

AN ORDINANCE AMENDING PARKVILLE MUNICIPAL CODE CHAPTER 400, GENERAL PROVISIONS, TO DEFINE RETAIL USE AND AMENDING PARKVILLE MUNICIPAL CODE CHAPTER 442, OTD" OLD TOWN DISTRICT, TO RESTRICT GROUND FLOOR USES ON MAIN STREET BETWEEN THE RAILROAD TRACKS TO THE SOUTH AND SECOND STREET TO THE NORTH

WHEREAS, property owners on Main Street in the OTD have petitioned the City to make changes to Chapter 442 to limit street level uses to "businesses with a customer service component offering the sale of retail products and/or merchandise" on Main Street between the railroad tracks to the south and 2nd Street to the north;

WHEREAS, concerns have been raised by property owners about the weakening of the commercial attraction of Main Street in the OTD, the voids in activity created with businesses that do not generate foot traffic, and the loss of retail dollars ;

WHEREAS, Vision Downtown Parkville calls for expanding current market niches including restaurants, entertainment/culture, antiques, home furnishings, art and crafts, and gifts and collectibles to generate increased customer traffic and sales;

WHEREAS, staff has researched retail and office restrictions in other downtown areas, and has consulted with downtown property owners and Main Street Parkville Association representatives;

WHEREAS, staff recommended changes to Sections 400.030 Definitions, Section 442.010 Purpose, and Section 442.015 Permitted Uses;

WHEREAS, amendments to the zoning code require a public hearing before the Planning and Zoning Commission in accordance with RSMo 89.050 and Parkville Municipal Code Chapter 483 and accordingly all public hearing notices were posted and published as required;

WHEREAS, at its September 8, 2015 regular meeting, the Planning & Zoning Commission held the required public hearing, concurred with conclusions and recommendations in staff's September 3, 2015 report and following consideration unanimously recommended approval subject to recommended revisions by a vote of 8-0;

WHEREAS, the revisions recommended by the Commission are incorporated below and the amendment in its entirety has been reviewed and approved as to form by the City Attorney;

WHEREAS, the Board of Aldermen hereby concurs with the Planning Commission's conclusions and accepts their recommendation;

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

SECTION 1. Parkville Municipal Code Title IV, Chapter 400, Section 400.030, is hereby amended to add the following definition:

RETAIL USE

Any establishment where the primary use is the selling of goods and/or food and beverages directly to the consumer, where those goods are available for immediate

purchase or order, and where the goods can be immediately removed from the premises, or immediately consumed on the premises, by the purchaser. A retail use includes, but is not limited to the following: bookstore, clothing store, florist, hardware store, antique store, art gallery, craft store, furniture store, bakery, restaurant, ice cream parlor, coffee shop and similar uses that sell goods directly to the consumer.

SECTION 2. Parkville Municipal Code Title IV, Chapter 442, Section 442.010, subsection C is hereby repealed and replaced as follows:

- C. Land in this district shall be used primarily for light retail business uses with accessory office and residential uses. Uses along the Main Street portion of this district shall have additional use restrictions to foster an active retail destination. Areas designated within this district should abut upon residential, "B-4", "I-1" or abut upon an intersection of streets upon which one (1) of such districts also may abut.

SECTION 3. Parkville Municipal Code Title IV, Chapter 442, Section 442.015, Permitted Uses, is hereby repealed and replaced as follows:

- A. The following retail uses shall be permitted for ground-floor, street-level storefronts, suites and spaces fronting Main Street between the railroad right-of-way south of Mill Street on the south and Second Street on the north. Non-retail uses shall only be permitted on the ground-floor or street-level in accordance with Section 2 herein.
 - 1. Retail uses as defined in Section 400.030, including, but is not limited to the following: bookstore, clothing store, florist, hardware store, antique store, art gallery, craft store, furniture store, clothing store, bakery, restaurant, ice cream parlor, coffee shop and similar uses that sell goods directly to the consumer and subject to the following:
 - a. Restaurants shall not include drive-thru or drive up service.
 - b. Grocery stores, markets and specialty foods shall not include slaughtering of animals on the premises.
 - c. With the exception of buildings existing prior to effective date of these regulations, buildings for free-standing uses shall not exceed 2,500 square feet.
 - d. Crafting, creation, assembly and light manufacturing of arts, crafts, retail goods and similar items as an accessory use to and for sale from a primary retail use subject to the same additional use limitations delineated in 442.015.B.14.
 - 2. Non-retail uses.
 - a. Non-retail uses are permitted only under the following conditions:
 - i. The street-level, ground-floor storefront, suite or space has been vacant for a minimum of three (3) months; and
 - ii. Community Development Director approval of an application for an administrative exception permit. The Community Development Director shall approve an administrative exception permit when the building / property owner provides verifiable documentation that he / she has actively advertised

the space for lease or sale for retail uses permitted under 442.015.A. The space shall be advertised by two or more methods for at least three (3) consecutive months prior to being eligible for an administrative extension permit. Acceptable advertising methods shall include: listing through brokers or agents; online or printed listings; onsite advertising or signage; targeted online, email, direct mail or phone marketing; online, broadcast or printed ads; an online listing page or site; or equivalent advertising methods. Acceptable documentation and verification of advertising shall include clippings, prints or copies of advertising, photographs, receipts, contracts, or other equivalent evidence that demonstrate that the conditions above have been met.

iii. Any denial of an application for an administrative exception permit by the Community Development Director may be appealed by the building owner to the Board of Zoning Adjustment for a final determination.

b. When permitted, an approved administrative exception permit shall be conditioned on the non-retail use incorporating accessory retail sales, window displays, or similar activities that create street-level interest and support an active retail environment. These conditions shall be approved by the Community Development Director, or on appeal, by the Board of Zoning Adjustment.

B. The following uses shall be permitted in the "OTD" Old Town District generally, except as provided in 442.015.A:

1. Display room for merchandise to be sold on order where merchandise sold is stored elsewhere.
2. Dressmaking, tailoring, shoe repairing, repair of household appliances, watches and bicycles, dry cleaning and pressing and bakery, with sale of bakery products on the premises, and other uses of a similar character; provided that no use permitted in this item may occupy more than two thousand five hundred (2,500) square feet of floor area.
3. Offices and office buildings, including medical or dental clinics.
4. Personal service uses including barber shops, banks, beauty parlors, photographic or artists' studios, messengers, taxicabs, newspaper or telecommunication services, dry cleaning receiving station, restaurants, (but not drive-in restaurants), undertaking establishments, and other personal service uses of a similar character.
5. Retail stores, including florist shops and meat markets, but there may be no slaughtering of animals or poultry on the premises.
6. Specialty food shops not exceeding five thousand (5,000) square feet.
7. Hardware or craft stores not exceeding five thousand (5,000) square feet.
8. Antique stores, bookstores or art galleries.
9. Bed and breakfast.

10. Churches and parish halls, temples, convents and monasteries.
11. Colleges and schools, public or private, having a curriculum and conditions under which teaching is conducted equivalent to a public school and institutions of higher learning.
12. Miniature golf courses.
13. Residential dwelling units, when located within a structure that contains retail space on the street level.
14. Crafting, creation, assembly and light manufacturing of arts, crafts, retail goods and similar items as an accessory use to and for sale from a primary retail or service use permitted in the Old Town District and subject to the following additional use limitations:
 - a. Accessory crafting, creation, assembly and light manufacturing uses shall be subject to approval of a development plan by the Board of Aldermen following recommendation by the Planning Commission in accordance with Section 442.025.
 - b. No accessory crafting, creation, assembly and light manufacturing use shall be approved unless it is found that said accessory use will not create any more offensive noise, vibration, dust, heat, smoke, odor, glare, traffic or other objectionable influences than the minimum amount normally resulting from retail commercial, personal service or office uses in the Old Town District.
 - c. Accessory crafting, creation, assembly and light manufacturing uses shall be secondary and complementary to the primary retail commercial, personal service and office uses of the Old Town District.
 - d. In order to preserve the street level attraction and activity of the Old Town District, accessory crafting, creation, assembly and light manufacturing uses shall be restricted from the front half of street level building floors, except as permitted through a conditional use permit. In no case shall an accessory crafting, creation, assembly and light manufacturing use occupy a street level storefront unless it is found that said use is visible to the public and creates an attraction equal or greater to that of a retail use.
 - e. Accessory crafting, creation, assembly and light manufacturing uses shall not occupy more than fifty percent (50%) of the gross square footage of the combined area of the primary and accessory use.
 - f. Accessory crafting, creation, assembly and light manufacturing uses shall not restrict or limit hours of operation, parking, loading, unloading, trash disposal or other activities associated with the primary retail commercial, personal service and office uses in the Old Town District.
 - g. New construction, renovation or other improvements required to accommodate accessory crafting, creation, assembly and light manufacturing uses shall be visually secondary to the primary use, complementary and compatible with the architecture of the rest of the building and complementary to the established

character of the Old Town District.

15. Accessory buildings and uses.

C. All of the foregoing uses are permitted in existing structures, except where the use would substantially increase the need for parking. New construction, ~~or~~ exterior alterations and uses that would substantially increase the need for parking are permitted only upon the review of the Planning Commission and approval of the Board of Aldermen in each specific instance, after consideration of the location of such use with relation to the adjacent residential area, traffic burden, noise, lights and other factors in keeping with Chapter 442.

D. Legal, Non-Conforming Uses.

1. Authority to Continue. The lawful use of a building or space therein existing prior to effective date of these regulations (or on the effective date of subsequent amendments hereto that cause such use to become a legal, non-conforming use) may be continued although that use does not conform to the provisions of Section 442.015; provided, however, this authority to continue shall not apply to any use approved by administrative exception permit. Whenever a legal, non-conforming use has been changed to a more-compatible, legal, non-conforming use or to a conforming use, that use shall not thereafter be changed to a less-compatible, legal, non-conforming use, except in accordance with the regulations of this Chapter.

a. Use hierarchy. For the purpose of this Section, uses are ranked from least compatible to most compatible in the following order. For the purpose of this section, any interpretation regarding rank or hierarchy shall be made by the Community Development Director.

i. Industrial or prohibited use

ii. Residential uses

iii. Institutional uses including but not limited to auditoriums, churches, parish halls, temples, convents, monasteries, colleges, schools (public or private), daycare, or places of assembly

iv. Administrative or professional office use, including general and professional offices, insurance and real estate offices, medical or dental clinics

v. Personal service use, other than listed above

vi. Retail uses as defined in Section 400.030

2. Ordinary Repair and Maintenance.

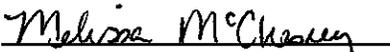
a. Normal maintenance and incidental repair, or replacement, installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a legal, non-conforming use.

- b. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of the Building Official, Fire Marshal or other public official who is charged with protecting the public safety and who declares that structure to be unsafe and orders its restoration to a safe condition.
3. Extension. A legal, non-conforming use shall not be extended, expanded, enlarged, or increased in intensity. These prohibited activities shall include, without being limited to:
- a. Extension of a use of any structure or land area, other than that occupied by a legal, non-conforming use on the effective date of these regulations (or on the effective date of subsequent amendments hereto that cause that use to become legal, non-conforming).
 - b. Extension of a use within a structure to any portion of the floor area that was not occupied by that legal, non-conforming use on the effective date of these regulations (or on the effective date of subsequent amendments hereto that cause such use to become legal, non-conforming); provided, however, that the use may be extended throughout any part of such structure that was lawfully and manifestly designed or arranged for that use on the effective date.
4. Enlargement. No structure that is devoted in whole or in part to a legal, non-conforming use shall be enlarged or added to in any manner unless that structure and the use thereof shall thereafter conform to the requirements of this Chapter.
5. Abandonment or Discontinuance. A legal, non-conforming use shall be allowed to continue so long as the use is continuously operated and is not discontinued or abandoned for a period of six (6) months or more. Whenever a legal, non-conforming use has been changed to a more-compatible, legal, non-conforming use or to a conforming use, that use shall not thereafter be changed to a less-compatible, legal, non-conforming use.

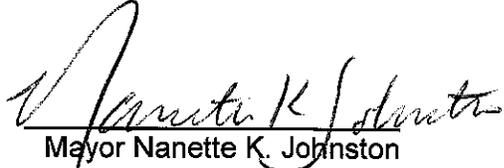
SECTION 4. This ordinance shall be effective immediately upon its passage and approval.

PASSED and APPROVED this 6th day of October 2015.

ATTESTED:


City Clerk Melissa McChesney




Mayor Nanette K. Johnston