either side of North Bemiston Avenue;
- c. The southern boundary consists of those properties having frontage on either side of Forsyth Boulevard; and
- d. The western boundary consists of those properties having frontage on either side of North Meramec Avenue,

all as generally shown crosshatched on the diagram above; provided, however, that for any venue/use to be used pursuant to this overlay district it must have its primary entrance within the overlay boundaries established by this Section and provided further that the primary entrance to the venue/use may not be located along Maryland Avenue.

**SECTION 410.855: DEFINITIONS**

*Entertainment Use:* Any establishment (indoors or outdoors) where entertainment, either passive or active, is provided for the pleasure of the patrons, either independently or in conjunction with a non-entertainment related use such as a restaurant. Such

entertainment includes but is not limited to vocal and instrumental music, dancing, karaoke, comedy, acting, games, or other activities. This definition does not include private clubs, health clubs, country clubs, golf courses, adult uses, casinos, or performing arts studios where the primary purpose is teaching or training students.

**SECTION 410.855: SIGNIFICANCE OF DESIGNATION**

The regulations of the overlay district shall supersede or supplement, as applicable, the regulations of the base zoning district and any other overlay district. Where conflict results between the regulations of the overlay districts and the provisions of the base zoning district, the provisions of this overlay district shall control.

**SECTION 410.860: USES PERMITTED**

The uses permitted by right and by conditional use permit are listed in the Table of Permitted Uses found in the base zoning district.

The overlay district shall allow for the following principal uses with the approval of a conditional use permit:

- a. Entertainment Use (as defined).

The overlay district shall allow for an entertainment use as an accessory use to the following principal uses with the approval of a conditional use permit:

- a. Restaurant
- b. Hotel

If a restaurant or hotel offers entertainment activities pursuant to a conditional use permit as provided herein the requirement that not more than fifty percent of gross sales may be derived from the sale of alcoholic beverages as specified in Sec. 600.110 (E) of the City Code shall be suspended; provided, however, that not more than seventy-five percent of the gross sales for such hotel or restaurant may be derived from the sale of alcoholic beverages.

**SECTION 410.865: PROVISIONS APPLICABLE TO ALL USES**

A. Outdoor Entertainment, including recorded or live music or sound that is electronically amplified is permitted at any establishment with an approved outdoor dining permit which allows for dedicated outdoor seating areas for food and beverage service.

B. Establishments shall comply with the noise regulations set forth in Chapter 215 Offenses.

**SECTION 410.865: PLANNED UNIT DEVELOPMENT**

The boundaries of the Entertainment District shall not be removed or otherwise relocated through the rezoning of any properties within the overlay district to Planned Unit Development (PUD) or Special Development District (SDD).

**SECTION 410.870: OFF-STREET PARKING AND LOADING REQUIREMENTS**

Off-street parking and loading shall be provided in accordance with Chapter 405 based on the requirements of the most similar use listed as determined by the Director of Planning and Development Services.

**Section 2.**

The Chapter, Article, Division and/or Section assignments designated in this Ordinance may be revised and altered in the process of recodifying or servicing the City's Code of Ordinances upon supplementation of such code if, in the discretion of the editor, an alternative designation would be more reasonable. In adjusting such designations the editor may also change other designations and numerical assignment of code sections to accommodate such changes.

**Section 3:**

It is hereby declared to be the intention of the Clayton Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect.

**Section 4.**

This Ordinance shall be in full force and effect both from and after its passage by the Board of Aldermen.

**Passed by the Board of Aldermen on this 28<sup>th</sup> day of May 2019.**

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk



City Manager  
10 N. Bemiston Avenue  
Clayton, MO 63105

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## REQUEST FOR BOARD ACTION

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**TO:** MAYOR HARRIS; BOARD OF ALDERMEN

**FROM:** CRAIG S. OWENS, CITY MANAGER  
SUSAN M. ISTENES, AICP, DIRECTOR OF PLANNING & DEV.  
SERVICES

**DATE:** ~~MAY 28, MAY 14,~~ 2019

**SUBJECT:** PUBLIC HEARING TO CONSIDER AMENDING CHAPTER 410:  
OVERLAY AND URBAN DESIGN ZONING DISTRICTS BY THE  
ADDITION OF ONE NEW ARTICLE, ESTABLISHING THE  
ENTERTAINMENT OVERLAY DISTRICT

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On May 14, 2019, the Board of Aldermen considered this amendment to Chapter 410: Overlay and Urban Design Zoning Districts. This is the second public hearing to solicit input regarding a proposed amendment to Chapter 410 (Overlay and Urban Design Zoning Districts) related to a new overlay district. The proposed overlay district is in response to a long term initiative set by this Board to enhance the vibrancy of the Central Business District. During strategic planning discussions there was a re-occurring discussion about different types of destination and entertainment venues. A mixture of venues bringing people into the City at different times creates a vibrant and lively downtown area. The proposed overlay district was first presented to the Plan Commission on March 5, 2019. The Plan Commission and members of the public asked questions and made comments before the Plan Commission voted to continue the public hearing until April 1, 2019.

Staff is not proposing to modify the existing noise regulations through the overlay district. Currently, amplification of music outdoors is not permitted after 10:00 p.m. within 500 feet of residential areas (Section 215.765.A.2). Any entertainment uses that qualify under the proposed ordinance would also have to abide by the existing regulations and would be required to obtain an Outdoor Dining Permit to operate any outdoor seating area.

~~The proposed district targets entertainment businesses that are often a destination for residents and people from nearby communities. The proposed location of the district targets an area with vacant retail/restaurant spaces. The proposed location of the district regulations are~~ intended to have an immediate impact by targeting existing tenant spaces for the entertainment uses that may require renovations, but not larger new development or construction. By locating the district in an area of Downtown that already has a fabric of smaller scale first floor tenant spaces, the target venue size of the Board of Aldermen is achieved. ~~The proposed location for the overlay district encompasses part of North Central Avenue, which many people see as the "mainstreet" of Clayton. This area is an existing restaurant node, with some vacant building tenant spaces. The proposal builds on the existing node and fill the voids with a new layer of entertainment uses that~~

will complement the existing restaurant uses. Staff understands comments raised about Maryland Avenue being an important boundary between the Downtown and northern residential neighborhoods. After the first Plan Commission hearings, Staff revised the proposed district regulations to prohibit entertainment venues from facing either side of Maryland Avenue.

The idea of moving the proposed district boundaries south was also proposed at the first Plan Commission meeting. While staff agrees that the block south of Forsyth Boulevard is more of the true geographic center of the Downtown area, this is not an existing restaurant/retail node. A large portion of the land around or within the box created by Forsyth Boulevard, South Bemiston Avenue, Bonhomme Avenue and South Meramec Avenue is owned and occupied by St. Louis County Government. The majority of the remaining land in that area is developed with office buildings that are occupied. Locating the targeted entertainment venues in this geographic center area would require larger redevelopment projects. Another element that helps create successful and vibrant nodes is complementary and dense uses. Even with larger redevelopment projects over time, the area would still be broken up by the St. Louis County Government buildings.

The proposed entertainment overlay district will build on the existing uses. This area is still within walking distance of many residential areas and hotels. There are opportunity areas within the district boundaries that would should allow the overlay district to have an more immediate impact upon implementation. Should the overlay district become successful, the boundary could be extended south in the future if desired.

The Plan Commission considered this request at their April 1, 2019, meeting and voted to recommend approval of the text changes to the Board of Aldermen.

**Recommendation:** To [hold a public hearing and](#) approve the Ordinance.

**BILL NO.**

**ORDINANCE NO.**

**AN ORDINANCE AMENDING TITLE IV “LAND USE”, CHAPTER 410 (OVERLAY AND URBAN DESIGN ZONING DISTRICTS) OF THE MUNICIPAL CODE OF [ORDINANCES OF THE CITY OF CLAYTON, MISSOURI](#), ADDING ARTICLE XV “ENTERTAINMENT OVERLAY DISTRICT” AND OTHER ACTIONS RELATED THERETO**

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**WHEREAS**, the Mayor and Board of Aldermen set a long-term initiative to enhance the vibrancy of the Central Business District; and

**WHEREAS**, on April 1, 2019, the Plan Commission held a public hearing, after due notice as provided by law, to solicit input regarding amendments to the City’s land use regulations to add an Entertainment Overlay District; and

**WHEREAS**, following public comment and review, the Plan Commission voted unanimously to recommend that the Board of Aldermen enact the amendments hereinafter set forth; and

**WHEREAS**, on May ~~28~~4, 2019, after due notice as provided by law, the Board of Aldermen held a public hearing for the purpose of receiving public comment on the question of the adoption of the provisions hereinafter set forth; and

**WHEREAS**, the Board of Aldermen has determined that it is in the best interest of the City of Clayton to adopt the amendments hereinafter set forth and that such amendments best serve the public health, safety and welfare of the City and its residents; and

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

**Section 1.**

[Chapter 410 \(Overlay and Urban Design Districts\) of Title IV \(Land Use\) of the Code of Ordinances of the City of Clayton, Missouri, is hereby amended by the addition of one new Article and eight new Sections, initially to be designated as Article XV and Sections 410.845 through 410.870, to read as follows:](#)

**ARTICLE XV ENTERTAINMENT OVERLAY ZONING DISTRICT (EO)**

**SECTION 410.845: PURPOSE STATEMENT**

The Entertainment Overlay District is intended to allow for entertainment uses to establish a more vibrant and active downtown area. The overlay district applies to select downtown Clayton blocks generally located between the boundaries of Maryland Avenue, Forsyth Boulevard, North Bemiston Avenue and North Meramec Avenue. The purpose of these regulations is to expand entertainment opportunities in the pedestrian-focused commercial and service node of downtown, allowing for more destination venues. The Entertainment Overlay District modifies the underlying zoning district regulations and any other overlay districts only to the extent specifically set forth in this [ChapterArticle](#). If not specifically modified in this [ChapterArticle](#), all the regulations in

effect in the underlying zoning districts and other overlay districts will remain in full force and effect.

**SECTION 410.850: LOCATION OF OVERLAY ZONE**



The Entertainment Overlay District [consists of property within the following boundaries:](#)

- a. [The northern boundary consists of those properties having frontage on the south side of Maryland Avenue;](#)
- b. [The eastern boundary consists of those properties having frontage on either side of North Bemiston Avenue;](#)
- c. [The southern boundary consists of those properties having frontage on either side of Forsyth Boulevard; and](#)
- d. [The western boundary consists of those properties having frontage on either side of North Meramec Avenue; boundary follows Maryland Avenue on the north, Forsyth Boulevard on the south, North Meramec Avenue on the west and North Bemiston Avenue on the east. Properties located within the boundary and properties with frontage along the boundary are included in the district, except for properties along the north side of Maryland Avenue.](#)

[all as generally shown crosshatched on the diagram above; provided, however, that for any venue/use to be used pursuant to this overlay district it must have its primary entrance to the venue/use must be located within the overlay boundaries established by](#)

this ~~Section to be eligible for the use modification and provided further that~~ the primary entrance to the venue/use may not be located along Maryland Avenue.

**SECTION 410.855: DEFINITIONS**

*Entertainment Use:* Any establishment (indoors or outdoors) where entertainment, either passive or active, is provided for the pleasure of the patrons, either independently or in conjunction with a non-entertainment related use such as a restaurant. Such entertainment includes but is not limited to vocal and instrumental music, dancing, karaoke, comedy, acting, games, or other activities. This definition does not include private clubs, health clubs, country clubs, golf courses, adult uses, casinos, or performing arts studios where the primary purpose is teaching or training students.

**SECTION 410.855: SIGNIFICANCE OF DESIGNATION**

The regulations of the overlay district shall supersede or supplement, as applicable, the regulations of the base zoning district and any other overlay district. Where conflict results between the regulations of the overlay districts and the provisions of the base zoning district, the provisions of this overlay district shall control.

**SECTION 410.860: USES PERMITTED**

The uses permitted by right and by conditional use permit are listed in the Table of Permitted Uses found in the base zoning district.

~~In addition to those uses allowed in the base zoning district,~~ The overlay district shall allow for the following principal uses or use modifications with the approval of a conditional use permit:

- a. Entertainment Use (as defined),

The overlay district shall allow for an entertainment use as an accessory use to the following principal uses with the approval of a conditional use permit:

- a. Restaurant
- b. Hotel

If a restaurant or hotel offers entertainment activities pursuant to a conditional use permit as provided herein the requirement that not more than fifty percent of gross sales may be derived from the sale of alcoholic beverages as specified in Sec. 600.110 (E) of the City Code shall be suspended; provided, however, that not more than seventy-five percent of the gross sales for such hotel or restaurant may be derived from the sale of alcoholic beverages.

~~a. Any restaurant or hotel that has accessory entertainment uses. Businesses within the district that have a significant entertainment component to their business model may have up to seventy five percent (75%) of their gross sales represented by from the sale of alcoholic beverages, with the approval of a conditional use permit. Entertainment uses/components may include, but are not limited to:~~

- i. ~~Nightlife venues~~
- ii. ~~Theaters~~
- iii. ~~Music venues~~
- iv. ~~Arcades and game rooms~~

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~~v. Any other entertainment related use that is comparable in nature with the foregoing uses and consistent with the purpose statement of the district as determined by the Planning and Development Services Director.~~

**SECTION 410.865: PROVISIONS APPLICABLE TO ALL USES**

A. Outdoor Entertainment, including recorded or live music or sound that is electronically amplified is permitted at any establishment with an approved outdoor dining permit which allows for dedicated outdoor seating areas for food and beverage service.

~~B. Any recorded or live music or sound that is electronically amplified and played outside an establishment shall only be permitted at establishments with an approved outdoor dining permit which allows for dedicated outdoor seating areas for food and beverage service.~~

~~B.C.~~ Establishments shall comply with the noise regulations set forth in Chapter 215 Offenses.

**SECTION 410.865: PLANNED UNIT DEVELOPMENT**

~~The location of this district boundaries of the Entertainment District shall not be removed or otherwise relocated through the rezoning of any properties within the overlay district to Planned Unit Development (PUD) or Special Development District (SDD). shall remain intact and the boundaries shall not be modified through the rezoning of any properties within the overlay district to Planned Unit Development (PUD) or Special Development District (SDD).~~

**SECTION 410.870: OFF-STREET PARKING AND LOADING REQUIREMENTS**

Off-street parking and loading shall be provided in accordance with Chapter 405 based on the requirements of the most similar use listed as determined by the Director of Planning and Development Services.

**Section 25.**

The Chapter, Article, Division and/or Section assignments designated in this Ordinance may be revised and altered in the process of recodifying or servicing the City's Code of Ordinances upon supplementation of such code if, in the discretion of the editor, an alternative designation would be more reasonable. In adjusting such designations the editor may also change other designations and numerical assignment of code sections to accommodate such changes.

**Section 63:**

It is hereby declared to be the intention of the Clayton Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect.

**Section 74.**

This Ordinance shall be in full force and effect both from and after its passage by the Board of Aldermen.

**Passed by the Board of Aldermen on this ~~28~~<sup>14</sup><sup>th</sup> day of May, 2019.**

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk



City Manager  
10 N. Bemiston Avenue  
Clayton, MO 63105

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## BOARD DISCUSSION

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**TO:** MAYOR HARRIS; BOARD OF ALDERMEN

**FROM:** CRAIG S. OWENS, CITY MANAGER  
SUSAN M. ISTENES, AICP, DIRECTOR OF PLANNING & DEV.  
SERVICES

**DATE:** MAY 28, 2019

**SUBJECT:** PUBLIC HEARING (FOR DISCUSSION ONLY) – AN ORDINANCE TO CONSIDER AMENDING TITLE IV “LAND USE”, CHAPTER 405 (ZONING REGULATIONS) OF THE MUNICIPAL CODE OF THE CITY OF CLAYTON, MISSOURI, ARTICLE X “PLANNED UNIT DEVELOPMENT DISTRICT”

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For discussion purposes only, Plan Commission has not completed its final review.

This is a public hearing to solicit input regarding a staff-initiated amendment to Chapter 405 (Zoning Regulations) Article X. Planned Unit Development District. Staff and the City Attorney's office have identified areas of the regulations that are unclear, contradictory to other code required processes and in general, need updating.

The strikethrough - underline format for proposed code changes is usually preferable in order to be able to easily review and understand proposed changes, however given the number of changes, that format would have made it too difficult for the proposed changes to be easily understood. The proposal is to repeal the current Article X. and adopt the new, revised code, a copy of which is provided herein. Note – there are other areas of the Land Use Regulations that will need to be amended to be consistent with the proposed changes. Those will follow this amendment, at a future date.

Staff set out the following goals for the amendment, based on advice from the City Attorney and their own experience in trying to apply the existing PUD regulations.

**GOALS:**

1. Eliminate the requirement to rezone to a specific zoning district in order to be eligible to rezone to PUD.
2. Clearly identify the permitted uses in a PUD district.

3. Eliminate the need to get an additional Conditional Use Permit for those uses that are allowable only by CUP in the zoning districts once they are identified and thus allowable in the PUD zoning district.
4. Ensure that the PUD rezoning, Site Plan and Architectural Review approval processes are separate and distinct. Detailed site plans are reviewed and approved through the site plan review process and the architectural review process against the standards established by the PUD zoning district.
5. Modify provisions in overlays which require PUDs where the minimum site areas can't be established (*not part of this amendment*).
6. Eliminate duplicate references to PUDs in each eligible zoning district (*not part of this amendment*).
7. Separate zoning regulations from process requirements.
8. Clarify the minimum eligibility for commercial building size.
9. Distinguish between residential PUDs and Non-residential PUDs (including mixed use).
10. Enhance public benefits section to bring up to date, include references to sustainable practices. Require that a minimum of 5 categories of public benefits are provided.
11. Establish the requirement for a PUD document which will serve as the text for the newly formed PUD district.
12. Enhance the approval criteria section to more closely align with the purpose.

What's new? (new text or requirements does not include relocated text or combined text or minor changes that did not affect the code)

**Page 1, Purpose Statement, Section 405.1360.**

Number 3 – new - added reference to more greenspace or natural resource protection

Number 6 – new - added greater mix of housing types and mixed use

Number 7 – new - added creating or contributing to neighborhoods that more pedestrian and public transit oriented

Number 9 – new - added reference to the Clayton Master Plan and Downtown Master Plan

**Page 2 and 3 General Requirements, Section 405.1370 (section renamed)**

B. Renamed Commercial PUD to Mixed Use PUD. A commercial PUD could include a residential component; therefore, it was confusing to have two districts that could have a residential component while identifying one as commercial PUD and one as residential

D. New - added no single use of a mixed-use PUD can consume more than 80 percent of the gross floor area of the principle structure

E. New - added requirement to identify the allowable uses in the PUD by cross referencing the uses allowable in the underlying zoning district

F. New - added for non-residential uses that require a conditional use permit, the applicant for a PUD may apply for a CUP to allow the use in the PUD at the time of rezoning and not have to repeatedly file separate conditional use permit applications after the PUD is approved

G. New- added reinforcing language that a PUD must provide public benefits and cannot be used as a method to avoid existing zoning and subdivision regulations.

H. New – clarified the Board has authority to approve the PUD to alter zoning, subdivision and overlay and urban design zoning districts.

### **Page 3 and 4 Public Benefit, Section 405.1380**

Combined A and B to make public benefits applicable to all properties instead of those specific to the downtown.

2. New – added benefit to provide or enhance public parks, and park or trail access.
4. Added – language allowing for greater housing density as a benefit
5. Enhanced- to identify what is meant by sustainable building design and construction
6. Added/enhanced – specific reference to Green Globes and LEED and noted that participation is satisfactory as opposed to achieving a certification.
8. New – added identified property dedication as a public benefit
11. New – added street level garden or plaza as a public benefit
12. New – added access features to public transit facilities as a public benefit.
14. New – added open spaces such as patios, grassed areas for the public as a public benefit.

### **Page 4-6 Application Procedure and Plan Requirements, Section 405.1390**

A. New – added requirement for pre-application conference with City staff.

B. New – added requirement that applicant hold a community conference prior to application.

Also added new Section 405.1400 outlining the requirements for conference.

C. New – changed way of how the application is submitted and how the development standards and plans are structured.

D.i. New- enhanced – require applicant coordinate with City at least 6 weeks prior to application for PUD rezoning pursuant to required traffic study.

D.o. New – clarifies that the application submittal shall be in a form prescribed by the City.

E. New – added the city will establish a model PUD document and the applicant's project information shall comply with the format and content established by the model.

### **Page 7-9 Criteria for PUD Rezoning Approval**

Listed criteria were re-written combining some together and eliminating those specific to design standards or review.

3. Added- reference to public access to green areas preserved on site.

12. New – added requirement to meet at least 5 categories of public benefits as identified in Section 405.1380 (1-14).

13. New – added.

Removed references to architecture and building materials (former number 6). Those items are considered in the Architecture Review Board phase of the project review; not the PUD rezoning.

**Recommendation:** To hold a public hearing regarding the Ordinance.

BILL NO.

ORDINANCE NO.

AN ORDINANCE AMENDING TITLE IV "LAND USE", CHAPTER 405 (ZONING REGULATIONS) OF THE MUNICIPAL CODE OF THE CITY OF CLAYTON, MISSOURI, ARTICLE X "PLANNED UNIT DEVELOPMENT DISTRICT" AND OTHER ACTIONS RELATED THERETO

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**WHEREAS**, on April 1, 2019, the Plan Commission held a public hearing, after due notice as provided by law, to solicit input regarding amendments to the City's land use regulations to add an Entertainment Overlay District; and

**WHEREAS**, following public comment and review, the Plan Commission voted unanimously to recommend that the Board of Aldermen enact the amendments hereinafter set forth; and

**WHEREAS**, on May 28, 2019, after due notice as provided by law, the Board of Aldermen held a public hearing for the purpose of receiving public comment on the question of the adoption of the provisions hereinafter set forth; and

**WHEREAS**, the Board of Aldermen has determined that it is in the best interest of the City of Clayton to adopt the amendments hereinafter set forth and that such amendments best serve the public health, safety and welfare of the City and its residents; and

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

## Chapter 405. Zoning Regulations

### Article X. Planned Unit Development District

#### Section 405.1360. Purpose Statement

[Ord. No. 5814 §1(12.1), 4-27-2004; Ord. No. 5935 §1(12.1), 7-11-2006]

A. The purpose of the planned unit development process is to foster appropriate use of existing buildings and enable compatible redevelopment which provides public benefits as identified in Section **405.1380** and achieves the following objectives:

1. Creation of a planned mixture of land uses while maintaining a more desirable environment through the combination and coordination of architectural styles, building forms, common facilities and buffers between uses;

2. Promotion of a creative approach to the use of land and related physical facilities resulting in better design and development, including aesthetics and public amenities;

3. More open space or natural resource protection than likely under as-of-right zoning;
4. Land use designs that incorporate natural terrain features, to preserve natural open spaces and desirable site characteristics such as restoration and maintenance of natural systems, native vegetation and geologic features;
5. Preservation of buildings which are architecturally or historically significant or contribute to the character of the City;
6. A greater mix of housing types and mix of residential and commercial land uses designed in a complementary manner to maintain community character;
7. Creating or contributing to neighborhoods that are more pedestrian and public transit-oriented;
8. Elimination of deteriorated structures or incompatible uses through redevelopment or rehabilitation; and,
9. Implement the recommendations of the Clayton Master Plan and Downtown Master Plan.

## Section 405.1365 Definitions

For the purposes of the PUD zone, certain terms, phrases, words and their derivatives shall be construed as specified in this section. Words used in the singular shall include the plural, and the plural the singular. The word "shall" is mandatory; the word "may" is permissive. Words and phrases not herein defined shall have the meanings given to them in Article III. Definitions; otherwise not defined shall be given their usual meaning except where the context clearly indicates a different or specific meaning

- A. "Common Areas" mean a parcel or parcels of land or an area of water or a combination of land and water within the site designated for planned unit development and designated and intended for the use and enjoyment of residents and employees of a planned unit development. Common areas may contain such complimentary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents and employees of the planned unit development.
- B. "Mixed Use PUD" means a planned unit development where there will result in a mix of two or more types of authorized land uses or development.
- C. "Residential PUD" means any planned unit development designed and intended primarily for residential use regardless of the type of building in which such residence is located i.e. conventional single-family residences, townhouses, duplexes, multi family structures or apartments.
- D. "Open Space" means a parcel or parcels of land or an area of water or a combination of land and water within the site designated for a planned unit development which are without above-ground structures or buildings of any nature whatsoever and which shall be included but not limited to landscape areas, parks, playgrounds, garden areas, lawns, yards and other undeveloped areas.
- E. "Yards" means areas created by setbacks and lot lines

## Section 405.1370. General Requirements

[Ord. No. 5814 §1(12.2), 4-27-2004; Ord. No. 5935 §1(12.2), 7-11-2006]

**A. Distinct Zoning District.** Planned Unit Development (PUD) is a distinct zoning district and requires a request for a change in the zoning district designation, as described by the official zoning map. It is intended to provide a means for the redevelopment of an area in a unified land development that will improve the quality of the subject properties and have a beneficial effect on adjacent properties.

**B. Types of PUD Districts.** There are two types of PUD zoning districts:

1. Residential
2. Mixed Use

**C. Residential.** Rezoning to a residential planned unit development district is allowed only in areas where the existing zoning designation is Residential, where 100 percent of the gross square feet of the buildings is used for residential purposes and when the project is developed on a lot at least thirty thousand (30,000) square feet in size.

**D. Mixed Use.** Rezoning to a Mixed Use planned unit development district is allowed only in areas where the existing zoning designation is non-residential, the proposed building(s) total 50,000 gross square feet or more, and in overlay districts requiring planned unit development designation.

Mixed use planned unit developments are appropriate when the project incorporates two of the following four categories of use, the existing zoning allows for mixed use development and no single use exceeds 80 percent of the gross floor area of the primary structure.

1. Office use;
2. Retail use;
3. Residential use;
4. Hotel;
5. Hotel & public restaurant (gross square foot limitation per 405.1370.E. shall not apply)

**E. Uses Allowed.**

All permitted uses in the underlying district(s) shall be allowed unless otherwise specified in the PUD ordinance. They shall be identified in the PUD document through a cross reference to applicable underlying zoning district(s).

**F. Additional Uses.**

The Board of Aldermen may authorize additional uses in the zoning district in which the planned unit development is located as provided below:

1. **Conditional Uses.** Any conditional use allowed in the underlying district(s) may be included within a planned unit development, upon making each of the required findings for conditional use permits in Section 405.840, as follows:

**Residential Uses:** Dwelling units that require a conditional use permit in the underlying zoning district shall not be required to submit a separate conditional use permit and shall be considered as a part of the findings and review of the planned unit development.

**Nonresidential uses.** Nonresidential uses that require a conditional use permit in the underlying zoning district shall submit a separate conditional use permit application and findings, per use, as a part of the planned unit development review.

**G. Site Layout.** A PUD must achieve a greater site design and public benefits. A PUD may not be simply used as a method to avoid zoning regulations or subdivision regulations such as required setbacks, FAR or building height.

**H. Authority to Modify Regulations.** The City Board of Alderman shall have the authority in approving the PUD to alter, improve, or create anew any provisions of the Clayton Zoning Regulations, Overlay and Urban Design Zoning Districts and Subdivision Regulations, pursuant to Section 405.1420.

**I. Ownership.** The tract of land to be developed as a PUD must be under single ownership or control. The property included in the PUD shall be planned and development as a single unit/phase.

**J. Plat required.** The planned unit development project shall consist of and shall be conterminous with a single lot described in a recorded plat of subdivision.

## **Section 405.1380. Public Benefit**

[Ord. No. 5814 §1(12.3), 4-27-2004; Ord. No. 5935 §1(12.3), 7-11-2006]

A PUD must provide public benefits to the surrounding neighborhood and to the City above and beyond what can be reasonably achieved by application of the zoning provisions applicable to the underlying zoning district. The nature and scale of public benefit shall be determined by the City and include, but not limited to:

1. Buildings exhibiting Architectural distinction and significance that would make the development unique.
2. Projects which provide or enhance public parks, and public park or trail access.
3. Provision of new or enhanced public infrastructure including, but not limited to, the establishment of onsite common areas (exclusive of yards as defined herein), streets, curbs, sidewalks, sanitary sewers, stormwater sewers, landscape buffers, lighting and public parking.
4. More affordable housing or greater housing density with enhanced design standards that ensure that greater density maintains community character.
5. Sustainable building design and construction including, but not limited to:
  - a. Efficient heating and cooling systems;
  - b. Alternative energy sources such as solar;
  - c. Appropriate building siting;
  - d. Reused or recycled building materials;
  - e. On-site power generation – solar, ground source heat pumps, wind power
  - f. On-site waste management such as green roofs that filter and control stormwater runoff,
  - g. Use of renewable resources for construction materials;

6. Participation in building assessment and certification programs such as Green Globes and LEED.
7. Projects which provide and protect green infrastructure such as planned and managed networks of open spaces (including parks) and features that use natural means such as vegetation to capture, store and infiltrate stormwater runoff (including bioswales, green roofs, and rain gardens).
8. Dedication of land to the City for the purposes of widening or improving the adjoining right of way or for other public purposes.
9. Inclusion of a below grade public parking facility located underneath the proposed development;
10. Inclusion of parking spaces specifically available and designated for public parking.
11. Inclusion of a street level landscape garden, plaza, or park available for public use.
12. Inclusion of special access features or provisions to existing or planned public transit facilities.
- 13.. Public art.
14. An appropriate amount of open spaces is provided and available for active or passive use by the public such as courtyards, grassed areas, patios, landscaped spaces.

## **Section 405.1390. Application Procedure and Plan Requirements**

[Ord. No. 5814 §1(12.4), 4-27-2004; Ord. No. 5935 §1(12.4), 7-11-2006]

The following requirements shall be submitted for all PUD rezoning applications, unless otherwise specified in the text of this chapter. Additional requirements may be required by the Director of Planning and Development Services prior to or upon review of the application.

**A. Pre-Application Conference.** Prior to applying for a PUD, the applicant shall participate in a pre-application conference with city staff. The purpose of the pre-application conference is to allow city staff to review and provide comments on the suitability of the development concept as a PUD, as well as to provide guidance to applicant on the procedures and standards for PUD approval.

**B. Community Conference.** Prior to applying for a PUD, the applicant shall conduct a community conference as set forth in Section 405.1400.

**C. PUD document and plan.** Applications for amendments to, or rezoning to PUD shall be in the form of a PUD document in a form set forth by the City and which lists permitted and accessory uses, development standards, location of land uses, number of dwelling units, square footage of non-residential uses, developer commitments, etc. and shall include a schematic plan of the property showing the general location of all land use types, landscape buffers, preliminary open space amenities and trail plan, site circulation and vehicular access points. The PUD document shall also

include a list of any proposed deviations from the Zoning Regulations, including the Overlay and Urban Design Overlay districts.

**D. Application and submission requirements.** An application for a PUD shall be filed with the City on forms provided by the City. All formal applications for a PUD shall include at least the following information:

a. The applicant's name, address, telephone number and interest in the property;

b. Certification that the applicant is registered to do business in the State of Missouri and is in good standing to develop the site;

c. The owner's name, address and telephone number, if different than the applicant, and the owner's signed consent to the filing of the application;

d. A certificate of disclosure of ownership interest;

e. The street address and legal description of the subject property;

f. The zoning classification, zoning district boundaries and present use of the subject property;

g. A vicinity map with north arrow, scale and date, indicating the zoning classifications and current uses of properties within two hundred fifty (250) feet of the subject property;

h. The proposed title of the project and the name, addresses and telephone numbers of the architect, landscape architect, planner or engineer on the project.

i. A completed traffic impact study and a parking study (if requesting a modification to the required parking spaces). The scope of any study shall be coordinated with the City at least 6 weeks prior to the application for PUD rezoning and shall be prepared by a registered traffic engineer.

j. Other professional or technical studies or reports as may be required by the Director of Planning and Development Services to clearly understand the project. The applicant shall be responsible for any costs and/or expenses incurred as a result of engaging such outside professional assistance.

k. Copies of any restrictive covenants that are to be recorded with respect to property in the proposed planned unit development;

l. A plat of survey of the parcel of land, lot(s), block(s) or parts or portions thereof, drawn to scale, showing the actual dimensions of the parcel, lot(s), block(s) or parts or portions thereof according to the registered or recorded plat of such land;

m. Soils and subsurface conditions, if requested.

n. The required application fee as set forth in the fee schedule as approved by the Board of Aldermen.

o. The required PUD document in the form and content prescribed by the City.

p. A tree preservation plan prepared by a registered Landscape Architect or Arborist.

**E. PUD document.** The applicant shall submit a PUD document as prescribed by the City's model PUD document and shall comply with the format and content established in the "Model PUD and guidelines for submission," published by the Planning and Development Services Department. The following information shall be included:

a. The location, dimensions, floor area, type of construction and proposed use of each proposed building or structure;

b. The number, the size and type of dwelling units in each building and the overall dwelling unit density (if residential uses are proposed);

c. The number, location and dimensions of parking spaces and loading docks, with means of ingress and egress;

d. The location and proposed treatment of any historical structure or other historical design element or feature;

e. A written statement showing the relationship of the proposed planned unit development to the Master Plan or Downtown Master Plan and justification for any proposed variations;

f. A written statement addressing each of the standards set forth in Section **405.1410** below and such additional standards, if any, as may be applicable under the specific provisions of these regulations. The statement shall explain specifically how the proposed planned unit development relates to and meets each such standard;

g. A written description showing why the proposed planned unit development is compatible with other property in the neighborhood;

h. When the proposed planned unit development includes provisions for common open space or recreational facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or recreational facilities. If it is proposed that such open space be owned and/or maintained by any entity other than a government authority, copies of the proposed articles of incorporation and bylaws of such entity shall be submitted.

**F. Site Plan Required.** Pursuant to Article VIII. *Site Plan Review*, A site plan application for the project shall be submitted and approved in accordance with the requirements and procedures set forth in Article VIII. Approval of the PUD site plan is determined by consideration of the site plans compliance with the PUD development standards set forth in the approved PUD document and schematic plan, the City's Land Use Regulations and good planning practices.

**G. Architectural Review Required.** Pursuant to Article III. *Architectural Review Board*. An Architectural Review Board application shall be filed in accordance with Article III and shall include architectural graphics including typical floor plans and elevations, colored renderings, profiles and cross sections and digital representation of the project providing street level views of each elevation.

## Section 405.1400 Community Conference

**A. Purpose.** The community conference is an informal public meeting hosted by the applicant prior to submittal of a PUD application. The purpose of the meeting is to provide early and informal notification to the public, to generate discussion, and make the applicant aware of community concerns relative to the proposed project. It is intended to provide a means by which the applicant and the public can work together in a productive and creative manner. However, options and issues raised may not be all-inclusive and no decisions or guarantees on the project design or outcome are made. Revision of the proposal based on input from the community conference is solely at the discretion of the applicant.

**B. Process.** The community conference shall be held in a place that is readily available to the public and large enough to accommodate the anticipated number of people who may be present at the meeting, such as the Clayton Center or another public or private meeting facility. Notice of the date, time and location and a project description, shall be provided to the City and by mail to all owners of property within 300 feet of the PUD site, two weeks prior to the scheduled meeting date. All mailing requirements are the responsibility of the project applicant and shall be documented by affidavit to the City. City staff shall post the site, post a copy of the developer's notice at Clayton City Hall and on the City's website.

**The applicant shall:**

1. Explain the project concept to the audience and solicit input as to the issues which concern them; and,
2. Prepare a written report documenting the community meeting, summarizing the issues raised, and describing how the proposed project, as submitted, addresses the issues raised in the project design and/or explains why it does not; and,
3. Submit said written report to the city for inclusion with the PUD application materials; and,
4. Provide a copy of the report to all the community meeting attendees prior to or concurrent with submittal of the PUD application materials to the City.

**C. Expectations.** The applicant can expect the following results from the community conference:

1. The more information an applicant can provide for a community conference, the earlier the applicant can address community concerns in the proposed project;
2. Any information or opinions expressed by the applicant shall not be binding on the final decision or constitute approval or denial of the proposed project;
3. The public and the applicant should discuss creative approaches to address challenging site constraints or potential mitigations;
4. The public will be invited to speak to issues related to the proposal, but their input shall not be considered public testimony regarding the application when and if submitted.

## Section 405.1410. Criteria for PUD Rezoning Approval

[Ord. No. 5814 §1(12.5), 4-27-2004; Ord. No. 5935 §1(12.5), 7-11-2006]

A. The approval criteria are designed to achieve the objectives as set forth in Section **405.1360** of this Article. The Plan Commission may recommend, and the Board of Aldermen may adopt modifications to requirements contained in Chapter 405.010 et. seq. titled Zoning Regulations as

amended and Chapter 415.010 et. seq. titled Subdivision Regulations as amended, as part of its consideration and approval of a planned unit development. In considering and acting upon development plans, landscape plans and other applicable plans, the Plan Commission and Board of Aldermen shall take the following criteria into consideration through the planned unit development process:

1. The proposed development is in harmony with general purposes and intent of Chapter **405** of the Municipal Code and is compatible with and implements the planning goals and objectives of the City as set forth in the City's Master Plans;

2. Open Space and Landscaping. The quality and quantity of public and common open space and landscaping provided are consistent with higher standards of design and amenities expected of a PUD. Common spaces are adequate in size and design to accommodate public use;

3. External Circulation. Streets, sidewalks, pedestrian ways, bike paths, off-street parking and loading as appropriate to the planned land uses are provided and meet the City of Clayton standards. They will not unduly interfere with the safety and capacity of adjacent streets. or other means of access to the site;

4. Internal circulation. The internal circulation system of the proposed development encourages safe movement for vehicles and pedestrians, and provides public access to green areas and open space preserved on site;

5. Design. The PUD represents a more creative approach to the unified planning of development and incorporates a higher standard of integrated design and amenity than could be achieved under otherwise applicable zoning district and subdivision regulations;

6. Existing or proposed utility services are adequate for the proposed development;

7. Appropriate buffering is provided to protect adjacent land uses from light, noise and visual impacts;

8. Natural Features. The design of the PUD is as consistent as practical with the preservation of natural features of the site such as stands of mature trees, steep slopes, natural drainage ways, wetlands, or other areas of sensitive or valuable environmental character. The topography of the property is preserved to the greatest extents possible;

9 The proposed site layout and uses are compatible with the neighborhood surrounding the proposed development and the City as a whole;

10. The proposed development complies with all other applicable codes and ordinances;

11. The proposed development preserves buildings which are architecturally or historically significant or contribute to the character of the City.

12. The proposed development provides at least five (5) categories of public benefits as identified in Section 405.1380(1-14) or similar public benefits as identified by the applicant and approved by the Board of Aldermen;

13. Public Welfare. The PUD will not be detrimental to the public health, safety or general welfare.

## **Section 405.1420. Procedures for Approval of a Planned Unit Development**

[Ord. No. 5814 §1(12.6), 4-27-2004; Ord. No. 5935 §1(12.6), 7-11-2006]

Upon the review of an application and plans, the Director of Planning and Development Services or his/her designee shall notify the applicant of any deficiencies and/or modifications necessary to perfect the application. Once the submittal is deemed complete, the application is forwarded to the Plan Commission and Board of Aldermen for their consideration and approval, respectively. The Plan Commission may recommend, and the Board of Alderman may adopt, modifications to development standards from the following as part of its consideration and approval of a planned unit development:

1. Chapter 405: Zoning Regulations
2. Chapter 410: Overlay and Urban Design Districts
3. Chapter 415: Subdivision Regulations (limited to the following standards from Article VII: Minimum Design Standards:
  - a. Section 415.590: Blocks
  - b. Section 415.600: Lots
  - c. Section 415.630: Street Design Standards (minimum right-of-way, minimum tree lawn width, horizontal radius of centerline, and medians only)
  - d. Section 415.640: Intersections and Street Alignment (curb radius only).

The application for a development plan shall be reviewed and decided upon in accordance with the procedures for a zone change established by Article **XI** of this Zoning Ordinance. Approval of the planned unit development is determined solely in the legislative discretion of the Board of Aldermen. Once approved, the planned unit development becomes the specific zoning regulations of the property.

## **Section 405.1430. Conditions of Approval**

[Ord. No. 5814 §1(12.7), 4-27-2004; Ord. No. 5935 §1(12.7), 7-11-2006]

A. The Board of Aldermen may impose such conditions and limitations as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements near the planned unit development, upon the City as a whole or upon public facilities and services. These conditions may include, but are not limited to, conditions concerning use, construction, character, location, landscaping, screening, parking, maintenance, operational elements that would impact adjoining land uses and other matters relating to the purposes and objectives of these regulations. Such conditions shall be expressly set forth in the PUD document which shall be an exhibit attached

to the PUD ordinance authorizing the planned unit development. Violation of any such condition or limitation shall be a violation of these regulations and subject the offender to the penalties prescribed for the violation of this Chapter. Additionally, violation of any such condition or limitation shall be a violation of these regulations and shall constitute grounds for revocation of the approval authorizing the planned unit development.

B. The ordinance approving a planned unit development shall contain a legal description of the property subject to the planned unit development. The ordinance along with the PUD document and approved site plan shall be recorded by the applicant in the office of County Recorder of Deeds. The applicant must present proof of such recording before any permits may be issued.

C. Following planned unit development plan approval, the PUD document and approved site plan, rather than any other provision of Chapter **405**, shall govern the use, parking, loading, height, building locations, open space and yard regulations applicable to the subject property and no use or development, other than temporary uses, shall be permitted within the area of the planned unit development pursuant to the zoning district regulations otherwise applicable to such area.

## **Section 405.1440. Reapplication**

[Ord. No. 5814 §1(12.8), 4-27-2004; Ord. No. 5935 §1(12.8), 7-11-2006]

In the event the Board of Aldermen denies an application for planned unit development, no request for hearing upon the same application or substantially similar application will be accepted for a period of at least one (1) year from the date of denial by the Board of Aldermen.

## **Section 405.1450. Appeals**

[Ord. No. 5814 §1(12.9), 4-27-2004; Ord. No. 5935 §1(12.9), 7-11-2006]

An aggrieved party may, within fifteen (15) days of the decision for which redress is sought, file with the Board of Aldermen a written request for reconsideration and appeal of any decisions of the Board of Aldermen under this Article. The written request must set forth in a concise manner the decision being appealed, and all grounds known to the appellant as to wherein and why the decision is allegedly in error. The request for reconsideration and appeal must be filed with the City Clerk within the time specified above. A copy of the request and any supporting documents or materials filed by aggrieved party must be served by the aggrieved party on the applicant (if different than the aggrieved party) by certified U.S. mail, return receipt requested, within three (3) days of filing with the City Clerk. Proof of service on the applicant must be filed with the City Clerk within six (6) days of filing of the request. The Board of Aldermen may consider the appeal on the record of the prior decision or may, at its sole discretion, receive additional evidence in such manner as it deems appropriate in light of the circumstances.

## **Section 405.1460. Time Limit on Approved Planned Unit Development**

[Ord. No. 5814 §1(12.10), 4-27-2004; Ord. No. 5935 §1(12.10), 7-11-2006]

No planned unit development permit shall be valid for a period longer than one (1) year unless a building permit is issued, and construction is actually begun and is diligently pursued within that

period. A written request for an extension must be received by the City Clerk not less than forty-five (45) days prior to the expiration of the original one (1) year period. The applicant shall bear the burden of providing just cause for delay, proof that the project remains the same and proof that no circumstances bearing on the suitability of the project have changed. Approval of a request for an extension is at the sole discretion of the Board of Aldermen.

## Section 405.1470. Building Permit Issuance

[Ord. No. 5814 §1(12.11), 4-27-2004; Ord. No. 5935 §1(12.11), 7-11-2006]

A. The approval of a proposed planned unit development by the Board of Aldermen shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall authorize the preparation, filing and processing of applications for any permits or approvals that may be required by the regulations of the City including, but not limited to, a building permit, certificate of occupancy and, where applicable, subdivision approval.

B. Building permits shall be issued in accordance with the approved site development plan.

## Section 405.1460. Revocation

[Ord. No. 5814 §1(12.12), 4-27-2004; Ord. No. 5935 §1(12.12), 7-11-2006]

The City shall have the authority to order the abatement, removal and/or conformity of any planned unit development or any portion thereof that is contrary to any of the conditions and/or provisions of the approved planned unit development. Provided however, that the property owner was first served with an order to abate, remove and/or bring into conformity the violation(s) and the property owner failed to comply with the order within ten (10) days of receiving the order and following a public hearing held in accordance with this Article.

## Section 405.1470. Adjustments

[Ord. No. 5814 §1(12.13), 4-27-2004; Ord. No. 5935 §1(12.13), 7-11-2006]

A. No adjustment shall be made in the construction, development or use without a new application under the provisions of these regulations. However, minor adjustments may be made subject to written approval by the City Manager. Additionally, a request for an extension to the date of completion may be approved by the Board of Aldermen upon recommendation from the Director of Planning and Development Services.

1. *Minor adjustments.* The City Manager may authorize minor adjustments to the approved development plan when such adjustments appear necessary in light of technical or engineering considerations. Such minor adjustments shall be limited to the following elements:

a. Adjusting the distance as shown on the approved development plan between any one (1) structure or group structures and any other structure or group of structures or any vehicular circulation element or any boundary of the site.

b. Adjusting the location of any open space.

c. Adjusting any final grade.

d. Altering the types of landscaping elements and their arrangement within the required landscaping buffer area.

e. The City Manager may decline to approve such minor adjustments if he/she deems the changes are significant and refer the application to the Board of Aldermen (see Major Amendments). Such minor adjustments shall be consistent with the intent and purpose of these regulations and the approved development plan and shall be the minimum necessary to overcome the particular difficult and shall not be approved if such adjustments would result in a violation of any standard or requirement of these regulations.

**2. Major amendments.** All major amendments will require a public hearing held by the Board of Aldermen and notice to all property owners whose properties are located within two hundred (200) feet of the planned unit development. A request for a major amendment to the approved development plan shall be considered a major amendment, only if the following apply:

a. An increase in square footage or density from the original proposal;

b. Change in the number of parking spaces from the original approval;

c. Changes in proposed land uses (office become retail/restaurant);

d. Significant changes to the site, landscaping and/or streetscape;

e. The amendment requires a modification of any written conditions of approval or recorded easements;

f. Changes in the PUD plan as approved shall be in substantial conformity with the approved site plan or an amendment to the approved site plan shall be submitted and approved by the Plan Commission/Architectural Review Board.

## **Section 2.**

The Chapter, Article, Division and/or Section assignments designated in this Ordinance may be revised and altered in the process of recodifying or servicing the City's Code of Ordinances upon supplementation of such code if, in the discretion of the editor, an alternative designation would be more reasonable. In adjusting such designations the editor may also change other designations and numerical assignment of code sections to accommodate such changes.

## **Section 3:**

It is hereby declared to be the intention of the Clayton Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect.

## **Section 4.**

This Ordinance shall be in full force and effect both from and after its passage by the Board of Aldermen.

**Passed by the Board of Aldermen on this 28<sup>th</sup> day of May, 2019.**

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk



City Manager  
10 N. Bemiston Avenue  
Clayton, MO 63105

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## REQUEST FOR BOARD ACTION

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**TO:** MAYOR HARRIS; BOARD OF ALDERMEN

**FROM:** CRAIG S. OWENS, CITY MANAGER (CSO)

**DATE:** MAY 28, 2019

**SUBJECT:** ORDINANCE - AMENDING CHAPTER 225 OF THE CLAYTON MUNICIPAL CODE TO PROHIBIT HOUSING DISCRIMINATION ON THE BASIS OF A PERSON'S SOURCE OF INCOME

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The ordinance is being presented as one of many ways that can help support more inclusive housing options.

BILL NO. 6733

ORDINANCE NO.

**AN ORDINANCE AMENDING CHAPTER 225 OF THE CLAYTON MUNICIPAL CODE TO PROHIBIT HOUSING DISCRIMINATION ON THE BASIS OF A PERSON'S SOURCE OF INCOME**

---

**WHEREAS**, the City of Clayton has been a leader in adopting anti-discrimination standards that assure all people an equal opportunity to the benefits of safe and secure housing; and

**WHEREAS**, the Board of Aldermen finds and believes that there is a dangerous and inappropriate potential for landlords and others involved in the housing market to frustrate important programs designed to assure safe housing and lift challenged people from cycles of poverty by discriminating against program beneficiaries on the basis of the source of the income by which prospective occupants seek to furnish housing to themselves and their families;

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

**Section One.**

Article I of Chapter 225 of the Code of Ordinances of the City of Clayton, Missouri, is hereby amended by the repeal of Section 225.010 and the enactment of a new Section 225.010 in lieu thereof, and by the amendment of Section 225.020 by the addition of one new definition, to be inserted in appropriate alphabetical order, all to read as follows:

**Chapter 225. Human Rights**

**Article I. In General**

**Section 225.010 Purposes of Chapter**

- A. The purposes of this Chapter are:
1. To secure for all individuals within the City freedom from any discriminatory practice made unlawful by Article II of this Chapter.
  2. To implement within the City the policies embodied in Missouri and Federal human rights legislation and to promote cooperation between the City and the State and Federal agencies enforcing that legislation.
  3. To provide a City Commission on Human Rights which is

dedicated to the elimination of discriminatory practices made unlawful by Article II of this Chapter.

## **Section 225.020 Definitions**

For the purposes of this Chapter, the following terms shall be deemed to have the meanings indicated below:

[**NOTE:** No other definitions in this Section are altered, amended or affected in any way by this amendment and remain in full force and effect. For that reason these definitions are not set forth here in full.]

## **SOURCE OF INCOME**

The point or form of the origination of legal gains of income accruing to a person in a stated period of time; from any occupation, profession or activity, from any contract, agreement or settlement, from federal, state or local payments, including Section 8 or any other rent subsidy or rent assistance program, from court ordered payments or from payments received as gifts, bequests, annuities or life insurance policies.

## **Section Two.**

Sections 225.030, 225.050 and 225.070 of Article II of Chapter 225 of the Code of Ordinances of the City of Clayton, Missouri, are hereby repealed and new Section 225.030, 225.050 and 225.070 are hereby enacted in lieu thereof to read as follows:

## **Chapter 225. Human Rights**

### **Article II. Discriminatory Practices**

#### **Section 225.030 Unlawful Housing Practices**

- A. It shall be an unlawful housing practice:
1. To refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of, to deny or otherwise make unavailable a dwelling to any person because of race, color, religion, national origin, ancestry, sex, gender identity, sexual orientation, disability or familial status.
  2. To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, national origin, ancestry, sex, gender identity, sexual orientation, disability, lawful source of income or familial status.
  3. To make, print or publish or cause to be made, printed or

published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, national origin, ancestry, sex, gender identity, sexual orientation, disability, lawful source of income or familial status, or an intention to make any such preference, limitation or discrimination.

4. To represent to any person because of race, color, religion, national origin, ancestry, sex, gender identity, sexual orientation, disability, lawful source of income or familial status that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.
  5. To induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, ancestry, sex, gender identity, sexual orientation, disability, lawful source of income or familial status.
  6. To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:
    - a. That buyer or renter;
    - b. A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or
    - c. Any person associated with that buyer or renter.
  7. To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of:
    - a. That person;
    - b. A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or
    - c. Any person associated with that person.
- B. For purposes of Sections 225.030, 225.040 and 225.050, discrimination includes:
1. A refusal to permit, at the expense of the person with the disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.
  2. A refusal to make reasonable accommodations in rules,

policies, practices or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.

3. In connection with the design and construction of covered multi-family dwellings for first (1st) occupancy after March 13, 1991, a failure to design and construct those dwellings in such a manner that:
  - a. The public use and common use portions of such dwellings are readily accessible to and usable by persons with a disability.
  - b. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by persons with a disability in wheelchairs.
  - c. All premises within such dwellings contain the following features of adaptive design:
    - (1) An accessible route into and through the dwelling;
    - (2) Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;
    - (3) Reinforcements in bathroom walls to allow later installation of grab bars; and
    - (4) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

C. As used in Subdivision (3) of Subsection (B) of this Section, the term "*covered multi-family dwelling*" means:

1. Buildings consisting of four (4) or more units if such buildings have one (1) or more elevators; and
2. Ground floor units in other buildings consisting of four (4) or more units.

D. Compliance with the appropriate requirements of the American National Standard for Buildings and Facilities providing accessibility and usability for people with physical disabilities, commonly cited as "ANSI A117.1", suffices to satisfy the requirements of Subsection (B)(3)(a) of this Section.

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### **Section 225.050 Discrimination in Selling or Renting By Real Estate Agencies Prohibited**

It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service organization or facility relating to the business of selling or renting dwellings on account of race, color,

religion, national origin, ancestry, sex, gender identity, sexual orientation, disability , lawful source of income or familial status.

\* \* \*

### **Section 225.070 Additional Unlawful Discriminatory Practices**

- A. It shall be an unlawful discriminatory practice:
1. To aid, abet, incite, compel or coerce the commission of acts prohibited under this Chapter or to attempt to do so;
  2. To retaliate or discriminate in any manner against any other person because such person has opposed any practice prohibited by this Chapter or because such person has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or hearing conducted pursuant to this Chapter;
  3. For the City to discriminate on the basis of race, color, religion, national origin, sex, gender identity, sexual orientation, ancestry, age, as it relates to employment, disability, lawful source of income or familial status as it relates to housing; or
  4. To discriminate in any manner against any other person because of such person's association with any person protected by this Chapter.

### **Section Three.**

The Chapter, Article, Division and/or Section assignments designated in this Ordinance may be revised and altered by the codification company servicing the Municipal Code of the City of Clayton upon supplementation of such code if, in the discretion of the editor, an alternative designation would be more reasonable. In adjusting such designations, the editor may also change other designations and numerical assignment of code sections to accommodate such changes.

### **Section Four.**

It is hereby declared to be the intention of the Board of Aldermen that the sections, paragraphs, sentences, clauses, phrases and words of this ordinance are severable, and if any section, paragraph, sentence, clause, phrase or word(s) of this ordinance shall be declared unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, phrases and words of this ordinance since the same would have been enacted by the Board of Aldermen without the incorporation in this ordinance of any such unconstitutional or invalid portion of the ordinance.

**Section Five.**

This Ordinance shall be in full force and effect both from and after its passage by the Board of Aldermen.

**Passed by the Board of Aldermen this \_\_\_\_\_ day \_\_\_\_\_, 2019.**

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk