

**ORDINANCE NO. 19-40**

**AN ORDINANCE AMENDING SECTIONS 18.01.020 AND 18.40.110 OF THE OLATHE MUNICIPAL CODE PERTAINING TO THE UNIFIED DEVELOPMENT ORDINANCE.**

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

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

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

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

**WHEREAS**, proposed amendments to the *Unified Development Ordinance* were discussed at a Planning Commission workshop on October 8, 2018; and

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

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

**WHEREAS**, on November 26, 2018 the Planning Commission reviewed and reconsidered the proposed amendments and recommended approval of 18.30.190, 18.40.110.G.1-5, 18.40.150.F.2-4, 18.40.160, and 18.50.160; and

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

**WHEREAS**, proposed amendments pertaining to Chapters 18.40 were removed from UDO18-0002 and became UDO18-0002A while the remaining sections became UDO18-0002B; and

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

**WHEREAS**, on July 16, 2019 the Governing Body reviewed staff's recommendation for proceeding with updates pertaining to preliminary plans in section 18.40.110.G and concurs with these recommendations.

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

**SECTION ONE:** Section 18.01.020 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

**“18.01.020 Marked Copies of Ordinance on File.** There shall not be less than three (3) copies of the Unified Development Ordinance, adopted by reference in Section 18.01.010 kept on file in the office of the City Clerk, to which shall be attached a copy of the incorporating ordinance, marked or stamped “Official Copies as Incorporated by Ordinance No. 14-39, as amended by Ordinance No. 15-16, Ordinance No. 16-20, Ordinance No. 16-51, Ordinance No. 17-01, Ordinance No. 17-52, Ordinance No. 18-48, Ordinance No. 19-26 [and Ordinance No. 19-40](#),” and open to inspection by the public at all reasonable hours. The police department, municipal judges, and all other departments of the City charged with the enforcement of the Unified Development Ordinance shall be supplied, at the cost of the City, with such number of official copies of such ordinance as may be deemed expedient.”

**SECTION TWO:** Section 18.40.110 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

**“18.40.110 Site Development Plans**

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

**A. Applicability**

**1. A preliminary site development plan** is required for:

**a.** Any application to rezone property:

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

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

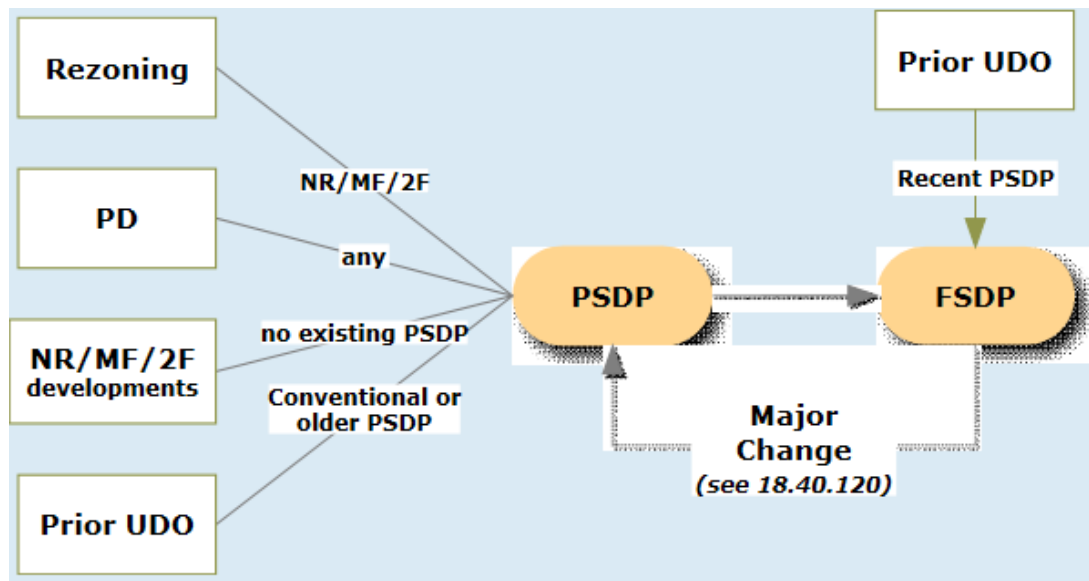
**b.** All nonresidential uses, or developments with multifamily or two-family dwellings unless a preliminary site development plan for the proposed development was already approved as part of the existing zoning district, and

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

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

## B. Initiation

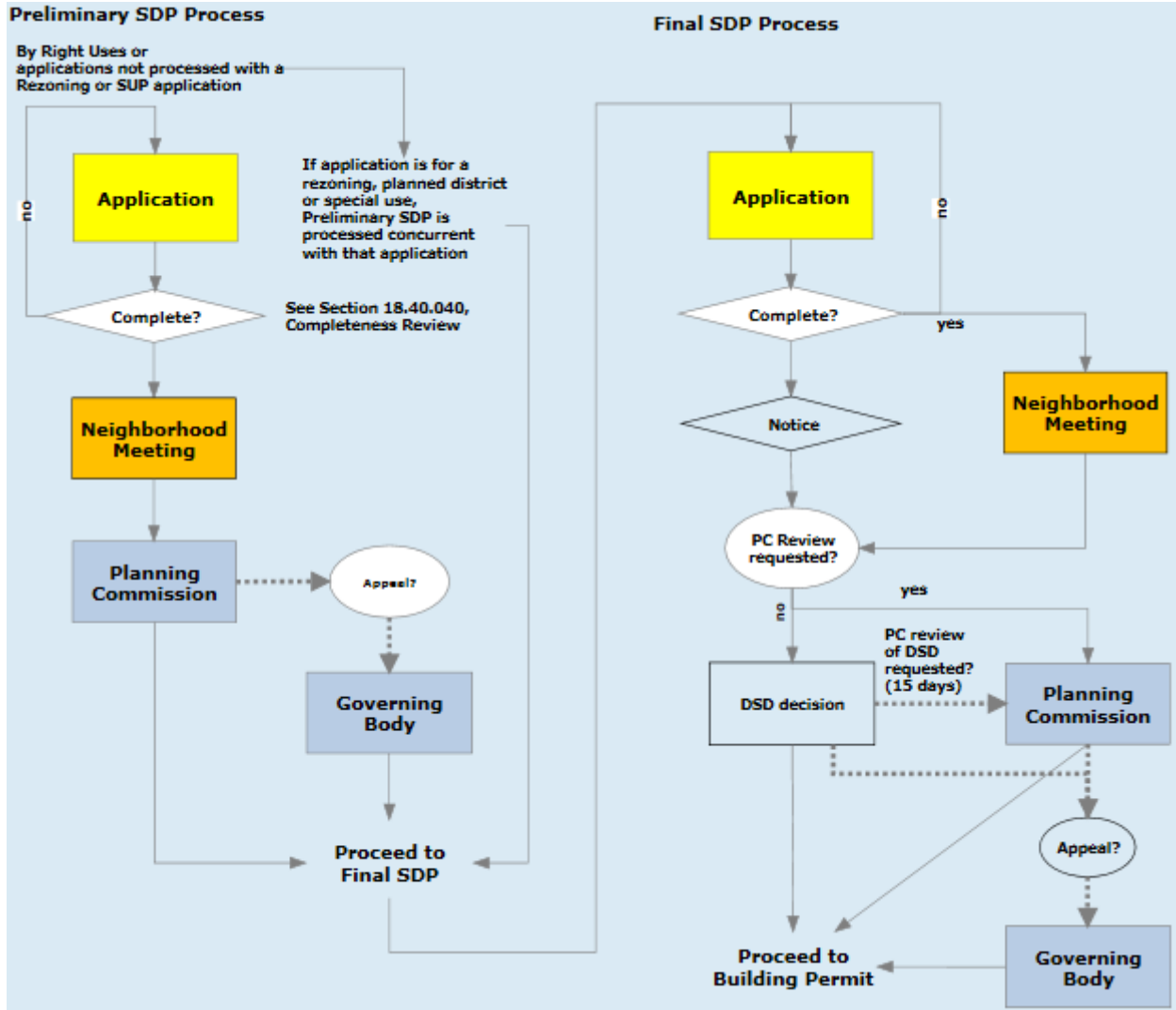
1. Preliminary and final site development plans shall be filed with the Planning Official, and shall include the information required by Chapter [18.94](#).



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

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

## C. Review Process



## D. Decision

### 1. Preliminary Site Development Plan Decision

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

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

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

## **2. Final Site Development Plan Decision**

### **a. Authority**

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

### **b. Planning Official Decisions**

If the Planning Official renders a decision on the application:

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

### **c. Planning Commission Review**

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

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

#### **E. Approval Criteria**

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

- a. The plan complies with all applicable requirements of Chapters [18.15](#), [18.20](#), and [18.30](#), and
- b. The plan represents an overall development pattern that is consistent with the Comprehensive Plan, the Major Street Map and other adopted planning policies.

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

#### **F. Subsequent Applications**

- 1. When an application for preliminary or final site plan is withdrawn by the applicant or denied, the same application for the same property shall not be resubmitted for a period of one (1) year from the date of withdrawal or denial.
- 2. An application for a major modification to the withdrawn or denied application may be submitted at any time.

#### **G. Scope of Approval**

1. Approved **preliminary site development** plans are valid for five (5) years after final date of approval.

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

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

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

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

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

~~36~~. The Approving Authority may extend the time period of a upon written application by the landowner. Unless otherwise required in a condition of approval, the Approving Authority may extend the time period without a public hearing. The Approving Authority shall extend the site development plan for up to six (6) months. After this time period or at the time the original extension is requested, the Approving Authority may extend the site development plan for any length of time for cause.

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

~~58~~. Any preliminary plat or preliminary development plan for a single-family subdivision in an existing RP-1 District approved prior to the effective date of this ordinance (June 17, 2014), where no final plat or plan has been approved, shall be considered expired and subject to a new application and the provisions of this ordinance.

## **H. Appeals**

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

## **I. Recordkeeping**

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

## **J. Abandonment of Final Site Development Plan**

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

**2.** If any part of a final site development plan is abandoned, no development shall take place on the property until a new final site development plan is approved. (*Ord. 17-52 §§ 22, 41, 2017; Ord. 16-20 § 4, 2016; Ord. 15-16 § 3, 2015*)”

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

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

**PASSED** by the Governing Body this 16<sup>th</sup> day of July 2019.

**SIGNED** by the Mayor this 16<sup>th</sup> day of July 2019.

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Mayor

ATTEST:

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City Clerk  
(Seal)

APPROVED AS TO FORM:

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City Attorney