

ORDINANCE NO. ZRR-2345

AN ORDINANCE RELATING TO THE UNIFIED DEVELOPMENT ORDINANCE FOR THE CITY OF OVERLAND PARK, KANSAS; AMENDING AND REPEALING EXISTING OVERLAND PARK MUNICIPAL CODE SECTIONS 18.110.460, 18.140.190, 18.140.200, 18.150.010, AND ADDING DISTRICT RP-OE, PLANNED OPEN SPACE ESTATE RESIDENTIAL DISTRICT, AS NEW CHAPTER 18.174 CONSISTING OF NEW SECTIONS 18.174.010, 18.174.020, 18.174.030, 18.174.040, 18.174.050, AND 18.174.060; AND ADDING DISTRICT RP-OS PLANNED OPEN SPACE SINGLE-FAMILY RESIDENTIAL DISTRICT, AS NEW CHAPTER 18.176 CONSISTING OF NEW SECTIONS 18.176.010, 18.176.020, 18.176.030, 18.176.040, 18.176.050, AND 18.176.060.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OVERLAND PARK, KANSAS:

SECTION 1. Overland Park Municipal Code Section 18.110.460 is hereby amended to read as follows:

18.110.460 Open space

“Open space” means the total horizontal area of uncovered open space plus one-half of the total horizontal area of covered open space subject to the limitations set forth below.

“Uncovered open space” means the total gross land area not covered by buildings plus open exterior balconies and roof areas improved as recreation space.

“Covered open space” means the usable open space closed to the sky but having two unobstructed open or partially open sides. “Partially open” is to be construed as fifty percent or more open. Examples of covered open space are covered balconies, carports, roofed porches, covered portions of improved roof areas, or spaces under buildings supported on columns or posts, or cantilevered. The number of square feet countable as open space shall not exceed the number of square feet of the open sides.

“Open Space Lands” means that portion of a tract of land zoned RP-OE or RP-OS that is set aside for the protection of sensitive natural features, farmland, scenic views, and other unique features. Open space lands may or may not be accessible to the residents of the development and the general public.

SECTION 2. Overland Park Municipal Code Section 18.140.190 is hereby amended to read as follows:

18.140.190 Preliminary development plans – submission requirements and contents

- A. Five copies of the preliminary development plan shall be submitted in support of the application. The preliminary development plan shall contain the following information:
1. North arrow and scale.
 2. With regard to the subject property only:
 - a. Existing topography with contours at 5-foot intervals, and delineating any land areas within the 100-year floodplain.
 - b. Proposed location of buildings and other structures, parking areas, drives, walks, screening, drainage patterns, public streets and any existing easements.
 - c. Sufficient dimensions to indicate relationship between buildings, property lines, parking areas and other elements of the plan.
 - d. General extent and character of proposed landscaping.
 3. With regard to areas within 200 feet of the subject property:
 - a. Any public streets which are of record.
 - b. Any drives which exist or which are proposed to the degree that they appear on plans on file with the City, except those serving single-family houses.
 - c. Any buildings which exist or are proposed to the degree that their location and size are shown on plans on file with the City. Single- and two-family residential buildings may be shown in approximate location and general size and shape.
 - d. The location and size of any drainage structures, such as culverts, paved or earthen ditches or stormwater sewers and inlets.
 4. Preliminary sketches depicting the general style, size and exterior construction materials of the buildings proposed. Where several building types are proposed on the plan, such as apartments and commercial buildings, a separate sketch shall be prepared for each type. Such sketches shall include elevation drawings, but detailed drawings and perspectives are not required.

5. A schedule shall be included indicating total floor area, dwelling units, land area, parking spaces, land use intensity if the project lies south of 103rd Street and other quantities relative to the submitted plan in order that compliance with requirements of this ordinance can be determined.
6. For all developments proposed in the RP-OE, RP-OS, RP-3, RP-5 and RP-6 Districts, the following information, if applicable, shall be submitted if requested by the Director of Planning and Development Services, or his or her designee, in addition to the above-listed requirements:
 - a. Up to three site section plans.
 - b. Slope analysis representing slopes falling within the following categories:
 - 1) 0%-5% slope;
 - 2) 6%-10% slope;
 - 3) 11%-17% slope;
 - 4) 18% slope and greater.
 - c. Existing streams and other bodies of water.
 - d. Surface drainage channels.
 - e. Location, massing and pattern of existing vegetation.
 - f. Views within the site.
 - g. Vistas to and from the site.
 - h. Focal points and site amenities.
 - i. Existing structures on the site.
 - j. Street and traffic patterns affecting the site.
 - k. Pedestrian and vehicular access points.
 - l. Physical barriers (such as interstate highways).

- m. Noise generation sources.
 - n. Surrounding uses, activities and influences of the site and adjacent properties.
- 7. Name and address of landowner.
- 8. Name and address of architect, landscape architect, planner, engineer, surveyor, or other person involved in the preparation of the plan.
- 9. Date of preparation of the plan.
- B. The following information shall be submitted in support of the application for the preliminary development plan approval:
 - 1. All studies as may reasonably be required by the Director of Planning and Development Services pursuant to Section 18.140.040.
 - 2. Assurances of adequate public facilities as required by Section 18.100.070.
- C. For all developments proposed in the RP-OE, RP-OS zoning districts an acceptable plan shall be submitted to the City that demonstrates that all common open space and natural conservation areas will be managed by a responsible party and how these areas will be managed.

SECTION 3. Overland Park Municipal Code Section 18.140.200 is hereby amended to read as follows:

18.140.200 Consideration of preliminary development plans

- A. Plans for planned zoning districts.
 - 1. When property is rezoned to a planned zoning district, the preliminary development plan shall be considered and approved as part of the rezoning application.
 - 2. Once property has been rezoned to a planned zoning district, changes in the preliminary development plan may be made only after approval of a revised preliminary development plan. Changes in the preliminary development plan which are not substantial or significant may be approved by the Planning Commission, and disapproval of such changes by the Planning Commission may be appealed to the Governing Body. Substantial or significant changes in the preliminary development plan may only be approved after rehearing by the

Planning Commission and Governing Body; such rehearing shall be subject to the notice and protest provisions set forth in Section 18.140.150. Prior to consideration of any revised preliminary development plan, City staff shall determine whether dedication of right-of-way will be required pursuant to the provisions of Chapter 18.400.

3. For purposes of this Section, "substantial or significant changes" in the preliminary development plan shall mean any of the following:
 - a. Increases in the density or intensity of residential uses of more than 5%.
 - b. Increases in the total floor area of all nonresidential buildings covered by the plan of more than 10%.
 - c. Increases of lot coverage of more than 5%.
 - d. Increases in the height of any building of more than 10%.
 - e. Changes of architectural style which will make the project less compatible with surrounding uses.
 - f. Changes in ownership patterns or stages of construction that will lead to a different development concept.
 - g. Changes in ownership patterns or stages of construction that will impose substantially greater loads on streets and other public facilities.
 - h. Decreases of any peripheral setback of more than 5%.
 - i. Decreases of areas devoted to open space of more than 5% or the substantial relocation of such areas.
 - j. Changes of traffic circulation patterns that will affect traffic outside of the project boundaries.
 - k. Modification or removal of conditions or stipulations to the preliminary development plan approval.
 - l. For any developments proposed in the RP-OE or RP-OS zoning districts, any change in the specified use or maintenance of any designed open space lands.

4. The determination of whether a proposed revised preliminary development plan contains "substantial or significant changes" shall be made by the Director of Planning and Development Services within 5 business days following the filing of the application. The determination of the Director of Planning and Development Services may be appealed to the Planning Commission, whose decision shall be final.
5. In determining whether to approve an application for a revised preliminary development plan, the Planning Commission or Governing Body shall apply the criteria set forth in subsection E of Section 18.140.150. In the event that the application for the revised preliminary development plan is denied, the previously-approved preliminary development plan will remain in effect.

B. Plans for non-residential uses in residential districts.

1. Consideration of a preliminary development plan for non-residential uses in a residential district requires a public hearing before the Planning Commission, with notice to surrounding property owners as required by Section 18.140.080. Prior to Planning Commission consideration of the preliminary development plan, City staff shall determine whether dedication of right-of-way will be required pursuant to the provisions of Chapter 18.400.
2. Following the close of the public hearing, the Planning Commission shall determine the appropriateness of the proposed preliminary development plan according to the following criteria:
 - a. The capability of the site to accommodate the proposed uses, buildings, parking and drives with appropriate open space, adequate separation from surrounding land uses, and safe and easy ingress and egress.
 - b. An appropriate degree of harmony shall prevail between the architectural quality of the proposed building and the surrounding neighborhood.
 - c. The appropriateness of the minimum dimensions and areas of lots and yards contained in the applicable zoning district regulations may be considered and increased; in the case of a church, the site shall be of not less than 4 acres in area, and shall have direct access to a thoroughfare or a collector street.

The Planning Commission may approve the application, deny the application, or approve the application subject to modifications being

made. Unless the Planning Commission's action is appealed by the applicant or subject to a valid protest by surrounding property owners, the Planning Commission's decision shall be final.

3. In the event of denial of a preliminary development plan by the Planning Commission, the applicant may appeal the decision to the Governing Body by filing a notice of appeal with the City Clerk within 10 days of the Planning Commission's decision. On appeal, the Governing Body shall apply the criteria set forth in subsection B.2 above, and may approve the proposed plan, deny the proposed plan or approve the proposed plan subject to modifications being made.
4. In the event of approval of a preliminary development plan by the Planning Commission, such approval may be protested by the owners of 20% of the total area, excepting public streets and ways, located within or without the corporate limits of the City and located within 200 feet of the boundaries of the property subject to the application. Such protest shall be filed within 14 days following the Planning Commission's decision. The provisions of subsection C of Section 18.140.150 regarding verification and determining the validity of the protest shall be applicable to protests under this Section. If a valid protest is filed, the application for preliminary development plan approval shall be reviewed by the Governing Body. The Governing Body shall apply the criteria set forth in subsection B.2 above, and may approve the proposed plan, deny the proposed plan or approve the proposed plan subject to modifications being made. Approval of a preliminary development plan which has been the subject of a valid protest shall require the affirmative vote of six members of the Governing Body.
5. If a valid protest is not filed against a preliminary development plan approved by the Planning Commission within 14 days of said approval, the Planning Commission's approval becomes final and the applicant may proceed with submission of final development plans to the Planning Commission.
6. Once a preliminary development plan has been approved for a non-residential use in a residential district, changes in the preliminary development plan may be made only after approval of a revised preliminary development plan. Substantial or significant changes to the preliminary development plan, or any change that results in a change to the boundary of the preliminary development plan, shall require a public hearing before the Planning Commission with notice to surrounding property owners as required by Section 18.140.080.

SECTION 4. Overland Park Municipal Code Section 18.150.010 is hereby amended to read as follows:

18.150.010 Districts designated

For the purpose of regulating and restricting the use of land and the erection, construction, reconstruction, altering, moving or use of buildings and structures, the corporate area of the City is divided into fifteen conventional zoning districts enacted pursuant to K.S.A. 12-753, sixteen planned zoning districts enacted pursuant to K.S.A. 12-755, and two floodplain overlay zones enacted pursuant to K.S.A. 12-753 and K.S.A. 12-766.

A. The conventional zoning districts are designated as follows:

District A -- Agricultural District;
District RE -- Residential Estates District;
District R-1 -- Single-Family Residential District;
District R-1A -- Small-Lot Single-Family Residential District;
District R-2 -- Two-Family Residential District;
District R-3 -- Garden Apartment District;
District C-0 -- Office Building District;
District C-1 -- Restricted Business District;
District C-2 -- General Business District;
District C-3 -- Commercial District;
District M-1 -- Industrial Park District;
District M-2 -- General Industrial District;
District MHP -- Mobile Home Park District;
District DD - Downtown District;
District CBD - Central Business District.

B. The planned zoning districts are designated as follows:

District RP-OE -- Planned Open Space Estate Residential District;
District RP-OS -- Planned Open Space Single-Family Residential District;
District RP-1 -- Planned Single-Family Residential District;
District RP-1A -- Planned Small-Lot Single-Family Residential District;
District RP-2 -- Planned Two-Family Residential District;
District RP-3 -- Planned Garden Apartment District;
District RP-4 -- Planned Cluster Housing District;
District RP-5 -- Planned Apartment House District;
District RP-6 -- Planned High-Rise Apartment District;
District CP-0 -- Planned Office Building District;
District CP-1 -- Planned Restricted Business District;
District CP-2 -- Planned General Business District;
District CP-3 -- Planned Commercial District;
District BP -- Business Park District;

District MP-1 -- Planned Industrial Park District;
District MP-2 -- Planned General Industrial District.

- C. The floodplain overlay zones are designated in, and subject to the provisions of, Chapter 18.360. In addition to the regulations set forth in said Chapter 18.360, all property lying within the boundaries of the floodplain overlay districts shall also be subject to the regulations applicable to the underlying zoning district.

SECTION 5. A new Chapter 18.174 of the Overland Park Municipal Code is hereby added to read as follows:

Chapter 18.174
PROPOSED NEW ZONING DISTRICT: RP-OE, PLANNED OPEN SPACE
ESTATE RESIDENTIAL DISTRICT

18.174.010 Statement of intent

The zoning of property as RP-OE, Planned Open Space Estate Residential District, is intended to provide for the development of very low-density residential development in newly developing areas, where adequate public facilities and infrastructure are available or will be available in the near future, and where greater flexibility is needed to allow for the preservation of natural features, such as riparian areas, flood plain, wetlands, and areas with steep slopes. Flexibility from the traditional residential estate large-lot standards (RE, Residential Estate District) is offered to allow for creative subdivision design, while maintaining a very low-density character and an opportunity to preserve open space. Property zoned RP-OE shall be provided with public sanitary sewers prior to, or concurrent with, development.

18.174.020 Permitted uses

No building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered except for one or more of the uses permitted in District R-1, subject to the development and performance standards set forth in Chapter 18.180.

18.174.030 Height and area regulations

The maximum height of buildings, the minimum dimension of lots and yards, and the minimum lot area per dwelling permitted on a lot shall be as follows, except as provided in Chapter 18.420.

A. Maximum height:

1. Residences limited to two and one-half stories, not exceeding 35 feet.
2. Accessory structures and uses, other than nonresidential structures,

one-story, not exceeding 20 feet and not exceed the height of the main structure.

- B. Minimum front yard -- 15 feet.
- C. Minimum side yard
 - 1. Six feet on both sides
 - 2. On corner lots, the side yard on the street side shall not be less than 10 feet.
- D. Minimum rear yard -- 10 feet when adjacent to designated open space lands, otherwise 25 feet
- E. Minimum lot width – 50 foot
- F. Average lot depth – 85 feet when lot is adjacent to designated open space lands, otherwise 100-feet
- G. Maximum lot area per dwelling – 25,000 square feet

18.174.040 Parking regulations

Two off-street parking spaces shall be provided for each single-family dwelling, at least one of which shall be in a garage or carport. See Chapter 18.430 for additional parking requirements.

18.174.050 Development and Performance Standards

- A. District Size – All parcels hereafter zoned RP-OE, Planned Open Space Estate Residential District shall contain a minimum of 15 acres of land, provided that the Planning Commission and Governing Body may waive this requirement if the proposed tract of land abuts an existing development zoned RP-OE; Planned Open Space Estate Residential District, and the proposed tract will enable a compatible extension of the existing development.
- B. Open Space Lands Requirement - The subdivision must include at least 60 percent of the total gross land acreage as open space lands.
 - 1. Not less than 10 percent of this open space lands shall be in a form usable to and accessible by the residents.
 - 2. In addition, no more than 50 percent of the open space lands shall comprise of active recreational uses.

C. Uses Permitted on Open Space Lands

The following uses are permitted in open space land areas:

1. Low-impact passive uses include conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow), agricultural uses as defined by Section 18.110.040, village/central greens, neighborhood squares, common areas, picnic areas, community gardens, walking trails, bikeways, other kinds of pathways, cemeteries, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact as determined by the Planning Commission and Governing Body.
2. Active recreation uses (no more than 50 percent of the required open space lands) include recreational playing fields, golf courses, playgrounds, tennis courts, neighborhood pools, clubhouse structures, equestrian facilities, and parking lots provided such areas do not consume more than half of the minimum required open space land. Recreational playing fields, playgrounds, and tennis courts shall not be located within 100 feet of abutting properties. Parking facilities shall generally be unlighted, and provide no more than ten (10) parking spaces.

D. See Section 18.180.070, which is incorporated herein by reference.

18.174.060 Submittal and Review Requirements

A. Architectural Review

All single-family homes and single-family accessory structures are exempt from the architectural review identified in Sections 18.140.190.A4 and 18.140.210.A3 for Preliminary and Final Development Plans, respectively.

B. Maintenance of Open Space

The applicant shall, at the time of preliminary plan submission, provide a plan acceptable to the City that demonstrates that all common open space and natural conservation areas will be managed by a responsible party able to maintain those areas in a natural and open space state, and in a neat and attractive condition in compliance with any applicable laws, ordinances, rules or regulations, in perpetuity. The plan may include, without being limited to, mechanisms such as deed restrictions, covenants or conditions which include the authority to lien the developed property for the costs of maintenance; conservation easements to private or public entities; dedication to a governmental entity; non-development agreements; homeowner, condominium or town home or community associations maintenance agreements; use of national, state or local land trusts, or other legal means that ensure the permanent protection and perpetual maintenance of such

areas in an undeveloped and properly maintained condition. Such legal means shall be legally enforceable by the City or private parties, or both, and must provide that upon failure of a responsible party to properly manage and maintain such areas, the City may assume those responsibilities and charge the owners of the developed property (lot owners within that subdivision responsible for the maintenance of the open space lands) a fee which covers maintenance and administrative costs and collect such costs through a lien on the property if necessary. Where appropriate, and when approved by the City, some or all of such areas can be maintained in a variety of ways, including, without being limited to, being kept for agricultural or passive recreational use or left in the natural state. The form of any instrument used to ensure open space and natural areas preservation shall be approved by the City Attorney as to form and the Director of Planning and Development Services as to content before being submitted as part of any requested land use approval and recorded with the Register of Deeds.

SECTION 6. A new Chapter 18.176 of the Overland Park Municipal Code is hereby added to read as follows:

Chapter 18.176
PROPOSED NEW ZONING DISTRICT: RP-OS, PLANNED OPEN SPACE
SINGLE-FAMILY RESIDENTIAL DISTRICT

18.176.010 Statement of Intent

The zoning of property as RP-OS, Planned Open Space Single-Family Residential District, is intended to provide for the development of low-density residential development in newly developing areas, where adequate public facilities and infrastructure is available, and where greater flexibility is needed to allow for the preservation of natural features, such as riparian areas, flood plain, wetlands, and other site features. Flexibility from the traditional single-family residential district standards (R-1, Single-Family Residential District) is offered to allow for creative subdivision design, while maintaining a low-density single-family residential character and an opportunity to preserve open space. Property zoned RP-OS shall be provided with public sanitary sewers prior to, or concurrent with, development.

18.176.020 Permitted Uses

No building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered except for one or more of the uses permitted in District R-1, subject to the development and performance standards set forth in Chapter 18.180.

18.176.030 Height and area regulations

The maximum height of buildings, the minimum dimension of lots and yards, and the minimum lot area per dwelling permitted on a lot shall be as follows, except as provided in Chapter 18.420.

- A. Maximum height:
 - 1. Residences limited to two and one-half stories, not exceeding 35 feet.
 - 2. Accessory structures and uses, other than nonresidential structures, one-story, not exceeding 20 feet and not exceed the height of the main structure.
- B. Minimum front yard -- 15 feet.
- C. Minimum side yard
 - 1. Six feet on both sides
 - 2. On corner lots, the side yard on the street side shall be not less than 10 feet.
- D. Minimum rear yard -- 10 feet when adjacent to designated open space lands, otherwise 25 feet
- E. Average lot width – 50 foot
- F. Minimum lot depth – 85 feet when lot is adjacent to designated open space lands, otherwise 100-feet
- G. Maximum lot area per dwelling – 15,000 square feet

18.176.040 Parking Regulations

Two off-street parking spaces shall be provided for each single-family dwelling, at least one of which shall be in a garage or carport. See Chapter 18.430 for additional parking requirements.

18.176.050 Development and Performance Standards

- A. District Size – All parcels hereafter zoned RP-OS, Planned Open Space Single-Family Residential District shall contain a minimum of 15 acres of land, provided that the Planning Commission and Governing Body may waive this requirement if the proposed tract of land abuts an existing development zoned RP-OS; Planned Open Space Single-Family Residential District, and the proposed tract will enable a compatible extension of the existing development.
- B. Open Space Lands Requirement - The subdivision must include at least 30 percent of the total gross land acreage as open space lands.

1. Not less than 20 percent of this open space lands shall be in a form usable to and accessible by the residents.
2. In addition, no more than 50 percent of the open space lands shall comprise of active recreational uses.

C. Uses Permitted on Open Space Lands

The following uses are permitted in open space land areas:

1. Low-impact passive uses include conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow), agricultural uses as defined by Section 18.110.040, village/central greens, neighborhood squares, common areas, picnic areas, community gardens, walking trails, bikeways, other kinds of pathways, cemeteries, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact as determined by the Planning Commission and Governing Body.
2. Active recreation uses (no more than 50 percent of minimum required open space lands) include recreational playing fields, golf courses, playgrounds, tennis courts, neighborhood pools, clubhouse structures, equestrian facilities, and parking lots provided such areas do not consume more than half of the minimum required open space land. Recreational playing fields, playgrounds, and tennis courts shall not be located within 100 feet of abutting properties. Parking facilities shall generally be unlighted, and provide no more than ten (10) parking spaces.

D. See Section 18.180.070, which is incorporated herein by reference.

18.176.060 Submittal and review requirements

A. Architectural Review

All single-family homes and single-family accessory structures are exempt from the architectural review identified in Sections 18.140.190.A4 and 18.140.210.A3 for Preliminary and Final Development Plans, respectively.

B. Maintenance of Open Space

The applicant shall, at the time of preliminary plan submission, provide a plan acceptable to the City that demonstrates that all common open space and natural conservation areas will be managed by a responsible party able to maintain those areas in a natural and open space state, and in a neat and attractive condition in compliance with any applicable laws, ordinances, rules

or regulations, in perpetuity. The plan may include, without being limited to, mechanisms such as deed restrictions, covenants or conditions which include the authority to lien the developed property for the costs of maintenance; conservation easements to private or public entities; dedication to a governmental entity; non-development agreements; homeowner, condominium or town home or community associations maintenance agreements; use of national, state or local land trusts, or other legal means that ensure the permanent protection and perpetual maintenance of such areas in an undeveloped and properly maintained condition. Such legal means shall be legally enforceable by the City or private parties, or both, and must provide that upon failure of a responsible party to properly manage and maintain such areas, the City may assume those responsibilities and charge the owners of the developed property (lot owners within that subdivision responsible for the maintenance of the open space lands) a fee which covers maintenance and administrative costs and collect such costs through a lien on the property if necessary. Where appropriate, and when approved by the City, some or all of such areas can be maintained in a variety of ways, including, without being limited to, being kept for agricultural or passive recreational use or left in the natural state. The form of any instrument used to ensure open space and natural areas preservation shall be approved by the City Attorney as to form and the Director of Planning and Development Services as to content before being submitted as part of any requested land use approval and recorded with the Register of Deeds.

SECTION 7. Existing Overland Park Municipal Code Sections 18.110.460, 18.140.190, 18.140.200, and 18.150.010 are hereby repealed.

SECTION 8. This ordinance shall take effect and be in force from and after its publication in The Overland Park Sun, an official City newspaper.

PASSED by the City Council this 4th day of March, 2002.

APPROVED by the Mayor this 4th day of March, 2002.

Ed Eilert, Mayor

ATTEST:

Marian Cook, City Clerk

APPROVED AS TO FORM:

J. Bart Budetti
Sr. Assistant City Attorney