

**ORDINANCE NO. 19-XX**

**AN ORDINANCE AMENDING SECTIONS 18.01.020, 18.30.010, 18.30.080, 18.30.130, 18.30.135, 18.30.160, 18.30.240, 18.50.180, 18.50.190 AND 18.90.020 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 (UDO19-0005) to the *Unified Development Ordinance* were reviewed at a planning session with the Governing Body on January 8, 2019; and

**WHEREAS**, those amendments in addition to several other minor updates to the *Unified Development Ordinance* were discussed at a Planning Commission workshop on October 14, 2019; and

**WHEREAS**, on October 14, 2019 the Planning Commission held a public hearing and recommended approval of the amendments as presented; and

**WHEREAS**, on November 5, 2019 the Governing Body reviewed and discussed UDO19-0002, the proposed amendments to Chapter 18.30, 18.50, and 18.90.

**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, Ordinance No. 19-56 Ordinance No. 19-63, Ordinance No. 19-64 and **Ordinance No. 19-XX**,” 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 18.30.010 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

**“18.30.010 Purpose**

*This chapter provides regulations for infrastructure, ~~building design, and~~ site design and layout to:*

- protect the public health, safety and welfare of the City and its residents;*
- guide public and private policy and action in providing adequate and efficient transportation, water, sewerage, drainage, schools, parks, recreation facilities and other public facilities and requirements;*
- provide the most beneficial relationship between the uses of land and buildings,*
- provide efficient, multi-modal circulation throughout the City, particularly in order to avoid congestion in the streets and highways, and to provide for the proper location and width of streets and building lines in accordance with the Major Street Map;*
- establish reasonable standards of design and procedures for site plans, subdivisions and resubdivisions, in order to encourage the orderly layout and use of land;*
- ensure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision;*
- prevent pollution of the air and waterways;*
- encourage the wise use and management of natural resources throughout the City;*
- preserve the natural beauty and topography of Olathe and to ensure appropriate development preserving natural features; and*
- secure dedication of public improvements that conform to City standards, specifications and the Capital Improvement Program.”*

**SECTION THREE:** Section 18.30.080 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

## **“18.30.080 Easements**

### **A. Utility Easements**

#### **1. Applicability**

Utility easements ~~shall~~ must be provided where a public or private utility is required by this chapter.

#### **2. Location**

The utility easements ~~shall~~ must be adjacent to the existing and/or proposed right-of-way, and be centered on rear or side lot lines.

#### **3. Width**

Utility easements ~~shall~~ must be at least fifteen (15) feet wide when dedicated for a City utility, for ten (10) feet wide when dedicated for any other utility placement. A sanitary or drainage easement, which is combined with another utility for a dual-purpose easement, ~~shall~~ must be at least twenty (20) feet wide. However, the City Engineer may increase or decrease the required easement width where required by local conditions and pipe size.

#### **4. Dedication**

The utility easements ~~shall~~ must be dedicated to the City of Olathe or to the utility provider for their intended purpose.

### **B. Common Driveways**

See § [18.30.050.E](#).

### **C. Drainage**

#### **1. ~~Applicability~~Applicability**

If a subdivision is traversed by a watercourse, drainage way, channel, stormwater infrastructure, stream or the regulatory floodplain, then a storm water easement ~~shall~~ must be provided.

## 2. Width and Configuration

- a. The easement ~~shall~~ must conform substantially to the lines of the watercourse.
- b. The easement ~~shall~~ must have sufficient width and construction to provide adequate storm water drainage and maintenance access.
- c. Drainage easements ~~shall~~ must be a minimum of fifteen (15) feet for enclosed structures and twenty (20) feet for open (paved or grass lined) channels where they cross private property. The City Engineer may adjust the required width where needed to comply with subsection b, above.

## 3. Location

- a. Drainage easements ~~shall~~ must be separate from utility easements.

## 4. Recreational Easements

Recreational easements are required where parks or open space areas on plats are public, part of a public park or open space, or provide a connecting link to public recreational use areas such as lakes, parks and multi-purpose trails.

## 5. Public Easements

Public utility easements ~~shall~~ must be provided when necessary and be adjacent to the proposed right-of-way. The minimum width ~~shall~~ must be at least ten (10) feet wide and dedicated to the City of Olathe for the purpose of placing water and sanitary sewer lines.”

**SECTION FOUR:** Section 18.30.130 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

### “18.30.130 Landscaping, Buffers and Screening

*This chapter protects and preserves the appearance, character, health, safety and welfare of the City. Specifically, these regulations:*

- *Preserve and protect existing vegetation and trees;*
- *Maintain and improve environmental conditions by providing shade, air purification, oxygen regeneration, ground water recharge and decreased stormwater runoff;*

- *Abate noise, glare and heat;*
- *Encourage the use of xeriscaping and environmentally sustainable design/principles; and*
- *Improve the aesthetic quality and appearance of developed properties by establishing minimum landscaping, buffering and side design standards.*

#### **A. Applicability**

1. This section applies to any final site development plan or building permit.
2. This section does not apply to:
  - a. Agricultural uses in the "A" Agriculture district.
  - b. Any development in the "D" Downtown district.

#### **B. General Requirements**

1. All land area subject to a final site development plan and issued a building permit, which is not paved or covered by buildings, ~~shall~~ **must** be brought to finished grade and planted with turf, native grasses, or other appropriate ground covers.
2. The American Standard for Nursery Stock (see Technical References in Chapter [18.90](#)) applies to any technical landscaping term not already defined in this title.
3. The Planning Official ~~shall~~ **will** maintain/update the following preferred lists in order to meet City landscaping standards: trees and shrubs; street trees; and prohibited trees and shrubs.
4. Development constraints and conditions vary greatly among sites. The Planning Official may therefore approve landscape plans that deviate from strict compliance with this section, including the applicability of any subsection to a particular development, if the purpose and intent of this section (including any subsection) are met. Any proposed deviation ~~shall~~ **must** be clearly identified on the proposed landscape plan, which ~~shall~~ **will** be accompanied by a written description of the proposed deviation(s) and an explanation of how the purpose and intent of this section (including any subsection) are met by the proposed revised landscape plan.
5. If landscaping is not installed, maintained and replaced as needed to comply with the approved plan and/or building permit plans, the owner and its agent or agents are considered in violation of the terms of the certificate of occupancy.

## C. Landscape Plan

All plans submitted in support of a final site development plan or building permit ~~shall~~ must include a landscape plan sealed by a landscape architect licensed to practice in the state of Kansas. The Planning Official may waive this requirement for smaller projects such as expansions, renovations, and sign installations. The landscape plan ~~shall~~ must include the information required by Chapter [18.94](#).

## D. Species and Installation

### 1. Generally

All landscape materials ~~shall~~ must be installed in accordance with the current planting procedures established by the most recent edition of the American Standard for Nursery Stock.

### 2. Design Principles

- a. Landscape design and species ~~shall~~ must be used to create visual continuity throughout the development.
- b. Landscape coordination ~~shall~~ must occur among all phases of the development area.
- c. Trees, shrubs and other landscaping materials depicted on the approved final site development plans are considered site improvements in the same manner as parking, building materials and other details.
- d. A variety of different species (including both deciduous and evergreen species) ~~shall~~ will be incorporated into the site design to provide visual interest, as well as disease and pest resistance.
- e. At least one-third ( $\frac{1}{3}$ ) of the plantings ~~shall~~ must be evergreen species.
- f. Plant materials ~~shall~~ must be placed intermittently against long expanses of building walls, fences and other barriers to create a softening effect.
- g. Earthen berms and existing topography ~~shall~~, whenever practical, be incorporated into the landscape treatment of a site.
- h. Required landscape plantings ~~shall~~ must be coordinated with the location of utilities, driveways and traffic sight distance triangle areas.

- i. Trees ~~shall~~ must not be placed within public utility easements, but within adjacent areas that do not conflict with such public easements and meet site landscaping requirements.
- j. Planting design ~~shall~~ will coordinate the locations of trees to allow access to utilities with minimal disruption to the trees and their supporting root systems, while avoiding increased service costs to the utilities.

3. The Planning Official may approve exceptions to the location and spacing of trees to accommodate the location of public utilities.

4. Any area of a site not intended for a specific use, including a commercial pad site intended for future development, ~~shall~~ must be seeded unless retained in its natural state. In all cases the site ~~shall~~ will be maintained.

5. Vegetative stabilization and management techniques ~~shall~~ must be used at a site after construction is completed. The applicant ~~shall~~ must protect disturbed areas from any unnecessary run-on of stormwater from adjacent sites.

**6. Approved Species List**

The Planning Official ~~shall~~ will publish a comprehensive list of approved planting materials (the “approved species list”), and nuisance species or prohibited plants that are prohibited in required landscape areas. The applicant ~~shall~~ will select planting materials corresponding with the approved species list. The Planning Official may approve a landscape plan with species not shown on the approved species list if:

- a. The species are comparable in appearance and durability to the approved species; and
- b. Are normally grown in northeastern Kansas, or are adaptable to the climate and growing conditions of northeastern Kansas and are not invasive.

**7. Minimum Plant Specifications**

Minimum planting specifications are:

Category	Specifications
<b>Deciduous shade trees</b>	2½- to 3-inch caliper measured 6 inches above ground
<b>Evergreen trees</b>	6 to 8 feet in height

Category	Specifications
<b>Small deciduous or ornamental trees</b>	1- to 1½-inch caliper measured 6 inches above ground. For multi-trunk clusters (3 or more trunks) the smallest trunk <del>shall</del> <u>will be at least</u> be ¾ inch.
<b>Deciduous and Evergreen Shrubs</b>	24-inch-high plant size. Spacing from 3 to 5 feet apart depending upon species. Native plants should use the largest size available in the area. The seed stock for native plants <del>shall</del> <u>must</u> be grown within a 200 mile radius of the job site.
<b>Ground cover plants</b>	Ground cover <del>shall</del> <u>will</u> be planted in a number as appropriate by species to provide 50 percent surface coverage.

## 8. Turf

- a. Turf ~~shall~~ will be used where necessary to provide coverage and soil stabilization.
- b. Seeding may be approved in lieu of turf at the time of final site development plan approval by the Planning Commission, or, in the case of plats, by the Planning Official.

## 9. Native Vegetation, Drought Resistance/Xeriscape and Irrigation

- a. Native vegetation and drought resistant plant material ~~shall~~ will be used wherever possible.
- b. If native vegetation or drought resistant plant materials are not used, then an irrigation system ~~shall~~ must be installed to provide water during a three (3) year establishment period.
- c. Native vegetation and xeriscape plants may exceed the height limit for vegetation provided in Section [6.09.050](#) of the municipal code.
- d. Xeriscape landscape practices are allowed as a way to minimize the need for supplemental watering. The following techniques ~~shall~~ must be used where possible:
  - (1) Using plant materials with lower moisture requirements;
  - (2) Selecting plants on the basis of specific slope, aspect, soil and micro climate conditions;
  - (3) Using native and adapted plant species;
  - (4) Minimizing the amount of irrigated turf area;

- (5) Planting and designing slopes to minimize runoff, using terracing in lieu of a consistent slope, where possible;
- (6) Separating irrigation zones according to plants' water requirements to reduce evaporation;
- (7) Emphasizing soil improvement by conserving topsoil, deeply loosening soil and incorporating organic matter and amendments based on soil tests;
- (8) Using mulch in planting areas to reduce weed growth, promote soil cooling and reduce evaporation.

#### **10. Substitute Planting Materials**

- a. After the landscape plan is approved and before planting occurs, the Planning Official may approve comparable substitute planting materials if:
  - (1) The approved plants and landscape materials are not available at the time that installation is to occur, or
  - (2) Other unforeseen conditions prevent the use of the exact materials shown on the approved landscape plan.
- b. If the substitute planting materials are on the approved species list, no new landscape plan is required.
- c. A new landscape plan is required if the substitute planting materials are not on the approved species list. The applicant is not required to resubmit any other applications related to the landscaping plan (such as a site development plan or rezoning). The Planning Official may approve, approve with conditions, or deny the landscape plan. The applicant may appeal this decision to the City Manager.

#### **E. Maintenance**

- 1. The developer, its successor and/or subsequent owners and their agents ~~shall~~ will maintain landscaping on the property on a continuing basis for the life of the development.
- 2. Plant materials which exhibit evidence of insect pests, disease and/or damage ~~shall~~ must be appropriately treated. Dead plants ~~shall~~ must be promptly removed and replaced.
- 3. All landscaping is subject to periodic inspection by the Planning Official or designee.

4. The property owner ~~shall~~ will maintain landscape areas in good condition and in a way that presents a healthy, neat and orderly appearance. This maintenance ~~shall~~ must include weeding, watering, fertilizing, pruning, mowing, edging, mulching or other maintenance, in accordance with acceptable horticultural practices.

5. The City may cause removal of any dead or diseased trees, plants and shrubs on private property within the City, when those trees, plants and shrubs constitute a hazard to life and/or property or harbor insects or disease which constitutes a potential threat to other trees, plants or shrubs within the City. If the Planning Official determines that removal of any diseased tree, plants or shrubs is necessary; the Planning Official ~~shall~~ will provide the property owner written notice of the required maintenance or removal.

## **F. Timing of Landscaping**

### **1. During the Development Process**

Minimum timing requirements for landscaping (excluding street trees and master fence and screening improvements) are as follows:

a. For residential, nonresidential or mixed-use development, all required landscaping materials, both living and nonliving, ~~shall~~ must be in place prior to the time of issuance of a final certificate of occupancy, weather permitting. In periods of adverse weather conditions, a temporary certificate of occupancy may be issued, subject to the posting of a cash escrow or irrevocable letter of credit in an amount equal to the estimated cost of the landscaping, with the estimated cost certified by a landscaping provider. A contract letter or bill of sale from a landscape company or garden center for the required landscape materials may be accepted in lieu of a cash escrow or irrevocable letter of credit. The cash escrow or irrevocable letter of credit may be forfeited if the landscaping is not completed within one (1) year after the issuance of the temporary certificate of occupancy. Forfeiture of any cash escrow or irrevocable letter of credit ~~shall~~ will not relieve the owner of the responsibility to complete the required landscaping.

## **G. Street Trees**

### **1. Applicability**

a. Street trees are required in all residential and nonresidential districts along all local and collector streets.

b. Street trees are required along street right-of-way of public or private street frontage, excluding arterial and minor arterial streets where perimeter landscaping is required by this section.

## 2. General Requirements

a. Street trees ~~shall~~ must be spaced as uniformly as possible, with an average spacing of forty (40) linear feet between trees in all districts, resulting in at least one (1) tree per lot in residential districts.

b. A minimum of two (2) street trees are required on corner lots.

c. Street trees count toward the required number of trees within the interior of the lot only in residential districts for single-family and two-family dwellings.

d. Exceptions to the location and spacing of trees may be allowed to accommodate for the location of utilities, streetlights, driveways, storm drain structures, sidewalks and traffic sight distance triangle areas.

e. At least six (6) feet of space is required between the right-of-way or sidewalk and the back of curb for the planting of street trees.

f. The applicant ~~shall~~ will coordinate adequate clearance between street trees and other infrastructure to allow for the location of street trees within the right-of-way, wherever practical, and ~~shall~~ will promote the longevity of the street trees to avoid premature loss of the trees. The street tree plan ~~shall~~ will coordinate the locations of street trees to allow access to utilities with minimal disruption to the street trees and their supporting root systems while avoiding increased service costs to the utilities.

g. See Section [18.30.220.E](#), Sight Distance.

h. No tree, shrub, or woody vegetation ~~shall~~ will be planted within a distance of ten (10) feet from any fire hydrant or fire department connection (FDC) to the sprinkler system.

i. No trees ~~shall~~ will be planted within fifteen (15) feet of a street light.

### 3. Procedures

#### a. Timing

Street tree species and typical spacing requirements ~~shall~~ must be provided with all preliminary plats and site development plans. Trees ~~shall~~ must be planted prior to occupancy of the building.

### 4. Required Species

a. The Planning Official ~~shall~~ will determine the botanical and common names of the street trees to be planted based on the requirements of this section.

b. Trees to be used to meet City street tree standards are as follows:

<b>Botanical Name</b>	<b>Common Name</b>
Acer platanoides var.	Norway Maple
rubrum var.	Red Maple
saccharum var.	Sugar Maple
Carya illinoienses	Pecan
Celtis occidentalis	Hackberry
Cladrastis lutea	American Yellowwood
Ginkgo biloba	Ginkgo (male, seedless)
Gleditsia triacanthos inermis var.	Honeylocust (thornless, podless)
Gymnocladus dioicus	Kentucky Coffeetree
Liquidambar styraciflua	Sweetgum Blackgum
Liriodendron tulipifera	Tuliptree
Platanus x acerfolia	London Planetree
Quercus acutissima	Sawtooth Oak
bicolor	Swamp White Oak
borealis	Northern Red Oak

Botanical Name	Common Name
imbricaria	Shingle Oak
macrocarpa	Bur Oak
muhlenbergi	Chinquapin Oak
robur	English Oak
Tilia americana	American Linden
cordata var.	Little Leaf Linden
tomentosa	Silver Linden
Sophora japonica	Japanese Pagoda tree
Ulmus carpinus var. buisman	Buisman Elm
parvifolia	Lacebark Elm
Zelkova serrata	Zelkova

- c. The Planning Official may approve other species that are similar in quality, durability, and appearance, and that are suitable for the climate and rainfall conditions in Olathe.

## 5. Prohibited Plants/Trees

Include Ailanthus, White and Silver Birch, Box Elder, Catalpa, Cottonwood, Siberian Elm, "Fruit" trees, Silver Maple, Mimosa, Pin Oak, Russian Olive, Poplar, weeping trees, Willows and all Ash species. Prohibited plants include those that are invasive or potentially damaging to streets, sidewalks, utilities, drainage improvements, and foundations.

## 6. Street Tree Specifications:

All street trees ~~shall~~ must meet the requirements of subsections [G.1](#) through [G.5](#), above, except that the minimum size of newly installed street trees may be reduced to two (2) inch caliper as measured six (6) inches above ground. Trees ~~shall~~ must be guaranteed by a one (1) year warranty period.

## 7. Right-of-Way

- a. If the street trees are located in the right-of-way, the adjoining property owner ~~shall~~ must maintain them as depicted on the subdivision(s) street tree plan.

- b. The adjoining property owner ~~shall~~ must remove and replace street trees within the right-of-way (as depicted on the subdivision(s) street tree plan) that are dead, dying, diseased or otherwise unsafe at any time as depicted on the subdivision(s) street tree plan.

## H. Landscaping along Arterial/Collector Streets (Master Fence/Screening Plan)

*The purpose of the master fence/screening plan is to increase privacy, mitigate noise, reduce glare and enhance the aesthetics of the streetscape through the use of fences, walls, berms and professional landscaping to separate residential units from thoroughfare streets.*

### 1. Applicability

Where a subdivision for property zoned R-1 through R-4 is adjacent to an arterial street or where rear lot lines are adjacent to a collector roadway, a master fence/screening plan for all areas abutting the arterial street ~~shall~~ will be submitted for approval by the Planning Official prior to recording the final plat.

### 2. Required Landscape Area

- a. Landscape tracts ~~shall~~ must have a landscape area with a minimum width of **twenty-five (25) feet along an arterial** roadway and **fifteen (15) feet along a collector** roadway.
- b. This landscape area is in addition to the minimum required lot width and yard setback requirements of the zoning district.

### 3. Master Fence/Screening Plan Approval

- a. The Planning Official, or designee, ~~shall~~ must review the plans with regard to proper building and plant materials, setbacks, height, grading and their effectiveness in creating privacy and mitigating noise.
- b. Improvements indicated on the master fence/screening plan are considered a private subdivision improvement.
- c. The applicant may:
  - (1) Complete the landscaping improvements prior to the issuance of any building permit for any lots within the affected phase covered by the master landscape/screening plan, or

(2) Submit a bond or irrevocable letter of credit of up to two (2) years, equal to the value of the landscaping material as outlined in bids from the developer's landscape installer or contractor. The bond or letter ~~shall~~ will be held by the City until all landscaping is installed per the approved plan after inspection and acceptance by the City.

#### 4. Landscaping

a. The approved master fence/screening plan ~~shall~~ must contain the following landscaping materials as a minimum for each one hundred (100) linear feet, or portion thereof, of arterial street frontage. Minimum size requirements ~~shall~~ must be as stated in Section ~~18.62.070~~ 18.30.130.D.7.

(1) Eight (8) evergreen trees.

(2) Two (2) shade trees.

(3) One (1) ornamental tree.

b. The landscape area ~~shall~~ must not impair drainage and utility placements.

c. The required minimum landscape area ~~shall~~ must not be located within a utility easement.

d. For each tree preserved within the landscape tract which meets or exceeds the minimum size requirements outlined in subsection D.7, above, a one (1) to one (1) credit ~~shall~~ will be given against the minimum tree requirements of this section.

e. The above landscaping materials may be deviated from if an alternative list of materials is approved by the City Planner which achieves comparable screening and buffering.

#### 5. Grass areas

Grass areas located within the arterial street right-of-way as well as the landscape tract ~~shall~~ must be sodded. Use of appropriate drought-tolerant ground cover to reduce grass areas is encouraged in landscape tracts when approved through the planning process.

#### 6. Fences/Walls:

a. Fences or walls are not required as part of the master landscape/screening plan.

**b.** In cases where the developer of the subdivision chooses to install a fence or wall, all types of fences installed by the developer, except wrought iron, split rail or similar see-through fence/wall types, must be located one (1) foot inside the boundaries of the landscape tract along the residential side of the tract. Wrought iron or similar see-through fences may be installed by the developer anywhere within the landscape tract, except they may be no closer than five (5) feet from the right-of-way line of the abutting arterial street.

## **7. Berms**

**a.** Berms are not required as part of the master fence/screening plan. In cases when the developer chooses to install a berm, the following standards apply:

- (1)** The slope of all installed berms ~~shall~~ must not exceed three (3) to one (1);
- (2)** All berms ~~shall~~ must be consistent with good engineering and landscape architectural design; and
- (3)** The grading plan for berms within the landscape tract ~~shall~~ must be consistent with the approved subdivision grading plan and ~~shall~~ will be approved by the City Engineer.

## **8. Maintenance/Irrigation:**

### **a. Maintenance**

The final plat and deed restrictions ~~shall~~ must contain language as approved by the City Planner which identifies the organization (e.g., a homes association) that will be the entity having permanent responsibility and authority to enter upon the said landscape tract to maintain, plant, replant, replace, mow, clip, trim, spray, chemically treat, repair, and otherwise maintain any and all grass, trees, shrubs, flowers, plants, fences, and walls. Said deed restrictions ~~shall~~ will be recorded with the Register of Deeds of Johnson County concurrently with the recording of the final plat.

### **b. Irrigation**

Landscape areas ~~shall~~ must be irrigated as necessary to maintain required plant materials in good and healthy condition. Irrigation systems ~~shall~~ must comply with the following standards:

- (1) All landscape areas ~~shall~~ must be provided with a readily available water supply with at least one (1) outlet within one hundred (100) feet of the plants to be maintained. The use of nonpotable water for irrigation purposes ~~shall~~ will be encouraged.
- (2) No permanent irrigation system is required for an area set aside on approved plans for preservation of existing natural vegetation.
- (3) Temporary irrigation systems installed pursuant to acceptable xeriscape landscape practices may be used to meet the standards of this section. Xeriscape means to landscape using vegetation that is drought tolerant or water conserving in character.
- (4) Irrigation systems ~~shall~~ must be continuously maintained in working order and ~~shall~~ be designed so as not to overlap water zones, or to water impervious areas.
- (5) Whenever practical, irrigation systems ~~shall~~ must be designed in zones to apply water onto shrub and tree areas on a less frequent schedule than those irrigating grass areas. When technically feasible, a rain-sensor switch ~~shall~~ must be installed on systems with automatic controllers.
- (6) No irrigation system ~~shall~~ will be installed or maintained abutting any public street which causes water from the system to spurt onto the roadway or to strike passing vehicular traffic.
- (7) The use of irrigation-quality effluent or reused water ~~shall~~ will be encouraged.

## I. Screening

Landscape plans for all developments ~~shall~~ must include a detailed drawing of enclosure and screening methods as provided below.

1. All exterior mounted and all roof-top building HVAC and mechanical equipment, vents, piping, roof access ladder, and utility meters must be located out of view or otherwise screened from public view from all adjacent streets and residentially developed or zoned properties. Screening must be accomplished with landscaping, screen walls, building elements, or a combination of these methods.

## 2. Rooftop and Building Mounted Utility Screening

- a. All applications for preliminary or final development plan approval must include information regarding anticipated rooftop equipment and building mounted equipment, including mechanical units, vents, pipes, and other appurtenances. Such equipment must be indicated on building elevations where the size and location of such equipment is known, and any anticipated equipment or equipment locations not yet determined must be described in the notes on the building elevations along with the estimated maximum dimensions of such equipment and the intended methods of screening.
- b. All rooftop equipment must be screened from public view with an architectural treatment which is compatible with the building architecture and integral to the overall appearance of the building. An example includes a parapet wall that includes the same building materials as the lower levels of the building façade.
- c. For purposes of this chapter, the phrase "architectural treatment compatible with the building architecture" does not include painted or prefinished rooftop equipment.
- d. For rooftop equipment not adequately screened by the parapet, a supplementary screen will be provided by the use of prefinished architectural metal panels, stucco panels, masonry walls, or similar building materials.
- e. The height of the screen must be no lower than the height of the equipment.
- f. Screening must not interfere with Fire Department access to the roof.
- g. Building mounted equipment will be screened with either landscaping or architecture screening which may also include painting as required by the Approving Authority.
- h. The Approving Authority may waive or amend rooftop equipment or building mounted equipment screening requirements as part of a preliminary or final site development plan if the applicant provides a sight line visibility study and alternative screening provisions are provided if needed, and the approving authority finds that:

- (1) The building is located at a high elevation in relation to surrounding properties, and it is demonstrated that rooftop equipment will not be visible; or
  - (2) The building is located in the middle of an industrial park and rooftop equipment is not visible from arterial roadways or residential properties, and will not have a negative impact upon any sensitive areas or scenic view or vistas; or
  - (3) The building is sited in a manner where the location and setback of rooftop equipment from the building edge in relation to the elevation and visibility of surrounding properties is such that the equipment will not be visible from any distance and additional screening measures are not required.
- i. In the event that rooftop equipment or building mounted equipment location has not been determined at the time of final development plan approval, or changes are made to said equipment after the final development plan is approved, the applicant must provide suitable screening to meet the above criteria, subject to review and approval by the Planning Official. (Ord. 18-48 § 2, 2018; Ord. 16-20 §4, 2016; Ord. 15-16 §3, 2015)
- ~~13.~~ Areas or facilities used for trash, recycling containers, service and loading are to be located out of public view from streets, adjacent residential properties, and other highly visible areas such as parking lots, access drives, and similar areas.
- ~~24.~~ Trash containers, trash compactors, and recycling containers ~~shall~~ must be screened from public view on all four (4) sides:
- a. On three (3) sides with a six (6) to eight (8) foot solid wall constructed of masonry of a color and form that is consistent and compatible with the principal building architecture of the site; and
  - b. On one (1) side with a gate~~;~~ and
  - c. The container/compactor areas ~~shall~~ must be appropriately landscaped~~;~~ and
  - d. Enclosures must be incorporated into and made part of the principal building when possible and must be located behind or to the rear of the principal building in areas less visible from public streets and adjoining properties.
- ~~3.—Recycling containers shall be screened from public view on the front or rear side with a six (6) to eight (8) foot solid wall constructed of masonry.~~

**45.** The screening requirements of this subsection do not apply to containers used to collect clothing donations, or publicly accessible recycling containers. See Section 18.50.020.F for locational requirements.

**56.** Alternative compatible, durable materials for the screening of trash containers and trash compactors may be approved by the City through the final site development plan approval process.

**67.** Exterior ground-mounted or building-mounted equipment including, but not limited to, mechanical equipment, utilities' meter banks and coolers ~~shall~~ must be screened from public view with three (3) sided landscaping or with an architectural treatment compatible with the building architecture. Mechanical equipment ~~shall~~ will be subject to the following:

**a.** Preferred locations for utility structures (cabinets), as listed in order of preference are: 1) nonresidential properties; 2) rear yards; 3) street side yards on a corner lot behind the front yard setback; 4) front yards within the required side yard setback; and 5) arterial or collector landscape easements.

**b. Size and Height**

Residential: maximum height is thirty-six (36) inches above grade. Office/Commercial: limited to six (6) feet in height.

**c. Arterial or Collector Streets**

**(i) Placement**

Utility structures ~~shall~~ must be located on the interior façade of the building, away from arterial or collector streets, and when possible, recessed into the wall of the structure.

Utility structures ~~shall~~ will not be placed along collector or arterial streets except when approved by the City.

**d. Location in Public Right-of-Way**

Utility structures ~~shall~~ must be located behind the sidewalk and are subject to approval by the City Engineer. When requested within public right-of-way a landscaping plan ~~shall~~ will be required with the right-of-way permit.

**e. Landscaping**

Landscaping selected for screening ~~shall~~ will be provided for on three (3) sides of the structure and shield the structure from public view.



**Adequate Three-Sided Screening**



**Decorative Wall Screening at Building**

**f. Other Requirements**

Utility structures located within public right-of-way (in front of sidewalk) require approval of an administrative review application.

**78.** All buildings or additions in nonresidential districts ~~shall~~ must provide a solid screen fence or wall at least six (6) feet in height within all rear and side yards abutting property zoned for residential purposes. The screening ~~shall~~ must be placed so the required perimeter landscape area is located between the property line and the fence or wall. The screening ~~shall~~ should not be placed on property lines or within the landscape area of the development and ~~shall~~ not extend in front of the building line of adjacent dwellings. The screening is not required where similar screening exists on the abutting residential property or where a screened storage lot is provided.

**89.** In industrial and commercial districts, storage of materials, products or equipment outside of a fully enclosed building ~~shall~~ must be one hundred (100) percent screened from public view, except when adjacent to another storage area which is one hundred (100) percent screened from public view.

**910.** Outdoor display confinement areas ~~shall~~ must be enclosed with materials compatible to the building architecture such as decorative fencing (i.e., wrought iron), a building wall or other similar enclosure. Limited visibility into the display confinement area may be permitted depending upon the location of the area and the visibility of the area from nearby roadways. The display merchandise may not extend above or be stacked higher than the confinement area enclosure.

**101.** For purposes of this section, the phrase “screened from public view” means not visible from the subject property from adjoining properties or any street right-of-way at any distance.

## **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) Any change of use that does not increase the existing building square footage or parking area.
- (4) Single-family dwellings located on an existing lot of record.
- (5) Contiguous commercial parcels or land areas under common ownership.

*Commentary: Subsection [J.1.b\(5\)](#), above, 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.*

## 2. Reduction in Required Buffers

The buffer requirements are reduced where a buffer exists on an abutting property, and the net buffer satisfies the minimum buffer requirements of this section.

## 3. Types of Buffers Required

a. Table 18.30.130-1 shows when a buffer is required between an adjoining zoning district. Uses in the "adjoining zoning district" are not required to provide the same buffer, but may be subject to a separate additional buffer requirement as shown in Table 18.30.130-1. The applicant ~~shall~~ [must](#) install the type of buffer as indicated in the table.

Commentary: For example, if the proposed development is located in a "C-1" zoning district (see row (5) of the table), and the "adjoining zoning district" is zoned "R-1" (see the column (2) under adjoining zoning district), then the applicant ~~shall~~ [must](#) install a type 3 buffer.

b. In order to encourage the preservation of natural vegetation, the applicant may substitute a type "N" buffer consistent with subsection [J.4](#), below, Table 18.30.130-2 for any category of required buffer.

**Table 18.30.130-1. Required Buffers**

		Adjoining Zoning District								
		1	2	3	4	5	6	7	8	9
District ↓		<b>AG</b>	<b>R-1, R-2</b>	<b>R-3, R-4</b>	<b>N</b>	<b>O, C-1</b>	<b>C-2, C-3, C-4, BP, M-1</b>	<b>M-2, M-3</b>	<b>D, TOD</b>	<b>PD, PR</b>
1	<b>AG</b>	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2	<b>R-1, R-2</b>	N/A	N/A	N/A	N/A	N/A	4B	4B	N/A	N/A
3	<b>R-3, R-4</b>	1	3	N/A	N/A	N/A	5B	5B	N/A	N/A
4	<b>N</b>	1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
5	<b>O, C-1</b>	1	3	2 or 3	N/A	1	1	1	1	1
6	<b>C-2, C-3, C-4, BP, M-1</b>	1	3, 4A, or 5A <sup>1</sup>	3, 4B, or 5A <sup>1</sup>	3, 4B, or 5A <sup>1</sup>	1	1	1	1	1
7	<b>M-2, M-3</b>	1	3, 4A, 5A or 6 <sup>1</sup>	3, 4A, 5A or 6 <sup>1</sup>	3, 4A, 5A or 6 <sup>1</sup>	2	2	1	1	1
8	<b>D, TOD</b>	1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
9	<b>PD, PR</b>	1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

<sup>1</sup> Buffers vary based upon the size of the development area adjacent to residential zoned land. Development areas less than five (5) acres in size require buffer type 3. Development areas between five (5) to ten (10) acres in size require buffer type 4A. Development areas greater than ten (10) acres in size require buffer type 5A or 6.

#### 4. Buffer Types

- a. There are ~~ten (10)~~ nine (9) types of buffers. Table 18.30.130-2 shows the minimum width and number of trees and/or plants required for each one hundred (100) linear feet for each buffer.
- b. Each buffer type provides several plant material options. The applicant may either plant new trees or plants, or preserve existing trees or plants, within the required buffer which meet the requirements of this subsection.

c. Plant materials are required in both the 4B and 5B buffer types below. The applicant may request both the number of plantings and type (mix) of planting for the development during the plan review process for approval by the Approving Authority.

**Table 18.30.130-2. Minimum Plant Materials Required for Each Buffer Type**

Buffer Type	Minimum Width (in Feet)	Trees <sup>1</sup>			Shrubs and Ornamental Grasses per 100 Linear Feet <sup>2</sup>	Constructed Features <sup>3</sup>
		Deciduous Shade Trees per 100 Linear Feet	Ornamental Trees per 100 Linear Feet	Evergreen Trees per 100 Linear Feet		
1	10	1	1	1	20	None
2	15	2	3	2	35	None
3	20	1.5	1	1.5	35	Min. 6-ft. high wall or berm
4A	25	4	2	3	40	Min. 9-ft. high wall and berm combination (e.g., 6-ft. wall and 3-ft. berm)
4B	60	None	None	None	None	None
5A	30	5	3	5	45	Min. 11-ft. high wall and berm combination (e.g., 6-ft. wall and 5-ft. berm)
5B	75	None	None	None	None	None
6	40	5	4	5	50	Varied berm with 4-ft. average height
N <sup>4</sup>	20% reduction with minimum of 10 feet	Any combination of trees or shrubs is acceptable where: (1) the existing vegetation provides at least the number of equivalent planting units required by Table 18.30.130-2, or (2) the existing vegetation provides complete visual screening from the adjoining property.				--

<sup>1</sup> See Section [18.30.130.D](#) for acceptable tree species and sizes.

<sup>2</sup> See Section [18.30.130.D](#) for acceptable shrub species and sizes. A minimum one-third ( $\frac{1}{3}$ ) of the shrubs ~~shall~~ will be evergreen.

3 A double row of evergreen trees may be substituted for a screening wall, but may not be counted toward minimum requirements for trees, shrubs, and ornamental grasses.

4 Natural areas with native vegetation may be used to meet any of the above buffer requirements if the criteria of Table 18.30.130-2 are met. The width of a buffer ~~shall~~ will be reduced by twenty (20) percent if the minimum width is at least ten (10) feet. Irrigation requirements do not apply if no additional planting is required to meet these criteria.

5. The number of **equivalent planting units** (EPUs) for purposes of applying a type "N" buffer, above, are calculated based on the following ratios: Canopy Trees = 1 EPU, Understory = 0.5 EPU, Large Shrubs = 0.25 EPU, Medium Shrubs = 0.1 EPU, and Small Shrubs = 0.05 EPU. Each buffer type "1" through "6," above, is assigned the following number of EPUs for purposes of determining whether a type "N" buffer may be substituted:

Buffer Type	EPUs
1	1
2	2
3	1.5
4A or 4B	3
5	4
6	5

## 6. Location of Buffer

- a. A buffer required by this section ~~shall~~ must be provided along the side lot line of abutting uses.
- b. The required perimeter landscape area ~~shall~~ must be located outside of the fenced area of the development between the fence and the street, unless this requirement is otherwise modified with final site development plan approval.
- c. Buffers are not required along the front property line.

## 7. Permitted Uses Within the Buffer

- a. The buffer may be included in the required yard or building setback.
- b. No active recreation area, storage of materials, parking, or structures, except for necessary utility boxes and equipment, ~~shall~~ will be located within the buffer.

- c. Parking is permitted within the building setback, but not within the minimum width of the buffer.
- d. Buffers may be used as part of a greenway as defined in the parks/open space standards.

#### **K. Residential Lots**

1. In residential districts, large deciduous shade or evergreen trees are required within the interior of each lot at a ratio of three (3) trees for every single-family dwelling, four (4) trees for every two-family dwelling and one (1) tree for every dwelling unit for multifamily buildings.
2. For single-family and two-family dwellings, at least one (1) required interior lot tree may be a street tree in compliance with subsection [G](#), above.
3. Multifamily developments ~~shall~~ [must](#) have street trees in addition to the required interior lot trees. Perimeter and buffer landscaping trees ~~shall~~ [will](#) not count toward the required number of trees within the interior of any lots.
4. Residential lot trees ~~shall~~ [must](#) be planted in accordance with subsection [G.3](#), above.

#### **L. Nonresidential Landscaping**

1. Within the front and corner side yards where a street separates a nonresidential use from property zoned or designated on the Comprehensive Plan Map for residential use, a continuous fifteen (15) foot landscape area ~~shall~~ [must](#) be provided with landscaping, clustered or spaced linearly and need not be placed evenly, at a rate of one (1) deciduous shade or evergreen tree for every thirty (30) feet of linear street frontage. In addition, one (1) ornamental tree ~~shall~~ [must](#) be planted for every three (3) required deciduous shade or evergreen trees.
2. Where a street separates a nonresidential use from property zoned or designated on the Comprehensive Plan Map for nonresidential use, a continuous ten (10) foot landscape area ~~shall~~ [must](#) be provided with landscaping at a rate of one (1) deciduous shade or evergreen tree for every fifty (50) feet of linear street frontage. In addition, one (1) ornamental tree ~~shall~~ [must](#) be planted for every three (3) required deciduous shade or evergreen trees.

#### **M. Parking and Vehicular Use Areas**

All multifamily residential and nonresidential developments ~~shall~~ [must](#) include the following interior landscaping standards within their parking and vehicular use areas:

## 1. Generally

Landscaping and planting areas ~~shall~~ must be dispersed throughout the parking lot.

## 2. Perimeter

a. Along street rights-of-way, parking areas ~~shall~~ must be screened from public view in one (1) of the methods described below:

(1) A landscape mix of shrubs, trees and other plantings to create a visual screen of the parking and vehicular. Trees should be spaced with at least one (1) tree per thirty (30) linear feet of landscape strip, with a width of at least ten (10) feet; or

(2) Shrubs that form a continuous visual screen at least three (3) feet in height; or

(3) A decorative wall of a material and design compatible with the architecture of the primary structure not to exceed four (4) feet in height; or

(4) A berm at least three (3) feet above the adjacent elevation of the street or parking area, whichever is highest, with a maximum slope of three to one (3:1) and ~~shall~~ must have a crown of at least two (2) feet. Berms will include plantings such as shrubs, trees or other landscaping.

## 3. Interior

a. The interior dimensions of any planting area or landscape islands ~~shall~~ must be at least one hundred sixty-five (165) square feet in area. Landscape islands ~~shall~~ must be at least nine (9) feet wide, as measured from back of curb to back of curb, and ~~shall be~~ constructed at a ratio of one (1) per each twenty (20) parking spaces. Each area ~~shall~~ must be protected by vertical curbs or similar structures, and be designed and grouped into a parking and vehicular use area to create defined aisles and entrances for on-site traffic circulation.

b. One (1) shade tree ~~shall~~ must be provided for every parking and vehicular use landscape island. Areas where utility conflicts restrict tree plantings, other landscape plantings such as shrubs and ornamental grasses may be approved by the City.

c. Landscape aisles and strips between parallel parking rows ~~shall~~ must be a minimum of ten (10) feet in width. When incorporating pedestrian walkways, the aisles and strips ~~shall~~ must be a minimum of twenty (20) feet in width to accommodate vehicular overhangs, walks, lights, posts and other appurtenances. Landscape aisles and strips ~~shall~~ must include

medium to large deciduous trees at a minimum of one (1) tree every thirty (30) linear feet, in addition to other parking lot landscape requirements.

**d.** Primary landscape materials ~~shall~~ must be trees which provide shade or are capable of providing shade at maturity. Ornamental trees, evergreen trees, shrubbery, hedges and other planting materials may be used to complement the landscaping, but ~~shall~~ not be the sole means of landscaping. Earth berms, existing topography and decorative walls ~~shall~~ must be integrated with the landscape plan where feasible.

**e.** No landscaping tree, shrub, fence, wall, or similar item ~~shall~~ will be placed in traffic zones of ingress or egress at street corners, or in the intersection of public right-of-way, which the City Engineer determines is an obstruction to visibility, or extends into a sight-distance triangle as set forth in Section [18.30.220](#), or is otherwise a traffic hazard.

**f.** Landscape islands in parking lots may alternatively be designed and planted to serve as dual-purpose and stormwater treatment areas. When landscaping islands are designed as a stormwater treatment area, trees are not required as the primary landscaping material if the City determines that trees are incompatible with native plantings proposed for use as a means of stormwater treatment.

**g.** Islands ~~shall~~ must be designed in locations based on the following priorities: defining major drives and vehicle lanes, delineating the end of parking rows and at aisle intersections and internal to the parking rows.

**h.** Plantings ~~shall~~ must anticipate foot traffic patterns, discourage foot traffic where dictated by safety concerns, and ~~shall~~ must provide adequate visibility for the safety of pedestrians and vehicles.

**i.** If earthen berms are constructed they ~~shall~~ must be at least to a height of two and one-half (2½) feet above the adjacent elevation of the street or parking/loading area, whichever is highest, ~~shall~~ to exceed a slope of three to one (3:1) and ~~shall~~ must have a crown of at least two (2) feet. The berm ~~shall~~ will be planted in ground covers and other plant materials to achieve a decorative effect.

## **N. Environmentally Sustainable Design/Principles**

Landscape plans ~~shall~~ must address:

1. The placement/arrangement of building(s) to minimize disruption to existing ecosystems and designing the building to minimize its footprint, and
2. Strategies such as stacking the building program, and sharing parking facilities with adjacent property owners, to minimize the building footprint, and
3. The relationship of open space to development footprint(s) on site biodiversity, and
4. Marking construction boundaries to minimize disturbance of the existing site and restore previously degraded areas to their natural state, and
5. If appropriate to the site, a soil/climate analysis to determine appropriate plant material and design the landscape with native or adopted plants to reduce or eliminate irrigation requirements, and
6. The feasibility of using stormwater and/or condensate water for irrigation, and
7. Whether native plants are incorporated in lieu of planted landscaping.

## **O. Building Façade/Foundation Landscaping**

*Purpose: Landscaping and planting areas provide a buffer between the parking lot or drives and building walls or pedestrian circulation. Landscape areas may be placed adjacent to the building wall or adjacent to the curb to coordinate with building overhangs and canopies, if any. Building landscaping is encouraged to include a variety of shrubs, ornamental trees and/or shade trees. Any trees used should accommodate pedestrian circulation.*

### **1. Applicability**

- a. This subsection applies to nonresidential developments, unless modifications to these standards are otherwise approved as part of final site development plan approval.
- b. This subsection does not apply to building façades that abut a sidewalk or the rear yard.

### **2. Location**

- a. Along any building façade or foundation that fronts upon a public right-of-way or a parking lot provided for the building, landscape areas ~~shall~~ must be provided equivalent to

a minimum of twenty-five (25) percent of each building façade or foundation. The landscape area may be a continuous area or comprised of several areas.

**b.** Building façades along service areas are excluded, unless the service area fronts upon a public right-of-way or common access drive.

**c.** Landscape areas may be placed adjacent to the building wall or adjacent to the curb, with walkways, overhangs or canopies between the landscape area and building wall. Landscape areas ~~shall~~ must generally not be placed under overhangs and canopies.

### **3. Planting**

**a.** Each landscape area ~~shall~~ must be planted with shrubs capable of reaching three (3) feet in height above the adjacent parking area or drive, covering a minimum of seventy-five (75) percent of the length of the landscape area.

**b.** A mixture of evergreen and deciduous shrubs ~~shall~~ must be used to maintain seasonal interest.

**c.** Ornamental trees (where appropriate), or shade trees should be included in the landscape design to further buffer the building façade from the drives and parking lot areas. In areas where pedestrian circulation is anticipated, trees with a branching habit conducive to walking under ~~shall~~ must be used. For example, Pin Oaks are not acceptable due to their descending branching habit.

**d.** Appropriate plant species should be installed so that mature tree limbs can be maintained at a minimum eight (8) foot clearance from ground level and so that shrubs do not exceed two and one-half (2½) feet in height for areas where it is important to maintain visibility for security and safety purposes.

**e.** Berms may be incorporated in the landscape areas if positive drainage from the building is provided.

**4.** Planting areas ~~shall~~ must have a minimum width of either six (6) feet or the equivalent of twenty (20) percent of the building façade height as measured from the ground elevation to the top of the wall or parapet, whichever is greater.

### **5. Irrigation**

Building façade and foundation landscape areas ~~shall~~ must be irrigated.

**P. Residential Traffic Islands, Thoroughfare Rights-of-Way, Planting Restrictions**

No trees, shrubs, woody vegetation, or other landscape improvements over two (2) feet in height are permitted on residential traffic islands or thoroughfare rights-of-way unless approved by the City Engineer and the Planning Official.”

**SECTION FIVE:** Section 18.30.135 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

**“18.30.135 Lighting**

**A. Applicability**

Parking areas with more than twenty (20) parking spaces ~~shall~~ must have exterior lighting for nighttime illumination that complies with this section.

**B. General Standards**

1. Lighting used to illuminate parking areas ~~shall~~ must be arranged, located, shielded or screened to direct light away from any adjoining or abutting residential district or any street right-of-way.
2. Exterior lighting ~~shall~~ must not be provided solely by building mounted light fixtures. Where used, the building-mounted fixtures ~~shall~~ must be located where not visible from street right-of-way or residential properties. Any building mounted light fixtures, landscape lighting or other outdoor light fixtures for aesthetic purposes ~~shall~~ will be identified on any site development plan.

**C. Building Exterior Lighting**

1. The following lighting standards apply to building mounted lighting and lighting cast on buildings or signs, not including Agricultural, Single-Family Detached Residential, and Two-Family Residential building types as defined in Section 18.15.020.F.
  - a. Exterior building-mounted lighting must be LED type (light produced via light emitting diodes) of a soft-white or bright-white light color and quality.

- b. Light fixtures must be up-cast or downcast in nature and must possess sharp, cut-off qualities to limit off-site glare. Light cast onto a building or sign must not shine past the wall plane. Exceptions may be made by the Approving Authority for decorative wall sconce type light fixtures.
- c. Illuminated banding, illuminated translucent panels, exposed neon, exposed lightbulbs (including LED bulbs), permanent string lights, and similar exterior building lighting are prohibited unless approved by the Approving Authority.

#### **C.D. Light Poles, Light Fixtures and Pole Base Criteria**

1. All light fixtures, for general area lighting, ~~shall~~ must be full cut-off type fixtures, which do not produce any light above 90 degrees from nadir (nadir being the angle pointing directly downward from the luminaire or fixture), equipped with flat lenses; and with fixed, nonadjustable, mounting arms or brackets. Light fixtures for landscaping lighting and decorative building lighting may allow light above 90 degrees from nadir.
2. The style of light poles and fixtures ~~shall~~ must highlight, complement, and reinforce landscape and architectural design as focal points of interest. However, all multi-family and non-residential sites within the "Original Town" Overlay District, where a parking area or lot is part of a redevelopment for a final site development plan as approved by the Planning Commission, ~~shall~~ must have antique globe/coach style light poles and fixtures as approved by the Planning Official. The following actions are exempt from installing such style light poles and fixtures of parking areas or lots for redevelopment: a parking lot permit not part of a new final site development plan approval, administrative review process, routine maintenance, existing site light pole and fixture consistency, and those situations deemed approved by the Planning Official.
3. Parking lot poles and light fixtures ~~shall~~ must maintain the same style, height, and color and intensity of lighting throughout the development area. Varying styles of light fixtures are permitted if it is demonstrated that the styles contribute to an overall theme for the area.
4. The maximum overall height of light fixtures is:
  - a. 30 feet for commercial shopping centers, individual nonresidential businesses and uses, multi-family developments, and office parks, and

- b. 20 feet when the uses listed above are located adjacent to residential development.
5. Concrete pedestals/bases ~~shall~~ must not exceed three (3) feet in height and ~~shall~~ must be included in the maximum overall light pole height.
  6. Non-residential parking lots that are located between the principal buildings and the street, or adjacent to a residential zoning district, ~~shall~~ must have their lighting levels for surface parking lots and the top levels of parking decks and structures reduced from full lighting operational levels after close of business or activity hours.
  7. Acceptable lamp types include solar powered fixtures, LED fixtures, pulse-start metal halide, ceramic metal halide, fluorescent, or high-pressure sodium.
  8. Light sources ~~shall~~ must have a minimum value of 60 CRI (Color Rendering Index).

#### ~~D-E~~. Illumination Levels

Illumination levels for outdoor lighting foot-candle values indicated below are measured at grade, and based upon a photoelectric (photopic) photometer having a spectral response similar to that of the human eye, following the standard spectral luminous efficiency curve adopted by the International Commission on Illumination (C.I.E.).

##### **Parking Lots:**

- **Average Maintained Foot-candles** (maximum) for all parking lots is three (3) foot-candles. The minimum average maintained foot-candles is one (1). The average maintained foot-candles ~~shall~~ must be calculated at not greater than 0.75 of initial foot-candles. The approving authority may approve maintenance factors above 0.75 if the applicant submits documentation that those values achieve a level of security and compatibility with surrounding land use, or are consistent with subsection E below.
- **Minimum Foot-candles and Uniformity Ratio:** The minimum amount of maintained illumination for open parking areas ~~shall~~ must be arranged in order to provide at least 0.20 foot-candles and uniform illumination throughout the parking lot of up to a 5:1 ratio of average to minimum illumination and up to a 15:1 ratio of maximum to minimum.
- The **maximum maintained vertical foot-candle** at an adjacent residential property line ~~shall~~ must be one-half (0.5) foot-candle measured three (3) feet above grade and facing into the project site.

##### **Pedestrian Walkways, Paths and Plazas:**

Areas of pedestrian activity within a parking lot as designated on the final site development plan (i.e. sidewalks, crosswalks, seating, building entrances/exits, plazas) ~~shall~~ must maintain a minimum one (1) foot-candle minimum average.

**F. Plan Submission Requirements**

1. A **photometric plan** with point-by-point calculations showing compliance with the parking lot and building lighting standards is required with all final site development plans. The calculation ~~shall~~ must be measured at grade. The photometric plan ~~shall~~ must include:

- a. all structure(s), parking spaces, building entrances, traffic areas (both vehicular and pedestrian),
- b. vegetation that might interfere with lighting,
- c. adjacent uses that might be adversely impacted by the lighting,
- d. a layout of all proposed fixtures by location, orientation, aiming direction, mounting height and type, and
- e. all other exterior lighting including but not limited to architectural, building-entrance, landscaping, flag, accent, etc.). (*Ord. 09-37 § 8, 2009; Ord. 02-54 § 2, 2002*)

2. A **cut sheet** of the proposed light fixtures, including the light fixtures candlepower distribution curve, ~~shall~~ must be submitted for light fixtures abutting residential properties.

**F. Environmentally Sustainable Design/Principles**

The approving authority may modify any of the standards in this section if the applicant obtains LEED certification and provides a lighting plan that addresses the following:

1. light pollution reductions that eliminate light trespass from the building and site by improving night sky access and by the reducing the development's impact on the natural environment;
2. fundamental building lighting systems that verify and ensure that fundamental building elements are designed, installed and calibrated to operate as intended;
3. minimum lighting energy performance that meet either local energy code requirements or the federal energy code;

4. lighting materials and resources that are extracted and manufactured within the region, thereby supporting the regional economy and reducing the environmental impacts resulting from transportation
5. indoor environmental lighting quality that provide a high level of thermal, ventilation, and lighting systems control by individual occupants or specific groups in multi-occupant spaces; and
6. lighting for the building occupants with a connection between indoor spaces and the outdoors through the introduction of daylight and views into the regularly occupied areas of the building; and
7. If applicable, any innovations that adds to the visual quality and compatibility of the building and site.”

**SECTION SIX:** Section 18.30.160 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

## **“18.30.160 Parking and Loading**

### **A. Parking Required for All Structures**

1. All buildings or structures that are erected, constructed, reconstructed, moved or altered ~~shall~~ must provide off-street parking in the form of garages or areas made available exclusively for parking.
2. Parking spaces ~~shall~~ must be located entirely on the same property as the principal use, except where specifically provided in this section or the zoning district regulations (Chapter [18.20](#)).
3. No portion of the parking area or structure other than the necessary drives ~~shall~~ will extend into any street or other public way.
4. The issuance of building permits or certificates of occupancy require compliance with the minimum parking standards. This applies even if a final site development plan was previously approved with fewer parking spaces due to the unknown or changing status of occupancy.

## B. Improvement of Parking Areas

1. All parking areas and drives ~~shall~~ must be ready for use upon occupancy of a building.
2. Parking areas and drives ~~shall~~ must be surfaced with a permanent, bituminous or concrete paving meeting the technical specifications prior to the issuance of a certificate of occupancy.
3. All parking lots and drives, except those serving single-family dwellings, ~~shall~~ must have curbs and drainage facilities that are consistent with the technical specifications.
4. Approach aprons and curbs ~~shall~~ must be Portland cement concrete.

## C. Access to Parking Areas

See Section [18.30.050](#).

## D. Dimensions and Design of Parking Areas

### 1. Parking Stalls

Parking stall dimensions are as follows:

**Table 18.30.160-1. Parking Space Dimensions**

Type	Dimensions (feet) ( <i>minimum dimensions; excludes access drives or aisles</i> )	Conditions / Exceptions
Standard spaces	9' x 20'	
Parallel Parking Space	9' x 22'	
Parking areas reduced for landscaping	9' x 18' (standard) with 25' wide aisle	The reduction in pavement area must be used as landscape area within the parking lot.
Spaces abutting curbed overhangs	9' x 18' (standard)	The parking space must abut an interior parking lot curbed area at least 6 feet wide (with landscaping or sidewalk). The overhang is measured from the face of the curb.

### 2. Parking Pods

Parking lots ~~shall~~ must be divided into parking pods with landscape strips, peninsulas, or grade separations to reduce the visual impact of large expanses of paving, to direct vehicular traffic

through the parking lot, and to provide a location for pedestrian walks. The maximum number of spaces within a parking pod is regulated by Chapter [18.15](#) (~~Composite~~ [Building and Site Design](#) Standards).

### 3. Entrance Drives

Landscape aisles ~~shall~~ [must](#) be placed on both sides of entrance drives to create pleasing tree-lined entrances, to direct vehicles into and out of the site, and to provide adequate space for vehicular stacking at exits onto perimeter roadways.

### 4. Pedestrians

- a. Parking lots ~~shall~~ [must](#) separate pedestrians from vehicles through protected pedestrian walkways which lead to store entrances, except for sites with unique conditions or terrain.
- b. Sidewalks and crosswalks ~~shall~~ [will](#) connect sidewalks along adjacent roadways, trails in the City's greenway system and buildings within a development.
- c. Walkways ~~shall~~ [must](#) be designed and buffered in a manner that encourages their use.
- d. Sidewalks and crosswalks ~~shall~~ [must](#) be designed to keep pedestrians together where they can be seen by motorists, and where they can cross most safely with the flow of vehicular traffic.
- e. Crosswalks designated on the final site development plan ~~shall~~ [must](#) comply with the general standards for crosswalks within the Manual of Uniform Traffic Control Devices (MUTCD). Crosswalks outside of the public right-of-way or in the D District may include:
  - (1) Brick pavers with concrete borders;
  - (2) Concrete with brick borders; or
  - (3) Stamped and colored concrete.

### 5. Reserved Parking Areas

- a. For purposes of this subsection, "reserved parking areas" including parking stalls for customer parking, employee parking, persons with disabilities, vehicles for sale, lease, rental, or display.

- b. Reserved parking spaces ~~shall~~ must be designated on all final site development plans and any other plans submitted for approval to the City.
- c. Reserved parking spaces used for sale, lease, rental or display ~~shall~~ will not be located within a required parking/paving setback area, ~~shall~~ and not reduce the capacity of a parking lot below that required by this section unless otherwise approved by the Planning Commission, and ~~shall~~ not hinder the movement of vehicles in drive aisles.
- d. All reserved parking spaces ~~shall~~ must be striped, maintained, and specifically used for the related purpose as identified on the plans.
- e. Areas designated for parking ~~shall~~ must not be used for display of vehicles for sale, lease, rental, etc.

#### **E. Parking Spaces for Persons with Disabilities**

Parking for persons with disabilities ~~shall~~ must comply with the applicable requirements of the 2010 ADA Standards for Accessible Design (United States Department of Justice, September 15, 2010), as amended.

#### **F. Parking and Paved Area Setbacks**

Parking areas and other paved areas such as drive-through aisles ~~shall~~ must be set back as follows:

1. In Districts AG, R-1, R-2, and for single-family and two-family dwellings in any other district, no parking area ~~shall~~ will be located within two (2) feet of a lot line, excluding nonresidential uses.
2. For multifamily dwellings not located in a planned district, no parking area ~~shall~~ will be located within thirty (30) feet of a street right-of-way or in a required yard area.
3. No parking area for a nonresidential use in any residential district ~~shall~~ will be located within thirty (30) feet of any street right-of-way or in a required yard area.
4. Parking areas are encouraged to be located internal to the development with buildings abutting the right-of-way. When this layout is not possible, parking areas located adjacent to any street right-of-way will be screened in accordance with Section [18.30.130](#).



5. In mixed use, commercial, office, business park and industrial districts, no parking area ~~shall~~ will be located within the applicable parking and paving setback requirements within that zoning district.

6. Parking area setbacks within planned zoning districts ~~shall~~ must be approved with the final site development plan, and ~~shall~~ must not occupy any portion of the required yard areas.

#### **G. Parking Lot and Building Lighting**

See Section [18.30.135](#).

#### **H. Landscaping and Screening for Parking Areas**

1. The interior of parking areas ~~shall~~ must be landscaped in accordance with this section.

2. As part of a rezoning, special use permit or site plan condition, the Approving Authority may require that any wall, fence or screen planting around a parking area ~~shall~~ must be set back from a street if needed to prevent adverse effects upon the appropriate use of adjacent property or to prevent a traffic concern. This setback ~~shall~~ will not exceed the front or side yard requirement applicable to the zoning district.

#### **I. Deferred Construction of Parking Spaces**

1. A portion of the parking area required for office, business park or industrial development may remain unimproved until it must be improved to adequately serve the parking demand. Delayed construction of parking is permitted only if:

- a. The initial occupancy of the premises is adequately served by the lesser number of spaces,

b. The final site development plan clearly indicates the location, pattern and circulation to and from the deferred parking spaces.

2. The land area delineated for future parking ~~shall~~ must be brought to finished grade and landscaped, and ~~shall~~ not be used for building, storage, loading or other purposes.

#### **J. Parking Areas for Single- and Two-Family Dwellings**

1. No driveway serving a single- or two-family dwelling ~~shall~~ will be located within two (2) feet of an adjoining lot line except for a driveway serving two (2) properties.

2. Parking is restricted to customary passenger vehicles and emergency vehicles up to a factory designated, one (1) ton, single axle, dual wheel size which is unloaded and immediately available for emergency response by an operator who is on duty or on call. However, emergency vehicles ~~shall~~ will not be parked upon a driveway for more than twelve (12) hours during any twenty-four (24) hour period.

3. All passenger cars ~~shall~~ must be parked on paved driveways or parking areas relating to the garage or carport. In areas where there are no garages or carports, passenger cars and motor vehicles may be parked on paved driveways constructed perpendicular to the street.

4. No parking is allowed in that portion of the street right-of-way not used for traffic movement, i.e., between the curb and the sidewalk, and between the curb and the front lot line.

5. Parking passenger vehicles on driveway extensions that lead directly to the garage or carport is permitted, if the extension does not exceed more than one additional ten (10) foot drive beyond the capacity of the garage or carport, and is adjacent and connected to the existing driveway. If there is no garage or carport, a drive up to twenty-two (22) feet in width is permitted.

6. No person ~~shall~~ will stop, stand or park a commercial vehicle on any street, alley, or lot within any residential district, except when necessarily loading or unloading property or when in the performance of a service to or upon property in the block where the vehicle is parked. This section may not be avoided by a mere location change of a vehicle within the residential district. Residential district refers to any place or area where the property is zoned for residential occupancy including single-family, two-family and multifamily dwellings.

## K. Off-Street Parking Schedule

1. The minimum number of parking stalls is as indicated in Table 18.30.160-2, below. Where the parking ratio indicates "sf," the ratio is based on gross floor area excluding attics, cellars, or similar uninhabitable space.
2. The Planning Official ~~shall~~ may determine the parking requirements for any use not listed above, based on the determination of similar uses as set out in the Use Matrix (Chapter [18.20](#)) and any documentation of parking generation for that type of use.
3. Where convention centers, conference centers, assembly halls, ballrooms or other similar facilities are built in conjunction with a hotel, office park or shopping center, the Planning Commission or Governing Body may permit up to a thirty-five (35) percent parking space reduction for each of the uses listed above when built in conjunction with the uses listed above, due to overlapping usage of a portion of the parking spaces. Request for such shared parking must be received as part of a preliminary development plan. The request ~~shall~~ must outline the justification in reducing the number of parking spaces. In addition, a change in use to a use other than listed above ~~shall~~ must conform to City parking standards.
4. Whenever a theater is located in a shopping center that has more than two hundred thousand (200,000) square feet of gross floor area, the number of parking spaces required for the theater may be reduced by twenty-five (25) percent; provided, that a joint parking agreement for the joint use of all parking within the shopping center is reviewed and approved by the City. The agreements ~~shall~~ must be recorded with the Register of Deeds and a copy submitted with the application for a building permit.
5. The revised parking requirement for eating places (of all types) ~~shall~~ will not apply to any preliminary site development plan approved in a planned district prior to August 1, 2005; provided, that a final site development plan is approved complying with the preexisting parking requirements and a building permit is issued prior to August 1, 2006.
6. The revised parking requirement for eating places (of all types) ~~shall~~ will not apply to any final site development plan approved in a planned district prior to August 1, 2005, or to any site development plan approved in a conventional district prior to August 1, 2005; provided, that the approved plan complied with the preexisting parking requirement.

**Table 18.30.160-2. Parking Spaces Required**

<i>Use</i>	<b>Parking Spaces Required (minimum)</b>
<b><i>Residential Uses</i></b>	
Accessory dwellings (carriage houses, granny flats, echo homes)	1 per dwelling unit
Cluster or conservation subdivisions	1 per dwelling unit
Elderly housing, multifamily residences	1 per dwelling unit
Elderly housing, single-family residences	1 per dwelling unit
Residence, adaptive reuse	0.5 per dwelling unit
Residence, multifamily 3 units (triplex)	1.5 per dwelling unit
Residence, multifamily 4 units (quadraplex)	1.5 per dwelling unit
Residence, multifamily, more than 4 units	1.5 per dwelling unit
Residence, single-family attached	1.5 per dwelling unit
Residence, single-family detached	2 per dwelling unit
Residence, single-family modular	2 per dwelling unit
Residence, two-family (duplex)	1.5 per dwelling unit
Residence, zero lot line	1.5 per dwelling unit
Residential design manufactured home	2 per dwelling unit
Residential property manager	1 per dwelling unit
Townhouse	1.5 per dwelling unit
Watchmen/caretakers	1 per dwelling unit
<b><i>Accommodations and Group Living</i></b>	
Bed and breakfast	1 per guest room plus 1 per 800 sf of restaurant space
Boarding and lodging house	1 per guest room plus 1 per 800 sf of restaurant or public meeting space
Community living facility, mental health convalescent	1 per 400 sf
Community living facility, mental health/substance abuse, on-site staff	1 per 400 sf
Day care, adult day care	1 per guest room
Dormitories	1 per 400 sf

<i>Use</i>	<b>Parking Spaces Required (minimum)</b>
Group home	1 per 400 sf
Group residence, general (9-15), limited (0-8), children, elderly residential services	1 per 400 sf
Hotel, motel	1 per each 2 employees on the largest shift and 1 per each guest room or 2 guest beds
Sorority and fraternity housing	1 per guest room
<b>Commercial, Services and Mixed Use</b>	
Adaptive reuse of converted buildings	1 per 500 sf
Agricultural machinery and equipment sales area and service facility	1 per 500 sf (indoor sales/service area only)
Animal care services – Veterinary clinics, animal hospitals, boarding, grooming, sitting, and training, no outside kennel, no retail	1 per 1,500 sf
Antique shop	1 per 500 sf
Apparel and accessory stores	1 per 300 sf
Bail bonding	1 per 500 sf
Bait shop	1 per 500 sf
Bakery, without wholesale distribution facilities	1 per 300 sf
Bars, taverns and drinking establishments	1 per each employee and 1 per 2 seats
Financial institution (bank, credit union, or savings institution)	1 per 400 sf
Beer, wine, and liquor store	1 per 300 sf
Bicycle sales and service	1 per 500 sf
Boat/watercraft, marine supplies, and marine/boating equipment sales and service	1 per 1,000 sf (indoor sales/service areas only)
Book, magazine, or stationery store	1 per 300 sf
Building materials sales – Without lumberyard	1 per 300 sf
Building materials sales and storage	1 per 300 sf
Business service centers, including blueprinting, printing, photostatting and copying	1 per 300 sf

<i>Use</i>	<b>Parking Spaces Required (<i>minimum</i>)</b>
Cafeterias and snack bars to serve the employees of office building within which they are located	1 per 800 sf
Camera and film shop; photography studio; frame shop	1 per 300 sf
Candy or confectionary making, on premises and retail only	1 per 300 sf
Car wash, automobile laundries, or car care centers	1 per 1,500 sf
Catering establishments	1 per 300 sf
Commercial uses in multifamily developments (no direct entry from the use to the street)	1 per 300 sf
Commercial buildings not specifically listed	1 per 250 sf
Convenience stores, with gas sales	1 per 250 sf
Convenience stores, without gas sales	1 per 250 sf
Courier and messenger services	1 per 800 sf
Delicatessen	1 per 100 sf
Department stores	1 per 300 sf
Drive-in facilities (for retail, restaurant or financial institution)	Parking analysis
Elderly service center, nonresidential	1 per 500 sf
Entertainment establishments, such as lounges, nightclubs, private clubs, and music or dance establishments	1 per 200 sf
Executive suite space (nonretail, nonindustrial)	1 per 800 sf
Farm/landscape/garden supply sales	1 per 300 sf
Farm supplies – Wholesale trade	1 per 300 sf
Farmer's markets	Parking analysis required
Fertilizer sales and storage	1 per 300 sf
Flex space (office and warehouse building); may include call centers or mail order houses	1 per 800 sf
Florist or floral/gift shop	1 per 300 sf
Food service, accessory	1 per 300 sf
Gas station	1 per 1,000 sf
Grocery, meat, dairy product and bakery sales	1 per 300 sf

<i>Use</i>	<b>Parking Spaces Required (<i>minimum</i>)</b>
Gun shops and gunsmiths	1 per 300 sf
Hardware store	1 per 300 sf
Laundry, pick-up only and garment services	1 per 300 sf
Laundry, coin operated	1 per 300 sf
Leasing office for apartment complex	1 per 300 sf
Leasing, commercial and industrial machinery and equipment	1 per 500 sf (indoor sales area only)
Leasing/rental – Accessory use, recreational goods (furniture, party supplies, sporting goods)	1 per 300 sf
Leasing/rental of trucks, trailers, RVs, boats, motorcycle	1 per 500 sf (indoor sales area only)
Leasing/rental, car and passenger vehicle	1 per 500 sf (indoor sales area only)
Light manufacturing accessory to retail use	1 per 1,500 sf
Live-work units	1 per dwelling unit
Management/services	1 per 800 sf
Medical equipment sales, rental or leasing	1 per 500 sf
Mixed use, commercial (includes office units located over storefronts)	1 per 500 sf
Mixed use, vertical (includes residences located over storefronts)	1 per 500 sf
Monument dealers (tombstones and markers)	1 per 1,000 sf
Motor vehicle sales	2 per 1,000 sf of indoor sales area plus 1 per 4,500 sf of outdoor sales area
Motorcycles, ATVs, retail sales and repair	1 per 500 sf
Musical instrument and supplies stores	1 per 300 sf
Nonstore retail/commercial (mail order, catalog facility, electronic markets)	1 per 800 sf
Office supply and equipment store	1 per 300 sf
Offices for business, professional, industry and government	3.8 per 1,000 sf
Optical goods stores	1 per 300 sf
Outdoor display and storage	n/a

<i>Use</i>	<b>Parking Spaces Required (<i>minimum</i>)</b>
Packing, crating, and convention and trade show services	1 per 800 sf
Palmistry services, fortune tellers, astrologers	1 per 1,000 sf
Pawnshops and secondhand goods	1 per 300 sf
Payday loan business or title loan business (as defined in Section <a href="#">5.43.010</a> )	1 per 300 sf
Personal care service shops	1 per 300 sf
Pet care	1 per 1,500 sf
Pet store	1 per 1,500 sf
Pharmacy and drugstore	1 per 300 sf
Real estate, sales, rental and leasing	1 per 800 sf
Rental management/leasing facility (residential)	1 per 800 sf
Repair, restoration of vehicles, machinery and equipment	1 per 500 sf
Restaurant or snack bar, subordinate to an office or retail building with no direct outside entrance	1 per 3 seats
Restaurant service, carry out	1 per 3 seats
Restaurant, full service	1 per 3 seats
Retail sales, accessory	
Retail sales, generally (not otherwise listed)	1 per 300 sf
Sales and service, manufactured home, recreation vehicle, bus, truck, or similar large vehicles	1 per 500 sf
Sales, boats/marine, recreational vehicle, travel trailer, camper sales or leasing (including repair)	1 per 500 sf
Services to buildings and dwellings (extermination, janitorial, landscaping, carpet and upholstery cleaning, packing and crating, etc.)	1 per 800 sf
Snack or nonalcoholic bar	1 per 150 sf
Specialty food stores	1 per 300 sf
Sporting goods shop	1 per 300 sf
Tailor/shoe repair	1 per 1,000 sf
Tattoo parlor/tattoo studio and/or body piercing	1 per 500 sf
Temporary sales and events	1 per 300 sf

<i>Use</i>	<b>Parking Spaces Required (minimum)</b>
Travel agency	1 per 300 sf
Travel plaza/truck stop	1 per 300 sf
Upholstery and furniture refinishing	1 per 300 sf
Vehicle repair and restoration, not including automotive wrecking or long-term disabled vehicle outdoor storage	1 per 500 sf
Video/audio sales and/or rental	1 per 300 sf
Woodworking shops, cabinetmaking shops, or wood crafting services	1 per 1,500 sf
<b><i>Industrial Uses</i></b>	
Automobile storage or towing (excluding wrecked and junked vehicles)	1 per 1,500 sf
Bottling works	1 per 1,500 sf
Building contractor	1 per 1,500 sf
Carpentry, floor, and tile contractor	1 per 1,500 sf
Computer and electronic product manufacturing	1 per 1,500 sf
Crematories	1 per 1,500 sf
Explosives manufacturing/storage	1 per 1,500 sf
Extractive industries	1 per 1,500 sf
Food and beverage manufacturing	1 per 1,500 sf
Fuel oil distribution	1 per 1,500 sf
Industrial uses not specifically listed	2.5 per 1,000 sf (buildings < 25,000 sf); 2.5 per 1,000 sf devoted to office uses plus 1 per 1,000 sf of other floor area (buildings > 25,000 sf)
Jewelry and silverware manufacturing	1 per 1,500 sf
Junk yards, salvage yards, and auto and scrap processing	1 per 1,500 sf
Laboratories – Research and testing	1 per 1,500 sf
Laboratories – Medical and diagnostic	1 per 1,500 sf
Landfill, demolition	1 per 1,500 sf
Landfill, land clearing and inert debris	1 per 1,500 sf
Landfill, sanitary	1 per 1,500 sf

<i>Use</i>	<b>Parking Spaces Required (<i>minimum</i>)</b>
Laundry, cleaning and garment services	1 per 1,500 sf
Limited manufacturing of products sold on the premises (up to 5,000 sf or 25% of the floor area of a principal retail use, whichever is less)	1 per 1,500 sf
Manufacturing, excluding other uses listed in this table	1 per 1,500 sf
Meat packing and poultry processing	1 per 1,500 sf
Medical equipment and supplies manufacturing	1 per 1,500 sf
Milling or canning of agricultural products, feed and flour mills	1 per 1,500 sf
Motor vehicle manufacturing	1 per 1,500 sf
Motor vehicle painting and body shops, exclusive of sales	1 per 1,500 sf
Office supply, inks, etc., manufacturing (except paper)	1 per 1,500 sf
Oil and gas well drilling	Parking analysis required
Paper manufacturing	1 per 1,500 sf
Petroleum and coal products manufacturing	1 per 1,500 sf
Printing/publishing	1 per 1,500 sf
Process plants (chemicals, and metals, machinery, and electronics manufacturing)	1 per 1,500 sf
Quarrying and stone cutting establishment	1 per 1,500 sf
Recycling centers	1 per 1,500 sf
Rendering and meat byproduct processing	1 per 1,500 sf
Research and development offices	1 per 1,500 sf
Sign makers	1 per 1,500 sf
Textiles	1 per 1,500 sf
Welding, tinsmithing and machine shop	1 per 1,500 sf
Wood or wood products manufacturing	1 per 1,500 sf
<b><i>Warehousing and Storage Uses</i></b>	
Construction equipment storage	n/a
Express and shipment facilities	1 per 1,500 sf
Mini-storage warehouse	3 spaces
Natural gas distribution, flammable liquid, petroleum, bulk stations and terminals and above-ground storage	n/a

<i>Use</i>	<b>Parking Spaces Required (minimum)</b>
Outdoor storage of construction equipment, generally	n/a
Refrigerated warehouse or cold storage	1 per 1,500 sf
Solar energy facility	1 per 1,500 sf
Warehousing, storage, wholesale, and distribution facilities	Parking analysis required
Wind energy conversion systems (WECS)	n/a
<b><i>Arts, Recreation and Entertainment</i></b>	
Adult business establishments	1 per 200 sf
Amphitheater, outdoor stage, bandstand, or similar structure	n/a
Amusement parks	Parking analysis required
Amusement, indoor	1 per 300 sf
Aquarium or planetarium	1 per 400 sf
Art gallery	1 per 400 sf
Artist studio	1 per 800 sf
Club, membership	1 per 400 sf
Community center	1 per 400 sf
Conference center	1 per 150 sf
Fairgrounds	Parking analysis required
Golf courses and clubhouses	Parking analysis required
Golf driving ranges (see outdoor recreation)	1 per 1.5 tee boxes
Golf, miniature	Parking analysis required
Historical association or society	1 per 800 sf
Indoor athletic facility	1 per 650 sf
Indoor athletic facility located in an existing building	1 per 1,000 sf
Museum/art gallery/cultural facility	1 per 400 sf
Parks and open space	n/a
Recreational vehicle parks/campgrounds	1 per 4 recreational vehicle or camping spaces
Skating rink – Ice or roller skating	1 per 500 sf
Sports stadiums and arenas	Parking analysis required

<i>Use</i>	<b>Parking Spaces Required (minimum)</b>
Temporary carnivals, rides, ferris wheels	Parking analysis required
Theater, drive-in	n/a
Theater, movie	1 per 4 seats
Theaters, performing arts	1 per 4 seats
Youth retreat	n/a
<b><i>Education, Public Administration, Health Care, and Institutional</i></b>	
Cemetery	n/a
Civic assemblies, including churches/religious assemblies, clubs, lodges, meeting halls, recreation buildings, and community centers	1 per 4 seats or building capacity calculated by building standards
Community food and personal support services, nonresidential	1 per 800 sf
Community services, counseling and intervention	1 per 800 sf
Correctional institution facility	1 per 800 sf
Correctional office, parole/probation	1 per 800 sf
Cultural facilities	1 per 400 sf
Day care	1 per 800 sf
Day care facility (accessory to institution or business)	1 per 800 sf
Day care facility, accessory to dwelling	n/a
Funeral home or mortuary	1 per each 2 employees on the largest shift and 1 space per 4 seats
Government – Post office and postal substations	1 per 400 sf
Government – Public safety services	1 per 800 sf
Government facilities, other than offices	1 per 800 sf
Hospital	1 per 4 beds and 1 per each staff member (including visiting doctors)
Library	1 per 1,000 sf
Medical office or clinic	1 per 500 sf
Postal service receptacle pods designated on a plat or approved site plan	n/a

<i>Use</i>	<b>Parking Spaces Required (minimum)</b>
Schools, academic, continuance, alternative, adult, and technical, trade, and other specialty schools	1 per 500 sf
Schools, colleges and universities	1 per each staff member and 1 per 2 students
Schools, elementary or secondary	1 per 1,000 sf
Elementary and secondary schools	1 per each staff member
High schools	1 per each staff member and 1 per 4 students
Schools, nursery and preschool	1 per 500 sf
Social services	1 per 800 sf
<b><i>Transportation, Communication, Information, and Utilities</i></b>	
Airport landing strip (field or strip only)	1 per 800 sf
Airport terminal	n/a
Bus, taxi, train or light rail depots, stations or dispatch facilities	n/a
Bus/truck maintenance, including repair and storage	1 per 1,500 sf
Freight terminals and truck terminals	1 per 1,500 sf
Heliport	1 per 1,500 sf
Parking lots, surface, accessory to principal use	n/a
Parking lots, surface, as principal use	n/a
Parking lots, pervious surface, as principal use	n/a
Parking lots, underground or structure, accessory to principal use	n/a
Parking lots, underground or structure, as principal use	n/a
Public transportation facility	n/a
Railroad facilities	1 per 1,500 sf
Stormwater management/flood control facilities	n/a
<b><i>Utility Uses and Structures</i></b>	
Commercial incinerator	n/a
Cable networks and distribution	1 per 800 sf
Commercial radio, television, broadcasting and/or receiving towers	n/a

<i>Use</i>	<b>Parking Spaces Required (minimum)</b>
Communication or telecommunication equipment attached to a building	n/a
Communication towers	n/a
Communication towers – Architecturally integrated	n/a
Environmental monitoring stations	n/a
Gas or electric generation distribution facilities, compressor stations, or substations	n/a
Hazardous waste storage or treatment facility	1 per 1,500 sf
Power generation plants	Parking analysis required
Public utility storage and service yards	n/a
Radio and television broadcasting or recording studio	1 per 800 sf
Solid waste collection centers, solid waste transfer stations, recyclable materials, yard waste and similar items	n/a
Solid waste landfill	n/a
Utility facilities, principal use	n/a
Utility facilities, accessory to permitted use	n/a
Water supply facilities including pump stations, dams, levees, culverts, water tanks, wells, treatment plants, reservoirs, and other irrigation facilities	n/a
<b><i>Agriculture</i></b>	
Agriculture (including raising of crops and pasturing livestock)	n/a
Animal production and support services	n/a
Concentrated animal feeding operations (CAFOs)	n/a
Farm product raw materials – Wholesale trade	n/a
Forestry, commercial	n/a
Noncommercial forestry or raising of vegetation/community garden	n/a
Grain or agricultural storage facility	n/a
Greenhouse or nursery	1 per 300 sf
Greenhouse, accessory to florist shop	n/a
Hatcheries and poultry houses	n/a
Livestock sales, and markets	n/a
Riding academies and/or stables (commercial)	1 per 1,500 sf

<i>Use</i>	<b>Parking Spaces Required (minimum)</b>
Stable, accessory to dwelling	n/a
Support functions for agriculture	n/a
<b>Miscellaneous</b>	
Accessory uses	n/a
Signs	n/a
Telecommunication tower facilities, antennae locations, repeater stations, and distribution centers	n/a

#### L. Off-Street Loading Schedule

1. For purposes of this section there ~~shall will be considered to~~ be two (2) sizes of off-street loading spaces. Each large space ~~shall~~ must have an overhead clearance of at least fifteen (15) feet, ~~shall~~ be at least twelve (12) feet wide and ~~shall~~ be at least fifty (50) feet long, exclusive of access or maneuvering area, platform and other appurtenances. Each small space ~~shall~~ must have an overhead clearance of at least twelve (12) feet, ~~shall~~ be at least twelve (12) feet wide and ~~shall~~ be at least thirty (30) feet long, exclusive of access or maneuvering area, platform and other appurtenances.
2. Off-street loading facilities ~~shall~~ must be located on the same building site on which the structure for which they are provided is located. Access, maneuvering area, ramps and other appurtenances ~~shall~~ must be furnished off the street right-of-way and so arranged that vehicles are not permitted to back from the property into the street. The number of required loading spaces which are adequate to serve the uses or categories of uses proposed ~~shall~~ must be in accordance with Table 18.30.160-3.
3. Off-street loading facilities ~~shall~~ must be constructed, maintained and operated in accordance with City standards and ~~shall~~ must be surfaced with concrete, asphaltic concrete or asphalt maintained in good condition, free of weeds, dust, trash and debris.
4. Where access and drives to off-street loading facilities occur in conjunction with off-street parking facilities that provide parking at street level for more than six hundred (600) cars, provisions ~~shall~~ must be made to maintain separate circulation routes within such facilities.
5. Any off-street loading facility ~~shall~~ will not be used to satisfy the space requirements for any off-street parking facilities or portions thereof.

6. For the purpose of determining the amount of off-street loading, or if the number of berths to be provided by such use is not readily determinable, the number of loading areas ~~shall~~ will be fixed by the Planning Commission.

7. When off-street loading facilities are gated, fenced or secured by any other means, staging or parking for tractor trailers, trucks, or other such delivery vehicles must be accommodated within a designated parking area on-site. Staging of vehicles on public right-of-way is prohibited.

**Table 18.30.160-3. Loading Spaces Required**

Loading Category	Gross Floor Area in Square Feet	Required Number
<b>Institutional Uses</b>		
Schools	10,000 to 100,000	1
Health/Medical, Recreational, Civic, Social, Religious	For each additional 200,000 or fraction thereof	1 – Additional
<b>Business Uses</b>		
<b>Retail</b>	5,000 to 25,000	1
	25,001 to 200,000	2
	For each additional 200,000	1 – Additional
<b>Retail Services</b>	5,000 to 10,000	1
	10,001 to 100,000	2
	For each additional 100,000 or fraction thereof	1 – Additional
<b>Service/ Trade</b>	10,000 to 200,000	1
	For each additional 200,000 or fraction thereof	1
<b>Service/Miscellaneous</b>	5,000 to 25,000	1

Loading Category	Gross Floor Area in Square Feet	Required Number
	25,001 to 200,000	2
	200,001 to 400,000	3
	For each additional 100,000 over 400,000 or fraction thereof	1
<b>Industrial Uses</b>		
	5,000 to 10,000	1
	10,001 to 40,000	2
	40,001 to 100,000	3
	For each additional 100,000 or fraction thereof.	1 – Additional

### M. Drive-in and Drive-through Stacking Distance Requirements

See Chapter [18.50](#) (drive-up/drive-through).

### N. Parking Lot Permit

1. No person ~~shall~~ will initiate construction of a new parking lot or expansion of an existing parking lot without first obtaining a permit from the Public Works Department and reviewed by the Planning Division.
2. A parking lot permit is not required for the resurfacing or re-striping (painting) of an existing parking lot consistent with the current striping.
3. Application for a parking lot permit ~~shall~~ must be made on a form provided by the Public Works Department and ~~shall~~ will be accompanied by a site plan depicting:
  - a. The parking lot layout, including proposed striping;
  - b. Number and location of parking spaces, including handicapped spaces;
  - c. Structures on the same property;

- d. Structures and parking areas on adjacent property;
- e. Ingress and egress for the property;
- f. Existing and proposed landscaping;
- g. Grading, drainage and erosion and sedimentation control;
- h. Parking lot lighting; and
- i. All other information required by the Public Works Department and/or Development Services Department."

**SECTION SEVEN:** Section 18.30.240 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

**"18.30.240 Tree Preservation**

*Purpose: these regulations recognize the need to alter the landscape during site development activities, while setting out standards necessary to ensure tree preservation and protection of environmentally sensitive areas to the greatest extent possible. (Ord. 09-22 § 14, 2009) This section balances the City's tree preservation goals with market and permit streamlining objectives by giving applicants to option to survey individual trees to protect tree stands, and to provide off-site mitigation in lieu of preserving trees onsite.*

**A. Applicability**

1. This section applies to applications for subdivision plat or site development plan approval.
2. This subsection does not apply to the "D" (Downtown), "N" (Neighborhood), "TOD" (Transit-Oriented Development), or "PR" (Planned Redevelopment) zoning districts.

**B. Minimum Requirements**

**1. Protected Tree Designations**

This subsection designates the types of trees that are subject to protection under this section, and establishes a threshold trunk size, measured in diameter at breast height (DBH), for various tree species.

- a. A significant tree means a tree of eight (8) inches or greater, as measured four and one-half (4½) feet above the ground, for all tree species except for non-native invasive species.
- b. The applicant may omit trees that are not considered significant from the tree survey.

## 2. Tree Designation Alternative

- a. The table below establishes the minimum percentage of all diameter inches or percent tree canopy of significant trees that must be preserved or mitigated. For single-family dwellings, developers and builders may elect to preserve trees at the platting or building permit stage. If a developer or builder elects to preserve at the platting stage, this method must be used throughout completion of the project.

**Table 18.30.240-3.**

	<b>Single-Family Dwellings</b>	<b>Multi-family and Nonresidential Uses</b>
<b>Significant Trees</b>	25% within each platted lot, excluding street right-of-way and easements.	30% within the entire site excluding the street rights-of-way and easements.
<b>100-year floodplain</b>	50% of all the trees within the floodplain. This applies toward preservation requirements on the remainder of the lot.	50% of the trees within the floodplain. This applies toward preservation requirements on the remainder of the site.
<b>Mitigation Maximum</b>	Up to 90% of significant may be mitigated rather than preserved.	Up to 90% of significant trees may be mitigated rather than preserved.

### b. Calculation of Preservation Ratios

All percentages relating to preservation stated within this section are based on the tree survey. Any subsequent redevelopment of property must minimally preserve the applicable percentage of the total diameter inches of protected trees as indicated by the tree survey.

## 3. Tree Stand Delineation Alternative

### a. Standards

As an alternative to a tree survey, a tree stand delineation may be used to meet the preservation requirements (see submittal requirements section [18.94](#) ~~18.90~~). In order to use this provision, the site must have area(s) of tree canopy that meet the woodlands criteria as set forth in below and must contain existing native understory vegetation.

**b. Woodlands**

A "woodland" is an area of contiguous wooded vegetation where trees are at a density of at least one (1) significant tree per 500 square feet of land and where the branches and leaves form a continuous canopy. A woodland ~~shall~~ must include areas with a continuous canopy of trees over an area of at least twenty thousand (20,000) square feet and with any dimension being at least 35 feet. A woodland may be delineated through an aerial photograph or a ground survey. A woodland ~~shall~~ must include both understory and protected trees.

**c. Delineation**

A tree stand delineation ~~shall~~ must meet the following standards:

- (1) A tree preservation plan submitted at the master development plan stage must preserve a minimum of 20 percent of contiguous tree canopy with the understory.
- (2) Tree save areas must be designated as such when the area is platted or in a preliminary site development plan.
- (3) Tree canopy area(s) to be preserved as tree save area(s) must include environmentally sensitive areas that are present on site; including steep slopes, drainage areas, riparian buffers, or corridors along arterial and collector streets.

**C. Tree Survey and Photogrammetric Documentation**

1. An applicant who selects the Tree Designation Alternative ~~shall~~ must submit a tree survey and photogrammetric documentation indicating the size and common name of trees within the application area. The survey ~~shall~~ must identify by common name and indicate by caliper size each Significant Tree.
2. The tree survey ~~shall~~ must be prepared on a topographic survey of the site to establish the tree elevation at the trunk and the drip line for individual trees and at the edge of the drip line for wooded areas. (*Ord. 09-22 § 14, 2009*)

**D. Permitting Requirements**

1. The developer ~~shall~~ must prepare and present a tree preservation conservation plan and statement of intent at the time of a pre-application meeting or submittal of this information with application for a plat, rezoning or final site development plan.

2. The conservation plan ~~shall~~ must:
  - a. identify the general location and massing of wooded areas, areas with dense shrubbery, and isolated individual mature hardwood trees,
  - b. designate which areas or trees are to be preserved and which are to be removed;
  - c. identify the location of all site improvements, buildings, general utility locations, and preliminary site grading,
  - d. indicate which trees and wooded areas are to be protected and the measures proposed to protect them during the construction phase. *(Ord. 09-22 § 14, 2009)*

#### **E. Protection of Existing Trees**

1. Existing trees and their root zones that are to be saved ~~shall~~ must be protected from all construction activities, including earthwork operations, movement and storage of equipment and vehicles and placement of construction materials and debris. No structure ~~shall~~ will encroach within/over a tree preservation easement.
2. Erosion protection measures may be required to prevent siltation of the tree preservation areas during construction.
3. Every effort ~~shall~~ must be made to locate utility easements away from tree preservation areas. However, utility easements may be located adjacent to tree preservation areas as long as adequate clearance and protection is provided for the tree preservation area during the installation of the utilities adjacent to the tree preservation easement. When utilities or infrastructure systems must cross tree preservation areas, every effort ~~shall~~ must be made to minimize tree removal in such areas. If the removal of trees within these areas is determined to be excessive, the Planning Official may require the developer to replace the trees or pay into a Tree Preservation Escrow. *(Ord. 09-22 § 14, 2009)*
4. To ensure protection of tree preservation areas, protection zones ~~shall~~ must be delineated on plats, rezoning and final site development plans. During the construction process, the protection zones ~~shall~~ must be identified on the property using standard orange barricade fencing or comparable fencing material. The fencing ~~shall~~ must be four (4) feet in height and supported by metal channel posts spaced at a minimum of ten (10) feet on center. The fencing ~~shall~~ must be placed around all trees or wooded areas to be protected and ~~shall~~ remain erect and secure throughout all construction phases. *(Ord. 09-22 § 14, 2009)*

5. A tree preservation plan and statement of intent is required prior to removal of 20% of existing woodland area or more when not associated with a pending development case. This requirement pertains to all properties zoned residential or used as a residence in excess of 10 acres and all other properties in excess of five (5) acres in size.

## **F. Exceptions**

A credit may be granted for all existing hardwood and evergreen trees indicated to be preserved. Trees that measure from two and one-half (2½) to eight (8) inches in caliper, as measured four and one-half (4½) feet above ground level, may be credited on a one tree for one tree basis. Trees that measure greater than eight (8) inches in caliper may be credited on a two tree for one tree basis. Credited trees may only be located in that portion of the development project where new tree plantings are otherwise required, or in a Type "N" buffer as designated in Section [18.30.130](#). Tree credits ~~shall~~ will not be granted if one of the following conditions exists:

1. Trees posing imminent danger to the public health, welfare or safety of the residents of the City of Olathe. In those instances, the Planning Official may give verbal authorization to remove the trees. (*Ord. 09-22 § 14, 2009*)
2. Trees that are diseased injured, in danger of falling, or too close to existing or proposed structures.
3. Trees interfering with existing utility service, or creating unsafe vision clearance.

## **G. Mitigation**

1. Any tree or trees removed from within an approved tree preservation area ~~shall~~ must be replaced with similar species or other hardwood species.
2. Replacement trees ~~shall~~ must meet the minimum requirements for trees as defined in Section in subsection [B](#) above at the rate of one (1) inch caliper of replacement tree for every one (1) inch caliper of tree removed.
3. In lieu of protecting trees on-site, the applicant may provide a cash escrow equivalent to one and one-half (1½) times the monetary value of the tree or topsoil removed or destroyed up to a maximum of ten thousand dollars (\$10,000) per occurrence. Monetary value is to be determined by referring to current tables and formulas produced by the Council of Tree and Landscape Appraisers. The developer or owner ~~shall~~ will incur the cost for the appraisal to be completed by a certified arborist using the International Society of Arboriculture Manual of Plant Appraisal.

The Tree Preservation Escrow Account ~~shall~~ must be used to install new trees on City-owned and publicly accessible property or rights-of-way. (Ord. 09-22 § 14, 2009)

#### **H. Removal of Trees Within Existing Tree Preservation Areas:**

Property owners may not remove trees meeting the minimum requirements for tree preservation unless mitigation is provided (see subsection [G](#), above)."

**SECTION EIGHT:** Section 18.50.180 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

### **"18.50.180 Satellite Dish Antennas**

#### **A. Applicability**

This section applies to any satellite dish antenna, defined as a device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. The device is used to transmit and/or receive radio or electromagnetic waves between terrestrial and/or orbital based uses. This definition includes but is not limited to, what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and microwave antennas.

#### **B. Ground-mounted**

**1.** In **residential** districts, ground-mounted satellite dish antennas are subject to the following performance standards:

- a.** The maximum height ~~shall~~ will not exceed thirty (30) feet from the established grade where it is mounted.
- b.** The antenna ~~shall~~ must be located within the rear yard and set back a minimum of ten (10) feet from all property lines.
- c.** All cables and lines serving the antenna ~~shall~~ must be located underground.

**2.** In commercial and industrial districts, ground-mounted satellite dish antennas are subject to the following performance standards:

- a.** The maximum height is fifteen (15) feet from the grade where it is mounted.

- b. The antenna ~~shall~~ will not be located within a required yard setback.
- c. No antenna ~~shall~~ will be placed in the front yard.

### C. Wall and Roof-mounted

1. In **residential** districts, the maximum height (measured from the highest point) of any wall or roof-mounted satellite dish antenna ~~shall~~ must not extend more than five (5) feet above the peak of the roof surface. The antenna ~~shall~~ will not be located on the front side of the house or roof.

2. In **commercial and industrial** districts, wall or roof-mounted satellite dish antenna are subject to the following performance standards:

- a. The maximum height (measured from the highest point) is fifteen (15) feet above the roofline.
- b. The antenna ~~shall~~ must be screened in accordance with Section ~~18.30.130.H.4~~ 18.30.130.I."

**SECTION NINE:** Section 18.50.190 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

### "18.50.190 Signs\*

\* Signs are also governed by OMC Chapter [12.10](#)

*Purpose and Findings: This section regulates and controls all exterior signs placed for observation in order to preserve, protect and promote the public health, safety, and general welfare of the residents of the City of Olathe. This section:*

- *Encourages the reasonable, orderly and effective display of signs;*
- *Enhances the physical appearance of the City;*
- *Reduces visual clutter;*
- *Prevents blighting influences;*
- *Protects property values;*

- *Provides minimum standards to safeguard life, health, and property by regulating and controlling the size, height, design, quality of materials, construction, location, electrification and maintenance of all signs and sign structures; and*
- *Authorizes the use of signs that are compatible with their surroundings.*

## **A. Applicability and Definitions**

This section applies to signs. Signs, sign types, and other terms and phrases used in this section are defined as follows:

**“A” Frame Sign** A freestanding sign which is ordinarily in the shape of an “A” or some variation thereof, which is readily moveable, and is not permanently attached to the ground or any structure. Nondurable materials, glass, paper, laminated paper, vinyl, plastic, PVC pipe frames, or illumination are prohibited materials for the construction of an “A” frame sign.

**Abandoned Sign** A sign which no longer advertises or identifies a business, lessor, owner, product, activity, message or location.

**Attention-Attracting Device** Any device intended to attract the attention of the public to an establishment, location, product or service, except signs as permitted by this section.

**Awning Sign** (Nonilluminated.) A sign which is mounted, painted or printed on, or attached to an awning, or canopy. ~~Awnings shall be made of canvas, glass, or metal and open ended; barrel type awnings and standard residential type aluminum awnings are not permitted.~~

**Billboard** A freestanding outdoor advertising structure, on or off site, which advertises a product or service, or relays a message to the public, with a per face area greater than two hundred (200) square feet.

**Building Canopy** A roof-like structure attached to a building covering the entrance, exit, walkway or loading dock, not including the building roof line extension. For the purposes of this ordinance, when the pitch of a building canopy is 1:4 or less (twenty-five [25] degrees or less from vertical), the face of the canopy is considered part of the wall.

**Canopy** See “Building Canopy” and “Freestanding Canopy.”

**Changeable Copy Sign** A permanent sign with a manually changeable face or message. This includes letters that can manually be replaced to change the message of the sign. It does not include electronic message boards or directly illuminated signs of any kind.

**Community Information Sign** A sign, located within a master planned community, that serves to direct people to a residential subdivision, public building, or community facility such as, but not limited to, a recreational area, nature trail, golf course, lake marina, information area, etc.

**Complex** A group of freestanding buildings, or buildings constructed in such a way as to give an appearance of being interrelated because of architectural similarity and/or interconnected drives and parking areas; or a building divided into two (2) or more separate offices, businesses or apartments; provided, that the building is not part of a large complex. A complex is limited to apartment, office or business complexes, shopping centers and/or industrial parks.

**Copy Area** (See Sign Face.)

**Directly Illuminated Sign** A sign where the source of illumination is located on the sign face. The source of illumination may include, but not be limited to neon tubes, incandescent bulbs, and fluorescent tubes.

**Electronic Message Board** A sign which displays information through a digital display. Typically, electronic message boards use a bank of lights that can be individually lit to form copy such as words, letters, logos, figures, symbols, illustrations, or patterns to form a message that may change or move without altering the sign face. This includes video screens, LED (light emitting diode boards), or similar technology.

**Erected** This term means attached, altered, built, constructed, reconstructed, and ~~shall~~ must include the painting of wall signs, but does not include copy changes on any legal conforming sign.

**Freestanding Canopy** A self-supported, detached roof-like structure ~~normally~~ covering such areas as gas ~~islands~~ pumps and drive-through service areas.

**Governmental Sign** A sign for the control of traffic and other regulatory purposes, street signs, construction signs, danger signs, railroad crossing signs, and signs of public service companies

indicating danger and aids to service or safety which are erected by or on the order of any public official in the performance of his/her public duty.

**Indirectly Illuminated Sign** A sign which is illuminated by a shielded light source.

**Internally Illuminated Sign** A sign illuminated by an internal light source diffused through a translucent material.

**Marquee** A permanent roof-like structure or canopy of rigid materials supported by and extending from the façade of a building frequently used to display signage.

**Master Planned Community** A mixed-use development consisting of six hundred forty (640) or more contiguous acres under one (1) ownership, for which a comprehensive master plan has been approved by the City Planning Commission.

**Menu Board, Freestanding** A permanent, nonportable sign that faces and is adjacent to a drive-through lane. Preview boards are freestanding.

**Menu Board, Wall** A sign that is located in a permanently mounted display box on the surface of the building. This type of sign customarily incorporates a menu containing a list of products and prices offered by a restaurant. Menu boards do not include preview boards.

**Monument Sign** A freestanding sign having a solid appearance and a low profile, normally consisting of a face and base. The sign may be constructed with stone, concrete, metal, routed wood planks or beams, brick or other materials consistent with the building the sign is representing.

**Off-Site Sign** A sign that pertains or directs attention to a business, product, service, activity, person, organization, institution, event, place, object, or location not located, manufactured, conducted, sold, or offered on the premises on which the sign is located.

**Parapet or Parapet Wall** That portion of a building wall that rises above the roofline.

**Permanent Sign** Any wall, monument, or other sign that is fixed, lasting, stable, enduring, not subject to change, and intended to remain for an indefinite period of time.

**Person** An individual, corporation, association, firm or partnership.

**Portable Sign** A sign which is not permanently affixed to the ground, building or other structure, which may be mounted on wheels, worn or carried by an individual, and can easily be transported from place to place, but does not include permitted temporary signs.

**Preview Board** A permanent, nonportable sign used in conjunction with a menu board that faces and is adjacent to a drive-through lane. Preview boards are freestanding, and are not attached to menu boards. Electronic preview boards with programmable messages are not permitted.

**Projecting Sign** A sign extending from the face of the building to which it is attached, not including wall signs. Also known as blade signs.

**Public Notices and Signs** Official notices or signs for a public purpose as required by any law, statute or ordinance or as permitted by the Governing Body, and includes signs of public service companies indicating danger and aids to service or safety.

**Real Estate Sign** An on-site or off-site sign which advertises the sale, rental or lease of property, or special program signs, such as open house, energy conservation, warranty, builder, etc.

**Roof** The primary cover of a building used to shed weather, including all supporting materials.

**Roof Sign** A sign erected, constructed or maintained partially or wholly upon or over the roof of a building.

**Sign** Any identification, description, illustration, message, symbol, logo or device which directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanent or temporary display of merchandise, emblems, corporate flags, pennants or placards, designed to advertise, identify, or convey information, including all supporting structures.

**Sign Alteration** The replacement, enlargement, rewording, reduction, reshaping, or repainting using different colors, of a sign to serve an establishment or business.

**Sign Area** See "Sign Face."

**Sign Base** That portion of a sign attached to the ground and supports the sign face or sign copy area, but excluding the sign footing.

**Sign Face** That area used to measure the sign area (see subsection [C.6](#), below). See subsection [D](#), below, for sign face rules for monument signs and wall signs.

**Sign Maintenance** See Subsection [E.1](#), below.

**Sign Structure** The base, supports, uprights, braces, framework and face of a sign.

**Snipe Sign** A sign constructed of any kind of material that is attached to a utility pole, tree, fence or similar object located or situated on public or private property.

**Subdivision Entry Marker** A monument sign located at the entry of a platted subdivision.

**Temporary Sign** A sign constructed of cloth, canvas, cardboard, plywood or other similar material, which is readily moveable and not permanently attached to the ground or any structure thereof, that does not constitute a structure, and which is intended to be displayed for a short period of time. Examples include garage sale signs, grand opening signs, and election signs.

**Traffic Control Sign** A sign for the control of traffic and other regulatory purposes, street signs, construction signs, danger signs, railroad crossing signs, erected by or on the order of any public officer in the performance of his/her public duty, as well as signs erected on private property designed to facilitate traffic safety or traffic circulation on the site.

**Under Canopy Sign** A sign that is placed under the canopy at right angles to the wall of the building. Its sole purpose is for communicating to pedestrian traffic the name of the tenant.

**V-Shaped Sign** The two (2) permitted faces of a standard double-faced yard or monument sign placed in a v-shaped configuration where the two (2) faces or their supporting structures are connected at the point of the "V." The angle between the two (2) faces ~~shall~~ [will](#) not exceed sixty (60) degrees.

**Vehicular Sign** Any name, insignia, logo, or sign displayed, mounted, painted or otherwise placed on a trailer, truck, automobile, or other vehicle that is parked, placed, or stored so that the vehicular sign is visible from a public street or right-of way, or that is parked, placed, or stored for the purpose of displaying advertising signage.

**Wall** A vertical structure which is solid and encloses a building, and supports the roof.

**Wall Sign** A sign that is parallel to, and attached to, the surface of a wall, including illuminated awning signs. If a sign is placed on a canopy that has a roof slope of 1:4 or less (twenty-five [25] degrees or less from vertical), the face of the sign may be perpendicular to the ground.

**Window Sign** A sign that is placed on or behind a windowpane and intended to be viewed from outside the building. Window signs ~~shall~~ must be painted, posted, or etched on an interior translucent or transparent surface, including windows or doors. This sign may contain text, graphic logos, or images combined with color.

**Yard Sign** A sign supported by one or more uprights, posts, or bases placed upon or affixed in the ground and not attached to any part of a building.

## **B. Administration**

### **1. Sign Permit**

#### **a. Applicability**

It is unlawful for any person to erect, or alter any sign as defined in this ordinance without first obtaining a sign permit. This does not require a permit for sign maintenance, altering permitted changeable copy, or signs exempted from a permit as described elsewhere in this section.

#### **b. Initiation**

Sign permit applications ~~shall~~ must be accompanied by one (1) set of plans drawn to scale indicating the sign size, location, method of illumination, colors, materials of the sign and structure, method of attachment, and any permit fees. In addition, the applicant ~~shall~~ must submit other information relating to the placement, construction, and design, as needed to demonstrate compliance with this section.

**c. Decision**

The Building Official ~~shall~~ will approve or deny the sign permit application no later than thirty (30) days following the date of its submission. If the Building Official fails to timely act on the application, the sign permit is deemed approved unless the applicant submits a request for continuance.

**d. Issuance**

The Building Official ~~shall~~ will issue a permit for the erection, alteration, or relocation of a sign within the City when an application has been properly made and the sign complies with all appropriate laws and ordinances.

**e. Revocation and Denial**

The Building Official may, in writing, suspend or revoke a permit issued under the provisions of this section whenever the permit is issued on the basis of a misstatement of material fact or fraud. When a sign permit is denied by the Building Official, a written notice of the denial ~~shall~~ will be given to the applicant, together with a brief written statement of the reasons for the denial.

**f. Sign Permit Appeal**

An appeal of denial may be made to the Board of Zoning Appeals upon denial of a sign permit. The appeal ~~shall~~ must be filed within thirty (30) days of the denial of the sign permit. The Board of Zoning Appeals ~~shall~~ must make a final decision not later than forty-five (45) days after the appeal has been filed unless a request for continuance is submitted by City staff or applicant.

**g. Scope of Approval**

A sign permit does not authorize the maintenance of an unlawful sign, and does not constitute a defense in an action to abate an unlawful sign.

**2. Removal of Sign**

**a.** If the Planning Official determines that any sign or other advertising structure regulated by this section, located on private property, is unsafe, or has been constructed, erected or is being maintained in violation of the provisions of this ordinance, the Planning Official ~~shall~~ will notify the sign owner in writing. The owner ~~shall~~ must immediately remove or repair the

sign to bring it into compliance and/or make it safe. If the owner fails to remove or repair the sign so as to comply within five (5) days after the notice, the Planning Official may cause the sign to be removed or repaired to make it safe, at the expense of the permittee or owner.

**b.** The City Clerk ~~shall~~ will mail a statement of the costs for removal or repair of the unsafe or unlawful sign to either the last known address of the owner of record of the property, the person in charge of such property, or the sign permittee. If the costs are not paid within ten (10) days from the time of mailing of the notice, the Governing Body may proceed to pass an ordinance levying a special assessment for the cost against the subject lot or parcel of land. The City Clerk ~~shall~~ must certify the assessment to the County Clerk for collection and payment to the City in the same manner as other assessments and taxes are collected and paid to the City.

If the Planning Official determines that any sign, advertising structure, or attention-attracting device has been located on public property, including right-of-way, the Planning Official may remove the sign, structure, or device without notice to its owner or erector. These items ~~shall~~ must be disposed of immediately by the City of Olathe.

### **3. Access and Right of Entry**

**a.** The Planning Official may inspect any sign to determine whether it complies with this section. Inspections ~~shall~~ will be done at a reasonable time.

**b.** If the building, premises or establishment to be inspected is occupied, the Planning Official ~~shall~~ must first present proper credentials and demand entry. If the building or premises is unoccupied, he/she ~~shall~~ must first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If entry is refused, the Planning Official ~~shall~~ must have recourse as provided by law to secure entry.

**c.** If, after demand, entry or access is refused, the Planning Official may acquire such access by application to a court of competent jurisdiction; provided, however, that the agency complies with the provisions of Section 15 of the Kansas Bill of Rights and the Fourth Amendment to the United States Constitution relating to unreasonable searches and seizures.

## C. General Standards

### 1. Routine Maintenance:

All signs ~~shall~~ must be of sound structural quality, be maintained in good repair, and have a clean and neat appearance. The land adjacent ~~shall~~ must be kept free from weeds and trash. If signs are not being maintained as described, said sign may be ordered to be removed.

### 2. Minimum Setback

All signs ~~shall~~ must maintain a minimum setback of ten (10) feet from all property lines and set outside of the site distance triangle except as provided in this section.

### 3. Placement on Easement or Right-of-Way

No private sign ~~shall~~ will be placed on a public easement, unless, in the opinion of the City Engineer, the placement will not interfere with the intended use of the easement. No private sign ~~shall~~ will be placed on a public right-of-way.

### 4. Illuminated Signs

Illuminated signs ~~shall~~ must be internally or indirectly illuminated. Neon tubes, incandescent bulbs, fluorescent tubes, and other sources of direct illumination that are exposed to the human eye are not permitted. Indirect illumination ~~shall~~ must be directed away from pedestrian walkways, and ~~shall~~ not shine into adjacent property or cause glare for motorists and pedestrians.

### 5. Compliance with Building Code

All signs ~~shall~~ must comply with the Building Code relating to design, structural members and connections. Signs ~~shall~~ must also comply with the provisions of the National Electrical Code and the additional construction standards set forth in this section.

### 6. Measurements of Signs

- a. In determining the area of a sign, the entire sign face is included.

- (1) The sign face includes the advertising surface and any framing, trim, molding, cabinet, panel or any visually or architecturally distinct area enclosing the copy, logo and any other graphic component of the sign.

(2) Where individual letters or graphics are used, and no distinct enclosed area is present, the sign face is the rectangle, box, circle or other regular geometric shape, or combinations thereof, enclosing the letters, logo or other graphic elements.

(3) For a V-shaped sign, the sign face is the area within a line including all outer extremities, framework, or background of the cabinet or structure on which the letters, text, or symbols are mounted, but not including the sign base. For the determination of sign area square footage, the two (2) faces of the "V" configuration ~~shall~~ must be considered together for an overall square footage.

b. If the sign structure or supports become part of the sign due to the design of the structure or supports in relation to the sign, the structure or supports are included in the determination of copy area.

c. If a sign is composed of letters only, with no connection by the advertising structure between the letters, the copy area ~~shall~~ must be determined by measuring the distance from the outside edges of the outside letters and from the top of the largest letter to the bottom of the lowest letter. If one (1) letter is unequally large or small in comparison to the other letters composing the sign, the unequal letter ~~shall~~ must be squared off, the remaining letters ~~shall~~ must be measured from the outside edges, and the two (2) added for a total copy area determination.

d. Unless determined by the zoning district regulations, the allowable copy area of a sign ~~shall~~ will be based on one (1) side of the sign. Double-faced copy area is allowed if both sides of the sign are parallel to one another and comply with the applicable area requirements of this section, or the sign is a V-shaped sign.

## D. Standards by Sign Type

### 1. Monument Signs

a. For a monument sign, the sign face is the area within a line including all outer extremities, framework, or background of the cabinet or structure on which the letters, text, or symbols are mounted, but not including the sign base.

b. Monument signs must be built on a solid base.

c. Monument signs may be single or double faced.

- d. Monument signs may be nonilluminated, indirectly illuminated or internally illuminated.
- e. The sign face and base ~~shall~~ must not exceed six **(6) feet** in overall **height** above the natural or average grade.
- f. The actual **sign face** ~~shall~~ must not exceed **twenty-five (25) square feet** in area per face if set back the minimum of ten (10) feet from a property line. For each additional five (5) feet of setback, the overall sign height may be increased two (2) feet and the sign face may be increased ten (10) square feet to a maximum of fifteen (15) feet in overall sign height and sixty-five (65) square feet per sign face.
- g. When a single **business or complex** is located on a site **more than five (5) acres**, one (1) of the two (2) monument signs permitted in the commercial and industrial districts may be increased to a maximum height of fifteen (15) feet and a maximum face area size of sixty-five (65) square feet, and ~~shall~~ must be set back at least fifteen (15) feet from all property lines and outside of sight distance triangles and easements.
- h. The sign base area ~~shall~~ must not exceed the actual sign face area by more than ten (10) percent. The sign face ~~shall~~ must not exceed the width of the base by more than twenty-five (25) percent.
- i. Landscaping, such as flower beds, shrubs and bushes, ~~shall~~ must be provided in an area of at least two and one-half (2½) feet around the base of the sign. The applicant ~~shall~~ must designate the area and type of plantings in the sign permit application.

## 2. Wall Signs

- a. For a wall sign, the sign face is the area within a line including the outer extremities of all individual mounted letters, text, or symbols attached to a wall or retaining wall. For any sign located on a wall or retaining wall that has a cabinet or background attached to the wall, then the sign face includes all outer extremities, framework or background of the cabinet or structure.
- b. Wall signs may be nonilluminated, internally illuminated or indirectly illuminated.
- c. When a wall sign is placed on a canopy and is perpendicular to the ground, all supports, braces and brackets ~~shall~~ must not be visible.

- d. The top of the sign when placed on a parapet or a canopy ~~shall~~ must not extend more than five (5) feet above the actual roofline.
- e. Wall signs ~~shall~~ must not extend more than twelve (12) inches above the top of the wall, parapet or canopy.
- f. Tenant spaces that are part of a multitenant building and face an internal parking lot with no direct wall area to a street frontage from the tenant space are allowed a wall sign to face the street frontage.

## **E. Signs Permitted in All Districts**

The following signs are permitted in all districts and do not require a sign permit, unless otherwise noted. The signs must conform to all other regulations and ordinances of the City.

### **1. Sign Maintenance**

The normal care and minor repair that is necessary to retain a safe, attractive sign and supporting structures. Repainting with the same colors, or repairing copy or logo ~~shall~~ will be considered maintenance if the name, product, service, place, activity, person, or similar elements depicted remain the same.

### **2. Governmental Signs**

Traffic control signs and public notices, including changeable copy signs for government offices and facilities.

### **3. Signs during Construction Activities**

In addition to any other permitted sign, a temporary freestanding, nonilluminated sign is allowed.

- a. The sign must be located on the site of the development. If the development involves a subdivision plat for a single-family or duplex subdivision, signs during construction activities may also be located within 1,000 feet of the subdivision if the total number of on- and off-site signs does not exceed the amount prescribed in subsection [E.3.e](#), below.
- b. The sign ~~shall~~ must not exceed eight (8) feet in height or thirty-two (32) square feet in area per face.
- c. The sign may have two (2) faces.

- d.** The minimum setback from any property line is thirty (30) feet. For each additional setback of ten (10) feet, the face area may be increased ten (10) square feet and the height may be increased one (1) foot. The maximum face area ~~shall~~ must not exceed one hundred (100) square feet, and the maximum height ~~shall~~ must not exceed fifteen (15) feet, except as provided below.
- e.** One (1) sign during construction activities is permitted for every one thousand (1,000) feet of street frontage. If a development has more than one (1) street frontage, then a separate on-site development sign is permitted on each frontage. A maximum of three (3) on-site development signs is permitted for a development.
- f.** When a tract of property held under one (1) ownership is being developed as one (1) project and is more than one hundred (100) acres in size, one (1) of the permitted signs during construction activities may be increased in size to two hundred (200) square feet per face in area. When the development is larger than two hundred (200) acres, the sign face area of the sign during construction activities may be increased one (1) additional square foot for every five (5) acres over two hundred (200) acres. This sign ~~shall~~ must maintain a one hundred (100) foot setback from all property lines.
- g.** For purposes of applying the rules for removing temporary signs (see subsection [O.7](#) below), the events to which the sign is related are considered complete when a certificate of occupancy is issued for the last building or phase.
- h.** A sign permit is required.

#### **4. Real Estate Sign**

##### **a. R-1 and R-2 Districts**

Real estate signs ~~shall~~ must not exceed six (6) square feet per face, with two (2) faces per sign permitted. The maximum height of the sign ~~shall~~ must not exceed six (6) feet. A maximum of three (3) signs per lot is permitted.

##### **b. R-3, R-4, Commercial and Industrial Districts**

Real estate signs ~~shall~~ must not exceed sixteen (16) square feet in area per face with two (2) faces permitted. The sign ~~shall~~ must not exceed five (5) feet in height with a maximum twelve (12) inch gap above grade. A maximum of two (2) signs is permitted for each parcel. In addition, one (1) real estate sign, not exceeding six (6) square feet per face, with a

maximum of two (2) faces permitted, and a maximum height of six (6) feet is permitted. For signs attached to the wall of a building, the sign ~~shall~~ must not exceed ten (10) percent of the wall area on which it is attached.

### **c. Undeveloped Land for Sale Signs**

In lieu of the signs permitted in subsections [E.4.a](#) and [E.4.b](#), above, undeveloped and unplatted land over ten (10) acres in size are permitted two (2) "For Sale" signs not to exceed thirty-two (32) square feet in area per face, with two (2) faces permitted. The signs ~~shall~~ must not exceed eight (8) feet in height.

## **5. Community Information Signs**

- a.** Such signs ~~shall~~ must be part of an overall signage plan for a master planned community that includes directional signs, traffic control signs, governmental signs, identification signs, subdivision entry markers, monument signs, etc. The community information signs ~~shall~~ must be harmonious in color, sizing and location. The purpose of such signs will be to facilitate the movement of vehicular and pedestrian traffic within a master planned community. The number of signs ~~shall~~ must be kept to the minimum necessary to accomplish this purpose.
- b.** Each sign ~~shall~~ must not exceed twenty (20) square feet per face with two (2) faces permitted. The sign ~~shall~~ must not exceed six (6) feet in height. The minimum setback from any property line ~~shall~~ must be one (1) foot. The design of the sign may incorporate a base of materials consistent with the overall signage plan. The sign base area ~~shall~~ must not exceed the actual face area by more than ten (10) percent.
- c.** No advertising or promotional information is permitted on a community information sign; however, a logo used elsewhere in the master planned community may be permitted. Such sign may be nonilluminated, indirectly illuminated, or internally illuminated.
- d.** Such sign ~~shall~~ will be maintained by the sign owner according to the provisions of this ordinance.
- e.** A sign permit is required.

## **6. Traffic Control Signs on Private Property**

Such signs ~~shall~~ must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices.

## **7. Signs Mounted on Interior Building Surfaces**

Such as signs mounted on the inside of windows and doors except as provided in Section 18.64.105.

## **8. Directional Signs**

Such signs ~~shall~~ must not exceed four (4) square feet per face with two (2) faces permitted. The sign ~~shall~~ must not exceed four (4) feet in height if freestanding.

## **F. Residential Districts (AG, R-1, R-2, R-3, R-4)**

The following signs are permitted with a sign permit:

### **1. Wall Signs**

#### **a. Residential Structures**

In the R-1 and R-2 districts, one (1) nonilluminated wall sign is allowed per building, not more than one (1) square foot in area. No permit is required for these signs.

#### **b. Public or Semi-Public Buildings**

One (1) nonilluminated wall sign per building. Wall signs ~~shall~~ must not exceed ten (10) percent of the wall upon which they are placed or one hundred (100) square feet, whichever is less.

#### **c. Legal Nonconforming Business**

One (1) nonilluminated wall sign per building. Wall signs ~~shall~~ must not exceed ten (10) percent of the wall upon which they are placed.

### **2. Subdivision Entry Markers**

Each subdivision is permitted a monument sign at the subdivision entry, and located within the platted subdivision on a platted tract. Unless otherwise stated on the final plat or final site development plan, the owner of the property on which the sign is located ~~shall~~ must maintain the monument sign.

### 3. Monument Signs:

- a. Every building constructed for a permitted nonresidential use is permitted one (1) monument sign.
- b. One (1) monument sign per multifamily complex. If the complex fronts on two (2) streets, one monument sign ~~shall~~ will be allowed on each street frontage.

### 4. Changeable Copy Signs

- a. In lieu of permitted standard monument sign, one (1) changeable copy sign is allowed for the following permitted nonresidential uses:
  - (1) Colleges, universities, professional schools and junior colleges (public or private).
  - (2) Elementary and secondary schools, public and private.
  - (3) Libraries.
  - (4) Public buildings.
  - (5) Government offices and facilities.
  - (6) Similar uses as allowed by interpretation of the Planning Official.
- b. Permits are not required for replacing or altering changeable copy on these signs.
- c. Changeable copy signs ~~shall~~ must comply with the standards for monument (see subsection [D.1](#), above).
- d. Electronic message boards are prohibited.

### G. Mixed Use (N, TOD) and Planned (PD, PR) Districts

- 1. Due to the nature of the **planned development** district, sign standards and regulations may be established or modified as part of rezoning application and development plans.
- 2. The following signs are permitted in a **Mixed Residential** Area of an **N** district with a sign permit:
  - a. A sign may be a wall sign, an awning sign, projecting sign, or under canopy sign.

**b.** A single-family or two-family dwelling may have one (1) nonilluminated wall sign per building, not more than one (1) square foot in area, indicating a permitted home occupation.

**c.** A townhouse, condominium or multifamily building may have not more than two (2) signs with a total sign area of not more than eight (8) square feet.

**d.** A commercial building may have not more than two (2) signs with a total sign area of not more than twelve (12) square feet.

**e. Neighborhood Entry Markers**

Each neighborhood is allowed a monument sign at the entry.

**f.** Internal illumination of signs is prohibited.

**3.** The following signs are permitted in a **Center Area, Civic Uses or Civic Spaces** of an N district with a sign permit:

**a.** A sign may be a wall sign, an awning sign, projecting sign, under canopy sign, or monument sign.

**b.** A **building** may have up to five (5) signs with a total sign area of up to five (5) percent or thirty (30) square feet (whichever is less) per street-facing elevation.

**c.** No **internally illuminated** sign may be located on any wall of a nonresidential building facing a residential building.

**d.** A **projecting sign** is permitted a maximum of two (2) sign faces. The sign ~~shall~~ must not extend more than three (3) feet from the face of the building and ~~shall~~ must maintain not less than eight (8) feet clearance between the bottom of the sign and the finished grade.

**e. Under Canopy Signs**

In buildings with three (3) or more tenants, one (1) under canopy sign per business is permitted in addition to the signs described in this section. Under canopy signs ~~shall~~ must not exceed two (2) square feet in area.

**f. Wall and Under Canopy Signs**

In buildings with three (3) or more tenants, wall and under canopy signs ~~shall~~ must be similar in color, materials and lighting. These signs ~~shall~~ must be incorporated into the design of the area.

**4. Supportive Uses** in an N district are subject to subsection [G.3](#), above. In addition, if the lot or parcel has a freestanding canopy, the following additional signs are allowed:

- a. Up to two (2) double-faced signs, which may be mounted on a freestanding canopy or may be projecting signs, under canopy signs, or monument signs.
- b. The sign(s) may be nonilluminated, internally illuminated or indirectly illuminated.
- c. The sign(s) ~~shall~~ must not exceed eighteen (18) square feet per face, with two (2) faces permitted.
- d. The maximum height of the signs, if not located on canopy supports, ~~shall~~ must not exceed ten (10) feet.
- e. The sign(s) ~~shall~~ must not be placed closer to the public right-of-way than the closest freestanding canopy.

## **H. Commercial/Office Districts (O, C-1, and BP)**

The following signs are permitted in the O, C-1 and BP districts with a sign permit:

### **1. Wall Signs**

- a. Each freestanding building is permitted not more than two (2) wall signs, limited to one (1) per wall. The area of the wall sign ~~shall~~ must not exceed ten (10) percent of the area of the wall upon which it is mounted.
- b. If a business is part of a multitenant complex, each tenant ~~shall~~ will be allowed one (1) wall sign no greater than ten (10) percent of the tenant wall area upon which the sign is placed. Corner tenant spaces will be allowed one (1) additional wall sign no greater than ten (10) percent of the wall area upon which it is placed. Signs facing the rear of the building are prohibited except as defined in subsection [P.8](#), below.

### **2. Monument Signs**

- a. One (1) monument sign is permitted for each freestanding building housing one (1) tenant or each complex.

**b.** In complexes, or single business sites, on property more than five (5) acres in size and with more than one (1) street frontage, a second monument sign is permitted on the additional street frontage.

**c.** If a single business or complex is located on a site more than **five (5) acres** in size, one (1) of the two (2) monument signs may be increased to a maximum height of fifteen (15) feet and a maximum face area size of sixty-five (65) square feet. For each additional five (5) feet of setback (from the minimum required), the overall sign height may be increased two (2) feet in height and the sign area may be increased ten (10) square feet to a maximum of twenty-one (21) feet in overall sign height and a maximum face area size of ninety-five (95) square feet.

**d.** On a site of more than **twenty (20) acres**, signage may be allowed up to twenty-five (25) feet in height and a maximum sign face of one hundred (100) square feet. Both of the two (2) monument signs permitted may be increased up to a maximum height of thirty (30) feet and a maximum face area size of one hundred fifty (150) square feet with Governing Body approval. The increased monument signs ~~shall~~ must be set back at least fifteen (15) feet from all property lines and outside of sight distance triangles and easements (refer to Section [18.30.220](#)).

### **3. Projecting Signs**

In lieu of one (1) of the above permitted wall signs, one (1) projecting sign is permitted. The projecting sign ~~shall~~ must not exceed twelve (12) square feet in area with a maximum of two (2) faces. The sign ~~shall~~ must not extend more than three (3) feet from the face of the building.

### **4. Under Canopy Signs**

In complexes with three (3) or more tenants, under canopy signs are permitted in addition to the signage described above. One (1) under canopy sign is permitted for each business. Under canopy signs ~~shall~~ must not exceed two (2) square feet in area.

### **5. Wall and Under Canopy Signs**

In complexes with three (3) or more tenants, wall and under canopy signs ~~shall~~ must be similar in color, materials and lighting. These signs ~~shall~~ must be incorporated into the design of the complex.

## 6. Additional Sign

*This subsection is designed to accommodate additional messages normally used by businesses in lower intensity commercial and office districts, such as time and temperature displays and the name of the complex or business that owns the sign.* In addition to permitted monument signs, one (1) additional monument, wall, or projecting sign may be permitted for a complex or a business in a freestanding building subject to approval by the Planning Commission and Governing Body. Size, height and setback requirements are the same as for monument signs.

## 7. Restaurants

*This subsection is designed to accommodate additional messages normally used by sit-down restaurants, such as menus.* In addition to the signs permitted above, restaurants with table service are allowed a menu board. These signs are not included in the calculation of maximum sign area for the building or tenant space.

- a. The menu board ~~shall~~ must be located adjacent to the entry. Attaching a sign to the exterior of a box is prohibited.
- b. These signs ~~shall~~ must not exceed four (4) square feet, including all framework.
- c. These signs are prohibited for drive-in and drive-through restaurants.

### I. Commercial Districts C-2, C-3, C-4

The following signs are permitted in the C-2, C-3 and C-4 districts with a sign permit:

#### 1. Wall Signs

- a. Each freestanding building is permitted up to three (3) wall signs. These signs are limited to one (1) per wall and ~~shall~~ must not exceed ten (10) percent of the total area of the wall upon which it is placed. Each exterior wall ~~shall~~ must be common to the interior business space.
- b. If a business is part of a multitenant building or complex, each tenant is allowed one (1) wall sign no greater than ten (10) percent of the tenant wall area upon which the sign is placed and ~~shall~~ must be common to the interior business space. Corner tenant spaces are allowed one (1) additional wall sign no greater than ten (10) percent of the wall area upon which it is placed. Signs facing the rear of the building are prohibited except as defined in subsection [P.8](#), below.

## 2. Monument Signs

Same as subsection [H](#), above.

## 3. Projecting Signs

Same as subsection [H](#), above.

## 4. Awning Signs

In addition to a wall sign or a projecting sign, an awning sign is permitted.

- a. Awning graphic ~~shall~~ must comprise no more than thirty (30) percent of the total exterior surface of an awning or canopy. If side panels are provided, they ~~shall~~ must not carry signs greater than twenty (20) percent of the area of the awning panel.
- b. Text on awnings is not allowed.
- c. Awnings must be permanently mounted on the wood or metal framing within a door or window opening, not on the wall surrounding the opening. The minimum height for awnings ~~shall~~ must be eight (8) feet from the lowest point to the sidewalk. Awnings ~~shall~~ must not extend more than four (4) feet from the building face.
- d. Awning signs are not allowed above the ground floor. Awnings without signs may be allowed above the ground floor if they complement the architecture.
- e. Awnings ~~shall~~ must not be a continuous feature extending over masonry piers or arches but designed to project over individual window and door openings.
- f. Internally lit or back-lit graphics awnings are not permitted.
- g. Standard residential aluminum awnings are not allowed. Awnings ~~shall~~ must be composed of noncombustible acrylic fabric.

## 5. Under Canopy Signs

Same as subsection [H](#), above.

## 6. Wall and Under Canopy Signs

Same as subsection [H](#), above.

## 7. Additional Sign

Same as subsection [H](#), above.

## 8. Restaurant Menu Signs

Same as permitted in subsection [H](#), above.

## 9. Drive-Through Restaurants

*To accommodate additional messages normally used by drive-through restaurants, such as menus, the following apply to eating places:*

- a. Each drive-through or drive-in restaurant is permitted signs in addition to those described above.
  - (1) The additional sign is limited to one (1) freestanding or wall menu board per lane.
  - (2) The sign ~~shall~~ [must](#) not exceed six (6) feet in height or thirty-two (32) square feet in total surface area. Total surface area means all of the area included in the face of the sign, the trim, the base and other appurtenances.
  - (3) These signs may be nonilluminated, or illuminated.
  - (4) The preview board must be built on a solid base that is at least seventy-five (75) percent of the width of the sign face.
  - (5) The signs ~~shall~~ [must](#) be located along the sides or rear of the building.
  - (6) If the sign is visible from a public street, additional landscaping and/or fencing is required to screen the menu board from view from the public street.
- b. In lieu of one (1) freestanding or wall menu board, a restaurant may have a menu board located at each order station. The menu boards at each order station ~~shall~~ [must](#) not exceed four (4) square feet in surface area per face.
- c. In addition to the allowed menu board, one (1) preview board is permitted per drive-through lane and ~~shall~~ [must](#) be located in the lane. The preview board ~~shall~~ [must](#) not exceed six (6) feet in height or fifteen (15) square feet in total surface area. It ~~shall~~ [must](#) be constructed to match the structure of the associated menu board and may be nonilluminated or illuminated. The preview board must be built on a solid base that is at

least seventy-five (75) percent of the width of the sign face. The preview board ~~shall~~ must be located along the sides or rear of the building, and set away from the menu-board by at least fifteen (15) feet. Whenever a preview board is visible from a public street, additional landscaping and/or fencing ~~shall~~ must be used in order to screen the preview board from view of the public street.

## **10. Automatic Car Wash**

*This section accommodates customary information provided by car washes about services offered.* Each automatic car wash (conveyor type, longer than fifty [50] feet) is permitted signs in addition to those described in subsections [1.9.a\(1\)](#) through [1.9.a\(6\)](#), above. The additional signs are limited to one (1) freestanding or wall sign. The sign ~~shall~~ must not exceed five (5) feet in height, nor ~~shall~~ must it exceed twenty (20) square feet of surface area per face. The board may have two (2) faces. The signs ~~shall~~ must be nonilluminated, or indirectly illuminated. The signs ~~shall~~ must be located along the front, side or rear of the building. However, if the board is located in front of the building, sufficient fencing and/or landscaping ~~shall~~ must be provided to screen the board from view from public streets, alleys or other public property.

## **11. Freestanding Canopy Signs**

Signs may be placed on freestanding canopies if they meet the requirements for wall signs for buildings. Only the fascia of the canopy upon which the sign is placed ~~shall~~ must be used for determining the size of the sign.

## **12. Convenience Stores with Gasoline Sales, or Gas Stations**

*This subsection accommodates information customarily provided by these establishments about the price of gasoline sold and/or the nature of services offered on the premises.* These uses are permitted up to two (2) double-faced signs. The sign(s) may be nonilluminated, internally illuminated or indirectly illuminated. The sign(s) ~~shall~~ must not exceed eighteen (18) square feet per face, with two (2) faces permitted. The maximum height of the signs, if not located on canopy supports, ~~shall~~ must not exceed ten (10) feet. These signs are instead of standard monument signs.

### 13. Theater Signs

A movie theater may have an attraction panel based on the following criteria:

#### a. Modules

A movie theater, drive-in theater, or performing arts theater may have one (1) module per screen or stage, plus one (1) additional module. The module ~~shall~~ must not exceed eighteen (18) square feet. A module is that portion of the sign, including trim, customarily used to display the title of a movie.

#### b. Area and Number

The total surface area of a sign face ~~shall~~ must not exceed one hundred sixty-two (162) square feet per face. A maximum of two (2) faces is permitted.

#### c. Setback

A minimum of thirty (30) feet from a street right-of-way is required.

#### d. Height

The maximum height of the sign ~~shall~~ must not exceed fifteen (15) feet from average grade level.

#### e. Changeable Copy

Movie theater signs may have changeable copy. Permits are not required for replacing or altering changeable copy on existing movie theater signs.

### J. Districts M-1, M-2 and MP-3

The following signs are permitted with a sign permit:

#### 1. Wall Signs

a. Each freestanding industrial establishment or building is permitted not more than three (3) wall signs. The signs ~~shall~~ will be limited to one (1) per wall and ~~shall~~ must not exceed ten (10) percent of the total area of the wall upon which they are placed or two hundred (200) square feet, whichever is less.

**b.** If a business is part of a multitenant complex, each tenant ~~shall~~ **must** be allowed one (1) wall sign no greater than ten (10) percent of the tenant wall area upon which the sign is placed. Corner tenant spaces will be allowed one (1) additional wall sign no greater than ten (10) percent of the wall area upon which it is placed. Signs facing the rear of the building are prohibited except as defined in subsection [P.8](#), below.

## **2. Monument Signs**

Same as subsection [H](#), above.

## **3. Convenience Stores with Gasoline Sales, or Gas Stations**

Same as subsection [I](#), above.

## **4. Freestanding Canopy Signs**

Same as subsection [I](#), above.

## **5. Awning Signs**

Same as subsection [I](#), above.

## **K. Downtown (D) District**

The following signs are permitted in the Downtown (D) district with a sign permit:

### **1. Wall Signs**

Same as permitted in subsection [G](#), above, in addition to the following standards:

**a.** If a business is part of a multitenant complex, each tenant is allowed one (1) wall sign no greater than ten (10) percent of the tenant wall area upon which the sign is placed. Corner tenant spaces will be allowed one (1) additional wall sign no greater than ten (10) percent of the wall area upon which it is placed.

**b.** Wall signs ~~shall~~ **must** be integrated with the architecture of the building and mounted in locations that respect the design of the building, including the arrangement of bays and openings. Signs ~~shall~~ **must** not obscure windows, cornices, grille work, piers, pilasters, and ornamental features.

- c. Lighted wall signs ~~shall~~ must not be located at the top of the building's façade if the façade is higher than two (2) stories and ~~shall~~ must not directly face a residential neighborhood.
- d. Wall signs are limited to the ground floor of the structure. Wall signs located on the side wall of a building that faces a side property line, alley, or parking area (including a side property line along a street), ~~shall~~ must not be lighted above the ground floor.
- 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~~ must be nonilluminated and are limited to ten (10) percent of the wall area or tenant space upon which they are placed.

## 2. Projecting Signs

In lieu of a wall sign or an awning sign, one (1) projecting sign per tenant in a multitenant building is permitted.

- a. Projecting signs ~~shall~~ must not be closer than fifty (50) feet apart, and no more than three (3) for every three hundred (300) feet of street frontage.
- b. Projecting signs ~~shall~~ must be oriented to pedestrians passing on the sidewalk in front of the buildings rather than to automobiles or pedestrians on the far side of the street, and ~~shall~~ must not be located above the ground floor.
- c. Projecting signs ~~shall~~ must not exceed twelve (12) square feet, and must provide a vertical clearance of eight (8) feet along pedestrian areas.
- d. Projecting signs ~~shall~~ must be mounted in locations that are compatible with the building design, including the arrangement of bays and openings. Signs ~~shall~~ must not obscure window, grille work, piers, pilasters, and ornamental features.
- e. Projecting signs ~~shall~~ must be internally or indirectly illuminated. Signs that use blinking or flashing lights are prohibited.

## 3. Awning Signs

In addition to a wall sign or a projecting sign, an awning sign is permitted.

- a. Sign copy ~~shall~~ must comprise no more than thirty (30) percent of the total exterior surface of an awning or canopy. If side panels are provided, they ~~shall~~ must not carry signs greater than twenty (20) percent of the area of the awning panel.
- b. Text on awning valences ~~shall~~ must not exceed eight (8) inches high. A valence drop length ~~shall~~ must not exceed twelve (12) inches.
- c. Awnings must be permanently mounted on the wood or metal framing within a door or window opening, not on the wall surrounding the opening. The minimum height for awnings ~~shall~~ must be eight (8) feet from the lowest point to the sidewalk. Awnings ~~shall~~ must not extend more than four (4) feet from the building face.
- d. Awning signs are not allowed above the ground floor. Awnings without signs may be allowed above the ground floor if they complement the architecture.
- e. Awnings ~~shall~~ must not be a continuous feature extending over masonry piers or arches but designed to project over individual window and door openings.
- f. Internally lit or back-lit graphics awnings are not permitted.
- g. Standard residential aluminum awnings are not allowed. Awnings ~~shall~~ must be composed of noncombustible acrylic fabric.

#### 4. Window Signs

In addition to a wall sign or projecting sign, but not an awning sign, one (1) window sign is permitted.

- a. No more than one (1) permanent window sign is allowed per window.
- b. Window signs ~~shall~~ must not exceed ten (10) percent of the window area so that visibility into and out of the window is not obscured, except that window signs may be as large as twenty (20) percent of each window area if no wall sign is provided.
- c. Sign copy ~~shall~~ must not exceed eight (8) inches in height, and ~~shall~~ must be applied directly to the interior face of the glazing or hung inside the window thereby concealing all mounting hardware and equipment.
- d. Window signs on glazing ~~shall~~ must be either silk screened, back painted, metal leafed, or sandblasted onto the glass. Vinyl lettering is not allowed.

e. Neon and scrolling marquee signs displayed on the interior surface of a window constitute a permanent window sign within the Downtown Core and Downtown Santa Fe Corridor areas only. One (1) neon sign is permitted per business façade, and ~~shall~~ must not exceed twenty-five (25) percent of the total glass area of the window. Scrolling marquee signs are not permitted.

## 5. "A" Frame Signs

In addition to wall signs, projecting signs, or awning signs, "A" frame signs are permitted. "A" frame signs are permitted in the Downtown Core only.

- a. The maximum sign area for an "A" frame sign is eight (8) square feet.
- b. The maximum overall height is four (4) feet tall.
- c. "A" frame signs ~~shall~~ must not be permanently affixed to any object, structure, or the ground.
- d. Each tenant in a multitenant complex or building is limited to one (1) "A" frame sign, located on private property or within the public right-of-way adjacent to the tenant space, provided the sign does not interfere with vehicle access, pedestrian movement or wheelchair access to, through, and around the site. A minimum access width of five (5) feet should be maintained along all sidewalks and building entrances accessible to the public.
- e. "A" frame signs ~~shall~~ must be used only during regular business hours and ~~shall~~ must be removed during nonbusiness hours.

## 6. Menu Boards

In addition to the signs permitted above, a restaurant with table service is allowed a menu board. Restaurant menu signs are not included in the calculation of maximum sign area for the building or tenant space.

- a. Menu boards ~~shall~~ must be located in a permanently mounted display box on the surface of the building adjacent to the entry. Taping a sign to a box is prohibited.
- b. Menu boards ~~shall~~ must not exceed an area of six (6) square feet, including all framework.

## L. Billboard Regulations

*Purpose: This section allows nonconforming billboards to continue until they are removed under the terms of this ordinance. No new billboards may be constructed in any zoning district.*

1. Billboards are declared by this zoning ordinance to be incompatible to, and inconsistent with, land development and other permitted signs set forth within any particular zoning district. All existing billboards, in any zoning district, are declared nonconforming.
2. This section supersedes and controls over any conflicting provision in this chapter.
3. Billboards now in existence in any zone are declared legal nonconforming uses, and may remain, subject to the following restrictions:

### a. Sign Permit Required

All existing legal nonconforming billboards are required to renew the sign permit every three (3) years. The Planning Official ~~shall~~ will inspect all legal nonconforming billboards upon receipt of a renewal application to determine full compliance with the provisions of the Unified Development Ordinance. The Planning Official ~~shall~~ will approve or deny the sign renewal application no later than thirty (30) days following the date of its submission. When a renewal is denied by the Planning Official, written notice of the denial ~~shall~~ must be given to the applicant, together with a brief written statement of the reasons for the denial. Permits are not required for replacing or altering content on existing billboards.

### b. Alterations of Nonconforming Billboards

A legal nonconforming billboard may not be increased in size or elevation, relocated to another site or to a new location on the same site or expanded, enlarged, or extended in any way, including, but not limited to, the addition of advertising faces, the addition of digital faces, adding additional illumination or the addition of rotating faces with moveable panels designed to create additional advertising. Structural alterations mean alterations to, including replacement of, either the billboard face or the supporting structure. Normal maintenance and repair including painting, cleaning, or replacing damaged parts of the billboard is not considered a structural alteration.

**c. Replacement, Restoration or Reconstruction**

Any legal nonconforming billboard which remains damaged or in disrepair, regardless of the percentage of construction (or damage) value or area of square footage which is damaged, for a period of three (3) months following the date of damage ~~shall~~ must not be replaced, restored or reconstructed.

**d. Repairs and Maintenance**

All legal nonconforming billboards ~~shall~~ must be kept in good repair and maintained in a neat, clean, attractive and safe condition. Routine repairs and maintenance of nonconforming billboards necessary to maintain health and safety may be permitted. Said repairs and maintenance ~~shall~~ must include such activities as painting and the replacement of a damaged or deteriorated sign face. A billboard owner ~~shall~~ will be prohibited from repairing or replacing a legal nonconforming billboard which is in disrepair in excess of fifty (50) percent of its replacement cost. An exception is made for those billboards which were destroyed by vandalism or other criminal or tortuous acts. Any legal nonconforming billboard which remains damaged or in disrepair, regardless of the percentage of construction (or damage) value or area of square footage which is damaged, for a period of three (3) months following the date of damage ~~shall~~ must not be replaced, restored or reconstructed.

**e. Failure to Comply**

Failure to comply with any applicable restrictions or performance standards of this ordinance may result in the revocation of the sign permit and removal of both the billboard sign face and its structure.

4. Any one (1) faced billboard that has remained vacant for a period of three (3) months or more ~~shall~~ will be deemed to have been abandoned and ~~shall~~ must result in the revocation of the sign permit and removal of the billboard. Any two (2) faced billboard that has both sides vacant for a period of three (3) months or more ~~shall~~ will be deemed to have been abandoned and ~~shall~~ must result in the revocation of the sign permit and removal of the billboard. This regulation does not apply if only one face of a two (2) faced billboard is vacant.

## M. Highway Signs

In addition to other signs permitted by this ordinance, highway signs are permitted for freestanding businesses (not part of a complex) having a minimum of fifty (50) percent of its site within eight hundred (800) feet of the centerline, or five hundred (500) feet of the right-of-way (whichever is less) of I-35 or K-10 highway. Highway signs ~~shall~~ must comply with monument sign criteria with the following exceptions:

1. The width of the base of the sign ~~shall~~ must not be less than twenty (20) percent of the width of the sign face nor more than sixty (60) percent of the width of the sign face.
2. The height of the sign ~~shall~~ must not exceed thirty (30) feet in overall height above the natural or average grade.
3. The area per face of a highway sign ~~shall~~ must not exceed two hundred (200) square feet. A maximum of two (2) faces is permitted.
4. Landscaping, such as flowering trees, shrubs and bushes, ~~shall~~ must be provided around the base of the sign as approved.
5. Highway signs ~~shall~~ must not be closer than thirty (30) feet to all property lines or located within any easement.
6. Reader boards ~~shall~~ will not be permitted.

## N. Special Permit Uses

Sign regulations for special permit uses are as follows:

1. For those special permit uses that are located in agricultural and residential districts, signs are permitted under the provisions of subsections E and E, above, or as set forth for that use in this chapter.
2. For those special permit uses that are located in commercial districts, signs are permitted under the provisions of subsections E, H and J, above, or as set forth for that use in this chapter.
3. For those special permit uses that are located in industrial districts, signs are permitted under the provisions of subsections E or J, above, or as set forth for that use in this chapter.
4. Signs permitted in conjunction with special use permits:

- a. In the case of special use permit uses, all wall and detached signs ~~shall~~ must be approved by the Planning Commission, except where private sign criteria have been previously approved for the development.
- b. In reviewing and approving those signs, the Planning Commission ~~shall~~ will consider: (1) the use of the facility, (2) the height of the building, (3) the surrounding land uses and zoning districts, (4) the relationship of the site to interstate highways, where applicable, and (5) the topography of the site. Where appropriate, the sign regulations of the underlying zoning district or the most analogous zoning district may be followed.

## 5. Private Sign Criteria

All hotels, motor hotels, shopping centers, business parks, office parks or industrial parks ~~shall~~ must prepare a set of sign criteria which ~~shall~~ will be approved as part of a planned district zoning by the Planning Commission and/or Governing Body for all exterior signs in the development. The criteria are binding upon all subsequent purchasers or lessees within the development. The size, colors, materials, styles of lettering, appearance of logos, types of illumination and location of signs ~~shall~~ must be set out in such criteria. In all respects, the criteria ~~shall~~ must be within the regulations set out in this code and ~~shall~~ must be for the purpose of assuring harmony and visual quality throughout the development. Final development plans (in the case of a planned zoning district) or building permits (in the case of a conventional zoning district) ~~shall~~ will not be approved until the Planning Commission has approved the sign criteria. No sign permit ~~shall~~ will be issued for a sign that does not conform to the criteria. For purposes of this section, the terms "shopping centers, business parks, office parks or industrial parks" mean a project of one (1) or more buildings that has been planned as an integrated unit or cluster on property under unified control or ownership at the time that zoning was approved by the City. The sale, subdivision or other partition of the site after zoning approval does not exempt the project, or portions thereof, from complying with these regulations relative to the number of detached signs, harmony and visual quality of signs to be installed.

## O. Temporary Signs

*Findings: The Governing Body finds that temporary signs provide an important medium through which individuals may convey a variety of noncommercial and commercial messages. In the case of certain noncommercial messages, temporary signs may provide the only effective and economically viable avenue of communication. However, if left completely unregulated, the proliferation of temporary signs constructed of nondurable materials could become a threat to*

*public safety as a traffic hazard and a detriment to property values and the City's overall public welfare as an aesthetic nuisance. In order to accommodate legitimate needs of residents and landowners for temporary signs without compromising the City's interest in traffic safety, aesthetics and preservation of property values, temporary signs may be posted on property in the City, subject to the following requirements and those applicable provisions stated elsewhere in this chapter.*

## **1. General Requirements Applicable to All Temporary Signs**

- a. No temporary sign ~~shall~~ will obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant, or any other type of street furniture, or otherwise create a hazard, including a tripping hazard. In all cases such signs ~~shall~~ must be placed outside the sight distance triangle.
- b. Temporary signs ~~shall~~ must be designed, constructed or mounted so as to be reasonably stable under all weather conditions, including high winds.
- c. No temporary sign ~~shall~~ will be illuminated or painted with light-reflecting paint.
- d. Temporary signs ~~shall~~ must only be posted with the consent of the property owner or occupant.
- e. Except where more stringent time limitations are imposed elsewhere in this section, a temporary sign may be posted for a period of up to sixty (60) days, within the calendar year at which time the sign ~~shall~~ must be removed or replaced.
- f. Temporary signs ~~shall~~ must be removed no later than five (5) days after the events to which the sign is related. Examples of the end of an event include the sale or occupancy of a property, the conclusion of the sale or event, or an election.
- g. No temporary sign ~~shall~~ will advertise or promote any commercial enterprise or event not conducted on the same building lot.

## **2. Temporary Signs in District AG and Residential Districts**

### **a. AG, R-1, and R-2 Districts**

In addition to other signs permitted by this chapter, in Districts AG and R-1 and R-2, a maximum of two (2) temporary signs may be displayed at any time.

(1) These signs ~~shall~~ must be yard signs and the total surface area of each sign face ~~shall~~ must not exceed six (6) square feet per face and six (6) feet in height. A maximum of two (2) sign faces are permitted for each yard sign.

(2) **Garage sale signs** may only be placed at the site of the sale. Garage sale signs include sample and yard sale signs. Such signs ~~shall~~ must not exceed four (4) square feet per sign, with two (2) faces per sign permitted. No permit is required for these signs.

**b. R-3 and R-4 Districts**

In addition to other signs permitted by this chapter, in multifamily districts a maximum of three (3) temporary signs may be displayed at any time.

**(1) Yard Signs**

(a) The total surface area of each yard sign ~~shall~~ must not exceed sixteen (16) square feet per face and ~~shall~~ must not exceed five (5) feet in height with a maximum twelve (12) inch gap above grade. A maximum of two (2) sign faces is permitted for each sign and a maximum of two (2) signs is permitted.

(b) In addition to signs permitted in subsection [O.2.b\(1\)\(a\)](#), above, one (1) sign not exceeding six (6) square feet per face with a maximum of two (2) faces and a maximum height of six (6) feet is permitted.

**(2) Wall Signs**

Temporary wall signs are permitted and ~~shall~~ must not exceed ten (10) percent of the total area of the wall upon which the sign is mounted. No more than one (1) temporary wall sign is permitted on any one (1) building or structure. All wall signs ~~shall~~ must be mounted on a solid wall and ~~shall~~ must not extend over decks, railings, outdoor patios, doorways, or windows.

**(3) Special Real Estate Signs**

Special real estate events ~~shall~~ must be allowed the use of pennants or flags under the following conditions:

(a) In conjunction with area-wide tour events.

(b) The opening of a new subdivision or the new phase of an existing subdivision. In this instance, pennants and business flags are permitted for one (1), fifteen (15) day period every six (6) months.

(c) One (1) other special event similar to (a) above and limited to one (1), fifteen (15)-day period per year such as open house or model house, up to sixty (60) days in a calendar year.

(d) No fee is required for these signs.

### 3. Temporary Signs in Commercial Districts and Industrial Districts

a. One (1) sign per street frontage or building.

b. For a wall-mounted temporary banner, the maximum size ~~shall~~ must be no larger than that permitted for permanent wall signs.

c. Temporary signs are permitted to be displayed a maximum of four (4), thirty (30) day periods per calendar year. In no case ~~shall~~ will a thirty (30) day period be carried over from month-to-month.

d. Temporary freestanding signs ~~shall~~ must be set back a minimum of ten (10) feet from any property line and ~~shall~~ must not exceed ten (10) feet in height, measured at grade, with a sign face no greater than thirty-two (32) square feet. No temporary freestanding sign ~~shall~~ will be placed in a sight distance triangle as defined by Section [18.30.220](#). A permit is required for these signs.

e. Inflatable devices up to thirty (30) feet in height are permitted, except on roofs, for two (2), thirty (30) day periods per calendar year. In no case ~~shall~~ will a thirty (30) day period be carried over from month-to-month consecutively.

f. Searchlights are permitted from dusk to midnight.

g. Balloons attached to stakes ~~shall~~ must be permitted with a temporary sign permit.

4. **Nonresidential uses in residential areas** may follow the temporary sign regulations as set forth in subsection [O.3](#), above, but inflatable devices and searchlights are prohibited.

**5. Temporary special events**, such as civic club events, school activities, etc., or temporary sales and events approved per Section [18.50.225](#) are permitted to have temporary signs, banners, flags or pennants, after a sign permit is obtained. No fee is required for these signs.

## **6. Real Estate Sign**

### **a. Single-Family and Two-Family Districts**

Real estate signs ~~shall~~ [must](#) not exceed six (6) square feet per face, with two (2) faces per sign permitted. The maximum height of the sign ~~shall~~ [must](#) not exceed six (6) feet. A maximum of three (3) signs per lot are permitted.

### **b. Multifamily, Commercial and Industrial Districts**

A maximum of two (2) signs are permitted for each parcel.

#### **(1) Freestanding Signs**

Real estate signs ~~shall~~ [must](#) not exceed sixteen (16) square feet in area per face with two (2) faces permitted. The sign ~~shall~~ [must](#) not exceed five (5) feet in height with a maximum twelve (12) inch gap above grade. In addition, one (1) real estate sign, not exceeding four (4) square feet per face, with a maximum of two (2) faces permitted, and a maximum height of six (6) feet is permitted.

**(2)** Signs attached to the wall of the building ~~shall~~ [must](#) not exceed ten (10) percent of the wall area upon which it is placed. A maximum of two (2) wall signs is permitted.

### **c. Undeveloped Land for Sale Signs**

In lieu of the signs permitted in subsections [O.6.a](#) and [O.6.b](#), above, undeveloped and unplatted land over ten (10) acres in size are permitted two (2) "For Sale" signs not to exceed thirty-two (32) square feet in area per face, with two (2) faces permitted. The signs ~~shall~~ [must](#) not exceed eight (8) feet in height.

#### **(1) V-Shaped Signs**

Such signs ~~shall~~ [must](#) not exceed thirty-two (32) square feet in total area and ~~shall~~ [must](#) not exceed eight (8) feet in height measured at grade. A maximum of one (1) sign for each parcel is permitted.

## 7. Removal or Replacement

- a. The person who has posted or directed the posting of a temporary sign is responsible for the removal or replacement of that sign in accordance with this section.
- b. If that person does not remove or replace the temporary sign in accordance with this section, then the property owner or occupant of the building lot where the sign is posted is responsible for the sign's removal or replacement.
- c. The Planning Official is authorized to remove any temporary signs posted in violation of this chapter that are not removed or replaced in accordance with the provision above. Temporary signs posted on private property in violation of this section are deemed a public nuisance, and the Planning Official may abate that nuisance in accordance with subsection [S](#), below.
- d. The Planning Official may immediately remove temporary signs posted on public property or rights-of-way in violation of this chapter.

## P. Prohibited Signs and Devices

It is a violation of these zoning regulations to erect, install, place or maintain the following signs:

1. Any signs or advertising structures which are not specifically permitted under the sign subsection in the schedule of district regulations or otherwise specifically permitted under these zoning regulations.
2. Any sign or advertising structure which constitutes a traffic hazard or a detriment to traffic safety by reason of its size, location, movement, content, coloring, or method of illumination, or by obstructing the vision of drivers, or signs that obstruct or detract from the visibility of traffic control devices or emergency vehicles. The use of flashing lights or revolving lights is prohibited in any sign as constituting a hazard to traffic. Any sign which by glare or method of illumination constitutes a hazard to traffic is prohibited. Electronic/video screen signs ~~shall~~ will not be permitted. Exterior neon lighting, illuminated banding or other types of lighting that create a glow is prohibited unless it is approved by the Planning Commission as part of an overall theme for the development area.
3. Erect or alter any sign as defined in the Unified Development Ordinance, or make use of a living sign displaying a commercial message, without first obtaining a sign permit in accordance with the requirements of, and procedures set forth in, the Unified Development Ordinance.

4. Any sign or advertising structure with words, scenes or graphics which are obscene, indecent and prurient, within the meaning of K.S.A. [21-4301](#), as amended.
5. Any sign or advertising structure (other than those erected by a governmental agency or required to be erected by a governmental agency for a public purpose) erected, installed or placed on the right-of-way of any street, road or public way, or signs overhanging or infringing upon the right-of-way of any street, road or public way, except as specifically permitted by these regulations.
6. Any sign or advertising structure erected on City of Olathe property or other governmental property other than signs erected by said governmental entity for public purposes.
7. Any sign or advertising structure which is erected, installed or maintained that obstructs any fire escape, required exit, window or door opening intended as a means of ingress or egress.
8. Signs are prohibited on the rear of a building, except for the following:
  - a. A sign located on a rear exit door. The sign ~~shall~~ [must](#) not exceed six (6) inch nonilluminated letters painted, printed, stenciled or attached to the face of the rear door and covering no greater than twenty (20) percent of that door.
  - b. Where the rear of a commercial building is oriented toward street right-of-way or an internal shopping center access drive, a wall sign in accordance with subsections [H](#) and [J](#), above, are permitted on the rear wall of the building only if that building façade is architecturally designed to resemble the principal or front façade of the building by including similar architectural features such as windows, doors, awnings, building materials, and similar elements. The rear of a building is that side of a building opposite from the principal or main entrance to a building.
  - c. In the Downtown (D) district, subject to the standards established in subsection [K](#), above.
9. "A" frame sign (except in the Downtown (D) district).
10. Attention-attracting devices.
11. Abandoned signs.
12. Off-site signs (except billboards or where specifically allowed by this chapter).

13. Portable sign, excluding real estate signs.
14. Roof signs.
15. Snipe signs, except warning signs posted by public utility companies.
16. Temporary signs, except as permitted by subsection [O](#), above.
17. Vehicular signs, except that sign copy painted on a motor vehicle or semi-trailer normally in motion during use ~~shall~~ [will](#) not be considered a vehicular sign when moved at least one (1) time during a seventy-two (72) hour period.
18. Yard signs, except as permitted temporary signs.
19. Painted wall signs which are painted directly on the wall of a building or surface, except that signs painted on a window in a commercial zoning district (as part of the permitted wall sign) are permitted.
20. Directly illuminated signs, except to the extent specifically authorized in this chapter.
21. Any sign not specifically, or by reasonable implication, permitted in this section.
- [22. Barrel-type awnings signs.](#)
- [23. Standard residential type aluminum awnings.](#)

**Q. Sign Maintenance**

1. Any sign or advertising structure erected or installed under the provisions of this section ~~shall~~ [must](#) be maintained in a safe, functional and sound structural condition at all times. General maintenance of said sign ~~shall~~ [must](#) include the replacement of nonfunctional, broken, or defective parts, painting, cleaning and upkeep of the premises immediately surrounding the sign or advertising structure, and any other action required for the maintenance of said sign or advertising structure. All signs and supporting structures ~~shall~~ [must](#) be kept painted or treated in some manner to prevent rust, decay or deterioration.
2. If any sign, which is placed in a public easement, is damaged due to maintenance of utilities in that easement by the City or others, the cost for repairs or replacement of said sign ~~shall~~ [must](#) be borne by the sign owner.

## R. Abandoned Signs

1. Except as may be otherwise provided for in this ordinance, any sign which is located on a building, structure, or real property which becomes vacant and unoccupied for a period of three (3) months or more, or any sign which pertains to a time, event, or purpose which no longer applies, ~~shall~~ will be deemed to have been abandoned. An abandoned sign is prohibited and ~~shall~~ must be removed by the owner of the sign or the owner of the premises. When a wall sign is removed, the wall of the building or structure ~~shall~~ must be restored to its normal appearance. Removal of a monument or highway sign ~~shall~~ must include the face and base. Any sign structure that is in conformance with this chapter may remain as long as it is maintained and does not become unsafe or unsightly.
2. If after the three (3) month time period has elapsed and the sign has not been removed, the Planning Official ~~shall~~ will notify, in writing, the property owner of record that the sign ~~shall~~ must be removed within thirty (30) days after the date of the notice. If the sign has not been removed within thirty (30) days after the date of the notice, the Planning Official may have the sign removed and the associated costs assessed to the property.
3. The City Clerk ~~shall~~ will mail a statement of such cost for the removal of said sign to the last known address of the owner of record of the property, or person in charge of such property. If such costs are not paid within ten (10) days from the mailing of such notice, the Governing Body of the City ~~shall~~ will proceed to pass an ordinance levying a special assessment for such cost against the lot or piece of land. The City Clerk ~~shall~~ will certify such assessment to the County Clerk for collection and payment to the City in the same manner as other assessments and taxes are collected and paid to the City.

## S. Nonconforming Signs

Nonconforming signs are declared by this zoning ordinance to be incompatible to, and inconsistent with, land development and other permitted signs set forth within any particular zoning district. It is the intent of this section to allow those nonconforming signs to continue until they are removed under the terms of this ordinance, but not to encourage their survival.

1. "Nonconforming sign." A sign that, on the effective date of this ordinance, does not conform to one (1) or more of the regulations set forth in Chapter 18.64.

## **2. Alterations of Nonconforming Signs**

No nonconforming sign or advertising structure ~~shall~~ must be expanded, relocated or restored unless said sign or advertising structure is brought into conformance with the provisions of this section or any other applicable City code requirement.

## **3. Replacement, Restoration or Reconstruction**

If any existing nonconforming sign, as provided for in this section, is damaged by any means, including, but not limited to, fire, flood, wind, explosion, act of God, or act of a public enemy, to an extent of fifty (50) percent or more of the replacement, restoration or reconstruction value of the sign, or fifty (50) percent of the square footage of the sign copy area, said sign ~~shall~~ must not be replaced, restored or reconstructed unless it is brought into full compliance with the provisions of the Unified Development Ordinance. Any nonconforming sign which remains damaged or disrepaired, regardless of the percentage of construction (or damage) value or area of square footage which is damaged, for a period of three (3) months following the date of damage without the issuance of a valid sign permit, ~~shall~~ must not be replaced, restored or reconstructed unless it is brought into full compliance with all applicable codes and ordinances.

## **4. Repairs and Maintenance**

Routine repairs and maintenance of nonconforming signs necessary to maintain health and safety may be permitted. These repairs and maintenance include activities such as painting and the replacement of a damaged or deteriorated sign face. The cost of the repairs and maintenance ~~shall~~ must not exceed fifty (50) percent of the value of the sign which is to be repaired or maintained. The value ~~shall~~ must be that which is current at the time of the repair or maintenance. Prior to the repair and maintenance taking place, the Code Enforcement Department ~~shall~~ will be consulted to determine if a sign permit is necessary. If the determination is made, then all applicable work performed ~~shall~~ must be accomplished through the issuance of a valid sign permit as required by this ordinance.

## **5. Termination of Nonconforming Signs**

Upon the discontinuance of a use to which any nonconforming sign or advertising structure is accessory to, the tenant or property owner ~~shall~~ must remove all nonconforming signs, supports and structures upon the building or property upon which the use was located.

## T. Nonconforming Signs

1. Subject to the remaining restrictions of this section, nonconforming signs that were otherwise lawful on the effective date of this title may be continued.
2. No nonconforming sign may be altered in such a manner as to aggravate the nonconforming condition, nor may illumination be added to any nonconforming sign.
3. A nonconforming sign may be altered to bring the sign into complete conformity with this section.
4. Subject to the other provisions of this section, nonconforming signs may be maintained.
5. If a nonconforming sign other than a billboard advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign ~~shall~~ will be deemed abandoned and ~~shall~~ must be removed within thirty (30) days after abandonment by the sign owner, owner of the property where the sign is located, or other person having control over the sign.
6. If a nonconforming billboard remains blank for a continuous period of one hundred eighty (180) days, that billboard ~~shall~~ will be deemed abandoned and ~~shall~~ must, within thirty (30) days after abandonment, be altered to comply with this section or be removed by the sign owner or owner of the property where the sign is located, or other person having control over such sign. For purposes of this section, a sign is "blank" if:
  - a. It advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted; or
  - b. The advertising message it displays becomes illegible in whole or substantial part; or
  - c. The advertising copy paid for by a person other than the sign owner or promoting an interest other than the rental of the sign has been removed.

## U. Declaration of Nuisance

The Governing Body hereby determines that the public peace, safety, health and welfare requires that all signs and sign structures hereafter constructed or erected ~~shall~~ must conform and comply with such requirements forthwith. All signs which ~~shall~~ will hereafter be constructed or erected in violation of the provisions of this ordinance ~~shall~~ must be declared public nuisance, and ~~shall~~ must be removed and abated in the manner provided by law.

## V. Noncommercial Messages

Any commercial sign permitted under this chapter is allowed to contain noncommercial speech in lieu of any commercial speech, subject to all applicable restrictions and performance standards.

## W. Exceptions

Exceptions to sign regulations for standard zoning districts may only be granted by the Board of Zoning Appeals through a variance, subject to the provisions of Chapter [18.40](#) of the Unified Development Ordinance. Deviations to sign regulations for planned zoning districts may be approved by the Planning Commission and Governing Body at the time of rezoning as part of the preliminary development plan. Any deviation or exception to the requirements of this chapter may only be granted upon a finding by the Governing Body that all of the following conditions are met:

1. That the deviation requested arises from such condition which is unique to the property in question, is not ordinarily found in the same zone or district, and is not created by an action or actions of the property owner or applicant.
2. That granting the deviation will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the provisions of this ordinance would constitute unnecessary hardship upon the property owner represented in the application.
4. That the deviation desired will not adversely affect the public health, safety, moral order, convenience, prosperity, or general welfare.
5. That granting the deviation will not be opposed to the general spirit and intent of this ordinance.”

**SECTION TEN:** Section 18.90.020 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

### “18.90.020 Definitions

#### A. Generally

1. Where a word or term is not defined in this [Chapter](#), but is defined elsewhere in this ordinance or in the Municipal Code, that definition applies unless the context indicates that a standard dictionary definition is more appropriate.

2. Where a word or term is defined in this [Chapter](#) and also defined elsewhere in this ordinance, the definition contained in this chapter generally applies except in the [Chapter](#) or [Section](#) to which the other definition applies.

3. Where a word or term is neither defined in this [Chapter](#) nor defined elsewhere in this [Ordinance](#) or in the Municipal Code, the definition found in the most current edition of [A Glossary of Zoning, Development, and Planning Terms A Planners Dictionary](#) dated ~~December 1999~~, by the [American Planning Association](#) Planning Advisory Service applies unless the context indicates that a standard dictionary definition is more appropriate.

[4. Definitions for terms related to architecture and building design are found in Section 18.15.020.](#)

## B. Words and Phrases Defined

**Abutting or Adjoining** Joined contiguous to, having common district boundaries or lot lines or being immediately adjacent.

**Access** A means of vehicle, bicycle, or pedestrian approach, entry to, or exit from property.

**Access/Private Drive** A paved surface which provides access to a public street for a maximum of four (4) dwelling units.

**Accessory Building** A subordinate building having a use customarily incidental to and located on the lot occupied by the main building. A building housing an accessory use is considered to be an integral part of the main building when it has any part of a wall in common with the main building, or is under an extension of the main roof and designed as an integral part of the main building. Portable storage containers are not considered as an accessory building.

**Accessory Use** A use of a building or land which serves an incidental function to and is customarily associated with, and located on the same lot or premises as, the main use of the premises.

**Adaptive Reuse** The occupancy and use of an existing, abandoned building that was formerly used as a commercial, service, or other nonresidential use.

**Adjacent** Lying near or close to; sometimes, contiguous; or neighboring.

**Administrative Approval** A written approval that the Planning Official is authorized to grant after administrative review.

**Administrative Review** The procedures established in Chapter [18.40](#).

**Adult Business Establishment** See definition in Chapter [5.50](#).

**Advertising Trailer** A trailer carrying or having attached thereto a sign, billboard or other media for advertising purposes, such advertising being the prime purpose and use of the trailer.

**Aggrieved Party** Any person, property owner or entity with standing to challenge a decision taken under Chapter [18.40](#) under Kansas or federal law.

**Agricultural Purposes** Land, including necessary buildings and structures, is considered used for agriculture if the zoning lot contains at least forty (40) acres of land area, and if the principal use is the raising or keeping of livestock and/or the growing of crops in the open.

**Agricultural Use** The use of land where that is devoted to the production of plants, animals or horticultural products, including but not limited to:

Forages; grains and feed crops; dairy animals and dairy products; poultry and poultry products; beef cattle, sheep, swine and horses; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; or nursery, floral, ornamental and greenhouse products. Agricultural use does not include use of land for recreational purposes, suburban residential acreages, rural home sites or farm home sites and yard plots whose primary function is for residential or recreational purposes even though the properties may produce or maintain some of those plants or animals listed in the foregoing definition.

**Airport-Heliport** An area of land or water that is used or designed for the landing and take-off of aircraft, of any type, and includes its buildings and facilities, for the shelter, servicing or repair of aircraft.

**Alley** A minor way, dedicated for public use, which is used primarily for secondary means of access to the sides or rear of lots.

**Alteration** Any addition, removal, extension or change in location of any exterior wall of the main building or accessory building.

~~**Aluminum Siding** Long pieces of aluminum that are used to cover the outside walls of a building.~~

**Amendment** Any addition, deletion, or revision of the text of the Unified Development Ordinance (UDO), or any addition, deletion, or revision of the Official Zoning Map or the Municipal Code adopted by the Governing Body after public hearings.

**Amenity** The characteristics of a development that increase its desirability to a community or its marketability to the public. Amenities may include such things as recreational facilities (e.g., a swimming pool, sports courts, play equipment for children, ball fields, walking trails, etc.), clubhouses, picnic tables, and natural landscape preserves.

**Amusement Device** Any machine, game, table or device which is designed, intended or used as entertainment, and may be operated by the public upon the insertion of a coin or token. Amusement device includes, but is not limited to, devices commonly known as pinball machines, pool tables, video games, electronic games, kiddie rides, mini-theaters-projection devices and video screens, and all games or operations similar thereto, whether or not registering a score. Not included within the definition of amusement device are such devices as food, televisions, phonographs, soft drink and cigarette vending machines.

**Apartment Building** A building arranged, intended or designed for residence by more than two (2) families.

**Applicant** The subdivider, developer or owner of any area subject to an application for a rezoning, site plan, subdivision plat, special use permit, building permit, certificate of occupancy, or any other approval required by this title (see Chapter [18.40](#)).

**Application** Any application for a text amendment, rezoning, site development plan, special use permit, variance, building permit, certificate of occupancy, variance, appeal, or any other approval required by this title.

**Approving Authority** The official or agency with authority to approve, approve with conditions, or deny any application.

~~**Architectural Block** A glass architectural material commonly used in wall and floor applications, consisting of one (1) or more blocks or bricks, typically at least two (2) inches thick, which may be solid glass or hollow in the center. Architectural blocks are commonly textured clear glass formed into a square shape, but are available in a variety of other shapes, colors, and textures. For purposes of this document, transparent glass architectural block may be subject to different regulations than opaque glass architectural block or mirror glass architectural block.~~

~~**Architectural Features** Physical additions to a structure that allow the creation of different styles including, but not limited to, porches, balconies, dormers, bay windows, shutters, belvederes, chimneys, colonnades, towers, cupolas, cornices, eaves, soldier courses, lintels, and decorative ornaments.~~

~~**Architectural Metal** Metals used as structural features such as trusses, or decorative features such as cladding, balustrades, handrails or detailed/customized panels. Architectural metal may be finished or weathered.~~

~~**Architectural Panels** A transparent sheet or panel of glass used as wall cladding, typically as part of a curtain wall system. Architectural panels may be transparent from one (1) or both directions, may come in a variety of colors and levels of translucence, and may be smooth, etched, or otherwise textured. For purposes of this document, transparent glass architectural panels may be subject to different regulations than opaque glass architectural panels or mirror glass architectural panels.~~

**Attached** Having a wall, roof or other structural member with building materials and architectural design in common with or in contact with another building.

~~**Awning** A roof-like cover, often of fabric, metal, or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure over a window, walk, door, or the like.~~

**Berm** A manmade mound of earth used to shield, buffer, or screen properties from adjoining uses, highways, or noise, or to control the direction of surface water flow.

**Block** A tract or parcel of land entirely surrounded by public highways or streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, drainage ways, municipal boundary lines, township lines or county lines.

**Block Face** The properties abutting on one (1) side of a street situated between intersecting public highways or streets, or by a combination of such street and public parks, cemeteries, railroad rights-of-way, public park, exterior boundary of a subdivision or any other physical barrier to the continuity of development.

**Boat** A vehicle for traveling in or on water, including all types of personal watercraft. The definition of boat includes the trailer, if the vehicle(s) is mounted on a single trailer.

~~**Brick** Ceramic products manufactured primarily from clay, shale, or similar naturally occurring earthy substances and subjected to a heat treatment at elevated temperatures (firing), and that are shaped during manufacture by molding, pressing, or extrusion. Brick may include additives or recycled materials.~~

~~**Brick Imprint or Overlay System** A concrete veneer product that is patterned and colored to resemble traditional brick.~~

~~**Brick, Modular** Solid brick or brick panel/veneer whose dimensions are based on a standard eight (8) inch length.~~

~~**Brick, Panel/Veneer** Brick that is installed on the exterior of a steel or wood frame, and that is not used to provide structural support for the building.~~

~~**Brick, Solid** A wall composed of either two (2) layers of brick, or a layer of concrete block with a brick exterior. The wall provides structural support for the building in compliance with the building code.~~

**Buffer** An area of land separating two (2) distinct land uses that acts to soften or mitigate the effects of one (1) land use on the other.

**Building** Any structure with a permanent roof, separated on all sides from adjacent open space by walls, built for the shelter or enclosure of persons, animals, chattels or property of any kind, not including portable storage containers.

**Building Coverage** That portion of the net site area which is covered by buildings or roofed areas, but excludes ground level paving, landscaping, open recreational facilities, incidental projecting eaves, balconies, and similar features.

~~**Building Elevation** A flat, scale drawing of the front, rear, or side of a building.~~

~~**Building Front** The side of a building with the main entrance door.~~

**Building Official** The duly appointed Building Official of the City, or his or her designee.

**Building, Principal** See "main building."

**Camper** A separate vehicle designed for temporary recreational human habitation and which can be attached to or detached from a pickup truck.

**Campground** An area of land available for the overnight or temporary parking of recreation vehicles which is in compliance with the zoning and other ordinances of the City.

**Capital Improvement Program (CIP)** A proposed schedule of future projects, listed in order of construction priority, together with cost estimates and the anticipated means of financing each project.

~~**Cement Fiber Board or GRFC**—A cementitious matrix composed of cement, sand, water, and admixtures, in which short length glass fibers are dispersed. GRFC is concrete that uses glass fibers for reinforcement instead of steel. It is typically used for nonstructural façade panels.~~

**Certificate of Occupancy** A document issued by the proper authority allowing for the occupancy or use of a building, and certifying that the structure or use has been constructed or will be used in compliance with all the applicable codes and ordinances of the City of Olathe.

**Child-Care** Regulations for licensing various day-care homes and group day-care homes for children in accordance with requirements of KSA [65-501](#) through [65-516](#), KAR [28-4-123](#) through [28-4-132](#) and amendments thereto.

**City** The City of Olathe, Kansas.

**Civic Space** A type of open space designed and designated for public or semi-public active use, located in an area visible and easily accessible to the public, and including a combination of pedestrian amenities and aesthetic elements such as plazas, benches, fountains, landscaping, art, clocks, towers, or recreational amenities. Civic spaces typically have a high percentage of impervious or semi-pervious surface area when compared to other types of open space, which generally have a low percentage of impervious surface area.

**Civic Use** Includes governmental administrative and business offices, colleges and universities (public or private), child-care, elementary and secondary schools (public or private), postal facilities, religious assembly, safety services, and transportation terminals.

**Commercial Districts** Districts O, C-1, C-2, C-3, C-4, D, and BP.

**Commercial Vehicle** A vehicle with or without its own motive power; with a chassis rated at one (1) ton or more; dimensions exceeding twenty (20) feet in total length, eight (8) feet in width, or seven (7) feet in height; and used primarily for the carrying of equipment, livestock, minerals, liquids or other commodities, or the carrying of persons in the performance of a transportation service. Commercial vehicles include hauling and advertising trailers if the total length of the bed or box exceeds eight (8) feet.

**Community Parking Facility** An off-site parking lot or garage that provides required parking for some or all of the uses within the D District or a Center Area (CA) of an N District.

**Compatible** Any properties, uses, designs or services capable of existing together without conflict or adverse effects while considering the Comprehensive Plan, corridor studies, design manuals, design guidelines, and other applicable studies, plans, and policies as approved by the Planning Commission and the Governing Body.

**Complex** A group of freestanding buildings, or buildings constructed in such a way as to give an appearance of being interrelated because of architectural similarity and/or interconnected drives and parking areas; or a building divided into three (3) or more separate offices, businesses or apartments; provided, that the building is not part of a large complex. A complex is limited to apartment complexes, office or business complexes, shopping centers and industrial parks.

**Comprehensive Plan** The Comprehensive Plan for the City adopted pursuant to KSA [12-747](#) et seq.

~~**Concrete, Detailed** Precast (using custom molds) or cast-on-site concrete that includes special finishes or design details such as geometric shapes or artistic designs.~~

~~**Concrete Masonry Unit or "CMU"** Large, rectangular blocks from cast concrete. Depending on the specific concrete materials or application, CMU may also be called concrete block, cement block, cinder block or foundation block.~~

~~**Concrete Masonry Unit, Burnished** A type of CMU that is polished after manufacture to highlight cement that includes naturally colored aggregates.~~

~~**Concrete Masonry Unit, Flush/Plain** CMU that has a plain, flush surface that has not been burnished to highlight naturally colored aggregates.~~

~~**Concrete Masonry Unit, Split Faced** A type of CMU that has a factory-produced stone-like texture produced by molding two (2) units together and splitting them apart to create a fractured appearance. Split-faced CMU is also sometimes called split-rib CMU.~~

**Concrete, Plain Finish** Precast or cast-on-site concrete that does not include special finishes or design details on visible surfaces.

~~**Concrete, Precast** Concrete cast in a reusable off-site mold or form and cured in a controlled environment before being transported to the construction site.~~

**Corner Lot** A lot on the junction of and abutting two (2) or more intersecting streets.

~~**Corrugated Metal** Sheet metal which has been drawn or rolled into parallel ridges and furrows to provide additional mechanical strength.~~

**Crosswalk** A designated pedestrian crossing on a drive or parking lot with some means employed to assist pedestrians wishing to cross from public connections to the development's amenities and to such primary structures, as identified by the applicant and staff, as indicated on the final site development plan.

**Cul-de-Sac** A street with only one (1) outlet and having an appropriate terminus for the safe and convenient reversal of traffic movements.

**Curb Level** The mean level of the curb in front of the lot or, in the case of a corner lot, along the abutting street, where the mean curb level is the highest.

**Customary Passenger Vehicle** A vehicle with its own motive power; not exceeding twenty (20) feet in overall length, eight (8) feet in width or seven (7) feet in overall height; and primarily designed to carry persons. Small pickup trucks, conversion vans, and sport utility vehicles ~~shall~~ must be considered as customary passenger vehicles.

**Day-Care** The provision of supervision, training, food, lodging or medical services to persons for less than twenty-four (24) hours a day. The supplemental use regulations define specific types of day-care facilities (⇔ See Section [18.50.035](#)).

**Dedication** The conveyance by a property owner or developer of private land for public use.

**Deed** A written instrument whereby property or property rights is conveyed.

**Deed Restriction** A private restriction on the use of land, attached in the deed to a property.

**Density** The number of dwelling units permitted per net acre of land.

**Detached** A building that does not have a wall, roof or other structural member in common with or in contact with another building.

**Detention Basin** A structure or facility, natural or artificial, which stores storm water on a temporary basis and releases it at a controlled rate.

**Developer** A person, firm or corporation undertaking the subdividing of land or the development of land, and ~~shall~~ must include the person, firm or corporation who is responsible for installing the public improvements on the land.

**Development** A manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**Display Area or Lot** An off-street paved area designated for the advertisement or display of customary passenger cars, motor vehicles, recreational vehicles, boats, tractors and other motorized machinery except large construction equipment.

**Drive-in Service** See Section [18.50.040](#).

**Drive-through Service** See Section [18.50.040](#).

**Dwelling** A building or portion thereof designed exclusively for residential occupancy, including single-family, two-family and multifamily dwellings, but not including hotels or motels.

**Dwelling Unit** An enclosure containing sleeping, kitchen and bathroom facilities designed for and used or held ready for use as a permanent residence by one (1) family.

**Easement** A permanent or temporary grant of right by a landowner to the public, a corporation or other persons, of the use of a portion of a lot or tract of land for specified purposes where title to said portion of the lot or tract of land remains with the landowner.

**Elevation** The horizontal alignment of a surface, as it exists or as it is made by cut and/or fill.

**Emergency Vehicle** A vehicle used for the purpose of recovering and/or towing of disabled vehicles; that is used by a business, with an office and tow lot within the Olathe City limits, in the business of towing and recovery or wrecker service; that is registered with the Police Department of the City, Johnson County Sheriff or the Kansas Highway Patrol as being available for on-call vehicles recovery twenty-four (24) hours a day; that displays on the driver and passenger doors of the vehicle the towing business name, location and phone number.

~~**Façade or Face** The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.~~

~~**Façade, Primary**—Any façade that:~~

~~**A.**—Faces or is visible from a public street, or a private drive or parking area that serves customers, residents or employees of the building's occupants, or~~

~~**B.**—Has the primary customer entrance.~~

~~**Façade, Secondary** Any façade other than a primary façade.~~

**Family** One (1) or more persons who are related by blood or marriage, living together and occupying a single housekeeping unit with single kitchen facilities; or a group of not more than four (4) adult persons (excluding servants), living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities, on a nonprofit, cost-sharing basis; or a group of eight (8) or fewer unrelated disabled persons including two (2) additional persons acting as houseparents or guardians who need not be related to each other or to any of the disabled persons in residence.

**Fence** See Section [18.50.050](#).

**Floodplain, Floodway and Floodway Fringe** See Section [18.30.100](#), floodplain zoning.

**Floor Area** To determine the floor area and size of an establishment, “floor area” means the sum of the gross horizontal area of the several floors of the building measured from the exterior face of the exterior walls, or from the centerline of walls separating two (2) buildings. The floor area of a building includes basement floor area but not cellar floor with a headroom of seven (7) feet or less, penthouses for mechanical equipment, or attic space having headroom of seven (7) feet or less, interior balconies, mezzanines, and enclosed porches. However, any space devoted to off-street parking or loading is not included in floor area. The floor area of structures devoted to bulk storage of materials including, but not limited to, grain elevators and petroleum storage tanks ~~shall~~ will be determined on the basis of height in feet; i.e., ten (10) feet in height ~~shall~~ must equal one (1) floor.

**Food Truck** See Mobile Food Vendors, Chapter [5.30](#).

**Frontage** Means the length of all property fronting on a public street right-of-way.

**Frontage Buildout** The length of a front building façade compared to the length of the front lot line, expressed as a percentage.

**Future Land Use Plan** Means the map portion of the Comprehensive Plan which is the graphic representation of the City’s land use goals, objectives and policies.

**Garage** An accessory building or portion of a main building primarily used for storage of motor vehicles.

**Gas Extraction** See Section [18.50.065](#).

~~**Glass, Clear or Transparent** Glass that is primarily transparent, without reflective coatings, that is used to visually link indoor and outdoor spaces. Transparent glass does not include faux windows that are not related to indoor spaces.~~

~~**Glass, Spandrel** Durable glass that is used to cover construction materials. It is often tinted or colored, and used to cover the space between building floors or other areas where the use of transparent glass is not possible. Spandrel glass may include faux windows.~~

**Governing Body** The Mayor and City Council of the City.

**Grade** A reference plane representing the average finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane ~~shall~~ must be established by the lowest point(s) within the area between the building and the lot line or, when the lot line is more than six (6) feet from the building, between the building and a point located six (6) feet from the building.

**Green** An open space available for unstructured recreation consisting of grassy areas and trees.

**Greenway** A series of connected natural areas for recreation and conservation that follows natural features such as ravines, creeks, streams, and other watercourses. Greenways may also consist of manmade linkages to provide connections between natural areas.

**Gross Land Area** All land contained within the boundaries of a particular lot or tract of legally described property, including all existing and proposed public and private streets and one-half of any abutting street rights-of-way, excluding state and federal highway rights-of-way.

**Ground Cover** Landscape materials, or living low-growing plants other than turf grass, installed in such a manner so as to form a continuous cover over the ground surface.

**Hauling Trailer** A trailer designed and normally used for over-the-road transportation of belongings, equipment, merchandise, livestock and other objects, but not equipped for human habitation. Hauling trailers are those trailers having a bed or box that does not exceed eight (8) feet.

**Height of a Building or Structure** See Section [18.30.110](#).

**Highway** A thoroughfare controlled and/or maintained by the Kansas Department of Transportation (KDOT).

**Hobby Activity** See Section [18.50.020.C](#).

**Home Occupation** See Section [18.50.070](#).

**Improvements** Any structure, grading, street surfacing, curbs and gutters, sidewalks, bikeways, crosswalks, water mains, sanitary sewers, storm sewers, drainage ditches, culverts, bridges, trees and other additions or deletions from the natural state of land which increase its utility or habitability.

**Indoor** Within a building which has a roof composed of weatherproof material, and which is enclosed on its perimeter with exterior walls composed of weatherproof materials.

**Industrial Districts** Districts M-1, M-2, and M-3.

**Inoperable Equipment or Parts** Any equipment or machine which is not in condition to be operated in a normal or customary manner. This is to include all manner of equipment or machines, or any major parts thereof such as body, chassis, engine, frame, wheels, tires or trailer portion of a tractor-trailer rig.

**Junk** Includes but is not limited to: older scrap copper; brass; rope; rags; batteries; paper; trash; rubber; debris; waste; junked, dismantled, scrapped or wrecked motor vehicle or parts thereof; iron; steel; or other old or scrap materials.

**Junkyard** An establishment or part thereof, which is maintained, operated, or used for storing, keeping, repairing, buying or selling junk, including any parts of vehicles, equipment, or machines or discarded or similar materials, or for the maintenance or operation of a salvage yard.

**Landowner** The legal or beneficial owner or owners of a lot or tract, or the holder of a contract to purchase or other person having an enforceable proprietary interest in a lot or tract. For purposes of Chapter [18.40](#), "landowner" includes any agent of the landowner.

**Landscape Material** Living materials such as trees, shrubs, ground cover, vines, turf grasses, and nonliving materials such as rocks, pebbles, sand, bark, brick pavers, earthen mounds (excluding pavement), and other items of a decorative or embellishment nature such as fountains, pools, walls, fencing, sculpture, etc.

**Landscaped Open Space** That part of the net land area which is free of streets, structures, or parking areas and provided to improve the drainage, microclimate and aesthetics of the site.

Such areas are usually landscaped and appropriately located to achieve maximum effect and appeal. Typically, the space includes lawn areas, shrubs and trees, walkways, paved terraces, sitting areas and outdoor recreational areas. Unpaved land areas within private or public street rights-of-way are not counted as landscaped open space unless they are in excess of minimum right-of-way standards.

**Landscaping** Bringing the soil surface to a smooth finished grade and installing sufficient trees, shrubs, ground cover and grass to soften building lines, provide shade and generally produce a pleasing visual effect of the premises.

**Loading Area** An off-street space on the same lot with a building or group of buildings for temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

**Loading Dock** A platform, pier, or fixed hydraulic lift from which loading and unloading of commercial vehicles takes place.

**Lot** A parcel of land occupied, or to be occupied, by one (1) main building or unit group of buildings, and the accessory buildings or uses customarily incident thereto, including such open spaces as are required under these regulations, and having its principal frontage upon a public or private street. A lot as used in this ordinance may consist of one (1) or more platted lots or tracts, or parts thereof.

- A.** Platted lot means a portion of a subdivision intended as a unit for transfer of ownership or for development.
- B.** Corner lot means a lot abutting upon two (2) or more streets at their intersection. A corner lot ~~shall~~ will be deemed to front on that street on which it has its least dimension, unless otherwise specified by the City Planner, except that a lot made up of more than one (1) platted lot ~~shall~~ will be deemed to front on the street upon which the platted lots front.
- C.** Double-frontage lot means a lot abutting upon two (2) or more streets, at least two (2) of which do not intersect.
- D.** Interior lot means a lot whose side lot lines do not abut upon any street.

**E.** Through lot means an interior, double-frontage lot.

**Lot Coverage** That portion of the net site area which is covered by the ground floor of any structure, parking lots, and private streets and drives. Pools, tennis courts, sidewalks and plazas are not counted toward lot coverage.

**Lot Depth** The mean horizontal distance from the front lot line to the rear lot line.

**Lot Line** The boundary line of a lot.

**A.** Front lot line means that lot line abutting a street or private drive.

In the case of a corner lot where there are two (2) lot lines abutting intersecting streets, the front lot line ~~shall~~ must normally be the one with the shortest length.

**B.** Side lot line means any lot line which intersects the front lot line.

**C.** Rear lot line means any lot line which is not a front lot line or a side lot line.

**Lot Width** The horizontal distance between the side lot lines, measured at the front setback line or the front platted building line, whichever is greater.

**Lot-Split** The division of a platted lot into two (2) or more lots or portions thereof.

### **Main Building or Main Structure**

The primary building or structure on a lot or a building or structure that houses a principal use.

**Major Street Map** The current official map adopted by the Governing Body in OMC Section [10.08.010](#) pursuant to KSA [12-765](#).

**Manufactured Home** See Section [18.50.100](#).

**Manufactured Home Park** A tract of land meeting the requirements of this ordinance containing suitable drives, utilities and other supporting elements, and devoted to the sole

purpose of accommodating mobile homes or manufactured homes on a permanent or a semi-permanent basis.

**Manufactured Home Space** That area of land within a manufactured home park set aside for use as a site for one (1) manufactured home, including the open spaces around said home.

~~**Masonry** Stone, brick, stucco, concrete (painted aggregate, exposed aggregate, split-face concrete units or decorative pattern), cement fiber board, or equivalent, permanent architecturally finished materials.~~

~~**Mirror Glass** Glass with a reflective metallic coating, as used for mirrors.~~

**Mixed Use** A tract of land, building or structure developed for two (2) or more different uses including but not limited to, residential, office, manufacturing, retail, or public.

**Mobile Home** A vehicle used, or so constructed as to permit being used, as a conveyance upon the public streets and highways and constructed in such a manner as will permit occupancy thereof for human habitation, dwelling or sleeping places for one (1) or more persons; provided further, that this definition shall must refer to and include all portable contrivances used or intended to be used generally for living and sleeping quarters and which are capable of being moved by their own power, towed or transported by another vehicle.

**Motel or Motor Hotel** A building or group of buildings containing one (1) undivided tract or parcel of land with a group of individual private units, each provided with separate sleeping room or rooms, having bath, lavatory and toilet facilities, designed and to be used primarily for transient guests traveling by automobile.

**Motor Vehicle** A motorized vehicle for use on streets or highways, including customary passenger vehicles and motor homes. Does not include trailers.

**Motor Vehicle, Dismantled** That a number of useful parts, including but not limited to tires, batteries, doors, hoods, or windows have been removed from the motor vehicle as to render the motor vehicle unsafe to operate.

**Motor Vehicle, Inoperable** A motor vehicle which cannot be driven away in a safe condition, other than wrecked, scrapped, ruined or dismantled vehicles.

**Motor Vehicle, Ruined** A motor vehicle which is substantially damaged to the extent that it is valueless or useless as an operable motor vehicle.

**Motor Vehicle, Scrapped** Has no value as an operable motor vehicle or parts thereof and most of the motor vehicle and parts thereof to be useful only as materials for reprocessing, remelting, remanufacturing, or disposal for salvage or scrap material.

**Motor Vehicle, Wrecked** Those motor vehicles which have more than twenty-five (25) percent of the vehicle in damaged condition externally as to render it unsafe to operate.

**Native Vegetation** Plant types historically located in the Olathe geographic area as part of the tall grass prairie ecosystem.

**Natural Features** The physical characteristics of properties that are not manmade (e.g., soil types, geology, slopes, vegetation, surface water, drainage patterns, aquifers, recharge areas, climate, floodplains, aquatic life, and wildlife).

**Neighborhood** A subarea of the City in which the residents share a common identity focused around public facilities and social institutions or other common features, and generally within walking distance of their homes.

**Net Acre** An acre within the perimeter of a development tract after excluding all dedicated arterial street rights-of-way.

**Net Site Area** The land area of a lot, tract or property, excluding all areas dedicated to the City, such as open space, park and greenways, and public street and alley rights-of-way, as are required by this ordinance. Easements which remain under private ownership are calculated as part of the net site area.

**Nonconforming Use** A nonconforming situation that occurs when property is used for a purpose or in any manner made unlawful by the use regulations or development and

performance standards applicable to the zoning district in which the property is located. The term also refers to the activity that constitutes the use made of the property.

**Official Zoning Map** The zoning map adopted by the City pursuant to KSA [12-753](#).

~~**Opaque Glass** Not transparent or translucent.~~

**Open Space** Any parcel or area of land or water set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open space may include common, active and landscaped areas, as well as, areas of natural preservation. Includes squares, plazas, greens, preserves, parks, and greenways.

**Open Space, Active** That part of the net site area of a development that may be improved or set aside, dedicated, designated or reserved for recreational use such as swimming pools, play equipment for children, ball fields, picnic tables, sports courts, etc.

**Open Space, Common** That part of the net site area of a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents of a development.

**Open Space Improvements** Includes swimming pools, tennis courts, basketball courts, sports fields, recreation centers, and community meeting halls.

**Open Space, Landscaped** That part of the net site area which is free of streets, structures, or parking areas and provided to improve the drainage, microclimate and aesthetics of the site. Such areas are usually landscaped and appropriately located to achieve maximum effect and appeal. Typically, such space includes lawn areas, shrubs and trees, walkways, paved terraces, sitting areas and outdoor recreational areas. Unpaved land areas within private or public street rights-of-way are not counted as landscaped open space unless they are in excess of minimum right-of-way standards.

**Ordinance** The Unified Development Ordinance.

**Other Motorized Machinery and Equipment** A vehicle or equipment not generally used on streets or highways and designed for use during construction, landscaping, farming and similar activities. Examples include tractors, combines, backhoes, graders, cranes, etc.

**Overhead Door** A door that allows passenger vehicles or trucks to enter or exit a building.

**Overlay District** A district which acts in conjunction with the underlying zoning district or districts.

**Park** An open space, available for recreation, consisting of paved paths and trails, some open lawn, trees, open shelters, or recreational facilities.

**Parking Area or Lot** Any portion of a parcel of land used for parking or storage of operable motor vehicles on a temporary (less than twenty-four [24] hour) basis which is connected with a street or alley by a paved driveway which affords ingress and egress for motor vehicles.

**Parking Area or Lot, Pervious Surface** A parking lot where the spaces are not in a covered building and where the surface is composed of porous pavement or similar surface that complies with Chapter [18.30](#).

**Parking Space** An enclosed or unenclosed paved area permanently reserved for the temporary (less than twenty-four [24] hour) storage of motor vehicles and connected with a street or alley by a paved driveway which affords ingress and egress for motor vehicles.

**Permit, Building** A permit issued by the Building Official which authorizes the construction, reconstruction, alteration, enlargement, conversion, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure.

**Permit, Special Use** A specific approval for a use that has been determined to be more intense or to have a potentially greater impact than a permitted or conditional use within the same zoning district.

**Planned Zoning District** The zoning of a lot or tract to permit that development as specifically depicted on plans approved in the process of zoning that lot or tract.

**Planning Official** The City Official with responsibility to administer this title as provided in Chapter [18.80](#). This includes the Planning Official or designee.

~~**Plastic (Columns, Details, Etc.)** A durable, synthetic fiberglass or vinyl material used for architectural elements such as columns or details.~~

**Plat** A map depicting the division or subdivision of land into lots, blocks, parcels, tracts, units or other portions thereof.

- A.** "Plat, final" means a drawing of a permanent nature showing the precise location and dimension of such features as streets, lots, easements and other elements pertinent to transfer of ownership and prepared for permanent record.
- B.** "Plat, preliminary" means a drawing showing the proposed general patterns of streets, lots and land uses within a tract to be subdivided.

**Plaza** An open space at the intersection of important streets, set aside for civic purposes and commercial activity, including parking; consisting of durable pavement and formal tree plantings.

**Portable Storage Container** Any container designed for the storage of personal property, including but not limited to metal or steel boxes, shipping containers, intermodal containers, converted semi-truck trailers and box truck beds, used to store or transport household goods, building materials, wares, or merchandise that is typically delivered and removed by a vehicle. This does not include accessory buildings, sheds, or trailers utilized on construction sites.

**Preserve** Open space that preserves or protects a critical environmental feature or other natural feature.

**Recreational Vehicle** See OMC Sections [6.06.030](#) and [10.01.001](#).

**Recycling Collection Point** An accessory use or structure that serves as a drop-off point for recyclable materials. The temporary storage of such items would be permitted, but no processing would be allowed.

**Redevelopment** The redesign or rehabilitation of existing properties.

**Regulatory Flood Elevation** The elevation indicated in the Flood Insurance Study as the elevation of the one hundred (100) year flood.

**Residence** See "dwelling unit."

**Residential Districts** Refers to zoning districts A, R-1, R-2, R-3, and R-4.

**Resubdivision** A change in a map of an approved or recorded subdivision plat, if such change affects any street layout on such map or area reserved for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption date of this ordinance.

**Retail Sales, Accessory** An establishment engaged in sales of goods, such as: furniture and home furnishings, electronics and appliances, sporting goods and hobbies, books, periodicals and music, tobacco sales, department stores, florists, office supplies and stationery, gifts and novelties, pets, hardware, pawn shops, video stores and auto parts. This classification includes the retail sales or rental of merchandise not specifically listed under another use or classification.

**Retention Basin** A reservoir designed to retain storm water runoff on a relatively permanent basis with the primary release of water being through evaporation or infiltration into the ground.

**Rezoning** An application for amendment of the zoning district classification applicable to one (1) or more specific lots or tracts.

**Right-of-Way or Rights-of-Way** The total width of any land reserved or dedicated as a street, alley, sidewalk, or for other public or private use.

**Rule Exception** The allowing of a subdivision to deviate from one (1) or more specific standards and requirements of these rules and regulations.

**Runoff** The surface water discharge and rate of discharge of a given watershed after a full rain or snow that does not enter the soil but runs off the surface of the land.

**Salvage Yard** Any establishment or part thereof, which is maintained, used or operated for storing, keeping, buying, repairing, or selling any wrecked, scrapped, ruined, and/or dismantled motor vehicles or parts thereof.

**Satellite Dish Antenna** See Section [18.50.180](#).

**Screening** A method of visually shielding or obscuring one abutting or nearby structure or use from another by the use of berms, densely planted vegetation, fencing, or walls.

**Sedimentation** The process by which soil or other surface material is accumulated or deposited by wind, water, or gravity.

**Setback Line** A line, parallel to the respective lot line and internal to the lot, which defines the required building setback as specified in the district regulations.

- A.** Front setback line ~~shall~~ must be parallel to the front lot line and ~~shall~~ extend from side lot line to side lot line.
- B.** Rear setback line ~~shall~~ must be parallel to all rear lot lines and ~~shall~~ extend from side lot line to side lot line.
- C.** Side setback lines are parallel to any side lot line and extend from the front setback line to the rear setback line.
- D.** See Section [18.30.220.I](#) for private street setback requirements.

**Setback or Building Setback or Yard Setback** That area between a lot line and the respective setback line which ~~shall~~ must remain unobstructed by buildings or structures from the ground to the sky, except as may be specifically permitted by other provisions of the Unified Development Ordinance (UDO).

**Shopping Center** A group of commercial establishments planned, developed, owned or managed as a unit, related in size (gross floor area) and type of shops to the trade area that the unit serves, and with off-street parking provided on the property.

**Side Path** A shared path located immediately adjacent and parallel to a roadway.

**Sight Distance** A triangular shaped portion of land established at street intersections in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving an intersection.

**Sign** Any framed, bracketed, free-formed, or engraved surface which is fabricated to create words, numerals, figures, devices, designs, trademarks or logos, which is mounted on or affixed to a building or the ground, and which is sufficiently visible to persons not located on the lot where such device is located to attract the attention of such persons or to communicate information to them. Sign includes sign supports.

**Site** The existing lot of record proposed for land development, including subdivision.

### **Site Development Plan**

**A. Site development plan, preliminary** means a plan showing design of streets, driveways, entrances, limits if no access lines, major/minor drainage area, utility layouts, proposed uses (residential, commercial, industrial, or comparable uses), open areas, parks, tree preservation, and other significant features of the tract.

**B. Site development plan, final** means a detailed drawing (to scale) showing the proposed development of a specified parcel of land, including the location and design of building, easements, utility layouts, parking arrangements, public access, street patterns, drainage controls, existing vegetation and natural features, landscaping, lighting and other similar features.

**Square** An open space consisting of paved walks, lawns, trees, and civic buildings that may encompass an entire block, is located at the intersection of important streets, and is set aside for civic purposes.

**Stable** A structure or premises for the keeping of horses, ponies or mules.

~~**Standard Metal Lap Siding** Metal building siding consisting of beveled boards wider and longer than clapboards.~~

~~**Stone, Modular** A panelized system of individual natural stone components assembled in panels for use as a cladding material.~~

~~**Stone, Synthetic** An architectural concrete building unit manufactured to simulate natural cut stone.~~

~~**Stone, Veneer** A decorative building material composed of thin natural stone components, which may be laid individually or assembled in panels.~~

**Storage Area or Lot** Any off-street area designated and used for the placement, keeping, holding and storage of inoperable vehicles, vehicles awaiting repair, and parts thereof; building materials, supplies and equipment; trailers; heavy construction equipment and other motorized vehicles and equipment, but not for junkyard or salvage yard purposes.

**Storage or Stored** The keeping of items, equipment, vehicles, trailers or materials for a period of time longer than would be involved in the normal day-to-day use or consumption of the same.

**Story** That part of a building included between the surface of one (1) floor and the surface of the floor above or, if there is no floor above, that part of the building which is between the surface of the floor and the ceiling next above. A top story attic is a half-story when the main line of the eaves is not above the middle of the interior height of such story. The first story is a half-story when between fifty (50) and seventy-five (75) percent of the area of its exterior walls is exposed to outside light and air entirely above grade in which exterior walls contain windows or doors permitting the entrance of daylight and outside air. When less than fifty (50) percent of the area of the walls of the first story is exposed to outside light and air entirely above grade, that story ~~shall~~ must be classed as a basement and in the case of multifamily dwellings may not be occupied as a residence by other than a caretaker or manager.

**Street** A right-of-way or easement affording vehicular access to abutting properties designated as a street, avenue, highway, road, boulevard, lane or throughway. The following are street types:

- A.** Collector street means a street which provides traffic circulation within residential areas. Land access is a secondary function of the

collector. The collector distributes trips from the arterials to the local street network.

**B.** Local street means a street which provides direct traffic access to abutting land in residential areas.

**C.** Major arterial means a street or highway that provides for rapid and efficient movement of large volumes of through traffic between sections of the City and across the urbanized area. It is not primarily intended to provide land access service.

**D.** Minor arterial means a street which provides for the through traffic movement between areas and across the City. A minor arterial accommodates trips of moderate length at a somewhat lower level of service and lower operating speeds than the major arterial.

**E.** Private street means an easement which affords principal access to property abutting thereon, which easement is owned, controlled and maintained by persons other than the public.

**F.** Public street means a right-of-way which affords the principal means of vehicular access to property abutting thereon which right-of-way has been dedicated to the public for such use.

**G.** Service street means a street which provides traffic circulation within commercial and industrial developments and complexes from the arterial street system.

**Street Line** The dividing line between the street right-of-way and the abutting property commonly known as the property line.

**Streetscape** The area within street right-of-way that contains sidewalks, street furniture, landscaping, or trees.

**Structural Alteration** Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

**Structure** Anything constructed or erected, which requires location on the ground, or attached to something having a location on the ground, not including portable storage containers.

~~**Stucco, Genuine, Detailed** A mortar mixture (usually composed of cement, sand and hydrated lime) used for siding, which is scored to appear as panels or to create design effects to provide visual interest and a sense of scale.~~

~~**Stucco, Synthetic /EIFS** A siding composed of foam insulation board or cement panels secured to walls and finished to appear similar to genuine stucco.~~

~~**Stucco, Synthetic /EIFS (Detail Only)** An architectural detail such as an accent, trim, cornice, sill, band, molding, column, pilaster or ornament that has a synthetic stucco exterior.~~

~~**Stucco, Synthetic (Panels)** A flat, plane surface with a synthetic stucco exterior, and surrounded by moldings, channels, or other surfaces in different planes.~~

**Subdivider** A person, firm or corporation undertaking the subdividing of land.

**Subdivision** Except for lot-split as defined below, means the division of a lot, tract or parcel of land into two (2) or more lots, plots, sites or other division of less than twenty (20) acres, including a resubdivision of land and vacation of streets, lots or alleys. The creation of a street, alley or other public way by dedication ~~shall~~ must be deemed a subdivision.

**Technical Specifications and Design Criteria (TSDC)** Public improvement specifications and criteria as established in the City's Technical Specifications and Design Criteria, February 1990, and as amended.

**Temporary Structure** A structure that is to be removed within a designated time period, or after an activity or use for which the temporary structure was erected has ended.

**Tract** A single unit of real property under one (1) ownership, which may be platted or unplatted.

**Trailer** A vehicle equipped with wheels and normally towed over the road behind a motor vehicle. A trailer including any advertising trailer or hauling trailer.

**Transient Merchant** Any person, principal or agent who engages in a merchandise business or services from a temporary location or structure in the city, and for the purpose of carrying on such a business or service hires, leases or occupies any land, structure or trailer or truck for the exhibition and sale of such goods, wares or merchandise and including the sale of any article, food, beverage, fruit, vegetable or farm product.

**Unified Development Ordinance (UDO)** Ordinance No. [14-39](#), as amended, that adopted and amended this document by reference.

**Up To** Has the same meaning as "not exceeding." For example, a height of "up to" seventy-five (75) feet has the same meaning as a height "not exceeding" seventy-five (75) feet.

**Use** The purpose or activity for which the land, or building thereon, is designed, arranged or intended, or for which it is occupied or maintained.

**Use, Permitted** A use permitted by right without the need for special administrative review and approval.

**Use, Principal** The main use of land or buildings as distinguished from a subordinate or accessory use. The principal use may be either a permitted or a special use.

**Use, Special** A use either public or private, which, because of its characteristics, cannot be classified as a permitted use in a particular district or districts.

**Use, Temporary** Any use designed, built, erected or occupied for short and/or intermittent periods of time and ~~shall~~ [must](#) include tents, lunch wagons, dining cars, trailers and other roofed structures on wheels or other supports used for business, storage, industrial, institutional, assembly, educational or recreational purposes.

**Utility Facility, Accessory to Permitted Use** A facility for the distribution of gas, electricity, water, steam, hot water, chilled water and landline communication to a principal building or structure on the same lot or property.

**Variance** A variation from a specific requirement in this ordinance applicable to a specific piece of property.

~~**Vinyl Siding** Plastic exterior siding for a house, used for decoration and weatherproofing, imitating wood clapboard.~~

**Waiver** A process for alleviating a specific requirement in this ordinance.

**Watercourse** A channel in which a flow of water occurs, either continuously or intermittently, and in the latter, with some degree of regularity. Such flow must be in a definite direction and cover a prescribed area. Watercourses may be either natural or artificial, and both may occur either on the surface or underground.

**Watershed** A land area, also known as a drainage area, which collects precipitation and contributes runoff to a receiving body of water or point along a watercourse.

**Yard** An open space at grade between a building and the adjoining lot lines. See Section [18.30.270](#).

**Zero-Lot Line Dwelling** A dwelling built adjacent to an interior side lot line with a yard adjacent to the opposite side lot line.

**Zoning** The division of the City by legislative regulations into areas, or zones, which specify allowable uses for real property and size and density restrictions for buildings within these areas.

**Zoning Amendment** An application to change or remove stipulations approved with a rezoning ordinance.

**Zoning Certificate** A certificate issued by the City Planner, certifying that any proposed use, building, or structure to be located on a lot is in accordance with all of the regulations of this ordinance.

**Zoning District** Section or sections of the City for which the regulations governing the use of buildings and lands are uniform for each class or use permitted therein."

**SECTION ELEVEN:** Existing sections 18.01.020, 18.30.010, 18.30.080, 18.30.130, 18.30.135, 18.30.160, 18.30.240, 18.50.180, 18.50.190 and 18.90.020 are hereby specifically repealed.

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

**PASSED** by the Governing Body this 19<sup>th</sup> day of November 2019.

**SIGNED** by the Mayor this 19<sup>th</sup> day of November 2019.

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Mayor

ATTEST:

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City Clerk  
(Seal)

APPROVED AS TO FORM:

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City Attorney