

Ordinance No. 3466

**AN ORDINANCE AMENDING THE
MUNICIPAL CODE OF THE
CITY OF O'FALLON, ILLINOIS,
CHAPTER 155, ZONING CODE, AND
CHAPTER 150 BUILDING
REGULATIONS, TO ESTABLISH AND
CLARIFY MINIMUM BUILDING,
CONSTRUCTION AND DESIGN
REQUIREMENTS FOR SINGLE-FAMILY
DWELLING CONSTRUCTION IN THE
CITY AND TO ESTABLISH
TEMPORARY REGULATIONS ON
ISSUANCE OF CERTAIN SINGLE-FAMILY
AND TWO-FAMILY DWELLING BUILDING
PERMITS PENDING ESTABLISHMENT OF
DIFFERENT OR SUPPLEMENTARY
PERMANENT REGULATIONS**

WHEREAS, the City is empowered by its Home Rule authority in addition to such authority granted by the State Legislature to regulate the construction of residential dwellings and regulation of uses of land; and

WHEREAS, the City has determined that its existing building codes need to be amended to ensure that single-family homes continue to be constructed with techniques and design commonly and routinely used within the community due to accepted industry standards and standards that if not modified or clarified, could result in the construction of homes that are of sub-par construction or design;

WHEREAS, in addition to specific changes or clarifications already identified for modification, different or supplementary changes need to be considered for permanent modifications to City regulations, which potential changes need to be considered after input from property owners, developers, residents and other interested parties, and

WHEREAS, despite an established minimum community standard for the quality of construction materials, design of homes, and minimum safety and aesthetic considerations of single-family dwellings in this community, the City has recently been informed of isolated but now recurring interests to deviate from the existing standards to use sub-par construction and design techniques that are contrary to the standards established by the industry and/or the City regulations in the past;

WHEREAS, it is contrary to the public interest and the interests of property owners, developers and residents for permits for construction of single-family dwellings be sought and approved for such sub-par construction and design pending establishment of permanent regulations clarifying or establishing the minimum standards for single-family homes in this community,

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. Building Regulations. The Municipal Code of the City, Section 150.06, Residential Code, is hereby amended by adding the following additional subsection “(J)”:

- (J) The following additional regulations are hereby adopted as supplementary and in addition to the requirements of the Residential Code and are hereby incorporated therein:
 - a. Eaves shall be included on dwellings with a minimum of 12” overhang on the front, rear, and sides, and including on any gable ends and to include fascia and soffit;
 - b. Roof overhangs to be enclosed with an approved soffit material;
 - c. Exterior vinyl siding shall have a minimum thickness of .42 millimeters;
 - d. A front entrance door meeting code criteria shall be placed facing the street frontage with unobstructed and visible access from the street for emergency providers and others;

- (K) All appeals under any regulation or decision pursuant to Section 150.06(J) to the Building Grievance Committee shall be thereafter sent by the Director to the City Council for a final decision by the Council. Any decision of the Building Grievance Committee shall be deemed final only if no action is taken by the Council within 30 days after the date the decision is placed on file with the Council by the Director.

Section 2. Temporary Supplementary Regulations. Notwithstanding any contrary provision or authority within the Municipal Code of the City, including but not limited to Chapter 155, Zoning Regulations, Chapter 150, Building regulations, or otherwise, for a period of 180 days from the effective date of this Ordinance, no building permit shall be issued for construction of any new single-family detached residential dwelling or two-family dwelling, except to the extent such permit application complies with the additional and supplementary temporary regulations set forth as follows:

- 1. The application complies with all applicable city codes including as modified herein; and

2. The application either is for:
 - a. construction under a permit with exterior substantially the same as a building plan previously approved by the City and constructed within that subdivision prior to June 1, 2006, or
 - b. construction pursuant to a building plan with exterior construction and design that substantially conforms with the building design and construction since 2000 within that subdivision or within lots immediately adjacent thereto in building materials and design, taking into consideration material type, material quality (where objectively determinable), number and size of windows; percentage of each building face having no windows or other elevation relief (e.g., doors, windows, chimneys, inset or reset walls), and size and location of garages, sidewalks, driveways, porches, and other exterior improvements; provided that exterior building construction that is consistent with plans or drawings submitted to and expressly accepted by the City in conjunction with an annexation agreement, zoning or subdivision plat approval shall be deemed to comply with this subsection; and provided that, for purposes of this Section, and among other relevant factors that may be reasonably considered, any deviation of more than ten (10) percent from the average shall be *prima facie* evidence that the application does not “substantially conform;” and further provided that where a subdivision has no homes for which any permits have been issued either within the subdivision or adjacent thereto, then the design may be approved if it substantially conforms to new construction building plans that have been approved by the City between January 1, 2006 and June 1, 2006.
 - c. rebuilding a damaged or destroyed dwelling with exterior substantially the same as it previously existed.
 - d. construction of one single-family home not part of a subdivision or adjacent to other homes as may be necessary to comply with these standards and where application of sections 2a-2c herein would create a hardship.

The determination of compliance with this Section shall be made by the Director of Planning in the ordinary course of building permit review. For purposes of this Section “substantially the same” means a building plan that is identical or nearly identical in all significant respects. In the event an applicant is aggrieved by a determination of compliance hereunder, the applicant may within 10 days of such determination appeal the decision in writing to the City Administrator who shall make a decision within 30 days of such appeal; if the applicant is still aggrieved by such decision by the City Administrator, an appeal may be filed by the applicant in writing within 10 days thereof to the Hearing Officer who shall make a determination within 30 days of such appeal, unless extended for good cause,

pursuant to such procedures and appeals as established by Article 15 of the Zoning Code. No decision shall be deemed final for purposes of judicial review until all such appeals authorized herein have been completed. The applicant shall include with any appeal, or if requested by the deciding officer/entity or Hearing Officer, a color depiction of each elevation (side) of the proposed building, a plot plan, and such other information as may be necessary to determine whether the applicant has complied with the supplementary regulations herein.

Section 3. Severability. The portions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this Ordinance are valid, unless the court finds the valid portions of this Ordinance are so essential and inseparably connected with and dependent upon the void portion that it cannot be presumed that the City Council would have enacted the valid portions without the invalid one, or unless the court finds that the valid portions standing alone are incomplete and are incapable of being executed in accordance with the legislative intent.

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

Passed by the City Council this 17th day of July 2006.

ATTEST:
(seal)

Approved by the Mayor this 17th day
of July 2006.

Philip A. Goodwin, City Clerk

Gary L. Graham, Mayor

ROLL CALL:	Grogan	Schmidt	True	Henry	Reckamp	Medford	Bequette	SUB TOTALS
Aye	X		X	X	X	X	X	6
Nay								0
Absent		X						1

ROLL CALL:	Mouser	Renner	Bennett	Boone	Drolet	Albrecht	West	SUB TOTALS	SUM OF TOTALS
Aye	X	X	X	X	X	X	X	7	13
Nay								0	0
Absent								0	1