

BILL NO. 1641

ORDINANCE NO. 1276-23-11

**AN ORDINANCE AMENDING TITLE IV, ZONING CODE, CHAPTER 410, BY AMENDING CERTAIN SECTIONS IN REFERENCE TO ADDING SECTIONS 410.090 AND 410.100 RELATING TO MINOR SUBDIVISIONS**

WHEREAS, the City Council has previously determined that it is necessary and appropriate to regulate the subdivision of tracts of ground within the City Limits to prevent undue burdens upon neighboring properties, utilities and to provide for a harmonious and appropriate use of land within the confines of the City limits and therefore Chapter 410 regarding the requirements of subdivisions was previously passed.

AND WHEREAS, further though, the City Council has determined that there are situations in which a division of a tract of ground is appropriate and would not be an undue burden upon the City, if certain guidelines are followed, but that the existing provisions of Chapter 410 are unclear regarding certain situations and further do not make reasonable provision for situations in which a division without full subdivision would be appropriate.

AND WHEREAS, the City Council has determined that it is appropriate to amend Chapter 410 to provide for specific rules and guidelines to allow the reasonable division of property without the requirement of a full subdivision.

NOW THEREFORE, Be It Ordained by the City Council of the City of Palmyra:

**Section 1.** That Section 410.005, Subdivision Defined—Exceptions in Title IV, Chapter 410 is hereby amended to provide as follows:

Section 410.005 Subdivision Defined — Exceptions.

[Ord. No. 975-94-09 §1, 10-20-1994; Ord. No. 1040-00-1 §1, 1-6-2000; Ord. No. 1043-00-3 §1, 8-3-2000]

(a). "Subdivision" is defined as the division of a lot or parcel of land described or used as a unit, as part of a unit, or as contiguous units, on the last preceding transfer of ownership, into two (2) or more sites, parcels or lots, any one of which is less than five (5) acres in area for the purpose, whether immediate or future, of transfer of ownership.

(b). Any division of a lot or parcel of land within the confines of the City Limits of Palmyra shall be subject to the subdivision Rules set out in Section 410, subject to the exceptions for minor subdivisions set out in Sections 410.090 and Sections 410.100.

**Section 2.** That Section 410.080, in Title IV, Chapter 410 is hereby amended to provide as follows:

- (a). Violations of this Chapter may be prosecuted in the Municipal Court of Palmyra. Each day that a violation continues shall be a new and separate violation.
- (b). The City shall not be bound to grade, surface or repair any street or sidewalk or build, connect or repair any sewer or water or electrical lines to any tract of ground which has been divided without compliance with the requirements of Chapter 410.
- (c). No new improvement may be constructed and no modification may be made to any structure on a tract of ground which has been divided without complying with the requirements of Chapter 410. The City is hereby empowered to seek injunctive relief to prevent violation of this provision in the Circuit Court of Marion County.

**Section 3.** That Title IV, Chapter 410 is hereby amended to include section 410.090, regarding minor subdivisions, which is hereby enacted as follows:

**Sec. 410.090. - Variances regarding minor subdivision of existing tracts.** If a landowner wishes to further divide a tract of ground contained within the confines of the City Limits of the City of Palmyra, but does not wish to create a new full subdivision the matter shall be presented to the Zoning Commission for consideration, subject to the following provisions:

- (a) Whenever the tract of land proposed to be subdivided is of such unusual shape or topography, or is affected by surrounding developments or unusual conditions such that the strict application of the requirements contained in this chapter would result in substantial hardships or inequities, the city council, upon recommendation of the commission, may vary or modify such requirements so that the subdivider is allowed to develop his land in a reasonable manner, but so, at the same time, the public welfare and interest of the city and surrounding area are protected and the general intent and spirit of these provisions are preserved.
- (b) The planning and zoning commission may relax any portion of the provisions of the regulations and approve plats or replats of land if the subdivision involves the creation of not more than four lots, and/or the subdivision involves only minor changes in lot boundaries and does not create additional lots, and/or the subdivision involves the replatting of one or more lots of record into not more than four lots.
- (c) In granting variances and exceptions and minor subdivisions, the commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified. All minor subdivisions and variances shall require a plat prepared by a land surveyor registered in the state as set forth in RSMo Ch. 60. After approval by either the commission and/or the city council, the plat must be signed by the chairperson of the planning and zoning commission and recorded in Marion County by the surveyor of record with a recorded copy being provided to the

city.

**Section 4.** That Title IV, Chapter 410 is hereby amended to include section 410.100, regarding minor subdivisions, which is hereby enacted as follows:

**Sec. 410.100. - Minor subdivisions - Rules.**

- (a) A minor subdivision shall only be approved if all the following conditions are satisfied:
  - (1) A lot is proposed to be subdivided into four or fewer lots.
  - (2) No new public streets or right-of-way dedications are needed or proposed.
  - (3) No vacation of public streets, public alleys, easements, setback lines or access control is needed or proposed.
  - (4) The subdivision will not result in a lot or tract without direct access to an existing public street. Such access may occur by recorded easements shown on the plat.
  - (5) The extension of a public water or sewer system is not needed or proposed, unless the requesting party has entered into an agreement with the Board of Public Works for such extension, wherein the requesting party is responsible for the costs of such extension.
  - (6) The subdivision complies with the zoning regulations as set forth in chapter 32 or other regulations of the city and a substandard sized lot will not be created.
  - (7) The subdivision will not result in significant increases in utilities and service levels or will interfere with maintaining existing utilities and service (e.g., traffic control, street maintenance, etc.).
  - (8) Any subdivision not qualifying as a minor subdivision is a regular subdivision.
- (b) Minor subdivisions may also be proposed for situations where boundary line adjustments result in no new lots being created, or where property line vacations combine or assemble four or less lots into one single lot; all provided the provisions of 410.100(a) are met.
- (c) No lot created as part of a minor subdivision process shall be eligible for further subdivision through the minor subdivision process.
- (d) The applicant must consult with the Building Inspector prior to submitting an application for minor subdivision in order to determine that all minor subdivision requirements are

being met. An application for minor subdivision approval shall be submitted to the Building Inspector no later than the first business day of the month for which the application is to be considered by the planning and zoning commission. The plat shall be prepared in conformance with the requirements of subsection (e)(2) of this section.

- (e) Commission action on minor subdivision.
  - (1) Commission review. The commission shall review applications for minor subdivisions based on findings pursuant to the conditions for minor subdivision in accordance with the provisions of Section 410.100 (1) – (7).
  - (2) Commission decision. The commission shall make a determination the day of the planning and zoning commission meeting at which the minor subdivision is considered. The commission shall approve the proposed subdivision unless the subdivision is not a minor subdivision by failing to comply with section 410.100(a) or any other applicable requirements of this chapter. If the subdivision is not approved, the commission shall provide the applicant with a written statement of the reasons for denial within ten days of action by the commission.
  - (3) Appeals to board of adjustment. Actions taken by the commission regarding disapproval of a minor subdivision application are final unless such action is appealed by the applicant to the City Council within 60 calendar days of action by the commission. The City Council may override the disapproval of the minor subdivision application by the commission with the affirmative vote of not less than two-thirds of the Council has a whole.
  - (4) Recording. Approval of the minor subdivision is contingent upon the final plat being recorded within 30 days after the date a certificate of approval is signed by the chairperson of the planning and zoning commission. The applicant or applicant's surveyor shall be responsible for recording the plat and shall return one electronic and two paper copies of the recorded plat to the department of public works. The applicant shall be responsible for all recording fees.
- (f) Plat requirements.
  - (1) The minor subdivision application shall be accompanied by seven paper copies of the plat.
  - (2) The plat shall contain the following information:
    - a. The proposed name of the subdivision, which shall not duplicate previously filed plat names, but may be a variation on the name of the plat which the subdivided lots are a portion of.
    - b. The location of boundary lines in relation to section, quarter section lines, or adjoining subdivisions of record, including a legal description of the property.

- c. The names and addresses of the developers/subdivision owners.
- d. The name and address of the professional land surveyor preparing the plat.
- e. The north point, which shall be directed to the top or right side of the plat; a graphic scale and date.
- f. The plat shall be prepared at a scale no smaller than one inch equals 200 feet.
- g. The location, width and the name of each existing or platted street within the proposed subdivision and within 200 feet thereof.
- h. The location and width of existing public ways such as railroads, utilities, rights-of-way and all easements; parks and other public open spaces within the proposed subdivision; and the location of existing permanent buildings within proposed subdivisions and within 50 feet thereof.
- i. Existing zoning of the proposed subdivision and existing zoning of adjacent tracts.
- j. A small-scale key or vicinity map, such as the street map of the city, adequately covering the area within a 1,000-foot radius of the subdivision, showing the relation of the plat to major streets, parks, schools, and surrounding major commercial and industrial developments.
- k. The layout, numbers and precise dimensions of lots.
- l. The plat shall indicate the total acreage or area of each lot within the proposed subdivision.
- m. A title report showing that the requesting party is the legal owner of the property and also showing that there are no regular or special taxes due or delinquent against the property described in the plat.
- n. A certification for the approval of the commission, to be signed by the chairman.
- o. A certification signed by the Mayor, or designee, approving the plat.
- p. A statement denoting the words minor subdivision shall appear on the recorded plat.
- (g) For situations involving only minor boundary line adjustments between adjoining properties, a simple boundary adjustment plat of survey with the information required in (f)(2), sections (a)-(n) above shall be prepared and submitted to the commission for approval.
- (h) Notwithstanding any other provisions of the ordinances of the City of Palmyra, these

ordinances shall not be construed to prevent the order of the Circuit Court of Marion County from adjusting boundary lines of adjacent lots pursuant to a Quiet Title or similar law suit. However, if such an adjustment is ordered by the court, then the winning party shall be required to provide a copy of the order and if a survey exists, the survey of such tract of ground to the City, and further to record both the order and the survey in the land records of Marion County.

**Section 5.** It hereby is declared to be the intention of the City Council that each and every part, portion and sub-portion of this Ordinance shall be separate and severable from each and every other part, portion or sub-portion hereof and that the City Council intends to adopt each said part, portion or sub-portion separately and independently of any other part, portion or sub-portion. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, portions and sub-portions shall be and remain in full force and effect.

**Section 6.** All ordinances and parts of ordinances in conflict with this ordinance, in so far as they conflict, are hereby repealed.

**Section 7.** That this Ordinance shall be in full force and effect from and after its passage and approval.

**FIRST READING** July 6, 2023

**SECOND READING/APPROVED** July 20, 2023



Alan R. Adrian, Mayor

Attest: Deena L. Parsons  
Deena L. Parsons, City Clerk

Book \_\_\_\_\_ Page \_\_\_\_\_ of the City Records