

ORDINANCE NO. ZRR-2691

AN ORDINANCE INCORPORATING BY REFERENCE THE JOHNSON COUNTY, KANSAS, ZONING & SUBDIVISION REGULATIONS, OFFICIAL COPY INCORPORATED BY RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS THE 25TH DAY OF JANUARY, 2007; SPECIFICALLY DESCRIBING AND DECLARING CERTAIN PORTIONS OF SUCH REGULATIONS TO BE OMITTED; STATING IN FULL CERTAIN PROVISIONS CHANGING OR ADDING TO THE INCORPORATED REGULATIONS; ALL AS SET OUT IN SECTIONS 18.100.120 THROUGH 18.100.230; AMENDING AND REPEALING EXISTING OVERLAND PARK MUNICIPAL CODE SECTIONS 18.100.120, 18.100.130, 18.100.140, 18.100.150, 18.100.160, 18.100.170, 18.100.180, 18.100.190, 18.100.200, 18.100.210, 18.100.220, 18.100.230 AND 18.150.020.

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

SECTION 1. Section 18.100.120 of the Overland Park Municipal Code is hereby amended to read as follows:

18.100.120 Incorporation.

The Johnson County, Kansas, Zoning & Subdivision Regulations, official copy incorporated by resolution of the Board of County Commissioners the 28th25th day MarchJanuary, 200207, is adopted and incorporated in this chapter as if fully set forth herein excepting only such parts or portions thereof as are specifically omitted, added or changed in Overland Park Municipal Code Sections 18.100.130 through 18.100.230, inclusive.

SECTION 2. Section 18.100.130 of the Overland Park Municipal Code is hereby amended to read as follows:

18.100.130 Article Omissions.

Article 3, Article 4, Article 22, Article 23, Article 25, Article 26, Article 27, Article 28, Article 29, Article 30, Article 31, Article 32 and Article 33 of the Johnson County, Kansas, Zoning & Subdivision Regulations, official copy incorporated by resolution of the Board of County Commissioners the 28th25th day of MarchJanuary, 200207, are hereby declared to be omitted in their entirety.

SECTION 3. Section 18.100.140 of the Overland Park Municipal Code is hereby amended to read as follows:

18.100.140 Sections and Subsections Omissions.

The following sections and subsections of the Johnson County, Kansas, Zoning & Subdivision Regulations, official copy incorporated by resolution of the Board of County Commissioners the 2825th day of MarchJanuary, 200207, are hereby declared to be omitted in their entirety: Subsection 2.B of Article 2; Subsection 2.D of Article 2; Section 1 of Article 5; Section 6 of Article 7; Section 3 of Article 8; and Section 4 of Article 8.

SECTION 4. Section 18.100.150 of the Overland Park Municipal Code is hereby amended to read as follows:

18.100.150 Definitions Omitted.

The following definitions contained in Section 3 of Article 2 of the Johnson County, Kansas, Zoning & Subdivision Regulations, official copy incorporated by resolution of the Board of County Commissioners the 2825th day of MarchJanuary, 200207, are hereby declared to be omitted in their entirety: "A Zone"; "A99 Zone"; "Actuarial or Risk Premium Rates"; "AE Zone and A1-A30 Zones"; "AH Zone"; "AO Zone"; "Area of Future Conditions Flood Hazard"; "Areas of Shallow Flooding"; "Areas of Special Flood Hazard"; "Base Flood"; "Bond"; "Capital Budget"; "Capital Improvement Plan"; "Capital Improvement Program"; "Costs"; "D Zone"; "Environmental Overlay Analysis"; "Existing Construction"; "Flood" or "Flooding"; "Flood Damage Reduction System"; "Flood Elevation, Regulatory"; "Flood Hazard Area"; "Flood Insurance Rate Map (FIRM)"; "Flood Insurance Study"; "Flood Plain, Regulatory"; "Flood Plain Development Permit"; "Flood Plain Management"; "Flood Plain Management Regulation"; "Flood Proofing"; "Flood Protection Elevation, Regulatory"; "Flood Protection System"; "Floodway" or "Regulatory Floodway"; "Floodway Encroachment Lines"; "Floodway Fringe"; "Flood Area, Gross"; "Flood Area, Main"; "Flood Area, Net"; "Freeboard"; "Future-Conditions Flood Hazard Area" or "Future-Conditions Flood Plain"; "Future-Conditions Hydrology"; "Johnson County Flood Insurance Rate Map (FIRM)"; "Major Street Plan"; "Major Subdivision"; "Mean Sea Level"; "Minor Subdivision"; "New Construction"; "One Hundred Year Frequency Flood"; "Other Areas in X Zone"; "Other Flood Areas in X Zone-X"; "Parkways"; "Plat, Final"; "Plat, Preliminary"; "Preliminary Plat"; "Preplatting Conference"; "Regulatory Flood Elevation"; "Regulatory Flood Protection Elevation"; "Road Classification"; "Rule Exception"; "Rural Policy Area"; "Sketch Plat"; "Subdivider's Agent"; "Subdivision, Major"; "Subdivision, Minor"; "Surety"; "Township Zoning Board"; "Urban Fringe Policy Area"; "Violation"; "Zone D"; "Zone X" and "Zoning Board."

SECTION 5. Section 18.100.160 of the Overland Park Municipal Code is hereby amended to read as follows:

18.100.160 Definitions Amended.

The following definitions contained in Section 3 of Article 2 of the Johnson County, Kansas, Zoning & Subdivision Regulations, official copy incorporated by resolution of the Board of County Commissioners the 2825th day of MarchJanuary, 200207, as adopted in Section 18.100.120 of the Overland Park Municipal Code, are hereby changed and amended to read as follows:

"Board" or "BOCC" or "Board of County Commissioners": all references to these terms shall be redefined to mean the Governing Body of the City of Overland Park, Kansas.

"Board of Zoning Appeals" or "BZA": all references to these terms shall be redefined to mean the Board of Zoning Appeals of the City of Overland Park, Kansas.

"Code Enforcement Officer": all references to this term shall be redefined to mean the Director of Planning and Development Services of the City of Overland Park, Kansas, or his/her designee.

"Comprehensive Plan": all references to this term shall be redefined to refer to the Master Plan of the City of Overland Park, Kansas, as the same may be updated and amended from time to time.

"County": all references to this term shall be redefined to refer to the City of Overland Park, Kansas.

"County's Attorney": all references to this term shall be redefined to mean the City Attorney of the City of Overland Park, Kansas, or a designated Assistant City Attorney.

"Datum": for the purpose of determining the height limits in the Airport Overlay District set forth in these regulations, the datum shall be mean sea level elevation unless otherwise specified.

"Director": all references to this term shall be redefined to mean the Director of Planning and Development Services of the City of Overland Park, Kansas, or his/her designee.

"Flood Plain": all references to this term shall have the same meaning as set forth in Section 18.110.250 of the Overland Park Municipal Code, and any amendments thereto. Such areas are subject to and regulated by Chapter 18.360 of the Overland Park Municipal Code.

"Governing Body": all references to this term shall be redefined to refer to the Mayor and City Council of the City of Overland Park, Kansas.

"Height": the vertical distance from the average ground elevation adjacent to a building or structure to the highest point of a building or highest point of any permanent part of the structure or building. Height, where not regulated in feet, shall be regulated by stories. A story shall be equal to twelve feet for purposes of measuring structures other than buildings. For purposes of the Airport Overlay District Zones, the datum for height measurement shall be mean sea level unless otherwise specified and the height limits in all Airport Overlay Zones shall be as established on the Airport Zoning Map.

"Long Range Road Network Plan": all references to this term shall be redefined to refer to the Official Street Map as defined in Section 18.110.445 of the Overland Park Municipal Code, as amended from time to time.

"Overlay District Zoning Map": the official map for the Airport Area Overlay District prepared by the Johnson County Planning Office on file with the Johnson County Planning Office and duly adopted by the Board of County Commissioners, and any amendments thereto.

"Planning Commission": this term shall be redefined to mean the Planning Commission of the City of Overland Park, Kansas.

"Regulations": this term shall be redefined to mean those portions of the Johnson County, Kansas, Zoning & Subdivision Regulations adopted by this ordinance and other applicable provisions of the Unified Development Ordinance as defined in Section 18.110.645 of the Overland Park Municipal Code, and any amendments thereto.

"Secretary of the Board of Zoning Appeals": this term shall be redefined to mean the person designated as the Secretary of the Board of Zoning Appeals of the City of Overland Park, Kansas.

"Structure": generally, anything more than three (3) feet in height constructed or erected by man which requires location on the ground, or attached to something having location on the ground.

"Subdivision Regulations": the official subdivision regulations of the City of Overland Park, Kansas, as set forth in Chapter 18.460 of the Overland Park Municipal Code, and any amendments thereto.

"Zoning Administrator": all references to this term shall be redefined to refer to the Director of Planning and Development Services of the City of Overland Park, Kansas, or his/her designee.

"Zoning Map": the zoning map(s) showing zoning districts for land subject to these zoning regulations as prepared by the Johnson County Planning Office and duly adopted by the Board of County Commissioners, and provided to the City of Overland Park, Kansas, following the annexation of land by the City by both Ordinance No. A-2367 and Ordinance No. A- ~~effective upon publication on May 8, 2002~~.

"Zoning Permit": a document signed by the Director of Planning and Development Services, or his/her designee, to acknowledge that a tract has been satisfactorily developed in accordance with an approved development plan as provided in these regulations.

"Zoning Regulations": the official zoning regulations of Johnson County, Kansas, as adopted in this ordinance, and any amendments thereto.

SECTION 6. Section 1 of Article 6 of the Johnson County, Kansas, Zoning & Subdivision Regulations, official copy incorporated by resolution of the Board of County Commissioners the 25th day of January, 2007, is hereby amended, and Section 18.100.170 of the Overland Park Municipal Code is hereby amended, to read as follows:

18.100.170 Prohibited Acts and Conduct.

From and after the effective date of this ordinance, no person shall violate any of the provisions of the regulations adopted hereby, or fail to comply with any of the requirements of these regulations, including, but not limited to, any conditions or terms established in connection with grants of variances, nor use any property, building or structure in any way except as permitted and in the manner provided by these regulations, and any act, conduct or use which fails to comply with the provisions of these regulations and any codes, rules or standards adopted as a part of these regulations, shall be and hereby is declared to be unlawful as a violation of the Unified Development Ordinance of the City of Overland Park, Kansas.

SECTION 7. Section 2 of Article 6 of the Johnson County, Kansas, Zoning & Subdivision Regulations, official copy incorporated by resolution of the Board of County Commissioners the 25th day of January, 2007, is hereby amended, and Section 18.100.180 of the Overland Park Municipal Code is hereby amended, to read as follows:

18.100.180 Violations.

The failure of any person to comply with, or the violation of, any provision, requirement, standard or condition contained within or as a part of these regulations, shall be a public offense. The failure of any person to comply with, or the violation of, any order, directive or notice of the Director of Planning Development Services, or his/her designee, related to the provisions of these regulations, shall be a public offense.

SECTION 8. Section 4 of Article 6 of the Johnson County, Kansas, Zoning & Subdivision Regulations, official copy incorporated by resolution of the Board of County Commissioners the 25th day of January, 2007, is hereby amended, and Section 18.100.190 of the Overland Park Municipal Code is hereby amended, to read as follows:

18.100.190 Penalties and Fines.

Any person violating the provisions of the Johnson County, Kansas, Zoning & Subdivision Regulations, official copy incorporated by resolution of the Board of County Commissioners the 285th day of MarchJanuary, 20027, as incorporated herein and as amended, shall be subject to the penalties, fines, and civil remedies as set forth in Section 18.100.110 of the Overland Park Municipal Code.

SECTION 9. Section 5 of Article 6 of the Johnson County, Kansas, Zoning & Subdivision Regulations, official copy incorporated by resolution of the Board of County Commissioners the 25th day of January, 2007, is hereby amended, and Section 18.100.200 of the Overland Park Municipal Code is hereby amended, to read as follows:

18.100.200 Prosecution Of Actions.

The City Attorney, or his/her designee, shall have the duty of prosecuting all actions for the enforcement of these regulations and shall be vested with all of the discretion with respect to the prosecution of these regulations as may be vested in any other prosecuting attorney with statutory authority to prosecute actions for the enforcement of zoning regulations.

SECTION 10. Section 1 of Article 8 of the Johnson County, Kansas, Zoning & Subdivision Regulations, official copy incorporated by resolution of the Board of County Commissioners the 25th day of January, 2007, is hereby amended, and Section 18.100.210 of the Overland Park Municipal Code is hereby amended, to read as follows:

18.100.210 Zoning Map.

The properties annexed into the City of Overland Park by Ordinance No. A-2367, effective upon publication on May 8, 2002, shall retain the Johnson County zoning district classifications in effect prior to annexation, as shown on the "Zoning Map of Johnson County, Kansas," in effect on May 8, 2002, together with all explanatory matter thereon. The properties annexed into the City of Overland Park by Ordinance No. A-_____, effective upon publication on _____, shall retain the Johnson County zoning district classifications in effect prior to annexation, as shown on the "Zoning Map of Johnson County, Kansas," in effect on _____, together with all explanatory matter thereon. Said properties shall be added to the Official Zoning Map of the City incorporated by reference in Section 18.150.020 of the Overland Park Municipal Code, and the Johnson County zoning district boundaries shall be reflected thereon.

SECTION 11. Section 2 of Article 20 of the Johnson County, Kansas, Zoning & Subdivision Regulations, official copy incorporated by resolution of the Board of County Commissioners the 25th day of January, 2007, is hereby amended, and Section 18.100.220 of the Overland Park Municipal Code is hereby amended, to read as follows:

18.100.220 Applicability.

The provisions of this Article govern the size, placement, use and structural quality of outdoor signs and other advertising and identification devices together with their appurtenant and auxiliary apparatus. No sign shall be erected, enlarged, constructed, reconstructed, relocated, refaced, or structurally or otherwise altered, without first obtaining a separate sign permit as set forth in this Article. Any sign for which a permit is required is allowed to maintain noncommercial speech in addition to or in lieu of any other speech.

SECTION 12. Section 18.100.230 of the Overland Park Municipal Code is hereby amended to read as follows:

18.100.230 Application of Johnson County, Kansas, Zoning & Subdivision Regulations; Procedures.

The Johnson County, Kansas, Zoning & Subdivision Regulations incorporated by this ordinance, as amended, are adopted in order to assure the stability and continuity of zoning for properties zoned pursuant to such regulations prior to the annexation of such properties into the City of Overland Park by both Ordinance No. A-2367, effective May 8, 2002, and Ordinance No. A-_____. All properties zoned pursuant to such regulations shall be entitled to develop under the uses and regulations set forth therein. Appeals or requests for variances from the provisions of such regulations shall be made to the Overland Park Board of Zoning Appeals in accordance with the provisions of Title 18 of the Overland Park Municipal Code. The provisions of Chapter 18.140 of the Overland Park Municipal Code shall apply to plan approvals and any other action, as applicable. No property may be rezoned to a Johnson County, Kansas, zoning district or be granted a conditional use permit pursuant to the Johnson County, Kansas, Zoning & Subdivision Regulations after the effective date of this ordinance. In the case of conflicts between the applicable provisions of the Johnson County, Kansas, Zoning & Subdivision Regulations and other provisions of the Unified Development Ordinance, the provisions of the Johnson County, Kansas, Zoning & Subdivision Regulations shall control.

SECTION 13. Section 18.150.020 of the Overland Park Municipal Code is hereby amended to read as follows:

18.150.020 Official Zoning Map.

The boundaries of the zoning districts enumerated in Section 18.150.010 and in Article 7 of the Johnson County, Kansas, Zoning & Subdivision Regulations adopted herein shall be shown on a map officially designated as the Zoning District Map, which map is hereby incorporated by reference. Such "Zoning District Map" shall be marked "official copy of zoning district map incorporated into the zoning regulations by adoption of a zoning ordinance by the Governing Body of the City on the _____ day of _____, 20—07," and shall be filed in the office of the Director of Planning and Development Services of the City of Overland Park, Kansas, to be open to inspection and available to the public at all reasonable business hours. Ordinances amending the boundaries of zoning districts shall order the "Zoning District Map" to be changed to reflect such amendment, shall amend this Section 18.150.020, and shall reincorporate such "Zoning District Map" as amended.

SECTION 14. This ordinance has been adopted in accordance with the procedures set forth in K.S.A. Supp. 12-757, as amended, K.S.A. 12-3009 and K.S.A. 12-3010 for incorporation by reference of a zoning ordinance.

SECTION 15. Not less than three (3) copies of the Johnson County, Kansas, Zoning & Subdivision Regulations, official copy incorporated by resolution of the Board of County Commissioners the 25th day of January, 2007, shall be marked or stamped "Official Copy as Incorporated by Ordinance No. ZRR-____," with all sections or portions thereof intended to be omitted clearly marked to show such omission, and the provisions changing or adding to the incorporated provisions so indicated, and to which shall be attached a copy of this incorporating ordinance, and shall be on file with the City Clerk and open to inspection and available to the public at all reasonable business hours.

SECTION 16. Existing Overland Park Municipal Code Sections 18.100.120, 18.100.130, 18.100.140, 18.100.150, 18.100.160, 18.100.170, 18.100.180, 18.100.190, 18.100.200, 18.100.210, 18.100.220, 18.100.230 and 18.150.020 are hereby repealed.

SECTION 17. This ordinance shall take effect and be enforced from and after its publication in an official City newspaper.

PASSED by the City Council this 19th day of May, 2008.

APPROVED by the Mayor this 19th day of May, 2008.

Carl Gerlach, Mayor

ATTEST:

Marian Cook, City Clerk

APPROVED AS TO FORM:

J. Bart Budetti, Senior Assistant City Attorney