

INTRODUCED BY ALDERMAN OWENS

BILL NO. 3-24

ORDINANCE NO. 1055

AN ORDINANCE AMENDING THE ZONING CODE, TITLE IV OF THE WRIGHT CITY MUNICIPAL CODE TO ADD A NEW CHAPTER 412 PERTAINING TO STREAM PROTECTION

WHEREAS, the Board of Aldermen of the City of Wright City has determined that development setbacks and safeguards ("buffers") adjacent to streams provide numerous public benefits including protecting, restoring, and maintaining the chemical, physical and biological integrity of streams and their water resources; removing pollutants delivered in urban stormwater; reducing erosion and controlling sedimentation; protecting and stabilizing stream banks; providing for infiltration of stormwater runoff; maintaining base flow of streams; contributing organic matter that is a source of food and energy for the aquatic ecosystem; providing tree canopy to shade streams and promote desirable aquatic habitat; providing riparian wildlife habitat; furnishing scenic value and recreational opportunity; and providing opportunities for the protection and restoration of greenspace; and

WHEREAS, the Board of Aldermen desires to adopt regulations concerning the buffers for streams for the protection of the health, safety, and welfare of the City's residents and those downstream.

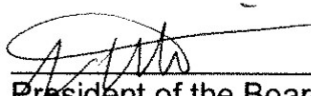
NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF WRIGHT CITY, MISSOURI, AS FOLLOWS:

SECTION I. Article IV of the Zoning Code is hereby amended by adding a new Chapter 412 "Stream Protection Buffer" as set forth in Exhibit A attached hereto and incorporated herein by reference.

SECTION II. The portions of this Ordinance (specifically Exhibit A) 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 Board of Aldermen would have enacted the valid portions without the invalid ones, 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 III. This ordinance shall take effect and be in full force from and after the passage and approval thereof.

READ TWO TIMES AND PASSED by the Board of Aldermen of the City of Wright City, Missouri, this 8th day of February 2024.



President of the Board of Aldermen

ATTEST:



City Clerk

APPROVED BY THE MAYOR of the City of Wright City, Missouri, this 8th day of February 2024.



Mayor

ATTEST:



City Clerk

Exhibit A
Chapter 412
Stream Protection Buffer

Section 412.010 Title.

This Chapter shall be known as the "City of Wright City Stream Protection Ordinance".

Section 412.020 Findings and Purposes.

- A. *Findings.* Whereas, the Board of Aldermen of the City finds that buffers adjacent to streams provide numerous benefits including:
1. Protecting, restoring, and maintaining the chemical, physical and biological integrity of streams and their water resources;
 2. Removing pollutants delivered in urban stormwater;
 3. Reducing erosion and controlling sedimentation;
 4. Protecting and stabilizing stream banks;
 5. Providing for infiltration of stormwater runoff;
 6. Maintaining base flow of streams;
 7. Contributing organic matter that is a source of food and energy for the aquatic ecosystem;
 8. Providing tree canopy to shade streams and promote desirable aquatic habitat;
 9. Providing riparian wildlife habitat;
 10. Furnishing scenic value and recreational opportunity; and
 11. Providing opportunities for the protection and restoration of greenspace.
- B. *Purposes.* The purpose of this Chapter is to protect the public health, safety, environment, and general welfare; to minimize public and private losses due to erosion, siltation, and water pollution; and to maintain stream water quality by provisions designed to:
1. Create buffer zones along the streams located in the City for the protection of water resources; and,
 2. Minimize land development within such buffers by establishing buffer zone requirements and by requiring authorization for any such activities.

Section 412.030 Definitions.

As used in this Chapter, the following terms shall have these prescribed meanings:

BUFFER

With respect to a stream, a natural or enhanced vegetated area (established by Section **412.050(A)(1)** below) lying adjacent to the stream.

FLOODPLAIN

Any land area susceptible to flooding, which would have at least a one percent (1%) probability of flooding occurrence in any calendar year based on the basin being fully developed as shown on the current land use plan, i.e., the regulatory flood.

IMPERVIOUS COVER

Any manmade paved, hardened, or structural surface regardless of material. Impervious cover includes, but is not limited to, rooftops, buildings, streets, roads, decks, swimming pools, and any concrete or asphalt.

LAND DEVELOPMENT

Any land change including, but not limited to, clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving and any other installation of impervious cover.

LAND DEVELOPMENT ACTIVITY

Those actions or activities which comprise, facilitate, or result in land development.

LAND DISTURBANCE

Any land or vegetation change, including, but not limited to, clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting, and filling of land, that do not involve construction, paving or any other installation of impervious cover.

LAND DISTURBANCE ACTIVITY

Those actions or activities which comprise, facilitate, or result in land disturbance.

PARCEL

Any plot, lot, parcel, or acreage shown as a unit on the latest Warren County tax assessment records.

PERMIT

The permit issued by the City required for undertaking any land development activity.

PERSON

Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, City, County or other political subdivision of the State, any interstate

body or any other legal entity.

PROTECTION AREA or STREAM PROTECTION AREA

With respect to a stream, the combined areas of all required buffers and setbacks applicable to such stream.

RIPARIAN

Belonging or related to the bank of a river, stream, lake, pond or impoundment.

SETBACK

With respect to a stream, the area established by Section 412.050(A)(2) extending beyond any buffer applicable to the stream.

STREAM

Any stream, beginning at:

1. All natural watercourses depicted by a solid or dashed blue line on the most current United States Geological Survey (U.S.G.S.) 7.5 Minute Series (Topographic) Maps for Missouri; or
2. A point in the stream channel with a drainage area of twenty-five (25) acres or more.

STREAM BANK

The sloping land that contains the stream channel and the normal flows of the stream. Where no established top-of-bank can be determined, the stream bank will be the "ordinary high-water mark" as defined by the Corps of Engineers in Title 33 of the Code of Federal Regulation, Part 328.3.

STREAM CHANNEL

The portion of a watercourse that contains the base flow of the stream.

STREAM PROTECTION AREA

With respect to a stream, the combined areas of all required buffers and setbacks

Section 412.040 Applicability.

- A. This Chapter shall apply to all land development activity on property containing a stream protection area as defined in Section 412.030 of this Chapter. After the effect date of this Chapter, it shall apply to new subdividing and platting activities except as expressly excepted herein.
- B. Any land development activity within a buffer established hereunder or any impervious cover within a setback established hereunder is prohibited unless a variance is granted pursuant to Section 412.060 below.
- C. These requirements are in addition to and do not replace or supersede any other applicable buffer or floodplain requirements established under State law and

approval or exemption from these requirements do not constitute approval or exemption from buffer requirements established under State law or from other applicable local, State or Federal regulations.

1. *Pre-existing Conditions.* This Chapter shall not apply to the following activities:
 - a. Work consisting of the repair or maintenance of any lawful use of land that is zoned and approved for such use on or before the effective date of this Chapter;
 - b. Existing development and ongoing land disturbance activities including, but not limited to, existing agriculture, silviculture, landscaping, gardening, and lawn maintenance, except that new development or land disturbance activities on such properties will be subject to all applicable buffer requirements;
 - c. Any land development activity that is under construction, fully approved for development, scheduled for permit approval or has been submitted for approval as of the effective date of this Chapter; or
 - d. Land development activity that has not been submitted for approval, but that is part of a larger master development plan, such as for an office park or other phased development that has been previously approved within two (2) years of the effective date of this Chapter.
2. *Exemptions.* The following specific activities are exempt from this Chapter. Exemption of these activities does not constitute an exemption for any other activity proposed on a property.
 - a. Activities for the purpose of building one (1) of the following:
 - (1) A stream crossing by a driveway, transportation route, or utility line;
 - (2) Public water supply intake or public wastewater structures or stormwater outfalls;
 - (3) Intrusions necessary to provide access to a property;
 - (4) Public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the river, fishing platforms and overlooks;
 - (5) Unpaved foot trails and paths; or
 - (6) Activities to restore and enhance stream bank stability, vegetation, water quality and/or aquatic habitat, so long as native vegetation

and bioengineering techniques are used.

- b. *Public sewer line easements.* This includes such impervious cover as is necessary for the operation and maintenance of the utility including, but not limited to, manholes, vents and valve structures. This exemption shall not be construed as allowing the construction of roads, bike paths or other transportation routes in such easements, regardless of paving material, except for access for the uses specifically cited in Section 412.040(1) above.
- c. Land development activities within a right-of-way existing at the time this Chapter takes effect or approved under the terms of this Chapter.
- d. Within an easement of any utility existing at the time this Chapter takes effect or approved under the terms of this Chapter, land disturbance activities and such impervious cover as is necessary for the operation and maintenance of the utility including, but not limited to, manholes, vents and valve structures.
- e. Emergency work necessary to preserve life or property. However, when emergency work is performed under this Section, the person performing it shall report such work to the City Clerk on the next business day after commencement of the work. Within five (5) business days thereafter, the person shall apply for a permit and complete such work as expeditiously as possible and perform any remedial work the City determines is reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the stream protection area.
- f. Forestry and silviculture activities on land that is zoned for forestry, silvicultural or agricultural uses and are not incidental to other land development activity. If such activity results in land disturbance in the buffer that would otherwise be prohibited, then no other land disturbing activity other than normal forest management practices will be allowed on the entire property for three (3) years after the end of the activities that intruded on the buffer.
- g. Any activities approved under a 404 permit issued by the Corps of Engineers and 401 water quality certification issued by the Missouri Department of Natural Resources.

Section 412.050 Land Development Requirements; Variance.

- A. *Buffer and Setback Requirements.* All land development activity subject to this Chapter shall meet the following requirements:
 - 1. For streams depicted as a solid blue line on the U.S.G.S. map, an undisturbed natural vegetative buffer shall be maintained for fifty (50) feet, measured

horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank. For all other streams subject to this Chapter, an undisturbed natural vegetative buffer shall be maintained for twenty-five (25) feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank.

2. An additional setback shall be maintained for twenty-five (25) feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited. Grading, filling, and earthmoving shall be minimized within the setback.
3. No septic tanks or septic tank drain fields shall be permitted within the buffer or the setback.

Section 412.060 Variance.

A. *Variance Procedures.* Variances from the buffer and setback requirements of this Chapter may be granted in accordance with the following provisions:

1. Where a parcel was platted prior to the effective date of this Chapter and its shape, topography or other existing physical condition prevents land development consistent with this Chapter and the Board of Adjustment finds and determines that the requirements of this Chapter prohibit the otherwise lawful use of the property by the owner, the Board of Adjustment may grant a variance from the buffer and setback requirements hereunder, provided such variance require mitigation measures to offset the effects of any proposed land development on the parcel.
2. Except as provided above, the Board of Adjustment shall grant no variance from any provision of this Chapter without first conducting a public hearing on the application for variance and authorizing the granting of the variance by a concurrent vote of four (4) members of the Board of Adjustment pursuant to Section 400.040 of the Municipal Code. The City shall give public notice of each such public hearing in a newspaper of general circulation within the City. The City shall require that the applicant post a sign on the subject property giving notice of the proposed variance and the public hearing. The sign shall be of a size and posted in such a location on the property as to be clearly visible from the primary adjacent road right-of-way.
3. Variances will be considered only in the following cases:
 - a. When a property's shape, topography or other physical conditions existing at the time of the adoption of this Chapter prevents land development unless a buffer variance is granted.
 - b. Unusual circumstances when strict adherence to the minimal buffer requirements in the Chapter would create a practical difficulty or undue hardship ("hardship").

4. Variances will not be considered when, following adoption of this Chapter, actions of the property owner have created the conditions for which that owner is claiming a hardship on that property.
5. At a minimum, a variance request shall include the following information:
 - a. A site map that includes locations of all streams, wetlands, floodplain boundaries, and other natural features as determined by field survey;
 - b. A description of the shape, size, topography, slope, soils, vegetation, and other physical characteristics of the property;
 - c. A detailed site plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed land disturbance, both inside and outside the buffer and setback. The exact area of the buffer to be affected shall be accurately and clearly indicated;
 - d. Detailed explanation of the hardship applicant would suffer should the buffer be maintained;
 - e. At least one (1) alternative plan, which does not include a buffer or setback intrusion or an explanation of why such a site plan is not possible;
 - f. A calculation of the total area and length of the proposed intrusion;
 - g. A stormwater management site plan, if applicable; and
 - h. Proposed mitigation, if any, for the intrusion. If no mitigation is proposed, the request must include an explanation of why none is being proposed.
6. The following factors will be considered in determining whether to issue a variance:
 - a. The shape, size, topography, slope, soils, vegetation, and other physical characteristics of the property;
 - b. The locations of all streams on the property, including along property boundaries;
 - c. The location and extent of the proposed buffer or setback intrusion;
 - d. Whether alternative designs are possible which require less intrusion or no intrusion;
 - e. The long-term and construction water-quality impacts of the proposed variance; and
 - f. Whether issuance of the variance is at least as protective of natural resources and the environment.

Section 412.070 Compatibility With Other Regulations and Requirements.

This Chapter is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this Chapter should be considered minimum requirements and where any provision of this Chapter imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

Section 412.080 Additional Information Requirements for Development on Buffer Zone Properties.

- A. Any permit applications for property requiring and/ having buffers and setbacks hereunder must include the following:
1. A site plan showing:
 - a. The location of all streams on the property;
 - b. Limits of required stream buffers and setbacks on the property;
 - c. Buffer zone topography with contour lines at no greater than five (5) foot contour intervals;
 - d. Delineation of forested and open areas in the buffer zone; and
 - e. Detailed plans of all proposed land development in the buffer and of all proposed impervious cover within the setback;
 2. A description of all proposed land development within the buffer and setback; and
 3. Any other documentation that the City may reasonably deem necessary for review of the application and to ensure that this Chapter is addressed in the approval process.
- B. All buffer and setback areas must be recorded on the final plat of the property following plan approval. The final plat shall contain a note to reference the vegetated buffer that states: "There shall be no clearing, grading, construction or disturbance of vegetation except as permitted by the Stream Buffer Protection Ordinance, Chapter 412 of the Municipal Code".

Section 412.090 Responsibility.

Neither the issuance of a building, land disturbance or other development permit nor compliance with the conditions thereof, nor with the provisions of this Chapter shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit hereunder serve to impose any liability upon the City, its officers or employees for injury or damage to persons or property.

Section 412.100 Inspection.

- A. The City may cause inspections of the work in the buffer or setback to be made periodically during the course thereof and shall make a final inspection following completion of the work. The permittee shall assist the City in making such inspections. The City shall have the authority to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this Chapter and for this purpose to enter at reasonable time upon any property, public or private, for the purpose of investigating and inspecting the sites of any land development activities within the stream protection area.
- B. No person shall refuse entry or access to any authorized representative or agent who requests entry for purposes of inspection and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with any such representative while in the process of carrying out official duties.

Section 412.110 Violations — Enforcement and Penalties.

Any action or inaction which violates the provisions of this Chapter shall be subject to the enforcement actions and penalties provided in Chapter 420, Violations and Penalties. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any penalties shall not prevent such equitable relief.

Section 412.120 Administrative Appeal and Judicial Review.

Administrative Appeal. Any person aggrieved by a decision or order of a City official (not including a variance granted pursuant Section 412.060) may appeal to the Board of Aldermen within thirty (30) days of that decision as a contested case pursuant to Section 536.063 RSMo et. seq. A party aggrieved by the Board's decision may, within thirty (30) days after the Board sends notice of that decision, file a petition in the Warren County Circuit Court for the de novo review of the Board's decision.

Section 412.130 Severability.

If any Section, Subsection, paragraph, clause, phrase or provision of this Chapter shall be adjudged invalid or held unconstitutional, such decision shall not affect or invalidate the remaining portions of this Chapter.