

# 6

## SUBDIVISION REGULATIONS

### 6.1 Purpose

6.1.1 Subdivision Regulations are how raw land is converted into buildable sites for residential, commercial, and industrial uses. The physical arrangement of these lots along with provisions for streets, alleys, utilities, schools, parks, and other community facilities will, in large part, determine the quality of life in the community and, therefore, is of public interest. Such regulations establish standards that ensure that urban areas' growth will reflect sound planning and will not be detrimental to the community. These regulations are designed, intended, and adopted for the following purposes:

1. To provide for adequate light, air, and privacy, to secure safety from fire, flood and other danger, and to prevent overcrowding of the land;
2. To protect and conserve the value and desirability of land and neighborhoods throughout the community;
3. To establish reasonable standards of design and procedures for subdivisions and re-subdivisions;
4. To ensure proper legal descriptions, monumenting of land, and adequate and accurate platting and records of land subdivision;
5. To harmoniously relate the development of the various tracts of land to the existing community and facilitate the future development of adjoining lots;
6. To ensure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision;
7. To provide for and secure to the proper governmental agencies the actual construction of all such necessary on-site and off-site public improvements, including the reservation or dedication of land for park and recreational purposes;
8. To reserve or dedicate land for open space to preserve natural areas for watercourses, drainage ways, woodland, rugged topography, wildlife habitat, and for water quality and quantity, and to protect the land from soil erosion;
9. To coordinate the subdividing of land with applicable zoning regulations, various construction codes and other County regulations which also affect the development of the land; and
10. To contribute to the implementation of PlanELC.

### 6.2 Applicability

6.2.1 The regulations outlined in this section, unless exempted by Section 6.4, shall apply to any person desiring to do any of the following:

- a. Subdivide or further subdivide any lot, tract, or parcel of land into two or more parts.
- b. Re-subdivide any lot, tract, or parcel of land that has previously been subdivided into two or more parts.
- c. Establish any street, alley, sidewalk, park, or other property intended for public use or the use of

prospective or existing owners of lots, tracts, or parcels of land fronting on or adjacent to such property.

- 6.2.2 The owner(s) of any land subject to these regulations subdividing said land in a manner previously cited shall cause to be prepared a subdivision plat in accordance with the provisions of these regulations. No building or zoning permit shall hereafter be issued for construction on any land that has not been subdivided in compliance with these regulations and all other applicable Kansas State Laws and local laws in effect at the time of the subdivision of said land.
- 6.2.3 The subdivision or re-subdivision of a tract or lot shall not be permitted where said subdivision or re-subdivision places an existing permanent structure in violation of the requirements or the minimum design standards of these regulations.
- 6.2.4 Agricultural parcels shall not be subdivided solely for residential, commercial, or industrial purposes unless the landowner has a vested right pursuant to Section 6.3.4 or is exempted by State statute. All subdivided Agricultural parcels shall maintain their Agricultural Parcel Type zoning designation. Unless a Conditional Use Permit is granted after the application is made to the LCPAB approved by the Governing Body.
- 6.2.5 Where these regulations impose restrictions that differ from those imposed by any other provision of these regulations or any other statute, regulation, or other provision of law; the provision, which imposes the highest or most restrictive standard shall apply.

### **6.3 General**

- 6.3.1 All subdivision plats or re-plats of land laid out in building lots, and the streets, alleys or other portions of the same intended to be dedicated for public use, or the use of purchasers or owners of lots fronting thereon, shall be submitted to the LCPAB for its consideration and approval. The approved plat shall be submitted to the Governing Body for final plat approval and acceptance of dedications of streets, alleys, easements, and other public ways or sites.
- 6.3.2 *Conformance with applicable laws and regulations.* In addition to these requirements, all subdivision plats shall comply with all applicable laws and regulations, including the following:
  - a. Other requirements and standards within the LC Zoning Regulations.
  - b. The Lyon County Health Department's regulations.
  - c. Regulations of the Kansas State Department of Transportation if the subdivision or any lot contained therein abuts a state highway or connecting streets.
  - e. The standards and regulations adopted by the Lyon County Engineer.
  - f. Fire and life safety codes.
  - g. Any other applicable state or local laws or regulations.
- 6.3.3 Land shall not be subdivided until proper provision has been made for drainage, water, and sewage.
  - a. If the proposed subdivision is to be served with public water and public sewer or a community-type sewage treatment plant, approval of the plat shall be subject to the minimum requirements outlined in the Building Standards of the applicable Parcel Type and other applicable requirements in these Zoning Regulations.

- b. If the proposed subdivision is within unincorporated Lyon County, the preliminary plat will be submitted according to the requirements outlined in the Building Standards of the applicable Parcel Type. It will be subject to the approval of the Lyon County Health Department and other applicable requirements.

6.3.4 *Vesting of development rights.* In conformance with the provisions of K.S.A 12-764, the following rules regarding the vesting of development rights shall apply:

- a. For development rights vested prior to July 1, 2009:
  - 1. For single-family residential developments, development rights in such parcels shall vest upon the recording of a plat of such land provided the division of land was legally done in conformance with the Subdivision Regulations in effect at the time of such recording. If construction is not commenced on such land within five (5) years of recording a plat with the Lyon County Register of Deeds, the development rights in such shall expire.
  - 2. For all purposes other than single-family developments, the right to use the land for a particular purpose shall vest upon the issuance of all permits required for such use by Lyon County, and construction has begun. Substantial amounts of work have been completed under a validly issued permit.
- b. For development rights vested on and after July 1, 2009:
  - 1. For residential developments, development rights in such land use shall vest upon the recording of a plat of such land provided the division of land was legally done in conformance with the Subdivision Regulations in effect at the time of such recording. If construction is not commenced on such land within ten (10) years of recording a plat with the Lyon County Register of Deeds, the development rights in such shall expire. For this section's purposes, residential developments may include single family housing; multiple family housing such as apartments, duplexes, townhomes and similar configurations; condominiums, and manufactured and modular homes.
  - 2. For all purposes other than residential developments, the right to use the land for a particular purpose shall vest upon the issuance of all permits required for such use by Lyon County, and construction has begun. Substantial amounts of work have been completed. If substantial amounts of the work have not been completed within ten (10) years of the issuance of such permits, the development rights shall expire.

6.3.5 Dedication or reservation of public sites and open space.

- a. In subdividing land or re-subdividing an existing plat, the subdivider should give due consideration to the dedication or reservation of suitable sites for schools, parks, playgrounds, or other public recreational areas or open spaces. Considering of any such subdividing or re-subdividing of the LCPAB shall make recommendations as to dedications and reservations.
- b. Any area so dedicated or reserved shall conform as nearly as possible to the recommendations of the LCPAB.
- c. All areas to be reserved for, or dedicated to, public use shall be indicated on the preliminary plat. It may be determined when and in what manner such areas will be dedicated to or acquired.

## 6.4 Exemptions

6.4.1 The following specific transactions shall be exempt from compliance with the provision of these regulations:

- a. Boundary adjustments between one or more contiguous lots, tracts, or parcels of land will not create any additional lots, tracts or parcels, shall not be subject to the subdivision platting or re-platting requirements of these regulations. However, such boundary line adjustments shall comply with the requirements of these regulations.
- b. A conveyance of land, or interest therein, for use as Right-of-Way by railroad or other public utilities subject to state or federal regulations where no new street or easement of access is created.
- c. A conveyance made to correct a bearing or distance description in a previously recorded conveyance.
- d. Any transfer by operation of law.
- e. The subdividing of land used exclusively for cemetery purposes and accessory uses associated therewith.
- f. Any lot, parcel or tract of land located within the area governed by these Subdivision Regulations which has been legally subdivided, re-subdivided, platted or re-platted prior to the effective date of these regulations. For purposes of these regulations, a legally subdivided, re-subdivided, platted or re-platted lot, parcel, or tract of land shall include any certificate of survey submitted and recorded, as provided by these requirements, prior to the effective date of these regulations.
- g. The division of a lot, tract or parcel of land that existed prior to the effective date of these regulations and was not previously exempted under any previous subdivision regulations, where no more than one (1) additional lot, tract or parcel is created. Any further division of the lot, tract or parcel, including any remainder parcel or tract, shall be platted in conformance with these regulations' requirements.
- h. The division of a platted lot used for industrial purposes only, as required by Kansas State Law, provided each resulting lot has frontage on a public street.
- i. The division or further division of unincorporated land when subdivided only for agricultural use and when such division does not involve creating new streets, easements of access, or other dedication.

6.4.2 *Lot splits.* The division of a tract of land or lot into not more than two buildable lots in conformance with size requirements of the applicable Parcel Type is exempt from the platting requirements described in Sections 6.6 - 6.9, provided that it complies with Section 6.10 on Lot Splits procedures.

## 6.5 Administration

6.5.1 *Appeals.* Any decision of the County Engineer on matters contained herein may be appealed to the LCPAB, as provided by Section 8.9 of these zoning regulations. Any decision of the ZA on matters about building permits may be appealed to the LCPAB, as provided by Section 8.9 of these zoning regulations.

### 6.5.2 Building permits.

- a. No building permit shall hereafter be issued for construction on any land subject to these Subdivision Regulations until:
  1. Construction drawings and specifications for all required developer-installed improvements have been submitted to the County Engineer and approved.
  2. Endorsed copies of the subdivision plat have been recorded in the office of the Register of Deeds of Lyon County. No plat, re-plat, dedication, or deed shall be filed with the Register of Deeds until such plat, re-plat, dedication, or deed has been approved by the LCPAB and the Governing Body as required by law.
  3. Required public improvements have been installed or guaranteed in accordance with the provisions of these Subdivision Regulations.
  4. There has been compliance with all of the provisions of these Subdivision Regulations, the conditions of plat approval, and all other applicable state and local laws in effect at the time of the subdivision of said land.
- b. *Dwellings per lot.* Unless otherwise allowed by these Zoning Regulations, no more than one building permit shall be issued for a principal structure on each unplatted lot of record, each platted lot created as part of a subdivision, or each lot or tract created by a lot split.
- c. Upon receipt of the building permit application and certification by the ZA that the application is complete, the date of acceptance shall be affixed to the application. The building permit's issuance shall be authorized within thirty (30) days following the recorded plat's examination. If disapproved, the applicant shall have the right to appeal to the LCPAB within thirty (30) days.

## 6.6 Subdivision Design Standards

### 6.6.1 General

- a. All subdivisions of land subject to these regulations shall conform to the minimum design standards in these zoning regulations and the intent of PlanELC. Such design standards shall govern the approval of subdivision plats by the LCPAB and by the Governing Body. The Governing Body may disapprove of residential subdivision proposals. It is determined that the subdivision, or its location, is not compatible with the adopted PlanELC, the LC Zoning Regulations, or other development policies of the Governing Body.
- b. *Access.* All lots located in any subdivision shall take access directly from a street or alley dedicated and accepted for public use.
- c. *Access control.* In the interest of public safety and the preservation of the street system's traffic carrying capacity, the LCPAB shall have the right to regulate points of access to all property from the public street system. Such exclusions shall be indicated on the final plat.
- d. *Solar access.* Streets in residential subdivisions are encouraged to have an east-west alignment to promote energy conservation through passive and active solar systems. Lots intended for detached dwellings should be of sufficient width to allow the structure to be built with its longest axis running east-west.
- e. *Land subject to erosion.* On land subject to excessive soil movement that may result in erosion or deposition of soil, the LCPAB, in accordance with the recommendations of the County

Engineer, may require necessary preventive measures as part of the final plat approval and during construction and development of the subdivision.

#### 6.6.2 Subdivision Block Standards

- a. *Width.* In Districts where no existing plats are recorded. Block width and depth shall be determined concerning needs for convenient access, safety, circulation, and topography consideration.

#### 6.6.3 Subdivision Street Standards

- a. Relationship to adjoining street system
  1. The arrangement of streets in new subdivisions shall make provisions for the continuation of the existing principal streets in adjoining additions (or their proper projection where adjoining property is not subdivided) insofar as they may be necessary for public requirements.
  2. The width of such streets in new subdivisions shall not be less than the minimum widths established in the street standards, as outlined in Section 4 of these Zoning Regulations.
  3. Alleys, when required, and street arrangement shall cause no hardship to owners of adjoining property when they plat their land and seek to provide for convenient access to it.
  4. Whenever there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted and dedicated as a public way.
  5. Where conditions make street continuance or conformity difficult, the LCPAB may review and approve an alternative layout.
  6. Where the submitted plat covers only a portion of the sub-divider's contiguous land, a sketch of the prospective future street system of the entire ownership shall be submitted.
  7. Where a tract is subdivided into lots of an acre or more, the LCPAB may require an arrangement of lots and streets to permit a later subdivision in conformity with the street requirements.
- b. *Street names.* Streets that are obviously in alignment with other existing and named streets shall bear the names of the existing streets. Otherwise names shall be sufficiently different in sound and spelling from other street names in the City and County not to cause confusion.
- c. *Right angle intersections.* Under normal conditions, streets shall be laid out to intersect at right angles as nearly as possible. Where topography or other conditions justify a variation from the right-angle intersection, the minimum angle shall be sixty (60) degrees.
- d. *Street grades.* The grades of streets, alleys, and other public ways included in any subdivision shall not be greater than is necessary for the topographic conditions and shall be subject to the County Engineer's approval. A minimum gradient of one (1) percent shall exist on all streets whenever practical, but in no event shall the gradient be less than a half (½%) percent. Proposed streets shall conform to the topography as nearly as possible to reduce drainage problems and grades.

- e. Paving material
  - 1. For subdivisions located in the County's unincorporated areas, a private gravel drive may be used as the main road. However, the County will only take ownership of a roadway when it is hard-surfaced with asphalt or concrete and built to the Governing Body's specification.
- f. *Streets adjacent to a railroad Right-of-Way, limited-access freeway, principal highway, or arterial streets.* Where lots front or side, but do not back on railroad Rights-of-Way, limited-access freeways, principal highways, or arterial streets, a marginal access street or frontage road may be required parallel and adjacent to the boundary of such Rights-of-Way. The distance from said Rights-of-Way shall be determined with due consideration to the minimum distance required for approach connections to future grade-separated intersections.
- g. *Cul-de-sacs.* An adequate turnaround of not less than an eighty (80) foot diameter Right-of-Way shall be provided at the closed end of a dead-end local street segment. Such a local street segment should not exceed six hundred (600) feet in length from the intersection of a cross street to the juncture with the cul-de-sac.
- h. *Half-streets.* Half-streets shall be avoided, except:
  - 1. For arterial streets and collector streets where applicable, or where they are essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations; or,
  - 2. When the LCPAB finds it practical to require the other half of the street's dedication when the adjoining property is subdivided. Where a half-street, or portion thereof, is existing and adjacent to a tract to be subdivided, the other half of the street shall be based on street standards as outlined in Section 4 of these regulations and shall be plotted within such tract.
- i. *Alleys.* Alleys are required in commercial and residential areas. Dead end alleys shall be avoided wherever possible.

#### 6.6.4 Lot Standards

- a. Minimum lot width, measured at the building setback line, shall not be less than required by the Building Standards of the applicable Parcel Type when provided. Corner lots shall have a width of at least fifteen (15) feet greater than the minimum width.
- b. Minimum lot depth, measured through the center of the lot and perpendicular to the property line or curved streets, shall not be less than required by the Building Standards of the applicable Parcel Type when provided. The maximum lot depth of residential lots shall not exceed two and a half (2½) times the lot's width.
- c. Lot dimensions and minimum lot area shall be subject to the Building Standards of the applicable Parcel Type.
- d. All side lot lines shall bear sixty (60) to ninety (90) degrees from the street Right-of-Way line on a straight street or from the tangent of a curved street.
- e. Front building or setback lines shall be shown on the final plat for all lots in the subdivision. They shall not be less than the setbacks required by the applicable Building Standards or any other resolution adopted by the Governing Body. The greater setback requirement shall govern.

- f. Flag lots shall have no less than thirty (30) feet of street frontage.
- g. Double frontage lots shall be avoided unless, in the opinion of the LCPAB, a variation to this prohibition will give better street alignment and lot arrangement.
- h. Every lot shall have frontage on a public street other than an alley.
- i. The number of residential lots facing collector streets in each subdivision shall be kept to a minimum, or none at all. The street pattern shall be designed so that the sideline of lots abut collector streets wherever land shapes and topography permit.

## 6.7 Easements

- 6.7.1 *Utility easement.* Where alleys are not provided, permanent easements of not less than seven and a half (7½) feet in width shall be provided on each side of all rear lot lines, and on side lot lines, where necessary, for utility poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains, and other public utilities. Where a utility company or other service provider can demonstrate the need for a wider easement than required above for a specific location, such may be required by the Governing Body and provided by the developer. These easements shall provide for a continuous Right-of-Way at least fifteen (15) feet in width. An additional six (6) foot wide temporary construction easement abutting each side of a utility easement shall be provided for the initial construction of water, sewer, and other utility lines.
- 6.7.2 *Drainage easement.* If a subdivision is traversed by a watercourse, drainage way, or channel, then a stormwater easement or drainage Right-of-Way shall be provided. Such easement or Right-of-Way shall conform substantially to the lines of the natural watercourse. It shall be of such width or construction, or both, as necessary to provide adequate stormwater drainage and access for maintenance thereof. Parallel streets or parkways may be required in connection therewith. The County Engineer shall make a study and report the recommendation to the LCPAB as to the desired width of such easement. Such a study and report shall be based on the one-hundred-year flood depth (if known). Maintenance of stormwater easements and drainage Right-of-Way shall be the responsibility of the owners of property adjoining such easements or Right-of-Way.
- 6.7.3 *Solar access easement.* Any subdivider may grant or establish a solar sky-space easement to protect solar energy systems from being shaded. The easements shall be created in writing and shall be recorded on the face of the plat. The easements shall run with the land.

All permanent easements shall be shown on the plat and not be obstructed by structures or vegetation. A property owner erects fences and landscapes the easement at his or her own risk of loss.

## 6.8 Public Facilities and Improvements

- 6.8.1 *Adequate public facilities.* No preliminary plat shall be approved unless the LCPAB determines that public facilities are or will be adequate to support and service the area of the proposed subdivision.
- 6.8.2 The subdivider shall install, or provide for the installation of, the following facilities and improvements:
  - a. *Streets, alleys, and sidewalks.* Pavement, curbs, and gutters may be required to be installed on all streets. All streets and alleys in subdivisions shall comply with all applicable standards outlined in Section 4 and Section 6.6.3 of the LC Zoning Regulations. Sidewalks shall be located in the platted street Right-of-Way, and shall also be installed in any pedestrian easements as may



be required by the LCPAB.

- b. *Water service.* When reasonably available, a public water supply system or its equivalent shall be provided in accordance with the standards set by the public water supplier. In all other areas, a water supply system shall be provided subject to approval by the County Health Department.
- c. *Sewer service.* When reasonably available, a public sewerage system shall be provided with the public sewerage system supplier's standards. In all other areas, a sewage collection and treatment system shall be provided subject to the approval of the County Health Department.
- d. *Storm drainage.* Culverts, storm sewers, rip-rap slopes, stabilized ditches, and other storm drainage strategies shall be installed in compliance with the Street Standards as outlined in Section 4 of the LC Zoning Regulations.
- e. *Utilities.* Utilities, including but not limited to sanitary sewers and connection to approved treatment facilities, water supply, natural gas, electricity, and telephone service, shall be installed according to the specification of the controlling utility company or the Governing Body.

### 6.8.3 Public improvement procedures

- a. In cases where the existing public facilities are deemed inadequate by the LCPAB, upon the preliminary plat's approval. The subdivider of a proposed subdivision shall have prepared by a licensed professional engineer (which may be contracted for, with any governmental agency or utility) engineering drawings for proposed required improvements, containing the data and information specified in item 6.8.3.b below. A licensed professional engineer shall certify such drawings. They shall be submitted in duplicate to the County Engineer at least thirty (30) days prior to the date that the final plat's approval is requested. Failure to do so will be considered automatic consent, by the subdivider, to a waiver or an extension of the waiver of any time limitation for plat approval.
- b. *Content of engineering drawings.* Engineering drawings for required improvements shall contain the following data and information:
  - 1. Plans, profiles, details, specifications, and costs estimates for roadway and sidewalk construction, including plans and profiles for each street with a typical cross section of the roadway. The profiles of grade lines shall be shown to a scale ranging from one (1') inch equals twenty (20") to one (1') inch equals fifty (50") feet horizontal. The vertical scale shall be one-tenth ( $\frac{1}{10}$ ) the horizontal scale. This information shall be shown on standard plan and profile sheets unless otherwise required by the County Engineer.
  - 2. Plans, profiles, details, specifications, and cost estimates of proposed storm drainage improvements.
  - 3. Plans, profiles, details, specifications, and cost estimates of proposed water distribution systems and proposed water supply facilities and water hydrants, if any.
  - 4. Plans, profiles, details, specifications, cost estimates of sewerage systems, and any required sewage treatment facilities.
  - 5. Drainage plans for the subdivision.
  - 6. When unusual site conditions exist, the County Engineer may require such additional plans, specifications, and drawings as necessary for an adequate review of the

improvements to be installed. All plans shall be based on NGS datum for vertical control.

- c. *Review of plans.* The County Engineer shall review all engineering drawings to determine whether such drawings are consistent with the approved preliminary plat and comply with design standards. The cost attributable to all engineering drawing reviews shall be charged to and paid by the subdivider prior to recording the final plat. If such drawings are consistent and in compliance, the County Engineer shall forward to the LCPAB a notice that such drawings conform and comply. If the drawings do not so conform and comply, the County Engineer shall notify the subdivider of the specific manner in which such drawings do not so conform or comply. The subdivider may then correct such drawings and resubmit the corrected drawings.
- d. *Approval by the Planning Board.* The LCPAB shall recommend approval of a final plat only when the County Engineer's approval has been received.
- e. *Construction of improvements.* Except where such is otherwise expressly allowed under these regulations, no improvements shall be constructed nor shall any work preliminary thereto be done until a final plat and the engineering drawings, the Governing Body, shall have approved it. There shall have been compliance with all of the requirements relating to an agreement, bond deposit, or petition specified in these regulations.
- f. *Inspection.*
  - 1. All improvements constructed or erected shall be subject to inspection by the County Engineer or official responsible for setting and enforcing the applicable design and construction standards of the required improvement. A third party inspector approved by the Governing Body may be contracted to conduct inspections. The cost attributable to all inspections required by this regulation shall be charged to and paid by the subdivider. Before any required inspections occur, the subdivider may be required to post a deposit for security of the official to cover the cost of such inspections. The subdivider shall give at least forty-eight (48) hours written notification to such official prior to the performance of any phase of construction. The subdivider shall provide such an official with a construction schedule and shall update such schedule as necessary.
  - 2. After notice is received, the official designated may conduct an on-site inspection to determine that the work complies with the approved engineering plans and specifications. If, such work does not comply with the approved engineering plans and specifications, the official shall have authority to order that all such work shall be terminated until necessary steps are taken to correct any defects, deficiencies, or deviations. Upon the correction of such defects, deficiencies, or deviations, the subdivider shall again notify the official for another on-site inspection.
  - 3. No underground improvements, including but not limited to telephone, electric, water, sewer, stormwater, gas, or cable television, shall be covered with soil unless first inspected and approved.
  - 4. Upon completing all improvements within the area covered by the final plat, the subdivider shall notify the designated official, who shall conduct a final inspection of all improvements installed.
- g. *Approval and acceptance*
  - 1. When a final inspection or re-inspection indicates that all installed improvements contain no defects, deficiencies or deviations. Within ten (10) days of such final inspection the

inspecting official shall certify to the Governing Body that all improvements have been installed in conformance with the engineering plans and specifications accompanying the final plat.

2. If the Governing Body determines, after consideration of such certification, that there are no defects, deficiencies, or deviations in any such improvements as installed, the Governing Body shall notify the subdivider in writing sign the final plat. After the paying all required fees, the subdivider may file the subdivision with the Lyon County Register of Deeds.
3. Upon receipt by the Governing Body of the designated official certificate, all improvements have been installed in conformance with the approved engineering drawings, and with the requirements of these regulations, and all applicable statutes, resolutions and regulations. The Governing Body and such appropriate utility may thereupon by resolution or by letter, respectively, formally accept such improvements. Upon acceptance, the improvements shall become the property of the Governing Body or appropriate utility company involved.

6.8.4 *Guarantee of installation of improvements.* In lieu of the actual construction of the physical improvements required and the completion of construction occurring prior to recording the final plat, the Governing Body will accept one of the following methods of guarantee provided it is in accordance with the policies of the Governing Body:

- a. The subdivider shall enter into an agreement with the Governing Body under which the subdivider agrees to install such required improvements. Such agreement shall be conditioned upon the acceptance of the final plat by the Governing Body and its filing with the Lyon County Register of Deeds. Simultaneously, the subdivider shall furnish a corporate completion bond by a firm authorized to do business in Kansas. Suitable and sufficient sureties thereon or a cashier's check, escrow account, or irrevocable letter of credit in favor of the Governing Body, in the amount of the estimated cost as approved by the official responsible for setting and enforcing the applicable design and construction standards of the installation of the required improvements. Such a financial guarantee shall be conditioned upon the final plat's acceptance and further conditioned upon the actual completion and satisfactory installation of such required improvements within two (2) years from the date that the Governing Body accepts the final plat. The subdivider shall also deposit in escrow an amount equal to the cost of all improvements to be made in accordance with the plans and specifications for required improvements or an equivalent amount in the form of a maintenance bond or other securities that may be deemed sufficient by the Governing Body. If a subdivider furnishes a cashier's check, escrow account, or irrevocable letter of credit, fifteen (15%) percent of the amount of such guarantees shall be returned by or held as a deposit in escrow after the completion of such improvements. The subdivider shall agree that the Governing Body's escrow deposit may be held for eighteen (18) months after such improvements are completed.
- b. Petitions to the Governing Body may be submitted as a means of guaranteeing the authority to install improvements at such time as the Governing Body deems appropriate. Petitions may be submitted only when the following conditions exist:
  1. The petitions shall be brought in the manner set out under Kansas law.
  2. The petitions shall be approved by the Governing Body concurrently with the acceptance of the final plat.
  3. The initiating resolution for such improvement shall be adopted by the Governing Body concurrently with the petition approval or as soon as may be provided by law.

4. A certificate signed by the petitioner shall be recorded with the Lyon County Register of Deeds stating that such petitions have been filed and approved by the Governing Body. As described, certain land within the plat will be liable in the future for a special assessment for the required improvements authorized.
- c. For streets and related drainage for subdivisions located in unincorporated areas, pre-construction of improvements as an alternative method of guaranteeing their installation may be used if approved by the Board of County Commissioners of Lyon County. In this event, the subdivider may request the Governing Body to hold the final plat acceptance until an inspection certifies that the required improvements have been properly constructed. Such a pre-construction procedure shall be temporarily conditioned on subsequent acceptance of the final plat and upon a mutually agreed time limit for actual construction. The Governing Body may also require maintenance guarantees.

6.8.5 *Off-site improvements.* Upon making a finding of necessity, the Governing Body requires the subdivider to install or upgrade off-site improvements located outside the perimeter of a subdivision. Such off-site improvements should be within dedicated Rights-of-Way or easements and serve a public purpose. The financing and guaranteeing of such improvements shall be administered as if they were the same as on-site improvements.

- a. The Governing Body may require such subdivision to participate in the following facilities and improvements, or any other off-site improvements as recommended by the LCPAB upon its making of appropriate findings as to the relationship between the improvements required and the need created by a proposed subdivision:
  1. drainage improvements and drainage ways;
  2. pedestrian ways;
  3. screening and landscaping;
  4. grading;
  5. street improvements;
  6. traffic control devices;
  7. parks, recreational areas and open space;
  8. public water supply and delivery system;
  9. stormwater sewerage; and
  10. sanitary sewerage.

## 6.9 Submission and Approval of Plats

- 6.9.1 Prior to the filing of the preliminary plat, the subdivider shall contact the County Engineer, ZA, and other administrative personnel having jurisdiction to determine:
  - a. Procedure for filing plats.
  - b. Availability of public sanitary and stormwater sewers and water.

- c. PlanELC requirements for major streets, land use, parks, schools, and public open spaces.
- d. Parcel Type requirements for the property in question.
- e. Special setback or RBL requirements for applicable street standards.
- f. Eligibility for preliminary plat exemption

#### 6.9.2 Preliminary plat exemptions

- a. *Minor plats.* A minor plat is defined as a subdivision of land (1) into no more than six (6) lots fronting on an existing street; (2) not involving any new street or extension of public facilities; (3) not including more than five (5) acres if a residential plat, nor more than five (5) acres for any other type of plat, unless the LCPAB approves a larger acreage; and (4) not in conflict with PlanELC, the standards applicable to Parcel Type, or any provision in the LC Zoning Regulations.
- b. Minor plats may be submitted in the final plat form as described in Section 6.9.4 of the LC Zoning Regulations without first filing a preliminary plat or having such a preliminary plat approved by the LCPAB. Final plat application for minor plats shall contain all the information required to file of preliminary plats pursuant to item Section 6.9.3, accompanied by the filing of the preliminary filing fee with the Zoning Administrator.

#### 6.9.3 Preliminary plats

- a. After reaching the preliminary conclusions regarding the requirements for the proposed subdivision, the subdivider may submit a preliminary plat together with any supplemental information necessary to the ZA, who shall schedule a public hearing with the LCPAB.
- b. Submission requirements of a preliminary plat:
  1. *Filing fee and proof of ownership.* As adopted by the Governing Body, a filing fee shall accompany the filing of each preliminary plat. The preliminary plat shall not be accepted for filing until the filing fee, therefore, has been paid by the subdivider. The subdivider shall submit satisfactory proof of ownership or a copy of a contract to purchase the entire tract to be platted.
  2. *Number of copies.* The subdivider shall submit digital copies of a vicinity map (if not on the preliminary plat) showing the proposed subdivision's location. These plans shall be filed with the Planning Board having jurisdiction at least twenty (20) days prior to a regular LCPAB's meeting at which the preliminary plat is to be considered.
  3. The subdivider shall submit, with the preliminary plat, a complete list of the names and mailing addresses of all owners of record of all land within:
    - (a) two hundred (200) feet of property which is within the City Limits being proposed for subdividing or re-subdividing; or
    - (b) within one thousand (1,000) feet of property, which is in the County being proposed for subdividing or re-subdividing.
  4. All plats and boundaries shall be prepared by a professional surveyor licensed in the State of Kansas, as required by state statute or regulation. The topographic survey may be prepared by a professional surveyor licensed in the State of Kansas.

- c. Preliminary plats shall contain:
1. The proposed name of the subdivision. (The name shall not duplicate or closely resemble the name or names of any existing subdivision.)
  2. The location of the subdivision's boundary lines and references to the section or quarter section lines.
  3. The subdivider developer, owner, engineer, and land surveyor's names and addresses prepared the plat.
  4. Scale of the plat, one (1") inch = one hundred (100') feet or larger.
  5. Date of preparation and north point.
  6. Existing conditions:
    - (a) Location, width, and name of platted streets or other public ways, the designation of private streets, railroads and utility rights-of-way, parks and other public open spaces, and permanent buildings within or adjacent to the proposed subdivision.
    - (b) All existing sewers, water mains, gas mains, culverts, or other underground installations, within or adjacent to the proposed subdivision, with pipe size and utility-holes grades, and location.
    - (c) Names of adjacent subdivisions and arrangement of streets and lots, and owners of adjacent parcels of unsubdivided land.
    - (d) Topography (unless specifically waived by the ZA) with contour intervals of not more than two (2') feet, referred to NGS datum. Where the ground is too flat for contours, spot elevations shall be provided.  
  
Location of watercourses, bridges, wooded areas, lakes, ravines, and other features may be pertinent to the subdivision.
    - (e) The LCPAB may require, as a condition of the preliminary plat, that the subdivider agrees to provide for deed covenants whereby any owner(s) of lots within the proposed subdivision agree:
      - i. To make a connection to the public sewage system whenever such public sewer is extended within five hundred (500') feet of any boundary of the subdivision and the public system requests that such connection be made, and further; or
      - ii. To pay the cost of such extension of the public sewer to the subdivision and the cost of connection of lots thereto, whether by means of a special assessment, connection fees, and another lawful means.
  7. The general arrangements of lots and their approximate size.
  8. Location and width of proposed streets, alleys, pedestrian ways and easements, and approximate gradient of streets.

9. The general plan of sewage disposal and water supply in areas where public sewers and water are proposed to serve the subdivision. In other cases, a notation shall be made on the plat indicating the type and location of sewage disposal and water system proposed.
  10. Location and size of proposed parks, playgrounds, churches, school sites, or other special uses of the land to be considered for reservation or dedication for public use.
  11. General layout of a the adjacent undeveloped/unsubdivided property to show how streets and other public facilities in the proposed subdivision relate to the undeveloped/unsubdivided property.
  12. The subdivider shall submit a preliminary grading and drainage plan. This plan shall include the location and size of all storm sewers, existing and proposed land elevations and contours, necessary widths of all open drainage ways, and meeting the Street Standards as outlined in Section 4 of these regulations. The County requires a Stormwater Management Plan. This plan shall be forwarded to the County Engineer, who will prepare a written analysis of the plan for consideration by the LCPAB.
- e. *Approval or disapproval of the preliminary plat.* Action by the LCPAB shall be conveyed to the subdivider in writing within ten (10) business days after the LCPAB's meeting, at which time the plat was considered, and action was taken thereon. Approval of the preliminary plat by the LCPAB does not constitute an acceptance of the subdivision but is instead merely an authorization for the subdivider to proceed with the preparation of the final plat. If the plat is disapproved, the subdivider shall be notified of the reason for such action. And what requirements shall be necessary to meet the approval of the LCPAB. If the LCPAB fails to approve or disapprove a preliminary plat within sixty (60) days after the plat has been submitted for consideration. Then the preliminary plat shall be deemed to have been approved. Unless the subdivider shall have consented to extend or waive such time limitation.
- f. *Area to be platted.* To ensure that these regulations are carried out, the overall subdivision design is prepared in an orderly manner. The LCPAB may require a preliminary plat to be submitted on all contiguous land under common ownership rather than a parcel or segment. However, the area may, be final platted in smaller parcels or segments as directed by the LCPAB.
- g. *Effective date.* The preliminary plat's approval shall be effective for an indefinite period except that the LCPAB may, after a minimum period of six (6) months due to substantial justification or change in the area, require the redesign and resubmission of the preliminary plat.

#### 6.9.4 Final plats

- a. *Submission:*
  1. After approval of the preliminary plat, the subdivider may submit a final plat along with a fee established by the Governing Body to pay for the plat's recording.
  2. A digital copy of the final plat, in "state plane coordinates," or tied to two section corners and formatted to standards established by the ZA, plus the original on mylar and digital copies thereof shall be submitted to the LCPAB at least twenty (20) days prior to the LCPAB's public meeting. The names and signatures of the owner(s) of the property duly acknowledged and notarized shall appear on the original and all copies submitted.
  3. The LCPAB shall be required to hold a public hearing on a final plat only when the LCPAB finds a question whether the final plat as submitted is in substantial conformity

with the approved preliminary plat. The public hearing for a re-plat in substantial conformance with a previously approved preliminary plat shall be considered during the final plat.

4. The final plat, prepared for recording purposes, shall be drawn at a scale of one (1" inch = one hundred (100') feet or larger (i.e., one (1") inch = fifty (50'), not one (1") inch = two hundred (200') feet). The size of the sheet on which such final plat is prepared shall be twenty-four (24") inches by thirty-six (36") inches. Each sheet shall have a one and a half (1½") inch binding edge along the left-hand side. Where the proposed plat is of unusual size. The final plat shall be submitted on two (2) or more sheets of the same dimensions. If two (2) or more sheets are required, an index map of the same dimensions shall be attached showing, the entire development at a smaller scale. The dimensions indicated are standard for all final plats and shall be complied with. Title, description, and other written data shall be located either right- or left-hand side.

b. *Information.* The final plat shall show and contain the following information:

1. Name of subdivision (not to duplicate or too closely resemble any existing subdivision).
2. Location of section, township, range, County, and State. The "boundary description of the exterior" of the subdivision is based on an accurate traverse, giving angular and linear dimensions which shall be mathematically correct. The allowable error of closing on any portion of the plat shall be one (1') foot in five thousand (5,000') feet. The total acreage of the subdivision shall be provided.
3. The location of existing monuments and benchmarks shall be shown and described on the final plat. The location of such monuments shall be shown in reference to existing official monuments or the nearest established street lines, including the true angles and distances to such reference points or monuments.
4. The location of lots, streets, public highways, alleys, parks, and other features, with accurate dimensions in feet and decimals of feet with the length of radii on all curves, and other information necessary to reproduce the plat on the ground.
5. Lots shall be numbered clearly. Blocks shall be numbered or lettered clearly in the center of the block.
6. The exact locations, widths, and names of all streets and alleys to be dedicated.
7. Boundary lines and description of the boundary lines of any area other than streets and alleys which, are dedicated or reserved for public use. The incorporation of fillets into property lines and for Right-of-Ways lines at intersections ensures that the distance between the road edge and the property line is no less than the similar distance for lots having only one frontage.
8. Building setback lines on the front and side streets with dimensions. Rear setback lines and dimensions shall be shown for irregularly shaped lots.
9. Scale of the plat (scale to be shown graphically and in feet per plat scale inch), date of preparation, and north point.
10. Statement expressing the property owner's intent to dedicate for public use all easements, streets, alleys, and all other public areas previously dedicated.



11. The following certificates, in a format that may be provided by the ZA:
- (a) Name, signature, and seal of the Professional Surveyor, licensed in the State of Kansas, preparing the plat.
  - (b) Name, signature, and seal of the Professional Surveyor, licensed in the State of Kansas, verifying that all monuments and control markers have been set in compliance with Lyon County requirements and in accordance with the Land Survey Act, K.S.A. 58-2001 et seq.
  - (c) A certificate signed and acknowledged by all parties having any record, title, or interest in the land subdivided. Including all mortgage holders consenting to the preparation and recording of said subdivision map and expressing the property owner's intent to dedicate or reserve all parcels of land shown on the final plat and intended for any public or private uses, including those parcels which are intended for the exclusive use of the lot owners of the subdivision, their licensees, tenants, and visitors.
  - (d) An acknowledgment of a notary.
  - (e) A certificate of the LCPAB.
  - (f) An acceptance of easements, Rights-of-Way, and other public dedications by the Governing Body.
  - (g) A certificate of the County Treasurer.
  - (h) A certificate of the Lyon County Survey, or Surveyor's designee.
  - (i) A blank space for noting entry on the transfer record.
  - (j) A certificate of the Register of Deeds.
12. The following additional data and documents shall be submitted with the final plat:
- (a) A title report by an abstract or title insurance company, or an attorney's opinion of title, showing the name of the owner or owners of the land and all other restrictions, easements, or encumbrances on the land. The consent of all such persons having a financial interest shall be shown on the plat and acknowledged by a notary public.
  - (b) If any taxes or special assessments, due and payable have not been paid in full. Have been protested as provided by law, monies, or other sufficient escrows guaranteeing such payment of taxes. If the protest is not upheld, shall be placed on deposit with such officials or governing bodies in an amount sufficient to meet this requirement.
  - (c) A copy of any restrictive covenants applicable to the subdivision.
  - (d) At least three (3) Reference ties for locating each exterior monument.
- c. *Governing body acceptance of final plat.* After the recommendation on the final plat by the LCPAB, such plat shall be forwarded to the Governing Body for its approval of the plat and the

acceptance of streets, alleys, easements, or other dedicated public rights-of-way or sites. The Governing Body may take action on the plat at any meeting following the recommendation of the plat by the LCPAB. The Governing Body should approve or disapprove the plat. It shall accept or refuse the dedication of land for public purpose within thirty (30) days after the Governing Body's first meeting following the date of submitting the plat to the county clerk. The Governing Body may defer action for an additional thirty (30) days to allow modifications to comply with the Governing Body's requirements. No additional filing fees shall be assessed during that period. If the Governing Body defers or refuses such dedication, it shall advise the LCPAB of the reasons, therefore, and request the LCPAB's reconsideration.

- d. *Record of the final plat.* After approval of the final plat and acceptance of the public dedications and easements by the Governing Body, the Secretary of the LCPAB shall record the original copy of the final plat with the Register of Deeds of Lyon County.

## 6.10 Lot Splits

### 6.10.1 Objective

- a. The objective of this section is to provide guidelines for the division of a tract of land or lot into not more than two buildable lots, provided that the produced lots meet the minimum size requirements for the applicable Parcel Type, without having to comply with the platting requirements described in Sections 6.9.
- b. No building permit or intent to build shall be issued for any structure to be located on a lot produced by a lot split until the ZA has approved the lot split in accordance with the requirements of this section.

### 6.10.2 Application Procedure

- a. Requests for lot split approval shall be made by the landowner to the ZA.
- b. A digital copy of a scale drawing of the lots involved. Whether or not there are structures thereon, a digital copy of a survey of the lot and the structure(s) with the precise nature, location, and dimensions of the proposed lot split shall accompany the application.
- c. The application shall provide a legal description for the original lot and legal descriptions for each of the lots produced by the proposed lot split, and the ZA may require such a legal description to be certified and written by a Professional Land Surveyor licensed in the State of Kansas.

NOTE\*-Lots that require a change in parcel type or are part of an existing platted subdivision must follow 6.10.2 (d and e.)

- d. The application shall be accompanied by a list of all persons' names and addresses to receive notices. The ZA may require such a list to be prepared by a registered abstractor.
- e. Written notices shall be mailed to all landowners within two hundred (200') feet if within City Limits. One thousand (1,000') feet if in unincorporated Lyon County, of the property proposed to be split. Such owners shall have ten (10) business days from the date of notification to notify the ZA of any objections they may have concerning the lot split. The ten (10) days waiting period may be waived upon submissions in writing of the statements from those to be notified that they have no objection to the proposed lot split.

- 6.10.3 *Approval Guidelines.* The division of lots pursuant to this section shall comply with applicable Parcel Type standards and all other applicable Zoning Regulations.

- a. No lot split shall be approved if any of the following applies:
1. A new street or alley is needed or proposed.
  2. A vacation of streets, alleys, setback lines, access control, or easements is required or proposed.
  3. If such action will result in significant increases in service requirements, e.g., utilities, schools, traffic control, streets, etc., or will interfere with maintaining existing service levels, e.g., additional curb cuts, repaving, etc.
  4. There is less street Right-of-Way than required by these regulations or the PlanELC unless such dedication can be made by separate instrument.
  5. All easement requirements have not been satisfied.
  6. If such splits will result in a tract without direct access to a public street.
  7. A substandard sized lot will be created unless the LCPAB has approved a variance for the lot.
- b. The ZA may make such additional requirements as deemed necessary to carry out the intent and purpose of existing land development regulations and policy. Requirements may include, but not be limited to, installation of public and dedication of Right-of-Way and easements.

6.10.4 *Staff Review and Action.* In writing, the ZA shall, either approve with or without conditions or disapprove the lot split within thirty (30) days of application. If approved, after all conditions have been met, the ZA shall sign and furnish a certificate of approval to be affixed to the lot split survey. A certified copy thereof shall be filed with the Register of Deeds, the official designated to issue building or occupancy permits. A copy shall be furnished to the applicant.

Fee

- a. The fee for lot splits shall be in an amount as established by a Schedule of Fees.
- b. Cost of filing or recording documents, publications, writs, and engineering costs are payable in addition to lot split fees.

6.10.5 *Rural Lot Split.* The creation of up to three (3) additional adjacent lots, for a total of four (4) adjacent lots including the current original parent parcels on any tract of 80 acres or less, in the unincorporated portion of Lyon County on properties zoned and used as agricultural shall be permitted without requiring either rezoning or a plat. This provision intends to accommodate those divisions of agricultural lands to create an additional building site, and those that are necessary because of mortgage or lending requirements. This process is established; provided:

- a. All split Agricultural parcels shall maintain their Agricultural Parcel Type zoning designation.
- b. The provisions of section 6.10.2 are complied with completely.
- c. The approval guidelines specified in section 6.10.3 are complied with to the extent they are applicable to an agricultural lot split.

- d. All lots created shall be a minimum of five (5) acres in size; shall provide a minimum lot frontage on a public road of at least thirty (30) feet, and shall comply with the Lyon County Sanitation Code for on-site wastewater and on-site water systems.
- e. Applications shall state the approval of the rural lot split shall also mean the owner agrees the approval shall restrict further division of either of the lots located in any half ( $\frac{1}{2}$ ) of a quarter ( $\frac{1}{4}$ ) section without platting said division of original property located in the same half ( $\frac{1}{2}$ ) of the quarter ( $\frac{1}{4}$ ) section as might be required under the then applicable Zoning and Subdivision Regulations of Lyon County. The restrictions shall be binding on all heirs and assigns of all lots and shall provide binding consent from all lot owners for the County to take subsequent action to rezone the property if necessary at any time in the future. Said application shall be filed and recorded with the ZA as part of the rural lot split's approval.
- f. In the event any of the lots or parcels created by this provision are subsequently divided for any reason. Other than agricultural purposes or mortgage purposes, the subject lots and tracts are subject to the regulations stated herein. No further splits shall occur until such properties have been rezoned and platted. No owner shall be accountable for the inclusion of other lots in the platting; however, the County may include all the lots in any subsequent zoning action.