

ORDINANCE NO. 19-40

AN ORDINANCE AMENDING SECTIONS 18.01.020 AND 18.40.110 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 to the *Unified Development Ordinance* 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, 18.40.110.G.5, 18.40.150.F.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 of 18.30.190, 18.40.110.G.1-5, 18.40.150.F.2-4, 18.40.160, and 18.50.160; 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 18.40 were removed from UDO18-0002 and became UDO18-0002A while the remaining sections became UDO18-0002B; and

WHEREAS, on March 19, 2019 the Governing Body reviewed UDO18-0002A, and requested further review by staff; and

WHEREAS, on July 16, 2019 the Governing Body reviewed staff's recommendation for proceeding with updates pertaining to preliminary plans in section 18.40.110.G and recommended a revision to the time expiration for preliminary plans.

**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 No. 18-48, Ordinance No. 19-26 and [Ordinance No. 19-40](#),” 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 18.40.110 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

“18.40.110 Site Development Plans

Purpose: A site development plan is a process that allows City staff and the Planning Commission to review significant developments and uses to ensure that they comply with the zoning and development standards in this title, have appropriate design and infrastructure, and comply with any conditions of rezoning, preliminary subdivision plat, or special use permit approval.

A. Applicability

1. A preliminary site development plan is required for:

a. Any application to rezone property:

(1) to a district that allows nonresidential uses or multifamily or two-family dwellings,
or

(2) to an “A,” “R-1” or “R-2” district where the applicant is proposing a nonresidential development

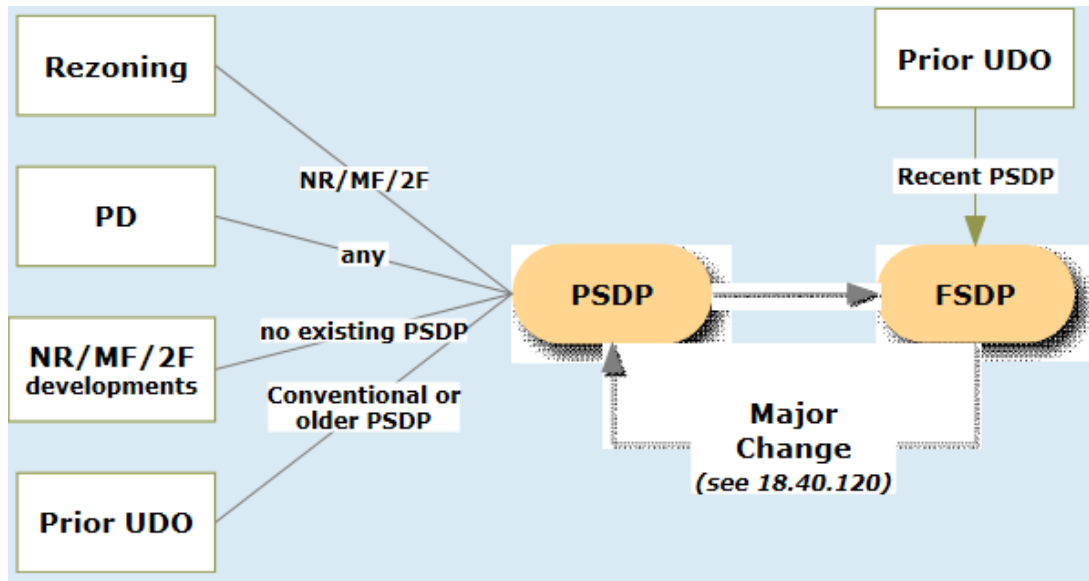
b. All nonresidential uses, or developments with multifamily or two-family dwellings unless a preliminary site development plan for the proposed development was already approved as part of the existing zoning district, and

c. Any application for approval of a planned development district.

2. If a property is subject to an approved and unexpired preliminary site development plan, a **final site development plan** is required before a building permit application is filed.

B. Initiation

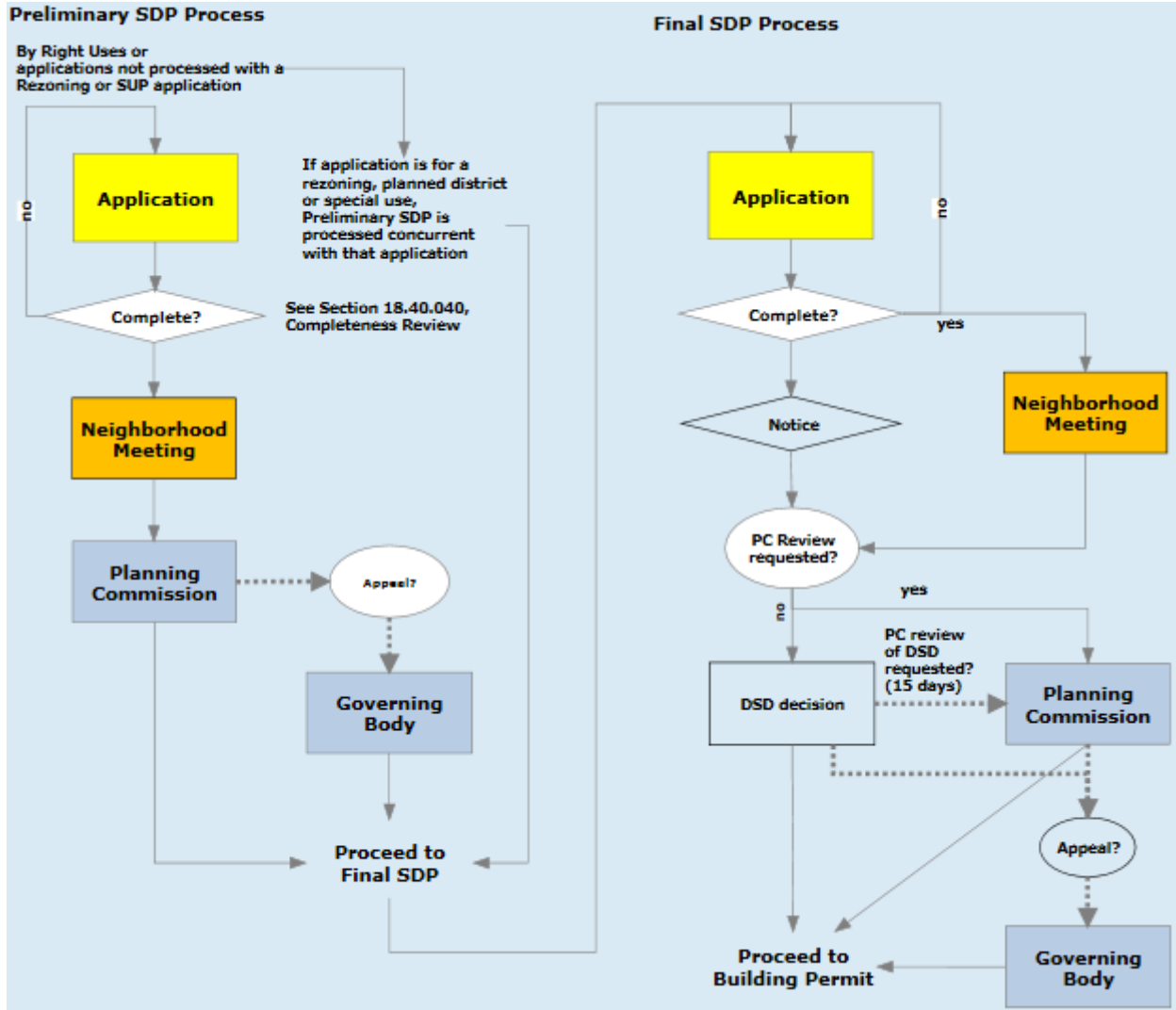
1. Preliminary and final site development plans shall be filed with the Planning Official, and shall include the information required by Chapter [18.94](#).



Editor's Note: This diagram referenced "Substantial Change" in Section [18.40.120](#). This terminology has been changed to "Major Change" to match the text of that section.

2. A neighborhood meeting is required for a preliminary and final site development plan (see Section [18.40.030](#)).

C. Review Process



D. Decision

1. Preliminary Site Development Plan Decision

a. If the application involves a use that is **permitted by right** in the applicable zoning district, the Planning Commission will approve, conditionally approve, or deny a preliminary site development plan. Notice to surrounding property owners is required (see Section 18.40.050.B). The Planning Commission will render a decision within 30 days, unless the applicant requests additional time in order to revise the application. The applicant may revise the application during this review period without resubmitting the application and paying new filing fees.

b. If the application involves a **planned district**, a **rezoning**, or a **special use**, the preliminary site development plan is processed and approved as part of that application.

The preliminary site development plan may be revised and resubmitted during the review period for the planned district/conditional rezoning or special use permit application review period and approved as part of the conditions of approval. In that case, the Approving Authority is the agency that approves that rezoning or special use.

2. Final Site Development Plan Decision

a. Authority

A final site development plan is approved by the Planning Official, unless the applicant requests Planning Commission review.

b. Planning Official Decisions

If the Planning Official renders a decision on the application:

- (1)** The Planning Official shall render its determination within thirty (30) days after the applicant submits a complete application (see Section [18.40.040](#)), unless the applicant requests additional time in order to revise the application. The applicant may revise the application during this review period without resubmitting the application and paying new filing fees.
- (2)** If the Planning Official fails to render a timely decision, the applicant or a surrounding property owner may request Planning Commission review (see subsection [D.2.c](#) below).
- (3)** If the applicant or surrounding property owner does not request Planning Commission review, the Planning Official's determination is final.
- (4)** If an administrative review application is without communication from the applicant for more than six (6) months, the applicant will be required to submit a new application and feeds for the final site development plan review to continue.

c. Planning Commission Review

- (1)** The Planning Commission reviews the final site plan if the applicant asks the Planning Commission to review the final site plan within fifteen (15) days of the date of the Planning Official's decision.
- (2)** The Planning Commission will consider the application without a public hearing.
- (3)** The Planning Commission may approve, approve with conditions, or deny the preliminary or final site development plan.

(4) The Planning Commission shall render its decision within 30 days after the applicant requests a review. The Planning Commission may extend the time for making a decision if requested by the applicant.

E. Approval Criteria

1. The following criteria apply to the approval, conditional approval or denial of a preliminary site development plan:

a. The plan complies with all applicable requirements of Chapters [18.15](#), [18.20](#), and [18.30](#), and

b. The plan represents an overall development pattern that is consistent with the Comprehensive Plan, the Major Street Map and other adopted planning policies.

2. A final site development plan is approved if it is consistent with the preliminary site development plan as approved, including all conditions of approval, and complies with all applicable requirements of this title. A final site development plan shall not modify or expand the approved preliminary site development plan, except as provided in Section [18.40.120](#).

F. Subsequent Applications

1. When an application for preliminary or final site plan is withdrawn by the applicant 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. An application for a major modification to the withdrawn or denied application may be submitted at any time.

G. Scope of Approval

1. Approved **preliminary site development** plans are valid for seven (7) years after final date of approval.

2. If the landowner fails to submit and obtain approvals for a final site development plan within the time period required in subsection G.1. above, the preliminary site development plan becomes null and void unless the time period is extended.

3. The Approving Authority may extend the time period of a preliminary site development plan upon written request by the landowner. Unless otherwise required in a condition of approval, the Approving Authority may extend the time period administratively. The Approving Authority shall extend the time period of the preliminary site development plan for up to twelve

[\(12\) months. Upon written request by the landowner, the Approving Authority may extend the preliminary site development plan for any length of time for cause.](#)

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

25. If the landowner fails to commence the planned development within the time period required in subsection [G.4G.1](#), above, the site development plan becomes null and void unless the time period is extended.

36. The Approving Authority may extend the time period of a 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 six (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.

47. The applicant may revise an approved final site development plan as provided in Section [18.40.120](#).

58. 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. Appeals

The applicant or aggrieved party may appeal the disapproval of a preliminary or final site development plan by the Planning Commission to the Governing Body. The applicant shall file a notice of appeal with the Planning Official within ten (10) days following the decision.

I. Recordkeeping

The Planning Division and the applicant shall maintain copies of the preliminary and final site development plan approvals, and all supporting documentation.

J. Abandonment of Final Site Development Plan

1. If the applicant abandons any part of a site development plan, then the applicant shall notify the City in writing.

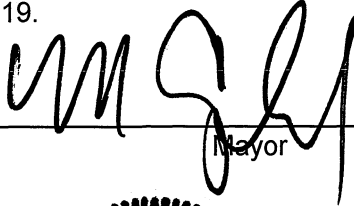
2. If any part of a final site development plan is abandoned, no development shall take place on the property until a new final site development plan is approved.”

SECTION THREE: Existing sections 18.01.020 and 18.40.110, are hereby specifically repealed.

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

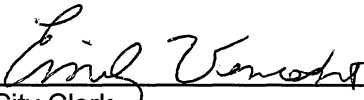
PASSED by the Governing Body this 16th day of July 2019.

SIGNED by the Mayor this 16th day of July 2019.




Mayor

ATTEST:



City Clerk
(Seal)

APPROVED AS TO FORM:


City Attorney



**PUBLICATION SUMMARY OF ORDINANCE NO. 19-40, PASSED BY THE GOVERNING BODY OF
THE CITY OF OLATHE, KANSAS ON THE 16th DAY OF JULY 2019.**

SUMMARY

On July 16, 2019, the Governing Body of the City of Olathe, Kansas passed Ordinance No. 19-40 amending certain sections of Title 18 of the Olathe Municipal Code pertaining to the Unified Development Ordinance and repealing the same existing sections. Section 18.40.110 was amended to: 1) add language which indicates a preliminary site development plan expires if not approved within seven years, and 2) clarify that applicant must submit and obtain approval of a final site development plan within the designated time period for the plan to remain valid, and 3) added language explaining the process of obtaining an extension of time for a preliminary development plan.

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 17th day of July 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.

STATE OF KANSAS
JOHNSON COUNTY, SS


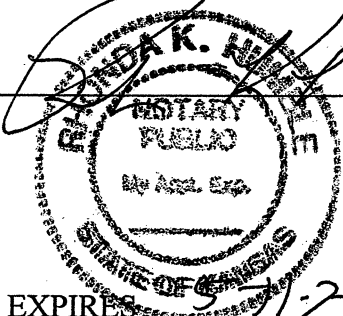
Brandon Humble, being first duly sworn, deposes and says: That he is the editor of **THE GARDNER NEWS** A weekly newspaper printed in the State of Kansas, and published in and of general circulation in Johnson County, Kansas and that said newspaper is a bi-weekly published at least weekly, 52 times a 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 7/24/2019
Publications being made on the following:

EDITOR -----

SUBSCRIBED AND SWORN TO ME THIS : July 24, 2019

NOTARY PUBLIC 


MY COMMISSION EXPIRES 

COST-----

ADDITIONAL COPIES-----

IN THE DISTRICT COURT OF JOHNSON, COUNTY

The within Proof Of Publication approved

Public Notice

First published in *The Gardner News* Wednesday, July 24, 2019

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