

ORDINANCE NO. ZRR-2343

AN ORDINANCE RELATING TO THE UNIFIED DEVELOPMENT ORDINANCE FOR THE CITY OF OVERLAND PARK, KANSAS; AMENDING AND REPEALING EXISTING OVERLAND PARK MUNICIPAL CODE SECTIONS 18.100.070, 18.110.070, 18.110.120, 18.110.180, 18.110.375, 18.110.390, 18.110.515, 18.120.010, 18.120.040, 18.120.100, 18.130.060, 18.130.070, 18.130.080, 18.130.150, 18.140.010, 18.140.020, 18.140.030, 18.140.040, 18.140.060, 18.140.130, 18.140.140, 18.140.210, 18.140.250, 18.140.270, 18.140.300, 18.140.310, 18.140.320, 18.140.330, 18.140.350, 18.140.360, 18.140.370, 18.140.450, 18.140.460, 18.140.470, 18.150.010, 18.150.040, 18.160.050, 18.170.070, 18.170.090, 18.180.060, 18.350.030, 18.360.010, 18.380.040, 18.390.090, 18.410.075, 18.410.090, 18.420.090, 18.440.030, 18.440.080, 18.440.100, 18.440.120, 18.450.060, 18.450.090, 18.460.030, 18.460.220, 18.460.370, AND 18.470.030; ADDING NEW SECTIONS 18.110.072, 18.110.187, 18.140.480, 18.140.490, 18.150.080; ADDING DISTRICT MS1 MAIN STREET DISTRICT 1, AS NEW CHAPTER 18.320 CONSISTING OF NEW SECTIONS 18.320.010, 18.320.020, 18.320.030, 18.320.040 AND 18.320.050; ADDING DISTRICT MS2 MAIN STREET DISTRICT 2, AS NEW CHAPTER 18.322 CONSISTING OF NEW SECTIONS 18.322.010, 18.322.020, 18.322.030, 18.322.040 AND 18.322.050; ADDING DISTRICT SFD SANTA FE DISTRICT, AS NEW CHAPTER 18.324 CONSISTING OF NEW SECTIONS 18.324.010, 18.324.020, 18.324.030, 18.324.040 AND 18.324.050; ADDING DISTRICT MD METCALF DISTRICT, AS NEW CHAPTER 18.326 CONSISTING OF NEW SECTIONS 18.326.010, 18.326.020, 18.326.030, 18.326.040 AND 18.326.050; ADDING DISTRICT DND DOWNTOWN NEIGHBORHOOD DISTRICT, AS NEW CHAPTER 18.328 CONSISTING OF NEW SECTIONS 18.328.010, 18.328.020, 18.328.030, 18.328.040 AND 18.328.050; AND REPEALING SECTIONS 18.120.120, 18.120.130, 18.120.140, 18.120.150, 18.120.160, 18.120.170, AND 18.140.440.

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

SECTION 1. Overland Park Municipal Code Section 18.100.070 is hereby amended to read as follows:

18.100.070 Adequate public facilities and services

- A. At the time of submittal of a rezoning, special use permit or preliminary plat application, the applicant shall submit proof of having reviewed the development proposal with applicable water, sewer, fire, gas and electric utility officials. Proof of such review shall be provided on forms furnished by the Department of Planning and ~~Research~~Development Services. Said forms shall provide an opportunity for applicable water, sewer, fire, gas and electric officials to provide comments on the existing and future availability and timing of services provided by their respective districts to the subject property.

- B. At the time of submittal of final development plan or final plat application, the applicant shall submit proof that adequate water, sewer, fire, gas and electric services are presently available to the subject property. If adequate public facilities and services are not presently available at the time of submittal of applications for final development plans or final plats, or are not planned for the near future to appropriately serve the proposed development, as determined by the affected utility company or agency, the final development plan or final plat may be denied.

SECTION 2. Overland Park Municipal Code Section 18.110.070 is hereby amended to read as follows:

18.110.070 Block

“**Block**” means a tract or parcel of land entirely surrounded by public highways or streets, other than alleys. In cases where the platting is incomplete or disconnected, the Director of Planning and ~~Research~~Development Services shall determine the outline of the block.

SECTION 3. Overland Park Municipal Code Section 18.110.072 is hereby added to read as follows:

18.110.072 Build-to line

“Build-to line” means a line, parallel to the respective lot line, and internal to the lot, which defines the required maximum and minimum setback for the entire building façade as specified in the district regulations.

SECTION 4. Overland Park Municipal Code Section 18.110.120 is hereby amended to read as follows:

18.110.120 Commercial districts

“Commercial districts” means districts C-O, CP-O, C-1, CP-1, C-2, CP-2, C-3, CP-3, ~~and DD, MS-1, MS-2, MD, and SFD.~~

SECTION 5. Overland Park Municipal Code Section 18.110.180 is hereby amended to read as follows:

18.110.180 Director of Planning and ~~Research~~Development Services

“**Director of Planning and ~~Research~~Development Services**” means the duly appointed Director of Planning and ~~Research~~Development Services of the City, or his or her designee.

SECTION 6. Overland Park Municipal Code Section 18.110.187 is hereby added to read as follows:

18.110.187 Downtown Districts

“Downtown Districts” means districts MS-1, MS-2, MD, SFD, and DND.

SECTION 7. Overland Park Municipal Code Section 18.110.375 is hereby amended to read as follows:

18.110.375 Lot

“**Lot**” means a parcel of land occupied, or to be occupied, by one 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 street. A lot as used in this ordinance may consist of one or more platted lots or tracts, or parts thereof.

“**Platted lot**” means a portion of a subdivision intended as a unit for transfer of ownership or for development.

“**Corner lot**” means a lot abutting upon 2 or more streets at their intersection. A corner lot shall be deemed to front on that street on which it has its least dimension, unless otherwise specified by the Director of Planning and ~~Research~~**Development Services**, except that a lot made up of more than one platted lot shall be deemed to front on the street upon which the platted lots front.

“**Double-frontage lot**” means a lot abutting upon 2 or more streets, at least 2 of which do not intersect.

“**Interior lot**” means a lot whose side lot lines do not abut upon any street.

“**Through lot**” means an interior, double-frontage lot.

SECTION 8. Overland Park Municipal Code Section 18.110.390 is hereby amended to read as follows:

18.110.390 Lot line

“**Lot line**” means the boundary line of a lot.

“**Front lot line**” means that lot line abutting a street or private drive. In the case of a corner lot where there are two lot lines abutting intersecting streets, the front lot line shall normally be the one with the shortest length. In the case of a through lot, the front lot line shall be the one adjacent to the street which provides primary access to the lot or towards which the main building on the lot is oriented.

“**Side lot line**” means any lot line which intersects the front lot line. A side lot line shall include any linked line segments or arcs which have a bearing

which is within 45 degrees of a line drawn perpendicular to the front lot line.

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

Where the application of the rules is ambiguous or where the property owner requests an alternative designation, the Director of Planning and ResearchDevelopment Services may specifically designate the various lot lines for a particular lot.

SECTION 9. Overland Park Municipal Code Section 18.110.515 is hereby amended to read as follows:

18.110.515 Residential districts

“Residential districts” ~~refers to zoning means~~ districts DND, RE, R-1, RP-1, R-1A, RP-1A, R-2, RP-2, R-3, RP-3, RP-4, R-5, RP-5, R-6, RP-6, former District R-4, and Oxford Township Districts RR, R-1A, R-1B, R-2, R-3 and R-4 (per the March, 1982 Zoning and Subdivision Regulations for Oxford Township).

SECTION 10. Overland Park Municipal Code Section 18.120.010 is hereby amended to read as follows:

18.120.010 Director of Planning and ResearchDevelopment Services as administrative official

Except where otherwise specifically provided in this ordinance, the Director of Planning and ResearchDevelopment Services shall be the administrative official charged with interpreting and enforcing the provisions of this ordinance.

SECTION 11. Overland Park Municipal Code Section 18.120.040 is hereby amended to read as follows:

18.120.040 Planning Commission - officers

The Planning Commission shall elect one of its members as Chairperson and one as Vice-Chairperson, who shall serve one year and until their successors have been selected. The Director of Planning and ResearchDevelopment Services shall serve as the Secretary of the Planning Commission.

SECTION 12. Overland Park Municipal Code Section 18.120.100 is hereby amended to read as follows:

18.120.100 Board of Zoning Appeals - meetings

Meetings of the Board shall be held at the call of the Chairperson, provided that whenever three or more members of the Board request the Chairperson to summon a meeting of the Board, the Chairperson shall call a meeting. The presence of four members of the Board shall constitute a quorum for transacting business and

taking official action. A concurring vote of at least four members of the Board shall be necessary to effect a ruling of the Board. The Secretary shall keep minutes of the Board's proceedings and official actions and keep records of its examinations and findings and shall file the same in the Department of Planning and [ResearchDevelopment Services](#).

SECTION 13. Overland Park Municipal Code Section 18.130.060 is hereby amended to read as follows:

18.130.060 Sign permits -- when required

A sign permit shall be obtained from the Director of Planning and [ResearchDevelopment Services](#) prior to installation or construction of any sign except those signs specifically exempted from such requirement pursuant to the provisions of Chapter 18.440.

SECTION 14. Overland Park Municipal Code Section 18.130.070 is hereby amended to read as follows:

18.130.070 Sign permits -- applications

Applications for sign permits shall be filed upon forms prescribed by the City, accompanied by two sets of plans drawn to scale indicating the sign size, location, method of illumination, colors, materials of the sign and structure, and method of attachment. In the case of signs other than freestanding signs, the plans shall depict the entire facade on which the sign is to be mounted or attached. In addition, the applicant shall submit any other information relating to the placement, construction, design, etc. of the sign as may be required by the Director of Planning and [ResearchDevelopment Services](#).

SECTION 15. Overland Park Municipal Code Section 18.130.080 is hereby amended to read as follows:

18.130.080 Permits -- conformance of construction

No permit shall be issued for any building, structure, sign or use of land unless the same shall be in conformance in every respect with:

- A. all provisions of this ordinance;
- B. any conditions or stipulations attached to the approval of any applicable rezoning, special use permit, preliminary development plan, final development plan, site plan or other form of development plan approval;
- C. the content of any applicable final development plans, site plans, or other development plans approved by the Governing Body, Planning Commission or the Planning & [ResearchDevelopment Services](#) Department; and

D. Title 16 of the Code and any other applicable provisions of the Code.

SECTION 16. Overland park Municipal Code Section 18.130.150 is hereby amended to read as follows:

18.130.150 Filing fees

Filing fees for all applications for permits and certificates of occupancy shall be established by resolution of the Governing Body. Filing fees may be reviewed on an annual basis and revised as necessary by adoption of a new resolution. Copies of the current resolution establishing filing fees shall be on file in the offices of the City Clerk, the Director of Planning and ~~Research~~Development Services and the Code Administrator.

SECTION 17. Overland Park Municipal Code Section 18.140.010 is hereby amended to read as follows:

18.140.010 Who may apply; application fees

- A. Application for a zoning text amendment may only be filed by the Governing Body or Planning Commission.
- B. An application for rezoning to a conventional zoning district or for a revised final development plan for a planned zoning district may be filed by either the Governing Body, the Planning Commission or the landowner or the landowner's agent.
- C. An application for an appeal to the Board of Zoning Appeals may be filed by any person aggrieved, or by any officer of the City or any governmental agency or body affected by any decision of an official administering the provisions of this ordinance.
- D. All other applications provided for in this chapter may only be filed by the landowner or the landowner's agent.
- E. Fees for all applications provided for in this chapter shall be established by the Governing Body by resolution.
- F. All applications shall be made on forms prescribed by the City and available in the Department of Planning and ~~Research~~Development Services.

SECTION 18. Overland Park Municipal Code Section 18.140.020 is hereby amended to read as follows:

18.140.020 Applications – proof of ownership and/or authorization of agent

- A. Where an application has been filed by, or on behalf of, a landowner, an affidavit of ownership shall be submitted to the City.

- B. Where an application has been filed by an agent of a landowner, an affidavit of the landowner establishing the agent's authorization to act on behalf of the landowner shall also be submitted.
- C. The affidavits required by this section shall be on forms prescribed by the City or in such form as is acceptable to the Director of Planning and ResearchDevelopment Services, and shall be submitted at the time of filing the application.

SECTION 19. Overland Park Municipal Code Section 18.140.030 is hereby amended to read as follows:

18.140.030 Pre-application conference

A pre-application conference with a member of the professional planning staff of the Department of Planning and ResearchDevelopment Services may, in the discretion of the Director of Planning and ResearchDevelopment Services, be required prior to submission of any application for a rezoning, special use permit, preliminary development plan or preliminary plat. The purpose of this conference is to: acquaint the applicant with the procedural requirements of this ordinance; provide for an exchange of information regarding the proposed development plan and applicable elements of this ordinance, the master plan and other development requirements; advise the applicant of any public sources of information that may aid the application; identify policies and regulations that create opportunities or pose significant restraints for the proposed development; review any proposed concept plans and consider opportunities to increase development benefits and mitigate undesirable project consequences; and permit staff input into the general design of the project.

SECTION 20. Overland Park Municipal Code Section 18.140.040 is hereby amended to read as follows:

18.140.040 Submission of technical studies

- A. The Director of Planning and ResearchDevelopment Services may require applicants for rezonings, special use permits, preliminary development plans or preliminary plats to submit such technical studies as may be necessary to enable the Planning Commission or Governing Body to evaluate the application. Examples of technical studies that may be required shall include, but not be limited to, traffic studies, engineering studies, geologic or hydrogeologic studies, flood studies, environmental impact assessments, noise studies, market studies or economic impact reports. The persons or firms preparing the studies shall be subject to the approval of the Director of Planning and ResearchDevelopment Services. The costs of all studies shall be borne by the applicant. Any decision of the Director of Planning and ResearchDevelopment Services to require any such study or to disapprove

the person or firm selected by the applicant to perform the study may be appealed to the Planning Commission. The decision of the Planning Commission on any such appeal shall be final.

- B. Notwithstanding the fact that the Director of Planning and ResearchDevelopment Services did not require submission of any such technical study in support of the application, either the Planning Commission or the Governing Body may require the submission of such study prior to taking action on the application. In such case, the persons or firms selected to perform the studies shall be subject to the approval of the entity requesting that the study be performed. Any decision of the Planning Commission or the Governing Body to require that a study be performed or to disapprove the person or firm selected by the applicant to perform the study shall be final.

SECTION 21. Overland Park Municipal Code Section 18.140.060 is hereby amended to read as follows:

18.140.060 Application and submission deadlines

The Director of Planning and ResearchDevelopment Services or the Planning Commission may administratively provide for submission deadlines for materials required in support of any application provided for in this chapter. Compliance with such deadlines shall generally be required in order to have the application placed on an agenda to be heard by the Planning Commission. At the discretion of the Director of Planning and ResearchDevelopment Services, non-agenda items may be brought before the Planning Commission for hearing; provided that the Planning Commission in its sole discretion may refuse to hear non-agenda items.

SECTION 22. Overland Park Municipal Code Section 18.140.130 is hereby amended to read as follows:

18.140.130 Rezoning applications -- submission requirements

The following items shall be submitted in support of any application for rezoning:

- A. Legal description of the property.
- B. A statement of the reasons why rezoning is being requested.
- C. In the case of an application for rezoning to a conventional zoning district, a site plan.
- D. In the case of an application for rezoning to a planned zoning district, a preliminary development plan.
- E. All studies as may reasonably be required by the Director of Planning and

~~Research~~Development Services pursuant to Section 18.140.040.

- F. Assurances of adequate public facilities as required by Section 18.100.070.

SECTION 23. Overland Park Municipal Code Section 18.140.140 is hereby amended to read as follows:

18.140.140 Special use permit applications – submission requirements

The following items shall be submitted in support of an application for a special use permit:

- A. Legal description of the property.
- B. A statement of the reasons why the special use permit is being requested.
- C. Either a site plan or a preliminary development plan, whichever is, in the opinion of the Director of Planning and ~~Research~~Development Services, necessary in order for the City staff, Planning Commission and Governing Body to properly evaluate the application. Notwithstanding a determination by the Director of Planning and ~~Research~~Development Services that only a site plan is required, the Planning Commission or Governing Body may require the submission of a preliminary development plan prior to taking action on the application.
- D. All studies as may reasonably be required by the Director of Planning and ~~Research~~Development Services pursuant to Section 18.140.040.
- E. Assurance of adequate public facilities as required by Section 18.100.070.

SECTION 24. Overland Park Municipal Code Section 18.140.210 is hereby amended to read as follows:

18.140.210 Final development plans – contents and submission requirements

- A. Five copies of the final development plan shall be submitted in support of the application. The final development plan shall contain the following information:
 - 1. A small key map indicating the location of the property within the City.
 - 2. A site plan including the following:
 - a. Finished grades or contours for the entire site at 2 foot contour intervals.

- b. All existing and proposed adjacent public street right-of-way with centerline location.
 - c. All existing and proposed adjacent public street and public drive locations, widths, curb cuts and radii.
 - d. Location, width and limits of all existing and proposed sidewalks.
 - e. Location, size and radii of all existing and proposed median breaks and turning lanes.
 - f. Distance between all buildings, between buildings and property lines and between all parking areas and property lines.
 - g. Location of all required building and parking set-backs.
 - h. Location, dimensions, number of stories and area in square feet of all proposed buildings.
 - i. Area of land on site plan in square feet or acres.
 - j. Limits, location, size and material to be used in all proposed retaining walls.
 - k. Location and dimensions of all driveways, parking lots, parking stalls, aisles, loading and service areas and docks.
 - l. Location, height, candle power and type of outside lighting fixtures for buildings and parking lots.
 - m. Location, size, type of material and message of all proposed monument or detached signs.
 - n. Pertinent peripheral information to include adjacent developments, alignment and location of public and private driveways and streets, medians, public and semi-public easements.
 - o. Preliminary drainage design and location and existing drainage facilities.
3. Building elevations including the following:

- a. Elevations of all sides of proposed buildings including notation indicating building materials to be used on exteriors and roofs.
 - b. Size, location, color and materials of all signs to be attached to building exteriors, unless private sign criteria have previously been approved by the Planning Commission.
 - c. Location, size and materials to be used in all screening of rooftop mechanical equipment.
 - d. Building sections.
4. Floor plans indicating dimensions and areas of all floors within proposed buildings.
 5. Landscaping and screening plans as required by Section 18.450.040, which include:
 - a. Size, species, location and number of all proposed landscape materials.
 - b. Notation of all areas to be seeded or sodded.
 - c. Location, size and materials to be used for all screening, including screening of outside trash enclosure areas.
- B. All site plans are to be drawn to a standard engineer's scale. The actual scale used will depend on the development and shall be subject to the approval of the Director of Planning and [Research Development Services](#).
- C. One copy of the proposed site plan and one copy of the proposed building elevations shall be reduced onto 8-1/2 inch by 11 inch bond paper.
- D. The following shall be submitted in support of the application for final development plan approval:
1. Deeds of dedication for all rights-of-way or easements required as a result of preliminary development plan approval if conveyance thereof is not to be made by plat or by the filing of the final development plan pursuant to Section 18.150.070F.
 2. A copy of all covenants and restrictions applicable to the development, if required by the terms of the preliminary development plan.
 3. Evidence of the establishment of the agency for the ownership and

maintenance of any common open space and all assurances of the financial and administrative ability of such agency required pursuant to approval of the preliminary development plan, if required by the terms of the approved preliminary development plan.

4. Evidence of satisfaction of any stipulations of the preliminary development plan approval which were conditions precedent to consideration of the final development plan.
5. Proof of filing of the statement required by Section 18.140.230.
6. Assurances of adequate public facilities as required by Section 18.100.070.

SECTION 25. Overland Park Municipal Code Section 18.140.250 is hereby amended to read as follows:

18.140.250 Preliminary plats -- contents and submission requirements

- A. Seven copies of the preliminary plat shall be submitted in support of the application. The plat shall contain the following information:
1. North arrow and scale.
 2. Legal description.
 3. The proposed name of the subdivision and the names of adjacent subdivisions.
 4. The boundary lines of the tract with approximate dimensions.
 5. The general pattern and sizes of proposed lots and tracts.
 6. The general location, width and alignment of existing and proposed streets, alleys and sidewalks.
 7. All platted or existing streets and property lines or land adjacent for a distance of not less than 400 feet.
 8. Topography of the area contained in the plat shown by 2-foot or 5-foot contour intervals.
 9. Approximate gradients of proposed streets within the plat.
 10. Description of any existing streets or roads which abut, touch upon or extend through the subdivision. The description shall include types

and widths of existing surfaces, right-of-way widths, and dimensions of any bridges or culvert.

11. Location of the 100-year floodplain.
 12. The proposed use of land, whether for single-family, multi-family, commercial, industrial, parks, schools, etc.
 13. Indication of the ground floor area classification for residential subdivisions.
 14. Name and address of landowner.
 15. Name and address of architect, landscape architect, planner, engineer, surveyor or other person involved in the preparation of the plat.
 16. Date of preparation of the plat.
 17. Signature block for appropriate City officials.
- B. The following items shall be submitted in support of an application for preliminary plat approval:
1. All studies as may reasonably be required by the Director of Planning and ~~Research~~Development Services pursuant to Section 18.140.040.
 2. Assurances of adequate public facilities as required by Section 18.100.070.
 3. For residential subdivisions in Districts R-1, R-1A and R-2, a master fence/screening plan as required by Section 18.460.220.
 4. A current title report (less than 90 days old) together with legible copies of all pertinent exception documents; or a copy of a current American Land Title Association (ALTA) survey; or both as directed by the City.

SECTION 26. Overland Park Municipal Code Section 18.140.270 is hereby amended to read as follows:

18.140.270 Final plats – contents and submission requirements

- A. Final plats shall be drawn to a scale of one inch to 100 feet, or at such other scale acceptable to Director of Planning and ~~Research~~Development Services. Seven copies of the final plat shall be submitted in support of the application. The final plat shall contain the following information:

1. North arrow and scale.
2. Legal description.
3. The name of the subdivision and adjacent subdivisions.
4. A system of lot and block numbers in orderly sequence.
5. The names of streets which shall conform to the existing pattern.
6. A boundary survey of third order surveying accuracy (maximum closure error one in 5,000) with bearings and distances referring to section or fractional section corners or other baseline shown on the plat and readily reproducible on the ground.
7. Calculation sheets containing the following data: length and radii of all curb, street and lot lines; bearings and length of all straight street and lot lines; and the area in square feet of each lot. Bearings and distances referring to section or fractional section corners or other baseline shown on the plat shall be readily reproducible on the ground.
8. The dimensions, in feet and decimals of feet, of setback lines along front and side streets and the location and dimension of all necessary easements.
9. Certification of dedication of all streets, highways and other rights-of-way or parcels for public park or other public use, signed by the owners and all other parties who have a mortgage or lien interest in the property.
10. A statement on the plat concerning utility easements as follows:
An easement or license to enter upon, locate, construct and maintain or authorize the location, construction or maintenance and use of conduits, water, gas, sewer pipes, poles, wires, drainage facilities, ducts and cables, and similar facilities, upon, over and under these areas outlined and designated on this plat as "Utility Easement" or "U/E" and "Drainage Easement" or "D/E" is hereby granted to the City of Overland Park, Kansas, with subordinate use of the same by other governmental entities and public utilities as may be authorized by state law to use such easement for said purposes.
11. A statement on the plat concerning prior easement rights as follows:
The undersigned proprietor of said property shown on this plat does

hereby dedicate for public use and public ways and thoroughfares, all parcels and parts of land indicated on said plat as streets, terraces, places, roads, drives, lanes, avenues and alleys not heretofore dedicated. Where prior easement rights have been granted to any person, utility or corporation on said parts of the land so dedicated, and any pipes, lines, poles and wires, conduits, ducts or cables heretofore installed thereupon and therein are required to be relocated, in accordance with proposed improvements as now set forth, the undersigned proprietor hereby absolves and agrees to indemnify the City of Overland Park, Kansas, from any expense incident to the relocation of any such existing utility installations within said prior easement.

12. Location and elevations of the 100-year floodplain for all lots thereby affected shall be shown and shall include calculations.
 13. Tracts or easements designating location of fencing/ screening for R-1, R-1A and R-2 subdivisions adjacent to thoroughfares consistent with the approved preliminary plat.
 14. Certification by a registered civil engineer or surveyor to the effect that the plat represents a survey made by him or her.
 15. Name and address of landowner.
 16. Name and address of the engineer or surveyor preparing the plat.
 17. Date of preparation of the plat.
 18. Signature block for appropriate City officials.
- B. The following items shall be submitted in support of the application for final plat approval:
1. Documentation assuring permanent responsibility for the maintenance of the fence/screening tracts or easements.
 2. Assurances of adequate public facilities as required by Section 18.100.070. Where development on septic tanks has been approved, the results of septic tank percolation tests performed by a licensed engineer or competent professional testing company shall be submitted. If such tests indicate that the public health, safety and general welfare will be adversely impacted, the applicant shall submit a second study which indicates what measures or alternative sanitary waste treatment will take place. In any event, the Planning

Commission may deny the final plat or portion thereof if adequate measures cannot be provided to safely handle sanitary waste with the use of septic tanks on each lot.

3. Upon request by the City, a current title report (less than 90 days old) together with legible copies of all pertinent exception documents, or a copy of a current American Land Title Association (ALTA) survey, or both.

SECTION 27. Overland Park Municipal Code Section 18.140.300 is hereby amended to read as follows:

18.140.300 Consideration of lot splits

The Director of Planning and ResearchDevelopment Services shall approve applications for lot splits if it is determined that the lot has not been previously split, that the new lots so created conform to the requirements of this ordinance, and that adequate street rights-of-way and easements exist to serve the properties. The Director of Planning and ResearchDevelopment Services may require the dedication of additional street rights-of-way or easements as a condition precedent to issuance of buildings permits for the new lots where such dedications are reasonably related to the development of the properties. All applications for lot splits shall be acted upon by the Director of Planning and ResearchDevelopment Services within 30 days after receipt of a complete application therefor. Denial of an application for a lot split by the Director of Planning and ResearchDevelopment Services may be appealed to the Planning Commission, which shall act on the appeal within 30 days following the filing thereof. All decisions of the Planning Commission shall be final.

SECTION 28. Overland Park Municipal Code Section 18.140.310 is hereby amended to read as follows:

18.140.310 Applications for vacation of streets or reservations

Where an application for the vacation of any street, alley, utility easement or other public reservation by ordinance is not made by the owners of lands adjoining on both sides of the street, alley or public reservation to be vacated, the application shall be accompanied by affidavits of all such owners not joining in the application indicating their consent to the vacation. Copies of the application shall be filed in both the office of the City Clerk and the office of the Director of Planning and ResearchDevelopment Services. The application shall be accompanied by a legal description and survey or such other drawing acceptable to the Director of Planning and ResearchDevelopment Services depicting the street, alley or public reservation sought to be vacated and the properties and property ownerships surrounding said street, alley or public reservation.

SECTION 29. Overland Park Municipal Code Section 18.140.320 is hereby

amended to read as follows:

18.140.320 Consideration of vacations

- A. Applications to vacate a street, alley, utility easement or other public reservation by ordinance may only be considered at a public hearing following notice to surrounding property owners as provided in Section 18.140.080 and publication notice as hereinafter provided. Notice shall be published for two consecutive weeks in an official City newspaper. The notice shall state that an application for vacation has been filed in the office of the City Clerk, describing the property fully, and that a hearing thereon before the Governing Body will be held on a date certain after the completion of such publication notice, naming the day on which the hearing will be held, and that at such time and place all persons interested can appear and be heard concerning the application.
- B. The Governing Body or the Director of Planning and ~~Research~~Development Services may determine that it would be advisable to obtain the recommendation of Planning Commission concerning a vacation application prior to the public hearing before the Governing Body. In that event, the Planning Commission shall hold its own public hearing on the application following publication notice and notice to surrounding property owners in accordance with the provisions of Sections 18.140.070 and 18.140.080, respectively. At the conclusion of any such hearing, the Planning Commission shall submit its recommendation on the application to the Governing Body.
- C. At the time designated in the publication notice for its hearing, the Governing Body shall proceed to hear the application, or may adjourn the hearing from time to time to some day and hour certain, as deemed necessary, and which adjournment shall be noted upon the record of the proceedings thereof. At the hearing, the Governing Body shall hear such testimony as may be presented or required in order to fully understand the true nature of the application and the propriety of granting the same.
- D. The Governing Body shall approve the application if it determines from the evidence that:
 - 1. Due and legal notice has been given by publication as required herein.
 - 2. No private rights will be injured or endangered by the vacation.
 - 3. The public will suffer no loss or inconvenience thereby and that in justice to the applicant or applicants the application should be granted.
- E. An application shall not be granted if, at the time of or before the hearing, a

written objection thereto is filed with the Governing Body by any owner or adjoining owner who would be a proper party to the application, but has not joined therein.

SECTION 30. Overland Park Municipal Code Section 18.140.330 is hereby amended to read as follows:

18.140.330 Applications for appeals of administrative decisions

An application for appeal from a decision of the Director of Planning and ~~Research~~Development Services, the Code Administrator, or any other officer administering the provisions of this ordinance, which shall constitute a notice of appeal, shall be filed with the Director of Planning and ~~Research~~Development Services within 30 days of the date of the decision by the officer administering this ordinance which is being appealed. A copy of the notice of appeal shall be served on the person whose decision is being appealed. The officer whose decision is being appealed shall thereafter transmit to the secretary of the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.

SECTION 31. Overland Park Municipal Code Section 18.140.350 is hereby amended to read as follows:

18.140.350 Consideration of variances

- A. The Board of Zoning Appeals may grant a variance from the specific terms of this ordinance which would not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship for the applicant, and provided that the spirit of this ordinance shall be observed, the public safety and welfare secured and substantial justice done ~~for~~of the applicant. Provided, however, that the Board shall not have jurisdiction to grant a variance for property zoned under a planned zoning district ~~or downtown~~zoning district classification.
- B. An application for a variance may only be granted upon a finding by the Board that all of the following conditions have been met:
 - 1. That the variance requested arises from a condition which is unique to the property in question, is not ordinarily found in the same zoning district, and is not created by an action or actions of the landowner or the applicant.
 - 2. That the granting of the variance will not adversely affect the rights of adjacent landowners or residents.
 - 3. That the strict application of the provisions of this ordinance would

constitute unnecessary hardship upon the landowner represented in the application.

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
5. That granting the variance will not be opposed to the general spirit and intent of this ordinance.

C. Variances shall only be considered after a public hearing has been held, following publication notice and notice to surrounding property owners as provided by Sections 18.140.070 and 18.140.080, respectively. A copy of the publication notice shall also be mailed to the applicant and to the Planning Commission. Proof of mailing and return receipts shall be filed under oath by the applicant with the Secretary of the Board of Zoning Appeals prior to the hearing.

SECTION 32. Overland Park Municipal Code Section 18.140.360 is hereby amended to read as follows:

18.140.360 Applications for nonconforming situations permits

An application for a nonconforming situations permit shall be accompanied by a sketch plan, in such detail as may be reasonably required by the Director of Planning and [ResearchDevelopment Services](#), depicting the proposed nonconformity and its relationship with surrounding properties.

SECTION 33. Overland Park Municipal Code Section 18.140.370 is hereby amended to read as follows:

18.140.370 Applications for vested development rights permits

An application for a vested development rights permit shall be accompanied by such other information as may reasonably be required by the Director of Planning and [ResearchDevelopment Services](#).

SECTION 34. Overland Park Municipal Code Section 18.140.450 is hereby amended to read as follows:

18.140.450 Filing fees

Filing fees for all applications shall be established by resolution of the Governing Body. Filing fees may be reviewed on an annual basis and revised as necessary by adoption of a new resolution. Copies of the current resolution establishing filing fees shall be on file in the offices of the City Clerk and the Director of Planning and [ResearchDevelopment Services](#).

SECTION 35. Overland Park Municipal Code Section 18.140.460 is hereby

amended to read as follows:

18.140.460 Limitation on successive rezoning applications by landowner

- A. No application for rezoning by a landowner or a landowner's agent shall be accepted if any application for substantially the same property has been filed and advertised for public hearing within the preceding 6 months.
- B. For purposes of subsection A, the preceding 6-month period shall be determined as follows:
 - 1. If there was final action (either approval or denial) on the prior application, the 6-month period shall run from the date of such action.
 - 2. If the prior application was withdrawn after being advertised for public hearing, the 6-month period shall run from the date the application was withdrawn.
- C. The Director of Planning and ~~Research~~Development Services shall determine if an application concerns "substantially the same property" as a prior application. The landowner may appeal any such determination to the Planning Commission.
- D. The Governing Body may waive the limitation in this section for good cause shown.

SECTION 36. Overland Park Municipal Code Section 18.140.470 is hereby amended to read as follows:

18.140.470 Consideration of Residential Day Care Permits

- A. Applications for the initial Residential Day Care Permit shall be filed with the Planning & ~~Research~~Development Services Department and a public hearing shall be scheduled before the Planning Commission. The applicant shall be required to mail notices of the public hearing to surrounding property owners according to the procedures in Section 18.140.080, and shall be required to post a sign identifying the time and place of the hearing according to the procedures in Section 18.140.090. After the completion of the public hearing, the Planning Commission shall make a recommendation to the Governing Body. The Governing Body shall hold a public hearing and may approve the permit, approve the permit with conditions, or deny the permit. The Governing Body may refer the matter back to the Planning Commission for reconsideration or further study but shall not be required to do so under any circumstances.
- B. Applications for the renewal of a day care permit shall be filed with the Planning & ~~Research~~Development Services Department and a public hearing

shall be scheduled before the Governing Body. For the first renewal, the applicant shall be required to mail notices of the public hearing to surrounding property owners according to the procedures in Section 18.140.080 and shall post a sign identifying the time and place of the hearing according to the procedures in Section 18.140.090. For subsequent renewals, only the posting of the sign shall be required. After the conclusion of the hearing, the Governing Body may approve the permit, approve the permit with conditions, or deny the permit.

- C. The Governing Body may initiate proceedings to revoke a Residential Day Care Permit by a majority vote of those members present and voting. The procedure and basis for revocation shall be the same as for the revocation of a Special Use Permit as set forth in Section 18.370.050.

SECTION 37. Overland Park Municipal Code Section 18.140.480 is hereby added to read as follows:

18.140.480 Downtown development plans – Contents and submission requirements

Applications for downtown development plans may only be submitted for property that is zoned to a downtown zoning district. Downtown development plans shall include the information listed in 18.140.210 to the extent that it is pertinent to the application.

SECTION 38. Overland Park Municipal Code Section 18.140.490 is hereby added to read as follows:

18.140.490 Consideration of downtown development plans:

- A. All development that includes at least 10,000 square feet of new floor area, shall comply with the following procedure:
 - 1. Notices to surrounding property owners shall be provided as outlined in 18.140.080.
 - 2. Public hearing required at the Planning Commission.
 - 3. Planning Commission approval required.
 - 4. Action by the Planning Commission on a downtown development plan may be appealed to the Governing Body by the applicant by providing written notice to the Director of Planning and Development Services within 15 days following the Planning Commission’s decision. Approval of the application will allow for processing for the issuance of a building or land use permit.

- B. All development requiring a building permit, land use permit, or sign permit, where improvements to building(s) or site(s) do not include at least 10,000 square feet of new floor area may be approved administratively by the Director of Planning and Development Services. Applications that have been denied by the Director of Planning and Development Services, may appeal the Director's decision to the Planning Commission, provided written notice is provided to the Director within 15 days following the Director's decision. In the event an application is appealed to the Planning Commission, the procedure outlined in 18.140.490(A) 1-3 shall be followed. Any action by the Planning Commission on an appeal is final. Approval of the application by the Planning Commission will allow for processing for the issuance of a building or land use permit.
- C. The Planning Commission, Governing Body, or Director of Planning and Development Services, shall approve downtown development plans upon a determination that the following criteria have been satisfied:
1. The plan conforms to the applicable zoning district regulations, the Downtown Overland Park Master Plan, Downtown Overland Park Design Guidelines, and any other adopted plans and policies.
 2. The plan complies with the criteria set forth in Section 18.140.180(C) – Consideration of site plans.
 3. The landscaping and screening is provided as set forth in Chapter 18.450.
 4. All submission requirements have been met.
- D. Revisions to an approved downtown development plan may be approved administratively by the Director of Planning and Development Services. Provided, however, that in no event shall revisions to approved downtown development plans be approved administratively if the revisions require modification or removal of conditions or stipulations approved by the Planning Commission or Governing Body, or involve cumulative increases in the total floor area of all buildings or building additions of more than 10,000 square feet.

SECTION 39. 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;
District MS-1 -- Main Street District 1;
District MS-2 -- Main Street District 2;
District SFD -- Santa Fe District;
District DND -- Downtown Neighborhood District;
District MD -- Metcalf 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 40. Overland Park Municipal Code Section 18.150.040 is hereby amended to read as follows:

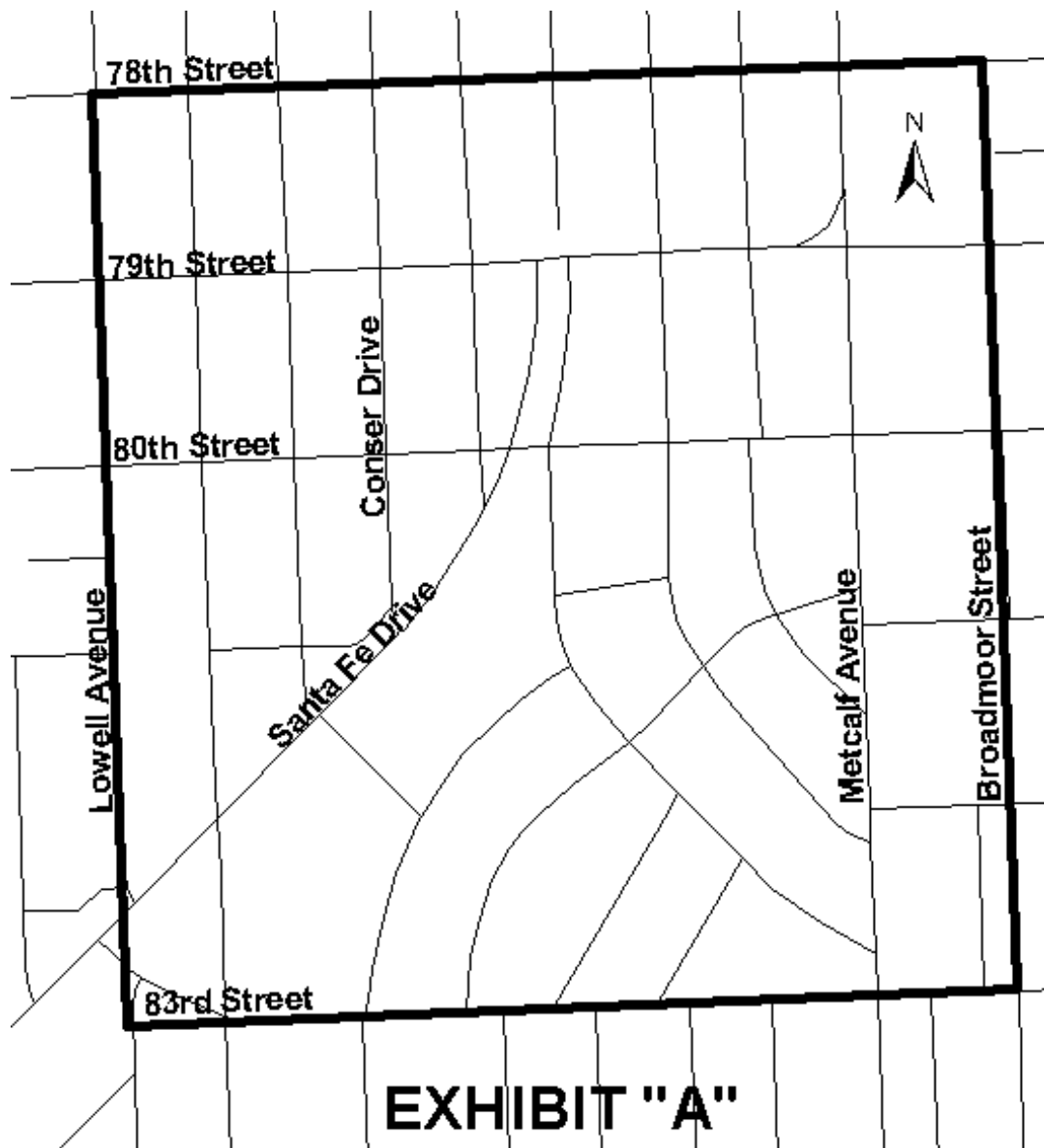
18.150.040 General requirements applicable to all zoning districts

- A. Except as otherwise specifically provided, no building or structure shall be erected, constructed, reconstructed, moved or altered, nor shall any building, structure or land be used for any purpose other than is permitted in the chapter of this ordinance applicable to the zoning district in which such building, structure or land is situated.
- B. Except as otherwise specifically provided, no building or structure shall be erected, constructed, reconstructed, moved or altered to exceed the height or area limits established in the chapter of this ordinance applicable to the zoning district in which such building or structure is situated.
- C. Except as otherwise specifically provided, no lot area shall be reduced or diminished so that the yards or other open spaces shall be smaller than prescribed, nor shall the density be increased in any manner, except in conformity with the area regulations in the chapter of this ordinance applicable to the zoning district in which the lot or property is situated.
- D. Except as otherwise specifically provided, all provisions of this ordinance applicable to a conventional zoning district shall be equally applicable to an equivalent planned zoning district. For such purposes, the following districts are considered to be equivalent: R-1 and RP-1; R-1A and RP-1A; R-2 and RP-2; R-3 and RP-3; R-5 and RP-5; R-6 and RP-6; C-0 and CP-0; C-1 and CP-1; C-2 and CP-2; C-3 and CP-3; M-1 and MP-1; and M-2 and MP-2.
- E. Except as otherwise specifically provided, no building, structure or site improvement shall be erected, constructed, reconstructed, moved or altered except in compliance with any applicable final development plans, site plans or other development plans approved by the Governing Body, the Planning Commission or the Planning and Research Development Services Department. For the purposes of this section, compliance with approved plans shall include both compliance with the content of the plan drawings and compliance with any conditions or stipulations attached to such approval.

SECTION 41. Overland Park Municipal Code Section 18.150.080 is hereby added to read as follows:

18.150.080 – Downtown districts; general requirements

- A. Districts MS1, MS2, SFD, DND, and MD are classified as downtown zoning districts.
- B. No property may be zoned into a downtown zoning district, unless such property falls within the boundary shown on Exhibit A of this section.
- C. Standards for the design, bulk and location of buildings and structures shall be as set forth in the chapters applicable to any downtown zoning district. Provided, that the Planning Commission or Governing Body may, in the process of approving downtown development plans, approve the following deviations from the minimum standards where there is ample evidence that the deviations will not adversely affect neighboring property and that such action will not constitute a mere granting of a privilege:
1. Setbacks of buildings and paved areas from a public street right-of-way may be reduced to 75% of the stated requirement.
 2. Setbacks of buildings from a property line other than a public street right-of-way may be reduced to 85% of the stated requirement and setbacks of paved areas from a property line other than a public street right-of-way may be reduced to zero, if existing or proposed development on said adjacent land justifies any such reduction.
 3. Side yards between buildings may be reduced to zero.
 4. A portion of the parking area required under this title may remain unimproved until such time as the Planning Commission or Governing Body deems it must be improved to serve parking demand adequately.
 5. Reduction of setbacks or other open space shall be compensated by additional open space in other appropriate portions of the project and shall be in keeping with good land use planning principles.
 6. Any stated build-to line may be increased by not more than ten feet.
- D. The Planning Commission or Governing Body may, in the process of approving downtown development plans, approve deviations from applicable development standards other than those listed in subsection C of this section, only if it finds that all of the conditions outlined in 18.150.070(H) are met.
- E. Where a deviation is requested on property in any downtown zoning district, the process outlined in Section 18.140.490(A) shall be followed.



SECTION 42. Overland Park Municipal Code Section 18.160.050 is hereby amended to read as follows:

18.160.050 Building on unplatted land

A building permit for a residential or nonagricultural building in this district will not be issued until a plot plan showing the proposed building and the land areas to be set aside to accommodate it is submitted and approved by the Director of Planning and ~~Research~~Development Services. Such plot plan may delineate a tract of land which is part of a larger ownership without the filing of a plat, provided the delineated tract is accurately tied to a section or quarter section corner and has access to a public street, road or highway. This delineated tract shall be entered on

the official zoning map of the City and shall be considered the same as a platted lot for purposes of regulating permits on adjacent land. The owners of tracts abutting an existing road, street or highway which has less than City standard width shall present a warranty deed acceptable to the City for that amount of right-of-way necessary to comply with the City standards prior to the issuance of the building permit.

SECTION 43. Overland Park Municipal Code Section 18.170.070 is hereby amended to read as follows:

18.170.070 Building on unplatted land

A building permit for a residential dwelling or any other structure in this district will not be issued until a plot plan showing the proposed building and the land areas to be set aside to accommodate it is submitted and approved by the Director of Planning and ResearchDevelopment Services. Such plot plan may delineate a tract of land which is part of a larger ownership without the filing of a plat, provided the delineated tract is accurately tied to a section or quarter section corner and has access to a public street, road or highway. This delineated tract shall be entered on the official zoning map of the City and shall be considered the same as a platted lot for purposes of regulating permits on adjacent land. The owners of tracts abutting an existing road, street or highway which has less than the City standard right-of-way shall present a warranty deed acceptable to the City for that right-of-way necessary to comply with the City standards prior to the issuance of a building permit.

SECTION 44. Overland Park Municipal Code Section 18.170.090 is hereby amended to read as follows:

18.170.090 Deed restrictions required

At the time of filing an application for RE zoning, the applicant shall submit deed restrictions which as a minimum shall contain provisions which cover conditions outlined in Sections 13.05.035, 13.08.025 and 15.08.100 of the Overland Park Municipal Code. Such deed restrictions shall apply to all of the land contained within the requested RE district, and shall run with the land. A copy of such deed restrictions recorded with the Johnson County Register of Deeds shall be furnished to the Director of Planning and ResearchDevelopment Services prior to the publication of any rezoning ordinance for any RE district.

SECTION 45. Overland Park Municipal Code Section 18.180.060 is hereby amended to read as follows:

18.180.060 Building on unplatted land

A building permit for a residential dwelling or any other structure in this district will not be issued until a plot plan showing the proposed building and the land areas to be set aside to accommodate it is submitted and approved by the Director of Planning and ResearchDevelopment Services. Such plot plan may delineate a tract

of land which is part of a larger ownership without the filing of a plat, provided the delineated tract is accurately tied to a section or quarter section corner and has access to a public street, road or highway. This delineated tract shall be entered on the official zoning map of the City and shall be considered the same as a platted lot for purposes of regulating permits on adjacent land. The owners of tracts abutting an existing road, street or highway which has less than the City standard right-of-way shall present a warranty deed acceptable to the City for that right-of-way necessary to comply with the City standards prior to the issuance of a building permit.

SECTION 46. Overland Park Municipal Code Section 18.350.030 is hereby amended to read as follows:

18.350.030 Plan approval

Prior to approval of MHP zoning, a development plan for the proposed mobile home park shall be prepared for consideration concurrent with the rezoning application. The plan shall be accurately drawn, at a scale acceptable to the Director of Planning and ~~Research~~Development Services, and shall show the following:

1. Proposed street and drive pattern.
2. Proposed mobile/manufactured home spaces and their approximate dimensions.
3. Any existing streets in or abutting the property.
4. Location and size of parking spaces.
5. Location and size of park and playground areas.
6. Location of shelters
7. Screening and landscaping.
8. Legal description of the tract.
9. Name of the landowner, developer and the firm preparing the plan.
10. North point, scale and date.

Five copies of the plan shall be submitted with the rezoning application.

SECTION 47. Overland Park Municipal Code Section 18.360.010 is hereby amended to read as follows:

18.360.010 Generally

There is incorporated by reference for the purpose of regulating floodplain zoning within the City, the Floodplain Zoning Ordinance of Overland Park, Kansas, 1989 Edition, prepared and published by the Department of Planning and Research (now

known as Department of Planning and Development Services), of the City of Overland Park, Kansas. Not less than three copies of said ordinance shall be marked "Official Copy as Adopted by Ordinance No. ZRR-1725" to which shall be attached a copy of the ordinance codified herein and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Municipal Court and all administrative departments of the City charged with the enforcement of the ordinance shall be supplied such copies of such ordinance as may be deemed expedient at the cost of the City.

SECTION 48. Overland Park Municipal Code Section 18.380.040 is hereby amended to read as follows:

18.380.040 Special events subject to an administrative permit

Special events meeting the following standards may be issued a Special Event Permit administratively by the Department of Planning and ResearchDevelopment Services. In administering the provisions of this section, the City staff shall be guided by applicable City policies as adopted by the Governing Body. Any applicant denied a Special Event Permit shall be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the Governing Body. No more than 2 special event permits per calendar year shall be issued administratively at any location.

- A. Special events meeting the Type 2 definition may be permitted administratively by the Department of Planning and ResearchDevelopment Services, providing that all of the following performance standards are met:
 - 1. An application is made and a fee paid in accordance with Section 18.380.060.
 - 2. No more than one banner will be displayed.
 - 3. The size and design of the banners will be appropriate given the size of the building to which they are attached and the character of the surrounding neighborhood.
 - 4. The banner will be displayed for a maximum duration of 15 days per permit.
- B. Special events meeting the Type 3 or Type 4 definition, and Type 1 events not meeting the standards or Section 18.380.030, may be permitted administratively by the Department of Planning and ResearchDevelopment Services subject to the prior review and approval of the ~~Community Services Department, the~~ Police Department, the Traffic Engineering staff, and the Planning staff. No such

administrative permit shall be issued unless all of the following performance standards are met:

1. An application is made and a fee paid in accordance with Section 18.380.060.
 2. The special event shall not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections and traffic controls.
 3. The activity shall not cause the overcrowding of parking facilities given anticipated attendance and the possible reduction in the number of available spaces caused by the event itself.
 4. The special event shall not endanger the public health, safety, or welfare given the nature of the activity, its location on the site, and its relationship to parking and access points.
 5. The special event shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, litter or visual pollution.
 6. Any structure used in conjunction with the special event shall meet all sight distance requirements (see Section 18.420.060), shall be the subject of a valid building permit, and shall be promptly removed upon the cessation of the event.
 7. The special event shall be conducted on private property in a commercial or industrial zoning district, except that nonprofit organizations may conduct events on any property where the property owner has granted the appropriate permission.
 8. The duration and hours of operation of the special event shall be consistent with the intent of the event and the surrounding land uses, but in no case shall the duration exceed 10 days.
- C. Special events meeting the Type 6 definition may be allowed upon the issuance of a Special Event Permit issued administratively by the Department of Planning and ~~Research~~Development Services subject to the prior review and approval of the Code Administrator and City Engineer. No such administrative permit shall be issued unless the following performance standards are met:
1. An application is made and a fee paid in accordance with

Section 18.380.060.

2. The home shall be suitably anchored to the ground.
3. The placement of the home on the lot or tract shall be such as to not unduly interfere with the use and enjoyment of adjacent properties and shall meet all sight distance requirements (see Section 18.420.060).
4. Off-street parking spaces shall be provided and parking regulations observed, as applicable to the zoning district; provided, however, that garages or covered carports shall not be required and the paving of any required parking area may be waived.
5. The application shall indicate the anticipated duration of such temporary use of the home, and the permit shall indicate the date on which it is to expire; provided, however, that in no event shall the permit be granted for a period in excess of 6 months.

D. Special events meeting the Type 7 definition may be permitted administratively by the Department of Planning and [Research Development Services](#), providing that all of the following performance standards are met:

1. An application is made and a fee paid in accordance with Section 18.380.060. The application shall include a diagram or map showing the location of light poles that will be used for banner display and illustrations of each type of banner showing size, design and color. The application shall also include the dates during which each banner design will be displayed.
2. All banners must be hung on light poles located on private property. No more than 2 banners per pole are permitted.
3. Maximum banner size is 30 inches wide by 72 inches long.
4. Banner designs are subject to staff approval. Banners shall not contain any commercial message.
5. The maximum length of time that any specific banner or banner design can be displayed is 3 months. The maximum time period covered by the permit is 1 year (multiple banner designs may be approved by a single permit).

6. All banners shall be mounted in a safe and secure manner, and shall be maintained in good condition.

SECTION 49. Overland Park Municipal Code Section 18.390.090 is hereby amended to read as follows:

18.390.090 Accessory uses permitted by interpretation

Uses other than those listed above may be determined to be accessory uses in any district based upon an interpretation by the Director of Planning and ~~Research~~Development Services.

SECTION 50. Overland Park Municipal Code Section 18.410.075 is hereby amended to read as follows:

18.410.075 Nonconforming status of gravel driveways

All residential driveways and parking areas in existence prior to June 1, 1991, and not paved with a hard surface in compliance with O.P.M.C. 18.430.020 shall be considered a "nonconforming site improvement." Such driveways and parking areas shall not be required to be paved, but shall be required to comply with all maintenance standards established for gravel driveways and parking areas. In order to be granted this nonconforming site improvement status, the existence and the relative size and location of a gravel driveway must be recorded in the Overland Park Gravel Driveway Survey of 1991, or be registered with the Department of Planning and Research (now known as Department of Planning and Development Services) as provided in this section. Residents and property owners will have until December 31, 1992, to verify the accuracy of the survey as it applies to their property or to register their property by showing that a gravel driveway existed prior to June 1, 1991. After December 31, 1992, unpaved driveways and parking areas which are not included in the survey or registered with the City will be presumed to be unlawful unless the property owner can provide convincing evidence to the contrary.

SECTION 51. Overland Park Municipal Code Section 18.410.090 is hereby amended to read as follows:

18.410.090 Completion of nonconforming projects -- vested rights

- A. All nonconforming projects on which construction was begun at least 180 days before the effective date of this ordinance as well as all nonconforming projects that are at least 10% completed in terms of the total expected cost of the project on the effective date of this ordinance may be completed in accordance with the terms of their permits, so long as those permits were validly issued and remain unrevoked and unexpired, and a vested rights permit is obtained from the Director of Planning and ~~Research~~Development Services. If a development is designed to be completed in stages, this

subsection shall apply only to the particular phase under construction.

B. Except as provided in subsection A, all work on any nonconforming projects shall cease on the effective date of this ordinance, and all permits previously issued for work on nonconforming projects may begin or may be continued only pursuant to a vested rights permit issued in accordance with this section by the Planning Commission. The Planning Commission shall approve such a permit if it finds that the applicant has in good faith made substantial expenditures or incurred substantial binding obligations or otherwise changed his or her position in some substantial way in reasonable reliance on the development regulations as they existed before the effective date of this ordinance and thereby would be unreasonably prejudiced if not allowed to complete its project as proposed. In considering whether these findings may be made, the Planning Commission shall be guided by the following, as well as other relevant considerations:

1. All expenditures made to obtain, or pursuant to, a validly issued and unrevoked building, land use or sign permit shall be considered as evidence of reasonable reliance on the development regulations that existed before the effective date of this ordinance.
2. Except as otherwise provided in subdivision B-1, no expenditures made more than 180 days before the effective date of this ordinance may be considered as evidence of reasonable reliance on the development regulations that existed before the effective date of this ordinance. An expenditure is made at the time a person incurs a binding obligation to make that expenditure.
3. To the extent that expenditures are recoverable with a reasonable effort, a person shall not be considered prejudiced by having made those expenditures. For example, a person shall not be considered prejudiced by having made some expenditure to acquire a potential development site if the property obtained is approximately as valuable under the new classification as it was under the old, for the expenditure can be recovered by a resale of the property.
4. To the extent that a nonconforming project can be made conforming and that expenditures made or obligations incurred can be effectively utilized in the completion of a conforming project, a person shall not be considered prejudiced by having made such expenditures.
5. An expenditure shall be considered substantial if it is significant in dollar amount and in terms of the total estimated cost of the proposed project and the ordinary business practices of the

developer.

6. A person shall be considered to have acted in good faith if actual knowledge of a proposed change in the development regulations affecting the proposed development site could not be attributed to such person.
 7. Even though a person had actual knowledge of a proposed change in the development regulations affecting a development site, the Planning Commission may still find that such person acted in good faith if such person did not proceed with his plans in a deliberate attempt to circumvent the effects of the proposed ordinance. For example, the Planning Commission may find that the developer did not proceed in an attempt to undermine the proposed ordinance if it determines that at the time the expenditures were made, either there was considerable doubt about whether any ordinance would ultimately be passed, or it was not clear that the proposed ordinance would prohibit the intended development, and the developer had legitimate business reasons for making expenditures.
- C. When it appears from the developer's plans or otherwise that a project was intended to be or reasonably could be completed in phases, stages, segments, or other discrete units, the developer shall be allowed to complete only those phases or segments with respect to which the developer can make the showing required under subsection B. In addition to the matters and subject to the guidelines set forth in subdivisions 1 through 6 of subsection B, the permit-issuing authority shall, in determining whether a developer would be unreasonably prejudiced if not allowed to complete phases or segments of a nonconforming project, consider the following in addition to other relevant factors:
1. Whether any plans prepared or approved regarding uncompleted phases constitute conceptual plans only or construction drawings based upon detailed surveying, architectural or engineering work.
 2. Whether any improvements, such as streets or utilities, have been installed in phases not yet completed.
 3. Whether utilities and other facilities installed in completed phases have been constructed in such a manner or location or to such a scale, in anticipation of connection to or interrelationship with approved but uncompleted phases, that the investment in such utilities or other facilities cannot be recouped if such approved but uncompleted phases are constructed in conformity with existing regulations.

- D. The Planning Commission shall not consider any application for a vested rights permit authorized by subsection B that is submitted more than 60 days after the effective date of this ordinance. The Planning Commission may waive this requirement for good cause shown, but in no case may it extend the application deadline beyond one year from the effective date of this ordinance.
- E. The Planning Commission shall establish expedited procedures for hearing applications for permits under this section.
- F. Notwithstanding the provisions of subsections A and B above, development rights for a single-family residential development shall vest upon the recording of a plat of such land. If construction is not commenced on such land within five years of recording a plat, then the development rights in the project shall expire.

SECTION 52. Overland Park Municipal Code Section 18.420.090 is hereby amended to read as follows:

18.420.090 Official Street Map - Adoption by the Governing Body

For purposes of establishing building or setback lines on existing and proposed major streets within the City, and prohibiting any new building being located within such building or setback lines within the City, pursuant to the authority of K.S.A. 12-765, the Governing Body may adopt an ordinance establishing building or setback lines on such existing and proposed major streets or highways and to prohibit any new building being located within such building or setback lines, and, within such ordinance, to incorporate by reference the Official Street Map, including supplementary documents, which sets forth the major street plan for the City and shows, to the extent possible, the location and width of existing or proposed major streets or highways and building or setback lines. Not less than three (3) copies of the Official Street Map together with the adopting ordinance shall be on file and available for inspection in the offices of the Director of Planning and Research Development Services and the City Engineer and the City Clerk.

SECTION 53. Overland Park Municipal Code Section 18.440.030 is hereby amended to read as follows:

18.440.030 Permit required

Except as otherwise provided in this chapter, no sign shall be installed, erected or set in place until a sign permit has been issued by the Director of Planning and Research Development Services in accordance with Chapter 18.130. All signs hereafter installed shall have permanently affixed thereto a label clearly visible at all times indicating the number of the sign permit issued therefor.

SECTION 54. Overland Park Municipal Code Section 18.440.080 is hereby

amended to read as follows:

18.440.080 Signs permitted in commercial and industrial districts

- A. To the extent that the residential land use is permitted in a commercial or industrial district, signs for a residential land use shall be permitted as in the applicable residential district.

- B. Construction site identification signs.
 - 1. Major construction site identification signs may be permitted during the development of any project. Such signs may identify the project, the owner or developer, future tenants, the architects, engineers, realtors, funding sources, and may contain related information including, but not limited to, sale or leasing information. Not more than one detached nonilluminated major construction site identification sign shall be permitted for each perimeter street frontage. If a development has more than one street frontage, then a separate major construction site identification sign may be permitted for each frontage, provided that a maximum of three major construction site identification signs shall be permitted for any development. Such signs shall not exceed 8 feet in height or 32 square feet in area per face, with a maximum of two faces, and shall be set back at least 20 feet from the street right-of-way. For each additional 1 foot setback from the street right-of-way over 20 feet, the area per face may be increased one square foot, to a maximum of 100 square feet. For each additional 10-foot setback from the street right-of-way over 20 feet, the height may be increased 6 inches, to a maximum of 12 feet above average grade. No such signs shall be located closer than 200 feet from any occupied residential structure. All such signs shall be removed prior to the issuance of any certificate of occupancy, temporary or final, for the last building in each phase of the project.

 - 2. Minor construction site identification signs may be permitted during the development of any project. Such signs may identify any contractor or subcontractor performing work on the property. Such signs may identify the project, the contractor or subcontractor and the nature of the work performed by said contractor or subcontractor. Not more than one detached nonilluminated minor construction site identification sign shall be permitted for each contractor or subcontractor. If a development has more than one street frontage, then a separate minor construction site identification sign may be permitted for each frontage for each contractor or subcontractor. Such signs shall not exceed 8 feet in height or 32 square feet in area per face, with a maximum of two faces, and shall be set back at least 20 feet from the street right-of-way. For each additional 1 foot setback

from the street right-of-way over 20 feet, the area per face may be increased 1 square foot, to a maximum of 100 square feet. For each additional 10-foot setback from the street right-of-way over 20 feet, the height may be increased six inches, to a maximum of 12 feet above average grade. No such signs shall be located closer than 200 feet from any occupied residential structure. All such signs shall be removed prior to the issuance of any certificate of occupancy, temporary or final, for the last building in each phase of the project.

C. All commercial and industrial districts.

1. Upon removal of construction site identification signs for a commercial or industrial project, one sales or leasing sign may be constructed or placed on the property for each building. Said signs shall be non-illuminated, may be single- or double-faced, shall not exceed 10 feet in height above grade, and shall not exceed 32 square feet of sign surface per face. Any such signs may contain the words "now renting," "now leasing," or "for sale," along with the name of the project, address or location, phone numbers, development company or owner and directional symbols. Sign permits shall not be required for such signs. Signs permitted by this section in Districts C-O, CP-O, BP, M-1 and MP-1 shall be located within 10 feet of the building which is being advertised on the sign. Signs permitted by this section in Districts C-1, CP-1, C-2, CP-2, C-3, CP-3, M-2 and MP-2 shall be set back a minimum of 14 feet from the right-of-way of public streets or the curb line of private streets. In the case of vacant land, all such signs shall be set back a minimum of 25 feet from the right-of-way of public streets or the curb line of private streets.
2. One corporate flag may be displayed in conjunction with not more than 2 governmental flags.

D. Districts C-0, CP-0, BP, M-1, MP-1, M-2 and MP-2.

Office parks, business parks, industrial parks or other similar groupings containing a minimum of 4 buildings and 10 acres of land may have project identification signs as permitted below. All project identification signs shall be monument signs and, except as hereinafter provided, shall be located on the premises at least 10 feet from the street right-of-way. Such signs shall not exceed 5 feet in height above the average grade, and the sign face shall not exceed 50 square feet in area per face if located 10 feet from the street right-of-way. For each additional 2-foot setback from the street right-of-way over 10 feet, one additional foot may be added to the height of the sign, to a maximum of 20 feet, and 4 square feet may be added to the area of the sign, to a maximum of 100 square feet. If not sitting within the landscaped

setback, the sign base shall be located within a curbed landscaped area, extending a minimum of 3 feet on all sides of the sign base. Where a project is situated on both sides of a public or private street, one project identification sign may be located on each side of the street, or, alternatively, one project identification sign may be located in the public or private street right-of-way with the approval of the Planning Commission. Where a project identification sign is to be located in the public or private street right-of-way, plans shall be submitted to the Planning Commission indicating the location, size and design of the project identification sign as well as a copy of the bylaws or other documentation of the association which will have permanent responsibility for maintenance of the sign and required landscaping. In addition to project identification signs permitted at entrances to the project, project identification signs may be permitted on the premises adjacent to the intersection of two thoroughfares or the intersection of a thoroughfare and a collector street.

E. Districts C-0 and CP-0.

1. In Districts C-0 and CP-0, not more than 3 wall signs shall be permitted on each office building, no more than one sign on any facade. No such sign shall have an overall area exceeding 5% of the area of the wall upon which it is mounted.
2. In lieu of one of the wall signs, one detached monument sign for each building shall be permitted. Such sign shall not exceed 5 feet in height above the average grade and the sign face shall not exceed 50 square feet in area per face if located at least 10 feet from the public street right-of-way or private street curb line. For each additional 2 foot setback from the public street right-of-way or private street curb line over 10 feet, one additional foot may be added to the height of the sign, to a maximum of 10 feet. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a minimum of 3 feet on all sides of the sign base.
3. In addition to signs permitted above, a wall directory sign containing the names and addresses of tenants may be installed by each exterior entrance to the building. No such sign shall exceed 4 square feet in area.

F. Districts C-1 and CP-1.

1. Wall signs shall be permitted as indicated above for Districts C-0 and CP-0, except that such signs shall be allowed for each business or commercial establishment in a multi-tenant building and shall be located on the facade of the tenant space. Such signs shall not extend

above the height of the wall upon which they are mounted, and any signs painted directly upon wall surfaces shall not be larger than 10 square feet in area. In addition, one nonilluminated wall sign, not more than 9 square feet in area, may be placed at each major entrance to a multi-tenant building.

2. In lieu of one wall sign, one projecting sign of the same area as the wall sign replaced shall be permitted, provided that no projecting sign shall extend more than 3 feet from the face of the building.
3. Except in the case of a shopping center designed as one unified entity and consisting of one or several buildings, either attached or freestanding, one detached monument sign shall be permitted in lieu of one wall sign for each commercial building, which sign shall conform to the height, size and setback requirements applicable to monument signs in Districts C-0 and CP-0.
4. In the case of a shopping center designed as one unified entity and consisting of one or several buildings, either attached or freestanding, one detached monument sign may be permitted identifying the entire center. Such sign shall not exceed 5 feet in height above the average grade, and the sign face shall not exceed 50 square feet in area per face if located 10 feet from the public street right-of-way or private street curb line. For each additional 2-foot setback from the public street right-of-way or private street curb line, one additional foot may be added to the height of the sign to a maximum of 10 feet. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a minimum of 3 feet on all sides of the sign base.

G. Districts C-2, CP-2, C-3, CP-3 and industrial districts.

1. Each business or commercial establishment shall be permitted not more than 3 wall or marquee signs, not more than one on each business facade, the area of which sign shall not exceed 10% of the total area of the facade upon which it is placed. Such sign shall not extend above the height of the wall or marquee on which it is mounted. Any sign painted directly upon the wall surface shall not exceed 10 square feet in area. In addition, one nonilluminated wall sign, not more than 9 square feet in area, may be placed at each major entrance to a multi-tenant building.
2. In lieu of one of the attached signs, one projecting sign shall be permitted for each establishment, provided that the area of such projecting sign shall not exceed 10% of the total area of the facade

upon which it is attached, and shall not extend above the roof level of the building where the sign is located.

3. Except in the case of a shopping center designed as one unified entity and consisting of one or several buildings, either attached or freestanding, one detached monument sign shall be permitted for each building in lieu of one wall sign or projecting sign. Such sign shall not exceed 10 feet in height above the average grade and the sign face shall not exceed 100 square feet in area per face if located not less than 10 feet from the street right-of-way. For each additional one-foot setback from the street right-of-way, one additional foot may be added to the height of the sign to a maximum of 20 feet. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a minimum of 3 feet on all sides of the sign base.
4. In the case of a shopping center designed as one unified entity and consisting of one or several buildings, either attached or freestanding, one detached sign may be permitted identifying the entire center. A gasoline service station, designed as part of the center, may also have a detached monument sign. All other signs in the center shall consist of wall, projecting or marquee signs. The detached monument sign shall not exceed 10 feet in height above the average grade, and the sign face shall not exceed 100 square feet in area per face if located 10 feet from the public street right-of-way or private street curb line. For each additional one-foot setback from the public street right-of-way or private street curb line, one additional foot may be added to the height of the sign to a maximum of 20 feet. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a minimum of 3 feet on all sides of the sign base. In the case of a regional shopping center containing at least 400,000 square feet of floor area and having frontage on two thoroughfares, one detached sign identifying the shopping center may be permitted for each thoroughfare frontage.
5. Drive-through restaurants and car washes may have 2 menu boards located in conjunction with the drive-through lane. Such sign shall not exceed 8 feet in height or 32 square feet of sign area per face.
6. In the case of three or more new car dealerships in a unified development, the following signage shall be permitted subject to the approval of a sign criteria by the Planning Commission prior to the issuance of any sign permits. The criteria shall establish uniformity in the design of all signs within the development.

- a. One monument sign, to identify the development and the dealers, shall be permitted at each thoroughfare or highway adjacent to a car dealership within the defined boundary of the car dealership use. Such sign shall not exceed 10 feet in height above the average grade and the sign face shall not exceed 100 square feet in area per face if located 10 feet from the street right-of-way. For each additional one-foot setback from the street right-of-way, one additional foot may be added to the height of the sign to a maximum of 20 feet. The signs shall be architectural in nature, located within a heavily landscaped area and shall be constructed of materials which provide a direct visual tie to the architecture of the development through the use of matching forms, colors and materials.
- b. In addition, each new car dealership shall be permitted an individual monument sign to identify the dealership. Individual monument signs shall not exceed 50-square feet of sign area per face and 5 feet in height above average grade. A minimum 10-foot setback from the public street right-of-way is required. The signs shall be architectural in nature, located within a heavily landscaped area and shall be constructed of materials which provide a direct visual tie to the architecture of the development through the use of matching forms, colors and materials.
- c. Each dealership shall be allowed three wall signs, not more than one on each building façade, the area of which sign shall not exceed 10% of the total area of the façade upon which it is placed.

H. Districts DD and CBD.

1. Each business or commercial establishment shall be permitted not more than three wall signs, not more than one on a facade, provided that the area of each sign shall not exceed 10% of the total area of the facade upon which it is placed. Such signs shall not extend above the height of the wall upon which they are mounted, and any signs painted directly upon wall surfaces shall not be larger than 10 square feet in area. In lieu of one of the wall signs, one projecting sign shall be permitted for each establishment, provided that the area of such projecting sign does not exceed 10% of the total area of the facade upon which it is attached, and does not extend above the roof level of the building where the sign is located.
2. In addition to the permitted wall signs, one pedestrian oriented sign shall be permitted to be placed beneath a non-retractable awning

and/or canopy that extends from the building. Such sign shall be limited to 5 square feet in area, and may be internally illuminated. The lowest point of such sign must be a minimum of 7 feet above the ground or sidewalk. In lieu of said pedestrian oriented sign, one nonilluminated identification sign, not more than 3 square feet in area, may be placed on the wall at each major entrance to the building. The highest point of the sign may be no higher than seven (7) feet above the sidewalk.

3. Project identification signs for a residential project may be permitted at each entrance to the project. All project identification signs shall be monument signs and, except as hereinafter provided, shall be located on the premises. Such signs shall not exceed 5 feet in height above the average grade, and the sign face shall not exceed 50 square feet in area per face. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a minimum of 3 feet on all sides of the sign base. Where a project is situated on both sides of a public or private street, one project identification sign may be located on each side of the street, or, alternatively, one project identification sign may be located in a landscaped median with the approval of the Planning Commission. Where a project identification sign is to be located in the public right-of-way, plans shall be submitted to the Planning Commission indicating the location, size and design of the project identification sign as well as a copy of the bylaws or other documentation of the association which will have permanent responsibility for maintenance of the sign and required landscaping.
4. On property zoned DD, monument signs are permitted subject to the following restrictions:
 - a. One detached monument sign shall be permitted for each building in lieu of one wall sign or projecting sign; provided however, that in the case of a shopping center designed as one unified entity and consisting of one or several buildings, either attached or freestanding, one detached monument sign shall be permitted for the entire center.
 - b. The minimum setback from the right-of-way line to the closest building or buildings on the lot must be equal to or greater than 15 feet.
 - c. Such sign shall not exceed 5 feet in height above average grade and the sign face shall not exceed 50 square feet in area per face. If not sitting within the landscaped setback, the sign base

shall be located within a curbed landscaped area, which is equal to or greater than 200 square feet.

- d. The minimum setback for the monument sign is 5 feet.
- 5. Monument signs are not permitted in the CBD District.
- 6. These districts are also subject to the provisions of Section 18.440.120.
- 7. Signs on property in the DD or CBD districts are subject to the review and approval of the Downtown Development Review Board as outlined in Section 18.140.440.

I. Districts C-1, CP-1, C-2, CP-2, C-3, CP-3, DB and CBD.

Where one retail establishment (the "sub-tenant") leases space and conducts business within another retail establishment (the "primary tenant") but does not have an exterior business facade and an exterior door leading directly to the sub-tenant space, one exterior wall sign may be permitted if the following conditions are met:

- 1. The sub-tenant's business establishment occupies at least 100 square feet of floor area, and is staffed and open for business during predetermined hours.
- 2. The primary tenant's business establishment occupies at least 25,000 square feet of floor area.
- 3. The sub-tenant's business is a separate legal entity from the primary tenant's business, as opposed to a department, division or subsidiary of the primary tenant's business.
- 4. A sign criteria for the building or shopping center has been submitted to and approved by the Planning Commission which specifically provides for sub-tenant signage, including standards for the sign location, size, style, color and content. Such sign criteria shall include scale drawings of the facades of all primary tenants where sub-tenant signs are authorized showing the permitted locations for sub-tenant signs.
- 5. The total area for all signs on the same facade does not exceed the allowable signage area for that district.

The sign permit application for a sub-tenant sign shall include a scale drawing of the primary tenant's facade showing the location and size of the

sub-tenant sign and all other signage on that facade. The application shall also include a copy of the lease agreement between the sub-tenant and the primary tenant or other documentation acceptable to the Law Department that the two businesses are separate legal entities. The provisions of this section for sub-tenant signs shall not apply to businesses within an enclosed shopping mall or to businesses that are conducted primarily by automated machines.

- J. Neon signs or tubes, in any form, shall be allowed only when they are placed inside the structure. Neon signs or tubes shall be allowed only in Districts C-1, CP-1, C-2, CP-2, C-3, CP-3, DB, CBD, M-1, MP-1, M-2 and MP-2. If such signs or tubes are within 48 inches of any window or door and visible from outside the building, then such sign or tubing shall not occupy an area greater than 10 square feet, except that retail liquor stores so licensed by the Kansas Division of Alcoholic Beverage control using neon sign or tubing shall be limited to a sign where the border, lettering, figure, or design of such sign or tubing shall not be more than 4 inches high or 3 inches wide, restricted to 3 lines which shall be not more than 1 inch apart, only one such line shall be allowed to be in excess of 3 feet in length, and any border shall not allow the sign dimensions to exceed 10 square feet. Any such retail liquor store sign shall be located on the corner of a window or on the door. In addition, said retail liquor stores shall be allowed to use interior neon tubing to partially or fully outline a window or windows provided said neon tubing does not flash, blink, rotate or move. Said neon border shall not be permitted to be wider than a maximum of 4 inches. Any neon sign or tube within 48 inches of any window or door and visible from outside the structure shall be in compliance with any and all other laws or regulations concerning signs. In measuring the area of the sign or tubes, a rectangle shall be constructed from the highest, lowest, and widest points where the sign or tube exists and the area shall be calculated to include all that area within the rectangle. In no event shall more than one such neon sign or set of tubes be used on any one facade of the main structure except as otherwise provided herein. A separate sign may be allowed for each independently operated business in the allowed districts even though only one structure exists with common ownership. Independent operation shall be determined by, but not limited to, certain criteria such as common doorways, business ownership, common marketing or advertising, and dimensions of the facade. All such neon signs or tubes shall not blink, flash, or otherwise be used to display intermittent lighting sequences or to simulate motion. Neon tubes or signs shall be installed, wired, and inspected in accordance with Section 600 of the National Electrical Code, as it may be amended.
- K. Any neon signs or tubes existing prior to October 13, 1986, unless in violation of any other provisions of Chapter 18.440, shall be a lawful non-conforming sign. Any neon sign or tubes removed for other than repair shall not be

replaced with any other sign or surface which is not in compliance with existing laws and requirements. Signs or tubes removed for repair must apply for a sign permit and an electrical permit.

L. Downtown Districts.

1. Each business or commercial establishment shall be permitted not more than three wall signs, not more than one on a facade, provided that the area of each sign shall not exceed 10% of the total area of the facade upon which it is placed. Such signs shall not extend above the height of the wall upon which they are mounted, and any signs painted directly upon wall surfaces shall not be larger than 10 square feet in area. In lieu of one of the wall signs, one projecting sign shall be permitted for each establishment, provided that the area of such projecting sign does not exceed 20 square feet in area, and does not extend above the roof level of the building where the sign is located.
2. In addition to the permitted wall signs, one pedestrian oriented sign shall be permitted to be placed beneath a non-retractable awning and/or canopy that extends from the building. Such sign shall be limited to 5 square feet in area, and may be internally illuminated. The lowest point of such sign must be a minimum of 7 feet above the ground or sidewalk. In lieu of said pedestrian oriented sign, one nonilluminated identification sign, not more than 3 square feet in area, may be placed on the wall at each major entrance to the building. The highest point of the sign may be no higher than seven (7) feet above the sidewalk.
3. Project identification signs for a residential project may be permitted at each entrance to the project. All project identification signs shall be monument signs and, except as hereinafter provided, shall be located on the premises. Such signs shall not exceed 5 feet in height above the average grade, and the sign face shall not exceed 50 square feet in area per face. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a minimum of 3 feet on all sides of the sign base. Where a project is situated on both sides of a public or private street, one project identification sign may be located on each side of the street, or, alternatively, one project identification sign may be located in a landscaped median with the approval of the Planning Commission. Where a project identification sign is to be located in the public right-of-way, plans shall be submitted to the Planning Commission indicating the location, size and design of the project identification sign as well as a copy of the bylaws or other documentation of the association which will have permanent responsibility for maintenance

of the sign and required landscaping.

4. On property where buildings are setback a minimum of 10 feet from the public right-of-way, monument signs are permitted subject to the following restrictions:
 - a. One detached monument sign shall be permitted for each building in lieu of one wall sign or projecting sign; provided however, that in the case of a shopping center designed as one unified entity and consisting of one or several buildings, either attached or freestanding, one detached monument sign shall be permitted for the entire center.
 - b. The minimum setback from the right-of-way line to the closest building or buildings on the lot must be equal to or greater than 10 feet.
 - c. Such sign shall not exceed 5 feet in height above average grade and the sign face shall not exceed 50 square feet in area per face. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, which is equal to or greater than 200 square feet.
 - d. The minimum setback for the monument sign is 5 feet.
5. Where one retail establishment (the "sub-tenant") leases space and conducts business within another retail establishment (the "primary tenant") but does not have an exterior business facade and an exterior door leading directly to the sub-tenant space, one exterior wall sign may be permitted if the following conditions are met:
 - a. The sub-tenant's business establishment occupies at least 100 square feet of floor area, and is staffed and open for business during predetermined hours.
 - b. The primary tenant's business establishment occupies at least 25,000 square feet of floor area.
 - c. The sub-tenant's business is a separate legal entity from the primary tenant's business, as opposed to a department, division or subsidiary of the primary tenant's business.
 - d. A sign criteria for the building or shopping center has been submitted to and approved by the Planning Commission which specifically provides for sub-tenant signage, including standards

for the sign location, size, style, color and content. Such sign criteria shall include scale drawings of the facades of all primary tenants where sub-tenant signs are authorized showing the permitted locations for sub-tenant signs.

e. The total area for all signs on the same facade does not exceed the allowable signage area for the district.

The sign permit application for a sub-tenant sign shall include a scale drawing of the primary tenant's facade showing the location and size of the sub-tenant sign and all other signage on that facade. The application shall also include a copy of the lease agreement between the sub-tenant and the primary tenant or other documentation acceptable to the Law Department that the two businesses are separate legal entities. The provisions of this section for sub-tenant signs shall not apply to businesses within an enclosed shopping mall or to businesses that are conducted primarily by automated machines.

6. Custom neon tubing is permitted in the form of logos or lettering only, subject to the other provisions of this Section. Any neon tubing shall not blink, flash, or otherwise be used to display intermittent lighting sequences or to simulate motion. Section 18.440.080(J) does not apply to property within a downtown zoning district.

SECTION 55. Overland Park Municipal Code Section 18.440.100 is hereby amended to read as follows:

18.440.100 Additional regulations applicable to all districts

- A. No sign may be located such that it substantially interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public or private streets.
- B. No sign may be erected such that by its location, color, size, shape, nature or message it would tend to obstruct the view of, or be confused with, traffic signals or other signs erected by governmental agencies.
- C. Freestanding signs, other than political signs permitted by Section 18.440.130, shall be securely fastened to the ground or to some other substantial supportive structure so that there is virtually no danger that either the sign or the supportive structure may be moved by the wind or other forces of nature and cause injury to persons or property. Sign structures may be required to have a building permit.
- D. All signs shall be of sound structural quality, be maintained in good repair and have a clean and neat appearance. Land adjacent to such signs shall be

kept free from debris, weeds and trash. If signs are not being maintained as described and the Director of Planning and ~~Research~~Development Services deems them a public hazard or nuisance, such signs shall be ordered repaired or removed.

- E. No part of any sign shall be located closer than 10 feet from a side or rear property line.
- F. Time and/or temperature instruments may be permitted provided they are designed in harmony with the building and are architecturally compatible. Such signs shall be approved by the Planning Commission.
- G. Any backlighted sign, canopy or panel shall comply with all federal, state and local laws concerning the placement, dimensions, materials or other such regulations controlling such signs. Provided, however, that the dimensions of a backlighted sign, canopy or panel shall be measured by constructing a rectangle from the highest, lowest and widest points of such object, display or surface which displays a light source, except that the opaque surfaces immediately related to or a part of that same sign or panel shall also be calculated in the dimensions of the sign. Provided further, in calculating the dimensions of a continuous panel which spans at least 80% of any one facade of a single or common structure with multiple tenants, the continuous opaque areas between, over and below the lighted areas for such independent operations shall not be calculated to determine the dimensions of the signs, canopies or panels.
- H. Any wall sign shall comply with all federal, state and local laws concerning the placement, dimensions, materials or other regulations controlling such signs. Provided, however, that the dimensions of a wall sign shall be measured by constructing a rectangle from the highest, lowest and widest points of such object, display or surface.

SECTION 56. Overland Park Municipal Code Section 18.440.120 is hereby amended to read as follows:

18.440.120 Areas of special control

- A. This chapter cannot adequately regulate all signs in an area as diverse as Overland Park. The regulations set forth in this chapter are designed to achieve the purposes outlined in Section 18.440.010 under average conditions. Certain areas of the City may require more restrictive or less restrictive regulations in order to achieve the purposes set forth in Section 18.440.010 for a variety of reasons, including but not limited to, the unique historic or scenic character of the area, restrictions on vehicular traffic (such as in pedestrian malls) or the relationship between land uses and posted speed limits on adjoining roadways. In order to assure that the purposes set

forth in Section 18.440.010 are achieved in such areas, the Governing Body may, by ordinance adopted following notice and hearing as provided in K.S.A. 12-757, designate Areas of Special Control.

- B. The ordinance designating any area as an Area of Special Control shall set forth specific regulations for signs in such area which shall be consistent with the character of the area. Special regulations for Areas of Special Control shall supersede the provisions of this chapter to the extent designated and may be either more or less restrictive than the provisions of this chapter.
- C. The Director of Planning and ~~Research~~Development Services shall indicate the boundaries of all designated Areas of Special Control on the Official Zoning Map of the City.

SECTION 57. Overland Park Municipal Code Section 18.450.060 is hereby amended to read as follows:

18.450.060 Minimum planting requirements

Minimum planting requirements shall be as follows:

- A. Medium and large deciduous shade trees - 2 inch caliper as measured 6 inches above ground.
- B. Small deciduous or ornamental trees - 6 feet in height, with the exception of true dwarf species.
- C. Conifers - 5 to 6 feet in height.
- D. Upright evergreen trees - 4 feet in height, except for true dwarf species.
- E. The size of deciduous and conifer shrubs, including spreader and globe tree forms, shall be determined by the applicant.
- F. Ground cover plants, whether in the form of crowns, plugs or containers, shall be planted in a number as appropriate by species to provide 50% surface coverage after two growing seasons.
- G. All areas shall be sodded unless otherwise approved for seeding at the time of final development plan approval by the Planning Commission or, in the case of unplanned zoning districts, by the Director of Planning and ~~Research~~Development Services.

SECTION 58. Overland Park Municipal Code Section 18.450.090 is hereby

amended to read as follows:

18.450.090 Maintenance of landscaping

- A. Trees, shrubs, and other landscaping materials depicted on landscaping plans approved by the City shall be considered to be elements of the project in the same manner as parking, building materials and other details. The developer, its successor and/or subsequent owners and their agents shall be responsible for maintenance of landscaping on the property on a continuing basis for the life of the development. Plant materials which exhibit evidence of insect pests, disease and/or damage shall be appropriately treated, and dead plants promptly removed and replaced within the next planting season after installation. All landscaping will be subject to periodic inspection by the City's Zoning Officer, or his or her designee. Should landscaping not be installed, maintained and replaced as needed to comply with the approved plan, the owner and its agent or agents shall be considered in violation of the terms of the Certificate of Occupancy. The Director of Planning and ~~Research~~Development Services is empowered to enforce the terms of this chapter.

- B. As a condition to issuance of a final Certificate of Occupancy, a cash escrow or irrevocable letter of credit in the amount of 25% of the initial landscaping costs shall be posted to ensure the needed replacement of materials and the continued maintenance of the same for a period of two years after initial installation. Said cash escrow or irrevocable letter of credit may be forfeited if the necessary maintenance and replacement has not been performed in a satisfactory manner within the two-year period. Further, should it be determined that the landscaping as approved on the landscaping plan is not being maintained as specified beyond the initial two-year maintenance period, resubmission of the approved plan and the posting of an additional maintenance escrow may be required by the City.

SECTION 59. Overland Park Municipal Code Section 18.460.030 is hereby amended to read as follows:

18.460.030 Endorsement and filing of plats

Approval of a final plat by the Planning Commission shall be endorsed on the plat by the Chairman of the Planning Commission. Acceptance of lands dedicated for public purposes that have been approved by the Governing Body shall be endorsed on the plat by the Mayor. Thereafter, the final plat shall be filed with the Register of Deeds as provided by law; no plat shall be filed with the Register of Deeds prior to its endorsement by the appropriate City officials. No final plat shall be recorded except by the City without approval of the Director of Planning and ~~Research~~Development Services, or his or her designee.

SECTION 60. Overland Park Municipal Code Section 18.460.220 is hereby amended to read as follows:

18.460.220 Master fence/screening plan

- A. Purpose: The purpose of the master landscape/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.

- B. Required: In any subdivision located within the R-1, R-1A, R-2 or equivalent planned zoning district, a master landscape/screening plan shall be required along that portion of the subdivision abutting an existing or future thoroughfare street. Such improvements shown on the approved master landscape/ screening plan shall be considered a subdivision improvement and completion of the improvements shall be required prior to the issuance of building permits for any lots within the affected final plat covered by the master landscape/ screening plan. In cases when the planting of landscape material may be inappropriate due to weather, the developer may submit an escrow payment equal to the value of the landscaping material as outlined in bids from the developer's landscape installer or contractor. Said escrow shall be held by the City until such time as all landscaping is installed per the approved plan.

- C. Landscape Easement: A landscape easement shall be shown on each preliminary and final plat which is subject to these regulations. Said landscape easement shall be immediately adjacent to the public thoroughfare right-of-way and shall be a minimum of 25 feet wide as measured at all points along the thoroughfare. As provided for in Section 18.420.045, the width of the landscape easement shall be in addition to the minimum required lot depth, lot width and yard setback requirements of the zoning district. The final plat and homes association deed restrictions shall contain language as approved by the Director of Planning and ~~Research~~Development Services which identifies the homes association as the entity which will have permanent responsibility and authority to enter upon the said landscape easement 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 homes association deed restrictions shall be recorded with the Johnson County Register of Deeds concurrent or prior to recording of the final plat. As an alternative, a separate landscape tract of the same 25-foot dimension and subject to the same language outlined above may be utilized instead of the landscape easement.

- D. Design:

1. Landscaping: The approved master fence/screening plan shall contain the following landscaping materials as a minimum for each 100 linear feet or portion thereof of thoroughfare frontage.
 - a) Eight (8) evergreen (conifers) trees with a minimum size of six (6) feet in height;
 - b) Two (2) shade trees with a minimum caliper of two (2) inches as measured six (6) inches above the ground;
 - c) One (1) ornamental tree with a minimum size of 10 feet in height.
 - d) The above landscaping materials may be deviated from provided an alternative list of materials is approved by the Director of Planning and ~~Research~~Development Services which achieves comparable screening and buffering.
 - e) For each tree preserved within the easement or separate tract which meets or exceeds the minimum size requirements outlined above and is part of an alternative plan provided for in Section 18.460.220 D(1)d above, a one to one credit shall be given against the minimum tree requirements of this section.
2. Fences/walls: Fences or walls are not required as part of the master landscape/screening plan. In cases when the developer of the subdivision chooses to install a fence or wall the following standards shall apply:

All types of fences installed by the developer, except wrought iron, split rail or similar see-through fence/wall types must be located one-foot inside the boundaries of the separate tract or landscape easement along the residential lot side of the tract. Wrought iron or similar see-through fences may be installed by the developer anywhere within the landscape easement or separate tract, except they may be no closer than five (5) feet from the right-of-way line of the abutting thoroughfare.
3. Berms: Berms are not required as part of the master fence/screening plan. In cases when the developer of the subdivision chooses to install a berm the following standards shall apply:
 - a) The slope of all installed berms shall not exceed three to one;
 - b) All berms shall be consistent with good engineering and landscape architectural design; and

- c) The grading plan for berms within the separate tract or landscape easement shall be consistent with the approved subdivision grading plan and shall be approved by the City Engineer.

E. Approval: All plans submitted in compliance with these regulations shall be approved by the Director of Planning and ~~Research~~Development Services. All decisions made by the Director may be appealed to the Planning Commission in writing within 30 days of the decision.

SECTION 61. Overland Park Municipal Code Section 18.460.370 is hereby amended to read as follows:

18.460.370 Lot splits

- A. A previously platted lot may be divided as a lot split by either metes and bounds description or by replatting. If such a lot is to be divided by metes and bounds description, it may only be divided one time and by only one new dividing lot line, and shall not again be divided without replatting. Any such lot split need not comply with the procedures set out in this ordinance for platting. All lots produced by a lot split shall conform to all minimum standards of this ordinance and other applicable codes of the City. No building permit shall be issued for a lot produced by a lot split until the lot split has been reviewed and approved by the Director of Planning and ~~Research~~Development Services, or his or her designee, as being in compliance with this ordinance.
- B. Lot splits shall not be permitted for property zoned District RE, Residential Estates District.
- C. Lots zoned for industrial purposes may be divided into two or more tracts without replatting such lot. Provided, however, that the lot so produced shall conform to all minimum standards of this ordinance and other applicable codes of the City.

SECTION 62. Overland Park Municipal Code Section 18.470.030 is hereby amended to read as follows:

18.470.030 Vacation by ordinance

Any street, alley or public reservation, or portion thereof, may be vacated by ordinance adopted by the Governing Body, following public notice and hearing as provided in Chapter 18.140. Any application for vacation by ordinance shall be filed both in the office of the City Clerk and in the office of the Director of Planning and ~~Research~~Development Services. Following the adoption of any ordinance vacating any street, alley or public reservation, or portion thereof, the City Clerk shall file a

copy thereof, certified by the City Clerk as a true and correct copy, in the office of the County Clerk and in the office of the Register of Deeds.

SECTION 63. A new Chapter 18.320 of the Overland Park Municipal Code is hereby added to read as follows:

Chapter 18.320
MS1 MAIN STREET DISTRICT 1

18.320.010 Statement of intent

The zoning of property as MS1 – Main Street District 1, is intended to provide development opportunities consistent with the existing character within the core of Downtown Overland Park. Downtown Overland Park is the original commercial district within the City. The majority of buildings in the core of downtown have been constructed to the public right-of-way. Public parking lots are available and on-street parking is present to serve the downtown businesses. The result is a character unique to downtown that is not found elsewhere in the City. This District provides for the majority of retail uses, while encouraging an active streetscape with a pedestrian friendly shopping environment. This district restricts automobile oriented uses, and does not allow offices on the ground floor level. The district is also intended to allow multi-story buildings, with office and residential uses above the ground floor level. In addition, the district is intended to allow flexibility from the normal development standards found elsewhere in the City.

18.320.020 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 following uses, subject to the development and performance standards set forth in Section 18.320.050:

- A. Any use permitted in Section 18.260.020(B).
- B. Retail sale of goods and services including or similar to the following, but excluding any use specifically listed in District C-3:

- Banks;
- Dry cleaners;
- Business machine services (including photocopy, telefacsimile, computer and data processing);
- Communication & specialty electronics;
- Department stores;
- Glass;
- Medical equipment;
- Office equipment;
- Theaters, movie and stage;

- Rental or leasing of furniture and home furnishings.
- C. Clubs and drinking establishments.
- D. Arcades, operated in conjunction with clubs or drinking establishments.
- E. Entertainment or recreational uses, but excluding those that require a special use permit.
- F. Publicly owned parking lots.
- G. Public parks and playgrounds, including public recreation or service buildings and publicly owned swimming pools.
- H. Publicly owned and operated community buildings, museums, and libraries.
- I. Offices and services as outlined in District C-O; and except as otherwise permitted above, are prohibited except under the following circumstances:
1. Where the prior use of any building or tenant space was for an office use, then the same building or tenant space may continue to be used for an office use regardless of the time the space was vacant.
 2. Where the prior use of the building or tenant space was for any permitted use in this Section except for offices or services, as outlined in District C-O, then a new office use shall only be permitted if the building or tenant space has been vacant for a minimum of three months, and an Administrative Extension Use Permit has been approved by the Director of Planning and Development Services. An application for an Administrative Extension Use Permit shall include a letter from the building owner indicating a desire to lease a tenant space to an office user, documentation including newspaper clippings of advertisements, evidence that signs were posted in the windows of the tenant space, and a statement from the Downtown Overland Park Partnership confirming that the partnership was notified of the vacancy at least three months prior to the application for the Administrative Extension Use Permit. The Director shall approve an Administrative Extension Use Permit if the submittal requirements outlined above have been satisfied, and the Director determines that a good-faith effort has been made to lease the tenant space to a retail tenant for at least three months. Any denial of an application for an Administrative Extension Use Permit may be appealed by the building owner to the Governing Body.
- J. In addition to the uses listed above, the following uses are permitted above and below the ground floor level:

Any use permitted in C-0;
Dwellings.

K. Accessory uses as provided in Chapter 18.390.

18.320.030 Height and area regulations

The maximum height of buildings and provisions for yards shall be as follows, except as otherwise provided in Chapter 18.420:

A. Maximum height -- not exceeding three stories.

B. Front build-to line --zero.

C. Side yards:

1. Where a side yard abuts a public street, the build-to line shall be zero.

2. For side yards not adjacent to a public street, the build-to line shall be zero, at the front building line. Behind the front building line, there is no stated requirement.

D. Rear yards -- No rear yard is required.

18.320.040 Parking regulations

A. No parking is required.

B. No portion of any paved parking area that is hereafter constructed shall be permitted within 6 six feet of a street line or lot line.

C. All parking setback areas shall be graded and planted with appropriate ground cover and landscaping. In addition, all parking setback areas adjacent to a public street shall include a low wall and/or hedge located at the right-of-way line, for the entire length of the lot.

D. On-street parking may be constructed where adequate right-of-way is available, subject to good traffic engineering design principles. Determination as to the appropriateness of on-street parking shall be determined at the time of downtown development plan approval.

E. Sections 18.430.105, Parking for specific uses, does not apply to this zoning district.

18.320.050 Development and performance standards

A. Drive-up, drive-thru, or drive-in service for any use is prohibited.

- B. Only retail merchandise designed for exterior use and made from weather-resistant materials may be displayed or stored outside a building. Such merchandise shall be kept off of the public sidewalks and the public rights-of-way, except that limited displays on the public sidewalk may be permitted as part of a temporary promotional event approved through a Special Event Permit issued by the City. All other merchandise, materials or equipment shall be stored inside a building.
- C. Sales and consumption of cereal malt beverages or alcoholic liquor shall be subject to the provisions set out in Section 18.260.050, and as required in Chapters 5.12, 5.20, and 5.48, as applicable.
- D. Restaurants may have an outdoor service area that is accessory to the main restaurant function. The outdoor service area must be a well-defined space, designed and serviced to keep debris from blowing off the premises. Patrons must gain entrance through the main entrance to the restaurant, but at least one exit must be provided for fire safety. The outdoor seating area may be located adjacent to the public street right-of-way, in which case, the perimeter of the outdoor seating area shall be enclosed by a low wall and/or hedge located at the right-of-way line.
- E. The Planning Commission or City Council may require assurance of the financial and administrative ability of any agency created by a developer for the purpose of maintaining common open space and facilities of a non-public nature.
- F. No smoke, radiation, vibration or concussion, heat or glare shall be produced that is perceptible outside a building, and no dust, fly ash or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.
- G. Prior to the issuance of any building permit, downtown development plan approval shall be obtained as provided for in Chapter 18.140.

SECTION 64. A new Chapter 18.322 of the Overland Park Municipal Code is hereby added to read as follows:

Chapter 18.322
MS2 MAIN STREET DISTRICT 2

18.322.010 Statement of intent

The zoning of property as MS2 – Main Street District 2, is intended to provide development opportunities consistent with the existing character surrounding the core of Downtown Overland Park. The objectives for this district are similar to MS1, except residential and office uses are permitted on the ground floor level of mixed-use buildings, in order to support the businesses in the downtown area.

18.322.020 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 following uses, subject to the development and performance standards set forth in Section 18.322.050:

- A. Any use permitted in District MS1, subject to the applicable development and performance standards.
- B. Any use permitted in District C-O.
- C. Residential uses, as a part of a commercial or office building.
- D. Accessory uses as provided in Chapter 18.390.

18.322.030 Height and area regulations

The maximum height of buildings and provisions for yards shall be as follows, except as otherwise provided in Chapter 18.420:

- A. Maximum height -- not exceeding three stories.
- B. Front build-to line --zero.
- C. Side yards:
 - 1. Where a side yard abuts a public street, the build-to line shall be zero.
 - 2. For side yards not adjacent to a public street, the build-to line shall be zero, at the front building line. Behind the front building line, there is no stated requirement.
- D. Rear yards -- No rear yard is required.

18.322.040 Parking regulations

- A. No parking is required, except where residential uses are proposed, in which case there shall be one parking space per dwelling unit.
- B. No portion of any paved parking area that is hereafter constructed shall be permitted within 6 six feet of a street line or lot line.
- C. All parking setback areas shall be graded and planted with appropriate ground cover and landscaping. In addition, all parking setback areas adjacent to a public street shall include a low wall and/or hedge located at the right-of-way line, for the entire length of the lot.

- D. On-street parking may be constructed where adequate right-of-way is available, subject to good traffic engineering design principles. Determination as to the appropriateness of on-street parking shall be determined at the time of downtown development plan approval.
- E. Sections 18.430.105, Parking for specific uses, does not apply to this zoning district.

18.322.050 Development and performance standards

- A. Drive-up, drive-thru, or drive-in service for any use is prohibited.
- B. Residential uses shall not consist of more than 35% of the ground level street frontage within any commercial or office building.
- C. Only retail merchandise designed for exterior use and made from weather-resistant materials may be displayed or stored outside a building. Such merchandise shall be kept off of the public sidewalks and the public rights-of-way, except that limited displays on the public sidewalk may be permitted as part of a temporary promotional event approved through a Special Event Permit issued by the City. All other merchandise, materials or equipment shall be stored inside a building.
- D. Sales and consumption of cereal malt beverages or alcoholic liquor shall be subject to the provisions set out in Section 18.260.050, and as required in Chapters 5.12, 5.20, and 5.48, as applicable.
- E. Restaurants may have an outdoor service area that is accessory to the main restaurant function. The outdoor service area must be a well-defined space, designed and serviced to keep debris from blowing off the premises. Patrons must gain entrance through the main entrance to the restaurant, but at least one exit must be provided for fire safety. The outdoor seating area may be located adjacent to the public street right-of-way, in which case, the perimeter of the outdoor seating area shall be enclosed by a low wall and/or hedge located at the right-of-way line.
- F. The Planning Commission or City Council may require assurance of the financial and administrative ability of any agency created by a developer for the purpose of maintaining common open space and facilities of a non-public nature.
- G. No smoke, radiation, vibration or concussion, heat or glare shall be produced that is perceptible outside a building, and no dust, fly ash or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.

H. Prior to the issuance of any building permit, downtown development plan approval shall be obtained as provided for in Chapter 18.140.

SECTION 65. A new Chapter 18.324 of the Overland Park Municipal Code is hereby added to read as follows:

Chapter 18.324
SFD SANTA FE DISTRICT

18.324.010 Statement of intent

The zoning of property as SFD – Santa Fe District, is intended to provide retail uses that support the surrounding neighborhoods, and multi-family residential development that supports the business within the core of Downtown Overland Park. In addition, the District is intended to provide for the majority of automobile related uses along Santa Fe Drive, which is considered a main entry into Downtown Overland Park. The buildings that are constructed in this corridor are intended to exhibit a character that blends with the existing buildings within the core of downtown.

18.324.020 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 following uses, subject to the development and performance standards set forth in Section 18.321.050:

- A. Any use permitted in C-1, subject to the applicable development and performance standards.

- B. Retail sale of goods and services including or similar to the following but excluding any use specifically listed in District C-3:
 - Communication and specialty electronics;
 - Department stores;
 - Gasoline and other motor vehicle fuels;
 - Glass;
 - Medical equipment;
 - Newspaper publishing and printing;
 - Office Equipment;
 - Theatres, movie and stage;
 - Rental or leasing of furniture and home furnishings.

- C. Apartment houses.

- D. Mixed use buildings, consisting of retail, office and residential uses.

- E. Publicly owned parking lots.
- F. Public parks and playgrounds, including public recreation or service buildings and publicly owned swimming pools.
- G. Churches, and publicly owned and operated community buildings, museums, and libraries.
- H. Clubs and drinking establishments.
- I. Automotive services limited to glass installation and replacement, brake and muffler repairs, window tinting, radio and stereo installation, tire and battery stores, and tune-up, quick lube and auto diagnostic centers.
- J. Accessory uses as provided in Chapter 18.390.

18.324.030 Height and area regulations

The maximum height of buildings and provisions for yards shall be as follows, except as otherwise provided in Chapter 18.420:

- A. Maximum height – 3 stories.
- B. Yards:
 - 1. For all property with street frontage on Santa Fe Drive, a 15-foot build-to line is required for said street frontage.
 - 2. All other street frontages -- Minimum 10-foot setback.
 - 3. All lot lines not adjacent to a public street – no setback is required, except that for properties adjacent to residentially zoned properties, a 25-foot building setback from said properties is required.

18.324.040 Parking regulations

- A. Sufficient on-street or off-street parking spaces shall be made available for all employees, customers, residents, visitors and others who may spend time on site. The number of such parking spaces shall be determined at the time of downtown development plan approval. In no event shall there be more than 5 spaces for each 1,000 square feet of non-residential floor area.
- B. Where provisions are made to accommodate transit facilities such as bus shelters or “park and ride” operations, or where the parking required by Section 18.430.150 exceeds 5 spaces for each 1,000 square feet of floor area, parking in excess of the limitations outlined in Section A above, may be permitted at the time of downtown development plan approval.

- C. Shared parking between adjacent uses may be permitted at the time of downtown development plan approval, so long as the cumulative parking for all adjacent uses meets the requirements of (A) above. Approval of shared parking shall be contingent upon the recording of joint parking and access easements.
- D. No portion of any paved parking area that is hereafter constructed shall be permitted within 10 feet of a street line or 6 feet from a lot line, except where shared parking and cross access easements are provided.
- E. All parking setback areas shall be graded and planted with appropriate ground cover and landscaping. In addition, all parking setback areas adjacent to a public street shall include a low wall and/or hedge located at the build-to line, for the entire length of the lot.
- F. On-street parking may be constructed where adequate right-of-way is available, subject to good traffic engineering design principles. On-street parking that is available directly in front of, and in the case of a corner lot along the side of a lot, may be credited to the parking required by (A) above. Determination as to the appropriateness of on-street parking shall be determined at the time of downtown development plan approval.

18.324.050 Development and performance standards

- A. Drive-in and drive-through service wherein a patron is served through a window or other device while remaining in a motor vehicle may be provided except where cereal malt beverages in any form are served or sold through the drive-through window. The location and design of any drive-in or drive-through facility shall be such that potential adverse effects on adjacent property are minimal or nonexistent, and the Planning Commission or Governing Body may attach conditions to any development approval for a drive-in or drive-through facility relating to the configuration, design or operation of the facility intended to lessen potential adverse effects. All property for which drive-in or drive-through food service is provided shall be subject to the following standards:
 - 1. No order box, order window, payment window, pickup window, drive-in service stall, or similar point of interaction for the drive-in or drive-through facility shall be located within 200 feet of any residentially zoned property. Provided, however, that the distance restriction above may be reduced or waived by the Planning Commission or the Governing Body at the time of downtown development plan approval where the residentially zoned land is not designated on the Future Development Plan as being within a residential category. In determining to what degree the 200-foot distance should be reduced, if

any, the Planning Commission and/or Governing Body shall consider, but not be limited to, the following factors:

- a. The likelihood that the residentially zoned property will be developed for a residential use or will continue to be utilized for a residential use in the foreseeable future.
- b. The degree to which the current or anticipated use of the residentially zoned property is likely to be sensitive to or affected by the noise, headlight glare, exhaust fumes and litter that may result from the operation of the drive-in or drive-through facility.
- c. The degree to which the property containing the drive-in or drive-through facility also contains or is proposed to contain landscaping, fencing, berming, and/or other buffering techniques to lessen the impact of the drive-in or drive-through on the residentially zoned property.
- d. The degree to which the residentially zoned property has a site configuration, a building design or other physical features which would lessen the impact of the drive-in or drive-through facility on the residentially zoned property.

2. Adequate passenger car stacking space shall be provided from the order box or order window to ensure that public right-of-way or common driveway easements will not be blocked due to the drive-in or drive-through facility. The amount of stacking space is to be determined as part of the downtown development plan and after consultation with the Traffic Engineer of the City.

B. Only retail merchandise designed for exterior use and made from weather-resistant materials may be displayed or stored outside a building. Such merchandise shall be kept off of the public sidewalks and the public rights-of-way, except that limited displays on the public sidewalk may be permitted as part of a temporary promotional event approved through a Special Event Permit issued by the City. All other merchandise, materials or equipment shall be stored inside a building.

C. Sales and consumption of cereal malt beverages or alcoholic liquor shall be subject to the provisions set out in Section 18.260.050, 18.270.050, and as required in Chapters 5.12, 5.20, and 5.48, as applicable.

D. Restaurants may have an outdoor service area that is accessory to the main restaurant function. The outdoor service area must be a well-defined space.

designed and serviced to keep debris from blowing off the premises. Patrons must gain entrance through the main entrance to the restaurant, but at least one exit must be provided for fire safety. If the outdoor seating area is adjacent to public street right-of-way, the perimeter of the outdoor seating area shall be enclosed by a low wall and/or hedge located at the build-to line.

E. The Planning Commission or City Council may require assurance of the financial and administrative ability of any agency created by a developer for the purpose of maintaining common open space and facilities of a non-public nature.

F. No smoke, radiation, vibration or concussion, heat or glare shall be produced that is perceptible outside a building, and no dust, fly ash or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.

G. Prior to the issuance of any building permit, downtown development plan approval shall be obtained as provided for in Chapter 18.140.

SECTION 66. A new Chapter 18.326 of the Overland Park Municipal Code is hereby added to read as follows:

Chapter 18.326
MD METCALF DISTRICT

18.326.010 Statement of intent

The zoning of property as MD – Metcalf District, is intended to provide for retail sales and services with only minor restrictions. In addition, this District is intended to provide the majority of automobile related uses for the entire Downtown Overland Park area..

18.326.020 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 following uses, subject to the development and performance standards set forth in Section 18.326.050:

A. Any use permitted in District C-3, subject to the applicable development and performance standards.

B. Publicly owned parking lots.

C. Accessory uses as provided in Chapter 18.390.

18.326.030 Height and area regulations

The maximum height of buildings and provisions for yards shall be as follows,

except as otherwise provided in Chapter 18.420:

A. Maximum height – 40 feet.

B. Yards:

1. Front yards – 10 feet.

2. Side and rear yards – no side or rear yard is required; provided, however, that for properties adjacent to residentially zoned properties, a 25-foot building setback from said properties is required.

18.326.040 Parking regulations

A. Sufficient off-street parking spaces shall be made available for all employees, customers, residents, visitor and others who may spend time on site. The number of such parking spaces shall be determined at the time of downtown development plan approval. In no event shall there be less than 4 spaces for each 1,000 square feet of floor area. In no event shall there be more than 5 spaces for each 1,000 square feet of floor area unless otherwise provided by this Chapter.

B. Where provisions are made to accommodate transit facilities such as bus shelters or “park and ride” operations, or where the parking required by Section 18.430.150 exceeds 5 spaces for each 1,000 square feet of floor area, parking in excess of the limitations outlined in Section A above, may be permitted at the time of downtown development plan approval.

C. Shared parking between adjacent uses may be permitted at the time of downtown development plan approval, so long as the cumulative parking for all adjacent uses meets the requirements of (A) above. Approval of shared parking shall be contingent upon the recording of joint parking and access easements.

D. No portion of any paved parking area that is hereafter constructed shall be permitted within 10 feet of a street line or 6 feet from a lot line, except where shared parking and cross access easements are provided.

E. All parking, loading, delivery, or service facilities behind buildings shall be setback 15 feet from any residential property line.

F. All parking setback areas shall be graded and planted with appropriate ground cover and landscaping.

18.326.050 Development and performance standards

A. Drive-in and drive-through service may be provided as set forth in Section

18.324.050 (A).

- B. Only retail merchandise designed for exterior use and made from weather-resistant materials may be displayed or stored outside a building. Such merchandise shall be kept off of the public sidewalks and the public rights-of-way, except that limited displays on the public sidewalk may be permitted as part of a temporary promotional event approved through a Special Event Permit issued by the City. All other merchandise, materials or equipment shall be stored inside a building.
- C. Sales and consumption of cereal malt beverages or alcoholic liquor shall be subject to the provisions set out in Section 18.260.050, 18.270.050, and as required in Chapters 5.12, 5.20, and 5.48, as applicable.
- D. Restaurants may have an outdoor service area that is accessory to the main restaurant function. The outdoor service area must be a well-defined space, designed and serviced to keep debris from blowing off the premises. Patrons must gain entrance through the main entrance to the restaurant, but at least one exit must be provided for fire safety.
- E. The Planning Commission or City Council may require assurance of the financial and administrative ability of any agency created by a developer for the purpose of maintaining common open space and facilities of a non-public nature.
- F. No smoke, radiation, vibration or concussion, heat or glare shall be produced that is perceptible outside a building, and no dust, fly ash or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.
- G. Prior to the issuance of any building permit, downtown development plan approval shall be obtained as provided for in Chapter 18.140.

SECTION 67. A new Chapter 18.328 of the Overland Park Municipal Code is hereby added to read as follows:

Chapter 18.328
DND DOWNTOWN NEIGHBORHOOD DISTRICT

18.328.010 Statement of intent

The zoning of property as DND – Downtown Neighborhoods District, is intended to encourage private and public investment in the neighborhoods surrounding the commercial core of Downtown Overland Park. The intent is to offer a unique living environment that offers a variety of housing styles, that supports the downtown businesses, and acts as a way to stabilize the surrounding single-family neighborhoods.

18.328.020 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 following uses, subject to the development and performance standards set forth in Section 18.323.050:

- A. Townhouses, containing two to six dwelling units per building, on development parcels of one acre or larger.
- B. Single-family detached dwellings on development parcels smaller than one acre.
- C. Public parks and playgrounds, including public recreation or service buildings and publicly owned swimming pools.
- D. Private parks, playgrounds, swimming pools, tennis courts, clubhouses and other recreational facilities within the project for the use of project residences.
- E. Accessory uses as provided in Chapter 18.390.

18.328.030 Height and area regulations

The maximum height of buildings and provisions for yards shall be as follows, except as otherwise provided in Chapter 18.420:

- A. Maximum height:
 - 1. Residences – 2 ½ stories, and not exceeding 35 feet.
 - 2. Accessory structures and uses, – one story, not exceeding 20 feet and not exceeding the height of the main structure.
- B. Front yards – front yards shall be a minimum of 10 feet and a maximum of 20 feet.
- C. Minimum side yards:
 - 1. 6 feet for single family dwellings, except the street side yard on corner lots shall be not less than 10 feet.
 - 2. No side yard is required for dwellings within a townhouse building, except under the following conditions:
 - a. Townhouse buildings adjacent to any other residential property, shall be setback not less than 6 feet from the side property line.

b. The street side yard on corner lots shall be not less than 10 feet.

D. Rear yards – 25 feet, except where garages are oriented toward a private alleyway or shared driveway in the rear of a lot, in which case an 18-foot setback shall be provided from the alleyway or shared driveway.

E. Lot width:

1. For single-family dwellings, the minimum lot width shall be 40 feet, and the maximum lot width shall be 60 feet.

2. For townhouse buildings, there are no lot width requirements.

F. Minimum average lot depth:

1. For single-family dwellings, the average lot depth shall be 115 feet.

2. For townhouse buildings, there are no lot depth requirements.

G. Minimum lot area per dwelling unit:

1. For single-family dwellings, 4,500 square feet per unit (9.68 units per acre).

2. For townhouse developments between one and two acres in size, 4,356 square feet per unit (10 units per acre).

3. For townhouse developments between two and three acres in size, 3,630 square feet per unit (12 units per acre).

4. For townhouse developments larger than three acres in size, 2,725 square feet per unit (16 units per acre).

18.328.040 Parking regulations

A. Two off-street parking spaces shall be provided for each dwelling unit, at least one of which shall be a covered parking space.

B. For other parking requirements, see Chapter 18.430.

18.328.050 Development and performance standards

A. The Planning Commission or City Council may require assurance of the financial and administrative ability of any agency created by a developer for the purpose of maintaining common open space, alleyways, private parking courts, and facilities of a non-public nature.

- B. Decorative wooden, PVC, or ornamental metal fencing of a single unified design that compliments the architectural character of the residences may be permitted along front and side property lines at the time of downtown development plan approval. Said fencing shall not exceed three feet in height.
- C. Detached accessory buildings shall not be located in any required front or side yard setback area, but may be located in the rear yard setback area provided that no such building may be closer than 3 feet to any interior property line, closer than 20 feet from any street right-of-way line, or in front of any building setback line. The ground area of all detached accessory buildings in the rear yard shall not exceed thirty percent of the total land area in the rear yard setback. No more than two detached accessory buildings shall be permitted for each residence.
- D. Prior to the issuance of any building permit, downtown development plan approval shall be obtained as provided for in Chapter 18.140.

SECTION 68. Existing Overland Park Municipal Code Sections 18.100.070, 18.110.070, 18.110.120, 18.110.180, 18.110.375, 18.110.390, 18.110.515, 18.120.010, 18.120.040, 18.120.100, 18.120.120, 18.120.130, 18.120.140, 18.120.150, 18.120.160, 18.120.170, 18.130.060, 18.130.070, 18.130.080, 18.130.150, 18.140.010, 18.140.020, 18.140.030, 18.140.040, 18.140.060, 18.140.130, 18.140.140, 18.140.210, 18.140.250, 18.140.270, 18.140.300, 18.140.310, 18.140.320, 18.140.330, 18.140.350, 18.140.360, 18.140.370, 18.140.440, 18.140.450, 18.140.460, 18.140.470, 18.150.010, 18.150.040, 18.160.050, 18.170.070, 18.170.090, 18.180.060, 18.350.030, 18.360.010, 18.380.040, 18.390.090, 18.410.075, 18.410.090, 18.420.090, 18.440.030, 18.440.080, 18.440.100, 18.440.120, 18.450.060, 18.450.090, 18.460.030, 18.460.220, 18.460.370, and 18.470.030 are hereby repealed.

SECTION 69. 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 1st day of July, 2002.

APPROVED by the Mayor this 1st day of July, 2002.

Ed Eilert, Mayor

ATTEST:

Marian Cook, City Clerk

APPROVED AS TO FORM:

J. Bart Budetti
Sr. Assistant City Attorney