

ARTICLE 27.
SUPPLEMENTARY SUBDIVISION PROCEDURES AND REQUIREMENTS

Section 1. GENERAL PROVISIONS:

This Article establishes uniform procedures and platting requirements for subdivisions subject to these regulations. No Final Plat shall be filed with the County Register of Deeds as required by law until it has been acted upon by the Zoning Board and approved by the Board as required herein.

Section 2. PRE-PLATTING CONFERENCE:

Any person desiring to subdivide land is encouraged to schedule and hold a pre-platting conference with the Zoning Administrator as a first step toward filing an application for a Preliminary Plat. Arrangements for this conference shall be made by contacting the Planning Office.

The subdivider or subdivider's representative is not encouraged to prepare a sketch plan of the proposed subdivision prior to the pre-platting conference since a topographic map of the area proposed to be platted shall be reviewed at the pre-platting conference. However, if a sketch plan has already been prepared, it should be brought to the pre-platting conference. Such sketch plan could indicate the location of the proposed subdivision, the general layout of the proposed subdivision, including the location of streets, and the orientation and number of the lots approximately to scale; and could also note any particular design problems posed by the existing natural or man-made conditions and characteristics of the site.

In addition to the planning staff and representatives of the subdivider(s) intending to subdivide land, principal participants involved in the pre-platting conference may include representatives of the Johnson County Unified Wastewater Districts, the Johnson County Public Works Office, Johnson County Park and Recreation District and other persons and agencies as applicable.

Verbal, written or schematically illustrated statements made during the course of the conference shall be regarded as illustrative only and shall not be construed to be indicative of or to control future action taken on the application by the staff, or by the Board which has the final authority on all subdivision plats after consideration by the Zoning Board.

Section 3. PRELIMINARY PLAT:

- A. Application: A subdivision application form shall be filed with the Zoning Administrator at least thirty (30) days prior to the Zoning Board meeting at which the application shall be considered and shall be accompanied by fifteen (15) copies of the Preliminary Plat. The appropriate fee, as established by resolution of the Board, shall be paid upon filing the application.
- B. Preliminary Plat Contents: The following information shall be shown on the Preliminary Plat or attached thereto:
 - 1. The Preliminary Plat shall be drawn by a professional engineer or land surveyor licensed in the State of Kansas to a scale of 50'/inch or 100'/inch or 200'/inch. However, with special conditions and prior approval of the Zoning Administrator, an alternative scale may be allowed or required. The Preliminary Plat shall be prepared by a professional engineer or land surveyor licensed in the State of Kansas and shall include:
 - a. The name of the proposed subdivision.

- b. Location of the subdivision by reference to at least one (1) section corner.
 - c. The name(s), address(s) and phone number(s) of the owner(s)/developer and the professional engineer or land surveyor who prepared the plat.
 - d. North arrow.
 - e. The legal description of the subject property.
2. The Preliminary Plat shall depict existing features of the subject property as follows:
- a. All of the land to be platted as well as all platted or unplatted properties adjacent and within 200 feet shall be shown. The boundary of the platted area shall be accurately indicated by a heavy solid line.
 - b. Existing contours of the subdivision and surrounding property within 100 feet of the subdivision boundary or to the opposite side of adjacent road rights-of-way, whichever is less. The contour intervals shall be not more than five (5) feet for subdivisions with all lots larger than one (1) acre, and the contour intervals shall not be more than two (2) feet for subdivisions with any lots smaller than one (1) acre. All elevations and contours shall be related to readily available topographic datum elevations in the County. Two permanent bench marks shall be established outside of the proposed construction area and shall be described on the drawing.
 - c. The location, width and names of all existing platted or private streets or other public ways within or adjacent to the tract, together with existing easements, railroad and utility easements, parks and other significant features such as city boundary lines and survey monuments.
 - d. Environmental features including the location and size of ponds and lakes, location and size of clusters of trees larger than twelve (12) inches in diameter one (1) foot above grade, location of rock outcroppings, the location and direction of drainage channels and areas subject to flooding by the 100-year Flood and the size of culverts and bridges on adjacent roads, areas subject to flooding from drainage courses and surface water.
 - e. Location and size of existing buildings and structures to remain on the property after development.
 - f. Location of any major utilities within the subdivision boundary.
 - g. Location and type of buildings on adjacent parcels and within 200 feet of the subdivision boundary.
3. The Preliminary Plat shall depict proposed plat features as follows:
- a. Layout of streets with general dimensions and approximate gradients and their relationship to adjoining or projected streets or roadways in surrounding properties, and other such features. The street names shall be assigned by staff and shall be shown on the Preliminary Plat only after the street names have been assigned.
 - b. Intended layout, numbers and spot dimensions of lots.

- c. Parcels of land intended to be dedicated or reserved for parks, schools, or other public use, or to be reserved for the use of property owners within the subdivision.

4. Additional items to accompany the Preliminary Plat:

- a. A preliminary plat analysis report as provided in Article 26 of these regulations.
- b. A preliminary grading plan if streets would not have curbs. Such plans shall show patterns of storm water flow both on the land surface and underground in relation to streets and building sites.
- c. A written statement which identifies whether mineral resources have been identified on land in the subdivision, and, if there are known oil, gas or other mineral reserves, defines the potential for extraction of those reserves, describes the status of mineral rights, including whether the same person(s) own the surface rights and also own the mineral rights, whether those owners are the same persons seeking the subdivision plat approval, and whether the mineral rights are to be sold or transferred to the new tract/lot owners.

If the mineral rights have been previously sold or will not be necessarily sold with the tracts/lots in the subdivision, then a written note of such shall be included on the Preliminary Plat, and this note also shall state that the potential for oil, gas or other mineral reserves exists and that exploration and extraction of these resources may affect the use of property in the subdivision.

- C. General County Staff and Utility Review: The Zoning Administrator shall distribute copies of the Preliminary Plat to the appropriate County departments and agencies and affected utility companies for review and comment. All general staff and utility review comments shall be coordinated by the Zoning Administrator and shall be forwarded along with a report and recommendation to the Zoning Board. The School District Superintendent, District Fire Chief, Sheriff, Water District, Public Works, Emergency Services, Environmental Department, cities within two (2) miles of the site, and other such entities, shall be invited to comment on proposed preliminary plats. Plats for parcels of land in the Airport Interest Areas also shall be processed as required by Article 21 of these regulations.
- D. Zoning Board Review and Action: The Zoning Board shall conduct a public hearing on the Preliminary Plat in accordance with the provisions of Article 4 of these regulations. After reviewing the Preliminary Plat based on the objectives and requirements of these regulations, comments from interested citizens, the report from the Zoning Administrator, and comments from the applicant, the Zoning Board shall either continue the application for further consideration or take action to accept, modify and accept, or reject the Preliminary Plat. The Zoning Administrator shall forward a statement of the action taken by the Zoning Board to the Board.
- E. Board Review and Action: The Board shall consider the Preliminary Plat and the action taken thereon by the Zoning Board. The Board shall either, let the Zoning Board's action stand, or, by formal motion, shall either, approve, modify and approve or deny the action of the Zoning Board, or the Board may refer the Preliminary Plat back to the Zoning Board for further review and consideration.

The Zoning Administrator or the Zoning Board may determine that circumstances warrant that the Preliminary Plat must be approved by the Board before a Final Plat is submitted for review by the Zoning Board. Circumstances which may warrant Board approval of a Preliminary Plat before a

Final Plat is submitted may include, but shall not be limited to subdivisions with unusual design features, subdivisions of tracts with unusual or unique natural features or subdivisions which could not be approved without a Rule Exception from these regulations.

- F. Effect of Approved Preliminary Plat: Approval of the Preliminary Plat shall permit the applicant to proceed with the preparation of a Final Plat as described in Section 4 of this Article unless the Preliminary Plat and Final Plat are being processed simultaneously as provided in Article 28 of these regulations.

Approval of the Preliminary Plat does not constitute final acceptance of the subdivision by the County. Such approval establishes the overall layout and design of the proposed subdivision and authorizes the submission of a Final Plat. Any major deviation of the Final Plat from of the approved Preliminary Plat as determined by the Zoning Board or Board shall be disallowed and shall cause the re-initiation of the Preliminary Platting process or the submittal of a Final Plat in accordance with the approved Preliminary Plat. All Preliminary Plats, whether previously approved or approved hereafter, shall expire two (2) years after their approval by the Board unless the Board determines that the Preliminary Plat is in conformance with all of the then current county subdivision plat criteria and standards.

If the Preliminary Plat is found to be in conformance with said criteria and standards, then final plats also in conformance with said criteria and standards may be considered for approval. Any Preliminary Plat not found to be in conformance with said criteria and standards shall necessitate the submittal and approval of a new Preliminary Plat application.

Section 4. FINAL PLAT:

- A. Application: The final platting process is intended to provide a drawing of the survey of the subdivision for the purpose of providing a legal record of lots, streets, areas of dedication and easements for future reference and transactions. The Final Plat submitted may be for all of the property approved in the Preliminary Plat or may be for only a portion or phase thereof.

The applicant shall execute and file with the Zoning Administrator fifteen (15) paper copies and one (1) legible, reduced-scale, paper photocopy no larger than 11" x 17" showing the name, boundaries and lot layout of the Final Plat along with the additional information required herein.

- B. Final Plat Contents: The following information shall be shown on the Final Plat and attached thereto:

1. The Final Plat shall include:

- a. Dedication statements for all rights-of-way, easements, lots, tracts or other property being dedicated. The dedication statements shall at least include:

- 1). that the plat has been submitted before the Zoning Board,
- 2). that the plat has been approved by the Board, and
- 3). that the land dedicated for public purposes has been accepted by the Board;

- b. The written legal description of the property;

minimum infrastructure requirements in Article 31 of these regulations and the development and performance standards in these regulations.

- C. **Application Complete:** Upon receipt of the Final Plat, and the documents required in this Section, the Zoning Administrator shall determine whether the Final Plat application is complete, and if the application is not complete, shall notify the applicant as such. The Final Plat, if complete, shall then be placed on the agenda for consideration at the next regularly scheduled meeting of the Zoning Board which would be held no less than fifteen (15) days after the determination of completion of the application, or no more than forty-five (45) days thereafter. Provided, that if all application requirements have not been fully met so that the Zoning Administrator can determine that the Final Plat application is complete, the Zoning Administrator may still place the Final Plat on the Zoning Board meeting agenda and the plat may still be processed up to, but not including, endorsement by the Zoning Board Chairperson. In such cases, the Zoning Administrator shall withhold presentation of the Final Plat original and copies to the Zoning Board Chairperson until the requirements of these regulations have been satisfied.
- D. **General County Staff and Utility Review:** The Zoning Administrator shall transmit copies of the Final Plat, along with other documents submitted, to the appropriate County departments, agencies and utility companies as the Zoning Administrator deems necessary for review and to assure compliance with the approved Preliminary Plat. The Zoning Administrator shall serve as Final Plat coordinator and all review comments shall be directed to such person.
- E. **Zoning Board Review and Action:** The Zoning Board shall review the Final Plat for compliance with the approved Preliminary Plat and for completion of all final platting requirements. After consideration, the Zoning Board shall either recommend that the Board approve or deny the Final Plat or continue the application to allow for further discussion and review.

The Zoning Administrator shall forward a statement of the action taken by the Zoning Board, together with the minutes and the required number of copies of the Final Plat, to the Board.

- F. **Board Review and Action:** Upon recommendation from the Zoning Board, the Board shall take action to approve or disapprove the Final Plat. For Final Plats involving subdivider funded or constructed improvements, the Board's approval of the Final Plat shall include acceptance of street and other public way dedications, service and utility easements, and land dedicated for other public use where applicable as provided in these regulations but may be made subject to the subdivider executing an Improvement Agreement including surety satisfactory to the County's Attorney with respect to improvements to be funded by or constructed by the subdivider. However, in the latter event, the Board's approval shall be contingent upon the Final Plat not being allowed to be recorded before: the subdivider has submitted and obtained staff approval of two (2) copies of construction plans and specifications as required by the County's then applicable and adopted Street Construction and Storm Drainage Standards for New Subdivisions, and calculation sheets as required by the County's then applicable and adopted Design Criteria for Storm Drainage Systems, and
 - 1. The required improvements have been constructed by the subdivider in accordance with approved plans and specifications and have been accepted by the County, or
 - 2. A written Improvement Agreement and improvement surety as required by said Street Construction and Storm Drainage Standards for New Subdivisions which is properly executed by the subdivider.

In summary, the Street Construction and Storm Drainage Standards for New Subdivisions currently provides that the improvement agreement shall include provisions which require the subdivider to undertake and complete, to the satisfaction of the County, all streets and storm drainage improvements and all other public improvements required as a condition for approval of the plat. The agreement also sets out the time limit for the completion of the specified work, the amount of surety to be posted as security for satisfactory completion of the work, and the right of the County, in the event the required work is not completed in a proper or timely manner, to make demand on the posted surety to ensure the proper completion of the work.

- G. Recording of Final Plat: The Final Plat shall be filed by the Zoning Administrator, by the subdivider, or by the subdivider's agent acting for and on behalf of the owner of the property, with the Register of Deeds of Johnson County, Kansas, not later than two (2) years after approval of the Final Plat by the Board. Provided, however, if the plat involves an Improvement Agreement, the plat shall be filed by the Zoning Administrator. If the plat is filed by the Zoning Administrator, the applicant shall pay to the Planning Office the filing fee as will be charged by the Register of Deeds.

Section 5. PLAT EXCEPTIONS:

After the date of adoption of these regulations, the standards and procedures required in these regulations shall be interpreted and applied to all subdivision plats, including subdivision plats for tracts of land in the Airport Interest Areas.

In case, however, of hardship caused by size, location or configuration of land, topography or other factors which affect a specific tract or subdivision or portion thereof, the applicant may request a Plat Exception from one or more of the requirements contained in the subdivision regulations relating to the design requirements of Article 30 (e.g., lot and street layout, block lengths, cul-de-sac lengths, lot width or lot depth; and the median break spacing, street intersection spacing, street frontage road requirements, if recommended by the County Engineer pursuant to Article 30, Section 2(B)(3) of the Regulations). A Plat Exception may be requested in writing on forms provided by the Planning Office or by letter if all information required on such forms is provided within the letter. Requests for Plat Exceptions may be submitted with the Preliminary Plat application, or may be submitted during the course of consideration of such applications. Requests for Plat Exceptions shall be considered by the Zoning Board and a report on the Zoning Board's recommendations or failure to recommend thereon, shall be provided to the Board of County Commissioners, who shall make the final decision thereon.

Plat Exceptions shall not be recommended for approval by the Zoning Board nor approved by the Board of County Commissioners unless they find that such approval shall be compatible with the surrounding neighborhood and shall not be contrary to the public interest or unnecessarily burden the County, and shall not annul the intent and purpose of these regulations.

A Plat Exception shall not be used to grant an exception regarding uses permitted within zoning districts, nor to modify the requirements or standards of a Conditional Use Permit.

Where a preliminary plat is submitted as a preliminary development plan in association with a planned zoning district application, and deviation from the zoning district standards is approved as part of the inherent flexibility of planned zoning (e.g., height, bulk, parking, and sign requirements, minimum lot depth, minimum lot width, length of cul-de-sac streets, length of blocks) as may be permitted through the development plan process, then a Plat Exception shall not also be required to approve such deviation.

Section 6. PRESERVATION OF PUBLIC OPEN SPACE:

- A. Dedication of Public Open Space or Fee In Lieu Of: In subdividing land or resubdividing an existing plat, the Board shall, at its option, require the subdivider to dedicate or reserve sites for parks or public open space, or may require that a fee be paid in lieu of dedication, or may require a combination of a fee and a dedication. The determination of whether dedication or a fee shall be paid, or whether a combination of a dedication and a fee shall be required shall rest with the Board. This determination shall be based on compliance with the requirements in Subsection C of this Section of these regulations. The determination also shall be made in accordance with the Board of County Commissioners' Resolution No. 046-94, adopted on June 23, 1994, and any amendments thereto, if any. The park land dedications and fees in-lieu of park land dedications shall be made to the County on behalf of the Park and Recreation District and shall be for public park and recreation purposes.

- B. Location and Design of Parkland or Open Space: Any land so dedicated or reserved shall conform as nearly as possible to the Rural Comprehensive Plan and the plans and policies of the County and the Johnson County Park and Recreation District. The size, location and arrangement of the land to be dedicated or reserved shall be determined by the geometric design of the streets, lots, and blocks of the subdivision with consideration given to the natural physical characteristics of the site and the preservation and enhancement of natural features. No subdivider shall be required to dedicate or reserve more than 5% of the tract being subdivided exclusive of streets, alleys, easements or other public open spaces. However, the subdivider may dedicate or reserve in excess of 5% of the land being subdivided if the subdivider so desires and the County agrees to accept the dedication.

- C. General Requirements for Dedicated Land:
 - 1. Land dedications or reservations for future dedications shall be accepted from subdivisions of tracts fifty (50) acres or larger. Tracts smaller than fifty (50) acres shall be required to pay a fee in lieu of dedication as provided in Subsection 6(D) below. For certain small tracts, however, and subject to consultation with the Park and Recreation District, and at the sole discretion of the Board, the County may accept land parcels smaller than would be required by the above provisions with a commensurate fee in-lieu of dedication for the remaining quantity of land that otherwise would have been required to be dedicated to fully meet the provisions in this subsection if the land parcels would be an integral part of or a reasonable adjunct to existing or planned park and open space land or facilities in the immediate vicinity.

 - 2. All lands to be dedicated shall meet the following general requirements:
 - a. Size and Shape: The dedicated tract shall contain not less than two and one-half (2-1/2) contiguous acres and be a minimum of two hundred (200) feet at the narrowest dimension.

 - b. Location and Accessibility: The dedicated tract shall be located in or adjacent to the subdivision and easily accessible to same. Consideration shall be given to placing parks where they can be added to by future subdivisions, or as an addition to an existing park.

 - c. Topography and Drainage: At least fifty percent (50%) of the park area shall have a grade less than four percent (4%). The balance may be covered with steep slope, streams, ditches, lakes or other natural features.

- d. Natural Features: Features such as trees, brooks, hilltops and views shall be preserved whenever possible. The subdivider shall designate, or show at the time of filing the Final Plat, the trees and other natural features which are to be retained. The preservation and creation of lakes and wooded areas are to be encouraged.
- D. Fees In Lieu of Dedication: In the event the proposed subdivision does not contain lands suitable for parkland or public open space with respect to the criteria set forth in Subsection C immediately above, and with respect to the Rural Comprehensive Plan and the plans and policies of the County and the Johnson County Park and Recreation District, the Board may then require, at its option, payment of a fee in lieu of dedication. The fee shall be based on the fair market value of the land acreage which otherwise would have been dedicated as provided in Subsection 6(C) above. The fair market value shall be determined by an independent, third-party real estate appraiser who shall be agreeable to both parties. The subdivider shall pay the real estate appraiser for the market value appraisal of the land acreage which otherwise would have been dedicated as provided in Subsection 6(C) above.
 - E. Indication on a Preliminary Plat: The land to be dedicated shall be shown on the Preliminary Plat as a separate tract or tracts. The Johnson County Park and Recreation District and the Zoning Board shall make a recommendation to the Board concerning the suitability of the land proposed for dedication.
 - F. Prerequisite for Final Plat Approval: When dedication is required, the land being dedicated shall be shown on the Final Plat as a separate tract or tracts and a statement shall appear on the plat indicating that such tract or tracts are dedicated to the public for use and development as parks or public open space. In addition, a properly executed warranty deed, conveying the required tract or tracts to the County shall be presented to the County prior to Final Plat approval. Such dedications shall not be effective until the dedication of the land has been specifically accepted by the Board.

When payment of a fee in lieu of dedication is required, the payment shall be made in one of the following manners:

- 1. Payment of the fee shall be made to the County prior to Final Plat approval; or
 - 2. The total amount of the fee required shall be divided by the number of lots within the subdivision to arrive at a fee amount per lot. Prior to the issuance of the initial building permit for any lot, the fee amount due for that lot must be paid to the County. A note indicating the amount of the fee required for each lot shall appear on the Final Plat if this method for payment of the fee is chosen by the subdivider.
- G. Reservation of Land or Open Space: The Board may determine that in some cases reservation of park land or public open space for future dedication at no expense to the County, is more appropriate than immediate dedication of such land. In such cases the land to be reserved for future dedication shall be shown on the preliminary and final plats and a covenant to be recorded with the plat shall be signed by the subdivider and shall be submitted to the County. The covenant shall indicate the latest date, time and the manner in which dedication shall take place.