

## Chapter 18.14

### ZONING DISTRICTS

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#### **18.14.010 Districts Designated**

For the purpose of regulating and restricting the use of land and the erection, construction, reconstruction, altering, moving or use of buildings and structures, the corporate area of the City is divided into several conventional zoning districts enacted pursuant to KSA 12-753 et seq. and City overlay zones such as the "Original Town" of Olathe enacted pursuant to KSA 12-755, planned zoning districts enacted pursuant to KSA 12-757 et seq., and floodplain overlay zones enacted pursuant to KSA 12-754 and KSA 12-766 et seq.

A. For the purpose and intent of this ordinance, the City of Olathe is hereby divided into the following zoning conventional and planned zoning districts:

1. Conventional zoning districts:

#### Agricultural and Residential Districts

AG	--	Agricultural
RR	--	Rural Residential
R-1	--	Single-Family
R-2	--	Two-Family
R-3	--	Low-Density Multifamily
R-4	--	Medium-Density Multifamily
R-5	--	High-Density Multifamily
MHP	--	Manufactured Home Park

#### Commercial and Business Districts

C-O	--	Office Buildings
C-1	--	Retail Business
C-2	--	General Business
C-3	--	Community/Corridor Business
CBD	--	Central Business District

#### Industrial Districts

M-1	--	Restricted Industrial
M-2	--	General Industrial
M-3	--	Heavy Industrial

2. Planned zoning districts:

Residential Districts

- RP-1 -- Single-Family
- RP-2 -- Two-Family
- RP-3 -- Low-Density Multifamily
- RP-4 -- Medium-Density Multifamily
- RP-5 -- High-Density Multifamily

Commercial and Business Districts

- CP-O -- Office Building
- CP-1 -- Retail Business
- CP-2 -- General Business
- CP-3 -- Community/Corridor Business
- BP -- Business Park

Industrial Districts

- MP-1 -- Restricted Industrial
- MP-2 -- General Industrial
- MP-3 -- Heavy Industrial

3. Mixed Use Zoning Districts:

- TN -- Traditional Neighborhood
- NC -- Neighborhood Center
- PMUD-- Planned Mixed Use District

- B. The floodplain overlay zones are designated in, and subject to the provisions of, Chapter 18.50, Floodplain Zoning. In addition to the regulations set forth in said Chapter 18.50, all property lying within the boundaries of the floodplain overlay districts shall also be subject to the regulations applicable to the underlying zoning district. (Ord. 02-54 § 2, 2002)

**18.14.020 Official Zoning Map**

The location and boundaries of the districts established by this ordinance are as shown on a map officially designated as the Zoning District Map, which map, together with everything shown thereon and all amendments hereto, is hereby incorporated by reference as amended. Said official zoning map is kept in the office of the City Planner. (Ord. 02-54 § 2, 2002)

**18.14.030 Boundaries of Districts**

The following rules shall apply to the boundaries of the various districts as shown on the Zoning District Map:

- A. District boundary lines are either the centerlines of railroads, highways, streets, alleys, waterways or easements, or the boundary lines of sections, quarter sections, division of sections, tracts or lots, or such lines extended, unless otherwise indicated.
- B. In areas not subdivided into lots and blocks, wherever a district is indicated as a strip adjacent to and paralleling a street or highway, the depth of such strips shall be in accordance with dimensions shown on the maps measured at right angles from the centerline of the street, highway or railroad right-of-way, and the length of the frontage shall be in accordance with dimensions shown on the maps from section, quarter-section, or division lines or center lines of streets, highways, or railroad rights-of-way unless otherwise indicated.

- C. Where a district boundary line divides a lot as defined herein, the regulations for either portion of the lot may, in the owner's discretion, extend to the entire lot, but not more than twenty-five (25) feet beyond the boundary line of the district.
- D. Questions concerning the exact locations of zoning district boundary lines shall be interpreted by the City Planner. (Ord. 02-54 § 2, 2002)

**18.14.040 Zoning of Annexed Land**

All land which is hereafter annexed into the City shall, for six (6) months following the effective date of annexation, retain that zoning classification which was in effect under the prior zoning jurisdiction. The City shall have the authority to secure civil remedies for violations of such prior zoning jurisdiction regulations to the same extent that it may secure civil remedies for violations of this ordinance pursuant to Chapter 18.04. Any owner of land within the area annexed may, however, apply for rezoning under the laws and procedures of the City, and as granted by KSA 12-756 and 12-757, at any time following the effective date of annexation. During the six (6) months following the effective date of annexation, the Planning Commission shall prepare, or cause to be prepared, a zoning map of the annexed area, conduct the necessary hearing, and submit the same to the Governing Body for adoption. Upon adoption of the zoning map, all zoning requirements and regulations of the City shall take effect, and the regulations of the prior zoning jurisdiction shall terminate, as affects the annexed area. (Ord. 02-54 § 2, 2002)

**18.14.050 Conformance to Comprehensive Plan**

In the consideration of any application for a zoning amendment or a special use request, the Planning Commission and the Governing Body shall determine whether the proposal conforms to the adopted Comprehensive Plan and any other recognized plans, studies or policies normally utilized by the City in making land use decisions. (Ord. 02-54 § 2, 2002)

**18.14.060 General Requirements**

- A. Except as otherwise specifically provided, no building or structure shall be erected, constructed, reconstructed, moved or altered, nor shall any building, structure or land be used for any purpose other than is permitted by the regulations of this ordinance applicable to the zoning district in which such building, structure or land is situated.
- B. Except as otherwise specifically provided, no building or structure shall be erected, constructed, reconstructed, moved or altered to exceed the height or area limits established by the regulations of this ordinance applicable to the zoning district in which such building or structure is situated.
- C. Except as otherwise specifically provided, no lot area shall be reduced or diminished so that the yards or other open spaces shall be smaller than prescribed, nor shall the density be increased in any manner, except in conformity with the area regulations of this ordinance applicable to the zoning district in which the lot or property is situated.
- D. Except as otherwise specifically provided, all provisions of this ordinance applicable to a conventional zoning district shall be equally applicable to an equivalent planned zoning district. For such purposes, the following districts are considered to be equivalent: R-1 and RP-1; R-2 and RP-2; R-3 and RP-3; R-4 and RP-4; R-5 and RP-5; C-O and CP-O; C-1 and CP-1; C-2 and CP-2; C-3 and CP-3; M-1 and MP-1; M-2 and MP-2; and M-3 and MP-3.
- E. The maximum densities established in Chapters 18.18 through 18.29 are not granted by right and must consider density restrictions set out by rezoning stipulations, the *Comprehensive Plan*, *Residential Neighborhood Design Manual*,

*Traditional Neighborhood Design Manual*, and applicable corridor studies and plans as approved by the Planning Commission and the Governing Body.

- F. Any corridor studies or plans may be authorized and approved by the Planning Commission and Governing Body and said study shall be applied to the zoning and platting provisions of *the Unified Development Ordinance (UDO)*. (Ord. 02-54 § 2, 2002)

#### **18.14.070 Exemptions**

The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of cables, conduits, laterals, poles, vaults, wires or any other similar distribution equipment of a public utility, shall be exempt from the regulations of this ordinance. Provided, however, the installation shall conform to Federal Communications Commission and Federal Aviation Agency rules and regulations, and those of other authority having jurisdiction. (Ord. 02-54 § 2, 2002)

#### **18.14.080 Performance Standards; Measurement**

In some districts, performance standards capable of quantitative measurement are established. Except to the extent modified in the specific zoning district regulations, the following general provisions shall apply to measure compliance with such performance standards.

- A. Noise: A decibel is a measure of a unit of sound pressure. Since sound waves having the same decibel level "sound" louder or softer to the human ear depending upon the frequency of the sound wave in cycles-per-second (i.e., whether the pitch of the sound is high or low), an A-weighted filter constructed in accordance with the specifications of the American National Standards Institute, which automatically takes account of the varying effect on the human ear of different pitches, shall be used on any sound level meter used to take required measurements. Accordingly, all measurements are expressed in dB(A) to reflect the use of this A-weighted filter. Impact noises are sounds that occur intermittently rather than continuously. Impact noises shall be measured using the fast response of the sound level meter. Unless specifically indicated to the contrary in the zoning district regulations, noise resulting from temporary construction activity that occurs between 7:00 AM and 7:00 PM shall be exempt from the indicated performance standard.
- B. Smoke and Particulate Matter:
1. For the purpose of determining the density of equivalent opacity of smoke, the Ringlemann Chart, as adopted and published by the United States Department of Interior, Bureau of Mines, shall be used. The Ringlemann number indicated as the performance standard in certain zoning districts refers to the number of the area of the Ringlemann Chart that coincides most nearly with the visual density of equivalent opacity of the emission of smoke observed.
  2. Particulate matter emissions, in excess of the threshold limit values caused by the wind from open storage areas, yards, roads, etc., within lot lines shall be kept to a minimum by appropriate landscaping, paving, oiling, wetting and other means, or shall be eliminated.
- C. Vibration: Vibrations are measured in particle velocity and are to be measured at the property line or other designated location. The instrument used to measure vibrations shall be a three-component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions. The vibration maximums indicated as the performance standard in certain zoning districts may be measured directly with suitable instrumentation or

computed on the basis of displacement and frequency. When computed, the following formula shall be used:

$$PV = 6.28 F \times D$$

Where:

- PV = particle velocity, inches-per second
- F = vibration frequency, cycles-per second
- D = single amplitude displacement of the vibration, inches

The maximum particle velocity shall be in the maximum vector sum of three mutually perpendicular components recorded simultaneously. Unless specifically indicated to the contrary in the zoning district regulations, vibration resulting from temporary construction activity that occurs between 7:00 AM and 7:00 PM shall be exempt from the indicated performance standard.

- D. Glare: Illumination levels shall be measured with a photoelectric photometer having a spectral response similar to that of the human eye, following the standard spectral luminous efficiency curve adopted by the International Commission on Illumination. (Ord. 02-54 § 2, 2002)

#### **18.14.090 Planned Zoning Districts; Statement of Objectives**

The zoning of land to one (1) of the planned zoning districts designated in subsection A2 of Section 18.14.010 shall be for the purpose of encouraging and requiring orderly development at a quality level generally equal to or exceeding that commonly found in projects developed under conventional zoning, but permitting deviations from the normal and established development techniques. The use of planned zoning districts can increase compatibility and reduce negative impacts when procedures such as encouraging large-scale development, efficient use of land, innovative and imaginative site planning, conservation and preservation of natural resources, creating urban amenities, greater open space, and economical land developments are utilized to the fullest. Current R-1/PUD districts will automatically become RP-1 districts. The following are specific objectives of the planned zoning districts:

- A. Planned developments are groupings of buildings or building sites that are planned as an integrated unit or cluster on property under unified control or ownership at the time the zoning was approved by the City. The sale, subdivision or other partition of the site after zoning approval does not exempt the project or portions thereof from complying with the development standards, architectural quality, sign concepts and other conditions that were committed to at the time of the rezoning. The submittal by the developer and the approval by the City of development plans represents a firm commitment by the developer that development will indeed follow the approved plans in concept, intensity of use, aesthetic levels and quantities of open space.
- B. Planned residential developments should be designed in a manner that will produce more usable open space, better recreational opportunities and safer and more attractive neighborhoods than under conventional zoning and development techniques.
- C. Planned commercial developments should be designed so as to result in attractive, viable and safe centers and clusters, as opposed to strip patterns along thoroughfares. Control of vehicular access, architectural quality, landscaping and signs will be exercised to soften the impact on nearby residential neighborhoods, and to assure minimum adverse affects on the street system and other services of the community.

- D. Planned industrial developments should be designed to promote the establishment of industrial parks, to permit groups of industrial buildings with integrated design and a coordinated physical plan, to buffer adjacent residential areas with landscaped open space.
- E. Planned mixed-use developments are intended to encourage innovative neighborhoods and communities with a mix of residential and nonresidential uses. Such developments integrate a variety of land uses within close proximity to each other and offer a greater variety in type, design and layout of those uses. Planned mixed-use developments are intended as an alternative to conventional, modern, use-segregated developments for select areas of the community. However, existing characteristics and development patterns must be examined before determining if a mixed-use development is appropriate near conventional developments.
- F. Planned mixed-use zoning districts are intended as the method of integrating “nonresidential” uses into areas identified as “residential” by the *Comprehensive Plan*. However, site design, proposed uses, nearby zoning and land uses, the character of the surrounding area, and a variety of other factors shall always be considered in determining if a mixed-use development is appropriate for a given residential area. It is recognized that many conventional residential areas may not be considered appropriate for mixed-use development.
- G. The developer will be given latitude in using innovative techniques in the development of land not feasible under application of conventional zoning requirements.
- H. Waivers from development requirements as provided for in Section 18.14.100 may be approved if it is deemed that other amenities or conditions will be gained to the extent that an equal or higher quality development is produced. (Ord. 02-54 § 2, 2002)

#### **18.14.100 Planned Zoning Districts; Standards of Development**

- A. The uses permitted in any planned zoning district shall be those set forth in the chapter applicable to that planned zoning district. Provided, however, where found to be reasonably necessary in the interest of the public health, safety and general welfare, the City may condition approval of a development plan by specifying that certain uses otherwise permitted in the district shall not be allowed in that particular development.
- B. At the time of preliminary development plan approval, the applicant may propose, or the City may require, that a phasing plan be submitted setting forth the timing and sequencing of development among various types of uses or subgroups of uses or buildings in the development.
- C. As a general rule, the density or intensity of residential land uses shall be as set forth in the chapter applicable to a particular planned zoning district, except provided, however, that as long as the overall density of the development does not exceed the density otherwise permitted for a parcel of that size, taking into consideration standard street patterns and right-of-way requirements, the density of portions of the development may vary from that otherwise applicable to that planned zoning district, except in the RP-1 and RP-2 planned zoning districts. These districts maintain the conventional districts density or intensity. In determining whether or not to allow the density of development to be varied within the remaining RP-3, RP-4 and RP-5 planned zoning districts, the Planning Commission and Governing Body shall give consideration to the following: (1) the amount, location and proposed use of common open space; (2) the location and physical characteristics of the site of the proposed development; and (3) the location, design and type of dwelling units and other uses.

- D. Within the RP-1 and RP-2 districts, all common open space resulting from the variance of standards for density and intensity of land shall be set aside for the use and benefit of the residents of such development. The remaining RP-3, RP-4 and RP-5 planned zoning districts contain minimum landscaped open space requirements. Dedicated common open space will be credited in calculating total site floor area and landscape open space ratios. As a condition of preliminary development plan approval, the Planning Commission or Governing Body may require that the developer provide for and establish an agency for the ownership and maintenance of any common open space and may require assurance of the financial and administrative ability of any such agency. Further, the Planning Commission or Governing Body may require that any such agency shall not be dissolved or permitted to dispose of any common open space by sale or otherwise (except to a new agency assuming all the duties and obligations of the original agency) without first offering to dedicate the same to the City or any other government agency. The City shall also have the remedy to provide maintenance or repair of the common area and assess the costs to the property owners in the owners' association, in the event any such agency fails to fulfill its obligations hereunder
- E. At the time of final development plan approval, the Planning Commission may apply the provisions of Sections 18.12.200, 18.12.210 and 18.12.220 to the planned development and, upon the acceptance of the Governing Body, the filing of the final development plan with the Register of Deeds shall constitute the effective dedication of easements, rights-of-way, access control and the equivalent of and alternate for the platting of land prior to the issuance of building permits for the planned development. Rule exceptions or waivers to the standards set forth in Chapter 18.68, Subdivision and Lot Splits, may be granted at the time of such final development plan approval under the same conditions applicable to plat approvals.
- F. Standards set forth in any planned zoning district may be altered as part of the preliminary site development plan. The City Planner may approve minor revisions to the preliminary site development plan if he finds that: a) the revisions are appropriate; and b) the revision does not adversely affect land owners within two hundred (200) feet of the boundary of the revised area. Substantial or significant changes may only be approved after rehearing. Such rehearing shall be subject to the notice and protest provisions set forth in Section 18.12.130 and the provisions of Sections 18.12.140 and 18.12.160.B. Standards for the design, bulk and location of buildings and structures shall be as set forth in the regulations applicable to any planned zoning district. Provided, that the Planning Commission or Governing Body may, in the process of approving preliminary development plans, approve the following deviations from the minimum standards:
1. Side yards between buildings may be reduced to zero.
  2. A portion of the parking area required under this title may be waived or may remain unimproved until such time as the City Council deems it must be improved to serve parking demand adequately.
  3. Waivers from other development standards applicable to a planned development may be approved only upon express findings that unique characteristics of the property impose an unnecessary hardship upon the property owner if the regulations are strictly applied, and that the granting of the deviation will not adversely affect the rights of adjacent property owners or residents. (Ord. 02-54 § 2, 2002)

(Pages 86 through 88 reserved.)