

AN ORDINANCE ESTABLISHING AND APPROVING CERTAIN INTERIM DEVELOPMENT CONTROLS ALONG THE BURLINGTON CORRIDOR IN THE CITY OF NORTH KANSAS CITY, MISSOURI, WHILE THE CITY UNDERTAKES ITS COMPREHENSIVE BURLINGTON CORRIDOR STUDY AND PROHIBITING CERTAIN USES ALONG THE BURLINGTON CORRIDOR DURING THE TIME SUCH INTERIM DEVELOPMENT CONTROLS REMAIN IN EFFECT.

WHEREAS, the City of North Kansas City, Missouri is an urban community containing a substantial portion of its area that is presently zoned for industrial use; and

WHEREAS, the power of the City of North Kansas City to adopt reasonable and appropriate interim development controls is a necessary adjunct of the City's basic planning and zoning power; and

WHEREAS, the interim development controls should foster public debate on the issues, goals and policies of the plan and permanent development controls to be adopted upon the expiration of the interim development controls provided for herein; and

WHEREAS, the city council desires to make well-reasoned decisions with respect to the future use and re-development along the Burlington corridor in the City of North Kansas City; and

WHEREAS, in order to bring about an orderly transition from the existing condition along the Burlington corridor to a potentially new planned position with respect to appropriate uses, the City needs to adopt certain interim development controls during the Burlington corridor study process; and

WHEREAS, the City of North Kansas City has initiated the selection process for an architectural/planning firm to conduct the Burlington Corridor Study; and

WHEREAS, in order to (a) protect the planning process during the Burlington corridor study's formulation and development and (b) prevent certain new uses during the planning and study period, there is a need to implement certain interim development controls along the Burlington corridor in the City of North Kansas City; and

WHEREAS, the City of North Kansas City is presently undergoing a transformation to a more technology-based community; and

WHEREAS, the City of North Kansas City has undertaken a fiber optics project that makes available a high speed internet connection to every resident and business within the City of North Kansas City thereby providing extremely large amounts of bandwidth for transporting data at extremely fast speeds; and

WHEREAS, the City Council has recognized the significant potential for redevelopment of the Burlington corridor from an industrially-based area to a commercial/technology-based area; and

WHEREAS, there is a reasonable possibility that Burlington may also become a transportation corridor with a potential of light-rail route running along Burlington and, therefore, such potential transportation changes along Burlington require the re-evaluation of the most appropriate uses along the Burlington corridor in the City of North Kansas City.

NOW, THEREFORE, the City Council finds and declares that the interim development controls set forth in this ordinance are designed to act as a temporary or emergency measure to preserve the status quo and thus present the establishment of uses along the Burlington corridor which may be prohibited by the impending Burlington Corridor Study. There is, therefore, a legitimate need to control development/redevelopment during the period set forth in these interim development controls.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH KANSAS CITY, MISSOURI, AS FOLLOWS:

Section 1. The City Council of the City of North Kansas City does hereby find and determine that it is in the best interests of the City of North Kansas City and its citizens to enact the following interim development controls:

A. Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Burlington means the street known as Burlington Avenue in the City of North Kansas City, Missouri, from the southern city limits (south of 10th Avenue) to the northern city limits (approximately 32nd Avenue).

City means the City of North Kansas City, Missouri.

Chief Code Official means the Fire Chief of the City of North Kansas City, Missouri or his or her designee.

Interim Development Controls means the adoption of a resolution or ordinance restricting the use of land, buildings and structures, which are or may be affected by the future adoption of land use controls by the City.

Geographic Area of Coverage means the area three hundred feet (300') east of the centerline of Burlington and five hundred feet (500') west of the centerline of Burlington

extending to the southern and northern city limits of the City. The Geographic Area of Coverage herein defined is sometimes referred to herein as the Burlington Corridor.

Land Use Controls means City laws, ordinances, resolutions, maps, plans, budgets, and regulations, which regulate the use of land, buildings, and structures, including zoning, subdivision regulations, official mapping, development of comprehensive plans, reservation of open space, location of highways, streets, parks, recreation areas, drainage and flood plain areas, public utility lines and public improvement sites, building, housing and related structural codes, environmental protection, historic, scenic and aesthetic preservation, licensing, taxation, and all other measures and programs regulating the use of land, buildings and structures, and shall be deemed to incorporate initial adoption, amendment or repeal of such land use controls.

B. City Council Findings of Fact.

The City Council finds: (a) that a reasonable period of time is required for the process of intelligible and rational planning to develop the necessary studies, reports, findings, preliminaries and hearings incident to adoption, amendment or repeal of land use controls by the City; and (b) that unless adequate measures are taken for a reasonable period of time to protect the public interest by preserving the integrity of proposed land use controls, until consideration, study, preparation, presentation, adoption, or amendment of land use controls becomes effective, significant variations in the use of land, buildings and structures affected by proposed land use controls will have the effect of destroying the integrity and purpose of proposed land use controls to the detriment of the health, safety, and general welfare of the City and its inhabitants, and will seriously impede and disaffect sound comprehensive planning processes, including adequate citizen participation in such processes, essential for the orderly physical, social and economic growth and life of the City of North Kansas City, Missouri.

C. Scope of Interim Development Controls.

The City does hereby establish interim development controls for the regulation of all land, buildings and structures along, over and throughout the Geographic Area of Coverage, sometimes referred to as the "Burlington Corridor." The following interim development controls are hereby approved and adopted for the Geographic Area of Coverage during the term established in this ordinance for such interim development controls:

1. The following uses and processes shall be and are hereby prohibited in the Geographic Area of Coverage of this ordinance, namely, the Burlington Corridor, during the term of these interim development controls: (a) any new M-1 or M-2 use; (b) any application for a new building permit which would provide for construction permitted only in an area zoned M-1 or M-2; (c) any new parking lot with frontage on Burlington; (d) any auto sales lot or business not already existing and legally operating; (e) any new payday loan, pawn shop, car title lender, or check cashing lender operation or business;

and (f) any motor vehicle repair or service operation or business not already existing and legally operating.

2. No building or structure identified in the immediately preceding paragraph 1 shall be constructed or erected, or land use commenced, nor shall any building permit, special permit, variance, site-plan or other license, permit or approval be issued for the construction or erection of any building, structure, or commencement of land use, which conflicts with the provisions of the interim development controls provided for in this ordinance, for such Geographic Area of Coverage or class of building, structure or land use affected by the interim development controls.

3. The Planning Commission shall not grant preliminary or final approval to any plat covering the Geographic Area of Coverage and identified as the class of building, structure or land use specifically prohibited in paragraph 1 of this section C. This paragraph 3 shall apply whether or not such plat was submitted to the Planning Commission prior to the date of adoption of this ordinance.

D. Term of Interim Development Controls.

The interim development controls set forth in this ordinance shall commence on the effective date of this ordinance and shall continue for a period of twelve (12) months.

E. Exclusions from these interim development controls.

The interim development controls set forth in this ordinance do not apply to any business located within the Geographic Area of Coverage of the interim development controls that (1) is *presently operating* as a business that requires M-1 or M-2 zoning; (2) is an existing and presently operating auto sales lot; (3) is an existing parking lot with frontage on Burlington; (4) is an existing and presently operating payday loan business, pawn shop, car title lender, or check cashing lender operation or business; or (6) is an existing and presently operating motor vehicle repair or service operation or business.

Any building permit, special permit, variance, site-plan approval, license, permit or other approval granted prior to the initiation of the interim development controls affecting the land, building or structure for which said permits or approvals had been granted, shall remain inviolate and valid and shall not in any way be affected or rescinded by the operation of these interim development controls. Nothing herein contained shall limit the right to revoke any building permit, variance, certificate of occupancy, license or other approval pursuant to other operable provisions of law.

Except as to those uses specifically restricted in this ordinance, during the term of these interim development controls any property owner or property owner's representative shall not be prohibited or in any way restricted from new commercial uses in the Geographic Area of Coverage that are currently permissible in any commercial zoning area, namely, C-0, C-1, C-2, C-2b, or C-3. The language in this paragraph does

not change or modify currently existing zoning requirements for any commercially-zoned property within the Geographic Area of Coverage.

Notwithstanding anything else in this section E to the contrary, it is the express intent of the City Council and stated purpose of this ordinance that the interim development controls set forth in this ordinance shall fully apply to all properties within the Geographic Area of Coverage during the term stated herein unless such property is currently, presently and continuously used for such purposes as may be temporarily prohibited under this ordinance.

F. Appeal Provisions.

The City Council shall have the power to vary or modify the application of any provision of this interim development control ordinance as it affects any land use, building or structure, upon its determination in its absolute legislative discretion, that such variance or modification is consistent with comprehensive planning for proper land use, with the spirit of any proposed land use controls to be adopted, and with the health, safety, morals and general welfare of the City. Any such request for an exception or modification shall be filed with the city clerk and a public hearing, after notice of at least ten days is given to the applicant for such exception or modification. The City Council will conduct such public hearing and render its decision. Judicial review of any determination of the City Council is hereby authorized in the manner, time and form permitted for appeal from a determination by the Board of Zoning Adjustment.

G. Other applicable laws.

This ordinance shall not be interpreted or construed to permit development or redevelopment where it is otherwise restricted by other applicable laws.

H. Construction.

This ordinance shall be liberally construed so as to further its purposes. The provisions of this ordinance are severable. If any provision or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

I. Enforcement of ordinance.

1. The authority to administer the provisions of this ordinance is vested in the Chief Code Official and his or her duly authorized representative(s).

2. Whenever the need arises, the Chief Code Official may call upon the fire and police departments and other departments of the City to aid in the enforcement of the provisions of this ordinance.

3. Notice of the provisions of this ordinance shall be given to all applicants for building, demolition or other similar permits within the Geographic Area of Coverage in the City of North Kansas City Missouri.

J. Severability

If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Section 2. This ordinance shall be in full force and effect immediately upon its passage by the City Council and approval by the Mayor.

PASSED this 24th day of June, 2008.

Mayor

ATTEST:

City Clerk

APPROVED this 24th day of June, 2008.

Mayor

APPROVED AS TO FORM:

City Attorney

City Counselor