

**ORDINANCE NO. ZRR-3355**

**AN ORDINANCE OF THE CITY OF OVERLAND PARK, KANSAS RELATING TO THE UNIFIED DEVELOPMENT ORDINANCE AND THE REGULATION OF CLUBS AND DRINKING ESTABLISHMENTS AND RETAIL SALES OF LIQUOR AND CEREAL MALT BEVERAGES WITHIN COMMERCIAL AND MIXED USE DISTRICTS AND WITH RESPECT TO HOTELS, MOTELS, CONVENTION CENTERS, HOSPITALS, NURSING OR CONVALESCENT HOMES AND CONTINUING CARE COMMUNITIES; AMENDING AND REPEALING EXISTING OVERLAND PARK MUNICIPAL CODE SECTIONS 18.100.049, 18.110.105, 18.110.190, 18.110.525, 18.110.530, 18.250.020, 18.250.050, 18.260.020, 18.260.050, 18.270.020, 18.270.050, 18.275.020, 18.275.050, 18.390.060 AND 18.390.100 AND PROVIDING SUBSTITUTE PROVISIONS THEREFOR.**

WHEREAS, after conducting a public hearing on February 14, 2022, the Planning Commission adopted a recommendation of this Ordinance to revise the City’s regulations in the Unified Development Ordinance regarding clubs and drinking establishments and retail sales of liquor and cereal malt beverages within commercial and mixed use districts and with respect to hotels, motels, convention centers, hospitals, nursing or convalescent homes and continuing care communities; and

WHEREAS, at the recommendation of City staff and the Planning Commission, the Governing Body hereby revises the City’s Unified Development Ordinance as set forth hereafter.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OVERLAND PARK, KANSAS, AS FOLLOWS:

SECTION 1. Overland Park Municipal Code Section 18.110.105 is hereby amended to read as follows:

**18.110.105 Club**

**Club** means a Class A or Class B Club. Class A Club means a premises that is owned or leased by a corporation, partnership, business trust or association, and that is operated thereby as a bona fide nonprofit, social, fraternal or war veterans' club as determined by the Director of Alcoholic Beverage Control of the Kansas Department of Revenue, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates and their families and guests accompanying them as provided in K.S.A. 41-2637 (as may be amended). Class B Club means a premises operated for profit by a corporation, partnership, or individual to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment. (See 5.20.055 I-K, and K.S.A. 41-2601 (e)-(g))

SECTION 2. Overland Park Municipal Code Section 18.110.190 is hereby amended to read as follows:

**18.110.190 Drinking Establishment**

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**Drinking establishment** means a premises that may be open to the general public, where alcoholic liquor and cereal malt beverage by the individual drink is served. (See license requirements in 5.20.055 N and K.S.A. 41-2601(h), each as may be amended)

SECTION 3. Overland Park Municipal Code Section 18.110.525 is hereby amended to read as follows:

**18.110.525 Restaurant**

**Restaurant** (*also referred to as Food Establishment or Food Service Establishment*) means any place wherein food is prepared and served or offered for sale or service on the premises or elsewhere in ready-to-eat form to the public for human consumption. "Restaurant" includes cafe, cafeteria, grill, pizza parlor, diner, snack shop, hamburger shop and steak house, but does not include roadside or farmers markets that offer only fresh fruits, nuts and vegetables for sale. (See K.S.A. 65-656(v).) If a Restaurant is also licensed as a "drinking establishment" or as a "club," it must also meet all city code provisions applicable to drinking establishments or clubs.

SECTION 4. Overland Park Municipal Code Section 18.110.530 is hereby amended to read as follows:

**18.110.530 Retail sales of alcoholic liquor or cereal malt beverages**

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**Retail sales of alcoholic liquor or cereal malt beverages** means the sale of alcoholic liquor or cereal malt beverages in the unopened original package for consumption off the premises by a retailer licensed by the State and the City. (See license requirements for cereal malt beverages in 5.12, and license requirements for alcoholic liquor in 5.48)

SECTION 5. Overland Park Municipal Code Section 18.250.020 (regarding Permitted Uses in C-O Office Building District and CP-O Planned Office Building District) is hereby amended to read as follows:

**18.250.020 Permitted Uses**

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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 [18.250.050](#):

- A. Offices for the administrative and management functions only of businesses and civic organizations.
- B. Services, limited to the following:
  - Accounting and bookkeeping;
  - Advertising;
  - Banks and financial institutions;

- Broadcasting studios;
- Business machine services (including photocopy, telefacsimile, computer and data processing);
- Consulting services;
- Employment services;
- Engineering, architects and designers;
- Information services;
- Insurance;
- Investment services;
- Labor unions and business associations;
- Legal services;
- Medical and dental offices;
- Medical and optical labs;
- Postal services;
- Public and private utilities;
- Real estate;
- Securities and commodities brokers;
- Travel agents.
- C. Marketing, display or repairs of business equipment, medical equipment, medical supplies, pharmaceuticals and cosmetics.
- D. Day care centers and preschools.
- E. Institutions of higher learning and classrooms for business and professional schools.
- F. Accessory uses as provided in [18.390](#).
- G. Restaurants in an office park with at least 150,000 square feet of office building floor area.
- H. Communication Facilities
  1. Antennas mounted on existing buildings and water towers.
  2. Small Cell/DAS facilities on utility poles or street lights in the public right-of-way.
- I. Utility structures.
- J. Roof-mounted wind turbine(s) and wind turbines mounted on parking lot light poles.
- K. Churches, publicly-owned and operated community buildings, museums and libraries.

SECTION 6. Overland Park Municipal Code Section 18.250.050 (regarding Development and Performance Standards for C-O Office Building District and CP-O Planned Office Building District) is hereby amended to read as follows:

**18.250.050 Development and Performance Standards**

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- A. **Development and performance standards applicable to all uses:**
  1. Prior to the issuance of any building permit, site plan approval shall be obtained as provided for in 18.140.
- B. **Business Use:**
  1. All business shall be conducted within the building, except as follows:
    - a. Financial institutions may be permitted drive-up or walk-up service as part of final development plan approval in District CP-O.
    - b. Day-care centers and preschools may be permitted outdoor activity areas as part of final development plan approval in District CP-O.
  2. Areas devoted to the display of business equipment, medical equipment, medical supplies, pharmaceuticals or cosmetics shall not exceed 50% of any tenant space. Areas devoted to repair services shall not exceed 10% of any tenant space. No over-the-counter sales shall be permitted except as provided in 18.390.060. Storage of the permitted items

shall not constitute warehousing or distribution in the normal sense but shall be limited to that quantity of stock necessary for the normal administrative, service and sales function of the business.

C. **Retail sales of goods and services:**

1. No merchandise shall be handled or displayed except inside buildings and no equipment or vehicle other than passenger cars shall be stored outside a building in this district for more than twenty-four hours in a 30-day period.
2. Where pharmacies or optical shops are permitted as an accessory use as provided in 18.390, there shall be no direct exterior entrance to the pharmacy.

D. **Restaurant** - A restaurant is allowed as a detached accessory building in an office park that consists of at least 150,000 square feet of office building floor area. One single-tenant restaurant building is allowed per 150,000 square feet gross square footage of office buildings, not including basement square footage, up to a maximum of two single-tenant restaurant buildings. The restaurant may be licensed as a drinking establishment, provided it meets the requirements in 18.260.050. All detached restaurant buildings shall meet the following standards:

1. No drive-in, drive-thru or walk-up service is allowed.
2. The restaurant shall meet the parking requirements of one stall per every three seats in addition to the required parking for the office building square footage.
3. The architectural design for a detached restaurant building shall meet all applicable requirements of the Architectural Design Standards. Parking lot areas for detached accessory restaurants shall meet the requirements of the Site Design Standards.
4. Any outdoor food service or outdoor seating areas shall meet the requirements in 18.260.050.

E. **Parking area lighting** - Any lighting used to illuminate an off-street parking area, sign or other structure shall be arranged as to deflect light away from any adjoining residentially zoned property or from public streets. Direct or sky-reflected glare, from floodlights or commercial operations, shall not be directed into any adjoining property. The source of lights shall be hooded or controlled. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights that cast light on a public street shall not exceed 1 foot-candle (meter reading) as measured from the centerline of the street. Any light or combination of lights that cast light on adjacent residentially zoned property shall not exceed 0.5 foot-candles (meter reading) as measured from said property line.

F. **Communication Facilities (Towers, Base Stations and Antennas)** - Communications facilities are subject to the application, location and performance standards of 18.395 - Communications Facilities.

G. **Utility Structures** - Utility structures meeting the following standards may be installed upon the approval of an application for site plan approval. A right-of-way work permit shall be obtained for any work associated with the utility structure that will disturb the public right-of-way.

1. **Size and Height** - The structure shall be limited to 7 feet in height above average grade and shall be limited to a footprint no larger than 42 square feet in area. If the structure is larger than the size requirements outlined above, it may be permitted if located within proximity (adjacent to, clustered with) existing buildings so as to be inconspicuous from any public street or adjacent property.
2. **Parking** - The structure shall not be located such that it will cause a reduction in the required number of parking spaces, nor be located so as to interfere with normal circulation patterns or any sight-distance triangle.
3. **Location** - Except when the structure is located within the public right-of-way, it shall comply with all setback requirements from the public right-of-way as outlined in the

zoning district regulations. The structure shall be located a minimum of 30-feet from any existing single-family residential property line, or any vacant property identified in the Master Plan for low- or very low-density residential uses. If the structure is located within the public right-of-way, it shall be located behind the sidewalk, and is subject to approval by the City Engineer.

4. **Noise** - The structure shall comply with all noise requirements, established by the City.
5. **Landscaping** - Landscaping shall be provided for all structures with a footprint greater than 2 square feet, where necessary to substantially screen the structure from public view and/or the view of adjacent homeowners. Where landscaping is used for screening, a landscape plan signed by a registered landscape architect shall be submitted with an application for a right-of-way work permit. If multiple locations of similar structures are proposed then the utility may submit a minimum of 2 typical landscape plans prepared by a licensed landscape architect for review and approval by the City. As part of any right-of-way work permit, landscaping shall be installed in accordance with an approved plan. Maintenance of all landscaping shall be the responsibility of the utility, unless written acceptance of such responsibility is provided from the property owner.
6. **Access** - The structure shall be accessed from an internal private drive, or adjacent commercial public street. Where that is not possible, access to the structure from a thoroughfare or super-collector street may be considered, in which case an asphalt driveway meeting the requirements of [18.430.020](#) shall be constructed. The City Engineer may waive the requirements for curbing and drainage facilities when they are not needed for drainage purposes. The driveway shall be designed such that vehicles can turn around without backing onto the thoroughfare.
7. **Abandonment** - Any structure that is not operated for a continuous period of six (6) months shall be considered abandoned. The owner of said structure shall remove the structure and return the site to its original condition within 30 days following abandonment of the structure.
8. Notwithstanding any provisions to the contrary, utility structures may continue to be installed upon the issuance of a special use permit under the applicable provisions of the UDO as they existed on January 1, 2001, and any applicant for approval of a utility structure may elect to follow those procedures and requirements or elect to comply with the amended provisions allowing a right-of-way work permit to be issued without a special use permit.

#### H. **Wind turbines:**

1. Wind turbines may be installed on any non-single-family structure (such as a building, water tower, etc.) 3stories in height or greater but no less than 35 feet provided that the wind turbines shall add no more than 20 feet to the height of said existing structure. Wind turbines which are architecturally compatible to the building architecture may be located on non-residential buildings less than 3stories or 35 feet in height, subject to final development plan approval. The maximum height which may be approved for a roof-mounted wind turbine on a non-residential building less than 3stories or 35 feet in height shall be equal to one-half the height of the building, measured from the surface of roof on which the turbine is mounted to the highest point of the wind turbine structure, including blades, if applicable. Associated equipment may be permitted on the roof so long as it is screened from view in accordance with [18.450.100](#). The roof-mounted wind turbine itself is exempt from the screening provisions of this subsection for optimum functionality of the turbine.
2. Wind turbines may be installed on parking lot light poles. The mounting height for parking lot light fixtures shall not exceed 33 feet as measured to the top of the fixture from grade. 20% of the height of the light pole may be added above the light fixture for

the purpose of installing a wind turbine. The overall height of the parking lot light pole and wind turbine shall not exceed 40 feet, measured to the highest point of the wind turbine structure, including blades, if applicable. The wind turbine and any required appurtenances shall be painted to match the light pole and fixture.

SECTION 7. Overland Park Municipal Code Section 18.260.020 (regarding Permitted Uses in C-1 Restricted Business District and CP-1 Planned Restricted Business District) is hereby amended to read as follows:

**18.260.020 Permitted Uses**

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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 18.260.050:

- A. Any use permitted in District C-0 subject to the applicable development and performance standards in 18.250.050, except for those differences set forth in 18.260.050.
- B. Retail sale of goods and services including or similar to the following, but excluding any use specifically listed in District C-2 or District C-3:
  - Alterations and tailoring;
  - Apparel;
  - Antiques;
  - Appliances;
  - Appliance and electronics repair;
  - Art galleries and studios (incl. photo);
  - Automotive parts;
  - Bakeries (retail only);
  - Barber shops and hair salons;
  - Books and periodicals;
  - Cameras and photo equipment;
  - Carpet & floor coverings;
  - Clubs and Drinking establishments
  - Consumer electronics;
  - Drugs and cosmetics;
  - Flowers and plants;
  - Food (incl. candy, meat & specialty items);
  - Furniture and home furnishings;
  - Greeting cards and stationery;
  - Hardware;
  - Health or fitness clubs;
  - Housewares and kitchenware;
  - Interior decorating;
  - Jewelry;
  - Junior department stores;
  - Mortuaries and funeral parlors;
  - Music and musical instruments;
  - Office supplies;
  - Optical shops;
  - Retail sales of alcoholic liquor or cereal malt beverages;

Paint and wallpaper;  
Pet stores;  
Photocopying and retail printing;  
Picture framing;  
Restaurants;  
Shoe repairs;  
Sporting goods & bicycles;  
Toys and hobby supplies;  
Veterinarian (domesticated pets only);  
Video rental.

- C. Dry cleaning and laundry pick-up or coin-operated laundry and dry cleaning operations classified as low hazard in applicable codes.
- D. Accessory uses as provided in 18.390.

SECTION 8. Overland Park Municipal Code Section 18.260.050 (regarding Development and Performance Standards for C-1 Restricted Business District and CP-1 Planned Restricted Business District) is hereby amended to read as follows:

**18.260.050 Development and Performance Standards**

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**A. Development and performance standards applicable to all uses:**

- 1. Prior to the issuance of any building permit, site plan approval shall be obtained as provided for in 18.140.
- 2. 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.

**B. Retail sales of goods and services:**

- 1. No wholesale sales shall be conducted.
- 2. No goods, merchandise or equipment shall be stored or displayed outside of a building.
- 3. All goods, merchandise and equipment shall be sold or rented, and all services rendered, inside of a building, except as provided in subsections C - E.

**C. Drive-in, Drive-thru and Walk-up service** - Drive-in, drive-thru or walk-up service may be permitted as part of final development plan approval in District CP-1. The location and design of any drive-in or drive-thru 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-thru facility relating to the configuration, design or operation of the facility intended to lessen potential adverse effects.

Exception: Drive-in, drive-thru or walk-up service is not permitted for:

- 1. Restaurants;
- 2. Retail sales of alcoholic liquor or cereal malt beverages; or
- 3. Sales for consumption of alcoholic liquor or cereal malt beverages.

**D. Curbside service** - Curbside service may be permitted. The location and design of any designated walk-up or curbside service facility shall be such that potential adverse effect is minimal or nonexistent upon pedestrian and vehicular traffic for the site or upon adjacent property.

- E. **Outdoor food service areas** - Restaurants or drinking establishments may have an outdoor food service area that is accessory to the main restaurant or drinking establishment function.
1. The outdoor food service area must be:
    - a. A well-defined space enclosed by a fence, a wall, or another appropriate material or barrier approved by the Director, in such a way as to allow access only through the interior of the building or through an official gate or entrance (see subsection G.3. below);
    - b. Located on a paved surface at the level of the restaurant. If the outdoor food service area is to be located in an area that has been used for parking, the area must be brought up to the sidewalk level of the restaurant, with adequate pedestrian circulation provided around the outdoor food service area.
    - c. Adequately lighted during all business hours; and
    - d. Designed and serviced to keep debris from blowing off the premises.
  2. Patrons must gain entrance to the outdoor food service area through the main entrance to the restaurant or drinking establishment, but at least one exit from the outdoor service area must be provided for fire safety.
  3. If the outdoor food service area is installed on or adjacent to an existing pedestrian walkway, clear sidewalk width meeting the requirements in Site Design Standards SDS 4.7.2 for pedestrian passing shall be provided outside the defined area.
  4. The tables and chairs shall be located at least 10 feet from any doors.
- F. **Outdoor seating areas** - Restaurants may provide a small area of tables and chairs on an existing sidewalk where service is not provided by restaurant staff.
1. Seating areas along a pedestrian walkway shall allow clear sidewalk width meeting the requirements in Site Design Standards SDS 4.7.2 for pedestrian passing. No required ADA areas shall be obstructed.
  2. The tables and chairs shall be located at least 10 feet from any doors.
  3. Drinking establishments that do not provide outdoor service by staff members shall follow the provisions in E above if alcohol is allowed to be taken outside.
- G. **Clubs, drinking establishments, or restaurants serving alcoholic liquor or cereal malt beverages.**
1. Clubs, drinking establishments or restaurants serving alcoholic liquor or cereal malt beverages must be licensed with the State and the City. (See 5.12, 5.20, 5.48)
  2. Clubs, drinking establishments or restaurants serving alcoholic liquor or cereal malt beverages in an outdoor food service area (see subsection E above), must monitor all gates or entrances to the outdoor area as appropriate to ensure no alcoholic liquor or cereal malt beverages are removed from the premises.
- H. **Retail Sales of Alcoholic liquor or cereal malt beverages.**
1. Retail sales of alcoholic liquor or cereal malt beverages not for consumption on the premises are allowed for retailers that are properly licensed with and in compliance with all State and City alcoholic liquor or cereal malt beverage licensing requirements. (See 5.12, 5.20 and 5.48)
  2. Retail Sales of alcoholic liquor or cereal malt beverages are subject to the provisions of subsection B above.
  3. Pursuant to K.S.A. 41-710 (as may be amended), the exterior walls of an alcoholic liquor retailer premises shall not be located within 200 feet of the property line of any public or parochial school or college or church, except that if any such school, college or church is



established within 200 feet of any existing alcoholic liquor retailer this setback restriction shall not apply.

SECTION 9. Overland Park Municipal Code Section 18.270.020 (regarding Permitted Uses in C-2 General Business District and CP-2 Planned General Business District) is hereby amended to read as follows:

**18.270.020 Permitted Uses**

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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 [18.270.050](#):

- A. Any use permitted in District [C-1](#) subject to the applicable development and performance standards in [18.260.050](#), except for those differences set forth in [18.270.050](#).
- B. Retail sale of goods and services including or similar to the following, but excluding any use specifically listed in District [C-3](#):
  - Motorcycles;
  - Building supplies;
  - Communication & specialty electronics;
  - Delivery services;
  - Department stores;
  - Gasoline and other motor vehicle fuels;
  - Glass;
  - Medical equipment;
  - Newspaper publishing and printing;
  - Office equipment;
  - Theaters, movie and stage.
- C. Retail or wholesale sales of new passenger cars, including used car lots accessory and subordinate thereto, and recreational vehicles where sold in conjunction with new passenger cars.
- D. Rental or leasing of new and used passenger cars.
- E. Rental or leasing of furniture and home furnishings.
- F. Passenger car repair in connection with new passenger car sales, and 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.
- G. Tunnel car washes and single-bay automatic car washes operated in conjunction with a gas station.
- H. Services such as pest control, custom maintenance and small equipment repair.
- I. Classrooms and training facilities for business and trade schools.
- J. Entertainment or recreational uses including or similar to the following, but excluding any other use specifically requiring a special use permit: bowling alleys; pool or billiard parlors; skating rinks; indoor tennis and racquet courts; or indoor miniature golf.
- K. Plumbing and electrical supplies and services.
- L. Accessory uses as provided in [18.390](#).

SECTION 10. Overland Park Municipal Code Section 18.270.050 (regarding Development and Performance Standards for C-2 General Business District and CP-2 Planned General Business District) is hereby amended to read as follows:

**18.270.050 Development and Performance Standards**

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**A. Development and performance standards applicable to all uses:**

1. Prior to the issuance of any building permit, site plan approval shall be obtained as provided for in 18.140.
2. Any lighting used to illuminate an off-street parking area, sign or other structure shall be arranged as to deflect light away from any adjoining residentially zoned property or from public streets. Direct or sky-reflected glare, from flood-lights or commercial operations, shall not be directed into any adjoining property. The source of lights shall be hooded or controlled. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights that cast light on a public street shall not exceed one foot-candle (meter reading) as measured from the centerline of the street. Any light or combination of lights that cast light on adjacent residentially zoned property shall not exceed 0.5 foot-candles (meter reading) as measured from said property line.
3. 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.

**B. Retail sales of goods and services** - Merchandise which may be appropriately displayed or stored outside a building shall be kept off the public sidewalks and streets, shall not reduce the capacity of a parking lot below that required by this title, and shall not occupy an area outside the building that is greater than 20% of the ground floor area of the building.

**C. Drive-in, Drive-thru and Walk-up service**

1. Drive-in, drive-thru or walk-up service may be permitted as part of the final development plan approval in District CP-2. The location and design of any drive-in, drive-thru or walk-up 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-thru facility relating to the configuration, design or operation of the facility intended to lessen potential adverse effects.
  - a. No order box, order window, payment window, pickup window, drive-in service stall, or similar point of interaction for the drive-in or drive-thru 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 preliminary and final 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:

1. 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.
  2. 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-thru facility.
  3. The degree to which the property containing the drive-in or drive-thru 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-thru on the residentially zoned property.
  4. 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-thru facility on the residentially zoned property.
- b. 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-thru facility. The amount of stacking space is to be determined as part of the preliminary development plan and after consultation with the Traffic Engineer of the City.
- D. **Curbside service** – see 18.260.050.
- E. **Outdoor food service areas** - see 18.260.050.
- F. **Outdoor seating areas** - see 18.260.050.
- G. **Clubs, drinking establishments, or restaurants serving alcoholic liquor or cereal malt beverages** – see 18.260.050.
- H. **Retail Sales of Alcoholic liquor or cereal malt beverages** – see 18.260.050.
- I. **Outdoor Kennels** - Outdoor kennels or runs are not permitted in conjunction with veterinary clinics.
- J. **Car washes** - Tunnel car washes designed to clean a moving vehicle using paid employees or automated equipment inside a fully enclosed building shall be permitted only in the CP-2 district, subject to the following development and performance standards:
1. The tunnel car wash shall be on the same property as and integrally designed with a gas station.
  2. The entrance and exit of the tunnel car wash shall be a minimum of 200 feet from any residentially zoned property. Provided, however, that the distance restriction may be reduced or waived by the Planning Commission or the Governing Body at the time of preliminary and final development plan approval where the residentially zoned property 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 the same factors referenced in [18.270.050 A1](#).
  3. Adequate stacking of vehicles at the entrance to the tunnel car wash is provided so that all stacking occurs within the site boundaries without negatively impacting internal site circulation and does not occur on public streets or access drives. The Planning Commission and Governing Body shall determine the amount of vehicle stacking required at the time of preliminary development plan approval after consultation with the City Traffic Engineer.

4. If full-service drying of vehicles (i.e. vehicles are dried by employees of the car wash) is provided as a separate process outside the building, adequate stacking shall be provided as indicated in subsection 2 above.
  5. Adequate information shall be provided which indicates that the tunnel car wash will not exceed the decibel levels outlined in the ordinance and will not have a negative impact on surrounding properties.
  6. No outside vacuums shall be permitted.
- K. Car Rental or Lease Offices** - Offices for the rental or leasing of new and used passenger cars may be permitted only after final development plans or site plans have been approved by the Planning Commission with the following standards applying:
1. The servicing of the passenger cars shall occur inside a building with the servicing limited to washing, cleaning, oil and tire changing.
  2. The number of vehicles to be kept on the site at any one time shall be determined by the size and location of the site and its relationship to surrounding property. The passenger cars shall be parked in an orderly manner on the site as depicted on the approved plan.
  3. No advertising shall be permitted on the passenger cars.
- L. Car Sales**
1. Automobiles and trucks for sale may be stored or displayed outside a building, but not within 15 feet of a street right-of-way, nor within six feet of a side or rear lot line.
  2. In addition to the other applicable provisions of the Code, any newly constructed new car dealership south of Interstate 435 shall only be allowed in a planned zoning district, and shall comply with all of the standards listed in the Section. The perimeter of such new car dealership use shall be clearly defined on the preliminary development plan.
    - a. All structures and parking lots associated with such new-car dealership shall meet the following setback and separation requirements based on the Master Plan designation of the adjacent property:

SEPARATION	
Single-Family Residential	250 feet
Multi-Family Residential or Office	100 feet
SET-BACKS FROM:	
Public R-O-W	30 feet
Commercial property lines	N/A
Perimeter of defined new car dealership use, excluding R-O-W	75 feet
Adjacent Residential property lines	See Separation Requirements
Adjacent Auto Dealer Use	15 feet
Private Drive	15 feet

- b. No required setback area shall be used for vehicle display. Vehicle display areas shall be identified on the preliminary and final plan. A single elevated vehicle platform shall be permitted for each dealership if it is constructed of landscape materials or building materials consistent with the construction of the building. The maximum allowable height shall be six feet. In no event shall vehicle display areas or platforms rotate or move in any manner.
- c. The preliminary and final plan shall identify areas for vehicle loading and unloading. In the case of three or more new car dealerships in a unified development, a common area for vehicle loading and unloading may be identified.
- d. The site plan shall designate parking spaces for employees, customers and for cars being serviced on-site. Such parking shall be provided at the ratio of four spaces per 1,000 square feet of building area and shall be landscaped according to 18.450.070.
- e. Service areas shall be located internally and garage doors shall be oriented so they do not face any area Master Planned for residential uses unless screened by a solid masonry wall.
- f. The use of loud speakers or other exterior amplification devices shall be prohibited.
- g. Lighting for automobile dealerships shall be limited to non-adjustable, vertical mount, precise cut-off fixtures with flat lenses mounted horizontal to grade. House shields shall be utilized on all perimeter fixtures. The maximum allowable height for light poles shall be 24 feet. A lighting plan, including photometrics, shall be submitted as part of the final development plan. The permitted lighting levels are as follows:

	Maximum Average Maintained (foot-candles)	Maximum Allowable Illuminance	Uniformity Ratios
Vehicle display areas	40 fc	50 fc	6:1 average to minimum
All other vehicle areas	5 fc	N/A	6:1 average to minimum 20:1 maximum to minimum

Spotlights and secondary lights shall not be permitted. In no event shall light poles be utilized for the display of any type of banner, flag or other promotional item.

- h. Landscaping shall be provided at the rate of four trees per 1,000 square feet of landscaped open space, excluding setbacks along any street frontage. For street frontages, one tree for every 40 feet of public or private street frontage shall be provided. A screening fence shall be provided as required by 18.450.100D. The location and design of all security fences, bollards, gates, etc., for individual dealerships are subject to review and approval at the time of final plan approval.
- i. Flagpoles shall be limited to a maximum height of 30 feet as measured from grade.

SECTION 11. Overland Park Municipal Code Section 18.275.020 (regarding Permitted Uses in MXD Planned Mixed Use District) is hereby amended to read as follows:

**18.275.020 Permitted Uses**

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No building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, moved or altered, except for one or more of the following uses, subject to the development and performance standards set forth in 18.275.050 (intensity of uses is governed by sub-zone, lot location and parking requirements as found in the [Mixed Use Design Standards](#)):

- A. Single-family and multi-family dwellings.
- B. Any use permitted in [District CP-2](#) subject to applicable development and performance standards in 18.270.050, except for those differences listed below.
- C. Assisted living.
- D. Elderly housing.
- E. Public buildings.
- F. Public or private schools.
- G. Public or private parks and playgrounds.
- H. Religious facilities.
- I. Auditoriums.
- J. Arenas.
- K. Communication Facilities
  - 1. Antennas mounted on existing buildings and water towers.
  - 2. Small Cell/DAS facilities on utility poles or street lights in the public right-of-way.
- L. Conference facilities.
- M. Convention centers.
- N. Hotels and lodging.
- O. Sports or recreational facilities of all types.
- P. Accessory residential units.
- Q. Roof-mounted wind turbine(s) and wind turbines mounted on parking lot light poles.

SECTION 12. Overland Park Municipal Code Section 18.275.050 (regarding Development and Performance Standards for MXD Planned Mixed Use District) is hereby amended to read as follows:

**18.275.050 Development and Performance Standards**

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- A. **Development and performance standards applicable to all uses:**
  - 1. Prior to the issuance of any building permit, site plan approval shall be obtained as provided for in 18.140.
  - 2. 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.
- B. **Retail sales of goods and services:** Merchandise, which may be appropriately displayed outside a building, shall be kept off the public sidewalks, parking lots, landscaped areas, and streets, and shall not occupy an area greater than 10% of the ground floor area of the nonresidential portion of the adjacent building. All merchandise shall be displayed on a

concrete or similar hard surface. No merchandise (including motorcycles, scooters, and automotives) may be left outdoors when the business is not open.

- C. **Drive-in, Drive-thru and Walk-up service** - Drive-in, drive-thru or walk-up service may be permitted as part of final development plan approval. The drive-in, drive-thru or walk-up facility shall be integrally designed into the development, and the drive-thru lane and drive-thru window may not be located adjacent to the public street network or drives.
- D. **Curbside service** - Curbside service may be permitted as part of final development plan approval. The location of the curbside service shall be integrally designed into the development.
- E. **Outdoor food service areas** - Restaurants or drinking establishments may have an outdoor food service area that is accessory to the main restaurant or drinking establishment function as designated on the approved development plan. The outdoor food service area shall be subject to the provisions set forth in 18.260.050.
- F. **Outdoor seating areas** - see 18.260.050.
- G. **Clubs, drinking establishments, or restaurants serving alcoholic liquor or cereal malt beverages** - Clubs, drinking establishments, or restaurants serving alcoholic liquor or cereal malt beverages shall be subject to the provisions set forth in 18.260.050.
- H. **Retail Sales of Alcoholic liquor or cereal malt beverages** - Retail sales of alcoholic liquor or cereal malt beverages are subject to the provisions set forth in 18.260.050.
- I. The canopy structure over the gas pumps shall be located behind or to the rear of the main gas station building but not adjacent to a perimeter public street. No servicing or storage of cars is permitted.
- J. **Communications Facilities** - Communications facilities are subject to the application, location and performance standards of [18.395](#) - Communications Facilities.
- K. **Wind turbines**
  - 1. Wind turbines may be installed on any non-single-family structure (such as a building, water tower, etc.) 3stories in height or greater but no less than 35 feet provided that the wind turbines shall add no more than 20 feet to the height of said existing structure. Wind turbines which are architecturally compatible to the building architecture may be located on non-residential buildings less than 3stories or 35 feet in height, subject to final development plan approval. The maximum height which may be approved for a roof-mounted wind turbine on a non-residential building less than 3stories or 35 feet in height shall be equal to one-half the height of the building, measured from the surface of roof on which the turbine is mounted to the highest point of the wind turbine structure, including blades, if applicable. Associated equipment may be permitted on the roof so long as it is screened from view in accordance with [18.450.100](#). The roof-mounted wind turbine itself is exempt from the screening provisions of this subsection for optimum functionality of the turbine.
  - 2. Wind turbines may be installed on parking lot light poles. The mounting height for parking lot light fixtures shall not exceed 33 feet as measured to the top of the fixture from grade. 20% of the height of the light pole may be added above the light fixture for the purpose of installing a wind turbine. The overall height of the parking lot light pole and wind turbine shall not exceed 40 feet, measured to the highest point of the wind turbine structure, including blades, if applicable. The wind turbine and any required appurtenances shall be painted to match the light pole and fixture.

SECTION 13. Overland Park Municipal Code Section 18.390.060 is hereby amended to read as follows:

**18.390.060 Districts C-O and CP-O**

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- A. The following uses are accessory uses in Districts C-O and CP-O where located in buildings at least 60,000 square feet of gross building area and at least 2-stories in height not including basements; subject to the performance standards set forth in [18.390.140](#):
  - 1. Barber shops and hair salons.
  - 2. Retail sale of office supplies.
  - 3. Clubs and drinking establishments.
  - 4. Dry cleaning and laundry pickup and delivery.
  - 5. Newsstands.
  - 6. Restaurants.
  - 7. Health and fitness clubs.
  - 8. Copy centers/print shops.
- B. Pharmacies/drug stores and optical shops are accessory uses in Districts C-O and CP-O, subject to the performance standards set forth in [18.250.050](#).
- C. Single-tenant restaurant buildings are accessory uses in Districts C-O and CP-O, subject to the performance standards set forth in [18.250.050](#).

SECTION 14. Overland Park Municipal Code Section 18.390.100 is hereby amended to read as follows:

**18.390.100 Hotels, Motels, Convention Centers; Hospitals, Nursing or Convalescent Homes, and Continuing Care Community**

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The following uses are accessory uses within a hotel, motel, convention center, hospital, nursing or convalescent home, or continuing care community, provided the use is located within the main building and designed to serve primarily the occupants and patrons of the building,: restaurants; clubs; drinking establishments; banquet rooms; package sales of alcoholic liquor or cereal malt beverages; sales of notions; newsstands; vending machines; barber shops and hair salons; arcades; and flower and gift shops.

SECTION 15. Overland Park Municipal Code Section 18.100.049 is hereby amended to read as follows:

**18.100.049 Adoption by Reference of the Downtown Form-Based Code; Relationship to Other Provisions of the Code.**

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- A. There is incorporated by reference, for the purpose of adopting the Downtown Form-Based Code within the City, the Downtown Form-Based Code, Final Draft, dated March 7, 2022, as prepared by the City of Overland Park, Kansas. Not less than three (3) copies of said Downtown Form-Based Code shall be marked Official Copy as Adopted by Ordinance No. ZRR-3355, 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 business hours. The Municipal Court and all administrative departments of the City charged with the enforcement



of the ordinance shall be supplied at the cost of the City such number of official copies of such ordinance as may be deemed expedient.

- B. Where provisions of this adopted code are identified as standards, they shall be considered ordinance requirements, and where they are specifically applicable they shall prevail over any conflicting provisions elsewhere in the Unified Development Ordinance unless otherwise specified. Where provisions of this adopted code are identified as guidelines, those guidelines have been developed to identify quality elements that should be incorporated in downtown projects, and are to be used by applicants, architects, planners, developers, city staff, Planning Commission and Governing Body members to assist them in, where appropriate, designing, reviewing, evaluating, recommending and approving plans for such projects.

SECTION 18. Existing Overland Park Municipal Code Sections 18.100.049, 18.110.105, 18.110.190, 18.110.525, 18.110.530, 18.250.020, 18.250.050, 18.260.020, 18.260.050, 18.270.020, 18.270.050, 18.275.020, 18.275.050, 18.390.060 and 18.390.100 are hereby repealed.

SECTION 19. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, unenforceable, or otherwise void, such decision shall not affect the validity of the remaining portions of this Ordinance and the provisions hereby adopted.

SECTION 20. Nothing in this Ordinance shall be construed to affect any notice of violation, suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as set forth in this Ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

SECTION 21. This Ordinance shall take effect and be in force as of the date of its passage, approval and publication as provided by law.

*[Remainder of page intentionally left blank.]*

PASSED by the City Council this 7<sup>th</sup> day of March, 2022.

APPROVED by the Mayor this 7<sup>th</sup> day of March, 2022.

**CITY OF OVERLAND PARK, KANSAS**

(SEAL)

(s) Curt Skoog  
Curt Skoog, Mayor

ATTEST:

APPROVED AS TO FORM:

(s) Elizabeth Kelley  
Elizabeth Kelley  
City Clerk

(s) Stephen B. Horner  
Stephen B. Horner  
Senior Assistant City Attorney