

ORDINANCE NO. ZRR-3263

**AN ORDINANCE RELATING TO UNIFIED DEVELOPMENT
ORDINANCE OF THE CITY OF OVERLAND PARK, KANSAS
REGARDING NOTICE OF PENDING PLANNING AND ZONING
APPLICATIONS; ADDING A NEW SECTION 18.140.065 TO THE
OVERLAND PARK MUNICIPAL CODE AND AMENDING AND
REPEALING EXISTING SECTIONS 18.140.080 AND 18.140.090 AND
PROVIDING SUBSTITUTE PROVISIONS THEREFOR.**

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 18.140.065 is hereby added to read as follows:

18.140.065 Neighborhood Meetings

- A. Intent: It is the City's position that the land development process is enhanced when there is open dialogue between interested parties that gives neighbors an opportunity to learn about a proposal and ask questions in advance of public hearings before the Planning Commission and decisions by the Governing Body. Therefore, the City recommends neighborhood outreach for all applications.
- B. Required Neighborhood Meetings:
1. An applicant is required to hold a neighborhood meeting for rezonings, special use permits and revised preliminary plans with substantial changes for the following application types where the application area is within 500 feet of property zoned and used as single-family residential or other residential housing that is designed for individual ownership and when any of the following criteria are met:
 - a. Rezoning requests from low-density residential districts to a less restrictive district as identified in Section 18.150.010 of the UDO;
 - b. Any zoning request larger than 10 acres in size to a multi-family or less restrictive district as identified in Section 18.150.010 of the UDO;
 - c. Any revised preliminary development plan with substantial changes as outlined by 18.140.200.A.3 of the UDO on property zoned multi-family or a less restrictive district as identified in 18.150.010; or
 - d. Special use permits for new construction.
 2. The Director of Planning and Development Services shall have the authority to take into consideration the context and specific nature of any request and may:
 - a. Waive the requirement for a neighborhood meeting;
 - b. Extend the distance requirement for sending meeting notifications for a neighborhood meeting; or
 - c. Require a neighborhood meeting for an application that does not meet the criteria set forth in subsection 1 above.
 3. Notwithstanding that a neighborhood meeting was held or was not required under subsection 1 or 2 above, either the Planning Commission or the Governing Body may require a neighborhood meeting prior to taking action on an application.
- C. Neighborhood Meeting Specifics:

1. Required neighborhood meetings shall be held no less than 10 days prior to the scheduled Planning Commission meeting.
2. A good faith effort should be made to hold the meeting on a day and time that allow the majority of interested parties to attend and at a location convenient to the neighborhood.
3. Neighborhood meetings may consist of a formal presentation or may be conducted in an open house style. The format of the meeting should ensure that those in attendance have an opportunity to learn about the proposal and ask questions of the development team.
4. Attendance should be taken and a written meeting summary provided to the City's planning staff no less than 7 days in advance of the Planning Commission meeting.

D. Neighborhood Meeting Notification:

1. Notification of a neighborhood meeting shall be provided no less than 10 days in advance of the scheduled meeting and shall be sent to all residential property owners of record and any registered homeowner associations or neighborhood groups within 500 feet of the application (or distance required by the Director). A copy shall also be provided to the City's planning staff and to the ward council members where the application is located.
2. The notification may be sent by regular mail. The notification shall provide: (i) the time, date and location of the meeting; (ii) the City-assigned plan number; (iii) the location and general description of the proposal; and (iv) contact information for the applicant or their agent. It is recommended that the notification also include a copy of the applicant's proposal. Failure of a property owner to receive the notification will not invalidate the applicant's notification for their scheduled meeting.
3. This neighborhood meeting notification shall not be sent in the same envelope as the certified notification to surrounding property owners required by Section 18.140.080.
4. Prior to the Planning Commission meeting, the applicant shall file with the Secretary of the Planning Commission an affidavit stating the names and addresses of the persons to whom notice was sent; failure to submit the affidavit prior to the hearing may result in a continuance of the hearing.

Section 2. Overland Park Municipal Code Section 18.140.080 is hereby amended to read as follows:

18.140.080 Notices to Surrounding Property Owners

- A. Unless otherwise specifically provided in this Chapter, whenever notice to surrounding property owners is required for consideration of an application, such notice shall be given as follows:
 1. The applicant shall mail all notices at least 20 days prior to the hearing, thus notifying such property owner of the opportunity to be heard. Notice shall be mailed to all owners of record of land within 200 feet of the property subject to the application. If the subject property is located adjacent to unincorporated property outside the City's limits, then the area of notification shall be extended to include all unincorporated land within 1000 feet of the subject property. For the purposes of this Chapter, the phrase "adjacent to unincorporated property outside the City's

limits" shall mean property which lies upon or touches (1) the City boundary line; or (2) a street or public way, railway or watercourse which lies upon the City boundary line.

2. Such mailed notice shall be given by certified mail, and shall be in letter form stating the time and place of the hearing, a general description of the proposal, the legal description and general street location of the property subject to the proposed change, and a statement explaining that the public may be heard at the public hearing.
 3. In cases of applications for which protest petitions may be submitted, the notice shall also contain a statement explaining that property owners required to be notified by this Section shall have the opportunity to submit a protest petition, in conformance with this Ordinance, to be filed with the office of the City Clerk within 14 days after the conclusion of the public hearing.
 4. Newspaper clippings of the publication notices shall not be used for the mailed notice. Mailed notices shall be addressed to the owners of the property and not to mere occupants thereof.
- B. When the notice has been properly addressed and deposited in the mail, failure to receive mailed notice shall not invalidate any action taken on the application.
- C. Mailed notice may be waived provided that a verified statement specifically indicating such waiver is signed by all property owners within the notification area who are waiving notice, and is filed with the Secretary of the Planning Commission, or the Board of Zoning Appeals, as the case maybe, at least two business days prior to the hearing.
- D. Prior to the public hearing, the applicant shall file with the Secretary of the Planning Commission, or the Board of Zoning Appeals, as the case may be, the certified mailings and an affidavit stating the names and addresses of the persons to whom notice was sent; failure to submit the affidavit prior to the hearing may result in a continuance of the hearing.

Section 3. Overland Park Municipal Code Section 18.140.090 is hereby amended to read as follows:

18.140.090 Posting of Signs for Rezoning and Special Use Permits

- A. In the case of rezonings and special use permits, the applicant shall place a sign on the property informing the general public that a public hearing will be held at a specific time and place concerning proposed changes in use. The sign shall be provided by the City to the applicant, and the applicant shall maintain the sign for at least the 15 days immediately preceding the date of the public hearing. The sign shall be firmly installed on the frame provided by the City within 5 feet of the street right-of-way line in a perpendicular orientation in a central position on the lot, tract or parcel of land so that the sign is free of any visual obstructions surrounding the sign. If a lot, tract or parcel of land is larger than 5 acres, a sign as required herein shall be placed on each of the streets abutting thereto.
- B. The size, style, coloring and wording of signs for rezoning and special use permits shall be determined by the Governing Body by resolution.
- C. The applicant shall file an affidavit with the Secretary of the Planning Commission at the time of the public hearing verifying that the sign has been maintained and posted as required by this ordinance and applicable resolutions; failure to submit the affidavit prior to the hearing may result in a continuance of the hearing.

- D. The sign may be removed at the conclusion of the public hearing and must be removed at the end of all proceedings on the application or upon withdrawal of the application.
- E. It shall be a public offense for any person to remove, deface or destroy any sign provided for in subsection A.

Section 4. Existing Overland Park Municipal Code Sections 18.140.080 and 18.140.090 are hereby repealed.

Section 5. Following passage, approval and publication as provided by law, this Ordinance shall take effect and be in force as of January 1, 2020.

PASSED by the City Council this 4th day of November, 2019.

APPROVED by the Mayor this 4th day of November, 2019.

CITY OF OVERLAND PARK, KANSAS

By: (s) Carl Gerlach
Carl Gerlach
Mayor

(SEAL)

ATTEST:

APPROVED AS TO FORM:

By: (s) Elizabeth Kelley
Elizabeth Kelley
City Clerk

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