

## ORDINANCE NO. ZRR-3357

### **AN ORDINANCE OF THE CITY OF OVERLAND PARK, KANSAS RELATING TO THE UNIFIED DEVELOPMENT ORDINANCE AND THE REGULATION OF SPECIAL USES; AMENDING AND REPEALING EXISTING OVERLAND PARK MUNICIPAL CODE SECTIONS 18.370.020, 18.370.040, 18.160.060 AND, 18.300.050 AND PROVIDING SUBSTITUTE PROVISIONS THEREFOR.**

WHEREAS, after conducting a public hearing on March 14, 2022, the Planning Commission adopted a recommendation of this Ordinance to revise the City's regulations in the Unified Development Ordinance regarding special uses; 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 18.370.020 is hereby amended to read as follows:

#### **18.370.020 Special Uses Designated**

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Any building, structure, land or premises may be used, and any building or structure may be erected, constructed, reconstructed, moved or altered, for one or more of the following special uses, subject to approval of a special use permit by the Governing Body and subject to the development and performance standards set forth in [18.370.040, including the district restrictions therein](#):<sup>1</sup>

- A. Airports or aviation fields, heliports and helicopter landing pads.\*
- B. Asphalt plants, concrete plants and foundries.
- C. Assembly halls, community centers or convention centers.
- D. Utility structures including outdoor storage areas accessory to a utility maintenance facility.
- E. Cemeteries, mausoleums or crematories for the disposal of the dead.
- F. Clubs and drinking establishments for non-residential uses in residential districts.\*
- G. Drive-in theaters.
- H. Group boarding homes for minors or group boarding homes for adults.
- I. Hospitals, nursing or convalescent homes, and continuing care communities.
- J. Hotels or motels.
- K. Farm animals, including but not limited to, horses, ponies, cows and goats on a lot or tract of less than three acres in size. Provided, however, chickens are not included in this use category and will be separately regulated.

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<sup>1</sup> All special uses are subject to the development and performance standards in Section [18.370.040 A](#). Special uses with additional specific development and performance standards in Section 18.370.040 are marked with a “\*”.

- L. Animal hospitals, large animal veterinarians, or animal kennels.\*
- M. Mines or quarries (including the removing, screening, crushing, washing or storage of ore, sand, clay, stone, gravel or similar materials).\*
- N. Nurseries, greenhouses and buildings or areas for the wholesale or retail sale of landscaping supplies, plant materials or landscape maintenance services.
- O. Off-street parking lots/structures of a temporary or permanent nature.
- P. Oil or gas drilling or production.\*
- Q. Billboards.\*
- R. Penal or correctional institutions.
- S. Radio, television, microwave antennas or towers (unless otherwise allowed by separate city code or federal or state law).
- T. Communications Facilities (Towers, Base Stations and [Antennas](#)).\*
- U. Reservoirs, towers, filter beds or water treatment plants.
- V. Sales and display areas for manufactured homes, mobile homes or modular housing.
- W. Solid waste disposal facilities or sanitary sewage plants.
- X. Sports or recreation facilities of all types, private.
- Y. Temporary use of land for commercial or industrial purposes.\*
- Z. Churches, elementary and secondary schools, and publicly-owned and operated community buildings, museums and libraries.
- AA. Retail sale of building supplies, with outside storage in excess of 20% of the ground floor area of the building in a CP-2 District.\*
- BB. Sale, leasing, rental and servicing of construction equipment and farm machinery.
- CC. Contractor's yard and storage.
- DD. Motor vehicle tow lots (but not salvage yards).
- EE. Sale of used passenger cars in conjunction with either a new car dealership or a qualified rental car agency.\*
- FF. Indoor self-storage facilities.\*
- GG. Transportation facilities for public agencies (including but not limited to, school districts, municipal or public transportation agencies, and public utilities).\*
- HH. Car wash.\*
- II. Wind turbine(s).\*
- JJ. Municipal Facilities.
- KK. Uses previously authorized by conditional use permits issued by Johnson County for properties in the areas annexed by Ordinance No. A-2367 (effective May 8, 2002) or Ordinance No. A-2719 (effective March 13, 2008). \*
- LL. Digital Display.\*

SECTION 2. Overland Park Municipal Code Section 18.370.040 is hereby amended to read as follows:

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## **18.370.040 Development and Performance Standards**

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### **A. Development and performance standards applicable to all special uses.**

1. 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 site development permit.
2. 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.
3. New construction approved under a special use permit shall be subject to the design standards that apply to the underlying zoning district or the most analogous zoning district.
4. The Governing Body may, in the process of approving the special use permit, approve deviations from requirements as provided for in the remainder of this Section 18.370.040, if it finds that all of the following conditions are met:
  - a. That the deviation requested arises from a condition which is unique to the property in question, is not ordinarily found in the same zoning district, and is not created by an action or actions of the landowner or the applicant.
  - b. That the granting of the deviation will not adversely affect the rights of adjacent landowners or residents.
  - c. That the strict application of the provisions of this Ordinance would constitute unnecessary hardship upon the landowner represented in the application.
  - d. That the deviation desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
  - e. That the granting of the deviation will not be opposed to the general spirit and intent of this Ordinance.
5. For signs accessory to a special use, see [18.440.120 A](#).
6. 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.

### **B. Airports or aviation 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.

### **C. Clubs and drinking establishments for non-residential uses in residential districts.**

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. 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.
3. An initial permit may be issued for a maximum time period of 3 years. Subsequent renewals may be issued for a maximum time period of 5 years.
4. Clubs, drinking establishments or restaurants serving alcoholic liquor or cereal malt beverages in an outdoor food service area must have the outdoor food service area meet the requirements in 18.260.050 E.
5. Golf courses: A permit for a drinking establishment may be extended beyond the clubhouse to include the golf course. The golf course is exempt from the requirements in 18.370.040.C.4. Further, the requirements in 18.370.040.C.4 may be waived for the clubhouse where the outdoor service area directly abuts a course approved as a drinking establishment.

**D. Mines or quarries (including the removing, screening, crushing, washing or storage of ore, sand, clay, stone, gravel or similar materials).**

1. Mines or quarries shall be subject to the development and performance standards set forth in 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.

**E. Oil or gas drilling or production.**

1. Special use permits for oil or gas drilling or production may be approved provided that the approval is consistent with the intent and purpose of 5.51 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 5.51, the provisions of 5.51 shall control.
2. In addition to the criteria stated in 18.370.040, the Planning Commission and Governing Body shall consider the following criteria in reviewing an application for an oil 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 Chapter, 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 or gas drilling or production operation shall comply with the development and performance standards set forth in [18.310.050](#) (District M-2).
- 8. An initial special use permit for oil 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 1 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 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.

F. **Billboards.** See 18.440.120 B.

G. **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.

H. **Temporary uses of land for commercial or industrial purposes.**

1. Special use permits for temporary uses of land for commercial or industrial purposes may be granted for an initial period up to 3 years. The first renewal may be issued for a maximum time period up to 5 years, and any subsequent renewal may be issued for a maximum time period up to 10 years.
2. Factors to be considered for approval of the special use permit include, but are not limited to, traffic, parking, noise, litter, or other potential adverse impacts on surrounding properties.
3. 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 18.390.
4. Any stored equipment or material shall be removed from the site on the date of expiration of the special use permit.

I. **Retail sale of building supplies, with outside storage in excess of 20% 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.

J. **Communications Facilities (Towers, Base Stations and Antennas).**

1. The definitions in 18.395.020 shall apply to Special Use Permits for Communications Facilities.
2. Each application for a Special Use Permit for Communications Facilities shall follow the process and submit the required information listed in 18.395.050.
3. A Special Use Permit for Communications Facilities shall be subject to the performance standards listed in 18.395.070.
4. A Special Use Permit for a Communications Facilities shall be for a term not less than 10 years.
5. A denial of a Special Use Permit for Communications Facilities shall comply with the requirements of 18.395.080.

**K. Sale of used passenger cars in conjunction with either a new car dealership or a qualified rental car agency.**

1. For the purposes of this Chapter:
  - a. A “new car dealership” must be a licensed “new vehicle dealer” under the laws of the state of Kansas (K.S.A. 8-2401 (b) as may be amended).
  - b. A “qualified rental car agency” is defined to mean a company whose primary business objective is the rental of passenger cars to the general public in multiple (more than two states and whose used car inventory consists predominantly of the company’s former rental car inventory).
2. The property must be zoned District CP-2, C-2 or DFD.
3. Used car facility size limitation.
  - a. In the case of a new car dealership, the net site area of the used car facility shall not exceed 50% of the net site area of the new car dealership.
  - b. In the case of a qualified rental car agency, the net site area of the used car facility shall be less than the net site area of the qualified rental car agency. Accordingly, the portion of the net site area dedicated for the used car facility shall be less than 50% of the overall net site area; and the net site area of the rental car operation shall be in excess of 50% of the overall net site area. In order to maintain this limitation, the special use permit may set a cap on the number of used cars allowed on the site at any given time.
4. Proximity.
  - a. In the case of a new car dealership, the property line of the used car facility must be within 300 feet of the property line of the associated new car dealership.
  - b. In the case of a qualified rental car agency, the two businesses shall either be located on the same property or the property line of the used car facility must be directly contiguous to the property line of the rental car facility.
5. A site plan must be submitted which clearly defines the location of all used car display areas, new car display areas (if any), rental car display areas (if any), and employee and customer parking.
6. The used car facility must be licensed to the same person as the applicable new car dealership or qualified rental car agency, or to said person’s affiliate, defined as a wholly owned parent or subsidiary or as an entity under common ownership or control.
  - a. Repealed.
7. In the case of a new car dealership, 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. (This requirement does not apply to qualified rental car agencies.)
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 may be for a period up to 10 years. Any subsequent renewals may be for a period up to 10 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 associated new car dealership or qualified rental car agency.

**L. Animal hospital, large animal veterinarians, or animal kennels**

1. 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 24 hours, 7 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.
2. Any animal hospital, large animal veterinarian, or animal kennel that includes an outdoor pet run or play area shall comply with the requirements set forth in the current edition of the Overland Park Design and Construction Standards, as may be amended.
3. For any animal hospital, large animal veterinarian, or animal kennel that includes an outdoor pet run or play area, the Governing Body may impose additional restrictions related to fencing, setbacks, or other requirements determined to be reasonably necessary for the protection of public health, safety, and welfare of the animals, neighborhood, and community at large.
4. An initial permit for any animal hospital, large animal veterinarian, or animal kennel with an outdoor pet run or play area and/or overnight boarding may be issued for a maximum time period of 5 years. Subsequent renewals may be issued for a maximum time period of 10 years.

**M. Indoor self-storage facilities**

1. Indoor self-storage facilities shall only be permitted in the C-2, CP-2, C-3, CP-3 and MXD districts, and in the DFD General Urban Frontage when not located on the ground story.
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.
3. 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.
4. 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.
5. Setbacks shall be provided as required by the underlying zoning district.

**N. Transportation facilities for public agencies.**

1. Preliminary and final site plan approval shall be required for all transportation facilities. Preliminary and final site plans shall include, but not be limited to, the following: adequate employee parking areas for the facility, parking and storage areas for all buses and other vehicles, structures for administration, maintenance and repairs, and screening of the facility.
2. All parking and vehicle storage areas shall be screened from view from all adjacent public streets and adjacent property. The screening technique and materials are subject to review and approval by the Planning Commission and Governing Body.



3. All maintenance and repair of any vehicles shall be conducted inside of a permanent structure.
4. All inoperable vehicles shall be stored inside a permanent structure or removed from the facility.
5. Transportation facilities shall not have a common property line with property identified as low-density or very-low-density on the City's Future Development Plan map.

**O. Car wash.**

1. A special use permit for a car wash shall only be allowed for property zoned CP-2, Planned General Business District.
2. The location for a car wash shall not have a common property line with property identified as low-density-residential or very-low-density-residential on the Future Development Plan Map.
3. A car wash shall be a tunnel type, fully enclosed building. The car wash shall clean a moving vehicle by using employees or by an automated system.
4. All mechanical equipment for the car wash system and vacuums shall be internal to a fully enclosed building. Vacuum bays shall be covered by a roof structure. Vacuum bays may be self-serve drive-in bays.
5. The entrance and exit to the car wash shall be 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 Map as being within a residential category. In determining to what degree the 200-foot distance should be reduced, if any, the Planning Commission or Governing Body shall consider the same factors referenced in [18.270.050 A1](#).
6. No amplified speaker used for the kiosk or pay station 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 Map as being within a residential category. In determining to what degree the 200-foot distance should be reduced, if any, the Planning Commission or Governing Body shall consider, but not be limited to the factors listed in [18.270.050A1](#), a through d.

**P. Wind turbine(s).**

1. Each application for a special use permit for a wind turbine or wind turbines shall be accompanied by the following information:
  - a. Preliminary development plan (see [18.140.190](#)).
  - b. Turbine information, including type, model, size, height, rotor material, rated power output, performance, safety, and noise characteristics of each wind turbine being proposed, tower and electrical transmission equipment.
  - c. Meteorological tower information, if applicable, including location, height, and appearance.
  - d. Digital pictorial representations of "before and after" (photo simulation) views from key viewpoints as may be appropriate.

- e. The Director, Planning Commission, or Governing Body may require additional technical studies deemed necessary to fully evaluate the application, such as a shadow/flicker model, noise study, geotechnical report, or wildlife impact study.
2. A request for a special use permit for a wind turbine(s) may be approved for an indefinite period of time.
3. **Height** – The maximum height which may be approved for a wind turbine is 150 feet. Height shall be measured from average grade at the tower base to the highest point of the wind turbine structure, including blades, if applicable. A lightning rod, not to exceed 10 feet, shall not be included within the height limitations. The maximum height which may be approved for a roof-mounted wind turbine shall be equal to one-half the height of the building, not to exceed 20 feet. Height shall be 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.
4. **Minimum lot size** – Ground-mounted wind turbines shall be located on property a minimum of one-half acre in size.
5. **Setbacks** – All wind turbines, other than roof-mounted wind turbines, shall be setback a distance equal to the height of the wind turbine, including blades, if applicable, from all property lines.
6. **Separation requirements** – When two or more ground-mounted wind turbines are located on one lot, they shall be separated by a distance equal to the overall height of one wind turbine system, including blades, if applicable.
7. The Planning Commission or Governing Body shall have the ability to grant a deviation from these standards subject to [18.150.070 \(H\)](#). In support of a deviation request from these requirements, the applicant shall submit detailed information illustrating the need for the deviation.
8. **Color/Finish** – Wind turbines, including the towers, shall be painted a non- reflective, non-obtrusive color or a color that conforms to the environment and architecture of the community.
9. **Tower design** – All tower structures shall be of self-supporting, monopole construction unless attached to a structurally reinforced roof where such support is not warranted. No lattice structures shall be permitted.
10. **Blade size** – The diameter of the blades for a ground-mounted horizontal-axis, propeller-style wind turbine system shall be limited to one-third the height of the tower.
11. **Lighting** – Wind turbines shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA) or other applicable authority.
12. **Signage** – Signs shall be limited to the appropriate warning signs (e.g. electrical hazard or high voltage) placed on the wind turbine tower(s), electrical equipment, and the wind turbine. Commercial advertising is strictly prohibited.
13. **Federal and State regulations** – All wind turbines shall meet or exceed current State and Federal standards and regulations.
14. **Building code compliance** - All wind turbines shall meet or exceed the current standards expressed in the adopted building codes. A building permit is required prior to the installation of any wind turbine.
15. **Utility connections** – Reasonable efforts shall be made to locate utility connections from the wind turbine(s) underground, depending on appropriate soil conditions, shape,

and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider. For electrical transformers with a footprint greater than 2 square feet in area, landscaping shall be provided where necessary to substantially screen the structure from public view and/or the view of adjacent homeowners. Maintenance of all landscaping shall be the responsibility of the property owner.

16. **Electrical wires** – All electrical wires associated with a wind turbine shall be located underground except for those wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires.
  17. **Safety shutdown** – Each wind turbine shall be equipped with both manual and automatic overspeed controls to limit the rotational speed of the blade within the design limits of the rotor. Manual electrical and/or overspeed shutdown disconnect switches shall be provided and clearly labeled on the wind turbine structure. No wind turbine shall be permitted that lacks an automatic braking, furling, or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades, and turbine components.
  18. **Minimum blade clearance** – The blade tip clearance for a ground-mounted, horizontal-axis, propeller-style wind turbine shall, at its lowest point, have a ground clearance of not less than 30 feet.
  19. **Noise** – The noise emitted from any wind turbine shall not exceed the noise level limits set out in 7.08, except during short-term events such as utility outages and severe windstorms.
  20. **Utility notification** – No building permit for a wind turbine shall be issued until a copy of the utility company's approval for interconnection of a customer-owned generator has been provided. Off-grid systems shall be exempt.
  21. **Removal of abandoned wind turbines** – Any wind turbine that is not operated for energy production for a continuous period of 12 months shall be considered abandoned, and the owner of such wind turbine shall remove the same within 90 days of a receipt of notice from the governing authority notifying the owner of such abandonment. If such wind turbine is not removed within said 90 days, the governing authority may remove such wind turbine at the owner's expense.
  22. **Screening** – Equipment associated with a roof-mounted wind turbine shall 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 shall be exempt from the screening requirement for optimum functionality of the turbine.
- Q. **Uses previously authorized by conditional use permits issued by Johnson County for properties in the areas annexed by Ordinance No. A-2367 (effective May 8, 2002) or Ordinance No. A-2719 (effective March 13, 2008).**
1. The purpose of this special use category is to provide a means for uses in areas annexed by Ordinance No. A-2367 or Ordinance No. A-2719 that were previously granted a conditional use permit by Johnson County and for which there is no comparable city special use category. Properties that did not previously have a Johnson County conditional use permit cannot utilize this special use category.
  2. Special use permit approval shall not be granted as a matter right, but shall be subject to the same procedures and the same discretionary approval and standards as any other special use permit or any renewal thereof.

3. The Planning Commission and the Governing Body may approve the special use permit with some or all of the stipulations imposed by the County's conditional use permit. Further, additional or alternative stipulations may be approved, provided such stipulations shall not unreasonably restrict or frustrate the intended use lawfully approved under the conditional use permit.
4. Applications for this special use category will not be considered when the County approved conditional use permit has been expired for a period of time exceeding 6 months.
5. Applicants not in compliance with the conditions and stipulations of the County approved conditional use permit may be denied outright.

R. **Digital Display** - See [18.440.120 C](#).

SECTION 3. Overland Park Municipal Code Section 18.160.060 is hereby amended to read as follows:

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#### **18.160.060 Development and Performance Standards**

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- A. Agricultural uses are permitted with no restrictions as to operation of such vehicles or machinery as are customarily incidental to such uses, and with no restrictions to the sale or marketing of products raised on the premises; provided that any buildings, structure or yard for the raising, feeding, pasturing, housing or sale of livestock or poultry shall be located at least 100 feet from residentially zoned land, and provided further that there shall be no disposal of garbage, rubbish or offal, other than regular removal, within 300 feet of property residentially zoned land.
- B. A building permit in this district will not be issued until a plot plan showing the proposed building and property lines is submitted and approved by the Director of Planning and Developmental Services.
- C. No detached accessory buildings shall be located within the required front yard.
- D. All detached accessory buildings located within a side yard shall be set back a minimum of 10 feet from the side lot line in the case of an interior lot, or 25 feet in the case of a corner lot.
- E. All detached accessory buildings located in the rear yard shall be set back a minimum of 25 feet from the rear lot line.
- F. A ground-mounted wind turbine is permitted to a maximum height of 100 feet, measured from average grade at the tower base to the highest point of the wind turbine structure, including blades, if applicable. A lightning rod, not to exceed 10 feet, shall not be included within the height limitations. In addition, a ground- or roof-mounted wind turbine shall be subject to the performance standards outlined in [18.370.040](#).

SECTION 4. Overland Park Municipal Code Section 18.300.050 is hereby amended to read as follows:

#### **18.300.050 Development and Performance Standards**

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- A. All operations shall be conducted within a fully enclosed building.

- B. All storage of materials, products or equipment shall be within a fully enclosed building or in an open yard screened such that the materials, products or equipment are not visible at eye level from adjacent property.
- C. Areas devoted to retail sales shall not exceed 10% of the gross floor area of the main use, and in no event shall the total of such areas exceed 5,000 square feet.
- D. No use shall be permitted or so operated as to produce or emit from a vent, stack, chimney or combustion process any smoke darker than Ringlemann No. 1, except that smoke darker than Ringlemann No. 2 is permissible for a duration of not more than four minutes during any 8-hour period if the source of such emission is not located within 250 feet of residentially zoned property.
- E. No use may generate any ground-transmitted vibration in excess of .10 inches per second at the property line or in excess of .02 inches per second measured at any residential property line. These values may be multiplied by two for impact vibrations, i.e., discrete vibration pulsations not exceeding one second in duration and having a pause of at least one second between pulses.
- F. 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 from high-temperature processes such as combustion or welding, 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 center line 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.
- G. No heat from furnace processing equipment or other device shall be sensed at the lot line or property line to the extent of raising the temperature of air or materials more than 5 degrees Fahrenheit.
- H. No emission of air contaminants from any source within the boundaries of any lot or tract shall exceed emission rates established by the Kansas Secretary of Health and Environment pursuant to K.S.A. 65-3001 et seq., or amendments thereto, and any administrative regulations adopted thereunder.
- I. No odor shall be permitted at any lot line or property line exceeding the lowest amount set forth in Table III (Odor Thresholds) of Chapter 5, "Physiological Effects," of the Air Pollution Abatement Manual of the Manufacturing Chemists Association, according to the latest edition of such table for the compounds described therein. For compounds not described in Table III, odor thresholds may be established by methods indicated in Chapter 5 of the manual, and no odor shall be permitted at any lot line or property line exceeding the amount determined by the application of such methods.
- J. No activity shall be permitted that creates any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance, or which otherwise causes, creates, or contributes to the interference with electronic signals (including television and radio broadcasting transmissions) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.
- K. No loading dock shall be permitted to face any street unless a screening plan therefor is approved as part of final plan approval.

- L. Prior to issuance of any building permit, site plan approval shall be obtained as provided for in 18.140.
- M. Communications Facilities - Communications facilities are subject to the application, location and performance standards of 18.395 - Communications Facilities.
- N. A ground-mounted wind turbine is permitted to a maximum height of 100 feet, measured from average grade at the tower base to the highest point of the wind turbine structure, including blades, if applicable. A lightning rod, not to exceed 10 feet, shall not be included within the height limitations. In addition, a ground- or roof-mounted wind turbine shall be subject to the performance standards outlined in [18.370.040](#). Wind turbines mounted on parking lot light poles shall be subject to the performance standards set out in [18.250.050](#).

SECTION 5. Existing Overland Park Municipal Code Sections 18.370.020, 18.370.040, 18.160.060 and 18.300.050 are hereby repealed.

SECTION 6. 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 7. 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 8. This Ordinance shall take effect and be in force as of the date of its passage, approval and publication as provided by law.

PASSED by the City Council this 9th day of May, 2022.

APPROVED by the Mayor this 9th day of May, 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