

ORDINANCE NO. 16-20

AN ORDINANCE AMENDING CERTAIN SECTIONS OF TITLE 18 OF THE OLATHE MUNICIPAL CODE PERTAINING TO THE UNIFIED DEVELOPMENT ORDINANCE.

WHEREAS, on June 17, 2014, the Governing Body of the City of Olathe adopted Ordinance No. 14-39, the *Unified Development Ordinance*; and

WHEREAS, the Governing Body directed staff and the Planning Commission to proceed with consideration of amendments to the *Unified Development Ordinance* on an annual basis; and

WHEREAS, changes to the *Unified Development Ordinance* (UDO 15-001) were drafted and reviewed by the Planning Commission at regular workshops; and

WHEREAS, the proposed changes to the *Unified Development Ordinance* were discussed by the Planning Commission at public hearings and meetings held on October 26, 2015, and February 22, 2016; and

WHEREAS, the Planning Commission recommended approval of the amendments to the *Unified Development Ordinance* on February 22, 2016; and

WHEREAS, the Governing Body reviewed the Planning Commission recommendations and concurs with their recommendations.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: Ordinance No. 16-17 is repealed.

SECTION TWO: Section 18.01.010 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

“18.01.010 Ordinance Adopted. The *Unified Development Ordinance*, recommended for approval by the Planning Commission of the City of Olathe, Kansas and adopted in 2014 by the City Council is hereby adopted by reference and made a part of this chapter as if fully set forth herein.”

SECTION THREE: Existing Section 18.01.020 is amended to read as follows:

“18.01.020 Marked Copies of Ordinance on File. There shall not be less than three (3) copies of the *Unified Development Ordinance*, adopted by reference in Section 18.01.010, kept on file in the office of the City Clerk, to which shall be attached a copy of the incorporating ordinance, marked or stamped “Official Copies as Incorporated by Ordinance No. 14-39, as amended by Ordinance No. 15-16 and Ordinance No. 16-20,” and open to inspection to the public at all reasonable hours. The police department, municipal judges, and all other departments of the City charged with the enforcement of the *Unified Development Ordinance* shall be supplied, at the cost of the City, with such number of official copies of such ordinance as may be deemed expedient.”

SECTION FOUR: The following sections of Title 18 of the Olathe Municipal Code are hereby amended as reflected in the attached document (Exhibit "A"):

18.15.020 Composite Building Design Standards

18.15.035 Building Design Category C

18.15.040 Building Design Category D

18.20.070 R-1 (Residential Single-Family)

18.20.080 R-2 (Residential Two-Family)

18.20.150 C-3 (Regional Center)

18.20.160 C-4 (Corridor Commercial)

18.20.500 Use Matrix

18.30.130 Landscaping, Buffers & Screening

18.40.030 Neighborhood Meetings

18.40.050 Notice Provisions

18.40.090 Rezoning

18.40.110 Site Development Plans

18.40.150 Preliminary Plat

18.40.240 Waivers

18.50.020 Accessory Uses and Structures

18.50.190 Signs

SECTION FIVE: Existing sections 18.01.010, 18.01.020, 18.15.020, 18.15.035, 18.15.040, 18.20.070, 18.20.080, 18.20.150, 18.20.160, 18.20.500, 18.30.130, 18.40.030, 18.40.050, 18.40.090, 18.40.110, 18.40.150, 18.40.240, 18.50.020, and 18.50.190 are hereby repealed.

SECTION SIX: This Ordinance shall take effect and be in force from and after its passage and publication as required by law.

PASSED by the Governing Body this 5th day of April 2016.

SIGNED by the Mayor this 5th day of April 2016.

Mayor

Publish one time and return one Proof of Publication to the City Clerk, one to the City Attorney and one to Planning.

ATTEST:

City Clerk

(Seal)

APPROVED AS TO FORM:

City Attorney

Ordinance Exhibit “A”

UDO Amendments – UDO-15-001

Chapter 18.15

18.15.020 Composite Building Design Standards (pg. 6)

Table 15-2 Permitted Building Materials by Materials Category

Glass			
Clear Glass	✓	✓	✓
Architectural panels	✓	✓	✓
Architectural block		✓	✓
Mirror glass	✓*	✓	✓
Opaque glass	✓*	✓	✓

* Mirror and opaque glass may be used as Category 1 Materials in M-1 and M-2 Districts only.

18.15.035 Building Design Category C (pg. 19)

Table 15-5 General Design Standards for Building Design Category C

Façade Expression	
Horizontal and Vertical Articulation of Primary Façade	Required - See menu options
Focal Point Elements on Primary Façade	Required - See menu options
Additional Primary Façade Expression	Required - See menu options
Transparent Glass on Primary Façades (min. %)	35% 30% ¹

18.15.040 Building Design Category D (pg. 27)

Table 15-6 General Building Design Standards for Building Design Category D

Façade Expression	
Horizontal and Vertical Articulation of Primary Façade	Required - See menu options
Focal Point Elements on Primary Façade	Required - See menu options
Additional Primary Façade Expression	Required - See menu options
Transparent glass on Primary Façades (min. %)	25% 20% ²

Chapter 18.20

18.20.070 R-1 (pg. 85)

Side yard <i>(minimum, subject to minimum fire code building separation requirements)</i>	• 7 feet, with the total side yards at least 20% of the lot width	• 7 feet 20% of the lot width (may be 0 on one side)	• 7 feet 20% of the lot width (may be 0 on one side)	• 7 feet 10% of the lot width (may be 0 on one side)
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18.20.080 R-2 (pg. 87)

Side yard <i>(minimum)</i>	• 7 feet, with the total side yards at least 20% of the lot width	• 7 feet 20% of the lot width (may be 0 on one side)	• 7 feet 20% of the lot width (may be 0 on one side)	• 7 feet 10% of the lot width (may be 0 on one side)
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18.20.150 C-3 (pg. 104)

C. Parking Regulations for C-3 Developments

1. No more than 150% of the required parking for a use may be provided on-site.
2. Where visible from a street, parking lots must be screened by landscaping or street walls between 3 to 4 feet in height.
3. Off-street parking areas shall be divided into parking modules not to exceed fifty (50) parking spaces.
4. A use may apply adjacent on-street parking toward the minimum parking requirements.

D. Additional Development and Performance Standards for C-3 Developments

1. No merchandise shall be stored or displayed outside a building, and no equipment or vehicle other than passenger vehicles, shall be stored outside a building.
2. Sale of merchandise from a vehicle or temporary structure is prohibited, except as provided for by a temporary sales and events permit or catering or food trucks as licensed by the City Clerk.

18.20.160 C-4 (pg. 105)

C. Parking Regulations for C-4 Developments

1. No more than 150% of the required parking for a use may be provided on-site.
2. Where visible from a street, parking lots must be screened by landscaping or street walls between 3 to 4 feet in height.
3. Off-street parking areas shall be divided into parking modules not to exceed fifty (50) parking spaces.

4. A use may apply adjacent on-street parking toward the minimum parking requirements.

D. Additional Development and Performance Standards for C-4 Developments

- No merchandise shall be stored or displayed outside a building, and no equipment or vehicle other than passenger vehicles, shall be stored outside a building.
- Sale of merchandise from a vehicle or temporary structure is prohibited, except as provided for by a temporary sales and events permit or catering or food trucks as licensed by the City Clerk.

Section 18.20.500 Use Matrix (pg. 141, pg. 143, pg. 146, pg. 151, pg. 157, pg. 158)

Use	AG Agriculture	R-1 (Residential Single-Family)	R-2 (Residential Two-Family)	R-3 (Residential Low-Density MF)	R-4 (Residential Medium Density MF)	O (Office)	C-1 (Neighborhood Center)	C-2 (Community Center)	C-3 (Regional Center)	C-4 (Corridor Commercial)	BP (Business Park)	M-1 (Light Industrial)	M-2 (Heavy Industrial)	M-3 (Intense Industrial)	D (Downtown) - Core	D (Downtown) - Mixed Use	D (Downtown) - Santa Fe	LBCS Function	LBCS Structure	NAICS	Definition
Elderly housing, Multi-family Residences				P	P		S	S										1210	1200	814	A housing development that is certified as Housing for Elderly Persons by the United States Department of Housing and Community Development, and that includes multifamily dwellings.
Hotel, boutique (50 rooms maximum)						P	P	P	P	P	P				P	P	P	1330	1330	72110	A hotel that (1) complies with any applicable City historic design guidelines or the Class C building design standards (see Chapter 18.15), include an accessory restaurant, and include no more than 50 rooms.
Hotel / Motel						P	P	P	P	P	P				P	P	P	1330	1330	72110	A building in which lodging or boarding and lodging are provided for primarily transient persons and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. A hotel may include restaurants, taverns, club rooms, public banquet halls, ballrooms, and meeting rooms.
Flea market	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2145	-	453340	Establishments primarily engaged in retailing or wholesaling used merchandise, antiques, and secondhand goods (except motor vehicles, such as automobiles, RVs, motorcycles, and boats; motor vehicle parts; tires; and mobile homes) outside of an enclosed building, typically on an open lot from individual booths. Examples include antique stores, used book stores, and used clothing stores.
Used merchandise stores (e.g., books, clothes, etc.)							P	P	P	P	P				P	P	P	2145		453310	Establishments primarily engaged in retailing or wholesaling used merchandise, antiques, and secondhand goods (except motor vehicles, such as automobiles, RVs, motorcycles, and boats; motor vehicle parts; tires; and mobile homes) from an enclosed building/storefront. Examples include antique stores, used book stores, and used clothing stores.
Recreation, outdoor							S	S	S	S		S	S		S	S	S	5120-513	3110-314	7112, 7131, 7112	Large, generally outdoor facilities primarily used for recreational or sports activities. Examples include:

Use	AG Agriculture	R-1 (Residential Single-Family)	R-2 (Residential Two-Family)	R-3 (Residential Low-Density MF)	R-4 (Residential Medium Density MF)	O (Office)	C-1 (Neighborhood Center)	C-2 (Community Center)	C-3 (Regional Center)	C-4 (Corridor Commercial)	BP (Business Park)	M-1 (Light Industrial)	M-2 (Heavy Industrial)	M-3 (Intense Industrial)	D (Downtown)-Core	D (Downtown)-Mixed Use	D (Downtown)-Santa Fe	LBCS Function	LBCS Structure	NAICS	Definition
																		0, 531, 0, 534, 0, 535, 0	0, 330, 0	12, 7139, 1-7139, 2, 7139, 9, 7212, 11	sports stadiums and arenas, amusement and theme parks, racetracks, driving ranges, swimming or wave pools, drive-in theaters, archery or shooting ranges, riding stables or academies, campgrounds, recreational vehicle parks, miniature golf, golf courses and country clubs, batting cages, driving ranges, go cart tracks, skiing, public or commercial swimming pools, or tennis courts.
Civic Assemblies, including churches/religious assemblies	P	P	P	P	P	P S	P	P	P	P		S	S		P	P	P	660, 0	350, 0	813	includes religious assemblies such as churches or synagogues, clubs, lodges, meeting halls, recreation buildings, and community centers.

Chapter 18.30

18.30.130 Landscaping, Buffers & Screening

18.30.130.I.6 Screening (pg. 218):

6. Exterior ground-mounted or building-mounted equipment including, but not limited to, mechanical equipment, utilities' meter banks and coolers shall be screened from public view with landscaping or with an architectural treatment compatible with the building architecture. **Mechanical equipment shall be subject to the following:**
 - a. Preferred locations for utility structures (cabinets), as listed in order of priority are: 1) non-residential properties; 2) arterial or collector landscape easements; 3) rear yards; 4) street side yards on a corner lot behind the front yard setback; and 5) front yards within the required side yard setback.
 - b. Size and Height – Residential: maximum height is 36 inches above grade. Office/Commercial: limited to 6 feet in height.
 - c. Arterial or collector landscape easements – utility structures subject to site plan approval. Limited to 4 feet in height.
 - d. Location in public right-of-way – Utility structures shall be located behind the sidewalk and are subject to approval by the City Engineer. For utility boxes located within the right-of-way, a landscaping plan shall be required with the right-of-way permit.
 - e. Landscaping – Landscaping shall be provided for all structures where it is necessary to substantially screen the structure from public view and/or the view of adjacent homeowners.
 - f. Other requirements – Utility structures located within public right-of-way (in front of sidewalk) require approval of an administrative review application.

18.30.130.J.1.b.3 (pg. 219):

J. Buffers



The intent of buffering is to provide landscaped separation between residential and nonresidential uses and to screen from view certain land uses that may create visual clutter and distraction. The standards of this section provide for increases in the width and the opacity of the buffer as the land use intensity of the new or expanded development increases.

1. Applicability.

a. Generally. This section applies to any activity subject to this section (see subsection A, above).

b. Exemptions. This section does not apply to:

(1) Residential uses adjoining residential uses within the same residential zoning district.

(2) Agricultural uses.

~~(3) Nonresidential uses adjoining other nonresidential uses of the same zoning classification.~~

~~(4)~~(3) Any change of use that does not increase the existing building square footage or parking area.

~~(5)~~(4) Single-family dwellings located on an existing lot of record.

~~(6)~~(5) Contiguous commercial parcels or land areas under common ownership.

Commentary: Subsection (6) addresses situations where a parcel is rezoned with several different zoning districts, and one of the districts acts as a "buffer" for the other. For example, a landowner rezones part of a parcel to "C-2", the other part of the parcel as "R-1." The "R-1" portion of the parcel is a strip adjoining a residential area zoned "R-1." A type "3B, 4A, or 5A" buffer is normally required between the "C-2" and "R-1" districts. No buffer is required between the portion of the parcel zoned "C-2" and "R-1" internal to the property in this situation.

Chapter 18.40

18.40.030.A Neighborhood Meetings (pg. 283)

B. Meeting Process

1. The applicant shall provide written notice fixing the time, date, and place of the meeting to all property owners of record and all homes associations within five hundred (500) feet of the proposed development area. **When applicable, the applicant shall include the site plan and elevations associated with the application.** The notice shall be mailed at least ten (10) days prior to the meeting.
2. The meeting shall be held at least twenty (20) days or more prior to the scheduled meeting before the Planning Commission in order to allow adequate time to revise plans to address neighborhood issues and to provide a summary of the meeting issues to City staff.

3. The Neighborhood Meeting shall include a complete overview of the proposed application. The applicant shall provide a project description, site plan, building elevations and complete explanation and details of the proposed development which are sufficient for residents to gain an understanding of the specific application.
4. The applicant shall provide staff with the list of property owners within 500 feet of the subject property that received an invitation to the Neighborhood Meeting.

18.40.050.A Notice Provisions (pg. 285)

B. Notices to Surrounding Property Owners

1. Unless otherwise specifically provided in this chapter, if notice to surrounding property owners is required to consider an application, the notice shall be given as follows:
 - a. the applicant shall mail (at its cost) all notices at least twenty (20) days prior to the hearing to all owners of record of lands located within at least two hundred (200) feet of the area proposed to be altered for regulations of the City.
 - b. If the property proposed for alteration is located adjacent to the City limits, the area of notification shall be extended to one thousand (1,000) feet in the unincorporated area.
 - c. The mailed notice shall be given by certified mail, return receipt requested, and shall be in letter form.
 - d. The notice shall state the time and place of the hearing, a general description of the proposal, the legal description and general street location of the property subject to the proposed change, a statement explaining that the public may be heard at the public hearing, and a map of the property. **When applicable, the applicant shall include the site plan and elevations associated with the application.**
 - e. **The applicant shall provide staff with the list of property owners within 200 feet of the subject property that received the certified letters, return receipt.**

18.40.090.J Rezonings (pg. 296)

- J. Scope of Approval.** A rezoning does not authorize development. Any development that occurs after the rezoning requires additional approval, which may include subdivision plat or site development plan approval, if applicable, and building permits and certificates of occupancy.

Any preliminary plat or preliminary development plan for a single-family subdivision in an existing RP-1 District approved prior to the effective date of this ordinance (June 17, 2014), where no final plat or plan has been approved, shall be considered expired and subject to a new application and the provisions of this ordinance.

18.40.110.G Site Development Plans (pg. 304)

G. Scope of Approval

1. Approved final site development plans are valid for two (2) years after final approval.

2. If the landowner fails to commence the planned development within the time period required in subsection 1 above, the site development plan becomes null and void unless the time period is extended.
3. The approving authority may extend the time period upon written application by the landowner. Unless otherwise required in a condition of approval, the approving authority may extend the time period without a public hearing. The approving authority shall extend the site development plan for up to 6 months. After this time period or at the time the original extension is requested, the approving authority may extend the site development plan for any length of time for cause.
4. The applicant may revise an approved final site development plan as provided in Section 18.40.120.
5. Any preliminary plat or preliminary development plan for a single-family subdivision in an existing RP-1 District approved prior to the effective date of this ordinance (June 17, 2014), where no final plat or plan has been approved, shall be considered expired and subject to a new application and the provisions of this ordinance.

18.40.150 Preliminary Plat (pg. 312)

18.40.150 Preliminary Plat



Purpose: the preliminary plat process examines the major features and elements of a proposed plat. This process determines whether the plat conforms to this Title and the Comprehensive Plan, and any conditions of approval.

A. Applicability.

1. The Planning Commission must approve a preliminary plat before a final plat application is filed.
2. A preliminary plat is not considered a “plat” for purposes of KSA § 12-752. Instead, the preliminary plat is a preapplication process that is designed to ensure that that plat conforms to all applicable requirements of this Title. The applicant may request that the City waive the preliminary plat process and proceed directly to the final plat process.

B. Initiation.

1. An application for Preliminary Plat approval is filed with the Planning Official. Preapplication is required.
2. An applicant may substitute a preliminary development plan for a preliminary plat if the preliminary development plan contains all information required for preliminary plats as set forth in Chapter 18.94. (Ord. 02-54 § 2, 2002)
3. A neighborhood meeting is required (see Section 18.40.030)

↔ *Cross-Reference: 18.40.020 (Preapplication)*

C. Completeness Review. See § 18.40.040 Completeness Review

~~C. Decision~~

- ~~1. The Planning Official shall approve, approve with conditions, or deny a preliminary plat. The Planning Official's decision is final, unless:
 - ~~a. The applicant disagrees with the Planning Official's decision to deny or impose a condition of plat approval, or~~
 - ~~b. The applicant requests a waiver (see Section 18.40.240).~~~~
- ~~2. The Planning Commission shall consider a Preliminary Plat after the Planning Official's decision. The Planning Commission will consider the preliminary plat without a public hearing, unless the applicant requests a public hearing or a waiver. The Planning Commission may approve, approve with conditions, or deny the preliminary plat.~~
- ~~3. The Planning Commission's decision to approve, approve with conditions, or deny the proposed preliminary plat is final.~~

~~E.D. Approval Criteria.~~ The approving authority shall approve the preliminary plat if it finds that the following criteria are satisfied:

1. The proposed preliminary plat conforms to the requirements of Chapter 18.30, the applicable zoning district regulations and any other applicable provisions of the Municipal Code, subject only to acceptable rule exceptions.
2. The subdivision represents an overall development pattern that is consistent with the Comprehensive Plan, Major Street Map, Access Management Plan, and applicable corridor studies and plans.
3. The plat contains a sound, well-conceived parcel and land subdivision layout which is consistent with good land planning and site engineering design principles.
4. The spacing and design of proposed curb cuts, driveway approaches and intersection locations is consistent with the Access Management Plan, good traffic engineering design and public safety considerations.
5. The plat conforms to any existing, unexpired and valid conditions of rezoning, special use permit or site development plan approval.
6. All submission requirements are satisfied.

~~F.E. Subsequent Applications~~

1. When a preliminary plat application is withdrawn or denied, the same application for the same property shall not be resubmitted for a period of one (1) year from the date of withdrawal or denial.
2. A new plat application showing major modifications and/or revisions to the withdrawn or denied plat application may be submitted at any time.

~~G.F. Scope of Approval.~~

1. Approval of a preliminary plat does not constitute acceptance of the subdivision, but authorizes preparation of the final plat. No improvements shall take place in the subdivision prior to approval and

recording of the final plat and submittal and approval of street, sanitary sewer, water line and storm sewer construction plans by the City Engineer. (Ord. 02-54 § 2, 2002)

2. Preliminary plat approval is effective for a period of one (1) year. Where a final plat for the subdivision is not submitted for approval within the one (1) year time period, the preliminary plat becomes null and void and the developer shall resubmit a new preliminary plat for approval subject to the then effective regulations.
3. When a preliminary plat containing a gross land area in excess of forty (40) acres is submitted for approval, the applicant may indicate the **anticipated development or phasing pattern** for final platting. The applicant may receive an extension of the one (1) year time limit for submission of the final plat if each phase is constructed in accordance with the original phasing plan and subsequent final plats comply with all applicable regulations at the time of final platting.
- 4 Any preliminary plat or preliminary development plan for a single-family subdivision in an existing RP-1 District approved prior to the effective date of this ordinance (June 17, 2014), where no final plat or plan has been approved, shall be considered expired and subject to a new application and the provisions of this ordinance.

H.G. Recordkeeping. A preliminary plat application is not recorded. The Planning Official will maintain a record of approved preliminary plats. The applicant must maintain a copy of the approved preliminary plat, including any attachments.

18.40.240.A Waivers (pg. 337)

A. Applicability.

1. This section applies to a request for a waiver from the requirements of Chapter 18.30. Examples include lot and street layout, block lengths, cul de sac lengths, parking, landscaping, lot width or lot depth.
2. This section applies to applications for subdivision or site development plan approval.
3. This section only applies to the building design or site development standards established in Chapters 18.15 or 18.30. ~~It does not apply to the zoning requirements established in Chapter 18.20.~~ It also applies to zoning regulations of Chapter 18.20 building height, required yard and setbacks, and common open space when such exceptions are part of a final development plan.

Chapter 18.50

18.50.020.F.2 Accessory Uses and Structures (pgs. 348)

F. Accessory Structures

1. Trash, recycling containers, service and loading containers:
 - a. are subject to § 18.30.130.I (Screening), and
 - b. shall be located outside of any required parking space, in a location designated on the site plan, to the rear of the principal building.

2. Containers used to collect charitable or clothing donations, or publicly accessible recycling containers, are allowed in non-residential districts or for Education, Public Administration, Health Care, and Institutional uses in residential districts. These containers are subject to the yard and location requirements of this subsection, and shall be located outside of designated parking spaces, traffic or fire lanes. Containers are also subject to the following:
 - a. Donation boxes must be located at or behind the required building setback and be substantially screened from view from any adjacent residential properties.
 - b. Where screening is required, screening shall be accomplished by the use of a solid fence, wall, or gate.
 - c. Donation boxes must be placed on a paved or solid surface.
 - d. No more than two containers may be grouped at one location on the property.
 - e. Donation box locations shall not impede normal traffic.

18.50.190.K.1.e Downtown District (Signs) (pgs. 387)

- e. One (1) wall sign located on the rear of the building is allowed provided it is adjacent to public right-of-way. Signs shall be non-illuminated and are limited to ~~five ten (5)~~ (10) percent of the wall area or tenant space upon which it is placed.