

BILL NO. 2275

ORDINANCE NO. 2107

AN ORDINANCE AMENDING CITY OF CHESTERFIELD ZONING ORDINANCE SECTION 1003.182 TO ESTABLISH NEW CRITERIA FOR THE CREATION OF A RESIDENTIAL BUSINESS USE AREA OVERLAY (P.Z. 4-2004 CITY OF CHESTERFIELD/RESIDENTIAL SERVICE AREA)

WHEREAS, there has been increased interest in establishing new criteria for establishing limited commercial uses in residential areas; and,

WHEREAS, the Planning Commission Ordinance Review Committee has recommended new criteria for a residential business use area overlay; and,

WHEREAS, the Planning Commission concurred with the recommendation of the Ordinance Review Committee and voted to recommend said amendment by a vote of 8-0; and,

WHEREAS, after consideration of an amendment, the City Council approved the request with an amendment to the Attachment A included herein.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. The City of Chesterfield Zoning Ordinance is hereby amended and agrees to make necessary changes thereto, as set out in Exhibit "A" which is attached hereto and made a part hereof.

Section 2. The City Council, pursuant to the petition filed by the City of Chesterfield in P.Z. 4-2004, requesting the amendment embodied in this ordinance, and pursuant to the recommendations of the City of Chesterfield Planning Commission that said petition be granted and after public hearing, held by the Planning Commission on March 22, 2004, does hereby adopt this ordinance pursuant to the power granted to the City of Chesterfield under Chapter 89 of the Revised Statutes of the State of Missouri authorizing the City Council to exercise legislative power pertaining to planning and zoning.

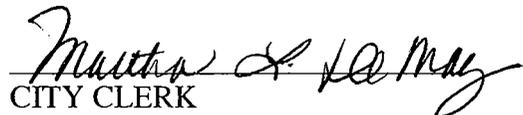
Section 3. This ordinance shall be codified within the Municipal Code of the City of Chesterfield.

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

Passed and approved this 19th day of July, 2004


MAYOR

ATTEST:


CITY CLERK

Attachment A

Section 1003.182 Residential Business Use Procedure (RBU).

1. Scope of provisions. This Section contains the regulations of the residential business use procedure (RBU). These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this Chapter which are incorporated as part of this Section by reference. Existing commercial service procedures established under the previous City of Chesterfield Zoning Ordinance Section 1003.182 shall adhere to the conditions set forth in their governing ordinance.

2. Purpose and intent. The purpose of this Section is to provide an alternative use limited to one or more service and limited commercial activities within existing single-family residential structures with driveways entering onto existing State Highways of four (4) or more lanes, at the time of application, which, due to certain site characteristics relative to adjacent roadways, lot size and the character of surrounding adjacent uses, may no longer be appropriate as residential dwellings.

It is the intent of this procedure to protect and maintain the residential character of the City of Chesterfield and the adjacent neighborhoods by ensuring compatibility with the Comprehensive Plan, through site design, site plan review, and the regulation of activity upon the designated sites, so as to maintain the general welfare of the City and the public health and safety, as it relates to traffic, fire hazards and traffic congestion, so as the uses of the property will not adversely affect the character of the neighborhood or the general welfare of the City.

3. Available uses. Designation of the residential business use area qualifies property for certain uses as granted by the residential business use area in the residential zoning district in which the property is located. Permitted land uses and developments shall be established in the conditions of the ordinance governing the particular planned district and shall be taken from the following list of available uses. Uses requested are to be representative of those proposed on the preliminary site development plan.

- (1) The residential business use procedure may authorize one or more (or any subcategory) of the following uses:
 - (a) Professional, business, government or institutional office uses, including medical offices/clinics, but excluding financial institutions.
 - (b) Retail services of a personal or educational nature, such as studios, tailors, or similar service facilities, excluding the sale of any goods at retail or wholesale, except for sales as an accessory with a specific service.

- (2) In addition to other conditions and limitations of the residential business use procedure, all approved residential business use properties shall have the following use limitations:
- (a) The residential business use is only transferable if the subsequent use is the same.
 - (b) Property established as a commercial service procedure or residential business procedure that changes the use must adhere to the guidelines of the residential business use procedure.
 - (c) Hours of operation for a residential business use area shall be approved by the City of Chesterfield Planning Commission.
 - (d) The residential business use shall only be issued for an existing structure originally constructed for occupancy as a single family dwelling. Said structure shall have been constructed not less than one year prior to the application for the residential business use procedure.
 - (e) No addition shall be permitted to any structure for which a residential business use is issued that will increase the area of office or commercial use.

4. Performance standards. All uses established by the residential business use shall operate in accordance with the appropriate performance standards contained in Section 1003.163, "Zoning Performance Standard Regulations." These performance standards are minimum requirements and may be made more restrictive in the conditions governing the particular development or use authorized by the residential business use procedure.

5. Applicable Zoning Districts and Roadway Designation. The residential business use procedure may only be authorized in "R-1", "R-1A", "R-2", "R-3", "R-4", "E-1", "E-2", and "E half acre" Districts, and shall only be permitted for existing single-family residential structures with driveways entering onto existing State Highways of four (4) or more lanes, at the time of application. "NU" Non-Urban Districts shall require rezoning in order to be applicable for consideration before the City of Chesterfield Planning Commission for a residential business use.

6. Rezoning. As stated in Section 5 of this ordinance, property zoned "NU" Non-Urban shall require rezoning in order to be applicable for consideration of a residential business use. Applications for rezoning can be filed simultaneously with the application for a residential business use; however, rezoning approval must occur prior to review of the application for a residential business use.

7. Landscaping. Landscape buffer strips shall adhere to the requirements set forth in Table 1 below.

Table 1: Landscape Buffer Strips

Property	Landscape Required
Property adjacent to a single-family property (for side and rear yard)	Minimum landscape buffer strip of twenty (20) feet in width. Up to ten (10) feet may be satisfied by landscaping on the abutting property if provided.
Property adjacent to single-family property when joint access is utilized.	The above requirement may be waived when joint access is utilized.
Property adjacent to a single-family property (for front yard)	Landscaping must consist of a lawn, ground cover, ornamental trees, shrubbery, and street trees, or a combination thereof. The type and amount landscaping shall be as approved by Planning Commission on the site development plan.
Property adjacent to non-residential property.	The type and amount landscaping shall be as approved by Planning Commission on the site development plan.

8. Residential business use procedure development criteria. The development criteria for residential business use procedure shall adhere to the following criteria as set forth by Table 2 below.

Table 2: Development Criteria

<i>Site Design</i>	Criteria
Lot Area	Shall be permitted on stand alone lots, not part of a platted subdivision.
Lot Size	No greater than two (2) acres
Lot Dimension	A minimum frontage of seventy-five (75) feet on and direct access to an existing State Highway of four (4) or more lanes.
Site Coverage	For buildings, driveways, parking and surface areas, combined, shall not exceed fifty (50) percent of the existing lot size.

Height of Structure	As set by the underlining district.
Building Setbacks	As set by the underlining district.
<i>Parking</i>	
Parking	<p>Maximum of six (6) parking spaces, including any spaces in a garage or covered structure area. Only two of these spaces may be in front of the front building line. Required parking shall be determined by Section 1003.165 of the Zoning Ordinance of the City of Chesterfield.</p> <p>If the maximum amount of parking spaces permitted by this residential business use area does not meet the minimum parking requirements of Section 1003.165 for the proposed use, then the proposed use will be deemed to exceed the service and limited commercial activity requirement of the residential business use area and will not be eligible for this procedure.</p>
Residential Business Use Vehicles	Residential Business Use Vehicles parked overnight shall be parked in the rear of the building.
Parking Setbacks	Shall be a minimum of ten (10) feet from the side and rear property lines. Setbacks shall contain screening to consist of fencing, landscaping or topographic features as approved by Planning Commission.
<i>Signage</i>	
Amount of Signage	One (1) business identification sign not to exceed eighteen (18) inches by twenty-four (24) inches in sign face area.
Sign Size	Shall not exceed a total height of six (6) feet.
Sign Location	Either on the freestanding mailbox or on the structure.
Sign Illumination	Lighting coverage shall not exceed the size of the signage and the sign shall not be illuminated from the rear of the sign.

9. Remodeling of structures.

- (1) Internal alterations will be permitted to accommodate the specified use. The residential business use procedure may apply to accessory buildings on the same property as the existing residential structure; however, only one residential business use may be permitted on each site. The use shall also occupy no more than one (1) structure.

- (2) Exterior remodeling. Exterior remodeling for appearance purposes only may be made. The appearance of the structure shall be compatible with the surrounding residential area. External remodeling and/or building additions to improve the appearance of the building, as well as architectural elevations, shall be reviewed and approved by the Planning Commission.

10. General review process. The residential business use procedure shall be a recommendation by the Planning Commission, in conjunction with a site development plan. The Planning Commission shall determine that: (i) the existing residential structure may no longer be appropriate as a residential dwelling; (ii) the use will not adversely affect the general welfare of the City and the public health and safety, as it relates to traffic, fire hazards, and traffic congestion; (iii) the use is consistent with the overall intent of the regulations regarding style and functional aspects of the existing residential structure and the operational compatibility of the proposed use with surrounding uses, topography and infrastructure; and (iv) that the use will not adversely affect the character of the neighborhood, but maintain compliance with the Comprehensive Plan.

The Department of Public Works shall review each residential business use request relative to the onsite handling of stormwater. Dedication of ten (10) feet of right-of-way may be a minimum requirement, as directed by the Missouri Highway and Transportation Department and the City of Chesterfield.

11. Procedures. The granting of a residential business use may be initiated by a verified application of one (1) or more of the owners of record or owners under contract of a lot or tract of land, or their authorized representatives, or by a resolution of intention by the Planning Commission or the City Council. Procedures for application, review, and approval of the residential business use shall be as follows:

(1) **Application.** Application for the residential business use area for a specific tract of land shall be addressed to the City of Chesterfield Planning Commission and filed in its public office. The application shall be filed on forms prescribed for that purpose by the Planning Commission and be accompanied by the following:

- (a) Filing fee per requirements of Section 1003.210, "Fees."

- (b) Written description of the proposed use for the property.

- (c) Written explanation of the applicability of a residential business use procedure for the property.
- (d) Legal description of the property.
- (e) Outboundary plat of the property.
- (f) Preliminary Development Plan, including, but not limited to the following:
 - (i) Proposed uses. Approximate location and designated uses of buildings and other structures as well as parking and open areas shall be indicated.
 - (ii) Existing and proposed contours at vertical intervals of not more than five (5) feet referred to sea level datum. Floodplain areas shall be delineated.
 - (iii) Approximate location of all isolated trees having a trunk diameter of six (6) inches or more, all tree masses and proposed landscaping.
 - (iv) Two (2) cross section profiles, with vertical and horizontal cross axis at the same scale, through the site showing preliminary building form, existing natural grade and proposed final grade.
 - (v) Proposed ingress and egress to the site, including adjacent streets.
 - (vi) Preliminary plan for provision of sanitation and drainage facilities.
 - (vii) Greenspace percentage of proposed development.
 - (viii) Tree stand delineation for area to be developed.
 - (ix) The Department of Planning may, with concurrence of the Department of Public Works, authorize the waiving of those requirements deemed inessential for a specific tract.
- (2) **Public hearing.** A public hearing on the petition shall be held by the Planning Commission in the same manner and with the same public notice procedure as required for a change of zoning. The public hearing shall be held within forty-five (45) days of verification that the application meets the minimum application requirements.
- (3) **Planning Commission review.** Upon review of the application, the

Planning Commission may recommend approval subject to appropriate conditions or denial. In the event of a recommendation of denial, no further action shall be taken on the application unless an appeal is filed in accordance with this residential business use procedure.

- (4) **Recommendation subject to conditions.** When approval has been recommended for approval subject to conditions and the conditions would cause a substantial change in the site plan presented at public hearing, the Commission shall withhold forwarding a recommendation to the City Council pending receipt of a revised plan from the petitioner reflecting compliance with the conditions.
- (a) The petitioner shall be allowed a maximum of forty-five (45) days to submit the revised plan to the Department of Planning.
 - (b) Said plan shall be reviewed by the Planning Commission at its next executive meeting. If the petitioner fails to submit the revised plan, the Planning Commission shall forward its recommendations to the City Council.
 - (c) Designation of the residential business use area qualifies property for certain uses as granted by the residential business use area in the residential zoning district in which the property is located. Permitted land uses and developments shall be established in the conditions of the ordinance governing the particular planned district as described in Section 3.
 - (d) The Planning Commission shall also consider the architectural, landscape, and other relationships, which may exist between the proposed development and the character of the surrounding neighborhood, and shall prescribe and require such physical treatment or other limitations as will, in its opinion, enhance the neighborhood character.
 - (e) The recommendation, along with preliminary plans and conditions where approval has been recommended, shall be forwarded to the City Council for its consideration.
 - (f) Conditions may relate to, but need not be limited to:
 - (i.) the type and extent of improvements and landscaping
 - (ii.) the governing development and improvements.
 - (iii.) the maximum or minimum gross floor

area per residential business use.

- (iv.) sign regulations.
- (v.) performance standards.

(5) **City Council action.** Upon receipt of the Planning Commission's recommendation of approval, or approval with conditions, the City Council shall either approve or modify, in whole or in part, the residential business use procedure by approving an ordinance. If the application is approved, the matter shall be returned to the Planning Commission for consideration of a site development plan.

12. Appeal or protest procedure.

- (1) **Appeal by petitioner to recommendation of denial.** The petitioner may file an appeal to the City Council of a Planning Commission recommendation of denial of an application for a residential business use or an amendment thereto in accord with the provisions of Section 1003.193, "Appeal and Protest Procedure for Special Procedures." An affirmative vote of 2/3 of the members of the entire City Council shall be required to overrule a vote to deny by the Planning Commission.
- (2) **Protest by specified nearby property owners to recommendation of approval.** Specified nearby property owners may file a protest with the City Council against the Planning Commissioner's recommendation of approval or approval with conditions of an application for a residential business use or an amendment thereto in accord with the provisions of Section 1003.193, "Appeal and Protest Procedure for Special Procedures."

13. Site development plan. The following is a list of requirements for site development plans. After passage by the City Council of an ordinance authorizing the establishment of a residential business use and requiring submission of a site development plan, such plans shall be submitted in accord with the provisions of Section 1003.179 and all provisions of this Section.

Site development plan requirements. Site development plans shall include, in addition to specific information required by the ordinance authorizing the residential business use, the following general information:

- (a) Outboundary plat and legal description of the property.
- (b) Location of all roadways adjacent to the property and general location, size, and pavement widths of all interior roadways.
- (c) General design of the development including unit type, location of unit, and size of single-family lot.

- (d) Development Criteria, including location and size of any commercial or office use, type or use proposed and general parking layout.
- (e) Zoning district lines and floodplain boundaries.
- (f) Site coverage calculations.

14. Planning Commission review. The Planning Commission shall determine if the site development plan complies with the conditions of the ordinance authorizing the residential business use. The Planning Commission's approval or disapproval of the site development plan shall also be based upon whether the plan is consistent with good general planning practice, consistent with good site planning, can be constructed and operated in a manner that is not detrimental to the permitted uses in the district and is deemed desirable to promote the general welfare of City of Chesterfield. The Planning Commission shall also consider architectural, landscape, and other relationships which may exist between the proposed residential service area and the character of the surrounding neighborhood and shall prescribe or require such physical treatment or other limitations as will, in its opinion, enhance the neighborhood character.

15. Recording. Upon approval of the site development plan by the Planning Commission, and prior to the issuance of any building permit or permit authorizing the use of the property in question, the owner(s) shall, within sixty (60) days of the approval date, record a copy of the approved residential business use ordinance, including attached conditions and any subsequent amendments thereto, and the legal description of the tract with the St. Louis County Recorder of Deeds, with a copy to be filed with the City of Chesterfield. Failure to record the approved residential service area residential business use ordinance within sixty (60) days of the approval date shall result in a new public hearing and full review of the residential business use application.

16. Existing commercial service procedures. All existing commercial service procedures shall be controlled by their authorizing ordinances except that any change in use shall require compliance with the conditions and requirements of this Ordinance.

17. Procedures to amend the residential business use ordinance or required plans. In order to amend provisions of an existing residential business use ordinance or to amend a site development plan approved for the residential business use, the procedure shall be as follows:

(1) To amend the residential business use ordinance:

- (a) The property owner or authorized representative shall submit a written request to amend ordinance conditions to the Department of Planning for review. The Department shall then evaluate the request for consistency in purpose and content with the nature of the proposal as originally advertised for public hearing.

- (b) If the Department of Planning determines that the requested amendment is consistent in purpose and content with the original proposal as advertised, the Department shall so report to the Planning Commission. The Planning Commission shall review the request and the report of the Department, and then forward a recommendation to the City Council. A recommendation of approval shall include conditions to be included in the amended ordinance.
- (c) If the Department of Planning determines that the requested amendment is not consistent in purpose and content with the nature of the proposal as originally advertised for public hearing, the Department shall so report to the applicant and the Planning Commission. The Planning Commission shall then review the proposed ordinance amendment and forward a recommendation to the City Council. The Planning Commission may, if deemed necessary, forward a resolution of intent to the City Council for the purpose of a new public hearing on the matter in accord with proceedings specified in Section 1003.300, "Procedure for Amending the Zoning Ordinance."

(2) To amend the site development plan:

- (a) The property owner or authorized representative shall submit an amended site development plan to the Department of Planning for review. The Department shall then evaluate the request for consistency in purpose and content with the nature of the proposal as originally advertised for public hearing, the preliminary development plan approved by the City Council, and the initial site development plan approved by the Commission.
- (b) If the Department of Planning determines that the proposed amendment to the site development plan is not in conflict with the original proposal as advertised and the approved preliminary development plan, and meets all conditions of the residential business use ordinance, said plan shall be reviewed and approved by the Planning Commission.

However, when conditions of a particular residential business use ordinance are amended which necessitate an amended site development plan, the Commission shall review and approve said amended plan.

- (c) If the Department of Planning determines that the proposed amendment to the site development plan is not consistent in purpose and content with the nature of the proposal as originally advertised for public hearing, or with the preliminary development plan approved by the City Council, the Department shall so report to the applicant and the

Planning Commission. The Planning Commission shall then review the proposed site plan amendment and make a final determination.

The Planning Commission may, if deemed necessary, forward a resolution of intent to the City Council for the purpose of a new public hearing on the matter in accord with proceedings specified in Section 1003.300, "Procedure for Amending the Zoning Ordinance."

- (d) If the Department of Planning determines that the proposed amendment to the site development plan is not in conflict with the approved site development plan and meets all conditions of the residential business use ordinance, the Department may approve said amended plan. Said plan shall be retained on file by the Department of Planning.
 - (3) Applications for requests to change an approved permitted use of a residential business use shall require a new public hearing.
- 18. Appeal to Commission of a decision by the Department in reviewing development plans.** The petitioner/developer may appeal to the Planning Commission from a decision by the Department of Planning, in cases where the Department of Planning is authorized to review development plans. The petitioner shall have a fifteen-day period in which to file a written appeal and plan with the Commission. The written appeal, stating the reasons for the appeal, shall be submitted to the Department. The Commission will make the final determination of the matter. No exceptions will be granted that are in violation of the particular ordinance governing the development plan.
- 19. Time periods for submission of plans and commencement of construction and extensions of time.**
- (1) **Site development plan.** The site development plan shall be submitted to the Planning Commission for review within eighteen (18) months after approval of the application by the City Council unless such time is extended by the Planning Commission. One such extension shall be allowed for a maximum of eighteen (18) months.
 - (a) In the event the site development plan is not submitted or substantial construction has not commenced within the prescribed time limits, the residential business use area shall terminate. The Planning Commission may within forty-five (45) days initiate a resolution of intent for the purpose of a new public hearing to revert the property to its prior classification in accord with the proceedings specified in Section 1003.300, "Procedure for Amending the Zoning Ordinance."
 - (2) **Commencement of construction.** Unless otherwise stated in the conditions of a particular residential business use area, substantial work or construction on the

existing structure, if necessary to accommodate the approved use, shall commence within two (2) years of approval of the site development plan. Where due cause is shown by the petitioner, the Commission may extend the period to commence construction for not more than one (1) additional year. If no extension of time is received or granted within six (6) months subsequent to the two-year period following the effective date of the site development plan, the residential business use shall terminate.

(3) **Appeal of a denial of an extension of time.** Upon the denial by the Planning Commission of a request to extend the time for the filing or recording of a site development plan, or to commence construction, the applicant may file an appeal with the City Council requesting a determination from that body, except in such instances where the maximum time extensions have been granted.

(a.) A notice of appeal shall be filed within fifteen (15) days of action by the Planning Commission.

(b.) Notice of appeal to the City Council shall be in writing and shall be filed in duplicate with the City Clerk of the City Council.

(c.) The applicant shall have an additional thirty (30) days to file the appeal. The appeal shall set forth the specific causes why the previously approved time for the filing or recording of a site development plan, or beginning construction could not be met, and within what period of time such requirement can be met.

(d.) Upon receipt of an appeal for a time extension, the City Council shall refer same to the Planning Commission for report therein as to whether or not the facts offered in the appeal have or have not justified the requested time extension.

i. This report shall include a statement as to why the time request extension is or is not justified.

ii. The City Council on receipt of the Commission's report may affirm, reverse, or modify, in whole or in part, any determination of the Planning Commission or may grant or deny any request for an extension of time upon which the Planning Commission has taken action.

iii. An affirmative vote of five (5) members of the whole City Council shall be required to reverse, modify, or amend any determination of the Planning Commission. A majority vote of the whole City Council shall be sufficient to affirm any determination of the Planning Commission.

20. Development of residential business use and permitted land uses on same tract of land. Nothing shall prevent the establishment of uses or developments authorized by residential business use on the same tract of land with one (1) or more permitted land uses and developments specified in the regulations of the governing zoning district. However, the development or use authorized by residential business use shall abide by the conditions of the permit and the permitted land use and development shall adhere to the regulations of the governing zoning district. A permitted land use or development existing at the time of submittal of a site development plan for a development or use authorized by the residential business use shall be shown on the plan. No permitted use or development shall at any time cause the violation of any condition imposed by a residential business use.