

**AN ORDINANCE AMENDING SECTION 405.080 OF THE ORDINANCES
OF THE CITY OF WEATHERBY LAKE**

I. RECITALS AND FINDINGS

WHEREAS the City Board passed, in August of 2023, a new Ordinance including revised Section 405.080.

WHEREAS, to make the Ordinance operate more expediently, rather than having the Codes Enforcement Officer address CUP considerations that the Board wishes to modify Section 405.080 to create a new position known as the CUP Administrator and to authorize the Mayor to appoint such position.

WHEREAS Section 405.080 should be amended to read as follows:

Section 405.080 Permit Uses.

A. Special Permit Uses.

1. The following uses may be permitted in District "R-1-A" upon the granting of a special permit by the Planning Commission, which permit may include such restrictions and limitations as the Planning Commission deems necessary to protect the appropriate use of neighboring property and to carry out the general intent and purpose of this Zoning Code. Such special permits would be granted by the Planning Commission only after public hearings conducted in accordance with the rules of the Planning Commission.
2. Such uses may include:
 - a. Public libraries, Police and Fire stations and public administrative buildings.
 - b. Electric substations.
 - c. Reservoirs, wells, towers, water supply works.
 - d. Buildings and premises for public utility services or public service organizations, which buildings or uses the Planning Commission deems reasonably necessary for public convenience or welfare.
 - e. Other uses designated by this Article as requiring a special permit. Special permits are subject to review by the Planning Commission on an annual basis.

B. Conditional Use Permits.

1. The purpose of a Conditional Use Permit is to evaluate on a case-by-case basis the impact of a secondary use of the property on the use and enjoyment of nearby properties, property values, nearby parking, traffic congestion, and the health and safety of the community.

2. An Application for a Determination of the Need for a Conditional Use Permit for the Secondary Use shall be filed, as set forth hereinafter, within 10 days, which time deadline may be extended for up to an additional 20 days by the CUP Administrator, of the date of mailing by regular mail or hand-delivery to the owner and tenant at such home, of a notice that the CUP Administrator has reasonable cause to believe that the person is making a secondary use of the property that may adversely impact a neighbor, and may require a Conditional Use Permit. The CUP Administrator shall document the basis for the reasonable cause belief, which documentation shall become part of the record. If such application is not thereafter timely made, the secondary use must cease until an application is made and a determination made that a Conditional Use Permit is not needed. The burden shall be on the applicant to demonstrate that a Conditional Use Permit is not required.

C. Application for a Determination of Need for a Conditional Use Permit for Secondary Use.

1. All applications shall be submitted to the CUP Administrator on forms provided by the City. The CUP Administrator may ask for additional documentation necessary to its decision within 10 days of receipt of the application. Within 10 days of the receipt of the application and additional information requested by the CUP Administrator, such officer will determine if a Conditional Use Permit is needed and will provide a written notice to the applicant of the determination.
2. If the determination made is that the applicant must apply for a Conditional Use Permit, the applicant may appeal the decision to the City Planning Commission. In the event the determination of the CUP Administrator is upheld by the Planning Commission, then the applicant may appeal this decision to the Board of Alderpersons who shall hear the appeal and uphold or overturn the decisions of the CUP Administrator.
3. Upon a fully final determination that a Conditional Use Permit is needed, no secondary use shall be authorized or continued without a permit being issued. A “fully final” determination as used herein means that a determination has been made, and not thereafter timely appealed and/or if timely appealed, the appeal is dismissed. The City Planning Commission may stay its determination for a reasonable period or until the City Board of Alderpersons rules on any appeal.

D. Application for a Conditional Use Permit for Secondary Use.

1. All applications, the documentation reasonably necessary to making a determination and the necessary fees as determined by the Board of Alderpersons shall be submitted to the Planning Commission for their approval or disapproval on forms provided by the City. The application shall also include a proposal for mitigating the impact of that secondary use on nearby properties.
2. The City Clerk shall schedule a public hearing and meeting of the Planning Commission in the same manner as under Chapter 400.

3. At the Public Hearing, the Planning Commission shall take up the application for hearing and make a determination of whether and under what conditions the Conditional Use Permit will be issued, or will reject such application.
 - a. In determining whether the application should be approved, approved with conditions or rejected, the Commission shall consider the following:
 - i. Nature of the business, the impact on the use and enjoyment of nearby properties, property values, nearby parking, traffic congestion, and the health and safety of the community; and
 - ii. Effect of a substantial increase in traffic and/or parking; and
 - iii. Width of the roadway and the ability for emergency vehicles to access the community; and
 - iv. May reject any application for a permit to operate a business for any of the following:
 - a. A business that fails to comply with any ordinance, regulation, law or statute related to health, safety, or the environment;
 - b. A business that involves the sale or exchange of alcohol, weapons, or firearms;
 - c. A business that allows the use of equipment or machinery that produces aural or any other adverse effects outside the home;
 - d. A business that increases the solid waste beyond that set by City Ordinance or City solid waste disposal contract;
 - e. A business that is a nuisance under any section of this Code of ordinances;
 - f. A business that allows for any explosive chemicals or combustible materials such as would endanger the occupants', clients of the occupant or the neighbors' health or welfare to be used or stored on the premises;
 - g. A business unless the business and owner or tenant, if applicable, is not compliant regarding all taxes, including but not limited to, City fees, sales taxes, and real and personal property taxes, and not having any property tax liens of any nature;
 - h. A business to be operated in violation of the applicable building, maintenance and/or fire code;
 - i. A business to be operated by any person other than the owner or tenant of the residential dwelling.
4. In the event the application is disapproved by the Planning Commission, or the applicant believes the conditions to the granting of the permit are unacceptable,

the applicant may appeal this decision to the Board of Alderpersons who shall hear the appeal and approve or disapprove the application, with or without conditions.

WHEREAS the Mayor has recommended Tyler Patterson to serve as the CUP Administrator.

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

Effective immediately, the current §405.080 of the Ordinances of the City of Weatherby Lake Missouri is repealed, and the new §405.080 of the Municipal Ordinances of the City of Weatherby Lake Missouri is enacted, which shall read as follows:

1.

Section 405.080 Permit Uses.

A. Special Permit Uses.

1. The following uses may be permitted in District "R-1-A" upon the granting of a special permit by the Planning Commission, which permit may include such restrictions and limitations as the Planning Commission deems necessary to protect the appropriate use of neighboring property and to carry out the general intent and purpose of this Zoning Code. Such special permits would be granted by the Planning Commission only after public hearings conducted in accordance with the rules of the Planning Commission.
2. Such uses may include:
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 - e. Other uses designated by this Article as requiring a special permit. Special permits are subject to review by the Planning Commission on an annual basis.

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1. The purpose of a Conditional Use Permit is to evaluate on a case-by-case basis the impact of a secondary use of the property on the use and enjoyment of nearby properties, property values, nearby parking, traffic congestion, and the health and safety of the community.
2. An Application for a Determination of the Need for a Conditional Use Permit for the Secondary Use shall be filed, as set forth hereinafter, within 10 days, which time deadline may be extended for up to an additional 20 days by the CUP

Administrator, of the date of mailing by regular mail or hand-delivery to the owner and tenant at such home, of a notice that the CUP Administrator has reasonable cause to believe that the person is making a secondary use of the property that may adversely impact a neighbor, and may require a Conditional Use Permit. The CUP Administrator shall document the basis for the reasonable cause belief, which documentation shall become part of the record. If such application is not thereafter timely made, the secondary use must cease until an application is made and a determination made that a Conditional Use Permit is not needed. The burden shall be on the applicant to demonstrate that a Conditional Use Permit is not required.

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- D. Application for a Conditional Use Permit for Secondary Use.
1. All applications, the documentation reasonably necessary to making a determination and the necessary fees as determined by the Board of Alderpersons shall be submitted to the Planning Commission for their approval or disapproval on forms provided by the City. The application shall also include a proposal for mitigating the impact of that secondary use on nearby properties.
 2. The City Clerk shall schedule a public hearing and meeting of the Planning Commission in the same manner as under Chapter 400.
 3. At the Public Hearing, the Planning Commission shall take up the application for hearing and make a determination of whether and under what conditions the Conditional Use Permit will be issued, or will reject such application.

- a. In determining whether the application should be approved, approved with conditions or rejected, the Commission shall consider the following:
 - i. Nature of the business, the impact on the use and enjoyment of nearby properties, property values, nearby parking, traffic congestion, and the health and safety of the community; and
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 - c. A business that allows the use of equipment or machinery that produces aural or any other adverse effects outside the home;
 - d. A business that increases the solid waste beyond that set by City Ordinance or City solid waste disposal contract;
 - e. A business that is a nuisance under any section of this Code of ordinances;
 - f. A business that allows for any explosive chemicals or combustible materials such as would endanger the occupants', clients of the occupant or the neighbors' health or welfare to be used or stored on the premises;
 - g. A business unless the business and owner or tenant, if applicable, is not compliant regarding all taxes, including but not limited to, City fees, sales taxes, and real and personal property taxes, and not having any property tax liens of any nature;
 - h. A business to be operated in violation of the applicable building, maintenance and/or fire code;
 - i. A business to be operated by any person other than the owner or tenant of the residential dwelling.
4. In the event the application is disapproved by the Planning Commission, or the applicant believes the conditions to the granting of the permit are unacceptable, the applicant may appeal this decision to the Board of Alderpersons who shall hear the appeal and approve or disapprove the application, with or without conditions.

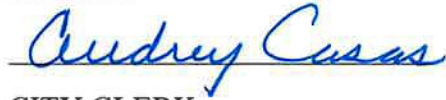
2. The Mayor is authorized to appoint the CUP Administrator the same as any other Appointive Officer, and the Mayor recommends Tyler Patterson as the first CUP Administrator, which recommendation is approved by the Board.

PASSED THIS 11TH DAY OF OCTOBER 2023.

A handwritten signature in blue ink, appearing to read "S. D. Clark", is written over a horizontal line.

STEVE CLARK, MAYOR

ATTEST:

A handwritten signature in blue ink, appearing to read "Audrey Casas", is written over a horizontal line.

CITY CLERK

APPROVED THIS 11TH DAY OF OCTOBER 2023.

A handwritten signature in blue ink, appearing to read "S. D. Clark", is written over a horizontal line.

STEVE CLARK, MAYOR