

CITY OF O'FALLON, ILLINOIS  
ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING  
THE CITY ZONING REGULATIONS,  
CHAPTER 42, SECTION 9 RELATING  
TO PLANNED USES AND SECTION  
15 RELATING TO VARIANCES AND  
APPEALS**

**WHEREAS,** the City Council desires to amend certain provisions of the City Zoning Code, Chapter 42, and

**WHEREAS,** a duly noticed and published public hearing has been held relating to such desired amendments;

**NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF O'FALLON, ST. CLAIR COUNTY, ILLINOIS AS FOLLOWS:**

**Section 1:** Chapter 42, Zoning Code of Ordinances of the City of O'Fallon, including the accompanying Official Zoning Map, is hereby amended by amending Subsection A of Section 9.010 "Planned Use – when required" of Chapter 42 as follows (amendment shown in bold italics):

**Section 9.010 Planned use — when required**

- A. Change in Zoning and New Construction Requiring Planned Use Approval. A Planned Use approval shall be required for any proposed amendment or change in zoning, *change of use from a residential to a non-residential use*, or any construction of a new building for any non-accessory use within the MXD, MR, O-1, B-1, B-2 or "I" districts where any of the following exists:
1. The subject property is adjacent to or within 250 feet of any property used for residential, public assembly, including church/religious, or school purposes;
  2. A new structure of 20,000 square feet or more is proposed;
  3. Two or more buildings are proposed on one lot;
  4. When traffic generation per a traffic study submitted by the applicant, if requested at the discretion of the City, shows any level of service of "D" or worse pursuant to the accepted national traffic standards; or

5. When required by Table of Uses in this Chapter or otherwise required elsewhere in this Chapter;

**Section 2:** Chapter 42, Zoning Code of Ordinances of the City of O’Fallon, including the accompanying Official Zoning Map, is hereby amended by repealing Section 15.060 thereof and enacting a new Section 15.060 as follows:

**15.060. City Council Power of Administrative Review:** Immediately following the filing of the written decision of the Zoning Hearing Officer on any appeal or variance request under this Section, staff shall file a report with the City Council concerning such action. Within 21 days after the Zoning Hearing Officer’s decision, the City Council, upon majority vote, may exercise the power of administrative review of any Zoning Hearing Officer decision on an application for an appeal or variance.

Upon adoption of the motion to exercise the power of review, the City Council may act on the matter directly or first refer the matter to committee. Before acting on the variance or appeal, the City Council may set the matter for hearing before the committee or the City Council. The City Council will give written notice of any such hearing to the applicant and all other persons who appeared and spoke at the public hearing before the Zoning Hearing Officer. In addition, the City Council may, in its discretion, notify and allow to be heard at the hearing any other person who the Council believes may be aggrieved by any decision or action concerning the application.

Following its review, the City Council may affirm, reverse, or modify, in whole or in part, any determination of the Zoning Hearing Officer. An affirmative majority vote of the City Council shall be required to overturn or modify a decision by the Zoning Hearing Officer. The decision of the City Council shall be made within 45 days of the Zoning Hearing Officer vote, unless extended for specified cause by a majority vote of the Council, or the Zoning Hearing Officer decision shall become final. In making any decision, the Council may adopt and rely on the record of the hearing officer or may hold a new hearing to establish a record for final decision.

Unless the City Council exercises its power of review of administrative review, the decision of the Zoning Hearing Officer shall become effective after 21 days following its decision.

**Section 3:** Chapter 42, Zoning Code of Ordinances of the City of O’Fallon, including the accompanying Official Zoning Map, is hereby amended by repealing Section 15.070 “Cost of Administrative Review” and adopting a new Section 15.070 as follows:

**15.070. Judicial Review of Final Decision**

Any officer, department, board or bureau of the City or any person whose legal rights, duties, or privileges have been affected by any final decision of the Hearing Officer, or any party affected by the decision of the Council where such decision has

