

ORDINANCE NO. 19-26

**AN ORDINANCE AMENDING SECTIONS 18.01.020, 18.30.190, AND 18.50.160, OF THE OLATHE MUNICIPAL CODE PERTAINING TO THE UNIFIED DEVELOPMENT ORDINANCE.**

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

**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**, proposed amendments (UDO18-0002) to the *Unified Development Ordinance* were reviewed at a planning session with the Governing Body on August 21, 2018; and

**WHEREAS**, proposed amendments were discussed at a Planning Commission workshop on October 8, 2018; and

**WHEREAS**, on October 22, 2018 the Planning Commission held a public hearing and recommended approval of sections 18.30.190, 18.40.40110.G.5, 18.40.150F.4, 18.40.160 and 18.50.160 as presented, however did not recommend approval of sections 18.40.110.G.1-5 and 18.40.150.F.2 & 3.; and

**WHEREAS**, on November 1, 2018 the Governing Body reviewed the Planning Commission recommendation and remanded the proposed amendments back to the Planning Commission for further discussion; and

**WHEREAS**, on November 26, 2018 the Planning Commission reviewed and reconsidered the proposed amendments and recommended approval; and

**WHEREAS**, on December 4, 2018 the Governing Body reviewed the Planning Commission recommendation and requested staff continue to work on the updates and schedule a study session when ready to proceed; and

**WHEREAS**, proposed amendments pertaining to Chapters 18.30 and 18.50 were removed from UDO18-0002 and became UDO18-0002B; and

**WHEREAS**, on June 4, 2019 the Governing Body reviewed UDO18-0002B, the proposed amendments to Chapter 18.30 pertaining to non-blasting vibration standards and Chapter 18.50 pertaining to operations at quarries and mines; and

**WHEREAS**, the Governing Body reviewed staff's recommendation for new amendments associated with Chapter 18.30.190 and concurs with these recommendations; and

**WHEREAS**, the Governing Body reviewed the Planning Commission recommendation for proposed amendments to Chapter 18.50.160 and concurs with these recommendations.

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

**SECTION ONE:** Section 18.01.020 of the Olathe Municipal Code (Unified Development Ordinance) is hereby 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, Ordinance No. 16-20, Ordinance No. 16-51, Ordinance No. 17-01, Ordinance No. 17-52, Ordinance 18-48 [and Ordinance no. 19-26,](#)” and open to inspection by 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 TWO:** Section 18.30.190 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

**“18.30.190 Performance Standards**

In some districts, performance standards capable of quantitative measurement are established. Except to the extent modified in the specific zoning district regulations, the following general provisions apply to measure compliance with those performance standards.

**A. Noise**

See Noise Control Ordinance (Chapter [6.18](#) of the Municipal Code).

**B. Smoke and Particulate Matter**

**1.** The Ringlemann Chart, as adopted and published by the United States Department of Interior, Bureau of Mines, shall be used to determine the density of equivalent opacity of smoke. The Ringlemann number indicated as the performance standard in certain zoning districts refers to the number of the area of the Ringlemann Chart that coincides most nearly with the visual density of equivalent opacity of the emission of smoke observed.

**2.** Within the M-1, M-2 and M-3 zoning districts, no use shall be permitted or operated so that smoke darker than Ringlemann No. 1 is produced from any vent, stack or chimney. However, emission of smoke darker than Ringlemann No. 2 is allowed for a duration of up to four (4) minutes during any eight (8) hour period if the emission is located no closer than two hundred fifty (250) feet from property zoned AG, any residential zoning district, N, or the residential areas of planned developments.

3. Particulate matter emissions, in excess of the threshold limit values caused by the wind from open storage areas, yards, roads, etc., within lot lines shall be kept to a minimum by appropriate landscaping, paving, oiling, wetting and other means, or shall be eliminated.

### C. Vibration

1. ~~No use within a quarry or use within properties zoned~~ Within the M-1, M-2 and M-3 zoning districts, ~~no use~~ may generate any ground-transmitted vibration ~~in~~ for three (3) consecutive minutes or more in duration in any one hour in excess of one tenth (.10) inch per second measured at the property line, or in excess of two-one hundredths (.02) inch per second measured at any residential property line. These values may be multiplied by two (2) for impact vibrations, i.e., discrete vibration pulsations not exceeding one (1) second in duration and having a pause of at least one (1) second between pulses. Vibrations are measured in particle velocity and are to be measured at the property line or other designated location.

2. A three-component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions shall be used to measure vibrations. Upon request of the City, the owner or operator of a use subject to this section will install said measuring system at the property line of the use or on the residential property of a complainant with the property owner's consent.

3. The vibration maximums indicated as the performance standard in certain zoning districts ~~may~~ must be measured directly with suitable instrumentation in accordance with the International Society of Explosive Engineers (ISEE) Field Practice Guidelines for Blasting Seismographs or other applicable guidelines for this type of measurement. ~~or computed on the basis of displacement and frequency. When computed, the following formula shall be used:~~

$$PV = 6.28 F \times D$$

~~Where:~~

~~PV = particle velocity, inches per second~~

~~F = vibration frequency, cycles per second~~

~~D = single amplitude displacement of the vibration, inches~~

~~4. The maximum particle velocity shall be in the maximum vector sum of three mutually perpendicular components recorded simultaneously.~~

~~5. Unless specifically indicated to the contrary in the zoning district regulations, vibration resulting from temporary construction activity that occurs between 7:00 AM and 7:00 PM is exempt from the indicated performance standard.~~

4. The provisions of this subsection shall not apply to vibration from:

- a) the operation of motor vehicles, trains, and aircraft; or
- b) temporary construction activity that occurs between 7:00 AM and 7:00 PM; or
- c) blasting at a quarry or mine regulated under Section 18.50.160.

#### **D. Glare**

See Lighting (Section [18.30.135](#)).

1. Within the M-1, M-2 and M-3 districts, direct or sky-reflected glare, from floodlights or from high temperature processes such as combustion or welding, shall not be directed into any adjoining property.

#### **E. Heat**

Within the M-1, M-2 and M-3 districts, heat from furnaces, processing equipment, or other devices shall be contained so that the temperature of air or materials is raised no more than five (5) degrees Fahrenheit as measured at all property lines.

#### **F. Emissions**

Within the M-1, M-2 and M-3 districts, the maximum rate of emission of dust and other particulate matter from all sources within the boundaries of any lot or tract shall not exceed one (1) pound per hour per acre of lot area.

#### **G. Air Contaminants (such as Odors and Fumes)**

Within the M-1, M-2 and M-3 districts, the emission of air contaminants created by industrial processes shall comply with the Kansas Air Quality Act, K.S.A. § [65-3002](#) and any adopted state regulations. All air contaminants shall be contained so that no odors or fumes may be sensed at the property line of any residential zoning district.

#### **H. Electrical Issues**

Within the M-1, M-2 and M-3 districts, activity which creates any off-site electrical disturbance, or contributes to interference with electronic signals (including television and radio broadcasting transmissions) shall be prohibited.

## **I. Toxic or Flammable Liquids**

Storage of toxic or flammable liquids such as gasoline, oil or grease, where not stored underground, shall occur in such a manner that a secondary storage system is provided with capacity as specified by the Fire Code."

**SECTION THREE:** Section 18.50.160 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

### **"18.50.160 Quarries and Mines**

*Purpose. This section regulates the externalities of quarries.*

#### **A. Applicability**

This section applies to mines or quarries.

#### **B. Generally**

All ~~M~~mines and quarries shall follow all Federal, State, and ~~local Olathe Municipal Code guidelines~~ and requirements, including those ~~found in Title 16 of the Olathe Municipal Code as well as requirements found in any special use permit governing a specific site. for blasting and vibration. In the event that multiple requirements exist, including those for blasting and vibration, the stricter standard shall be controlling over the land use activity on the site.~~

#### **C. Roads**

1. Proposed quarry operations shall provide or have direct access to a public road.
2. Public and private roads shall be hard-surfaced and built to carry the heavy loads that are generated from quarry operations.

#### **D. Setbacks for Above-Ground Operations**

1. All above-ground operations shall be located at least:
  - a. One hundred (100) feet from any property line except as provided below.
  - b. One thousand (1,000) feet from an existing residence or the nearest property line of a residentially zoned property, whichever achieves the greatest overall setback.

2. The Planning Commission or Governing Body may reduce the property line setback where it abuts a highway or railroad right-of-way by up to fifty (50) percent.

3. The Planning Commission or Governing Body may reduce the residential setback by up to ninety (90) percent if the applicant shows that compliance with the City ordinances related to noise, dust, visibility and operations will adequately protect the residents from the above-ground operations, or upon approval of the residence owner.

4. The above setbacks may be increased upon the City's determination that wider setbacks are warranted ~~in order~~ to mitigate adverse impacts. ~~All above-ground operations located next to existing mine or quarry operations require no setback, and may be immediately adjacent.~~

5. A setback for above-ground operation is not required when the operation is located contiguous to another existing mine or quarry operation.

#### **E. Setbacks for Below-Ground Operations**

All below-ground operations shall be located at least two hundred (200) feet from the nearest property line, measured laterally.

#### **~~F. Vibration~~**

~~1. Ground-transmitted vibration shall not exceed two-tenths (0.20) inches per second at the property line or two-hundredths (0.02) inches per second measured at any residential property line.~~

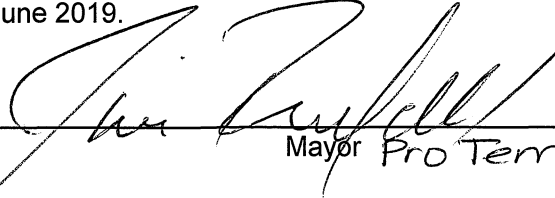
~~2. These values may be multiplied by two (2) for impact vibrations; i.e., discrete vibration pulsations not exceeding one (1) second in duration and having a pause of at least one (1) second between pulses. (Ord. 16-51 § 3, 2016) "~~

**SECTION FOUR:** Existing sections 18.01.020, 18.30.190, and 18.50.160, are hereby specifically repealed.

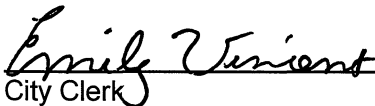
**SECTION FIVE:** This Ordinance shall take effect from and after its publication as provided by law.

**PASSED** by the Governing Body this 18<sup>th</sup> day of June 2019.

**SIGNED** by the Mayor this 18<sup>th</sup> day of June 2019.

  
\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

  
\_\_\_\_\_  
City Clerk  
(Seal)

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney



STATE OF KANSAS  
JOHNSON COUNTY, SS

Brandon Humble, being first duly sworn, deposes and says: That he is the editor of **THE GARDNER NEWS** A weekly newspaper printed in the State of Kansas, and published in and of general circulation in Johnson County, Kansas and that said newspaper is a bi-weekly published at least weekly, 52 times a year; has been published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice; and has been admitted at the post office in Gardner, Kansas in said county as second class matter.

That the attached notice is a true copy there of and was published in the regular and entire issue of said newspaper for 1 consecutive weeks(s),

The first publication there of being made as aforesaid on 6/26/19

Publications being made on the following:

EDITOR *Brandon Humble*

SUBSCRIBED AND SWORN TO ME THIS : June 26. 2019

NOTARY PUBLIC



MY COMMISSION EXPIRES \_\_\_\_\_

COST-----

ADDITIONAL COPIES-----

IN THE DISTRICT COURT OF JOHNSON, COU

The within Proof Of Publication approved

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## Public Notice

First published in *The Gardner News* Wednesday, June 26, 2019

**PUBLICATION SUMMARY OF ORDINANCE NO. 19-26, PASSED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS ON THE 18<sup>th</sup> DAY OF JUNE 2019.**

### SUMMARY

On June 18, 2019, the Governing Body of the City of Olathe, Kansas passed Ordinance No. 19-26 amending certain sections of Title 18 of the Olathe Municipal Code pertaining to the Unified Development Ordinance and repealing the same existing sections. Section 18.30.190 was amended to clarify non-blasting vibration standards at industrial sites. Section 18.50.160 was amended to clarify setback requirements for quarries and mines.

The complete text of this ordinance may be obtained or viewed free of charge at the office of the Olathe City Clerk, Olathe City Hall, 100 East Santa Fe Street, Olathe, Kansas, or on the City's official website address, <http://www.olatheks.org/government/city-clerk/public-notices>, where a reproduction of the original ordinance will be available for a minimum of one week following this summary publication.

This summary is certified this 19<sup>th</sup> day of June 2019.

/s/ Rachelle R. Breckenridge  
Rachelle R. Breckenridge  
Assistant City Attorney

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