

**AN ORDINANCE AMENDING CHAPTER 405 OF THE CLAYTON CITY CODE TO ESTABLISH ZONING REGULATIONS FOR RETAIL SMOKING ESTABLISHMENTS**

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**WHEREAS**, the City of Clayton recognizes the importance of regulating retail smoking establishments; and

**WHEREAS**, these revisions to the City's zoning code were reviewed by the Clayton Plan Commission and recommended for adoption and were the subject of a public hearing held by the Board of Aldermen after due notice as required by law; 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.** Article II of Chapter 405 of the Code of Ordinances of the City of Clayton, Missouri, is hereby amended by the addition of one new Section, initially to be designated as Section 405.380, to read as follows:

**Chapter 405. Zoning Regulations**

**Article II. General Regulations**

**Section 405.380. Performance Standards and Regulations Relating to Retail Smoking Establishments.**

- A. The purpose of this Section is to regulate the placement and organization of facilities for the dispensing, selling, and marketing of tobacco products, non-tobacco nicotine products, alternative nicotine products, electronic nicotine delivery systems, vapor products, hemp-derived intoxicants, and supporting paraphernalia to protect the health, safety, and welfare of the residents, businesses, and property owners in the City.
- B. Each retail smoking establishment shall be located on properties that meet the following distance requirements:
  - 1. No retail smoking establishment shall be initially sited within five hundred (500) feet of any then-existing elementary or secondary school, child daycare, or church.
  - 2. No retail smoking establishment shall be operated or maintained within five hundred (500) feet of another retail smoking establishment.
  - 3. The distances described in this Section shall be computed as follows:
    - a. Measurements shall be made along the shortest path between the demarcation points that can be lawfully traveled by foot.
    - b. In the case of a freestanding establishment, the distance between the facility and the school, daycare, or church shall be measured from the external wall of the establishment structure closest in proximity to the school, daycare, or church to the closest point of the property line of the school, daycare, or church. If the

school, daycare, or church is part of a larger structure, such as an office building or strip mall, the distance shall be measured to the entrance or exit of the school, daycare, or church closest in proximity to the establishment.

- c. In the case of an establishment that is part of a larger structure, such as an office building or strip mall, the distance between the establishment and the school, daycare, or church shall be measured from the property line of the school, daycare, or church to the establishment's entrance or exit closest in proximity to the school, daycare, or church. If the school, daycare, or church is part of a larger structure, such as an office building or strip mall, the distance shall be measured to the entrance or exit of the school, daycare, or church closest in proximity to the establishment.
- d. For the purposes of this Section, "church" shall mean a permanent building primarily and regularly used as a place of religious worship, and "daycare" shall mean a childcare facility as defined by Section 210.201, RSMo., or successor provisions, that is licensed by the State of Missouri.

C. No Covered Product as defined in Section 215.610 shall be displayed to be visible through glass, windows, or doors by a person of normal visual acuity standing at the outside perimeter of a facility where such Covered Products are available for sale.

**Section 2.** Section 405.390 of Article III of Chapter 405 of the Code of Ordinances of the City of Clayton, Missouri, is hereby amended by enactment of a new definition as follows:

## **Chapter 405. Zoning Regulations**

### **Article III. Definitions**

#### **Section 405.390. Definitions**

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B. Definitions. As used in this Chapter, unless the context otherwise indicates, the following terms mean:

[NOTE: Subsection (A) and those definitions in subsection (B) not set out here are not altered, amended or affected in any way by this amendment and remain in full force and effect. For that reason, those materials are not set forth here in full.]

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#### **RETAIL SMOKING ESTABLISHMENT**

An establishment primarily engaged in the display, marketing, and sale of tobacco products, non-tobacco nicotine products, alternative nicotine products, electronic nicotine delivery systems, vapor products, hemp-derived intoxicants, and supporting paraphernalia for use or consumption off-premises. This establishment shall not include marijuana products or alcohol products.

**Section 3.** Section 405.3120 of Article XX of Chapter 405 of the Code of Ordinance of the City of Clayton, Missouri, is hereby amended by the addition of the following additional use to be inserted in alphabetical order and shown as Permitted Use, as follows:

## **Chapter 405. Zoning Regulations**

### **Article XX. "C-2" General Commercial District**

#### **Section 405.3120. Permitted Uses For The "C-2" District**

[NOTE: Those uses in Section 405.3290 not set out here are not altered, amended or affected in any way by this amendment and remain in full force and effect. For

that reason, those materials are not set forth here in full.]

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Retail Smoking Establishment

**Section 3.** Section 405.3290 of Article XXI of Chapter 405 of the Code of Ordinances of the City of Clayton, Missouri, is hereby amended by the addition of the following additional use to be inserted in alphabetical order and shown as Permitted Use, as follows:

**Chapter 405. Zoning Regulations**

**Article XXI. "HDC" High Density Commercial District**

**Section 405.3290. Permitted Uses For The "HDC" District**

[NOTE: Those uses in Section 405.3290 not set out here are not altered, amended or affected in any way by this amendment and remain in full force and effect. For that reason, those materials are not set forth here in full.]

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Retail Smoking Establishment

**Section 8.** 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 9.** It is hereby declared to be the intention of the 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 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 10.** 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 11th day of November 2025**

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Mayor

Attest:

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City Clerk