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OSAGE COUNTY, KANSAS

# **SUBDIVISION REGULATIONS**

MARCH 2022 EDITION

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### Sections:

- 1-101 Title and Scope**
- 1-102 Purpose**
- 1-103 Jurisdiction**
- 1-104 Applicability**
- 1-105 Exemptions**
- 1-106 Administration and Enforcement**
- 1-107 Definitions**
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#### **1-101 Title and Scope:**

These regulations shall be known and may be cited as the “Subdivision Regulations of Osage County, Kansas”, and shall hereinafter be referred to as “these regulations.” These regulations prescribe the minimum design requirements and approval procedures for the development of new subdivisions and resubdivisions of land within Osage County, Kansas.

#### **1-102 Purpose:**

The division and improvement of land for non-agricultural development has a significant and lasting impact upon the physical environment of Osage County, Kansas, and it places increasing demands upon public facilities and services, and ultimately the taxpayers. The creation of new streets, lots and utility systems requires significant public and private capital investments. Failure to properly size and construct adequate roads, ensure available water supplies and wastewater treatment capabilities, manage storm water runoff and erosion, and plan for public services may result in physical and environmental problems which are difficult and costly to resolve. The importance of assuring the compatibility of new development with the plans and needs of Osage County must be protected in the interest of the public health, safety, and general welfare.

These regulations set forth uniform rules and procedures for the division and improvement of real property for non-agricultural uses within Osage County, to assure that new subdivisions are properly planned and integrated with existing streets, utilities, and other public facilities systems. These regulations are further intended to prevent potential environmental hazards; to coordinate the use of private and public resources to achieve planned and orderly non-agricultural land development through proper location and design of roads, building lines, open spaces, and utilities; and to establish standards by which roads, utilities and other physical improvements shall be erected, constructed, or installed.

#### **1-103 Jurisdiction:**

These regulations shall apply to all the unincorporated portion of Osage County, Kansas.

#### **1-104 Applicability:**

These regulations shall apply to any person desiring to do any of the following:

1. Subdivide or further subdivide any lot or tract of land into two or more parts.

2. Re-subdivide any lot or tract of land that has previously been subdivided into two or more parts.
3. Establish any street, alley, sidewalk, park, or other property intended for public use or for the use of prospective or existing owners of lots or tracts of land fronting on or adjacent to such property.

The owner(s) of any land located within Osage County, Kansas, 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 zoning certificate, building permit, on-site wastewater permit, certificate of occupancy or other similar permit shall hereafter be issued by Osage County, Kansas, or other permitting authorities, for construction on any land that has not been prepared and approved in compliance with these regulations and all other applicable state laws and Osage County resolutions, including tracts of land created by “lot split” or similar administrative action.

### **1-105 Exemptions:**

These regulations shall not apply in the following instances or transactions:

1. Any lot or tract of land located within the area governed by these regulations that has been legally subdivided or platted prior to the effective date of these regulations.
2. The division or further division of land into lots, tracts, or parcels of forty (40) acres or more where subdivided for agricultural or single-family purposes only and that does not involve or result in the creation of any new streets, provided:
  - A. All lots, tracts or parcels of land created shall meet the minimum acreage required in this provision.
  - B. The division of land is located adjacent to a public road that has been accepted by the County or a township and meets the minimum frontage requirements of the Osage County Zoning Regulations.
  - C. If the property is located adjacent to a public road right-of-way that does not conform to the minimum requirements of the County or township, additional right-of-way shall be granted by dedication.
  - D. If any portion of the property lies in a flood hazard area as shown on the official flood maps published by the Federal Emergency Management Agency for Osage County, or if drainage channels and swales exist on the property that carry runoff from adjacent property or public roads, the flood hazard areas or drainage channels shall be protected by grant of easement dedication or other similar devise as may be required by the County.
  - E. If any portion of the property has been improved with terraces, waterways, or other similar land improvements funded in whole or in part by any Federal agricultural program, written verification shall be provided from the appropriate Federal agencies that the division of the land is not in violation of any provision of the Federal laws governing the property with respect to said improvements.
  - F. For purposes of this provision, measurement of the forty (40) acres for exemption purposes shall include any adjacent road right-of-way or easement. A lot described as a quarter/quarter (i.e., 1/4 of 1/4 of a section) or as a Government Lot from the original government

survey shall be deemed to meet the lot size requirements for this provision even though said lot may net less than a full 40 acres. An irregular division of property described by metes and bounds shall contain a full forty (40) acres, including any rights-of-way and easements, in order to be exempt.

- G. In order for property to be considered for an exemption pursuant to this provision, the property owner or his agent shall first file with the Register of Deeds a restrictive covenant pertaining to such property that has the effect of prohibiting the sale, long-term lease, devise, transfer or division of the property until all portions of the property that are not exempt under this provision are first required to be platted according to the provisions of these regulations, including all amendments thereto.
3. A transaction between owners of adjoining tracts of land or lots which involves only a change in the boundary between the land owned by such persons, provided no additional lots are created and such tracts of land or lots comply with the design requirements for lots in Section 4 105 of these regulations and applicable provisions of the Osage County Zoning Regulations.
4. The use of land for street or railroad right of way, a drainage easement or other public utility subject to local, state, or federal regulations, provided no new street or easement of access is created or involved.
5. Land used for highway or other public purposes relative to the dedication of a parcel of land for a public use or instruments relating to the vacation of land impressed with a public use.
6. A correction of a description in a prior conveyance, provided that such a conveyance shall be clearly labeled as a "Correction Conveyance" and shall clearly identify the prior conveyance which is the subject of correction and the error contained in such prior conveyance.
7. Any lot split approved in compliance with the requirements of these regulations.
8. The issuance of permits for repairs, maintenance, continuance of an existing use or occupancy, including the expansion or rebuilding of an existing principal and/or accessory structure. This provision shall apply only when the repairs and/or expansion conform to all applicable resolutions and codes relating to lot coverage, building setbacks, and zoning. In addition, no building permit, zoning certificate or occupancy certificate shall be issued for a building or structure on any unplatted lot, tract, or parcel of land until the applicant has first shown, by satisfactory evidence to the building permit issuing officer or his (her) delegated agent, that the following conditions exist:
  - A. The tract or parcel is not landlocked, i.e., has proper frontage and access to a public road or street.
  - B. The tract or parcel has access to all utility and telephone services by way of a recorded easement dedicated to the public. The easement serving the property shall not be less than 20 feet in width where adjacent to a rear property line or less than 10 feet in width where adjacent to a side property line. The easement shall extend continuously to a service entrance point and exit point for all the utilities and telephone services.
  - C. Any required permit for utility service has been obtained.

- D. Any required on-site wastewater system permit has been obtained.
- E. Any required on-site water well permit has been obtained.
- F. The proposed building site, as designated on a plot plan, is not located on land subject to flooding. Any designated flood hazard areas, channels or waterways which exist on the property and which carry runoff from adjacent property or public roads shall be protected by a recorded grant of easement, dedication, or similar devise.
- G. If the property is located adjacent to a public road right-of-way that does not conform to the requirements of these regulations, additional right-of-way shall be granted by dedication or easement as may be required to conform to the provisions of these regulations.
- H. It shall be the responsibility of the property owner or his agent to provide the Zoning Administrator copies of recorded instruments which show both the name of the current owner and a complete legal description of the property for which an exemption is requested.
- I. Any request made in writing to the Zoning Administrator for a determination of being exempt from these regulations shall be answered, in writing either in the affirmative or negative within 30 days of the filing of the request, or the exemption shall be considered granted

It shall be the responsibility of the property owner or his agent to provide the Zoning Administrator copies of recorded instruments which show both the name of the current owner and a complete legal description of the property for which an exemption is requested.

Any request made in writing to the Zoning Administrator for a determination of being exempt from these regulations shall be answered, in writing, either in the affirmative or negative within 15 days of the filing of the request, or the exemption shall be considered granted.

**1-106 Administration and Enforcement:**

1. Division of Responsibility. The administration of these regulations is vested with the following governmental branches, agencies, or departments of Osage County:
  - A. The Osage County Land Use Department;
  - B. The Osage County Planning Commission; and
  - C. The Board of Commissioners of Osage County.

The responsibilities of these governmental branches, agencies or departments is as follows:

2. Duties of the Osage County Land Use Department. The Land Use Department shall be responsible for the administration of the following provisions of these regulations:
  - A. Maintain permanent and current records with respect to these regulations, including amendments;
  - B. Receive and file all preliminary plats and final plats, together with applications;

- C. Forward copies of the preliminary plat to other governmental agencies and departments and representatives of public utilities for their information and recommendations;
  - D. Review all preliminary plats to determine whether such plats comply with these regulations and review all final plats to determine whether they comply with these regulations and the requirements established for the preliminary plat;
  - E. Forward preliminary and final plats to the Subdivision Committee of the Planning Commission, together with staff recommendations;
  - F. Forward final plats to the Planning Commission, together with the recommendations of the Subdivision Committee;
  - G. Notify township trustees of proposed plats within their respective townships when the dedication of street right-of-way is proposed; and
  - H. Review all applications for building permits for compliance with the provisions of these regulations.
  - I. Issue determinations of when property divisions are exempt from these regulations as provided herein.
  - J. Make other determinations and decisions as may be required of the department by these regulations or by the Planning Commission or the Board of County Commissioners.
3. Duties of the Planning Commission. The Planning Commission shall:
- A. Review and approve sketch plats in all cases when the subdivider and the Land Use Department have been unable to reach agreement on the sketch plat;
  - B. Review and approve, approve conditionally, or disapprove preliminary plats;
  - C. Review and approve or disapprove final plats;
  - D. Forward the final plat to the Board of County Commissioners for approval and acceptance of dedications of streets, alleys, and other public ways when the property being platted is in the unincorporated portion of Osage County;
  - E. Make other determinations and decisions as may be required of the Planning Commission from time to time by these regulations, or the applicable sections of the Kansas Statutes Annotated.
4. Duties of the Board of County Commissioners of Osage County. The duties of the Board of County Commissioners shall be to
- A. Accept the dedication of streets, alleys, and other public ways;
  - B. Accept restrictive covenants recommended by the Planning Commission;
  - C. Approve guarantees for public improvements; and,
  - D. Consider rule exceptions to the improvement standards of these regulations.



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5. Enforcement. It shall be the duty of the Zoning Administrator to enforce these regulations. The following actions are prohibited:
  - A. Approval of a plat by the Planning Commission that does not comply with the provisions of these regulations.
  - B. The transfer or sales of any tract or parcel of land located in a plat approved by the Board of County Commissioners that has not been recorded with the Register of Deeds.
  - C. The recording of any plats or replats of land laid out with building lots, streets, alleys, utility easements and dedications of the public unless the plat or replat bears the signatures and seals of the Planning Commission and Board of County Commissioners.

### **1-107 Definitions:**

For the purpose of these regulations, certain terms and words are hereby defined. Words used in the present tense shall include both the past and the future, and words used in the future tense shall include the present. Words in the singular number shall include the plural and words in the plural number shall include the singular. The word “building” shall include the word “structure”; the word “dwelling” shall include the word “residence”; the word “lot” shall include the word “plot”; the word “person” shall include individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities. The word “shall” is mandatory and not directory while the word “may” is permissive. The phrase “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, “maintained for”, and “occupied for”. Words or terms not herein defined shall have their ordinary and customary meaning in relation to the context.

1. ACCESS: The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.
2. ACCESS CONTROL: Access control is the limitation of public access rights to and from properties abutting streets or highways. Access control is used on higher functional classes of roadways to preserve high-quality traffic service and to improve safety.
3. ADMINISTRATIVE OFFICER: See Zoning Administrator.
4. ALLEY: A public or private thoroughfare which provides only a secondary means of access to abutting property.
5. APPLICANT: The owner of a tract of land, or his duly designated representative, for which an amendment has been requested.
6. BENCHMARK: Surveying mark made in some object that is permanently fixed in the ground, showing the height of that point in relation to National Geodatic Vertical Datum (NGVD).
7. BLOCK: A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroads, rights-of-way, shoreline or waterways, or boundary lines of municipalities.
8. BOND: Any form of security including cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to Osage County, Kansas. All bonds shall be approved by Osage County, Kansas, whenever a bond is required by these regulations.

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9. BOUNDARY SHIFT: A change in the boundary between adjoining lots, tracts or parcels of land that does not create an additional building site; provided such transaction, when completed, shall result in tracts of land or lots which comply with the design requirements for lots of these Regulations and with applicable provisions of the Osage County Zoning Regulations.
10. BUILDING SETBACK LINE (FRONT): A line nearest the front of and across a lot or parcel of land establishing the minimum open space to be provided between the front line of a building or structure and the line of the fronting street right-of-way.
11. CLUSTER SUBDIVISION: A form of development for single-family residential subdivisions that permits a reduction in lot area and bulk requirements, provided that there is no increase in the number of lots permitted under a conventional subdivision and the resultant land area is devoted to open space. The clustering design technique concentrates building in specific areas on the site to allow the remaining land to be set aside for recreation, meaningful common open space, and preservation of environmentally sensitive features.
12. COMPREHENSIVE PLAN: Any official map or street plan, the future land use map or plan, or any other plan or map adopted by the Osage County Planning Commission and the Board of County Commissioners for the guidance of growth and improvement of Osage County.
13. COUNTY: The Board of County Commissioners of Osage County, Kansas, or its delegated staff, boards, or agencies.
14. COUNTY HEALTH OFFICER: The Director of the Osage County Health Department, or such person designated to administer the health regulations of Osage County, Kansas.
15. DEDICATION: Gift or donation of property by the owner to a governmental unit. The transfer is conveyed by a plat or a written separate instrument. The act of dedicating is completed with a formal acceptance by the governing body.
16. DEVELOPER: The owner, or any other person, firm or corporation authorized by the owner, undertaking proceedings under the provisions of these regulations for the purpose of subdividing land.
17. DESIGN STANDARDS OR DESIGN REQUIREMENTS: All requirements and regulations relating to design and layout of subdivisions contained in Article 7 of these regulations.
18. DETENTION POND: A storage facility for the temporary storage of storm water runoff. The storm water may be released to downstream facilities at a designed rate of flow.
19. EASEMENT: A grant by a property owner to specific persons or the public to use land for a specific purpose or purposes. Also, a right acquired by prescription.
20. EASEMENT, AVIGATIONAL: An air rights easement that protects air lanes around airports.
21. EASEMENT, DRAINAGE: An easement required for the installation of storm water sewers or, waterways and/or required for the preservation or maintenance of a natural stream or water course or other drainage facility.
22. EASEMENT, PRIVATE: A right-of-way granted for limited use of land for a public purpose.

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23. ENCROACHMENT: Any obstruction in a delineated floodway, right-of-way, easement, building setback or adjacent land.
24. ENCUMBER: To place a legal claim or restriction upon a tract or parcel of land.
25. ENGINEER: A professional engineer licensed by the State of Kansas or licensed to practice in the State of Kansas.
26. FLOOD, BASE ELEVATION: The highest elevation, expressed in feet above sea level, of the level of flood waters having one percent chance of being equaled or exceeded in any given year.
27. FLOOD CONTROL: The elimination or reduction of flood losses by the construction of flood storage reservoirs, channel improvements, dikes and levees, by-pass channels, or other engineering works.
28. FLOODWAY: The channel of a natural stream or river and portions of the flood plain adjoining the channel, which are reasonably required to carry and discharge the floodwater or flood flow of any natural stream or river, without increasing the water surface elevation at any point more than one foot. See RESERVE.
29. FLOODWAY FRINGE: That area of the mapped flood plain, outside of the regulatory floodway, that is likely to be flooded by the base flood.
30. FLOOD INSURANCE STUDY (FIS): The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Insurance Rate Map and Flood Boundary/Floodway Map and the water surface elevation of the base flood.
31. FLOODWAY, REGULATORY: The channel of a river or other watercourse and the adjacent land areas as tabulated in the FIS (Flood Insurance Study) that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.
32. FRONTAGE ROAD: A public or private, marginal access roadway, generally paralleling and contiguous to a street or highway, providing access to abutting properties. A frontage road is designed to promote safety by eliminating unlimited ingress and egress to the principal street or highway by providing points of access at generally uniformly spaced intervals.
33. GOVERNING BODY: The Board of County Commissioners of Osage County, Kansas.
34. GRADE: The slope of a road, street, or other public way (rise/run), specified in percent (%).
35. GROUNDWATER: Any subsurface water in the zone of saturation, including but not limited to spring water, perched water tables, seasonal water tables and aquifers.
36. HOMEOWNERS ASSOCIATION: A community association, other than a condominium association, that is organized in a development where individual owners share common interests in open space or facilities. The homeowners association usually holds title to reserves, manages and maintains the common property, and enforces certain covenants and restrictions. Condominium associations differ from homeowners associations in that condominium associations do not have title to the common property.

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- 37. IMPROVEMENTS: All facilities constructed or erected by the developer and/or public entity within a subdivision to permit and facilitate the use of lots or blocks for a principal residential, commercial, or industrial use.
- 38. LOT: A portion of a subdivision or other parcel of land intended as a unit of ownership and occupied or intended to be occupied by one main building and an accessory building or a complex of buildings, including the open spaces and parking required by these regulations and/or the Osage County Zoning Regulations. A lot may be more than one lot of record or may be a metes-and-bounds described tract having its principal frontage upon a street.
- 39. LOT, CORNER: A lot abutting upon two or more streets at their intersection.
- 40. LOT DEPTH: The distance between the midpoint of the front lot line and the midpoint of the rear lot line.
- 41. LOT, DOUBLE FRONTAGE: A lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.
- 42. LOT, FLAG: A lot, tract or parcel of land that provides minimum frontage to a road or street by a narrow strip of land and whose main body of land lies to the rear of the property.
- 43. LOT FRONTAGE: The distance for which the front boundary line of the lot and the right-of-way the street are coincident.
- 44. LOT LINE: The perimeter of a lot.
- 45. LOT SPLIT: The dividing of a lot in a recorded plat into not more than two new building sites or parcels for non-industrial lots; and two or more new building sites for industrial lots which meet the requirements of these Regulations and the Osage County Zoning Regulations.
- 46. LOT WIDTH: The distance between the side lot lines of a lot, at the front yard building setback line.
- 47. MANUFACTURED HOME PARK: A parcel of land that has been planned and improved in some manner, and used or intended to be used by occupied manufactured homes not placed on permanent foundations. The term “manufactured home park” does not include sales lots where unoccupied manufactured homes, whether new or used, are parked for the purposes of storage, inspection or sale; nor does it include a tract of land where a manufactured home as a second dwelling unit has been permitted on a temporary basis as a conditional use in accordance with the Osage County Zoning Regulations.
- 48. MANUFACTURED HOME SUBDIVISION: A subdivision that is platted for development as individual home sites for manufactured homes, modular homes, residential-design manufactured homes and site-built, single-family dwellings to be placed on permanent foundations.
- 49. METES AND BOUNDS: A method of describing the boundaries of land by directions and distances from a known point of reference.
- 50. MONUMENT: The device, usually a metallic bar or tube, used to mark and identify the corners in the boundaries of subdivisions or lots.

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51. OFF-SITE IMPROVEMENTS: Improvements located on property outside the perimeter of the subdivision that are determined by the Planning Commission and/or Governing Body to be necessary because of the proposed subdivision, e.g., construction of streets, drainage channels, bridges, extension of public utilities, etc.
52. ON-SITE IMPROVEMENTS: Improvements located within the perimeter of the property that is subject to an application for subdivision approval.
53. OPEN SPACE, COMMON: Land within or related to a development, not individually owned, or dedicated for use, that is designed and intended for the common use or enjoyment of the residents of the development and may include such complementary structures and improvements as are necessary and appropriate. Common open space is platted as a Reserve and is owned and maintained by a Homeowners Association.
54. OWNER: Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in a tract of land being subdivided under these regulations. Also, any legal entity having legal title to land for which a building permit application is made.
55. PETITION, PUBLIC IMPROVEMENT: A legal instrument that serves as the basis for initiation of a public improvement project by the Governing Body. A petition is frequently used during the platting process to guarantee the construction of certain improvements that are required as conditions of plat approval, e.g., street construction, drainage improvements, bridges, utility lines, etc.
56. PLANNING COMMISSION: The Osage County Planning Commission.
57. PLAT: A subdivision, as it is represented as a formal document by drawing and writing, that is presented to the Planning Commission for review and approval in accordance with these subdivision regulations and to the governing body for the acceptance of easements and dedications.
58. PLAT, FINAL: The map, plan or record of a subdivision and any accompanying materials, as described in these regulations. The final plat is the instrument to be recorded with the Osage County Register of Deeds as the subdivision plat.
59. PLAT, PRELIMINARY: The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision.
60. PLAT, SKETCH: A map or drawing of a proposed subdivision showing the intent and manner in which the property is to be divided into lots, blocks, streets, easements and other general platting information.
61. PLATTING BINDER: A report issued by a title insurance company setting forth the conditions to be met for certain property to be platted, e.g., easements filed for record, mortgages, fee title owners, etc.
62. RESERVE: An area of property within a subdivision which is platted for specific uses, e.g., open space, landscaping, entry monuments, recreational facilities, utilities and drainage, floodway, etc. Typically, future ownership and maintenance responsibilities for a reserve is set forth by a

restrictive covenant which provides that a homeowners or lot owners association will hold title to the reserve and therefore be responsible for the reserve's maintenance. The restrictive covenant may provide for ownership and maintenance to be tied to the ownership of an adjacent lot. Ownership and maintenance is not assigned to an individual, partnership or corporation except in the case of a reserve platted for possible future sales to a public body for a public facility.

- 63. **RESTRICTIVE COVENANT:** A restriction on the use of land traditionally set forth in a deed. Restrictions are also placed of record by separate instruments including homeowner association agreements. The restrictive covenant usually runs with the land.
- 64. **RESUBDIVISION:** A change in a map of an approved or recorded subdivision plat if such change affects any street layout shown on such map, any area reserved thereon for public use, or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions. Lot splitting may be allowed as specified within these regulations.
- 65. **RIGHT-OF-WAY:** A strip of land dedicated or reserved for use as a public way, which normally includes streets, sidewalks, or other public utility or service areas.
- 66. **SETBACK LINE:** The distance between a building and the lot line, or road right-of-way line, whichever provides the desired minimum distance.
- 67. **SIDEWALK:** A paved walkway located along the side of a street.
- 68. **STORM WATER DETENTION:** Any storm drainage technique that retards or detains runoff, such as a detention or retention basin.
- 69. **STREET:** Any vehicular way that:
  - A. is an existing state, county, or municipal roadway; or
  - B. is shown upon a plat approved pursuant to law; or
  - C. is approved by other official action.

The street right-of-way is all land located between the street lines, whether improved or unimproved.

- 70. **STREET, ARTERIAL:** Any street serving major traffic movements that is designed primarily as a traffic carrier between cities. The arterial street forms part of a network of through streets, and provides service and access to abutting properties only as a secondary function.
- 71. **STREET, COLLECTOR:** Any street designed primarily to gather traffic from local or residential streets and carry it to the arterial system.
- 72. **STREET, CUL-DE-SAC:** A street having only one outlet and being permanently terminated by a vehicle turnaround at the other end.
- 73. **STREET, DEAD-END:** A street having only one outlet and does not benefit from a turnaround at its end.
- 74. **STREET, EXPRESSWAY:** Any divided street or highway with no access from abutting property and has either separated or at-grade access from other public streets and highways.



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75. **STREET, FREEWAY:** Any divided street or highway with complete access control and grade separated interchanges with all other public streets and highways.
76. **STREET FRONTAGE:** All of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all the property abutting on one side between an intersecting street and the dead-end of the street.
77. **STREET, HALF:** The street right-of-way, measured from the street's centerline, that borders one or more property lines of a subdivision.
78. **STREET, LOCAL:** Any street designed primarily to provide access to abutting property.
79. **STREET, PRIVATE:** A street not offered for dedication to the public. A private street is platted as a reserve with the stated purpose of a private street.
80. **STREET, STUB:** A short section of street right-of-way platted to provide future access to an adjacent unplatted tract of property.
81. **STREET WIDTH:** The amount of street right-of-way abutting a lot's property lines.
82. **SUBDIVISION:** Any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, or interests for the purpose of offering same for sale, lease, or development, either on the installment plan or upon any and all plans, terms and conditions, including resubdivision. A subdivision includes the division or development of residential and non-residential zoned land, whether by deed, metes-and-bounds description, map, plat or other recorded instrument.
83. **SUBDIVISION, NON-RESIDENTIAL:** A subdivision which is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of these regulations.
84. **SURVEYOR:** A land surveyor licensed by the State of Kansas.
85. **SWALE:** A depression in the ground that channels runoff.
86. **TERRACING:** An erosion control method that uses small hills and contours on the land surface to control flooding and runoff.
87. **TOPOGRAPHY:** The configuration of a surface area showing National Geodatic Vertical Datum (NGVD)
88. **TURNAROUND:** An area at the closed end of a street with a single common ingress and egress where vehicles may reverse their direction.
89. **VISION TRIANGLE:** A horizontal triangular area at the intersection of streets maintained to provide an open line of vision for operators of vehicles approaching the intersection. Within the vision triangle, no one shall install, set out or maintain any sign, fence, hedge, shrubbery, natural growth, or other obstruction to view. This restriction shall not apply to:
- A. public utility poles;
  - B. hedges trimmed to a height of less than thirty-three inches above the midpoint of the adjacent travel lane for rural roadways;

- C. any plant species trimmed so as to leave at all times a clear and unobstructed cross view;
- D. ornamental fences not exceeding four feet in height, provided the ratio of the solid portion of the fence to the open shall not exceed one to four;
- E. official warning signs or signals;
- F. locations where the contour of the ground is such that there can be no cross visibility at the intersection;
- G. signs mounted ten feet or more above the ground whose supports do not constitute an obstruction.

90. WALKWAY: Any pathway, surfaced or otherwise, intended for pedestrian use only.

91. WATER TABLE: The upper surface of groundwater, or that level below where the soil is seasonally saturated with water. See GROUNDWATER.

92. WATERWAY: Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or flood water.

93. ZONING ADMINISTRATOR: The person or persons authorized and empowered by the Governing Body to administer the provisions and requirements of these regulations.

**1-108 Vesting of Development Rights:**

In conformance with the provisions of K.S.A. 12-764, and any subsequent amendments, the following shall apply:

1. The rights of landowners of properties platted or subdivided for non-agricultural residential development shall be protected for use of said land for the intended non-agricultural residential purposes for a period of five (5) years from the time in which such property was first platted or subdivided, provided:
  - A. For property that was not formally platted, verifiable evidence is presented showing the date in which said plat or subdivision of land was first created. Acceptable evidence shall be: signed and sealed certificates or plats of survey from a Registered Land Surveyor showing the several lots proposed to be created, either dated or dated and recorded with the Register of Deeds; recorded Restrictive or Protective Covenants for the development; recorded deeds conveying land; or recorded Affidavits of Equitable Interest on contracts for deed for said tracts of land.
  - B. Within said five (5) year period actual sales occur resulting in separate owners on the tracts of land.
  - C. The division of land was legally done in conformance with the applicable laws of the State of Kansas. Further, no divisions of land, publicly recorded and dated after January 1, 1992, shall be eligible unless said divisions were in conformance with the requirements of the applicable Osage County Subdivision Regulations.



## ARTICLE 1: GENERAL PROVISIONS

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2. Except for lots in a recorded plat, any remaining contiguous tracts of land within the area divided under this rule held in common ownership at the conclusion of said five (5) year period shall be considered an unplatted lot, as defined in these Regulations, and subsequent divisions of said lot shall be in conformance with the Subdivision Regulations then in effect.
3. Properties divided or platted for any use other than agricultural or residential purposes shall not be permitted to develop or further develop except in conformance with these Regulations and the Osage County Zoning Regulations

### Sections:

#### **2-101 General Provisions**

#### **2-102 Pre-platting Conference**

#### **2-103 Preliminary Plat**

#### **2-104 Final Plat**

#### **2-105 Final Platting of a Portion of an Overall Preliminary Plat**

#### **2-101 General Provisions:**

This Article establishes uniform procedures and platting requirements for the creation of subdivisions. In order to assure that the subdivision of land is to the benefit of both the private and public concerns, all proposed subdivision shall meet the requirements of these regulations, including the provision that all subdivisions create a minimum of eight (8) lots on an internal road system as specified in Article 4 herein.

The platting process consists of three general steps; the pre-platting conference, the preliminary plat review, and the submission of the final plat. No final plat shall be filed or recorded with the Osage County Register of Deeds as required by law unless and until it has been acted upon by the Osage County Planning Commission and approved by the Governing Body as required by these regulations.

#### **2-102 Pre-Platting Conference:**

Any person desiring to subdivide land shall prepare a sketch plat and submit it at a pre platting conference with the Zoning Administrator as a first step to filing an application for a preliminary plat. Arrangements for the pre-platting conference shall be arranged through the Zoning Administrator.

The purpose of the pre platting conference is to inform the applicant of the effect, feasibility, and compatibility of the proposed subdivision on public and private utility systems, public street systems and any County development policies and plans. The conference enables the staff to inform owners and their agents of the general conformance or nonconformance of the subdivision proposal with these regulations, identify additional requirements for further processing of the proposal, and to advise them of applicable zoning provisions or conflicts and special design considerations presented by particular environmental features on or affecting the site (i.e., flood plains, excessive slope areas, soil problems, high water tables, etc.)

The sketch plan should convey the location of the proposed subdivision; the general layout of the proposed subdivision including the location and size of streets and the orientation, number and dimensions of the lots; plans for water supply and sanitary sewage disposal; and any particular design problems posed by the existing natural or man made conditions and characteristics of the site which could benefit from an early discussion. In addition to the Zoning Administrator and representatives of the owner(s) intending to subdivide the land, the pre-platting conference may include representatives of the county and other persons and agencies as applicable.

Within 14 days after it receives the sketch plat, the Land Use Department shall meet with the developer in order to reach an agreement on a mutually acceptable sketch plat. If the developer and the Land

## ARTICLE 2: PROCEDURE FOR APPROVAL OF SUBDIVISIONS

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Development Department are unable to reach agreement on the sketch plat within 30 days of the original submission of the sketch plat, the developer may appeal to the Planning Commission for a determination with respect to the characteristics of the sketch plat. The Planning Commission shall schedule a review of the matter at its next regular meeting and may uphold the determination of the Land Use Department or approval, with or without conditions, the sketch plat in order to allow the submission of a preliminary plat.

**NOTE: No verbal or schematically illustrated statements made during the course of reviewing the sketch plat by either the Land Use Department or the Planning Commission shall be held as legally binding or construed in any way as granting or assuming approval of the proposed subdivision since the Governing Body has final authority on all subdivision plats upon action from the Osage County Planning Commission.**

### **2-103 Preliminary Plat:**

The preliminary plat application shall be submitted within one (1) year of the approval of the sketch plat. Failure to do so will result in the voiding of the sketch plat and the requirement of resubmission and approval of a sketch plat in order to proceed with the platting process.

1. Application: A subdivision application form shall be filed with the Zoning Administrator, and shall be accompanied by ten (10) copies of the preliminary plat and a platting binder. The appropriate fee shall be paid upon filing the application.
2. Preliminary Plat Contents: The following information shall be shown on the preliminary plat or attached thereto:
  - A. Items Pertaining to the Title:
    - 1) The name of the proposed subdivision.
    - 2) Location of the subdivision by reference to a section corner.
    - 3) The name(s) and address(es) of the owner(s)/ developer(s) and the licensed land surveyor who prepared the plat.
    - 4) North arrow.
    - 5) Date prepared and scale of the drawing(s). The preliminary plat shall be drawn to a scale of not less than 1" = 200'; however, with special conditions and prior approval of the Zoning Administrator, this scale may be exceeded.
    - 6) The legal description of the entire dimensions of the subdivision.
  - B. Items Pertaining to the Subject Property (Existing):
    - 1) All of the land to be platted as well as all platted or unplatted adjacent properties within 200 feet shall be shown. The boundary of the platted area shall be accurately indicated by a heavy solid line.
    - 2) Existing contours with the contour intervals not more than 2 feet. All elevations and contours shall be related to USGS.

- 3) The location, width and names of all existing platted or private streets or other public ways within or adjacent to the tract, together with easements, railroad and utility rights of way, private easements, parks and other significant features such as city boundary lines and monuments. This shall include any encumbrances indicated within the platting binder.
  - 4) Environmental features including the location and direction of drainage channels and areas subject to flooding by the recognized 100 year flood.
  - 5) All airports, sanitary landfills, feedlots, or other similar uses located within two miles of the proposed plat shall be shown on a vicinity map.
- C. Items Pertaining to the Plat (Proposed):
- 1) Layout and names of streets with general dimensions and appropriate grades and their relationship to adjoining or projected streets or roadways.
  - 2) Intended layout, numbers, and dimensions of lots.
  - 3) 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) Location and type of utilities to be installed, including the approximate location of extensions of any sanitary sewers, storm sewers and water mains. Where on-site water and/or wastewater systems are proposed, locations shall be shown on each lot in order to determine that the requirements of the Environmental Code can be met.
  - 5) Utility and other easements indicating width and purpose.
  - 6) A statement or other indication of the phasing of the development and an appropriate timetable if applicable.
  - 7) Vicinity sketch which indicates the relationship between the proposed subdivision and surrounding properties within 1,000 feet, showing streets and other features.
- D. If the platting binder shows that the proposed developer owns all the property within the plat in fee, and that it is free from encumbrances and liens, then the owners signatures are all that will be required on the final plat. If, however, the property is encumbered, the person responsible for said encumbrance, including any mortgagee, shall be required to consent to the plat by signing the face of the final plat.
- E. The names and addresses of all owners of property within the notification area of the proposed plat. For the purposes of these regulations, the notification area shall be the same area required to be notified if the property was subject to a rezoning. The applicant may submit the same list of owners of property within the notification area submitted for a rezoning application provided the application for preliminary plat is submitted within 30 days of the approval of the rezoning on the same property.

3. **Application Complete:** Upon receipt of the preliminary plat and supporting data required in this Section, the Zoning Administrator shall certify the application as complete and affix the date of application acceptance on the plat or application form. The Zoning Administrator shall then place the preliminary plat on the agenda for consideration at the first available meeting of the Osage County Planning Commission.
4. **General County Staff and Utility Review:** The Zoning Administrator shall distribute copies of the preliminary plat to the appropriate county departments and agencies and the 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 Osage County Planning Commission.
5. **Osage County Planning Commission Review and Action:** The Osage County Planning Commission shall conduct a public hearing on the preliminary plat. Notice shall be published once in the official County newspaper 20 days prior to the date of the hearing. In addition, notice of the public hearing on the proposed preliminary plat shall be mailed to all property owners within the notification area of the proposed plat 20 days prior to the date of the hearing. The Osage County Planning Commission shall review the preliminary plat for compliance with the provisions of these regulations. After reviewing the preliminary plat based on the objectives and requirements of these regulations, comments from concerned citizens, and the report from the Zoning Administrator, the Osage County Planning Commission shall take action on the acceptance, modification or rejection of the preliminary plat. Approval of the preliminary plat by the Osage County Planning Commission shall permit the applicant to proceed with the filing of a final plat as described in Section 2 104. The Zoning Administrator shall forward a statement of the action taken by the Osage County Planning Commission to the Governing Body. The Governing Body, at its request, may require that it must approve the preliminary plat before the applicant can submit a final plat.
6. **Effect of Approved Preliminary Plat:** Approval of the preliminary plat does not constitute final acceptance of the subdivision by Osage County. It establishes the overall layout and design of the proposed subdivision and authorizes the applicant to prepare a final plat. Any deviation of the final plat from the intent of the approved preliminary plat as determined by the Osage County Planning Commission shall be disallowed and shall cause the reinitiation of the preliminary platting process.
7. The applicant shall file a final plat application along with the required documents described in Section 2 104 within one (1) year of the approval of the preliminary plat by the Osage County Planning Commission and/or Governing Body. Upon failure to do so within the time specified, approval of the preliminary plat is null and void, unless an extension of time, limited to six (6) months, is applied for by the developer and granted by the Osage County Planning Commission. An extension shall be granted only once.

### **2-104 Final Plat:**

1. **Application:** The final platting process is intended to provide a complete surveyed drawing of the subdivision for the purpose of providing a legal record of lots, streets, areas for 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 file ten (10) copies of the final plat with the Zoning Administrator along with the additional information required herein.

## ARTICLE 2: PROCEDURE FOR APPROVAL OF SUBDIVISIONS

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Said final plat shall be prepared by a registered land surveyor, and so sealed. In addition to the 10 copies, one (1) original final plat shall be submitted at least twenty (20) days prior to the Osage County Planning Commission meeting. Said original final plat shall be clearly and legibly drawn to scale in compliance with Osage County Resolution Number 96-10, and shall contain the information required herein.

2. Final Plat Contents: The following information shall be shown on the final plat and attached thereto:

A. Items to be Included on the Final Plat:

- 1) The lines and names of all proposed streets or other ways or easements, and other open spaces intended to be dedicated for public use or granted for use of inhabitants of the subdivision.
- 2) Lines and names of all adjoining streets within 200 feet.
- 3) The length of all straight lines, deflection angles, and radii, arcs and central angles of all curves, along the center line and the property lines of each street. All dimensions along the lines of each lot with the true bearings and angles of intersection which they make with each other, and also any other data necessary for the location of any lot line in the field. If more convenient, calculated bearings may be used instead of angles.
- 4) The location of all building setback lines is proposed different from the requirements of the Osage County Zoning Regulations.
- 5) Suitable primary control points, approved by the appropriate County or City Engineer, or descriptions and "ties" to such control points, to which all dimensions, angles, bearings, and similar data given on the plat shall be referred. All dimensions shall be shown in feet and decimals of a foot.
- 6) Location and elevation of a permanent benchmark.
- 7) The location of all permanent monuments with the distance between them, and sufficient curve data plainly marked. These monuments shall be located at all block corners.
- 8) Date of preparation, title, north point, and scale shall be included. The title shall include the name of the subdivision under which it is to be recorded. The north point may indicate either the magnetic or true north and shall be so designated on the plat.
- 9) The boundary of the subdivided tract with courses and distances marked thereon which shall be determined by survey in the field, which shall be balanced and closed, made by a qualified engineer or surveyor. The error of closure for a perimeter distance having a length of 10,000 feet or more shall not be more than one (1) in 20,000. For perimeter distances less than 10,000 feet in length, the error of closure shall not be more than one (1) in 10,000.
- 10) An identification system for all lots and blocks.

- 11) The certification of the land surveyor making the plat, his seal and signature.
- 12) The certificate of the County Surveyor.
- 13) The acknowledgement of a notary.
- 14) A certification of the Osage County Planning Commission showing its approval to the plat.
- 15) The approval of the Governing Body having jurisdiction.
- 16) The certificate of the Register of Deeds.
- 17) Signature locations for the owner(s) and all persons holding any encumbrances.
- 18) Statement by the owner dedicating streets, rights-of-way, and any sites for public use.
- 19) Such other certificates, affidavits, endorsements, or dedications as may be required by the Osage County Planning Commission in the enforcement of these regulations.
- 20) Purpose for which sites, other than residential lots, are dedicated or reserved.
- 21) Marginal lines encircling the sheet. All lettering, signatures and seals shall be within this margin.
- 22) Legal description of the subdivision.

**B. Items Pertaining to the Final Plat:**

- 1) A certificate which states that the person or persons whose names are signed to this document and/or appear on the final plat are the sole and lawful owners of the property, that the plat is made with their desires, and that they dedicate the areas shown on the plat or as set forth in the document to the perpetual use and ownership by the public for the specific purpose stated therein or thereon. Ownership shall be verified by the Osage County Clerk.
- 2) Certification by the Osage County Clerk showing that all due or unpaid taxes have been paid in full.
- 3) A copy of any restrictive covenants applicable to the subdivision, if any; provided, the developer or subsequent homeowners association shall be responsible for the enforcement of any and all restrictive covenants filed for any subdivision and no provisions of said restrictive covenants shall supersede any restrictions or regulations established by these or any other local or state rules, regulations, or laws.
- 4) Three (3) copies of a properly executed written agreement by the developer to undertake and complete, to the satisfaction of the County, all public improvements required as a condition for approval of the plat. The agreement shall also set out the time limit for the completion of the specified work, the amount of bond or other acceptable 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 perform or complete the work and recover the actual cost



thereof from the developer or the developer's sureties. The developer's agreement for public improvements will set out the public improvements required and also set out or incorporate by appropriate references, the plans and specifications for said improvements. The developer's agreement and bond for required public improvements shall be reviewed and approved as to the form and content by the County Engineer and the County Attorney. The Governing Body may defer the submission of the written agreement until after the final plat has been approved.

3. **Application Complete:** Upon receipt of the final plat, engineering drawings and certification documents required in this Section, the Zoning Administrator shall certify the final plat application as complete. The final plat shall then be placed on the agenda for consideration at the next regular meeting of the Osage County Planning Commission that is no less than 10 days after said application or no more than 45 days thereafter.
4. **General County Staff and Utility Review:** The Zoning Administrator shall transmit copies of the final plat, along with the other documents submitted, to the appropriate county departments and agencies, and utility companies as the 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 and forwarded to the Osage County Planning Commission along with a report and recommendation.
5. **Osage County Planning Commission Review and Action:** The Osage County Planning Commission shall review the final plat for compliance with the approved preliminary plat and for completion of all final platting requirements. After consideration, the Osage County Planning Commission shall either recommend to the Governing Body to approve or deny the final plat or table for additional information. The Zoning Administrator shall forward a statement of the action taken by the Osage County Planning Commission together with the minutes and the original and 8 copies of the final plat to the Governing Body.
6. **Governing Body Review and Action:** Upon recommendation from the Osage County Planning Commission, the Governing Body shall take action to approve or disapprove the final plat including the acceptance of street and other public way dedications, service and utility easements, and land dedicated for other public use.
7. **Recording of Final Plat:** The final plat shall be recorded and filed with the Register of Deeds of Osage County, Kansas, after approval of the final plat by the Governing Body as required by State law.

### **2-105 Final Platting of a Portion of an Overall Preliminary Plat:**

An approved overall preliminary plat may be final platting in pieces rather than as a whole, provided the following conditions are met:

1. Each final plat shall contain sufficient area to install improvements economically. The final plat shall contain at least eight (8) lots.
2. The approval of the Zoning Administrator. The decision of the Zoning Administrator to authorize the final platting of only a portion of an approved preliminary plat shall be based upon the advice of the County Engineer as to the feasibility of installing the required improvements.



## ARTICLE 2: PROCEDURE FOR APPROVAL OF SUBDIVISIONS

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3. At least one (1) final plat shall be submitted for approval within one (1) year from the date of the approval of the preliminary plat. All final plats for the overall preliminary plat shall be submitted for approval within five (5) years from the date of the approval of the overall preliminary plat. The Zoning Administrator, on application of the developer and after at least one final plat has been recorded, may grant an extension of time to submit additional final plats. Each such extension of time shall be for no more than one (1) year. Failure to complete the next phase of final platting shall result in the voiding of approval of the preliminary plat and shall require resubmission of a preliminary plat in accordance with the requirements of these regulations and amendments thereto.
4. All steps required for approval of final plats, including the recording of the plat, shall be complied with.

### Sections:

#### **3-101 Objective**

#### **3-102 Authorization for Approval of Lot Splits or Boundary Shifts**

#### **3-103 Application Procedure**

#### **3-104 Approval Guidelines**

#### **3-105 Agricultural Lot Splits**

#### **3-101 Objective:**

The objective of this Article is to create a procedure for the division of existing platted lots into not more than four (4) lots without having to comply with the formal platting requirements described in Article 2 of these regulations. Such lot split shall be subject to the guidelines established in Section 3-104 and any further divisions of the lot or lots so established shall be platted in compliance with the requirements of Article 2 of these regulations. Additionally, procedures are hereby established to provide for unlimited splits of industrial lots and for very limited splits of agricultural lots.

#### **3-102 Authorization for Approval of a Lot Split:**

The Zoning Administrator is hereby authorized to approve or disapprove a lot split in accordance with the provisions of this Article. Appeals from a decision made by the Zoning Administrator may be made to the Governing Body for a final determination.

#### **3-103 Application Procedure:**

The application for a lot split shall be made by the owner of the land to the Zoning Administrator on forms provided and shall be accompanied by the following information:

1. Three (3) copies of a drawing to a scale of not less than 1" = 100' showing the lot(s) involved, the precise location of any structures thereon, and the location and dimensions of the original and proposed lots. Said drawing shall be a certificate of survey from a licensed land surveyor to determine the exact location of the structures and the precise dimensions of the lots. To facilitate the recording of the lot split, the drawing shall be on either letter or legal size paper.
2. The legal description(s) for the proposed lot(s).
3. The location of existing parking and curb cuts, if any. In the case of a non-residential lot split, required off-street parking shall be shown.
4. The amount of square footage contained in each portion of the original lot.
5. All existing easements and, if any, access control. If the easements or access control were granted by separate instrument, the recording information shall be indicated.
6. The location of existing water mains, water meters, sanitary sewer laterals, gas mains, gas meters, and storm sewer lines which serve the property subject to the lot split.
7. The location of electric, telephone and other utility services to the property subject to the lot split.

8. The signature and seal of the licensed land surveyor that prepared the Lot Split drawing.
9. A signature line for the acknowledgment of the County Surveyor.
10. A signature acknowledgment of the Zoning Administrator.
11. A recordable covenant or agreement between the owner and the County for the entire original tract, executed by the owner and/or owners and the County, restricting further division of the original tract or newly formed lot(s) without full platting and rezoning, if necessary. The covenant shall include the requirements that rezoning and platting shall be in conformance with the then applicable Zoning and Subdivision Regulations of Osage County, Kansas, and shall be binding on all heirs and assigns of both lots. Said covenant shall be recorded with the Register of Deeds of Osage County prior to the approval of the lot split, or may be recorded concurrent with the recording of the lot split drawing.

### **3-104 Approval Guidelines:**

No tract or lot split shall be approved if one or more of the following applies:

1. A new street or extension of an existing street, or a vacation of streets, alleys, setback lines, access controls or easements is required or proposed.
2. There is less street right of way than required by these regulations, unless dedication of additional right of way can be made by separate instrument.
3. Any easement requirements have not been satisfied.
4. Such split will result in a landlocked tract.
5. Such split will result in a lot(s) without direct access to and/or less than 50 feet of frontage on a street.
6. A substandard sized lot will be created according to these regulations or the Osage County Zoning Regulations. This includes both the created lot and the parent lot. For land zoned “SR” Suburban Residential, the minimum lot size shall be three (3) acres of the parent and/or newly established lot. For land zoned “R-1” Single Family Residential, the minimum lot size shall be as established by the Osage County Zoning Regulations and both lots shall comply with the requirements of the Osage County Sanitation Code.
7. For those lot splits which result in significant increases in service requirements, e.g., utilities, traffic control, streets, etc.; or which interfere with maintaining existing service levels, e.g., additional curb cuts or points of access, repaving, etc.; or which propose private easements for access and/or utilities; review of the lot split by the Osage County Osage County Planning Commission may be required. Such determination shall be made by the Zoning Administrator. If such a review is necessary, sufficient additional copies of the proposed lot split, and all supporting documentation, shall be provided by the applicant for distribution to the Osage County Osage County Planning Commission.

## ARTICLE 3: LOTS SPLITS AND BOUNDARY SHIFTS

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8. The Zoning Administrator shall, in writing, either approve, with or without conditions, or disapprove the lot split within fifteen (15) working days of the application.
9. The Zoning Administrator may make such additional requirements as deemed necessary to carry out the intent and purpose of these regulations. Such requirements may include, but not be limited to, installation of public facilities, dedication of right of way and/or easements, or submission of covenants for the protection of other landowners in the original subdivision.

### **3-105 Industrial Lot Splits:**

The unlimited division of a platted lot used for industrial purposes only shall be permitted; provided, the resulting lots are used for industrial purposes in accordance with the Osage County Zoning Regulations. The documents required in Section 3-103 above shall be submitted.

### **3-106 Agricultural Lot Splits:**

The creation of unlimited additional lots in the unincorporated portion of Osage County on properties zoned and used as agricultural shall be permitted without requiring either a rezoning or a plat, including those divisions of agricultural lands because of mortgage or lending requirements; provided:

1. The provisions of Section 3-103 are complied with completely.
2. The approval guidelines specified in Section 3-104 are complied with to the extent they are applicable to an agricultural lot split.
3. All lots created shall maintain the minimum lot frontage of 300 feet on a public road as required under the provisions of the Osage County Zoning Regulations for properties in the "AG" Agricultural Zoning District. Further, neither lot shall have a lot depth to lot width ratio greater than 3:1, nor shall any lots created be less than 3 acres in size, including the parent tract.

### Sections:

- 4-101 Applicability**
- 4-102 Street Standards**
- 4-103 Alleys**
- 4-104 Block Standards**
- 4-105 Lots**
- 4-106 Easements**
- 4-107 Drainage**
- 4-108 Water and Sewer Facilities**
- 4-109 Large Lot Subdivisions**
- 4-110 Public Sites and Open Spaces**
- 4-111 Bench Marks, Corner Monuments, and Other Markers**
- 4-112 Community Assets**

### **4-101 Applicability:**

All subdivisions of land subject to these regulations shall conform to the following minimum design standards. Such design criteria shall govern the approval of subdivision plats by the Planning Commission and the Governing Body. All plats shall provide a maximum of lots designed on an internal road network as specified herein. Except in extremely unique circumstances as noted herein, no lots created shall front on or have direct access to any section-line road or similar primary County road.

All plats shall be prepared under the direct supervision of a registered engineer and land surveyor of the State of Kansas, and all submittals shall bear the seal of said registered engineer and land surveyor, as appropriate. The plat document shall be prepared by the land surveyor and all supporting documentation required by these regulations, such as drainage plans, street and utility designs, etc., shall be prepared by the engineer.

All subdivisions shall be platted with due consideration toward sound traffic engineering principles, safe and accessible building sites, adequate methods of storm water drainage and provisions for a sanitary water supply and effective sewage disposal system. All subdivision plats shall be consistent with applicable County development plans and policies and shall be coordinated with existing, planned or committed public improvements. All subdivision plats shall comply with all local, state and federal laws and regulations.

In the unincorporated portion of Osage County, the division of land into residential lots shall be designed under the following standards:

#### **1. Suburban Residential District –**

For lots created under the Suburban Residential District, the standards for the lots created are as follows:

Minimum Lot Size:	1 acre
Maximum Lot Size:	3 acres
Minimum Lot Width:	165 feet

**ARTICLE 4: SUBDIVISION DESIGN STANDARDS**

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Minimum Lot Depth:	250 feet
Maximum Width/Depth Ratio:	1:3
Minimum Number of Lots Created:	8

The lots created in the Suburban Residential District shall have a mandatory internal road system. Absolutely no access shall be allowed onto the adjoining section-line road or similar primary County road, except in very rare conditions due to topography or terrain. However, the existence of such conditions may be a basis for denial of the plat.

The internal road shall be constructed to the standards in Article 5 herein and the standards adopted by Osage County. The lots shall be served by a public water system and an on-site wastewater treatment system as required by the Osage County Sanitation Code.

All internal improvements shall be paid by the developer and guaranteed by appropriate bonds or other financial security acceptable to the County. A developer’s agreement shall be prepared and submitted with the final plat to contractually bind the developer to the County to assure the improvements are installed.

**2. Single-Family Residential District –**

For lots created under the Single-Family Residential District, the standards for the lots created are as follows:

Minimum Lot Size:	20,000 square feet
Minimum Lot Width:	125 feet
Minimum Lot Depth:	150 feet
Maximum Width/Depth Ratio:	1:2
Minimum Number of Lots Created:	16

The lots created in the Single-Family Residential District shall have a mandatory internal road system. Absolutely no access shall be allowed onto the adjoining section-line road or similar primary County road, except in very rare conditions due to topography or terrain. However, the existence of such conditions may be a basis for denial of the plat.

The internal road shall be constructed to the standards in Article 5 herein and the standards adopted by Osage County. The lots shall be served by a public water supply system and a public sewer system. Absolutely no lots in the Single-Family Residential District shall be served by an on-site wastewater system.

All internal improvements shall be paid by the developer and guaranteed by appropriate bonds or other financial security acceptable to the County. A developer’s agreement shall be prepared and submitted with the final plat to contractually bind the developer to the County to assure the improvements are installed.

### 3. Exceptions to Minimum Standards -

The above standards shall apply to lands that are rezoned and platted from previous Agricultural lands. For those lots less than 40 acres with a minimum of 6 acres with right of way requirements that are zoned Suburban Residential upon the first adoption of these Regulations and the Osage County Zoning Regulations, said tracts may be divided following a “lot split” process as outlined within Article 3 of these Regulations. The minimum number of lots specified herein shall not necessarily apply to these properties. In particular, the provisions of internal roads and paving of roads shall not apply. The provisions of water and sewage service shall be applicable as required by the Sanitation Code. This exception to the platting process is provided irrespective of and recognizing that ownership patterns and familial relationships between owners will change over time. No such lands shall be eligible for any further lot split process. If the owners desire to further divide the properties, the proposed divisions shall be platted under the then applicable Subdivision Regulations.

### 4-102 Street Standards:

3. Comprehensive Plan Compliance: The arrangement, character, extent, and location of all streets shall conform to the Comprehensive Plan or other plans and standards as adopted.
4. External Street Considerations: The arrangement, alignment, and width of streets in new subdivisions shall be properly integrated with the existing principal street or road system and where appropriate shall provide for the continuation of existing principal streets in adjoining subdivisions or their projection where adjoining property is not platted. In no case shall the width of streets in new subdivisions be less than the minimum street widths established in this Article.
5. Internal Street Layout, General: The location, arrangement, character and type of all streets shall be designed in relation to topographical conditions, the extent and impact of storm water runoff, the safe and convenient circulation of traffic within the subdivision, and the uses of the land to be served by such streets. When possible, local streets shall be planned so as to discourage through traffic and to conveniently channel traffic onto collector and arterial streets.
6. Internal Street Layout, Residential Development: The use of curvilinear streets, cul-de-sacs, u-shaped streets, or cluster developments shall be encouraged in residential areas when appropriate. However, the excessive use of cul-de-sacs shall be discouraged. No streets shall be laid out so as to intersect with themselves, unless topographic conditions warrant.
7. Internal Street Layout, Non-Residential Development: In commercial or industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, location of rail facilities, the provision of alleys, truck loading and maneuvering areas, walks, and parking areas to as to minimize conflict of movement between the various types of traffic, including pedestrian.
8. Street Intersections: Streets shall be designed to intersect as nearly as possible at right angles, except where topography or other natural conditions justify a variation. However, in no instances shall two streets intersect at an interior angle of less than 75 degrees without written consent of the County Engineer.
9. Multiple Intersections: Intersections involving the junction of more than two (2) streets shall be avoided whenever possible.

## ARTICLE 4: SUBDIVISION DESIGN STANDARDS

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10. Intersection Curvature: When connecting streets deflect from each other with an interior angle of less than 75 degrees they shall be connected by a curve with a radius adequate to ensure a sight distance of not less than two hundred (200) feet for local and collector streets, and of such greater radii as the County Engineer shall determine for arterial streets.

11. Curb Radii and Vision Triangle: Street surfacing at intersections shall be rounded by the following minimum radii:

<u>Street Classification</u>	<u>Intersection With</u>	<u>Minimum Curb Radii</u>
Arterial or Collector	Arterial or Collector	25 feet
Local	Arterial	25 feet
Local	Collector or Local	20 feet

The Osage County Planning Commission may set specifications for curb radii, upon advice of the County Engineer, greater than the minimum standards herein.

12. Offset Streets: Offset streets whose centerlines are separated by less than 150 feet shall be avoided, except where topography or other conditions justify a variation.

13. Reserve Strips: There shall be no reserve strips controlling access to streets. The subdividing of land shall be such as to provide each lot, by means of either a public street or way or permanent easement, with satisfactory access to an existing public highway or street.

14. Private Streets: There shall be no private streets platted in any subdivision.

15. Travel Easements: The Osage County Planning Commission may recommend a Travel Easement to be substituted for a public street where it is deemed necessary or advantageous. Such easement shall include covenants, running in favor of the County related to future construction and maintenance, and shall be designed to the proper standards as set out in these regulations, unless otherwise allowed by the Osage County Planning Commission. Travel easements are to be for the shared access (driveway) by not more than two (2) lots.

16. Half Streets: Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations and where the Osage County Planning Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Whenever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

17. Visibility: Clear visibility, measured along the centerline of a street, shall be provided for at least two hundred (200) feet on all streets.

18. Access to Arterials: All access to arterial streets shall be prohibited except as authorized by the controlling agencies. For all State highways, access shall be prohibited except where written authorization has been provided from the Kansas Department of Transportation prior to the presentation of the proposed plat of all access points. In all other circumstances, the following shall guide:

A. Where a proposed commercial or industrial subdivision borders on or contains an existing



or proposed limited access arterial, the Osage County Planning Commission may require a street system design which affords separation of through and local traffic. This may be accomplished through reverse frontage lots with access control provisions along the rear property line, deep lots with rear service areas, or frontage roads.

- B. Where a residential subdivision borders on or contains an existing or proposed arterial street, the Osage County Planning Commission may require that access to such streets be limited by any of the following means:
- 1) The subdivision of lots so as to back onto the arterial street and front onto a parallel local street. No access shall be provided directly to any lot from the arterial street, and screening shall be provided by the developer in a screening easement along the rear property lines of such lots.
  - 2) A series of cul-de-sacs, u-shaped streets, or short loops entered from and designed generally at right angles to such a parallel street, with the street lines of their terminal lots backing onto the arterial street. No direct access to the arterial street shall be allowed.
  - 3) A frontage road, separated from the arterial street by a ten (10) foot wide planting or grass strip, and having access at suitable points.
19. Railroad Right-of-way: Where a subdivision borders on or contains a railroad right-of-way, the Osage County Planning Commission may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land, such as for park purposes in residential districts or for commercial and industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
20. Dead End Streets and Cul De Sacs: Permanent dead end streets shall be cul de sacs. A cul de sac within a city shall be no longer than 600 feet in length, measured along the centerline of the cul-de-sac from the centerline of the intersecting street to the radius point, and shall have an adequate turnaround with a minimum 60 foot radius right of way at the closed end. A cul de sac within the County shall be no longer than 1,320 feet in length, measured along the centerline of the cul-de-sac from the centerline of the intersecting street to the radius point, and shall have an adequate turnaround with a minimum 75 foot radius right of way at the closed end. Temporary dead end streets longer than 100 feet intended to be continued for access to adjoining property shall have a temporary turnaround area to provide service equal to the cul de sac requirement stated above.
21. Right Of Way and Street Widths: In order to provide for streets of suitable location, width and improvements to accommodate future traffic and affords satisfactory access to emergency and service vehicles, and to coordinate streets to as to develop a convenient system that avoids undue hardships to adjoining properties, the following design standards are hereby required. Street classifications may be indicated on the Comprehensive Plan or other plans or standards as adopted, or shall be as determined by the Osage County Planning Commission. The road standards for Osage County are on file with the County Engineer.

22. **Street Widths:** In front of areas designated and zoned for a commercial or industrial use, or where a petition for a change in zoning is contemplated for a commercial or industrial use, to permit such use, the street width shall be increased by such amount on each side deemed necessary by the Osage County Planning Commission to assure the free flow of through traffic without interference by parked or parking vehicles, and to provide safe parking space for such commercial or industrial districts.
23. **Centered Improvements:** The improved portion of streets shall be centered within the right-of-way, except in the cases where the Osage County Planning Commission may allow.
24. **Vertical Curves:** Vertical curves are required for changes in grade greater than one percent (1%).
25. **Reverse Curves:** A tangent shall be provided between all reverse curves of a sufficient length, as related to the radius of the curves, so as to provide for a smooth flow of traffic.
26. **Road Grades:** No street grade shall be greater than seven percent (7%) nor less than five-tenths of one percent (0.5%).
27. **Street Names:** Streets which are substantially in alignment with existing streets shall, unless otherwise illogical or due to severe directional change, bear the names of the existing streets. The names of such new streets shall be approved by the Osage County Planning Commission.
28. **Street Surfacing:** All streets and roads in the unincorporated portion of Osage County shall be constructed according to the standards and specifications of the County as established by and on file with the County Engineer.

### **4-103 Alleys:**

1. **Alleys Required, When:** Alleys may be provided when, in the opinion of the Osage County Planning Commission, the alley is necessary to assure provision is made for service access, such as off-street loading, unloading, and parking consistent with and adequate for the uses proposed.
2. **Width:** The minimum width of an alley shall be twenty (20) feet.
3. **Grade:** All alleys shall be graded to slope to the center line.
4. **Dead-End Alleys:** Dead-end alleys are prohibited.

### **4-104 Block Standards:**

1. **Lengths:** Blocks shall be delineated by intersecting streets at such intervals as to sufficiently provide for cross traffic and to furnish access to existing streets adjoining the new subdivision. In residential districts, no block shall be longer than 1,320 feet between centerlines of streets, except variations may be allowed in instances where topography or other conditions prohibit compliance.
2. **Design:** The configuration of blocks shall be determined with regard given to:
  - A. Zoning requirements as to lot sizes and dimensions.
  - B. Provision of adequate building sites suitable to the particular needs of the type of use intended.

- C. Topography as it affects storm water drainage and erosion.
  - D. Need for convenient circulation, access, safety, and control of vehicular and pedestrian traffic.
3. Walkways: Pedestrian walkways may be required where deemed necessary by the Osage County Planning Commission to provide convenient access to schools, parks, playgrounds or other public or private community facilities. Pedestrian crosswalks, not less than (10) feet in width, shall be required where deemed essential by the Osage County Planning Commission to provide circulation or access to schools, parks, playgrounds, shopping centers, transportation and other facilities.
  4. Pedestrian Easements: Pedestrian easements not less than ten (10) feet in width may be dedicated to the public through blocks where deemed essential by the Osage County Planning Commission to provide pedestrian access to schools or other community facilities. These easements shall be provided with walkways and said walkways shall be constructed in a manner approved by the appropriate County Engineer.

### **4-105 Lots:**

1. Frontage Requirements: Every lot shall have frontage on a street at least equal to the requirements of the zoning district in which it is located; except those lots fronting on the end of a cul de sac, which shall meet the frontage requirements as measured on a radius at the front yard setback line, and except those lots served by an approved travel easement.
2. Size: The size, width, depth, shape, and orientation of lots and any minimum building setback lines shall be appropriate to provide safe and adequate building sites based upon the location of the subdivision and for the type of development and use intended. At a minimum, lots shall have dimensions and sizes and provide for space requirements no less than as required by the Osage County Zoning Regulations.
3. Side Lot Lines: All side lot lines shall be at right angles to straight street lines and radial to curved street lines where practicable.
4. Commercial/Industrial Lots: Lots reserved or laid out for commercial and/or industrial purposes shall be of adequate size to provide for the off-street service and parking facilities required by the type of use, zoning district and development contemplated.
5. Double Frontage: Double frontage lots shall be avoided for single family residential dwellings except where the lots abut upon a limited access highway or arterial street, or where the topography of the land prevents reasonable subdivision into additional lots. Double frontage lots shall not have vehicular access between such lots and an abutting limited access highway or arterial street.
6. Major Streets: When possible, lots intended for residential use facing on major streets shall be avoided. It is preferable that the sides or backs of such lots adjoin major streets with the vehicular egress from such lots being oriented to a minor street.

7. Corner Lots: Corner lots intended for residential use shall have additional width to allow appropriate building setback and orientation to both streets and to provide adequate corner visibility.
8. Addressing of Lots: House numbers shall be assigned to each lot by the Zoning Administrator and shall be displayed and legible in accordance with County standards.

### **4-106 Easements:**

1. Utility: Permanent easements shall be provided where necessary for the location and servicing of utility poles, wires, conduits, storm and sanitary sewers, water and gas mains and other public utilities. Utility easements located along rear lot lines shall measure at least 20 feet wide and be centered on such rear lot line. Utility easements located along side lot lines shall measure at least 15 feet wide and shall be centered on such side lot lines; provided, whenever utility easements are located around the perimeter of the area to be subdivided, they shall be contained wholly within such area. Utility easements located along front lot lines shall measure at least 10 feet wide. No utilities shall be buried within the driving surface of the street.
2. Drainage: A drainage easement may be required for a proposed subdivision which is traversed by a watercourse, drainage way or drainage channel. Such easement shall conform substantially to the lines of such watercourse and shall be of such width as may be necessary to provide adequate surface or underground storm water drainage and access for maintenance.
3. Travel Easements: Travel easements may be allowed in accordance with the provisions of this Article.
4. Pedestrian Easements: Pedestrian easements may be required in accordance with the provisions of this Article.
5. Aviation Easements and Other Restrictions: Land located within the vicinity of established flight paths and noise impact areas of public-owned or controlled airports, as determined by the Osage County Planning Commission, shall be required to grant a permanent aviation easement to the public. All aviation easements shall allow aircraft to operate within the “navigable airspace” as defined by the Federal Aviation Act of 1958, as amended. Consistent with FAA Regulations, the Osage County Planning Commission may disapprove a plat, or portion thereof, which could create a hazardous situation for air traffic and the general public resulting from development and construction of a project.

### **4-107 Drainage:**

1. Drainage Plans: The developer shall include a drainage plan, as required by Section 2-103(2)(b)(4), and shall design storm water facilities according to the Storm Drainage Master Plan for the County. Drainage plans shall include, but are not limited to:
  - A. A complete drainage-area map showing the natural drainage area boundaries, direction of surface flow, any large impervious areas, existing and proposed streets, man-made or natural obstructions to be avoided for storm drainage locations, runoff calculations for existing and for developed conditions, and proposed inlet locations.

## ARTICLE 4: SUBDIVISION DESIGN STANDARDS

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- B. A grading design so that drainage from each lot should flow directly to a channel or detention area without crossing more than four (4) adjacent lots or four hundred (400) feet, whichever is less.
2. Detention Facilities: The developer shall install detention facilities when determined necessary by the County Engineer in accordance with the Storm Drainage Master Plan for the County.
3. Storm Sewers: The dedicated street right-of-way and dedicated drainage easements may be utilized for storm sewer facilities.

### **4-108 Water and Sewer Facilities:**

1. Water and Sewer:
  - A. All subdivisions within the unincorporated portion of Osage County shall provide water service and on-site wastewater treatment service in accordance with the Osage County Sanitation Code and other applicable rules and regulations in effect.
  - B. All subdivisions located in an area service by an established sewer district or sanitary sewer services by any approved public sanitary sewer service provider shall be connected to such sanitary sewer service.
2. Fire Hydrants: The Osage County Planning Commission may require the location of hydrants closer than four hundred (400) feet based on the recommendation of the appropriate Fire Chief.
3. Location: Water and sanitary sewer systems may be located within the dedicated non-pavement street right-of-way.

### **4-109 Large Lot Subdivisions:**

When a proposed subdivision is located within three miles of an incorporated city and involves lots of one (1) acre or more in area, consideration shall be given to the design and layout of the subdivision to any re-subdividing that might take place in the future, with proper provision being made for such street extensions and utility improvements as may be necessary.

### **4-110 Public Sites and Open Spaces:**

Where deemed necessary by the Osage County Planning Commission, upon consideration of the particular type of development proposed in the subdivision, the Osage County Planning Commission may require the dedication or reservation of such other areas or sites of a character, extent, and location suitable to the needs created by such development for schools, parks, and other public or open spaces. The requirement of the dedication of such public sites and open spaces by the Osage County Planning Commission shall not constitute an acceptance of the dedication by the City.

### **4-111 Bench Marks, Corner Monuments, and Other Markers:**

1. Bench Marks:
  - A. All elevations shown on plats shall be based on USGS.
  - B. The permanent bench mark location and description that is used to extend datum to the project shall be noted on the Preliminary Plat and Final Plat.

## ARTICLE 4: SUBDIVISION DESIGN STANDARDS

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2. Monuments: Monuments shall be installed in the subdivision in accordance with the minimum standards established by the Board of Technical Professions as authorized by Kansas statutes.
3. U.S. Government Corners: Whenever a survey originates from a United States public land survey corner or any related accessory, the land surveyor shall file a copy of the completed survey and references to the corner or accessory with the Department of Archives, Kansas State Historical Society and with the County Surveyor. Such survey shall be filed within thirty (30) days of the date the references are made.
  - A. Any altered, removed, damaged, or destroyed corner shall be restored.
  - B. Whenever such a corner or any related accessory is restored, re-established or replaced due to construction activities, a restoration report shall be filed with the Department of Archives, Kansas State Historical Society as specified in K.S.A. 21-3724, as amended.
4. Existing Markers: At any time during construction of the subdivision, if a stone marker should be found, the developer shall establish and report appropriate reference ties to the stone to facilitate the location of the stone in the future.

### **4-112 Community Assets:**

In all subdivisions, due regard shall be given to the preservation of any historical sites, drainage courses, areas of particular aesthetic value, or large and/or valuable trees.

### Sections:

- 5-101 Applicability**
- 5-102 Required Improvements**
- 5-103 Financing**
- 5-104 Relation to Plat Approval**
- 5-105 Relocation of Existing Facilities**
- 5-106 Acceptance**
- 5-107 Building Permits**
- 5-108 Off-site Improvements**

### **5-101 Applicability:**

Prior to and as a condition of approval of any final plat by the Governing Body, the developer shall agree to install or provide for the installation of certain improvements within the proposed subdivision. Such improvements installed by the developer shall comply with the standards and specifications of the County, utility company or public agency having jurisdiction and shall be subject to any applicable surety requirements to guarantee their proper installation.

### **5-102 Required Improvements:**

Every developer shall install, or through the appropriate public agency and/or utility company provide for the installation of the following improvements in accordance with the conditions and specifications required herein.

#### **1. Water Supply and Sewage Disposal:**

##### **A. Water Supply:**

- 1) It shall be the responsibility of the developer to either arrange for extension of water service from the appropriate water service provider in accordance with said entity's policies relative to the same, or provide sufficient proof of available water supply for all of the lots proposed to be created. If water is to be provided as on-site wells, then the developer shall provide sufficient proof of quantity and quality of water to support the intensity of development proposed.
- 2) In instances where water service is provided by an incorporated city, the developer shall contract with said city for the installation, maintenance, and operation of fire hydrants in accordance with said City's requirements.
- 3) All water supply plans and profiles shall be subject to the approval of the Kansas Department of Health and Environment.

##### **B. Sanitary Sewer System:**

- 1) All subdivisions within established service areas of sewer systems or sewer districts within Osage County shall connect to said sanitary sewer system. All connections shall be subject to the approval of the entity responsible for said sewer system.



- 2) Where the installation of sanitary sewers is not required by these regulations, the developer may provide for the installation of private individual sewage treatment systems on each individual lot at the time improvements are erected thereon. All such individual sewage treatment systems shall be constructed and maintained in accordance with the Osage County Sanitation Code.
  - 3) All sanitary sewer plans and profiles shall be subject to the approval of the Kansas Department of Health and Environment.
2. Provision for Storm Drainage: The developer shall make adequate provision for the control and discharge of storm water from the platted area and in doing so shall give consideration to the alternatives and principles of storm water management. When necessary, the construction of storm sewers shall be properly integrated with any existing storm sewer system and shall provide for the anticipated extension of said system to serve additional areas. The storm drainage plan and subsequent installation of culverts, storm sewers, stabilization ditches, storm water detention or retention ponds and other improvements shall follow accepted engineering standards and principles of design and construction. All storm drainage plans shall be prepared by a registered engineer of the State of Kansas and shall bear the seal of said registered engineer and must receive approval of the County.
3. Provisions for Streets: The developer shall provide for the improvement of all new streets within the platted area. Such street improvements should adequately reflect the classification of the particular street, its location and anticipated volume of traffic. All grades, drainage facilities and surfacing requirements shall be constructed according to the standards and specifications of the County. Said construction standards are on file and available in the office of Osage County Public Works. All street plans, profiles and specifications shall be submitted to and approved by the County Engineer. Final acceptance of the construction of said streets shall be made by the County.
4. Inspections: All construction and installation shall be inspected by the County. The developer shall pay for inspection personnel furnished by the County, under the supervision of the County Public Works Department, on all improvements constructed by the developer as contractor or subcontractor. A schedule of fees shall be prepared by the County.
5. Installation of Utility Lines & Appurtenances: The developer shall be responsible for making the necessary arrangements with the appropriate utility companies for the installation of utility lines and appurtenances. The installation of such utilities shall be done in such a manner as to not interfere with other underground utilities and their installation shall be coordinated through the County. Underground utility lines which cross underneath the right of way of a street shall be installed prior to the improvement of any such street in order to reduce the damage caused by street cuts. Incidental appurtenances, such as transformer enclosures and meter cabinets, shall be located so as not to be hazardous to the public and shall be approved by the County.
6. Installation of Monuments: The developer shall install monuments within the area to be subdivided. Such monuments shall be installed in accordance with the minimum standards established by the Board of Technical Professions as authorized by Kansas statutes.



## ARTICLE 5: REQUIREMENTS FOR IMPROVEMENTS

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7. Exceptions: All improvement requirements as set out within this Article shall be provided for in all subdivisions with the following exceptions:
  - A. Upon specific request from the developer and concurrence of the Governing Body, certain improvements may be waived. Such waiver may include, but not be limited to, instances where the proposed subdivision is a re-subdivision and/or concerns an area presently having any or all the required improvements as set out in Section 5-102 and where such improvements comply with the requirements of said Section and are in acceptable condition as determined by the County Engineer.
  - B. The Governing Body may make other reasonable requirements for dedications or installations of public improvements or facilities deemed necessary to meet the public needs caused by the new subdivision. Such additional requirements may include, but not be limited to, the provision of park or open space land as is warranted by the reasonably foreseeable future population and use of the area as a result of the proposed subdivision.

### **5-103 Financing:**

1. Subdivision Improvements: A method for financing proposed improvements and a breakdown of anticipated costs shall be submitted with the Final Plat. This shall be accomplished by filing a Subdivision Improvements Agreement or a Benefit District Petition, and shall be required for all subdivisions of land except for Lot Splits which require no improvements. Benefit District financing is not available for construction of unpaved roads or any drainage improvements for a subdivision in the unincorporated portion of Osage County. The Governing Body shall have sole responsibility to accept or reject the Subdivision Improvement Agreement or Benefit District Petition. Financing methods may include, but are not limited to, the following guarantees:
  - A. Petition for Establishment of a Benefit District: The percentage split of costs shall be based on the policy established by the Governing Body. The County may decide not to participate in Benefit Districts that do not comply with the Capital Improvements Program or those which are inconsistent with the Comprehensive Plan.
  - B. Surety Bonds: The developer shall provide the County Engineer with all calculations and information needed to check the cost estimates of said improvements. This cost shall be estimated by the developer and shall be verified by the County Engineer. The developer shall then be required to obtain a security bond from a surety bonding company authorized to do business in the State of Kansas. The bond shall be made payable to Osage County, and shall be for one hundred percent (100%) of the total improvement costs. Financial assurance in a form other than a bond may be accepted by the Governing Body. The duration of the bond shall be until such time as the improvements are completed, inspected, and accepted by the County.
  - C. Alternatives: Other financing methods may include cash or collateral, Escrow Accounts, Property Escrow Accounts, or any other guarantee the Governing Body shall deem acceptable.

## ARTICLE 5: REQUIREMENTS FOR IMPROVEMENTS

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2. Defaulting: The Governing Body may, upon advice of the County Engineer, find that the developer is in default of the Subdivision Improvements Agreement. Such finding shall occur at a regularly scheduled meeting of said Governing Body. Two (2) weeks prior to such scheduled meeting, the developer shall be notified by registered mail of possible default proceedings. At the meeting the developer shall be given the opportunity to rebut findings of default.

Defaulting results from:

- A. Improper construction standards and specifications.
  - B. Failure to install agreed upon improvements.
  - C. Construction of improvements not according to agreed upon time schedule, allowing for unexpected or unavoidable delays.
  - D. Other financial and/or contractual conditions which might lead to the developer being unable to complete the agreed upon improvements.
3. Default Proceedings: The Governing Body may find the developer not in default, extend the time limit, or:
    - A. Should the Governing Body find the Subdivision Improvements Agreement to have been violated, it may liquidate the improvements guarantee, in whatever form it takes, and apply the proceeds of this guarantee to the construction of the improvements set out in the Subdivision Improvements Agreement.
    - B. Should the proceeds of the guarantee not be sufficient to cover the costs of said improvements, the Governing Body may assess to the developer, property owners, or both, the construction costs of the improvements that exceed the amount provided by the developer. This may take the form of a lien against the property covered in the Subdivision Improvements Agreement.
    - C. Should the proceeds of the guarantee exceed the actual cost of the improvements, and any cost incurred in the default procedures, the County shall return the unexpended balance to the individual named on the Subdivision Improvements Agreement as the one having secured the guarantee.
  4. Guarantee Release: When all improvements have been completed and have been inspected, approved, and accepted, the County shall authorize the release of the guarantee.

### **5-104 Relation to Plat Approval:**

1. Adequate Public Facilities: Prior to approval of the Preliminary Plat, the Planning Commission shall find that sufficient public facilities and services are either available, shall be available within a reasonable time as programmed in the Capital Improvements Program, or shall be provided by the developer in accordance with the requirements of these regulations to adequately service the type of subdivision and development being proposed.

2. Subdivision Improvements: When the construction or installation of street improvements, sidewalk improvements, public water supply, sanitary sewer systems, storm sewer systems or other drainage improvements, or other facilities is required to serve the proposed development within a subdivision, a prerequisite for the consideration of the Final Plat shall be the submission of a Benefit District Petition or a Subdivision Improvements Agreement specifically setting forth the extent, time schedule, and method of financing such construction or installation as proposed by the owner or developer. The Benefit District Petition or the Subdivision Improvements Agreement shall contain sufficient information to make a determination that the proposed construction or installation shall meet or exceed the standards set forth in the Subdivision Regulations herein and as adopted by the County. A phased construction time schedule may be recommended by the Planning Commission, subject to approval by the Governing Body, which is based on the owner's or developer's estimate of the pace at which development will proceed within the subdivision.
3. Final Approval: Any approval required under this section does not obligate the Planning Commission to approve the proposed plat if the Planning Commission finds the overall development to be inconsistent with any established policies and plans.

### **5-105 Relocation of Existing Facilities:**

1. Financial Obligations: Whenever any existing improvements and/or utilities are required to be relocated or upgraded due to the subdivision or construction of improvements required as a condition for approval of the subdivision plat, and in the event such was not known at the time of initial construction, the costs of such relocation or upgrading shall be the sole responsibility of the new subdivision. Franchise agreements between the County and private utilities in effect at the time of construction may dictate the responsibility for absorbing costs associated with relocating or repairing utility lines. Responsibility may also depend on whether the relocation or repair is a private or public benefit.
2. Duplication of Improvements: Where the proposed subdivision is a re-subdivision or concerns an area presently having any or all required improvements as set out above, and where such improvements meet the requirements of these regulations and are in good condition as determined by the County Engineer, no further provision need be made by the developer to duplicate such improvements. The developer shall provide for the repair, correction or replacement of improvements so that all improvements will then meet the said requirements.
3. Street Widening or Reduction: Where the proposed subdivision is a re-subdivision or concerns an area presently abutting or containing any existing public street or less than the minimum required right-of-way width or roadway width, land shall be dedicated so as to provide a minimum street right-of-way width established by these regulations and/or County policy. The developer of such proposed subdivision shall provide an additional roadway pavement meeting the minimum standards set by these regulations and the County. The County Engineer shall determine what adjustment to make where the widenings merge with existing streets which are of smaller width at the boundary of such proposed subdivision. The County Engineer may approve reduction of the minimum roadway width, as required by these regulations, to match an existing roadway system where physical consideration warrants such action.

### **5-106 Acceptance:**

No improvements shall be accepted until the County Engineer has inspected said improvements and certified that they meet the applicable standards, or the standards as approved for the project by the governing body.

### **5-107 Building Permits:**

No building permits shall be granted until the proposed subdivision has been approved and recorded, or the lot on which the permit is requested is or has been created in conformance with the provision of these Regulations, and all infrastructure improvements have been made or guaranteed.

### **5-108 Off-Site Improvements:**

The Planning Commission may, upon advice and findings, require the developer to submit a Subdivision Improvements Agreement or a Benefit District Petition, in accordance with the provisions of this Article, for the installation or upgrading of off-site improvements if such need is substantially created by a proposed subdivision. Off-site improvements should be within dedicated easements or rights-of-way and serve a public purpose. The financing of such improvements shall be handled as if they were on-site improvements. 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 Planning Commission, if the need is created by a proposed subdivision:

1. Special grading requirements;
2. Street improvements;
3. Drainage improvements; or,
4. Traffic control devices.

### Sections:

#### **6-101 Rule Exceptions**

#### **6-102 Appeals**

#### **6-103 Penalty for Violations, Actions**

#### **6-101 Rule Exceptions:**

The standards and procedures required in these regulations shall be interpreted and applied literally in the case of all subdivision plats submitted after the date of the adoption of these regulations. 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 rule exception from one or more of the requirements contained herein. A rule exception may be requested, on forms provided, at the time of filing of the preliminary or final plat application. A rule exception may be approved by the governing body, provided, that in its judgment, such action will not violate the public interest, unnecessarily burden the County, or will annul the intent and purpose of these regulations.

#### **6-102 Appeals:**

Any decision of the Planning Commission or the Zoning Administrator on matters contained herein may be appealed to the appropriate governing body and said governing body may reverse or affirm such decision.

#### **6-103 Penalty for Violations, Actions:**

The violation of any provision of these regulations shall be deemed a misdemeanor and any person, firm, association, partnership or corporation convicted thereof shall be punished by a fine not to exceed \$500.00 and that each day's violation shall constitute a separate offense. The Governing Body shall further have the authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing any provisions of these regulations and to abate nuisances maintained in violation thereof; and in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate such violation, or to prevent the occupancy of any building, structure, or land.

### Sections:

- 7-101 Validity**
- 7-102 Accrued Rights and Liabilities Saved**
- 7-103 Severability**
- 7-104 Effective Date**
- 7-105 Repealing Clause**

#### **7-101 Validity:**

If any section, paragraph, subdivision, clause, phrase, or provision of these regulations shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of these regulations as a whole or any part or provision thereof, other than the part so declared to be invalid or unconstitutional. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

#### **7-102 Accrued Rights and Liabilities Saved:**

The repeal of regulations provided in Section 7-105 herein, shall not affect any rights accrued, fines, penalties, forfeitures, or liabilities incurred thereunder, or actions involving any of the provisions of said regulations or parts thereof. Said regulations below repealed are hereby continued in force and effect, after the passage, approval and publication of these regulations, for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions, therefore.

#### **7-103 Severability:**

Each article, section, and subdivision of a section of these regulations is hereby declared to be independent of every other article, section, or subdivision of a section, so far as inducement for the passage of these regulations is concerned.

#### **7-104 Effective Date:**

These regulations, being designated as the “Subdivision Regulations of Osage County, Kansas”, shall be in full force and effect within the unincorporated portion of Osage County, Kansas, from and after its passage and publication in accordance with K.S.A. 12-3301 through 12-3305.

#### **7-105 Repealing Clause:**

These Regulations repeal all other rules, regulations, and/or resolutions of Osage County, Kansas, addressing matters contained within these Regulations in their entirety to the extent said rules, regulations, and/or resolutions conflict.