

ORDINANCE NO. 20-40

AN ORDINANCE AMENDING SECTIONS 18.30.270 and 18.50.030 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 (UDO20-0001) to the *Unified Development Ordinance* were reviewed at a planning session with the Governing Body on September 1, 2020; and

WHEREAS, proposed amendments to the *Unified Development Ordinance* were discussed at a Planning Commission workshop on September 17, 2020; and

WHEREAS, on November 9, 2020 the Planning Commission held a public hearing and recommended approval of the amendments; and

WHEREAS, on November 17, 2020 the Governing Body reviewed and discussed UDO20-0001, the proposed amendments to Sections 18.30.270 and 18.50.030;

WHEREAS, the Governing Body reviewed the Planning Commission recommendation for proposed amendments and concurs with their recommendation.

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, Ordinance No. 19-40 and Ordinance No. 19-56, [and Ordinance No. 20-40](#)” 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 18.30.270 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

“18.30.270 Yards and Setbacks

Purpose: This section establishes general rules and exceptions for building setbacks and required yards.

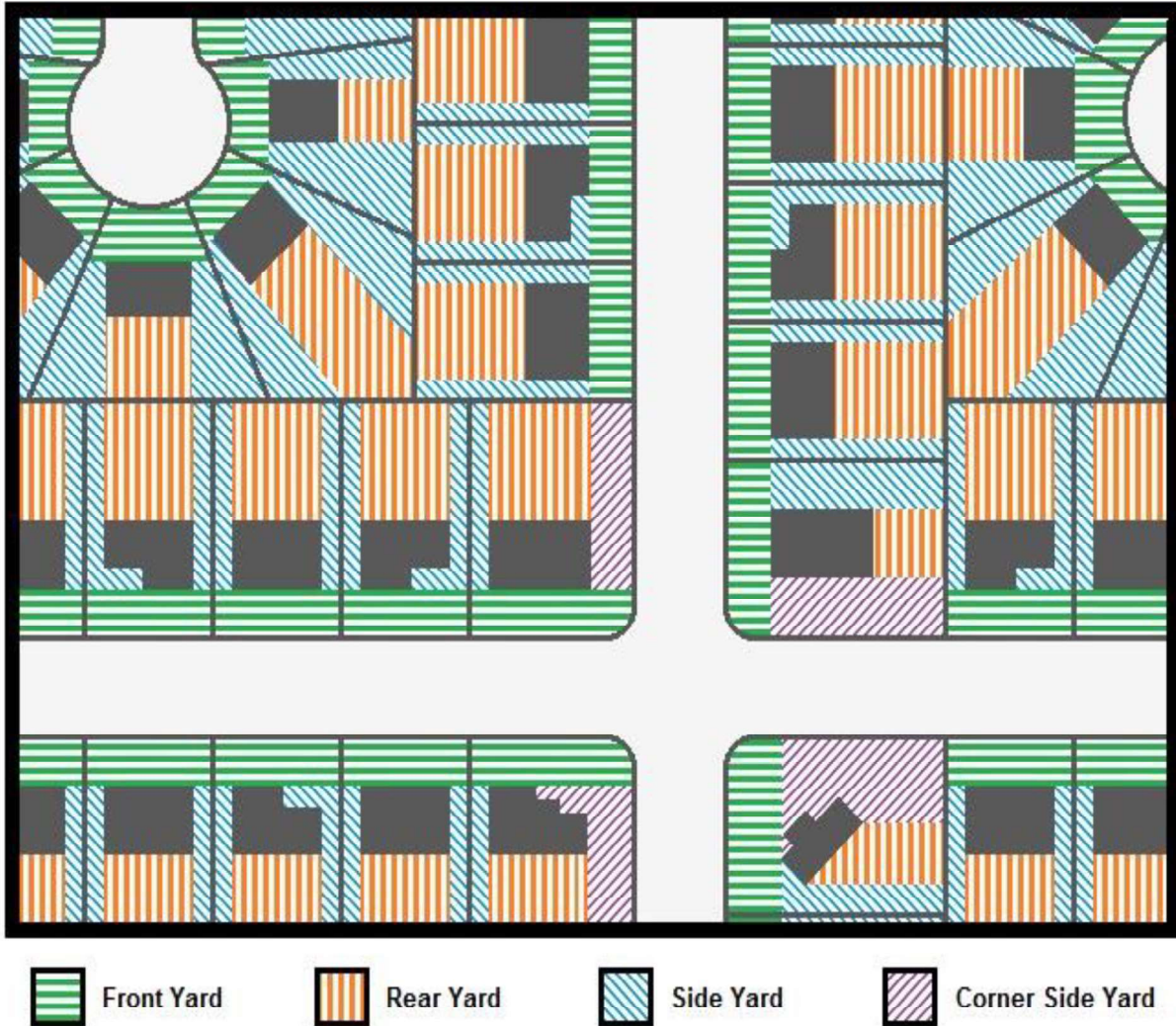
A. Applicability

This section applies to any yard or setback required by this title.

B. Generally

1. Every part of a required yard shall be unoccupied and unobstructed by any portion of a structure from the ground upward, except as provided in subsection D, below.
2. In measuring a yard to determine the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between a lot line and the building applies.
3. Where lots abut a street that is designated as an arterial street on the Major Street Map, all yards abutting the street are measured from a line one-half ($\frac{1}{2}$) the proposed right-of-way width from the centerline or from the lot line, whichever provides the greater setback.
4. On other lots, all yards abutting a street are measured from a line twenty-five (25) feet from the centerline, or from the lot line, whichever provides the greater setback.
5. Required yard means that portion of any yard constituting the minimum area required in any zoning district but excluding that portion of the yard in excess of the minimum required area.

C. Measurement Standards and Yard Types



1. **Front yard** means a yard across the full width of the lot extending from the front line of the main building to the front lot line. A corner lot has a front lot line on that street on which it has its least dimension.
2. **Rear yard** means the yard between the rear lot line and the rear line of the main building and the side lot lines.
3. **Side yard** means a yard between the main building and the adjacent side line of the lot, and extending entirely from a front yard to the rear yard.
4. **Corner lots** are on the junction of and abutting two (2) or more intersecting streets. Corner lots shall have a side yard of at least twenty (20) feet on the street side.

D. Yard Encroachments

The features designated and as conditioned below may encroach into a required yard:

	Yards Where Feature Encroachment Is Permitted	Maximum Encroachment	Minimum Setback
Arbors (maximum footprint of 80 sf and maximum height of 12 feet)	Front/rear	6 feet into yard	0 feet
Basketball goal	Any yard	No restriction	10 feet (front yard) 3 feet (side yard)
Birdhouses, doghouses, chicken coops, dog kennels, rabbit hutches, bee hives and other animal enclosures	Rear yard	No restriction	6 feet and a minimum of 40 feet from the nearest neighboring dwelling unit
Building projections including window sills, belt courses, cornices, chimneys, buttresses, eaves, spouts/gutters, brackets, pilasters, grill work, projecting windows trellises, bays, bows, oriels, dormers and similar ornamental architectural features	Any yard	30 inches into yard	--
Canopies, freestanding	Front	6 feet into yard	
Residential decks patios, or porches whether unenclosed, covered or uncovered	Front/rear	6 feet into yard	--
Clothesline (up to 2 poles)	Rear/side	No restriction	10 feet
Driveways	Any yard	No restriction	2 feet
Equipment, ancillary (residential or mixed use districts)	Interior side/rear	No restriction	0 feet
Equipment, ancillary (nonresidential districts)	Interior side/rear	No restriction	0 feet
Fire escape/enclosed outside stairway/handicap ramps required	Side	½ yard width, up to 5 feet from building	--

Feature	Yards Where Encroachment Is Permitted	Maximum Encroachment	Minimum Setback
by the building code			
	Rear	5 feet into rear yard	
Flag pole	Any yard	No restriction	10 feet
Garages, attached or detached and loaded from an alley	Rear	No restriction	0 feet
Gates	Any yard	No restriction	0 feet
Greenhouses	Rear/side	No restriction	10 feet
Light poles	Any yard	No restriction	0 feet
Playground equipment, trampolines	Rear yard	No restriction	5 feet
Unenclosed open pools and spas up to 20 feet from a dwelling unit on an abutting lot	Rear/side	No restriction	5 feet
Pier, awnings, steps, structural overhangs or projections enclosing habitable living space, or similar architectural features and awnings	Any	No restriction	0 feet
Ramps for citizens with impairments	Any	No restriction	0 feet
Retaining walls	Any	No restriction	0 feet
Sidewalks	Any	No restriction	0 feet
Signs (subject to Chapter 18.50)	Any	See Chapter 18.50	See Chapter 18.50
Stormwater detention or retention facilities or ditches, unless the Planning Official finds that underground stormwater management facilities are not currently available	Rear (N, C-1 districts)		
Any yard (all other districts)	No restriction	0 feet	
ATMs	Any	No restriction	10 feet
Wing walls, stoops, landings, balconies, patios, and decks	Any yard	30 inches into yard	--

E. Yard Exceptions or Reductions

1. Platted Setback Lines

If platted setbacks in a plat approved by the City are more restrictive than the yard requirements set forth in this title, the platted setbacks control. Building permits shall not be issued for any building or structure outside of the platted setback.

2. Residential Districts – Front Yards

In residential districts where lots comprising forty (40) percent or more of the frontage on the same side of a street between two (2) intersecting streets (excluding reverse corner lots) are developed with buildings having front yards that vary up to ten (10) feet in depth, the average of those front yards is the minimum front yard depth for the entire block. However, where a recorded plat shows a setback line which otherwise complies with the requirements of this title, but which is less than the established setback for the block as provided here, that setback line controls.

3. Yards in Specific Zoning Districts

The yard requirements may be adjusted by the specific zoning district (such as the “D” Downtown district) or conditions of approval to a planned development rezoning.

F. Rear and Side Yards in Commercial and Industrial Districts

1. Where the rear lot line of a commercial or industrial district coincides with a railroad right-of-way line, the rear yard may be reduced to five (5) feet.

2. Where the rear yard and/or side yard of two (2) or more commercial or industrial storage areas or lots abut each other, the rear yard and/or side yard setbacks of each abutting storage area or lot area only may be reduced to a zero (0) foot setback. The remaining portion of each rear yard or side yard setback not occupied by a storage area or lot shall comply with the height and area regulations and landscaping of the zoning district.

However, the storage areas shall comply with the landscaping and buffer requirements of this chapter. If the commercial or industrial storage area or lot is removed as a use from the property, the rear yard and/or side yard setback will revert back to the height and area regulations of the zoning district and landscaping requirements of this chapter.

3. Existing commercial and industrial lots wishing to reduce rear yard and/or side yard setbacks shall follow the City’s administrative review application process established by the Planning Division. Vacant commercial and industrial lots preparing for development and wishing to reduce the rear yard and/or side yard setbacks shall follow the City’s final site development plan application process.

G. Corner Lots

1. Width

Corner lots shall have a minimum width of seventy (70) feet to provide appropriate building setback from both streets.

2. Yards

See subsection C above for yard requirements.

3. Sight Distance

Corner lots shall provide traffic sight distance triangles, measured along the edge of the pavement, in accordance with Section 18.30.220.”

SECTION THREE: Section 18.50.030 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

“18.50.030 Animals

A. Applicability

1. This section applies to the keeping of animals. The keeping of animals is also subject to the provisions of Title 8 of the Municipal Code.

~~**B. Standards**~~

~~Animals may be kept in the following locations, and subject to the standards set out below:~~

Type	Where / How Permitted		Number <i>(maximum)</i>
	< 3 acres	3 or more acres	
Farm animals <i>(such as but not limited to horses, ponies, cows, hogs and chickens)</i>	Special use permit required	By right	One (1) animal per acre <i>(horses, ponies and cows)</i>
Pets <i>(dogs, cats, birds and other customary domestic pets)</i>	By right	By right	Four (4) animals per household

2. Keeping of animals is subject to the standards set out in this section. For purposes of this section, “large farm animal” means horses, ponies, cows, hogs, pigs and other similarly

sized animals and “small farm animal” means chickens, rabbits, pygmy goats and other similarly sized animals.

Table 1

<u>Type</u>	<u>Lot Size</u>	<u>Special Animal Permit Required</u>	<u>*Maximum Number of Animals Allowed</u>
<u>Large Farm Animals</u>	<u>< 3 acres</u>	<u>Yes</u>	<u>1 per acre</u>
<u>Large Farm Animals</u>	<u>3 acres or more</u>	<u>No</u>	<u>1 per acre</u>
<u>Small Farm Animals</u>	<u>< 3 acres</u>	<u>Yes</u>	<u>10 animals; roosters prohibited</u>
<u>Small Farm Animals</u>	<u>3 acres or more</u>	<u>No</u>	<u>No Maximum</u>
<u>Bees</u>	<u>< 3 acres</u>	<u>Yes</u>	<u>2 Beehives</u>
<u>Bees</u>	<u>3 acres or more</u>	<u>No</u>	<u>No Maximum</u>
<u>Dogs and Cats over 4 months in age*</u> <u>(other domestic pets do not require a permit)</u>	<u>Any Size Lot</u>	<u>Yes, for any combination of more than 4 dogs or cats over 4 months in age.</u>	<u>If a Permit is required, the maximum number of dogs and/or cats will be identified on the Permit.</u>

*Provided that all requirements of this Section of UDO and Chapter 8 of the Municipal Code are met, it is permissible to keep a combination of different animals provided that the maximum allowed of any one type of animal is not exceeded.

B. Requirements

The following requirements apply to all lots.

- 1. Minimum yard setback requirements:**
 - a. Chicken coops, chicken tractors, and all other animal enclosures is six (6) feet.
 - b. Beehives, stand, or apiary is fifteen (15) feet.

2. Farm Animal Enclosures

Animals must be kept in an enclosed structure or area located in the side or rear yard of the principal dwelling and are not permitted to roam unsupervised outside of the enclosure.

a. Enclosures which are open to the sky must consist of a wall or fence of sufficient height to contain the animals.

b. Enclosures for chickens and rabbits must be a minimum of two (2) square feet per animal and include a run.

c. No chicken coop, chicken tractor or other small farm animal enclosure will exceed eighty-four (84) square feet unless authorized by a Special Animal Permit.

3. Keeping of Bees

a. Fresh, clean water must be kept within twenty (20) feet of the hive, stand, or apiary.

b. The owner of any hive or apiary will install and maintain a flyway barrier six (6) feet in height consisting of a solid wall, fence, vegetation or combination thereof that is parallel to the property line and that extends ten (10) feet beyond the hive or apiary in each direction so that all bees are forced to fly at an elevation of at least six (6) feet above ground level over property lines in the vicinity of the hive or apiary.

C. Special Animal Permit Process

1. Approval

A Special Animal Permit will be issued if an applicant is in compliance with all requirements of this Section of the UDO and Chapter 8 of the Municipal Code. Additional conditions, consistent with the standards in this Section, may be imposed on the permit by the Planning Official. These may include, but are not limited to, size of enclosures, lot requirements, and limitation on the number or type of animals.

2. Term

Permits are valid for a period of five (5) years unless otherwise specified on the permit by the Planning Official.

3. Appeal

An applicant aggrieved by a final decision by the Planning Official may appeal to the Board of Zoning Appeals (see Section 18.40.220).

4. Revocation

a. The Planning Official may revoke a Special Animal Permit if the permittee has violated any condition of the Permit, Chapter 8 of the Olathe Municipal Code, or any other applicable Olathe Municipal Code or UDO provisions.

b. The Planning Official will send notice of intent to revoke to the permittee identifying the violation(s).

c. A permittee will have thirty (30) days from the date of the notice to request reconsideration by the Planning Official.

d. The Planning Official will inform the permittee within ten (10) days of receipt of the permittee's request for reconsideration whether the Special Animal Permit was revoked. If revoked, the date of revocation will be provided.

e. If the permittee does not request reconsideration within thirty (30) days of receipt of the notice of intent to revoke, the permit will be revoked effective thirty-one (31) days after the notice of intent to revoke was sent.

f. A permittee who has a Special Animal Permit revoked must wait six (6) months from the date of revocation before submitting a new Special Animal Permit application."

SECTION FOUR: Existing sections 18.30.270 and 18.50.030 are hereby specifically repealed.

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

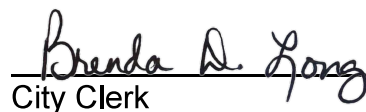
PASSED by the Governing Body this 1st day of December 2020.

SIGNED by the Mayor this 1st day of December 2020.



Mayor

ATTEST:




City Clerk



(Seal)

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to be "L. S. ...", positioned above a horizontal line.

City Attorney