

**AN ORDINANCE OF THE CITY OF WILDWOOD, MISSOURI, IMPOSING A TEMPORARY MORATORIUM ON THE DEVELOPMENT OF CERTAIN PROPERTY DURING THE PENDENCY OF A STUDY OF REVIEW OF REGULATIONS AND STANDARDS FOR DEVELOPMENT OF SUCH PROPERTIES; AND OTHER MATTERS RELATING THERETO**

**WHEREAS**, in 1980, the United States Environmental Protection Agency (the “EPA”) and the Missouri Department of Natural Resources (“MoDNR”) began an investigation of the Bliss Oil Company site (“Bliss Site”) resulting in a subsequent remedial investigation and feasibility study. Two of the neighboring properties, the Callahan property and Primm property, located on the south side of Strecker Road, were also investigated. These properties were collectively placed on the EPA National Priorities List (“NPL”) and became known as the Ellisville Superfund Site (“Site”); and

**WHEREAS**, between 1985 and 1996, the EPA and MoDNR conducted a series of investigations, examinations and remediation actions which resulted in the removal of numerous toxins and other matter discovered at the site including toxic and semi-volatile compounds and dioxin contaminants; and

**WHEREAS**, subsequent studies conducted by consultants for the City on properties within the Site identified a number of locations where test sampling identified various volatile and semi-volatile organic compounds, PCB’s, and dioxins exceeding the risk-based health levels for residential use and posed potential risks to the public; and

**WHEREAS**, the EPA conducted an Expanded Site Review that identified portions of the Site where contamination levels, including dioxin soil detects, had been found; and

**WHEREAS**, the Expanded Site Review prompted the EPA to undertake a Removal Action on multiple properties removing and disposing of soil from the properties within the Site, to impose an Environmental Covenant, a copy of which is on file in the office of the St. Louis County Recorder of Deeds in Book 21415, Page 0735, in lieu of additional removal actions for areas not cleaned up to a residential standard, and prompted for MoDNR to perform limited ongoing groundwater monitoring; and

**WHEREAS**, the EPA concluded its removal actions on the Site; and

**WHEREAS**, upon recommendation of consultants engaged by the City, the City objected to the conclusion of the removal actions and requested that the EPA undertake additional sampling and analysis of soil and groundwater to identify contamination; and

**WHEREAS**, MoDNR continues an investigation of ground water, and plans to issue a report on their findings; and

**WHEREAS**, as recently as May 22, 2019, MoDNR, by letter to the City, recommended “an evaluation of the sampling investigation results by EPA and state risk assessors to determine current risk posed by the affected portions of the [Bliss Site]; continued shallow groundwater monitoring; giving consideration to assessing the potential for vapor intrusion into the residential trailer on the [Bliss Site]; and the execution of an Environmental Covenant to restrict the use of shallow groundwater at the site and require vapor intrusion assessment prior to construction of buildings on the norther portions of the [Bliss Site]; and

**WHEREAS**, to date, the EPA has not acknowledged and has otherwise adequately responded with a plan for addressing the City’s remaining outstanding public health concerns; and

**WHEREAS**, an Applicant has recently submitted an amended Preliminary Development Plan for proposed development within the City on certain property impacted by contamination at or near the Site, generally located on the north side of Strecker Road, east of Englebrook Drive, and more particularly described on **Exhibit A**, attached hereto and incorporated by reference herein; and

**WHEREAS**, the Planning and Zoning Commission declared its intention to study and review potential regulations and standards for development on property impacted by contamination at or near the Site in an effort to address public health concerns; and

**WHEREAS**, after providing notice per the requirements of the Code of Ordinances of the City of Wildwood, the Planning and Zoning Commission and the City Council conducted public hearings on this proposed moratorium whereat residents, property owners and other interested parties were given the opportunity to be heard; and

**WHEREAS**, the Planning and Zoning Commission recommended to the City Council the adoption of a moratorium for a reasonable time to review and study for the reasons and purposes set forth in its letter of recommendation dated September 16, 2019, and referencing Petition P.Z. 13-19, a copy of which is on file in the Office of the City Clerk, and incorporated by reference herein (the “P&Z Recommendation”); and

**WHEREAS**, the City Council hereby finds and determines that it is to the benefit of the health, safety and welfare of the residents of the City to impose a temporary moratorium on the development of certain identified properties within the City that are, in whole or in part, located within the Site or that have been impacted by contamination at or near the Site for the duration of the Planning and Zoning Commission’s study and review of public health and safety issues and possible regulations and standards related to development, and during such period of review by the City Council of such regulations and standards.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILDWOOD, MISSOURI, AS FOLLOWS:**

**Section One.** Findings of Fact. The recitals set forth above are hereby ratified and incorporated as legislative findings of fact in support of this Ordinance.

**Section Two.** Moratorium Imposed. During the time that this Ordinance is in effect as specified in Section Five below, there shall be a moratorium on the review and approval of plans and development for properties located in whole or in part in the area described on Exhibit A, attached hereto and incorporated by reference herein.

**Section Three.** Waivers. Any property owner seeking a waiver under this Section Three shall file an application with the City Council within ninety (90) days after the effective date of this Ordinance. The City Council, after hearing, may grant a waiver to the moratorium and permit review of and approval of plans and of development on a specific parcel where the City Council determines based upon substantial competent evidence that the plan or development adequately addresses public health concerns, will not be detrimental to the public health, safety or welfare of the residents of the City, and otherwise complies with the requirements of the Code of Ordinances of the City of Wildwood, Missouri. Hearings conducted pursuant to this Section Three shall be conducted in the same manner as provided for in Section 415.500(1)(5) of the Code of Ordinances of the City of Wildwood, Missouri.

**Section Four.** Determination of Vested Rights or Denial of All Economic Use.

- A. Nothing in this Ordinance shall be construed or applied to abrogate the vested right of a property owner to continue development of a parcel where the property owner can demonstrate by substantial competent evidence each of the following:
  - 1. A governmental act of approval for the development was obtained prior to the effective date of this Ordinance; and
  - 2. Actual use or a substantial step toward the use authorized by such approval.
- B. Nothing in this Ordinance shall be construed or applied to prevent development of a particular parcel where the property owner can demonstrate by substantial competent evidence that because of the moratorium no economic use can be made of the parcel.
- C. Any property owner claiming vested rights or denial of all use under this Section Four must file an application with the City Council for a determination within 90 days after the effective date of this Ordinance. The application shall be accompanied by an application fee of Three Hundred Dollars (\$300.00) and contain a sworn statement as to the basis upon which the vested rights or denial of all use are asserted together with documentation required by the City and other documentary evidence supporting the claim. The City Council shall hold a hearing on the application and, based upon the competent substantial evidence submitted, shall make a determination as to whether the property owner has established

vested rights or a lack of all economic use for the parcel. Hearings conducted pursuant to this Section Four shall be conducted in the same manner as provided for in Section 415.500(1)(5) of the Code of Ordinances of the City of Wildwood, Missouri.

**Section Five.** Term. The moratorium imposed by this Ordinance is temporary and shall be effective for a period of twelve (12) months from the effective date of this Ordinance unless dissolved earlier by the City Council. Further, the moratorium shall automatically dissolve upon the adoption of such regulations and standards as may be recommended by the Planning and Zoning Commission consistent with this Ordinance. The moratorium may be extended by Ordinance of the City Council.

**Section Six.** Savings. Nothing contained herein shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof, unless expressly set forth herein.

**Section Seven.** Severability. If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the City Council that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

**Section Eight.** Effective Date. This Ordinance shall be in full force and effect from and after its passage and approval.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURE PAGE TO FOLLOW.]

This Bill was passed and approved this \_\_\_\_ day of \_\_\_\_\_, 2019, by the Council of the City of Wildwood, Missouri, after having been read by title or in full two (2) times prior to its passage.

\_\_\_\_\_  
Presiding Officer

\_\_\_\_\_  
James R. Bowlin, Mayor

ATTEST:

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Clerk

**EXHIBIT A**

A TRACT OF LAND BEING PART OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 31 AND PART OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 32, TOWNSHIP 45 NORTH, RANGE 4 EAST, CITY OF WILDWOOD, ST. LOUIS COUNTY MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF A TRACT OF LAND DESCRIBED IN A DEED TO DAVID E. KRUEGER PER DEED BOOK 7989 PAGE 1413 OF THE ST. LOUIS COUNTY RECORDS; SAID CORNER ALSO BEING ON THE NORTH LINE OF STRECKER (VARIABLE WIDTH) ROAD, SAID POINT BEING 20' NORTH OF CENTERLINE; THENCE WITH THE SAID NORTH LINE OF STRECKER ROAD, SOUTH 89°05'35" WEST 175.43 FEET TO A POINT ON THE COMMON LINE BETWEEN SECTIONS 31 AND 32; SAID POINT ALSO BEING AN ANGLE POINT IN AFORESAID STRECKER ROAD; THENCE WITH SAID SECTION LINE, SOUTH 00°00'43" EAST 20.00 FEET TO A STONE FOUND FOR THE QUARTER SECTION CORNER; THENCE WITH THE EAST/WEST CENTERLINE OF SECTION 31 BEING ALSO 15.00 NORTH OF AND PARALLEL TO THE CENTERLINE OF SAID STRECKER ROAD, SOUTH 89°42'40" WEST 328.28 TO AN ANGLE POINT IN SAID STRECKER ROAD; THENCE NORTH 00°02'41" EAST 20.00 FEET TO A POINT; THENCE WITH A LINE BEING 20.00 NORTH OF AND PARALLEL TO AFORESAID CENTER SECTION LINE AND THE SAID CENTERLINE OF STRECKER ROAD, SOUTH 89°42'40" WEST 208.71 FEET TO A POINT BEING THE SOUTHEAST CORNER OF A RIGHT OF WAY DEDICATION STRIP AS SHOWN ON THE PLAT OF STRECKER FARMS PLAT 1 AS PER THE PLAT THEREOF RECORDED IN PLAT BOOK 331 PAGES 91 & 92 OF SAID RECORDS: THENCE WITH THE EAST LINE OF SAID STRECKER FARMS PLAT 1, NORTH 00°02'41" EAST 628.14 FEET, NORTH 89°38'56" EAST 208.71 FEET AND NORTH 00°02'41" EAST 686.36 FEET TO A STONE FOUND FOR THE NORTHEAST CORNER THEREOF; SAID CORNER ALSO BEING ON THE SOUTH LINE OF TURNBERRY PLACE PLAT 11 PER THE PLAT THEREOF RECORDED IN PLAT BOOK 286 PAGE 88-91 OF SAID RECORDS AND BEING A POINT ON THE NORTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 31; THENCE WITH THE SAID QUARTER QUARTER SECTION LINE, NORTH 89°57'25" EAST 328.96 FEET TO THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 31 AND BEING THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 32; THENCE WITH SAID QUARTER QUARTER NORTH 89°15'26" EAST 172.70 FEET TO THE NORTHWEST CORNER OF A TRACT OF LAND DESCRIBED IN A DEED TO JERRY RUSSELL BLISS PER DEED BOOK 7451 PAGE 1135 OF SAID RECORDS; THENCE WITH THE WEST LINE THEREOF AND ITS DIRECT PROLONGATION, SOUTH 00°07'51" EAST 1310.78 FEET TO THE POINT OF BEGINNING AND CONTAINING 795,283 SQUARE FEET, (18.2571 ACRES) MORE OR LESS ACCORDING TO A SURVEY BY THE STERLING COMPANY DURING THE MONTH OF JANUARY, 2006.