

# Chapter 151-1 Introductory Provisions

## **151-1.1 Title**

This Title shall be officially known and cited as the “Land Development Code of Clay County, Missouri.” For convenience, it may be referred to simply as the “Land Development Code.”

## **151-1.2 Authority**

This Land Development Code is adopted pursuant to the powers granted and limitations imposed by the Constitution and laws of the State of Missouri, including the statutory authority conferred by Chapter 64 of the Revised Statutes of Missouri.

## **151-1.3 Applicability and Jurisdiction**

This Land Development Code shall apply to all development, public and private, within unincorporated Clay County. All structures and land uses constructed or commenced hereafter and all enlargements of, additions to, changes in and relocations of existing structures and uses occurring hereafter shall be subject to this Land Development Code.

## **151-1.4 Replacement of Previous Ordinances**

This Land Development Code shall replace Chapter 151 of the Clay County Code of Ordinances that existed before June 23, 2003.

## **151-1.5 Compliance Required**

It shall be unlawful to conduct any development or construct any structure until (1) all applicable development review and approval processes have been followed; (2) all applicable approvals have been obtained; and (3) all required permits or authorizations to proceed have been issued. Violations will be processed according to Section 14 of this Land Development Code.

## **151-1.6 Minimum Requirements**

The standards of this Land Development Code are minimum requirements. The issuance of any permit, certificate or approval in accordance with the standards and requirements of this Land Development Code shall not relieve the recipient of the responsibility for complying with all other applicable requirements of any other county, state or federal agency.

## **151-1.7 Purpose and Intent**

This Land Development Code is adopted to promote the public health, safety and general welfare of residents and visitors to Clay County. More specifically, the regulations are intended to:

- A. implement the Clay County *Comprehensive Plan*;
- B. preserve and protect land, air, water, environmental resources and property values;
- C. divide the unincorporated area of the county into zoning districts regulating land use and intensity of development;
- D. promote land use patterns that ensure efficiency in service provision as well as wise use of fiscal resources and government expenditures;
- E. regulate the type and intensity of development;
- F. protect the public from fire, flood and other dangers;
- G. protect and maintain the county’s unique and irreplaceable natural resources and agricultural land;

- H. preserve open space, clean air, groundwater recharge and wildlife;
- I. direct the timely and orderly development of Clay County;
- J. assure adequate light and air is available in developed areas: and
- K. does not discriminate against any class, group or type of person.

### ***151-1.8 Implementation of the Comprehensive Plan***

This Land Development Code has been prepared in accordance with the county's Comprehensive Plan. It is intended that decisions made pursuant to this Land Development Code will implement and be consistent with the Comprehensive Plan.

- A. An amendment to the text of this Land Development Code shall be considered consistent with the Comprehensive Plan if it complies with the goals and policies stated in the Plan. A zoning map amendment shall be considered consistent with the Comprehensive Plan if the map amendment is consistent with the "Future Development Guide" of the Comprehensive Plan.
- B. Developments that have been legally established under regulations that predate this edition of the Land Development Code shall not be deemed inconsistent with the Comprehensive Plan.

### ***151-1.9 Commentary***

Commentaries are included in this Land Development Code whenever necessary to clarify the intent of a specific provision. These commentaries are a guide for administrative officials and the public to use in interpreting and understanding the Land Development Code.

### ***151-1.10 Word Usage and Construction of Language***

#### **A. Meanings and Intent**

All provisions, terms, phrases and expressions contained in this Land Development Code shall be construed according to the Purpose and Intent set out in Sec. 151-1.7. See also Sec. 151-15.1.

#### **B. Headings, Illustrations and Text**

In case of any difference of meaning or implication between the text of this LDC and any heading, drawing, table, figure, or illustration, the text shall control.

#### **C. Lists and Examples**

Unless otherwise specifically indicated, lists of items or examples that use terms such as "including," "such as," or similar language are intended to provide examples; not to be exhaustive lists of all possibilities.

#### **D. Computation of Time**

References to days are to Clay County workdays unless otherwise stated. The time in which an act is to be done shall be computed as follows:

1. periods of time of 7 days or less are inclusive of all days except Saturdays, Sundays and holidays observed by the county;
2. periods of time of more than 7 days are inclusive of all days.

#### **E. References to Other Regulations, Publications and Documents**

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, that reference shall be construed as referring to the most recent edition of such regulation (as amended), resolution, ordinance, statute, regulation, or document or to the relevant successor document, unless otherwise expressly stated.

**F. Delegation of Authority**

Whenever a provision appears requiring the head of a department or another officer or employee of the county to perform an act or duty, that provision shall be construed as authorizing the department head or officer to delegate that responsibility to others over whom they have authority.

**G. Technical and Non-technical Terms**

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

**H. Public Officials and Agencies**

All public officials, bodies, and agencies to which references are made are those of Clay County, unless otherwise expressly stated.

**I. Mandatory and Discretionary Terms**

The words “shall,” “will,” and “must” are mandatory. The words “may” and “should” are advisory and discretionary terms.

**J. Conjunctions**

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

”And” indicates that all connected items, conditions, provisions, or events apply, and “Or” indicates that one or more of the connected items, conditions, provisions, or events may apply.

**K. Tenses and Plurals**

Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular includes the plural, and the plural includes the singular.

- L.** Should any uncertainty remain about the specific use of language or definitions found within this code, the uncertainty shall be resolved by the Planning and Zoning Director, passed on the intent of the Comprehensive Plan, the stated intent of the Planning and Zoning Commission and County Commission and/or accepted standard planning principles. Such decisions may be appealed to the Board of Zoning Adjustment (Section 151-2.3-G2)

## ***151-1.11 Zoning Map***

**A. General**

1. The boundaries of the zoning districts established by this Land Development Code are shown on a map or series of maps designated as the official “Zoning Map,” which together with all legends, symbols, notations, references, district boundaries, and other information thereon, is adopted and made a part of this Land Development Code as fully as if it were set out herein in detail.
2. Original copies of the Zoning Map, which shall constitute the official record, are maintained in the office of the Planning and Zoning Director. In case of any dispute regarding the zoning classification of property subject to this Land Development Code, the maps maintained by the Planning and Zoning Director shall control.
3. Changes in the boundaries of any zoning district shall be reflected on the Zoning Map promptly upon approval of the amendment by the County Commission. All amendments to the Zoning Map shall be signed and attested to by the Planning and Zoning Director.

## **B. District Boundaries**

The following rules shall apply in the determination of the boundaries of any district shown on the Zoning Map.

1. Wherever a site is divided by a zoning district boundary, the zoning regulations applicable within each district shall apply to each portion of the site situated in a separate district.
2. Where boundaries approximate street and alley lines or other identifiable property or boundary lines, such lines shall be construed to be the district boundary. Where such boundaries are shown as being within street and alley lines or within identifiable rights-of-way or creeks, the centerline thereof shall be construed to be the district boundary.
3. Where a district boundary divides a non-subdivided parcel, the location of the district boundary shall be determined by the use of the scale appearing on the Zoning Map unless indicated by dimensions.
4. Map codes or symbols indicating the classification of property on the Zoning Map apply to the entire area within the district boundaries.
5. Where a street, alley or right-of-way is officially vacated or abandoned, the zoning designation of the abutting property shall apply to the centerline of the vacated or abandoned street, alley or right-of-way.
6. Should any uncertainty remain about the location or meaning of a boundary indicated on the Zoning Map, the uncertainty shall be resolved by the Planning and Zoning Director, whose decision may be appealed to the Board of Zoning Adjustment.

## ***151-1.12 Conflicting Provisions***

### **A. Conflict with State or Federal Regulations**

If the provisions of this Land Development Code are inconsistent with those of the state or federal government, the more restrictive provision will control, to the extent permitted by law.

### **B. Conflict with Other County Regulations**

If the provisions of this Land Development Code are inconsistent with one another, or if they conflict with provisions found in other adopted ordinances or regulations of the county, the more restrictive provision will control.

### **C. Conflict with Private Agreements and Covenants**

This Land Development Code is not intended to abrogate, annul, or otherwise interfere with any easement, covenant, or other private agreement or legal relationship. The county is responsible for enforcing this Land Development Code; it does not enforce private agreements.

## ***151-1.13 Transitional Provisions***

### **A. Violations Continue**

Any violation of the previous zoning, subdivision or sign regulations of the county shall continue to be a violation under this Land Development Code and shall be subject to penalties and enforcement under Section 151-14, unless the use, development, construction or other activity is consistent with the express terms of this Land Development Code, in which case enforcement action shall cease, except to the extent of collecting penalties for violations that occurred before June 23, 2003.

### **B. Completion of Development**

#### **1. Applications Submitted Before June 23, 2003**

Any building, development or sign for which a complete application was submitted to the

county before June 23, 2003 and pending approval on June 23, 2003 may, at the applicant's option, be reviewed wholly under the terms of the county's previous Land Development Code, zoning or subdivision regulations. If approved, such projects may be carried out in accordance with the development standards in effect at the time of application. Any re-application for an expired permit shall meet the standards in effect at the time of re-application.

**2. Permit Issued Before June 23, 2003**

Any building, development or sign for which a permit was duly issued before June 23, 2003 may be completed in conformance with the issued permit and other applicable permits and conditions, even if such building, development or sign does not fully comply with provisions of this Land Development Code. If construction is not commenced or completed in accordance with the applicable permit terms, the County Commission may, for good cause shown, grant not more than 1 extension of up to 6 months for such construction. If the building is not completed in a timely manner, within the time allowed under the original permit or any extension granted, then the building, development or sign may be constructed, completed or occupied only in strict compliance with the requirements of this development code.

**3. Plats Approved Before June 23, 2003**

Any subdivision for which a preliminary or final plat was approved before June 23, 2003 may be recorded in accordance with the approved plat and other applicable permits and conditions, even if the subdivision does not fully comply with the provisions of this Land Development Code. If the subdivision is not recorded within the time requirements established by prior ordinance or resolution or within any schedule included in the approval of the plat, the County Commission may, for good cause shown, grant 1 extension of not more than 1 year for the recordation of such subdivision. If the subdivision is not recorded within the time required under the original approval or any extension that may be granted, then the subdivision may be recorded and buildings therein constructed and used only in strict compliance with the requirements of this Land Development Code.

**C. Zoning District Name Conversions**

The zoning district names in effect before June 23, 2003 remain the same after June 23, 2003.

**D. Conditional Uses**

Any use that was legally established before June 23, 2003 without a Conditional Use Permit and which after June 23, 2003 would require a Conditional Use Permit, shall not be deemed a nonconforming use but rather shall be deemed to possess a Conditional Use Permit (without following the procedures of Sec. 151-3.9). This provision shall not apply to mobile homes or manufactured housing units.

## ***151-1.14 Severability***

- A.** If any Court of competent jurisdiction rules any provision of this Land Development Code invalid, that ruling shall not affect any Land Development Code provision not specifically included in the judgment.
- B.** If any Court of competent jurisdiction rules invalid the application of any provision of this Land Development Code to a particular property, building, or other structure, or use, that ruling shall not affect the application of the Land Development Code provisions to any property, building, other structure, or use not specifically included in the judgment.

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