

ORDINANCE NO. ZRR-2420

AN ORDINANCE RELATING TO THE UNIFIED DEVELOPMENT ORDINANCE FOR THE CITY OF OVERLAND PARK, KANSAS; AMENDING AND REPEALING EXISTING OVERLAND PARK MUNICIPAL CODE SECTIONS 18.130.010, 18.130.020, 18.130.030, 18.130.045, 18.130.050, 18.130.080, 18.130.100, 18.140.490, 18.370.040, 18.410.060, 18.410.090, AND 18.450.040; ADDING NEW SECTIONS 18.110.071, 18.110.074, 18.110.336, 18.110.337, 18.110.583, 18.130.012, 18.130.014, 18.130.015, 18.130.055, 18.130.057, 18.130.095, AND 18.130.098.

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

SECTION 1. Overland Park Municipal Code Section 18.110.071 is hereby added to read as follows:

18.110.071 Best Management Practice (BMP)

"Best Management Practice" or "BMP" mean physical facilities, schedules of activities, prohibitions of practices, maintenance procedures, and other management practices which, when properly designed, installed and maintained, will be effective to prevent or reduce the discharge of water or air pollution associated with land disturbance activities regulated by this Ordinance.

SECTION 2. Overland Park Municipal Code Section 18.110.074 is hereby added to read as follows:

18.110.074 Building permit

"Building permit" means an official document or certificate issued by the Director of Planning and Development Services which authorizes any owner or authorized agent to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to install, enlarge, alter, remove, replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by Title 16 of the Overland Park Municipal Code, or to cause any such work to be done. A building permit may also specifically authorize land disturbance and installation of site improvements in lieu of separate site development and land disturbance permits.

SECTION 3. Overland Park Municipal Code Section 18.110.336 is hereby added to read as follows:

18.110.336 Land disturbance

"Land disturbance" means any activity that changes the physical conditions of landform, vegetation and hydrology, creates bare soil, or otherwise may cause erosion or sedimentation. Such activities include, but are not limited to, clearing, removal of vegetation, stripping, grading, grubbing, excavating, filling, logging and storing of materials.

SECTION 4. Overland Park Municipal Code Section 18.110.337 is hereby added to read as follows:

18.110.337 Land disturbance permit

"Land disturbance permit" means an official document or certificate issued by the Director of Planning and Development Services authorizing land disturbance. A land disturbance permit may only be issued to the property owner.

SECTION 5. Overland Park Municipal Code Section 18.110.583 is hereby added to read as follows:

18.110.583 Site development permit

"Site development permit" means an official document or certificate issued by the Director of Planning and Development Services authorizing installation of site improvements, including but not limited to, pavement, curbs, sidewalks, stormwater facilities, retaining walls and bank stabilization, and work related to such construction, including but not limited to clearing, grading, and grubbing.

SECTION 6. Overland Park Municipal Code Section 18.130.010 is hereby amended to read as follows:

18.130.010 Land use disturbance permits -- when required

A land ~~use disturbance~~ permit shall be obtained from the ~~Code Administrator~~ Director of Planning and Development Services prior to commencement of any of the following:

- A. Any activity that changes the physical conditions of landform, vegetation and hydrology, creates bare soil, or otherwise may cause erosion or sedimentation. Such activities include, but are not limited to, clearing, removal of vegetation, stripping, grading, grubbing, excavating, filling, logging and storing of materials. Exemptions permitted in 18.130.012(A)(1) are not applicable to land disturbance activities in the floodway overlay and/or floodway fringe overlay district pursuant to Chapter 18.360 of this Code. Grading, excavation or any activity precedent to development of open, vacant or unimproved land for any use other than agricultural use.
- ~~B. Dredging, filling, grading or excavation of land within the Floodway Overlay or the Floodway Fringe Overlay districts.~~
- B. Utility construction.

SECTION 7. Overland Park Municipal Code Section 18.130.012 is hereby added to read as follows:

18.130.012 Land disturbance permits -- exemptions

A. A Land disturbance permit is not required for the following:

- 1. Land disturbance activities that cumulatively disturb less than one acre, and are not part of a larger common plan of development or sale which disturbs a cumulative area of 1 acre or more, and involves fill of less than 3 feet in height, and containing less

than 50 cubic yards, and does not create a slope in excess of 3 horizontal to 1 vertical, and does not obstruct a drainage course.

2. Work to correct or remedy emergencies, including situations that pose an immediate danger to life or property or substantial flood or fire hazards.

3. Agricultural uses.

4. Land disturbance activities specifically authorized by a building permit which includes an erosion and sediment control plan covering the entire area of disturbance. This exemption is not intended to exempt the building permit from erosion and sediment control requirements provided by Chapter 16.200 of this Code.

B. If the land disturbance activity threatens or impedes the ability of the City to meet its own permit requirements under the National Pollutant Discharge Elimination System (NPDES), the Director of Planning and Development Services may terminate the exemption and require the applicant to obtain a land disturbance permit in full compliance with Chapter 16.200 of the Code.

SECTION 8. Overland Park Municipal Code Section 18.130.014 is hereby added to read as follows:

18.130.014 Land disturbance permits -- limitations of usage

Construction of a project with a final development plan approved by the Planning Commission or the Director of Planning and Development Services requires a site development permit or a building permit, or both if a project is constructed in phases. Construction of a project with a final development plan cannot be accomplished solely through a land disturbance permit.

SECTION 9. Overland Park Municipal Code Section 18.130.015 is hereby added to read as follows:

18.130.015 Site development permits -- when required

A site development permit is generally considered a companion permit to a building permit, or land disturbance permit, and shall be required to be obtained prior to authorization of the following work unless specifically authorized by a building permit:

A. Construction of any site improvements including but not limited to; pavement, curbs, sidewalks, stormwater facilities, retaining walls and bank stabilization and work related to such construction, including but not limited to clearing, grading and grubbing, unless a building permit authorizes the work. A site development permit may be waived by the Director of Planning and Development Services for work of a minor nature such as sidewalks on private property, retaining walls under 4 feet in height, patios and other minor flatwork, residential driveways, maintenance or in-kind replacement of existing driveways and parking lots, and similar construction.

B. If a site development permit is not issued in conjunction with a building permit

application, a land disturbance permit will also be required, unless waived by the Director of Planning and Development Services.

SECTION 10. Overland Park Municipal Code Section 18.130.020 is hereby amended to read as follows:

18.130.020 Building permits -- when required

A building permit shall be obtained from the Director of Planning and Development Services ~~Code Administrator~~ prior to commencement of construction or expansion of any building or structure, parking lot or driveway when required by this ordinance or Title 16 of the Code.

SECTION 11. Overland Park Municipal Code Section 18.130.030 is hereby amended to read as follows:

18.130.030 Land ~~use~~disturbance permits, site development permits and building permits -- applications

- A. Applications for land ~~use~~disturbance, site development, or building permits shall be filed upon forms prescribed by the City and conform with the following: ~~setting forth the legal description of the lot, tract or parcel of land, together with a general description of any building or structure proposed to be constructed, erected or altered thereon, including the approximate size and shape, square foot and cubic area, the principal materials of construction, location of the building or structure upon the lot, tract or parcel, and the intended use of the land or building.~~
1. Construction documents shall clearly indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this ordinance, and other relevant laws, rules and regulations as determined by the Director of Planning and Development Services.
 2. The construction documents shall include a site plan drawn to scale showing the size and location of new construction and existing structures on the site and the legal description of the lot tract or parcel.
 3. The construction documents shall include a grading plan, drainage map, and a erosion and sediment control plan in conformance with Chapter 16.200 of this Code.
- B. Applications for land ~~use~~disturbance permits shall be submitted for approval by the ~~Code Administrator~~Director of Planning and Development Services. Issuance of land disturbance permits shall conform to the following:
1. Where the proposed land disturbance activity covers multiple tracts of land or multiple lots, the permit shall be issued only to the common owner.
 2. A contact person or field representative shall be identified on every permit as a responsible party whom the City can contact regarding the installation, maintenance, and removal of erosion and sediment control measures. The land disturbance permit holder is responsible for timely written notification to the Codes Administrator of any changes to the contact person or field representative.
 3. The land disturbance permit holder may request that the permit be transferred to

another party. The transfer of a permit from one party to another shall be subject to the approval of the Director of Planning and Development Services and not be effective until written approval is issued.

4. The owner of the property may designate, in writing, others to act on his or her behalf, however the responsibility for compliance with this Code with respect to land disturbance activities shall remain with the owner of the property until the issued permit has been officially closed.

C. Applications for site development permits shall be submitted for approval by the Director of Planning and Development Services.

D. Land disturbance permits issued for land disturbances less than one acre are intended to track small projects that may impact the public safety and welfare, or sensitive areas. In these cases, a site-specific erosion and sediment control plan is not required unless deemed necessary by the Director of Planning and Development Services. The applicant is required to acknowledge their intent to conform with the City's standards for erosion and sediment control in accordance with Chapter 16.200 of this Code and shall employ BMP methods proportional to the scale of the land disturbance activity.

~~C.E.~~ Applications for building permits shall be submitted for approval by the ~~Code Administrator~~ Director of Planning and Development Services.

SECTION 12. Overland Park Municipal Code Section 18.130.045 is hereby amended to read as follows:

18.130.045 ~~Land use~~ Site development and building permits -- compliance with subdivision regulations

No ~~land use permit or~~ building permit to allow the construction of new floor area, nor site development permit for recreational facilities shall be issued unless the applicant can demonstrate compliance with the standards and requirements of Chapter 18.460. Provided, however, that land which has already been platted need not be replatted so long as all other requirements of Chapter 18.460, including but not limited to, development standards and required improvements, are satisfied. Provided further, that the owner of a single lot may apply to the Planning Commission for a rule exception according to the standards set forth in Section 18.460.210.

SECTION 13. Overland Park Municipal Code Section 18.130.050 is hereby amended to read as follows:

18.130.050 ~~Land use permits~~ Site development permits and building permits -- minimum rights-of-way required

- A. When a ~~land use permit, site development permit,~~ or building permit is requested on a lot or tract abutting a public street other than a thoroughfare as defined in Section 18.400.020.D., the ~~Code Administrator~~ Director of Planning and Development Services shall determine that adequate right-of-way exists on that portion of the public street abutting the property. The minimum right-of-way, measured from the center line of the

street to the property line of the lot or tract, shall be determined based upon the classification of the abutting street. Classification of the abutting street shall be determined by reference to the Master Plan, the Official Street Map or a master street plan; if the classification is not designated on any of such documents, the Director of Planning and Development Services shall determine the street classification by reference to existing or planned land uses of abutting properties.

- B. Once the street classification has been determined, right-of-way requirements shall be calculated in an amount equal to one-half of the total right-of-way requirement established for such street classification in Title 13 of the Code and summarized in Table 18.460.110 of this ordinance. Where the property lies on both sides of the public street, the right-of-way requirement shall be equal to the amount set forth in Title 13 of the Code and summarized in Table 18.460.110 of this Ordinance.
- C. No ~~land use permit, site development permit~~ or building permit shall be issued for any lot or tract where the abutting right-of-way does not clearly comply with the right-of-way requirements until title for the additional required right-of-way has been conveyed to the City by plat or deed and accepted by the Governing Body.
- D. Any requirement for dedication of right-of-way pursuant to this section may be waived by the ~~Code Administrator~~ Director of Planning and Development Services where the permit being requested does not result in a change or expansion of use of the property or an increase in the square footage of any building.

SECTION 14. Overland Park Municipal Code Section 18.130.055 is hereby added to read as follows:

18.130.055 Building permits and site development permits -- compliance with existing land disturbance permits.

Issuance of any building permit or site development permit that is part of a common plan of development with a pre-existing land disturbance permit, will require written agreement by the permit applicant to comply with the provisions of the pre-existing land disturbance permit.

SECTION 15. Overland Park Municipal Code Section 18.130.057 is hereby added to read as follows:

18.130.057 Building permits, site development permits, and land disturbance permits -- closure.

A. Closure of a building permit shall be completed in accordance with the provisions of Title 16 of this Code. In cases where there is not a separate land disturbance permit issued for a particular site, a final certificate of occupancy shall not be issued until the site has been permanently stabilized and all temporary BMP's removed and all drainage and grading is found to be in compliance with this Code.

B. Closure of a site development permit shall be completed by obtaining a satisfactory final inspection and issuance of a certificate of compliance or certificate of occupancy by the

Codes Administrator. In cases where there is not a separate land disturbance permit issued for a particular site, a certificate of compliance shall not be issued until the site has been permanently stabilized, all temporary BMP's removed, and all drainage and grading has been found to be in compliance with this Code.

C. Closure of a land disturbance permit is independent of closure of other permits. If a site has been partially stabilized, a land disturbance permit can be closed upon issuance of a subsequent land disturbance permit covering remaining unstabilized areas. Closure of a land disturbance permit shall be completed by obtaining a satisfactory final inspection and issuance of a certificate of compliance. Timing of final inspections for land disturbance permits shall conform with the following:

1. For single-family or two-family construction only, a final inspection can be completed after 80 percent of the housing units in the associated final plat have received final certificates of occupancy, or a minimum of three years after issuance of the first building permit for a housing unit. Additionally, no final inspection can be made before any temporary BMP's serving more than one lot are no longer needed and are removed.
2. For development other than single-family or two-family residential development, a final inspection can occur when all temporary BMP's serving more than one lot are no longer needed and are removed.

SECTION 16. 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~~-disturbance of land unless the same shall be in conformance in every respect with:

- A. ~~a~~All provisions of this Ordinance;
- B. ~~a~~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. ~~t~~The content of any applicable final development plans, site plans, or other development plans approved by the Governing Body, Planning Commission or the Planning & Development Services Department; and
- D. Title 16 of the Code and any other applicable provisions of the Code.

SECTION 17. Overland Park Municipal Code Section 18.130.095 is hereby added to read as follows:

18.130.095 Suspension of permits

Suspension of building, site development, and land disturbance permits shall comply with the following:

A. Suspension of building permits are subject to the provisions of Title 16 of this Code.

B. A land disturbance or site development permit can be suspended by the City if the Director of Planning and Development Services determines that:

1. The site is not in substantial compliance with the approved plan or any permit condition.
2. A violation of any provision of this Chapter or any other applicable law, ordinance, rule, or regulation relating to this work exists.
3. A condition exists, or act is being done that constitutes a nuisance or hazard or endangers human life or the property of others.
4. The approved plan is failing to achieve required erosion and sediment control objectives due to improper installation, maintenance, or failure of the plan to perform anticipated erosion and sediment control functions as required by Chapter 16.200 of this Code.

C. A site development or land disturbance permit shall be suspended by issuance of written notice to the permit holder, or the permit holder's representative. The notice shall indicate the reason for permit suspension and indicate corrective measures required and the timeframe within which corrections must be made to reinstate the permit. The notice shall also include a stop work order pursuant to Chapter 16.200 of the Code, if not previously issued. If the applicant fails to make corrective measures within the timeframe required the Director of Planning and Development Services may revoke the permit.

SECTION 18. Overland Park Municipal Code Section 18.130.098 is hereby added to read as follows:

18.130.098 Expiration of permits

Expiration of building, site development, and land disturbance permits shall comply with the following:

A. Expiration of building permits are subject to provisions of Title 16 of this Code. Additionally, land disturbance activities authorized by a building permit that are not stabilized following expiration of a building permit are subject to abatement provisions pursuant to Chapter 16.200 of this Code.

B. Site development permits shall expire if the authorized work has not commenced within 180 days of permit issuance, or if the authorized work is suspended or abandoned for a period of greater than 180 days. The Director of Planning and Development Services is authorized to grant, in writing, extensions up to 180 days each.

C. Land disturbance permits shall expire if the authorized work has not commenced within

180 days after permit issuance. A land disturbance permit shall not expire after land disturbance activities have begun, but shall be closed pursuant to Section 18.130.057.

SECTION 19. Overland Park Municipal Code Section 18.130.100 is hereby amended to read as follows:

18.130.100 Revocation of permits

A permit may be revoked by the official issuing the permit at any time prior to the completion of the ~~use~~ land disturbance, site development, building, structure or sign for which the same was issued, when it appears to such official that one or more of the following conditions is present: there is departure from the plans, specifications or conditions as required under the terms of the permit; that the permit was procured by false representation; that the permit was issued by mistake; or that any of the provisions of this title are being violated. Written notice of such revocation shall be served upon the owner, the owner's agent or contractor, or upon any person employed in the building or structure for which such permit was issued, or shall be posted in a prominent location on the property. Where notice of revocation has been served or posted, no further construction or use of the property shall proceed. Any revocation of a permit other than a building permit may be appealed to the Board of Zoning Appeals as provided in Chapter 18.140. Except where revocation of a building permit is successfully appealed to the Code Board of Appeals, or another permit revocation is successfully appealed to the Board of Zoning Appeals, a revoked permit may not be reinstated.

SECTION 20. Overland Park Municipal Code Section 18.140.490 is hereby amended 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~~ site development permit.
- B. All development requiring a building permit, ~~land use permit~~ site development 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 21. Overland Park Municipal Code Section 18.370.040 is hereby amended to read as follows:

18.370.040 Development and performance standards

- A. Airports or aviations fields.

At the time of approval of any permit for an airport or aviation field, the Governing Body may impose such restrictions on land, buildings or structures within an approach or transition plane or turning zone as is necessary to promote safety of navigation and to prevent undue danger from confusing lights, electrical interference or other hazards.

- B. Amusement centers and arcades.
 - 1. The initial special use permit may be granted for a period of up to 12 months, with renewals for a period of up to 5 years. The Planning Commission and Governing Body may, upon a finding that time restrictions on the permit are not required to protect the public health, safety and welfare, approve an indefinite special use permit for an indoor amusement center and arcade located within an enclosed shopping mall in excess of 400,000 square feet.

2. All facilities shall comply with the requirements contained in Chapter 5.24 of the Code.
3. On-site parking shall be provided at the rate of one parking space for each 2 occupants, to be calculated by building code standards. Parking shall be available to be assigned solely to the proposed establishment and cannot be counted for other establishments, except that for shopping centers in excess of 400,000 total square feet the provisions of Section 18.430.140 for shared parking may be applied.
4. All facilities shall provide enclosed trash structures either inside or outside of the facility of sufficient size to adequately and sanitarily contain all trash produced by the facility. The management shall be responsible for the policing of all trash associated with the operation of the facility.

C. Clubs or drinking establishments.

1. No permit shall be approved unless a determination is made that the impacts of traffic, access and parking, noise and litter will not adversely affect the surrounding neighborhood.
2. An initial permit may be issued for a maximum time period of three years. Subsequent renewals may be issued for a maximum time period of five years. Provided, however, that establishments within facilities such as convention centers, hotels, motels, or similar structures determined not to have traffic, parking, noise, litter or other adverse impacts on surrounding properties, may be issued a special use permit for an indefinite time period.

D. Day care homes, group day care homes, child care centers, preschools and Mother's Day Out programs which are not otherwise permitted as an accessory use or as a permitted use.

1. The property must be zoned District A or residentially zoned property.
2. The day care operation must have been in existence continually since January 16, 1984.
3. The day care operation shall be licensed or registered with the State of Kansas and shall comply with all applicable standards set out in Section 18.390.140 B of these regulations. Where the public hearing process clearly indicates that no parking, traffic generation, noise or other adverse impacts are resulting from the facility, the Planning Commission and Governing Body may waive the performance standards referenced above. The Planning Commission and Governing Body may, as a part of any special use permit renewal, require that the number of children and/or employees be reduced until, in their judgment, the adjoining properties are not adversely impacted.

4. Where the day care operation is operated from a residential dwelling, the owner or operator shall occupy the structure as his or her private residence.

5. No signs identifying the operation shall be permitted on the premises.

E. Mines or quarries.

1. Mines or quarries shall be subject to the development and performance standards set forth in Section 18.310.050 (District M-2).

2. All mines or quarry operations shall be located adjacent, or have direct access over a private haul road, to a thoroughfare capable of handling the expected loads of heavy truck traffic.

3. All above-ground operations shall be located not less than 400 feet from the property line of adjoining commercial or industrial property, 750 feet from the property line of adjoining agricultural or residentially zoned property, and not less than 1,000 feet from the nearest residence existing at the time of commencement of operations.

4. All below-ground operations shall be located not less than 200 feet from the nearest property line, measured laterally.

5. The initial special use permit may be issued for a maximum time period of 10 years, with subsequent renewals issued for a maximum time period of 5 years.

F. Oil and/or gas drilling or production.

1. Special use permits for oil and/or gas drilling or production may be approved provided that the approval is consistent with the intent and purpose of Chapter 5.51 of the Code as well as the spirit and intent of this ~~§~~ Title. In the event of a conflict between the definitions or terms of this section and Chapter 5.51, the provisions of Chapter 5.51 shall control.

2. In addition to the criteria stated in Section 18.370.040, the Planning Commission and Governing Body shall consider the following criteria in reviewing an application for an oil and/or gas special use permit:

a. The development of the natural resources as it relates to the local, regional or national economy.

b. The economic conditions as they affect other types of development.

c. The effect of approval of the special use permit on existing and future development or development potential of the property.

- d. The cumulative effect of approval of the proposed permit and other oil and gas special use permits on existing and future development or development potential of the area.
 - e. Past history of the operator with regard to spills, overall safety and compliance with local or state laws.
3. The minimum tract size for special use permits for oil drilling or production shall be 10 acres, including any public street right-of-way. The applicant shall have the written authorization of all owners of the tract. There is no minimum tract size for special use permits for gas drilling or production.
4. No portion of the drilling area shall be closer than 165 feet from any point along the tract line or from public street right-of-way. No drilling or production related activities shall occur within this required buffer area.
5. The maximum depth of any well shall be 1,200 feet below grade unless a greater depth is authorized at the time of the permit approval.
6. In addition to the aforementioned requirements, additional information or conditions may be required, as deemed necessary and proper to protect and promote the public health, safety and welfare, and which requirements are consistent with the intent and purpose of this eChapter, including but not limited to the following:
- a. Enclosure or burial of the wellhead and/or appurtenances.
 - b. Material types and height of any fencing.
 - c. Noise suppression devices or procedures.
 - d. Hours of operation for drilling equipment delivery, drill pipe storage, racking, servicing, loading of oil, removal of equipment, perforating or fracturing and restoration.
 - e. Routes used by drilling or production related vehicles.
 - f. The capacity number and color of storage or other tanks.
 - g. An environmental impact assessment addressing those areas about which the Planning Commission or Governing Body require additional information, such as noise pollution, water pollution, air pollution, geological impacts or safety and nuisance potential. Any such environmental impact assessment shall include baseline data against which actual impacts may be evaluated and shall also include the

reasonable and preferred procedures and/or equipment for mitigating or abating any and all significant impacts. Any such environmental impact assessment shall be prepared and certified by a professional qualified in the field(s) to which the assessment applies.

h. Fiscal impact analysis.

7. Any oil and/or gas drilling or production operation shall comply with the development and performance standards set forth in Section 18.310.050 (District M-2).

8. An initial special use permit for oil and/or gas drilling or production may be granted for a period of up to 10 years, but in no case shall the period granted be less than 5 years. All subsequent special use permits may be granted for renewal periods of up to 10 years, but in no case shall the period granted be less than one year. A special use permit granted for gas production only may be granted for an indefinite period of time.

9. The granting of a period for oil and/or gas drilling or production shall not be construed, nor interpreted as implying, that refineries or dehydration or absorption plants are permissible within the permit. Storage tank farms not accessory to the production for which the special use permit has been granted shall not be permitted.

G. Outdoor advertising.

1. Billboards (including poster panels).

a. Zoning: Billboards may be located on property zoned M-1, Industrial Park District, and M-2, General Industrial District, which has frontage on Interstate-35, Interstate-435 or Interstate-635, provided all other conditions of this [Chapter](#) are met.

b. No billboard shall be located within the following areas, whichever is more restrictive:

(1) Within 400 feet of the property line of any residentially zoned property, park, playground, school, hospital or church. Such measurements shall be made as a 400-foot linear measurement along the street frontage on which the billboard is located.

(2) Within 200 feet of the property line of any residentially zoned property, park, playground, school, hospital or church. Such measurements shall be made as a 200-foot radial distance 360 degrees around the location of the proposed billboard.

- (3) A billboard located within a parking lot shall not cause a reduction in the number of required parking spaces, nor be located so as to interfere with normal circulation patterns.
- c. Spacing: All billboards shall maintain a minimum spacing of 1,200 feet from existing billboards along interstate or adjacent frontage road rights-of-way. The 1,200 spacing dimension shall be measured along the side of the roadway where the sign is proposed regardless of the direction from which the sign may be viewed. All billboards existing within the City at the time of the adoption of this Resolution shall be used as the beginning point for such 1,200 foot minimum spacing measurements.
 - d. Size and Shape: No billboard within the City shall exceed 672 square feet in size. The shapes of all proposed billboards shall comply with representations shown on Exhibit "A" attached to Resolution No. [17582907](#). Deviations from the standard billboard shapes represented in said Exhibit "A" shall not be permitted.
 - e. Height: No billboard shall exceed 30 feet in height above the right-of-way grade from which it is viewed. In cases where the grade at the location of the proposed billboard is higher than the right-of-way grade adjacent to which it is located, the Planning Commission and Governing Body may require the overall height of the billboard to be lowered.
 - f. Lighting: All billboards shall be indirectly illuminated or nonilluminated and comply with all building codes of the City. Billboards may be lit only from dusk to 12 a.m. midnight.
 - g. No billboard shall be permitted to be mounted, attached or affixed to a building rooftop or the walls of any building.
 - h. All billboards shall maintain the required front yard building setback from adjacent right-of-way equal to that required of any structure built within the zoning district in which the billboard is located.
 - i. The area around any billboard and its supports shall be kept clear of debris, and all scrub brush, tall grass and weeds shall be cleared away to a distance of a ten foot radius from the billboard and supports.
 - j. Any landscaping approved as part of a special use permit allowing a billboard shall be replaced to original species and size during the next appropriate planting season.
 - k. No more than one double-faced billboard shall be permitted per pole and/or location for which a special use permit is approved.

1. No special use permit for any billboard shall be granted for more than three years, with a 60-day time limit for removal in the event the permit is not renewed.
2. Off-site promotional signs.
 - a. Off-site promotional signs for developments may be permitted for each project of up to 10 acres in area. For projects of more than 10 acres, one off-site promotional sign for each additional 20 acres or portion thereof shall be permitted. No project shall have more than 3 such signs. A project shall mean a unit of development under one development plan, one financing package and one identifying name. An entire residential subdivision shall be deemed a project even though several builders may be involved.
 - b. Off-site promotional signs shall be permitted for a maximum period of 3 years, beginning with the issuance of the first building permit on the project. Such signs shall be removed immediately upon termination of the 3-year period regardless of the extent of project completion or occupancy.
 - c. Projects constructed in phases shall be considered as only one project with respect to the 3-year limitation, except that in the case of a division into two or more developments, each having a separate owner-developer financing status, each development shall be considered a project.
 - d. Off-site promotional signs shall be limited to single-family subdivisions, duplex and apartment or townhouse complexes.
 - e. Off-site promotional signs may have a maximum height of 11 feet, maximum length of 16 feet, may be flood-lighted and shall be well-designed and maintained throughout the life of the sign.

H. Residential real estate sales offices.

Real estate sales offices which are not otherwise a permitted use in a residential subdivision or project, may be operated under a special use permit for the purpose of selling properties located within the subdivision or project under such conditions as may be imposed at the time of approval of the permit. No such permit shall be issued for a period exceeding 2 years. The precise location of any such real estate sales office within the subdivision or project shall be indicated on the application for the permit.

I. Taverns and dance facilities.

1. No permit shall be granted unless the distance between the walls of the facility within which the operation is located and the property line of the nearest residentially zoned property is in excess of 200 feet.
2. On-site parking shall be provided at the rate of one parking space for each 2

occupants, to be calculated by building code standards. Parking shall be available to be assigned solely to the proposed establishment and cannot be counted for other establishments except in the case of shopping centers in excess of 300,000 total square feet. The Governing Body may as a part of the required special use permit approve shared parking not solely available to the facility provided the following criteria are met:

- a. The shared parking shall not exceed more than 50% of the total required parking;
 - b. The business that parking is shared with shall be closed during any period of the day that such shared parking is being used to meet the requirements for an increased occupant load as specified in the special use permit;
 - c. Legal documentation acceptable to the City ensuring the facility's ability to have access to the shared parking for the term of the proposed special use permit shall be submitted with the application;
 - d. All shared parking shall be located on property abutting the land containing the facility;
 - e. The facility shall be posted with two alternate occupant loads, which shall specify the hours when each load is in effect. The first load shall be based on the parking solely available to the facility. The alternate load shall be based on the parking solely available to the facility, together with the shared spaces.
3. All facilities shall provide enclosed trash structures either inside or outside of the facility of sufficient size to adequately and sanitarily contain all trash produced by the facility. The management shall be responsible for the policing of all trash associated with the operation of the facility.
 4. The initial special use permit may be granted for a period of up to 12 months, with renewals for one-year periods thereafter provided all standards of performance are being met.
 5. Taverns shall also be subject to the requirements contained in Chapter 5.12 of the Code.
- J. Temporary uses of land for commercial or industrial purposes. Special use permits for temporary uses of land for commercial or industrial purposes may be granted for a period not to exceed 2 years, subject to renewal for one or more periods of time not to exceed a maximum of 2 years for each renewal. Any stored equipment or material shall be removed from the site on the date of expiration of the special use permit. This provision shall not be used as a means of seeking approval for occupations which are not permitted as accessory uses in residential districts under Chapter 18.390.

- K. At the time of approval of any special use permit, the Governing Body may impose such restrictions as to height or bulk of buildings or structures, yard and lot area requirements, parking requirements, open space or landscaping requirements, fencing requirements or other requirements determined to be reasonably necessary for the protection of the public health, safety and welfare of the neighborhood and the community at large. Further, the Governing body may require that the applicant submit a final development plan for approval by the Staff, Planning Commission or Governing Body prior to the issuance of any building or [land-use-site development](#) permit.
- L. Except where a longer or shorter time has been stated for a specific special use, and except as provided below, the maximum time period for any special use permit, or any extension thereof, shall be 10 years. In cases of extreme hardship, the Governing Body may consider granting a permit, or extension thereof, for such period as is warranted under the circumstances.
- M. Renewal of a special use permit is not a matter of right. The same discretion shall attach to a decision to renew a special use permit as existed in the original decision to grant or deny that permit; provided, however, that in considering the decision to grant or deny renewal, any factor which would be relevant to consideration of revocation shall also be relevant to consideration of renewal.
- N. Retail sale of building supplies, with outside storage in excess of 20 percent of the ground floor area of the building in a CP-2 District.

Approval or disapproval shall be based on the following criteria in addition to the criteria specified in 18.140.150 E:

1. The compatibility of the open storage area to the surrounding or proposed land use of adjacent properties.
 2. The size of the open storage area in relation to the size of the main retail structure.
 3. The amount of storage area under roof.
 4. The amount, type, and quality of screening of the open storage area.
 5. The ability of emergency vehicles to enter and maneuver through the site.
- O. Communication towers and communication antennas
 1. Communications towers and communication antennas are permitted in the following districts by Special Use Permit:
 - a. District A

- b. District R-1 and other residential districts when the property is Master Planned for uses other than very-low or low density residential.
 - c. As a secondary use to a non-residential use in a residential zoning district where the tower:
 - (1) ~~is~~ designed as an architecturally compatible element, but exceeds the height limitations of the zoning district or any permitted height exceptions.
 - (2) ~~is~~ not architecturally designed.
 - d. In residential districts, communication antennas located on a non-residential structure located on property developed with residential uses.
 - e. On public lands and public and private parks and golf courses.
 - f. As a secondary use in Districts RP-3, RP-5, and RP-6.
 - g. As a secondary use in Districts C-O, C-1, C-2, C-3, BP and corresponding planned districts.
2. Each application for a special use permit for a communications tower shall be accompanied by the following information:
- a. Preliminary development plan.
 - b. A report from a licensed professional engineer which describes the tower's capacity, including the number and type of antennas it can accommodate.
 - c. A study comparing all potential host sites within an approximate one-half mile radius of the subject site. Potential sites shall include existing buildings and towers in excess of 100 feet and properties where towers are permitted by-right or by special use permit. The Director of Planning and Development Services, the Planning Commission or the Governing Body may require the review of additional sites pending review of the initial study. The study shall include a description of the surrounding sites, a discussion of the ability or inability of the site/tower to host a communications facility and the reasons why the site/tower was excluded from consideration. The applicant must demonstrate to the City's satisfaction that the alternative site or tower is not available due to one or more of the following reasons:
 - (1) Unwillingness of the owner to entertain a communications facility proposal.

- (2) Topographic limitations of the site.
 - (3) Adjacent impediments that would obstruct adequate communication tower transmission.
 - (4) Physical site constraints that would preclude the construction of a communication tower.
 - (5) Technical limitation of the system.
 - (6) The planned equipment would exceed the structural capacity of existing and approved towers and facilities, considering existing and planned use for those facilities.
 - (7) The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented.
 - (8) Existing or approved towers or facilities do not have space on which proposed equipment can be placed so it can function effectively and reasonably.
 - (9) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable
- d. A photo simulation of the proposed facility from affected residential properties and public rights-of-way as coordinated with the Planning staff.
 - e. An explanation of the need for the facility to maintain the integrity of the system. A map showing the service area of the proposed tower shall be made available to the staff, the Planning Commission and/or the Governing Body upon request.
 - f. A signed statement from the applicant indicating their intention to share space on the tower with other providers.
 - g. A copy of the lease between the applicant and the landowner. The lease shall contain the following provisions:
 - (1) The landowner and the applicant shall have the ability to enter into leases with other carriers for co-location.
 - (2) The landowner shall be responsible for the removal of the communications tower or facility in the event the lessee fails to remove it upon abandonment.

3. An initial request for a special use permit shall be limited to 5 years. At the time of renewal the applicant shall demonstrate to the satisfaction of the City that a good-faith effort has been made to cooperate with other providers to establish co-location at the tower site. Good-faith effort shall include, but is not limited to, timely response to co-location inquiries from other providers and sharing of technical information to evaluate the feasibility of establishing co-location. Failure to demonstrate that a good-faith effort has been made may result in the denial of the request for a renewal.
4. Height - The maximum height which may be approved for a communications tower is 150 feet. A lightning rod, not to exceed 10 feet, shall not be included within the height limitations. All new towers in excess of 100 feet shall be designed to accommodate at least 2 additional providers. The location of additional antenna on a legally existing tower shall not require additional approval from the Planning Commission or Governing Body.
5. Tower color - All towers shall maintain a galvanized finish unless otherwise required by the Planning Commission or Governing Body.
6. Tower design - All communication towers shall be of a monopole design unless required by the Planning Commission or Governing Body to be architecturally compatible to the surrounding development.
7. Setbacks - Towers and accessory buildings shall meet the setbacks of the zoning district in which they are located unless greater setbacks are required by the Planning Commission or Governing Body. The setbacks for towers located on residentially zoned property which is Master Planned for a use other than very-low density or low-density residential shall be determined at the time of the special use permit.

All towers, except those designed as an architecturally compatible element in terms of material, design and height to the existing or proposed use of the property, shall be setback 200 feet from any surrounding property which is zoned for single-family development, R-2, RP-2 or RP-4. Provided, however, that the distance may be reduced or waived by the Planning Commission or the Governing Body where the residentially zoned land is Master Planned for uses other than very-low density or low-density residential.

8. Separation Requirements - All communication towers except those designed as an architecturally compatible element in terms of material, design and height to the existing or proposed use of the property shall comply with the following separation requirements:

	TOWERS IN EXCESS OF 100'	TOWERS LESS THAN 100'
TOWERS IN EXCESS OF 100'	1,500'	1,000
TOWERS LESS THAN 100'	1,000	1,000

9. The Planning Commission or Governing Body shall have the ability to grant a deviation from the setback and separation standards subject to Section 18.150.070 (H). In support of a deviation request from the separation requirements, the applicant shall submit a technical study acceptable to the City which confirms that there are no other suitable sites available within the separation requirements.
10. Parking areas and drives - All parking areas and drives associated with the communication tower shall comply with Section 18.430.020 except that the Planning Commission or Governing Body may waive the requirements for curbing and drainage facilities when they are not needed for drainage purposes.
11. Equipment Storage - Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on the site of the communication tower unless repairs to the tower are being made.
12. Accessory Uses - Accessory uses shall include only such buildings and facilities necessary for transmission functions and satellite ground stations associated with them, but shall not include broadcast studios, offices, vehicle storage area, nor other similar uses not necessary for the transmission function.

All accessory buildings shall be constructed of building materials consistent with the primary use of the site and shall be subject to site plan or final development plan approval. Where there is no primary use other than the tower, the building materials for the accessory building shall be subject to the review and approval of the Planning Commission and/or Governing Body.
13. Lighting - Communication towers shall only be illuminated as required by the Federal Communications Commission and/or the Federal Aviation Administration. Security lighting around the base of a tower may be provided if the lighting is shielded so that no light is directed towards adjacent properties or rights-of-way.
14. Screening - The base of the tower shall be screened from view with a solid screening fence a minimum of 6 feet in height. The materials of the fence,

including any proposed razor wire or other security wire, shall be subject to the review and approval of the Planning Commission or Governing Body. The Planning Commission or Governing Body shall have the ability to waive the required screening where the design of the accessory building is architecturally compatible to the primary use of the property.

15. Landscaping - A landscaping plan shall be required in accordance with Section 18.450.040. A continuous landscaped area shall be provided around the perimeter of the accessory building or screening wall. All plant materials are subject to Section 18.450.060 and shall include a mixture of deciduous and coniferous planting materials. Drought tolerant plant materials are encouraged. Where the visual impact of the equipment building would be minimal, the landscaping requirement may be reduced or waived by the Planning Commission or Governing Body.
16. Removal of Abandoned Antennas and Towers - Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of a receipt of notice from the governing authority notifying the owner of such abandonment. If such antenna or tower is not removed within said ninety (90) days, the governing authority may remove such antenna or tower at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

P. Sale of used passenger cars in conjunction with a new car dealership.

1. The property must be zoned District CP-2 or C-2.
2. The net site area of the used car facility shall not exceed 50 percent of the net site area of the new car dealership.
3. The property line of the used car facility must be within 300 feet of the property line of the new car dealership that it will operate in conjunction with.
4. A site plan must be submitted which clearly defines the location of all used vehicle display areas, as well as employee and customer parking.
5. The new car dealership must be a licensed "new vehicle dealer" and the used car facility must be a licensed "used vehicle dealer" under the laws of the State of Kansas. The used car facility must be licensed to the same person as the new car facility.
6. The used car facility must use, and maintain on all signage, the same trade name and the same manufacturers' brand name as the new car dealership, with the addition of the words "used cars" or their equivalent.

7. The operation of the used car facility must be governed by an agreement with the same first or second stage manufacturer or distributor as the new car dealership.
8. Documentation of compliance with these performance standards must be submitted with the application for a special use permit.
9. The initial special use permit shall be for up to ten years. Any subsequent renewals may be for a period not to exceed ten years. Criteria for said renewals shall include, but not be limited to, whether or not the maintenance and appearance standards, and the manner of display of vehicles, of the used car facility have been equal to or greater than the new car dealership.

Q. Animal hospital means a building or group of buildings used primarily for providing acute or emergency in-patient services within a completely enclosed building for the diagnosis, treatment, or medical and surgical care of sick or injured animals operating on a not less than twenty-four hours, seven days a week basis. Such hospitals may include related facilities such as laboratories, out-patient department, and staff offices; provided, however, that such related facilities must be incidental and subordinate to the main use and must be an integral part of the hospital operation and does not include any outdoor facilities such as kennels, non-medical boarding, pet runs and enclosures unless specifically approved as part of the special use permit.

R. Indoor self-storage facilities

1. Indoor self-storage facilities shall only be permitted in the C-2, CP-2, C-3 or CP-3 districts.
2. In consideration of the special use permit request, the Planning Commission and Governing Body shall consider the prominence of the proposed location in relation to surrounding commercial development, the potential impact of the storage facility on the character and economic vitality of those surrounding developments, and the appropriateness of the Land Use Intensity Guidelines.
3. The storage facility shall not adversely alter the architectural design of a shopping center, and shall conform to the Shopping Center Design Guidelines.
4. At the final development plan stage, the applicant shall demonstrate that the facility can be converted without major structural changes into a space suitable for a generic retail business.
5. All operations shall be within a fully enclosed climate controlled building. Overhead doors or other means that directly access storage space from outside the building are prohibited.
6. Setbacks shall be provided as required by the underlying zoning district.

SECTION 22. Overland Park Municipal Code Section 18.410.060 is hereby amended to read as follows:

18.410.060 Change in use of property where a nonconforming situation exists

- A. A change in use of property (where a nonconforming situation exists) may not be made except in accordance with subsections B through E of this section. However, this requirement shall not apply if only a sign permit is needed.
- B. If the intended change in use is to a principal use that is permissible in the district where the property is located, and all of the other requirements of this ~~¶~~ Title applicable to that use can be complied with, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once conformity with this ~~¶~~ Title is achieved, the property may not revert to its nonconforming status.
- C. If the intended change in use is to a principal use that is permissible in the district where the property is located, but all of the requirements of this ordinance applicable to that use cannot reasonably be complied with, then the change is permissible only if the Planning Commission issues a nonconforming situation permit authorizing the change. This permit may be issued if the Planning Commission finds, in addition to any other findings that may be required by this ~~¶~~ Title, that the intended change will not result in a violation of Section 18.410.040 and that all of the applicable requirements of this ~~¶~~ Title will be complied with that are reasonably possible. Compliance with a requirement of this ~~¶~~ Title is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or without moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. Further, in no case may an applicant be given permission pursuant to this subsection to construct a building or add to an existing building if additional nonconformities would thereby be created.
- D. In making a determination under subsection C, whenever (1) there exists a lot with one or more structures on it, and (2) a proposed change in use that does not involve any enlargement of a structure is proposed for such lot, and (3) the parking or loading requirements that would be applicable as a result of the proposed change cannot be satisfied on such lots because there is not sufficient area available on the lot that can practicably be used for parking or loading, then the proposed use shall not be regarded by the Planning Commission as resulting in an impermissible extension or enlargement of a nonconforming situation in violation of Section 18.410.140. However, if the proposed use is approved, the applicant shall be required to comply with all applicable parking and loading requirements than can be satisfied without acquiring additional land, and shall also be required to obtain off-site parking if parking requirements cannot be satisfied on the lot with respect to which the [land-use site development](#) permit is required and such off-site parking is reasonably available. If such off-site parking is not reasonably available at the time the nonconforming situation permit is granted, then the permit recipient shall be required to obtain it if and when it does become reasonably available. This requirement shall be a continuing condition of the nonconforming situation permit.

SECTION 23. 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 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~~ land disturbance, site development 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~~ section 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 sections 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 24. Overland Park Municipal Code Section 18.450.040 is hereby amended to read as follows:

18.450.040 Landscaping plan required

All plans submitted in support of a final development plan, site plan, building permit or [land-use site development](#) permit, except for any residential use in Districts RE, R-1, RP-1, R-1A, RP-1A and R-2, shall include a landscaping plan signed by a registered landscape architect. Property located within District A, Agriculture, is excluded from this requirement. All landscaping plans shall include the following information:

- A. North point and scale.
- B. Topographic information and final grading adequate to identify and properly specify planting for areas needing slope protection.
- C. The location, size and surface of materials of all structures and parking areas.
- D. The location, size and type of all above-ground and underground utilities and structures with proper notation, where appropriate, as to any safety hazards to avoid during installation of landscaping.
- E. The location, size, type and quantity of all proposed landscaping materials, along with common and botanical names of all plant species. The size, grading and condition shall be specified according to American Association of Nurserymen Standards.
- F. The location, size and common name of all existing plant materials to be retained on the site.
- G. Mature sizes of plant materials shall be drawn to scale and called out on the plan by a common name or appropriate key.
- H. Location of hose connections and other watering sources.

- I. The location of all trees, 12-inch caliper or larger, measured at 4-1/2 feet above ground level, that are proposed for removal.
- J. All screening required by this [eChapter](#).

SECTION 25. Existing Overland Park Municipal Code Sections 18.130.010, 18.130.020, 18.130.030, 18.130.045, 18.130.050, 18.130.080, 18.130.100, 18.140.490, 18.370.040, 18.410.060, 18.410.090, and 18.450.040 are hereby repealed.

SECTION 26. This ordinance shall take effect and be in force from and after March 10, 2003 and after its publication in *The Overland Park Sun*, an official City newspaper.

PASSED by the City Council this ____ day of _____, 2003.

APPROVED by the Mayor this ____ day of _____, 2003.

Ed Eilert, Mayor

ATTEST:

Marian Cook, City Clerk

APPROVED AS TO FORM:

J. Bart Budetti
Sr. Assistant City Attorney