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Article
1
GENERAL PROVISIONS

Sections:

- 1-1 Title and Scope
- 1-2 Purpose
- 1-3 Applicability
- 1-4 Authority
- 1-5 Exemptions
- 1-6 Definitions

Section 1-1. Title and Scope

1-1.01 These regulations, entitled the Subdivision Regulations of Miami County, Kansas, prescribe minimum design requirements and uniform approval procedures for the division of property, and the development of new subdivisions and resubdivisions of land in the unincorporated territory of Miami County, Kansas.

Section 1-2. Purpose

1-2.01 Responsible land subdivision is the initial step in the process of orderly community development. Once raw land has been divided into tracts, lots, blocks and streets, the correction of defects is difficult and costly. The purpose of these Subdivision Regulations is to set forth rules and regulations for the division of real property so that each subdivision shall be properly coordinated with existing streets, utilities and public facilities, and for the future development of these improvements and entities, and to promote the public health, safety, convenience and general welfare, and to conserve land values within the unincorporated territory of Miami County, Kansas.

1-2.02 These Subdivision Regulations are therefore adopted for the following specific purposes:

1. To protect and provide for the public health, safety, convenience, and general welfare.
2. To insure that development in unincorporated Miami County conforms with the goals, policies and recommendations of the adopted *Miami County Comprehensive Plan*.
3. To provide adequate and accurate records of all applicable land subdivisions.
4. To provide for adequate public input regarding the subdivision of private land.
5. To insure that the cost of improvements which benefit primarily the tract of land being developed, is borne primarily by the subdivider of the tract.
6. To insure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision.

7. To establish reasonable standards of design and uniform procedures for subdivisions in order to further the orderly layout and use of land, and to insure that the standards and procedures will enable emergency services, public works and other Miami County personnel to adequately provide services to the residents of the subdivisions.
8. To preserve the natural beauty and topography of unincorporated Miami County and to insure appropriate development with regard to those natural features.
9. To insure that development in unincorporated Miami County conforms with the land uses and other criteria established in the adopted Miami County Zoning Regulations.

Section 1-3. Applicability

1-3.01 The provisions of these Subdivision Regulations shall apply to: the owner or owners of any land located within the unincorporated territory of Miami County, Kansas, subdividing or resubdividing the same into two (2) or more lots, tracts, or parcels for the purpose of laying out any subdivisions, suburban lots, non-agricultural building lots, tracts or parcels, or any owner of any land establishing any street, park or other property intended for public uses or for the use of purchasers or owners of lots, tracts or parcels of land fronting thereon or adjacent thereto. Said owner or owners shall cause a plat to be made unless specifically exempted under Section 1-5 of this article.

1-3.02 Plat or Lot/Parcel Split Required: After the effective date of these Subdivision Regulations, the owner or owners of any land located within the unincorporated territory of Miami County, Kansas, subdividing the same into two (2) or more lots, blocks, tracts or parcels, shall cause a subdivision plat or lot/parcel split to be made unless exempted under Section 1-5 of this article.

1-3.03 Filing of Plats, Lot/Parcel Splits and Boundary Line Adjustments: The Register of Deeds of Miami County shall not file any Subdivision Plat, Lot/Parcel Splits, or Boundary Line Adjustments for purposes of subdividing land until such subdivision plat, lot/parcel split or boundary line adjustment has been considered and approved as provided for in these Subdivision Regulations.

1-3.04 Sale of any Proposed Lot, Parcel or Tract: The owner, or agent of the owner, of any land division subject to the provision of these Subdivision Regulations, shall not transfer or sell any such lot, parcel or tract before the land division has been approved by the County in accordance with these Subdivision Regulations and has been filed with the Register of Deeds of Miami County.

Section 1-4. Authority

1-4.01 These Subdivision Regulations and minimum standards for land development are adopted by the Planning Commission and approved by the Board of County Commissioners under powers conferred by K.S.A. 12-749.

Section 1-5. Exemptions

1-5.01 The following specific transactions shall be exempt from compliance with either the overall provisions of these Subdivision Regulations, or the stated provisions of these Subdivision Regulations, if so stated:

1. Boundary line adjustments between two or more contiguous platted or unplatted lots, tracts, or parcels of land, which will not create any additional lots, tracts or parcels, shall not be subject to

the subdivision platting requirements of these Subdivision Regulations. However, such boundary line adjustments shall comply with requirements of Article 4 of these Subdivision Regulations.

2. A conveyance of land, or interest therein, for use as right-of-way by railroad or other public utilities, subject to state or federal regulations where no new street or easement of access is created.
3. If under the ownership of the person who caused the conveyance to be prepared, a conveyance made to correct a bearing, angle, distance, subdivision or street name, block or lot number, computation of dimension or elevation, or other details, except in connection with the outer boundaries of a plat, in a previously recorded conveyance. However, the County Engineer must file an affidavit with the Register of Deeds that an error was made and the correction is necessary.
4. Any transfer by operation of law.
5. The subdividing of land used exclusively for cemetery purposes and accessory uses associated therewith.
6. Any lot, parcel or tract of land located within the area governed by these Subdivision Regulations, which has been legally subdivided prior to January 1, 1992.
7. The division or further division of land into tracts of forty (40) acres or more when such divisions do not involve or result in the creation of new streets, easements of access or other dedications, and when such legal descriptions can be described as fractional section divisions of land, and when such divisions have direct access to a publicly dedicated right-of-way. Typical examples of what are acceptable descriptions of fractional section divisions of land as they apply to this exemption include, “the N1/2 of Section...,” “the NE¼ of Section...,” “the W1/2 of the NE¼ of Section...,” “the NE¼ of the NE¼ of Section...,” and other such fractional section combinations. Exceptions stated in the descriptions of divisions of land in fractional sections shall only apply to rights-of-way to qualify for this exemption. It is understood that fractional section divisions of land described as quarter (¼) quarter (¼) sections may be more or less than forty (40) acres (long or short sections established by the government due to the curvature of the earth) and still qualify for this exemption.

Section 1-6. Definitions

1-6.01 For the purpose of these Subdivision Regulations, certain terms, words, and phrases are hereby defined and shall have the meaning assigned to them in this section when used or referred to throughout these Regulations. Unless specifically defined below, words or phrases used in the Regulations shall be interpreted so as to give them the meaning they have in common usage and give these Regulations their most reasonable application.

ACCESS: The right to cross between public and private property, allowing pedestrians and vehicles to enter and leave property.

AGRICULTURAL PURPOSE: The use of a tract of land for the raising of crops, animal husbandry, dairying, pasturage, general farming, truck farming, cultivation of field crops, orchards, groves, raising fish, birds or poultry, and accessory uses, necessary for the carrying out of farming operations, including structures for storage, processing and the sale of products raised on the premises. Agricultural uses shall not include the following:

1. The operation or maintenance of greenhouses, nurseries, or hydroponic farms operated as a retail operation.
2. Wholesale or retail sales as an accessory use, unless the same are permitted by the Zoning Regulations.
3. The operation or maintenance of a commercial feedlot.
4. Lands which are used for recreational purposes even though such properties may produce or maintain some of the plants or animals listed herein.
5. Suburban residential acreages or rural residential acreages, home sites and yard plots whose primary function is for residential purposes even though such properties may produce or maintain some of the plants or animals listed herein.

ALLEY: A dedicated public right-of-way which provides a secondary means of access to and from streets and lots.

AMENDMENT: A change or alteration to the Subdivision Regulations.

APPLICANT: The owner or duly designated representative concerning land for which a subdivision has been requested. Consent shall be required from the legal owner of the premises, if the applicant is other than the owner.

BLOCK: A tract of land entirely surrounded by public highways, streets, railroad or other public utility rights-of-way, public walks, parks or greenstrips, rural land, drainage channels or a combination thereof.

BOARD OF COUNTY COMMISSIONERS: The Miami County, Kansas, Board of County Commissioners. Also known as the Governing Body.

BOARD OF ZONING APPEALS: The Miami County, Kansas, Board of Zoning Appeals.

BOND: Any form of security, including a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the County. All bonds shall be approved by the Board of County Commissioners whenever a bond is required in these Subdivision Regulations.

BOUNDARY LINE ADJUSTMENT: The adjustment of one (1) or more common boundaries between existing platted or unplatted lots, tracts or parcels, which will not create additional lots, tracts or parcels.

COMPREHENSIVE PLAN: The adopted *Miami County Comprehensive Plan* for the unincorporated territory of Miami County, Kansas, including subsequent amendments.

COUNTY: Miami County, Kansas.

COUNTY CLERK: The County Clerk of Miami County, Kansas.

COUNTY COUNSELOR: The attorney assigned by the Board of County Commissioners to provide legal assistance for the administration of these Subdivision Regulations.

COUNTY ENGINEER: The Miami County Engineer, or such licensed professional engineer designated by the County Engineer or the Board of County Commissioners to provide engineering assistance in administering these and other regulations governing areas of the normal responsibilities assigned to the County Engineer.

COUNTY ENVIRONMENTAL HEALTH DIRECTOR: The Miami County official assigned the responsibility of administering and enforcing the Miami County Environmental Health Sanitary Code.

COUNTY PLANNING AND DEVELOPMENT DEPARTMENT: The Miami County, Kansas, County Planning & Development Department.

COUNTY SURVEYOR: The Miami County official who is a registered land surveyor and is assigned the duties of reviewing and certifying all proposed subdivision plats or plats of survey.

COUNTY TRANSPORTATION DIRECTOR: The Miami County official assigned the responsibility of administering the public works programs of the County and maintaining the County's infrastructure.

CUL-DE-SAC: A street that has only one outlet and is permanently terminated by a vehicle turnaround at the other end, as distinguished from a dead-end street.

EASEMENT: An interest in land that is held by the public, a corporation, or persons other than the owner that entitles the holder to a specific limited use or right. Ownership of said strip of land shall remain with the property owner.

ENTRANCE POLICY: A policy adopted by the Board of County Commissioners regarding ingress and egress on County roads.

FLOODPLAIN: Land which is subject to inundation of water as a result of what is commonly known as the 100-year flood, or land that has at least at one percent (1%) chance of flooding in any given year. Floodplain boundaries in the unincorporated territory of Miami County are shown on the Federal Insurance Administration's "Flood Hazard Boundary Maps" for Miami County, Kansas (unincorporated area), dated June 7, 1977 and any subsequent updates thereafter.

FLOODPLAIN OVERLAY DISTRICT: The F-P zoning district of the Miami County Zoning Regulations.

FRONTAGE: That part of a lot or tract of land, which borders along any given access to a public street or public right-of-way. Such public street or right-of-way shall not include an alley or access to the rear of such lot or tract.

FRONTAGE ROAD: A public or private roadway, generally paralleling and contiguous to a street or highway, which provides access to abutting properties and which is designed to promote safety by eliminating unlimited ingress and egress to such street or highway by providing points of access at generally uniformly spaced intervals.

GRADE: The slope of a road, street, drainage or other public way, specified in percent.

IMPROVEMENTS: All public or private facilities constructed or erected by a subdivider within a subdivision to permit and facilitate the use of lots, blocks, tracts or parcels for a principal residential or commercial, office, or industrial use.

LAND, BUILDABLE: Land that does not contain wetlands, floodways, and/or slopes in excess of twenty-five percent (25%). Only buildable land shall be included in calculating the overall density of a conservation subdivision or conservation development.

LAND, SENSITIVE: Land that contains, but is not limited to, wetlands, floodways, floodplains, slopes in excess of fifteen percent (15%), soil types unsuitable for development, significant wildlife habitats and wildlife travel corridors (such as along floodplains), significant woodlands and vegetation areas (that provide habitat and soil stability), productive farmland, historic and cultural features (including archaeological sites), scenic vistas, watersheds, and groundwater resources and their recharge areas.

LAND PLANNING PROFESSIONAL: A professional capable of generating a preliminary plat as required by these Subdivision Regulations. Such professionals may include, but not be limited to, landscape architects, architects, surveyors, and engineers.

LOT: A portion of a subdivision or other tract or parcel of land intended as a unit for transfer of ownership or for development.

LOT, CORNER: A lot situated at the intersection of two (2) streets.

LOT, DOUBLE FRONTAGE: A lot having frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

LOT, FLAG: A lot that contains a long narrow portion called a staff, in which said staff fronts on an approved street and leads to the main body of the lot. The staff portion of the lot resembles a flagpole and the main body of the lot resembles a flag attached to a flagpole.

LOT AREA: The total area within the property lines of a lot or tract.

LOT LINES: The boundary lines of a lot.

LOT OF RECORD: A lot which is a part of a subdivision plat which has been recorded in the office of the Miami County Register of Deeds, or an unplatted tract or parcel described by metes and bounds, the description which has been recorded in the office of the Miami County Register of Deeds.

LOT SPLIT: The dividing of a platted lot into not more than two (2) lots or tracts which meet the criteria established by these Subdivision Regulations.

MERGER: As applied to these Subdivision Regulations, the combining of unplatted lots, tracts or parcels into a single lot, tract or parcel.

NON-CONFORMING LOT/TRACT/PARCEL: A legally created lot, tract or parcel, which does not comply with the lot, tract or parcel requirements for the zoning district in which it is located.

OWNER: The person, firm, trust, partnership, association or corporation whose name appears as “owner” of record in the office of the Miami County Register of Deeds.

PARCEL: A single unit of real property under one ownership, which is not designated by a lot number.

PARCEL SPLIT: The dividing of an unplatted parcel or tract of land into not more than two (2) parcels or tracts which meet the criteria established by these Subdivision Regulations.

PLAN, SKETCH: A plan as required by these Subdivision Regulations to outline the general intent and nature of a proposed subdivision to the County Planning and Development Department and other interested departments, agencies, and committees.

PLANNING COMMISSION: The Miami County, Kansas, Planning Commission.

PLANNING DIRECTOR: The Miami County official assigned the responsibility of administering the Miami County Subdivision Regulations and Zoning Regulations.

PLAT: A map or drawing to scale showing a division or divisions of a tract of real property or showing the boundaries of a lot or lots resulting from the subdivision of a tract of real property as provided in these Subdivision Regulations.

PLAT, FINAL: A plat prepared by a registered land surveyor to describe the precise locations and dimensions of lots, establish easements, dedicate street rights-of-way, and otherwise describe property to be subdivided and requiring approval of the Planning Commission as specified in K.S.A. 12-752(b).

PLAT, PRELIMINARY: A plat for a proposed subdivision of land showing streets, lots, and other features as required by these Subdivision Regulations.

PLAT, SMALL SUBDIVISION: A subdivision or resubdivision that consists of only one (1), two (2), three (3), or four (4) lots that may have the preliminary platting requirements of these Subdivision Regulations waived by the Planning Director.

REGISTER OF DEEDS: The Miami County, Kansas, Register of Deeds.

REVERSION TO ACREAGE: Reverting subdivided lands into a single lot, tract or parcel.

RIGHT-OF-WAY: A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for other special purposes. The usage of the term “right-of-way” hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way, and not included within the dimensions of areas of such lots or parcels.

RULE EXCEPTION: Allowing a subdivision to deviate from one (1) or more specific standards and requirements of these rules and regulations.

RURAL RESIDENTIAL: A lot equal to or more than three (3) but less than twenty (20) acres in size, created for the purpose of providing a residential building site, notwithstanding the accessory agricultural use of some or all of said lot.

SANITATION CODE OR MIAMI COUNTY ENVIRONMENTAL HEALTH SANITARY CODE: The Miami County Environmental Health Sanitary Code, as adopted by the Miami County Board of County Commissioners and as amended from time to time.

SANITATION ZONE, HILLSDALE LAKE: The land within an area designed and described by regulation of the Kansas Secretary of Health and Environment under the provisions of K.S.A. 65-184 through 65-189f inclusive, no portion of which is located more than three (3) miles from the waterline of Hillsdale Lake, but not including any area within any incorporated city, or any area downstream from the dam site. The boundaries of the Hillsdale Lake Sanitation Zone shall be available in the office of the Miami County Environmental Health Director.

SETBACK: A line within a lot or other parcel of land indicating the limit beyond which a building, structure, or sanitation facilities, may not be erected.

SLOPE: The inclination of the surface plane from the horizontal or vertical, which is generally expressed in percent.

STREET: A right-of-way, dedicated to the public use, which provides vehicular and pedestrian access to adjacent properties. Also includes the word “road.”

STREET, ARTERIAL: A street or road that is designated in the *Miami County Comprehensive Transportation Plan* for large volumes of traffic to move quickly and safely, and which provides service and access to abutting properties only as a secondary function.

STREET, COLLECTOR: A street or road that is designated in the *Miami County Comprehensive Transportation Plan* primarily to gather traffic from local streets and carry it to the arterial system.

STREET, DEAD END: A street or road having only one (1) outlet and no vehicular turnaround, as distinguished from a cul-de-sac.

STREET, LOCAL: Any public street or road designed primarily to provide access to more than one (1) property.

STREET, PRIVATE: A right-of-way or easement which affords principal means of vehicular access to property abutting thereon, which right-of-way or easement is owned, controlled and maintained by persons other than the public.

STREET, PUBLIC: A right-of-way, which affords principal means of vehicular access to property abutting thereon, which right-of-way has been dedicated to the public for such use.

SUBDIVIDER: The owner, or any other person, firm or corporation authorized by the owner that proceeds to subdivide under the provisions of these Subdivision Regulations. Also known as the Developer.

SUBDIVISION: Any land, vacant or improved, which is divided or resubdivided into two (2) or more lots, parcels, sites, units, plots, or interests for the purpose of sale or development. The creation of a street, alley or other public way by dedication shall be deemed a subdivision.

SUBDIVISION, AGRICULTURAL DENSITY: A subdivision with lots larger than twenty (20) acres.

SUBDIVISION, AGRICULTURAL PRESERVATION: A subdivision designed to preserve agricultural land from being completely developed by clustering lots in a manner that will maintain a parcel for agricultural use, said parcel being at least seventy-five percent (75%) of the land being subdivided and being at least forty (40) contiguous acres in size. The allowed density and development regulations of an agricultural preservation subdivision are subject to the regulations of the zoning district in which it is located.

SUBDIVISION, CONSERVATION: A subdivision designed to protect sensitive land from development by clustering lots and development on the non-sensitive portions of the land as much as possible, and designating at least fifty percent (50%) of the buildable portions of the land and all wetlands, floodways and slopes exceeding twenty-five percent (25%) as permanent open space. Most or all of the open space should be sensitive land, and sensitive land shall always take priority over non-sensitive land for meeting the open space requirement. The allowed density and development regulations of a conservation subdivision are subject to the regulations of the zoning district in which it is located.

SUBDIVISION, RURAL DENSITY: A residential subdivision with lots three (3) acres or larger, but less than twenty (20) acres.

SUBDIVISION, STANDARD: A subdivision that is not designed to preserve agricultural land, protect sensitive land from development (except for wetlands, floodways and slopes exceeding 25%), nor required to designate at least fifty percent (50%) of the buildable portions of the land as permanent open space. The allowed density and development regulations of a standard subdivision are subject to the regulations of the zoning district in which it is located.

SUBDIVISION, SUBURBAN DENSITY: A residential subdivision with lots smaller than three (3) acres.

SUBDIVISION REGULATIONS: The Miami County Subdivision Regulations, as adopted by the Miami County Board of County Commissioners and as amended from time to time.

SUBURBAN RESIDENTIAL: A lot less than three (3) acres in size, created for the purpose of providing a residential building site, notwithstanding the accessory agricultural use of some or all of said lot.

TRACT: A single unit of real property under one ownership, outside the corporate limits of a city, which may be platted or unplatted, title to which is publicly or privately held by an owner.

TRANSPORTATION PLAN: The Miami County Comprehensive Transportation Plan as adopted by the Miami County Board of County Commissioners and as amended from time to time.

UTILITY: Any governmental utility, nonprofit organization, corporation, or any entity defined as a utility for any purpose by Kansas state law engaged in the production, generation, transmission, delivery, collection or storage of water, sewage, electricity, gas, oil or electronic signals.

WALKWAY, PEDESTRIAN: A strip of land dedicated for public use which is reserved across a block for the purpose of providing pedestrian access to adjacent areas.

ZONING DISTRICT: A section of the zoning area for which uniform regulations governing the use, height, area, size, and intensity of use of buildings, land, and open space about buildings, as established in the Miami County Zoning Regulations.

ZONING REGULATIONS: The Miami County Zoning Regulations, as adopted by the Miami County Board of County Commissioners and as amended from time to time.

Article
2
LOT SPLITS/PARCEL SPLITS

Sections:

- 2-1 Objective
- 2-2 Authorization for Approval of Lot Splits/Parcel Splits
- 2-3 Application Procedure
- 2-4 Approval Guidelines
- 2-5 Staff Review and Action
- 2-6 Building Permits
- 2-7 Savings Clause

Section 2-1. Objective

2-1.01 The objective of this article is to provide for the division of a platted lot into not more than two (2) lots which meet the minimum size and area requirements of the zoning district in which said lots are located, and the division of a platted lot zoned for industrial purposes into two (2) or more lots which meet the minimum size and area requirements of the zoning district in which said lots are located, without having to comply with the platting requirements described in Article 3 of these Subdivision Regulations. The new lots cannot, thereafter, be further subdivided without platting. Unplatted parcels may also be divided into not more than two (2) parcels which meet the minimum size and area requirements of the zoning district in which said parcels are located without having to comply with the platting requirements described in Article 3 of these Subdivision Regulations. The new parcels cannot, thereafter, be further subdivided without platting.

Section 2-2. Authorization for Approval of Lot Splits/Parcel Splits

2-1.02 The Planning Director is hereby authorized to approve or deny lot splits or parcel splits in accordance with the provisions of this article. Appeals from a decision made by the Planning Director may be made by the applicant to the Board of Zoning Appeals for determination.

Section 2-3. Application Procedure

2-3.01 Requests for lot splits or parcel splits shall be made by the owner(s) of the land, or their authorized agent or representative, on an application form provided by the Planning Department office. Documents and exhibits required to be submitted for complete application consideration are listed with the application. The Certificate of Survey shall be prepared by a licensed Surveyor and shall show the following:

1. Boundaries, dimensions and descriptions of all lots, parcels or tracts included within the lot or parcel split;
2. Location of existing easements and utilities;
3. Legal descriptions of the properties; and,

4. Signature of the County Surveyor and a signature block for the Planning Director for approval.

Upon approval of the lot or parcel split, the original shall be recorded in the Register of Deeds Office on material approved by the Register of Deeds.

Section 2-4. Approval Guidelines

2-4.01 The division of platted lots or unplatted parcels pursuant to this section shall comply with the applicable Zoning Regulations, these Subdivision Regulations, and all other applicable regulations. No lot or parcel split shall be approved if one of the following applies:

1. A new street or alley is needed or proposed.
2. A vacation of streets, alleys, setback lines, access control or easements is required or proposed, unless separately vacated.
3. If such action will result in significant increases in service requirements (e.g. utilities, schools, traffic control, streets, etc.), or will interfere with maintaining existing service levels (e.g. additional curb cuts, re-paving, etc.).
4. There is less street or road right-of-way than required by these Regulations unless such dedication can be made by separate instrument.
5. Any easement requirements have not been satisfied.
6. If such a split will result in a lot or parcel without direct access to a public street or approved private street.
7. A substandard size lot or parcel will be created according to these Subdivision Regulations and the Miami County Zoning Regulations.
8. Such a lot or parcel split would result in a lot or parcel which, due to the location of floodplains, bodies of water, excessive slopes, or other natural constraints, would not contain adequate buildable area for its intended use or the required area necessary for an on-site wastewater disposal system, including septic system lateral fields, holding tank(s) or other water disposal systems, as required by County codes and regulations.

2-4.02 The Planning Director may make such additional requirements as deemed necessary to carry out the intent and purposes of existing land development regulations and policies. Requirements may include, but not be limited to, installation of public facilities, dedication of rights-of-way and easements, and submission of covenants for the protection of other landowners in the original subdivision.

Section 2-5. Staff Review and Action

2-5.01 The Planning Director shall either approve with or without conditions or deny the lot or parcel split upon receipt and evaluation of the complete application, and if denied, shall submit in writing stating the reasons for denial. In the event of denial, the applicant(s) shall have the right to request an appeal to the Board of Zoning Appeals within thirty (30) days.

Section 2-6. Building Permits

2-6.01 No building permit shall be issued for any site unless the site is a legal lot or legal parcel of record that was created in a manner required by these Subdivision Regulations or the regulations in place at the time the lot or parcel was created.

Section 2-7. Savings Clause

2-7.01 Nothing in this article shall be in conflict with K.S.A. 79-405 et. seq.

Article
3
PLAT FILING REQUIREMENTS

Sections:

- 3-1 General Procedure
- 3-2 Preapplication Conference and Sketch Plan
- 3-3 Preliminary Plat
- 3-4 Final Plat
- 3-5 Concurrent Submission of Preliminary and Final Plats
- 3-6 Small Subdivision Plat
- 3-7 Reversion to Acreage
- 3-8 Replatting/Vacation of Plats

Section 3-1. General Procedure

3-1.01 This article establishes uniform procedures and platting requirements for subdivisions as provided in K.S.A. 12-752.

3-1.02 All preliminary and final plats of subdivisions within the unincorporated area of Miami County shall be submitted to the Planning Commission for its approval. The Register of Deeds of Miami County shall not file any plat for land located within any area governed by these Subdivision Regulations until: a) a final plat has been approved and endorsed thereon by the Planning Commission; and b) land dedicated to public purposes has been acted upon by the Board of County Commissioners as required herein.

3-1.03 The Planning Director shall have the authority to certify a preliminary plat, final plat, or small subdivision plat application as complete or incomplete. If a plat application is certified as complete, then said director shall place the application on the Planning Commission's agenda for consideration. If a plat application is certified as incomplete, then said director shall return the application to the applicant with a written explanation of his determination. The applicant may reapply and pay another filing fee, or the applicant may appeal said director's determination to the Board of Zoning Appeals for consideration as to the completeness of the application. If the proposed subdivision does not conform to the Zoning Regulations regarding the development standards of the zoning district in which it is located, then the Planning Director will not be able to certify the subdivision application as complete unless the Board of Zoning Appeals first approves an applicable appeal, exception or variance from the nonconforming development standard(s).

Section 3-2. Preapplication Conference and Sketch Plan

3-2.01 Before filing a preliminary plat, the subdivider should consult with the Planning Director for advice regarding general requirements affecting the proposed development. The subdivider should furnish the Planning Department with the following information:

1. A general description of existing conditions of the site, including data on existing land and soil characteristics, existing structures and ponds, existing covenants, availability of utilities and other public facilities, documentation of existing easements and wastewater disposal systems (including lateral fields), and proposed uses.
2. A sketch of the proposed subdivision on a topographic survey map showing proposed streets, lots, and other features.
3. A general location map showing the relationship of the proposed subdivision to existing utilities, major streets and community facilities, and to surrounding developed and undeveloped land when such information is considered necessary by the Planning Director.

3-2.02 The Planning Director shall advise the subdivider of the requirements pertaining to the proposed subdivision as such requirements are established by these Subdivision Regulations. The preapplication procedure does not require formal application, fee, or filing of a plat with the Planning Commission.

3-2.03 In addition to the Planning Director, participants in the preapplication conference may include representatives of other County departments and any affected rural water districts and other persons and agencies as deemed necessary by the Planning Director.

3-2.04 Comments made during the preapplication conference are for general direction only and shall not be legally binding.

Section 3-3. Preliminary Plat

3-3.01 Conformance with Comprehensive Plan and Zoning Regulations: After a preliminary plat application has been certified as complete, it shall be submitted to the Planning Commission for its consideration and approval. The Planning Commission shall satisfy itself that the plat's proposed street pattern and land use will conform to the Miami County Comprehensive Plan and the Miami County Comprehensive Transportation Plan, as well as with the County's Zoning Regulations regarding lot size, lot dimensions and lot frontage. The preliminary plat shall also conform to the County's Environmental Health Sanitary Code, Entrance Policy and other local codes, regulations, and standards.

3-3.02 Contents of Preliminary Plat: Application for a preliminary plat shall be on a form provided by the Planning Department and shall include twenty (20) copies of the plat along with the appropriate fee as established by the County. Such preliminary plat shall:

1. Be drawn to a scale of not more than one hundred feet (100') to one inch (1") unless the area of the subdivision is over one hundred (100) acres, then to the scale of not more than two hundred feet (200') to one inch (1"). However, the scale used shall be such that information on the plat and surrounding its individual lots is legible. In some instances, more than one sheet may be required to show the entire plat and each sheet shall be numbered as a part of a total (Sheet 1 of 2, etc.).
2. State the name of the proposed subdivision, legal description of the site to be subdivided, location, acreage, name and addresses of the owner(s) and land planning professional. Such subdivision name shall not duplicate the name of any plat heretofore filed in Miami County, Kansas.
3. Show date of preparation, north arrow, and scale of drawing.

4. Indicate applicable zoning districts.
5. Show names of adjoining subdivisions, or, in case of unplatted land, the names of adjoining owners.
6. Show location of property lines, existing roads, existing utilities including size of lines, width of easements, and sewer systems, and purpose of easements. (Note: If any easements are recorded as “blanket easements,” a redefining of those easements is necessary in order to verify buildable areas).
7. Show topography with contours at intervals of two feet (2’) and unique topographic features, lakes, and tree masses.
8. Show land within the boundaries of the 100-year floodplain as identified on the latest Federal Insurance Administration’s “Flood Hazard Boundary Maps” for the unincorporated territory of Miami County, Kansas, or such other maps as accepted by the National Flood Insurance Program.
9. Be accompanied by the general location map.
10. Show proposed streets, including location, width, names and approximate grade.
11. Show blocks and lots, showing approximate dimensions and proposed numbers, including lot lines.
12. Show proposed utility system.
13. Show location of proposed culverts, storm sewers, drainage improvements and drainage courses.
14. Show proposed easements, dedications and reservations.
15. Show sites to be designed for purposes other than single-family residential.
16. Be clearly labeled as a preliminary plat.
17. Show phasing plan, if applicable.

3-3.03 Additional Information Required: The following data and information shall be submitted in separate statements and/or maps accompanying the preliminary plat, or, if practical, such data and information may be shown on the preliminary plat.

1. A vicinity map at a scale of one inch (1”) equals one thousand feet (1,000’) showing the existing subdivisions, streets and unplatted tracts adjacent to the proposed subdivision and showing the manner in which the proposed streets may be extended to connect with existing streets.
2. A statement as to the general nature and type of improvements proposed for the subdivision.

3. The source of water supply and the estimated quantity of such supply. The water source must meet all State and County sanitation codes and regulations, and the subdivider must submit satisfactory proof to the Planning Commission as follows:
 - A. A letter from the Rural Water District that the water supply is available to serve the needs of the subdivision.
 - B. Where the water supply is not to be supplied by a Rural Water District, a letter from a licensed engineer that the water supply is adequate to serve the proposed subdivision and will not result in the contamination or use of any other water supply.
 - C. That the source of supply and the use of such water is no hazard to the health and welfare of the citizens of Miami County.
 - D. That the use of any river, stream, creek, or tributary as a source of water supply must comply with all laws and regulations of the Department of Health and Environment of the State of Kansas.
4. The type of sanitation facilities to be used to serve the subdivision, including documentation of the soil types where septic systems are proposed to be used.
5. Where access is to be provided from a State highway, the subdivider shall provide a letter from the Kansas Department of Transportation along with the application stating whether or not the State accepts the design and location of said access.
6. Mineral Rights.

3-3.04 Notification of Public Meeting: At least twenty (20) days prior to the scheduled Planning Commission meeting at which a preliminary plat is to be considered, the Planning Department shall cause to be published in the official county paper a notice of a public meeting to consider the preliminary plat. Said notice shall include the date, time and location of said public meeting.

3-3.05 Staff Review and Actions: Upon receipt of the preliminary plat and supporting data required in this article, the Planning Director shall perform the following tasks:

1. Certify the application as complete and note the date of application acceptance in the application file.
2. Upon meeting the application submittal deadline, place the preliminary plat on the agenda for consideration at the next available meeting of the Planning Commission.
3. Distribute a copy of the preliminary plat to the following for review and comment:
 - A. County Environmental Health Department
 - B. County Road & Bridge Department
 - C. County Engineer
 - D. Any affected utility companies

- E. Any affected school districts
 - F. Any affected fire departments
4. Coordinate all general staff and utility comments and forward along with a staff report to the Planning Commission recommending approval, conditional approval, or denial of the preliminary plat.

3-3.06 Planning Commission Review and Actions: The Planning Commission shall conduct a public meeting on the preliminary plat to determine if the same conforms to the provisions of these Subdivision Regulations, and the Planning Commission shall act upon the preliminary plat within sixty (60) days after the first meeting of the Planning Commission following the date of submission, stating its approval, conditional approval (stating findings and conditions), or denial (stating reasons). If such determination is not made within sixty (60) days after the preliminary plat has been scheduled for consideration, such preliminary plat shall be deemed to have been approved and a certificate shall be issued by the Secretary of the Planning Commission upon demand, unless the subdivider has consented to an extension or waiver of the time limitation. If the Planning Commission denies approval of the preliminary plat, the Planning Director shall give written notice to the subdivider stating the reasons for denial.

3-3.07 Effect of Preliminary Plat Approval: Approval of the preliminary plat shall not constitute acceptance of the subdivision by Miami County, but authorizes preparation of the final plat. No grading or improvements shall take place in the subdivision prior to approval and endorsement of the final plat by the Planning Commission, action by the Board of County Commissioners on land dedicated for public purposes, and the submittal to and approval of street construction plans by the County Engineer.

3-3.08 Phasing Plan: When a subdivision is planned to be developed in phases, a phasing plan shall be considered along with the preliminary plat. Multiple final plats may thereafter be filed, provided that each final plat substantially complies with the approved preliminary plat and phasing plan. The numbering of lots shall continue in sequence with each subsequent phase (shall not start over with each phase) to avoid potential confusion for emergency and other service providers as to which phase to serve.

3-3.09 Preliminary Plat Time Limits: After the approval or conditional approval of a preliminary plat and the street and storm drainage construction plans as outlined in Section 3-3.11 below, the subdivider may submit a final plat or plats, as provided in Section 3-3.08, to the Planning Department for processing for final approval. A final plat must be submitted to the Planning Department within twenty-four (24) months from the date of approval of the preliminary plat, or said preliminary plat shall expire and be null and void. If multiple final plats will be submitted, as provided in Section 3-3.08, each subsequent final plat phase shall be filed within twenty-four (24) months of the preceding final plat phase. If a twenty-four (24) month time period expires following the latest final plat submittal, the balance of the preliminary plat shall expire and be null and void.

3-3.10 Preliminary Plat Time Extension: Within thirty (30) days prior to the expiration of an approved preliminary plat, the subdivider may request a one-time one (1) year time extension of the preliminary plat, stating the reasons why an additional year is needed. A time extension request shall be submitted to the Planning Department and shall include such fees as established by the County Commissioners. The Planning Commission shall review all time extension requests, consider staff recommendations, and determine if the stated reasons warrant approval of an extension.

3-3.11 Street and Storm Drainage Construction Plans: Upon approval of a preliminary plat and prior to approval and acceptance of a final plat that will create new roads or require the improvement and/or expansion of existing roads in the unincorporated territory of Miami County, Kansas, the subdivider shall submit the following:

1. Detailed, engineered construction plans and specifications of the streets, rights-of-way and drainage details in accordance with the version of the Miami County Street and Storm Drainage Standards for New Subdivisions in effect at the time of submission of the construction plans.
2. Detailed, engineered construction plans and specifications for a proposed public sewer collection system (where applicable).
3. Engineer's estimate based on the proposed street and storm drainage improvements. The engineer's estimate will also include the sewer collection system in subdivisions where a public sewer is proposed or existing.
4. Surety guaranteeing the proper installation of streets, drainage facilities, the sewer collection system, walks and any other required improvements. Surety amount will be based on the engineer's estimate or other appropriate amount as approved by the County Engineer. Surety shall be payable to Miami County, Kansas.
5. Subdivision Agreement signed by the subdivider. A copy of the agreement is available in the Miami County Street and Storm Drainage Standards for New Subdivisions.

All of the above documents must be approved by the County Engineer prior to the final plat being submitted to the County Commission for Acceptance of Dedications. No grading or other construction shall take place until said construction plans have been submitted to and approved by the County Engineer.

Building permits shall not be issued for any lot requiring new public (or private) street or drainage improvements until such improvements have been completed and accepted by the County Engineer. Acceptance of road improvements requires payment of engineering review and inspection fees, and payment of an amount for Chip/Seal Escrow as defined by Miami County Resolutions.

Street construction and storm drainage standards, as well as plan submittal requirements, shall be available from the Office of the County Engineer.

Section 3-4. Final Plat

3-4.01 Preparation: After the preliminary plat and street and storm drainage construction plans have been approved, a final plat for recording shall be prepared and submitted to the Planning Department for processing for final approval. The final plat may encompass all or a portion of the area encompassed by the preliminary plat as provided in Section 3-3.08 of these Regulations.

3-4.02 Conformance with Preliminary Plat: No final plat shall be considered for approval unless all provisions of these Subdivision Regulations have been met, including compliance with conditions set forth by the Planning Commission on the preliminary plat, and no final plat shall be considered if it differs materially from the preliminary plat as previously approved by the Planning Commission.

3-4.03 Contents of Final Plat: The subdivider shall submit to the Planning Director a final plat application along with the original drawing prepared by a licensed surveyor on material approved by the Register of Deeds. All drawings and signatures of certification shall be in waterproof ink. The scale shall not be more than one hundred feet (100') to one inch (1") unless the area of the subdivision is over one hundred (100) acres, then to the scale of not more than two hundred feet (200') to one inch (1"). However, the scale used shall be such that information on the plat and surrounding its individual lots is legible. In some instances, more than one sheet may be required to show the entire plat and each sheet shall be numbered as a part of a total (Sheet 1 of 2, etc.). No drawing shall exceed the size of twenty-four inches (24") by thirty-six inches (36") unless a larger size is approved by the Register of Deeds of Miami County, Kansas, and such approval is shown on the face of said drawing. The final plat shall show the following:

1. The name of the subdivision.
2. Date, title name under which the subdivision is to be recorded, and location of the subdivision. The name of the platted subdivision shall not duplicate the name of any platted subdivision previously recorded in Miami County unless it is an addition to and contiguous to the same.
3. Graphic scale and north point.
4. A legal description of the proposed subdivision.
5. A map of the proposed subdivision which shall contain sufficient information and surveying data to locate any line on the ground. Such map shall show the following:
 - A. Exterior boundaries showing the land surveyed and divided with reference to a corner or corners established in a government survey and indicated by distance; exact length and bearings shown to the nearest hundredth of a foot and 0.05 seconds of an arc; the area within the existing right-of-way of any abutting street, road, or highway, if the area has not previously been dedicated to public use and if it is the subdivider's land; the location of all boundary monuments found and established in the field.
 - B. All public or private commons, parks, and other grounds by their boundaries, bearings and distances and names; all streets and roads by their bearings, widths, and names; all curved portions of streets, roads or alleys shall be defined by curve data, including points of curvature, points of tangency, points of compound curvature and nontangent curves, radii of curves, central angles, and the length and bearing of its long chord and the length of all arcs and portions thereof.
 - C. When part of a subdivision lies within or abuts a floodplain area as shown on the latest Federal Insurance Administration's "Flood Hazard Boundary Map" for unincorporated Miami County, Kansas, the floodplain shall be shown within a contour line. The contour line shall intersect the sidelines of the lots; the floodplain area shall be clearly labeled on the plat with the words "Floodplain area."
 - D. All public utility and drainage easements included in the plat shall be shown by their widths and relationships to the lot or street lines, and their applicable dedication statements shall be designated on the plat. Any drainage notes concerning floodplains, wetlands, etc. shall be designated on the plat. The wording for plat statements and notes may be obtained from the County Engineer.

- E. A description of the lots and blocks, including consecutive numbering; the length and bearing of each side lot line; the bearing of each front and rear lot line; a note designating the front line of any lot fronting on two or more streets; the widths of lots at each end of a series of lots when the front and back lines are parallel (intermediate lots may be marked as dittos), otherwise the width of all other lots and curve data as required in subsection B above.
 - F. Other improvements to be installed by the subdivider on the land to be used for streets, highways, ways, and easements, as are necessary for the general use of the lot, owners in the subdivision and local neighborhood traffic and drainage needs.
 - G. The following certificates:
 - (1) Certification by the licensed land surveyor responsible for the survey and final plat certifying to the accuracy of the survey and plat.
 - (2) Certification signed and acknowledged by all parties holding title or having any title interest in the land subdivided and consenting to the preparation and recording of the plat as submitted, including the dedication of any property for public use. Also, certification by the subdivider, if different than said parties, that the plat is a true representation of the proposed subdivision.
 - (3) Certificate of approval by the Planning Commission.
 - (4) Certificate for acceptance of land dedicated for public purpose by the County Commissioners.
 - (5) Certification by the County Treasurer of Miami County, Kansas, that there are no unpaid taxes, special assessments or tax liens outstanding against the property.
 - (6) Certification by the County Surveyor that the plat meets the appropriate Kansas State Revised Statutes for completing surveys.
 - (7) Certification of acceptance of the plat by the Register of Deeds.
 - H. Acknowledgment certificates by a Notary Public acknowledging the owners of record offering for dedication any property for public use and a certificate of filing as required by the Miami County Register of Deeds.
6. The final plat shall designate the official name or names by which all new roads or streets are to be known. The final plat shall also establish numbers for all blocks and lots. The Planning Director reserves the right to require different names and numbering systems if the Planning Commission believes such action is necessary.

3-4.04 Staff Review and Actions: Upon receipt of the final plat certification documents, the Planning Director shall perform the following tasks:

- 1. Certify the final plat application as complete and note the date of application acceptance in the application file.
- 2. Distribute a copy of the final plat to the following for review and comment: a) County Environmental Health Director, b) County Transportation Director c) County Engineer, d) any affected rural water districts, e) any affected school districts, f) any affected fire departments, and g) any affected private utility companies.

3. Coordinate all general staff and utility comments and forward along with a staff report to the Planning Commission with recommendation of approval or denial based on finding that the final plat satisfies all of the conditions for approval of the preliminary plat.
4. Upon meeting the application submittal deadline, place the final plat on the agenda for consideration at the next available meeting of the Planning Commission.

3-4.05 Planning Commission Review and Actions: The Planning Commission shall review the final plat for compliance with the approved preliminary plat and for completion of all final platting requirements. The Planning Commission shall act upon the final plat within sixty (60) days after the first meeting of the Planning Commission following the date of submission, stating its approval, conditional approval (stating findings and conditions), or denial (stating reasons). If such determination is not made within sixty (60) days after the final plat has been scheduled for consideration, such plat shall be deemed to have been approved and a certificate shall be issued by the Secretary of the Planning Commission upon demand, unless the subdivider has consented to an extension or waiver of the time limitation. The Planning Director shall give the subdivider written notice of the Planning Commission's action if approval is denied. In case of approval, the chairman of the Planning Commission shall date and endorse the original final plat.

3-4.06 Acceptance of Dedications: A final plat that has been approved by the Planning Commission shall be submitted to the Board of County Commissioners for its acceptance of the dedication of streets and other public ways, service, and utility easements, and any land dedicated for public purposes. The Board of County Commissioners shall accept or refuse the dedication within thirty (30) days after its first meeting following the date of the submission of the final plat to the County Clerk. The Board of County Commissioners may defer action for an additional thirty (30) days for the purpose of allowing for modifications to comply with the requirements of these Subdivision Regulations. No additional fees shall be assessed during this additional period. If the Board of County Commissioners defers or refuses such dedication, the Board of County Commissioners shall advise the Planning Commission of the reasons for such deferral or refusal. Failure of the Board of County Commissioners to execute an acceptance of dedication shown on the plat shall be deemed to be a refusal of the proposed dedication. Prior to recording any final plat with the Miami County Register of Deeds, said plat shall include a certificate of the Board of County Commissioners that all dedications, if any, are accepted by said Board.

3-4.07 Recording of Final Plat: The original of any final plat shall be filed for recording with the Miami County Register of Deeds by the Planning Director only after all approvals, conditions of approval, acceptances and procedures as required by these Subdivision Regulations have been met. These include:

1. Approval of the final plat by the Planning Commission and endorsement thereon.
2. Approval of land dedicated to public purposes, if any, by the Board of County Commissioners and certification thereon.
3. Certification by the County Treasurer of Miami County, Kansas, that there are no unpaid taxes, special assessments or tax liens outstanding against the property.

3-4.08 Digital Plat: Prior to the original drawing of the final plat being recorded with the Register of Deeds, a digital version of the plat shall be submitted to the Planning Department in a format approved by the County.

3-4.09 Time Limit for Recording of Final Plat: The final plat shall be filed with the Register of Deeds Office for recording not later than two (2) years after approval of the final plat by the Planning Commission. Failure to file the approved final plat within two (2) years after approval by the Planning Commission shall render the final plat approval null and void.

3-4.10 Building Permits: No building permit shall be issued for any site which contains a division of a platted lot or a tract of record, unless such division has been approved and recorded in the manner provided in this section.

Section 3-5. Concurrent Submission of Preliminary and Final Plats

3-5.01 Nothing contained in Sections 3-3 and 3-4 shall be construed to prohibit the concurrent submission of preliminary and final plats, so long as they contain all the information and follow all the procedures that would be required by these Subdivision Regulations, if such preliminary and final plats were submitted separately. A public meeting shall be held as required by Section 3-3.06 of these Subdivision Regulations.

3-5.02 When a subdivider submits the preliminary and final plats concurrently, the Planning Commission shall act upon such submittal within sixty (60) days after the first meeting of the Planning Commission following the date of submission, stating its approval, conditional approval (stating findings and conditions), or denial (stating reasons). If such determination is not made within sixty (60) days after the preliminary and final plats have been concurrently scheduled for consideration, such plats shall be deemed to have been approved and a certificate shall be issued by the Secretary of the Planning Commission upon demand, unless the subdivider has consented to an extension or waiver of the time limitation. If the Planning Commission denies approval of the preliminary and/or final plats, the Planning Director shall give written notice to the subdivider stating the reasons for denial.

Section 3-6. Small Subdivision Plat

3-6.01 Whenever a subdivision or resubdivision consists of only one (1), two (2), three (3), or four (4) lots, the Planning Director may waive the requirements for submission of data and the preliminary plat, or waive some of the items as required by Section 3-3.02 of these Subdivision Regulations. Such waiver shall permit the subdivider to file with the Planning Director a “small subdivision plat” which shall:

1. Be discussed with the Planning Director before submission and be certified as complete by the Planning Director upon submission.
2. Be submitted to the Planning Department by the application submittal deadline for the next available Planning Commission meeting.
3. Be subject to the notification requirements of Section 3-3.04 and the Planning Commission public meeting requirements of Section 3-3.06, of this article.
4. Contain the required information for final plats as outlined in Section 3-4 of this article.

5. Be accompanied by the filing fee established by the County Commissioners.
6. Be subject to the review and approval process as required by Section 3-3.11 and Section 3-4.04 through Section 3-4.07 of these Subdivision Regulations.

3-6.02 Although the approval of small subdivision final plats shall be subject to the provisions of Section 3-4 of this article, the submission to the Board of County Commissioners shall not be required if there is no need for the dedication of streets and other public ways, service, and utility easements, and any land for public purposes.

3-6.03 A series of two (2) lot, three (3) lot, or four (4) lot subdivisions which create a unified subdivision shall not constitute a small subdivision within the meaning of this section.

Section 3-7. Reversion to Acreage

This section establishes procedures reverting subdivided lands into a single lot, tract or parcel when it has been determined that:

1. An approved subdivision has not complied with its conditions of approval.
2. Improvements proposed for the subdivision have not been completed.
3. Surety guaranteeing the completion of improvements has elapsed and is no longer in force and effect.
4. The subdivision is no longer necessary.

3-7.01 The Planning Commission shall conduct a public hearing to consider whether the previously approved subdivision shall be reverted to acreage in a single lot, tract or parcel. The Planning Director shall give written notice to all holders of title or interest in the subdivision of the intention to revert the subdivision to acreage as a single lot, tract or parcel. Said notice shall be by certified mail and shall be made at least twenty (20) days prior to the Planning Commission meeting. In the case of a determination by the Planning Commission to revert the subdivision into acreage as a single lot, tract or parcel, the Planning Director shall submit a request to the Board of County Commissioners for the vacation or abandonment of any unnecessary streets, easements, or public ways. If the request is approved, the vacated or abandoned streets, easements or public ways shall revert to the owners of the properties abutting thereon. Failure of the Board of County Commissioners to execute the vacation or abandonment shall be deemed to be a refusal to revert the subdivision to acreage and the subdivision shall remain in force and effect.

3-7.02 Request for the consideration to revert an existing subdivision to acreage as a single lot, tract or parcel, may be initiated by the County Transportation Director, County Engineer, Board of County Commissioners or the County Planning Commission. Any request for reversion to acreage shall be submitted to the Planning Director to be set for public hearing. The Planning Commission shall act to approve or deny the reversion to acreage request within sixty (60) days after submission. Failure to act within the sixty (60) days shall be deemed to be a denial and no further action shall be required.

3-7.03 Any person, corporation, official or governmental agency dissatisfied with any decision or determination of the Planning Commission regarding the reversion to acreage of any subdivision, may bring an action in the District Court of Miami County, Kansas, to determine the reasonableness of any such determination or decision. Such appeal shall be filed within thirty (30) days of the decision of the Planning Commission.

Section 3-8. Replatting/Vacation of Plats

Any plat or part thereof, or any street, alley or other public reservation, including, without limitation, easements, dedicated building setback lines, and access control, may be vacated or altered upon the filing and recording of any plat or replat, in accordance with the platting procedures outlined in these Subdivision Regulations, embracing the same lands as those theretofore embraced by the earlier plat or part thereof, or street, alley or other public reservation. Streets, alleys or other public reservations which may be vacated shall revert to the owners of the properties abutting thereon.

3-8.01 The Planning Commission shall conduct a public hearing to consider whether the previously approved subdivision shall be replatted, either in its entirety or in part. Public notice of such hearing shall be published by the Planning Director not less than twenty (20) days prior to the date of said hearing in the official county newspaper. In the case of a determination by the Planning Commission to replat over the subdivision, the Planning Director shall submit a request to the Board of County Commissioners for the vacation or abandonment of any unnecessary streets, easements, or public ways, on condition that the replat will dedicate the necessary streets, easements or public ways. If the request is approved and the new dedications of streets, easements or public ways are accepted by the Board of County Commissioners, the vacated or abandoned streets, easements or public ways shall revert to the owners of the properties abutting thereon upon the recording of the replat. Failure of the Board of County Commissioners to execute the vacation or abandonment shall be deemed to be a refusal to replat over the subdivision and the subdivision shall remain in force and effect. In addition to giving appropriate notice, replatting shall follow the same procedures outlined in this article that a new plat would follow for property that has never been platted. Replatting, whether over the entire boundaries or portions of an existing plat, shall not result in lots or parcels without direct access to a public street or approved private street, nor shall result in disconnected streets without orderly circulation. The recording of the new plat shall vacate the existing plat, either entirely or partially, both as to use and as to title without any further proceedings.

3-8.02 A request to vacate an existing plat, either in its entirety or in part, without replatting over the same, shall require following the procedures outlined in Section 3-7, Reversion to Acreage.

3-8.03 Any person, corporation, official or governmental agency dissatisfied with any decision or determination of the Planning Commission regarding the replatting or vacation of any subdivision, may bring an action in the District Court of Miami County, Kansas, to determine the reasonableness of any such determination or decision. Such appeal shall be filed within thirty (30) days of the decision of the Planning Commission.

Article

4

BOUNDARY LINE ADJUSTMENTS & MERGERS

Sections:

- 4-1 Objective
- 4-2 Authorization for Approval
- 4-3 Application/Appeals Procedure
- 4-4 Approval Guidelines

Section 4-1. Objective

4-1.01 The objective of this article is to provide for the adjustment of boundaries between two or more platted or unplatted lots, tracts or parcels, or the merger of previously platted or unplatted lots, tracts or parcels without having to comply with platting requirements as set forth in Article 3 of these Regulations.

Section 4-2. Authorization for Approval

4-2.01 The Planning Director is hereby authorized to approve or deny the adjustment of one (1) or more common boundaries between existing platted or unplatted lots, tracts or parcels, or the merger of two (2) or more existing platted or unplatted lots, tracts or parcels, provided that the resulting lots, tracts or parcels are in compliance with all applicable regulations. Where a conforming lot, tract or parcel exists, it shall not be made non-conforming to the existing Zoning Regulations. Non-conforming lots, tracts or parcels to the current Zoning Regulations may also be adjusted, but shall not be adjusted in a manner that increases or adds to their non-conforming status. For example, lots, tracts or parcels that do not meet the minimum size requirements may be made larger, even if the minimum size will still not be met, but they shall not be made smaller. Appeals from a decision made by the Planning Director may be made by the applicant to the Board of Zoning Appeals.

Section 4-3. Application/Appeals Procedure

4-3.01 Requests for boundary line adjustments or the merger of existing lots, tracts or parcels shall be made by the owner(s) of the land to the Planning Director on an application form provided by the Planning Department office. Documents and exhibits required to be submitted for complete application consideration are listed with the application. A Certificate of Survey in the case of a boundary line adjustment, or a metes and bounds description of the perimeter boundaries prepared by a licensed surveyor in the case of a merger, along with the appropriate fee as established by Board of County Commissioners shall be submitted to the Planning Department. A Certificate of Survey for a boundary line adjustment shall be prepared by a licensed Surveyor, showing the following:

1. Boundaries, dimensions and descriptions of all lots, parcels or tracts included within the boundary line adjustment;
2. Location of existing easements and utilities;
3. Legal descriptions of the properties; and,

4. Signature of the County Surveyor and a signature block for the Planning Director for approval.

Upon approval of the boundary line adjustment, the original shall be recorded in the Register of Deeds Office on material approved by the Register of Deeds.

The Planning Director shall either approve with or without conditions or deny the boundary line adjustment or merger upon receipt and evaluation of the complete application, and if denied, shall submit in writing stating the reasons for denial. In the event of denial, the applicant(s) shall have the right to request an appeal to the Board of Zoning Appeals within thirty (30) days.

Section 4-4. Approval Guidelines

4-4.01 The adjustment of the common property boundary between two (2) or more lots, tracts or parcels shall comply with all applicable regulations except as provided in Section 4-2.01 of these Regulations. No lot merger or boundary line adjustment shall be approved where one of the following applies:

1. A new street or alley is needed or proposed.
2. Any holders of easements have not consented to the relocation or abandonment of easements if proposed.
3. Such lot, tract, or parcel resulting from the merger or boundary line adjustment will not have direct access to a public street or approved private street.
4. A vacation of streets, alleys, setback lines, access control or easements is required or proposed, unless separately vacated.
5. Such boundary line adjustment would result in a lot which, due to the location of floodplains, bodies of water, excessive slopes, or other natural constraints, would not contain adequate buildable area for its intended use or the required area necessary for an on-site wastewater disposal system, including septic system lateral fields, holding tank(s) or other water disposal systems, as required by County codes and regulations.

4-4.02 Boundary line adjustments between two (2) or more lots within a platted subdivision shall require the dedication of drainage and utility easements along the new boundary lines unless the County determines that the new easements are not necessary. The existing easements along the existing boundary lines may remain in place, or the owner(s) may petition for their vacation if they will be replaced by new easements. Any holders of easements must consent to the relocation or abandonment of easements.

Article

5

SUBDIVISION DESIGN STANDARDS

Sections:

- 5-1 Applicability
- 5-2 Land in Floodplain Overlay District
- 5-3 Street Standards
- 5-4 Blocks
- 5-5 Lot Standards
- 5-6 Alleys
- 5-7 Easements
- 5-8 Commercial, Office, Industrial Subdivisions
- 5-9 Phasing Plan
- 5-10 Planned Development
- 5-11 Private Streets

Section 5-1. Applicability

5-1.01 All subdivisions of land subject to these Subdivision Regulations shall conform to the following minimum design standards. Such design standards shall govern the approval of subdivision plats by the Planning Commission and the acceptance of land dedicated to public use by the Board of County Commissioners.

5-1.02 Care shall be exercised in the design and laying out of streets, lots and other elements so that good planning principles are followed, efficient use is made of land and that natural assets such as trees and topography are retained wherever possible.

Section 5-2. Land in Floodplain Overlay District

5-2.01 No land in the F-P Floodplain Overlay District shall be subdivided for any use not permitted by the underlying zoning district as presented in the County's Zoning Regulations.

5-2.02 Subdivisions in the F-P Floodplain Overlay District shall be designed in accordance with standards established in Article 12 (Floodplain Overlay District) of the Miami County Zoning Regulations. Such subdivision proposals shall be designed to assure that all such proposals are consistent with the need to minimize flood damage, that all public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage, and that adequate drainage is provided so as to reduce exposure to flood hazards.

Section 5-3. Street Standards

5-3.01 Conformance with the Comprehensive Transportation Plan. To provide reasonable vehicular movement, arterial streets and collector streets shall be properly integrated with the existing system of streets and highways, as well as with the proposed system of streets and highways presented in the Miami County Comprehensive Transportation Plan.

This article recognizes that the infrastructure and services needed by development are available in varying degrees within the County. Areas in the cities usually have existing or planned infrastructure, which would be adequate to meet the needs of existing and planned future development. In most of unincorporated Miami County, however, the existing or planned infrastructure usually is adequate only for existing development and, perhaps, very limited, additional rural development is either available or included in planned infrastructure improvements in a few County areas. Descriptions and summaries of available infrastructure are included in the Comprehensive Transportation Plan. The County's Capital Improvements Plan summarizes capital improvement projects the County plans to undertake within five (5) year periods.

The Comprehensive Plan establishes important public policies for rational and orderly development patterns and practices which respect natural and man-made constraints and opportunities for development in the County. The minimum infrastructure requirements and the infrastructure recommendations in this article support the plan, and are intended to help implement the important public policies, goals, and objectives established in the plan. This article also is intended to support the implementation of other development policies, regulations, and design and construction standards such as the Environmental Health Sanitary Code, the Street Construction and Storm Drainage Standards for New Subdivisions, and the Fire Code, as adopted by the County.

Furthermore, it is the purpose of this article to help control and prevent premature land development, which might pose a threat to the health, safety or general welfare of the community at large, or occupants of land in the particular area near new development. Applications for rezoning, conditional use permit, final development plan, or final plat approval shall not be approved without public facilities and services available or provided in accordance with this article.

5-3.02 Conformance with Miami County Entrance Policy: All access points shall conform to the County's Entrance Policy. Said policy may be obtained from the office of the County Engineer.

5-3.03 Relationship to Adjoining Streets: Any existing or platted arterial, collector, or local street that terminates at the boundary line of a proposed subdivision shall be continued into the subdivision and bear the name of the existing street.

5-3.04 Local Streets: Local streets shall be in a logical layout, conform to topographic conditions, and discourage use by through traffic. Where possible, local streets shall be planned to conveniently channel traffic onto collector and arterial streets. Local streets intersecting opposite sides of another local, collector, or arterial street shall be in line or offset one hundred twenty-five feet (125') or more.

5-3.05 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 instance shall two (2) streets intersect at an interior angle less than seventy-five degrees (75°) without written consent of the County Engineer.

5-3.06 Dead-End Streets and Cul-de-sacs: Dead-end streets shall not be approved unless such dead-end streets are proposed to connect with future or existing streets on adjacent land. Where such vehicular connection is not essential, a permanent dead-end street shall be a cul-de-sac. A cul-de-sac shall be no longer than seven hundred feet (700') for suburban density residential uses (subdivisions with lots or lot density smaller than three acres). A cul-de-sac shall be no longer than one thousand feet (1,000') for rural density residential uses (subdivisions with lots three acres or larger). Cul-de-sacs shall have an adequate turnaround with a minimum right-of-way radius at the closed end of fifty feet (50') for suburban density subdivisions and sixty feet (60') for rural density subdivisions and commercial, office, and industrial subdivisions. Temporary dead-end streets longer than one hundred feet (100') shall have a temporary turnaround area to provide service equal to the cul-de-sac requirements stated above.

1. Temporary Cul-de-sac Note: This note shall be placed on the final plat when a temporary cul-de-sac is used: "Temporary cul-de-sac with 60-foot radius temporary right-of-way to remain until road is improved to a proper terminus."

5-3.07 Right-of-way Standards: Right-of-way (ROW) standards for new public streets in subdivisions shall not be less than the minimum dimensions for each of the following street classifications:

Street Classification				
Local Street ROW		Collector Street ROW		
Rural Density* Subdivisions	Suburban Density+ Subdivisions	Rural Density* Subdivisions	Suburban Density+ Subdivisions	Arterial Street ROW
80' (60')^	80' (50')^	100'	100'	120'

* Subdivisions with lots or lot density three (3) acres or larger

+ Subdivisions with lots or lot density less than three (3) acres

^ May be reduced to 60' or 50' for internal local roads by County Engineer based on adopted design criteria outlined in the Miami County Street and Storm Drainage Standards for New Subdivisions

5-3.08 Dedication of Subdivision Street Rights-of-Way: Street rights-of-way (ROW) in new subdivisions that are to be dedicated for public use shall be dedicated in conformity with the standards as shown in Section 5-3.07 of this article.

5-3.09 Dedication of Abutting Street Rights-of-Way: When a proposed subdivision abuts an existing public right-of-way for a local, collector or arterial street, as shown in the Miami County Comprehensive Transportation Plan, then the owner of the land proposed to be subdivided shall dedicate, without charge, any land within the subdivision that is necessary to provide conformity with the right-of-way standards in Section 5-3.07 of this article provided, however, that right-of-way dedications shall not be required for any lots, parcels or tracts divided into a density equal to or less than one dwelling unit per 35 gross acres. Said dedication shall be shown on the preliminary and final plat or the Certificate of Survey if the subdivision is a lot/parcel split.

5-3.10 Private Streets: Private streets shall not be allowed in any subdivision, resubdivision, plat, replat, or lot/parcel split approved after the effective date of these Regulations, unless they are incorporated as an element of a planned development in a Planned Development District.

5-3.11 Additional Street Standards: Street design standards other than those listed in this article shall conform with the standards adopted by resolution of the Board of County Commissioners. Said standards may be obtained from the office of the County Engineer.

5-3.12 Minimum Infrastructure Requirements:

1. Road Access and Improvements

No subdivision shall be approved which does not have access to an improved and dedicated County road or approved private street. Where a subdivision obtains access from a road which does not meet minimum County standards, the access road shall be improved to a minimum width of twenty-four feet (24') on a minimum 80 feet of right-of-way, meeting applicable safety standards, including shoulders and being constructed to final grade. Additional road width may be required to meet safety standards. A guarantee may be required where necessary, in compliance with Section 6-2 of the Miami County Subdivision Regulations.

Where a subdivision abuts a master planned road, utilities or drainage system, the subdivider shall complete the subdivision's portion of such improvements the full length of the project in conformance with the approved County plans, including the Miami County Comprehensive Transportation Plan and Miami County Street and Storm Drainage Standards for New Subdivisions.

- A. When required by the County, mitigation of off-site impacts as well as providing adequate public infrastructure to the development will be the responsibility of the subdivider. A Traffic Impact Study (TIS) will be required unless otherwise approved by the County Engineer. The TIS may aid in the determination of off-site impact mitigation.
- B. The arrangement of streets in new subdivisions shall make provision for the continuation of the streets in adjoining areas insofar as such continuation or access shall be deemed necessary by the County Engineer. The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire protection, efficient provision of utilities, and where such continuation is in accordance with the County's Comprehensive Transportation Plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line and a temporary turnaround shall be provided.
- C. For subdivisions on existing County roads, the subdivider shall be responsible for all costs associated with a street standard determined by the Traffic Impact Study (TIS) and in accordance with the County Comprehensive Transportation Plan. Infrastructure improvement requirements shall be based on a TIS as approved by the County Engineer. The County-at-large will incur all costs associated with construction in excess of that street standard. The subdivider may not define street standards which are less than the minimum requirements of the Subdivision Regulations.

2. Required Minimum Infrastructure

In each zoning district, at least the minimum infrastructure required by this article must be available for each phase of development. The minimum infrastructure required shall either be available or provided before approval of zoning, final development plan, or final plat. Otherwise, the approval of any final development plan or final plat shall be conditioned on the required

infrastructure being provided fully before land is used in accordance with such approval. Such conditional approval shall be allowed if the applicant:

- A. Assures that the required infrastructure of utilities, facilities or services:
 - (1) Shall be provided by the subdivider or others;
 - (2) Shall be available before the site is used in accordance with the Zoning Regulations;
 - (3) Shall be essentially equivalent to and in accordance with the standards of the agencies which would normally provide such infrastructure, facilities or services;
 - (4) If provided privately, shall be continuously provided, operated, and maintained until equivalent infrastructure is available from other sources; and,
 - (5) Written verification(s), such as executed agreement(s) and surety for the agreement(s), acceptable to the County shall be provided before the application is approved.
- B. Makes provisions acceptable to the County for off-setting any added public cost or early commitment of public funds necessitated to provide the utilities, facilities or services needed by such development.

3. Minimum Infrastructure for Conditional Uses

Each conditional use shall be considered with respect to the infrastructure available and whether additional or improved infrastructure would be needed for the proposed conditional use. The minimum infrastructure requirements in this article shall be guidelines for interpretation of the minimum infrastructure required for each conditional use. If additional or improved infrastructure would be needed, a conditional use permit may be approved if the applicant shall comply with Section 5-3.12.2. A or B immediately above.

5-3.13 Infrastructure Categories:

1. Roads

Category 1. Exterior off-site roads serving Residential Subdivisions where the density is less than one (1) dwelling unit per ten (10) acres: Any abutting gravel road shall have at least a 24-foot wide driving surface. Any subdivision that includes five (5) or more lots shall provide access to all proposed lots with an internal subdivision road constructed to County design criteria and no lot shall have direct access onto a local, collector or arterial road as designated by the Miami County Comprehensive Transportation Plan, except that the agriculturally preserved parcel in an Agricultural Preservation Subdivision may be allowed to access a local or collector road. Those lots, regardless of their area, that are allowed to directly access a collector or arterial road, as designated by the Miami County Comprehensive Transportation Plan, shall provide a common access easement between each set of two lots to minimize access to such roads. Lots less than 20 acres in gross land area that are allowed to directly access a local road, as designated by the Miami County Comprehensive Transportation Plan, shall provide a common access easement between each set of two lots to minimize access to such roads. Lots 20 acres or greater in gross land area that are allowed to directly access a local road, as designated by the Miami County

Comprehensive Transportation Plan, are encouraged to but shall not be required to provide a common access easement between each set of two lots.

Category 2. Exterior off-site roads serving Residential Subdivisions where the density is between and includes one (1) dwelling unit per three (3) acres and one (1) dwelling unit per ten (10) acres: Any road that provides direct access to local roads in the subdivision or individual lots in the subdivision shall have at least a chip-and-seal surface and such surface shall be continuous to a collector or arterial road that has at least a chip-and-seal surface. Any abutting gravel road that does not provide direct access to the subdivision or individual lots in the subdivision shall have at least a 24-foot wide driving surface. Any subdivision that includes five (5) or more lots shall provide access to all proposed lots with an internal subdivision road constructed to County design criteria and no lot shall have direct access onto a local, collector or arterial road as designated by the Miami County Comprehensive Transportation Plan. Those lots, regardless of their area, that are allowed to directly access a collector or arterial road, as designated by the Miami County Comprehensive Transportation Plan, shall provide a common access easement between each set of two lots to minimize access to such roads. Lots less than 20 acres in gross land area that are allowed to directly access a local road, as designated by the Miami County Comprehensive Transportation Plan, shall provide a common access easement between each set of two lots to minimize access to such roads. Lots 20 acres or greater in gross land area that are allowed to directly access a local road, as designated by the Miami County Comprehensive Transportation Plan, are encouraged to but shall not be required to provide a common access easement between each set of two lots.

Category 3. Exterior off-site roads serving Residential Subdivisions where the density is between one (1) dwelling unit per one (1) acre and one dwelling unit per three (3) acres: Any road that provides direct access to local roads in the subdivision or individual lots in the subdivision shall have at least an asphalt overlay surface and such surface shall be continuous to a highway or an arterial or collector road that has at least an asphalt overlay surface. Any abutting gravel road that does not provide direct access to the subdivision or individual lots in the subdivision shall have at least a 24-foot wide driving surface. Any subdivision that includes five (5) or more lots shall provide access to all proposed lots with an internal subdivision road constructed to County design criteria and no lot shall have direct access onto a local, collector or arterial road as designated by the Miami County Comprehensive Transportation Plan. Those lots, regardless of their area, that are allowed to directly access a collector or arterial road, as designated by the Miami County Comprehensive Transportation Plan, shall provide a common access easement between each set of two lots to minimize access to such roads. Lots less than 20 acres in gross land area that are allowed to directly access a local road, as designated by the Miami County Comprehensive Transportation Plan, shall provide a common access easement between each set of two lots to minimize access to such roads. Lots 20 acres or greater in gross land area that are allowed to directly access a local road, as designated by the Miami County Comprehensive Transportation Plan, are encouraged to but shall not be required to provide a common access easement between each set of two lots.

Category 4. Exterior off-site roads serving Residential Subdivisions where the density includes and is greater than one (1) dwelling unit per one (1) acre: Any road that provides direct access to local roads in the subdivision shall have at least an asphalt overlay surface and such surface shall be continuous to a highway or an arterial road that has at least an asphalt overlay surface. All roads abutting the subdivision shall have at least an asphalt overlay surface continuous to a local, collector or arterial road that has at least an asphalt overlay surface. Abutting roads onto which local roads in the development connect shall be improved to at least the Type “B” Collector Road Standard adjacent to the development. Lots shall not have access directly onto a local, collector or arterial road as designated by the Miami County Comprehensive Transportation Plan.

Category 5. Exterior off-site roads serving Commercial or Industrial Zoned Sites: All section line and ½-section line roads abutting the development shall be paved to at least the Type “B” Collector Road Standard, and at least one (1) paved road of this type shall provide continuous access to the development and shall be continuous to the nearest arterial or other collector road that has at least an asphalt overlay surface. Any subdivision that includes five (5) or more lots shall provide access to all proposed lots with an internal subdivision road constructed to County design criteria and no lot shall have direct access onto a local, collector or arterial road as designated by the Miami County Comprehensive Transportation Plan. Those lots that are allowed to directly access a local, collector or arterial road, as designated by the Miami County Comprehensive Transportation Plan, shall provide a common access easement between each set of two lots to minimize access to such roads.

Category 6. All Interior, On-Site Roads: All roads in any subdivision or development shall be designed and constructed to comply with the existing applicable County design criteria, construction standards, policies and regulations for new streets. Such roads shall be paved to at least the Type “B” Local Road Standard.

2. **Storm Drainage (All Categories):** Storm drainage systems and facilities shall be available or designed and constructed to comply with the existing applicable County design criteria, construction standards, policies and regulations for storm drainage systems and facilities. The development shall also comply with the existing applicable County Floodplain Regulations.
3. **Traffic Studies:** Plats with Category 4, 5 and 6 roads or any plat with more than 20 proposed lots, require submittal of a full Traffic Impact Study for the proposed development. Plats with Category 1, 2 and 3 roads that have 8 to 20 proposed lots must submit a Traffic Generation and Pavement Impact Summary Report. Infrastructure improvements may be required as determined by the County Engineer. The study or report shall be performed by a Kansas licensed professional engineer. The study or report with proposed road improvements must be submitted with the preliminary plat, and must be approved by the County Engineer prior to acceptance of the final plat.

Section 5-4. Blocks

5-4.01 In general, intersecting streets determining block lengths shall be provided at such intervals to serve cross traffic adequately and to meet existing or future streets. Where no existing plats control, the blocks shall not exceed one thousand three hundred twenty feet (1,320') between centerlines of streets, except variations may be approved by the Planning Commission upon favorable recommendation by the County Engineer in instances where topography or other conditions prohibit compliance.

5-4.02 Sidewalks and Walkways: Sidewalks or pedestrian walkways may be required, upon recommendation of the Planning Commission and approval of the Board of County Commissioners, where deemed necessary to provide convenient and safe access to schools, parks, playgrounds or other public or private community facilities. Construction requirements for surfaced walkways are on file with the County Engineer.

Section 5-5. Lot Standards

5-5.01 Access: All lots within a newly created subdivision or lot/parcel split shall have at least one (1) lot line adjacent to a public street or road. If the lots are within a Planned Development District with approved private streets, then at least one (1) lot line shall be adjacent to an approved private street or a public street or road. In no instance shall access to any lot within a newly created subdivision or lot/parcel split be granted solely by access easement or other similar technique except as specified below. If the lot is an existing legal lot of record and the County authorized the vacation of the street that was adjacent to that lot or there never was a street adjacent to that lot, then access by an approved easement may be allowed. Access by easement may also be allowed for legal non-conforming lots or tracts which were created prior to January 1, 1992, where the property is accessed solely by an existing access easement or driveway, and the number of dwelling units will not be increased as the result of a land division. Any newly created lots that result from the land division of a legal non-conforming lot as specified above must comply with all other requirements of the zoning district in which it is located, including height, area and yard setbacks and shall provide an access road with sufficient improved road surface width to accommodate emergency vehicles as specified in the international fire code as adopted by Miami County. An approved public or private street or approved access easement shall be in place as recorded in the office of the Register of Deeds prior to the issuance of a building permit for any residential building or other non-agricultural structure.

5-5.02 Lots on Collector and Arterial Thoroughfare Streets: The number of lots with direct access to arterial streets as shown in the Miami County Comprehensive Transportation Plan shall be kept to a minimum in each subdivision.

5-5.03 Lots on Freeways or Thoroughfares: Residential lots shall not have direct access to freeways as shown in the Miami County Comprehensive Transportation Plan. No person shall construct or have constructed a driveway on a subdivision lot with direct access onto such freeways, and any subdivision plat hereafter recorded shall contain language prohibiting the same. Unplatted lots facing on freeways shall conform to the Miami County Zoning Regulations and to the Board of County Commission resolution which establishes, regulates and limits setback lines on highways as authorized by K.S.A. 12-749.

5-5.04 Conformance with the Zoning Regulations: The area, width, and depth of lots shall conform to the Miami County Zoning Regulations, with the exception of flag lots that may be considered to help preserve agricultural and sensitive lands (see Section 5-5.07 concerning flag lots). Other factors to consider relief from the Zoning Regulations shall follow the appeal, exception or variance procedures outlined in the Zoning Regulations.

5-5.05 Double Frontage Lots: Double frontage lots shall be avoided for single-family and two-family residential dwellings, but may be considered where the lots abut upon a thoroughfare, arterial, or collector street as shown in the Miami County Comprehensive Transportation Plan 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 thoroughfare, arterial, or collector street.

5-5.06 Lot Depth to Width Ratio: The lot depth to lot width ratio shall comply with the applicable Zoning Regulations, with the exception of flag lots.

5-5.07 Flag Lots: Flag lots are intended to only be utilized for the preservation of agricultural and sensitive lands, and are not intended to act in lieu of an interior subdivision road built to county standards. After determination by the Planning Commission that standard lots are not feasible, the Planning Commission may, in order to encourage more efficient use of land and to help preserve agricultural and sensitive lands, allow flag lots to be developed subject to the following conditions.

1. The property cannot be subdivided with typical street frontage either at the present or in the foreseeable future.
2. The staff portion of said lot shall front on a dedicated public or approved private street. The minimum width of the staff shall be thirty feet (30').
3. No building or construction, except for driveways, shall be allowed on the staff portion of said lot.
4. The staff portion must make accommodation for Building Code designated fire lane access (turnouts within a long staff).
5. All lot size and setback requirements shall be the same as required by the zoning district in which the lot is located. The staff portion of the lot shall not be used to calculate the minimum lot size. Setbacks shall be shown on the plat and approved by the Planning Commission.
6. No more than two flag lots or four dwelling units may be served by one thirty-foot (30') wide staff. Common staffs (back to back flag lots) must provide a total of 60 feet (60') of staff width. Frontages for all lots must accommodate Miami County access spacing requirements. Common staffs and restricted access locations must include a common access easement placed across the common lot line.
7. Each flag lot shall be specifically approved by the Planning Commission.

Section 5-6. Alleys

5-6.01 Alleys shall not be permitted in residential areas unless they are incorporated as an element of a planned development in a Planned Development District.

Section 5-7. Easements

5-7.01 Utility Easements: Permanent utility easements shall be provided where necessary to serve the subdivision. Utility easements shall be centered on rear and/or side lot lines and shall be at least twenty feet (20') wide, except that easements for street lighting purposes may be located along front lot lines and shall measure at least ten feet (10') wide.

5-7.02 Drainage Easements: For areas outside of the special flood hazard area, as shown on the flood insurance rate map, drainage easements shall be required for any water courses, drainage channels or streams depicted on a United States Geological Survey map (solid or dot-dashed blue lines) which traverse those lots platted at less than 20 acres, and is optional for lots platted at 20 acres or more. The width of the drainage easement shall be a minimum of twenty-five (25) feet from either side of the ordinary high water mark of the water course, drainage channel or stream.

5-7.03 Pedestrian-way Easements: Where the Planning Commission has recommended the installation of sidewalks or walkways within a subdivision and said improvements have been approved by the Board of County Commissioners, a pedestrian-way easement may be required. Such easement shall have a minimum width of ten feet (10').

Section 5-8. Commercial, Office, Industrial Subdivisions

5-8.01 At a minimum, roads in commercial, office and industrial subdivisions shall be designed as collector streets and shall conform to the suburban density subdivision standards presented in Section 5-3.07 of this article.

Section 5-9. Phasing Plan

5-9.01 Where it is intended that a subdivision will be developed in two (2) or more phases, all road and drainage improvements shall be designed for each phase so as to function independently of that portion of the subdivision not included in the developed portion.

Section 5-10. Planned Development

5-10.01 A planned development within a Planned Development District may be approved by the Planning Commission even though the design of the project does not include standard street, lot and subdivision arrangements; provided, however, that variation from the standards of these Regulations can be accomplished without destroying the purpose and intent of these Regulations.

Section 5-11. Private Streets

5-11.01 Use of Private Streets

1. All subdivision lots shall have frontage on a dedicated public street improved to County standards unless the Planning Commission, after receiving the recommendation of the County Engineer, approves the use of a private street. The County Engineer will not approve the use of private streets, alleys, or ways except where the County Engineer finds that public dedication is not necessary. Where the County Engineer determines that public streets are needed for area circulation, property access, or the overall benefit of the driving public, private streets shall not be approved. The decision of the County Engineer to deny the use of private streets, alleys, or ways may be appealed to the Board of Zoning Appeals within thirty (30) days of the decision and the Board of Zoning Appeals may reverse or affirm such decision. Master planned streets shall be public streets.
2. In the event private streets are used, they shall conform to the Miami County, Kansas, Street and Storm Drainage Standards for New Subdivisions. Private streets shall include storm drainage, sidewalks or adequate pedestrian facilities, etc. Street width may be adjusted based upon traffic needs and information provided in a Traffic Impact Study (TIS) when required.
3. Private streets shall be limited to residential streets constructed as a cul-de-sac, loop street, or combination thereof, provided that the private street or street network does not allow through access between or among adjoining public streets, unless otherwise authorized by the County Engineer.

5-11.02 Design Standards for Private Streets

1. The following standards shall be used for establishing a private street:

- A. The private street shall comply with the drainage design and construction standards outlined in the Miami County, Kansas, Street and Storm Drainage Standards for New Subdivisions.
 - B. All private streets shall be designed by a professional engineer, licensed in the State of Kansas and approved by the County Engineer, and shall accommodate the expected design traffic.
 - C. The private street shall be located within a public easement having a width of not less than sixty (60) feet.
 - D. Unless otherwise permitted by the Zoning Regulations, all dwellings in subdivisions served by private streets shall be single-family residential structures.
 - E. A minimum vertical clearance of 13 feet, 6 inches shall be maintained.
 - F. Grade shall not exceed 9 percent for a maximum distance of 150 linear feet.
 - G. The private street shall meet property line spacing, access requirements, and intersection requirements for sight triangles as set forth in the Miami County, Kansas Street and Storm Drainage Standards for New Subdivisions.
- 2. The County may observe the construction of private streets. However, in all cases, the subdivider shall retain the services of his professional engineer and testing firm to provide adequate inspection services and to submit the proper reports and certifications to the County.
 - 3. For all developments containing private streets and improvements, a Private Development Improvements Certification shall be submitted, on an approved form, to the County Engineer prior to County acceptance of the development and the issuance of any building permits.

5-11.03 Assurances

- 1. All liability, maintenance, and upkeep of the travel surface, and all incidental structures shall be the responsibility of the landowners, subdivider or homeowners association. Installation and maintenance of driveway pipe, drainage features, street name signs and traffic control signs shall be the responsibility of the landowners, subdivider, or homeowners association.
- 2. Continued maintenance for said improvements shall have adequate provisions such as the establishment of an Improvement District or Declaration of Covenants to be recorded for maintenance assessments acceptable to the Board of County Commissioners.
- 3. A subdivision on which a private street is established must contain the following:
 - A. A statement on the final plat that the street(s) will be maintained in perpetuity by the owners in the subdivision, and must contain a mechanism for assessing the owners to produce adequate revenue for perpetual maintenance.
 - B. A sign placed at the entrance of the subdivision clearly stating that the streets in the subdivision are private streets.
 - C. Adequate performance bonds, assurances or other securities as may be appropriate and necessary to assure that the installation of required improvements meeting established minimum standards of design and construction have been posted. The amount of the performance bond will be based on an Engineer's Estimate as approved by the County Engineer, or an amount determined by the County Engineer.
 - D. The formation of a homeowners association with assessment authority. Membership in the association will be mandatory for each lot owner. The association will be responsible for the maintenance of the streets in the subdivision.

- E. A maintenance schedule for the streets provided to the County Engineer by the subdivider. The schedule will include the maintenance activities, their cycle of occurrence, and the current cost of providing the maintenance activity. The total cost of the activities along with a rate of inflation will be used to determine the annual assessment per lot.
 - F. Provisions for each property owner to have access to a public street by a private street of which each property owner has an undivided interest. The private access street will not be accepted and maintained as a public right-of-way until such time it meets minimum County standards and only if the County chooses to accept and maintain the access street.
 - G. Restrictive covenants which prohibit further division of the lots unless the private street is improved to Miami County standards, the street right-of-way is dedicated, and the street is accepted for public maintenance.
 - H. Along with a statement in the restrictive covenants, a statement on the final plat that Miami County will never accept or maintain the streets unless they meet the County standards in effect on the date of acceptance.
4. Subdivisions using private streets shall be reviewed in the same manner as any other subdivision, and shall be subject to design standards presented in Miami County, Kansas, Street and Storm Drainage Standards for New Subdivisions.

Article
6
REQUIRED IMPROVEMENTS

Sections:

- 6-1 Applicability
- 6-2 Guarantee of Completion of Improvements
- 6-3 Streets
- 6-4 Water and Sanitary Sewer
- 6-5 Other Utilities
- 6-6 Storm Drainage
- 6-7 Sidewalks
- 6-8 Street Lights
- 6-9 Storm Sirens

Section 6-1. Applicability

6-1.01 As a condition of final plat approval, the subdivider shall enter into a written legal agreement with the Board of County Commissioners and agree to install or otherwise provide for certain improvements within the proposed subdivision. Such improvements to be installed by the subdivider 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.

6-1.02 All improvements installed by the subdivider shall comply with the specifications and standards adopted by the Board of County Commissioners, which specifications and standards are not included in this article but may be acquired from the office of the County Engineer.

6-1.03 Construction and materials for construction of roads, road beds, curbs, gutters, sidewalks, grades, drains, and shoulders shall be in conformance with adopted standards of Miami County prior to acceptance into the County road system by the County Engineer.

Section 6-2. Guarantee of Completion of Improvements

6-2.01 As a guarantee for the completion of required improvements other than those by a private utility company, the subdivider shall provide, prior to any grading or construction, surety in the form of a corporate surety bond by a firm authorized to do business in Kansas with good and sufficient sureties thereon, or a cashier's check escrow account, or an irrevocable letter of credit in favor of the Board of County Commissioners, Miami County, Kansas, in the amount of the total estimated cost of said required improvements as determined by the County Engineer and approved by the Board of County Commissioners. Said surety shall be furnished at the time construction plans for required improvements are submitted to the County Engineer for approval.

6-2.02 The approved surety shall be filed with the County Clerk and retained by the County for a period of one (1) year after the completion of such required improvements in an acceptable manner and within the time specified in the agreement between the subdivider and the County. If said required improvements are not completed in an acceptable manner or within the time period specified in the agreement between the subdivider and the County, the Board of County Commissioners is empowered by K.S.A. 12-749, and these Subdivision Regulations to enforce such security bond by all legal and equitable remedies.

6-2.03 The proceeds recovered on any bond required herein shall be used to complete the construction bonded herein by these Subdivision Regulations or shall be used to the extent that such completion may be accomplished conditioned by the amount of money recovered; provided, however, that all roads, streets, highways and thoroughfares shall have a priority over all other bonded phases of construction and the recovered monies shall be applied first to completion of such roads, streets, and thoroughfares.

6-2.04 As a guarantee that the improvements of all streets dedicated to public use have been done in a satisfactory manner and in conformance with adopted County standards, the subdivider shall provide a maintenance bond to the County. Said bond shall be required only for the first year following the County Engineer's acceptance of such improvements for maintenance. The amount of the bond shall be filed with the County Clerk in an amount acceptable to the County Engineer and in such form as accepted by the Board of County Commissioners.

6-2.05 As an alternative method of guaranteeing required improvements, the subdivider may request that the Planning Director not file the approved final plat with the Register of Deeds until such time as the County Engineer certifies to the Planning Director that: a) required improvements have been properly constructed and installed; and b) a maintenance bond has been filed as required in Section 6-2.04 of this article.

Section 6-3. Streets

6-3.01 Applicability: The subdivider shall provide for the improvement of all new streets within the subdivision. All public street construction shall conform to the standards and specifications of Miami County as adopted by resolution of the Board of County Commissioners. Said standards and specifications are not included in these Subdivision Regulations but may be acquired from the office of the County Engineer.

6-3.02 Approval by County Engineer; Permits: All public street plans and specifications shall be approved by and constructed under the supervision of the County Engineer. No grading or other construction shall take place within a public right-of-way until the construction plans have been approved by the County Engineer. A permit shall be issued by the County Engineer for the construction of all new public streets within the area designated on the final plat. No public street shall be accepted by the County Engineer for maintenance until it meets County standards adopted by the Board of County Commissioners. Public street and storm drainage plan requirements may be acquired from the office of the County Engineer.

6-3.03 Street Signs: Street signs shall be placed at those locations within the area to be subdivided as determined by the County Engineer. The County Engineer shall approve such street signs, the cost of which shall be incurred by the developer.

6-3.04 Release of Surety: Prior to the release of surety by the Board of County Commissioners, the County Engineer shall confirm to said Board that all street construction within the subdivision conforms to the standards and specifications of Miami County.

6-3.05 Private Streets: Private streets shall not be allowed in any subdivision, resubdivision, plat, replat, or lot/parcel split approved after the effective date of these Regulations, unless they are incorporated as an element of a planned development in a Planned Development District.

Section 6-4. Water and Sanitary Sewer

6-4.01 Applicability: The type of water supply and sanitary sewer utilized to serve the subdivision shall be subject to the requirements of the Miami County Environmental Health Sanitary Code and the Kansas Department of Health and Environment.

6-4.02 Water: Before approval of a final plat with rural or suburban density lots, the subdivider shall present evidence as to the adequacy and potability of water available for domestic and fire protection use in the subdivision. In those instances where public water is supplied and distributed by a rural water district, construction and installation of the water system serving the subdivision shall be the developer's responsibility. Said water system shall be in compliance with the standards and specifications of any applicable rural water district for the subdivision's domestic needs, as well as with the standards and specifications of any applicable rural fire district for the subdivision's fire protection needs. Fire hydrants and a supporting water system capable of a water flow of one thousand (1,000) gallons per minute shall be provided as an integral part of any water supply and distribution system serving any suburban density subdivision with lots or lot density of less than three (3) acres. Such fire hydrants shall also conform to the standards and specifications of any applicable water and fire districts serving the subdivision. In those instances where water is supplied by a private water well, such improvements shall conform with the Miami County Environmental Health Sanitary Code.

6-4.03 Sanitation Facilities: A final plat shall not be approved if evidence is presented to the Planning Commission by the County Environmental Health Director that installation of allowed sanitation facilities is not feasible on each proposed lot in a subdivision.

6-4.04 Public Sewage Facilities: Public sewage collection and treatment facilities (including lagoons) and service connections shall be provided by the subdivider for any subdivision that includes any lots less than one acre and shall comply with the Miami County Environmental Health Sanitary Code. Unless sanitary service to such a subdivision development is to be provided by an existing municipal or rural sewer district, no final plat shall be approved and no construction therein permitted until a rural sewer district has been formed, and evidence shall be submitted with the final plat showing the establishment of such a district. All public sewage collection and treatment lagoons and other facilities shall be approved by the Kansas Department of Health and Environment.

Section 6-5. Other Utilities

6-5.01 The subdivider shall be responsible for making the necessary arrangements with the appropriate utility companies for the installation of utility lines and appurtenances. A letter from the utility company, confirming that such installation has been completed, shall be submitted to the Planning Director prior to the issuance of building permits within the subdivision. Underground utility lines and sewer lines which cross underneath a street right-of-way shall be cased from right-of-way to right-of-way prior to the improvement of any such street in order to reduce the damage caused by street cuts. All utility improvements shall conform to the Miami County's Utility Accommodation Policy, which may be acquired from the office of the County Engineer.

6-5.02 Incidental appurtenances, such as transformer enclosures and meter cabinets, shall be located so as not to be hazardous to the public and shall be in accordance with the standards and specifications of these regulations and the Miami County, Kansas Zoning Regulations.

Section 6-6. Storm Drainage

6-6.01 The subdivider shall install culverts, storm sewers, rip-rap slopes, stabilized ditches and other improvements to adequately handle storm water. All improvements shall comply with the minimum standards of Miami County as adopted by the Board of County Commissioners and shall be approved by the County Engineer prior to construction.

Section 6-7. Sidewalks

6-7.01 Sidewalks may be required, as herein provided, upon the recommendation of the Planning Commission and the approval of the Board of County Commissioners. When required, the subdivider shall install sidewalks on at least one (1) side of the streets(s). All sidewalks shall conform to the standards and specifications of the County as adopted by the Board of County Commissioners. Sidewalks shall be located in the platted street right-of-way, abutting the property line as provided in Section 5-4.02.

Section 6-8. Street Lights

6-8.01 The subdivider shall install street lights in any residential subdivision in the Planned Development (PD) District where more than twenty (20) lots are proposed. A street light plan shall be submitted with the street and storm drainage construction plans and shall be reviewed and accepted by the County Engineer prior to construction.

6-8.02 The subdivider shall form a Street Light Benefit District, prior to recording the plat, that addresses operation and maintenance of the street lights in the subdivision.

6-8.03 The street lights shall be uniform in design and shall be limited to thirty (30) feet tall. The street lights shall utilize a fixture that directs light downward and prevents light from traveling out above a horizontal plane relative to the bulb.

Section 6-9. Storm Sirens

6-9.01 The subdivider shall install storm sirens in any residential subdivision in the Planned Development (PD) District where more than twenty (20) lots are proposed. A storm siren plan shall be submitted with the street and storm drainage construction plans and shall be reviewed and accepted by the County Engineer prior to construction.

6-9.02 The subdivider shall include any required storm siren in a Street Light Benefit District, prior to recording the plat, that addresses operation and maintenance of the storm sirens in the subdivision.

6-9.03 If the County determines that the subdivision can be served by an existing storm siren, then the applicant may not be required to install another storm siren, but shall be required to include the entire subdivision property in a benefit district to address the operation and maintenance of the existing storm siren serving the subdivision.

Article
7
ADMINISTRATION

Sections:

- 7-1 Rule Exceptions
- 7-2 Appeals
- 7-3 Penalties for Violations, Actions for Enforcement
- 7-4 Filing Fees

Section 7-1. Rule Exceptions

7-1.01 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 undue hardship caused by size, location or other 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, although rule exceptions from Article 6 (Required Improvements) of these Subdivision Regulations shall not be granted. (Note: Rule exceptions to the Subdivision Regulations are not intended to be associated with the appeal, exception or variance procedures outlined in the Zoning Regulations). A rule exception may be requested, in writing, at the time of filing the preliminary or final plat application. A rule exception may be approved by the Planning Commission, 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.

A Rule Exception shall not be granted unless all of the following apply:

1. Strict application of these Regulations will create an undue hardship upon the subdivider;
2. The proposed rule exception is in harmony with the intended purpose of these Regulations; and,
3. The public health, safety and welfare will be protected.

7-1.02 Planned Developments: When a plat is presented which includes land for which a planned development has been approved within a Planned Development District, the Planning Commission may vary the design standards in these Regulations as necessary to conform to such finally approved development plan.

Section 7-2. Appeals

7-2.01 In addition, any decision of the Planning Director on matters pertaining hereon to lot/parcel splits, boundary line adjustments or mergers may be appealed to the Board of Zoning Appeals and the Board of Zoning Appeals may reverse or affirm such decision. Any person, corporation, official or governmental agency dissatisfied with any order or determination of the Planning Commission, regarding any subdivision, may bring an action in the District Court of Miami County, Kansas, to determine the reasonableness of any such order or determination. Such appeal shall be filed within thirty (30) days of the final decision of the Planning Commission.

Section 7-3. Penalties for Violations, Actions for Enforcement

7-3.01 The violation of any provision of these Subdivision Regulations shall be deemed to be a misdemeanor and any person, firm, association, partnership or corporation convicted thereof shall be punished by a fine not to exceed five hundred dollars (\$500.00) for each offense. Each day's violation shall constitute a separate offense.

7-3.02 The Board of County Commissioners, or any person, the value or use of whose property is or may be affected by such violation, shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce these Subdivision Regulations.

Section 7-4. Filing Fees

7-4.01 A filing fee shall be paid by all subdividers submitting preliminary and final plats, boundary line adjustments and mergers, and lot/parcel splits for approval by the Planning Commission or the Planning Director. Said fees shall be set by resolution of the Board of County Commissioners.

7-4.02 The filing fees shall be paid to the Planning Director at the time the preliminary plats or final plats, boundary line adjustments or mergers, or lot/parcel splits are submitted.

7-4.03 In addition to the above-mentioned filing fees, the applicant shall deposit with the Planning Director a fee for recording and filing of the final plat when it is submitted to the Planning Commission. The amount of such fee shall be determined by the Register of Deeds of Miami County, Kansas. The Planning Director shall file the final plat.

Article
8
MISCELLANEOUS

Sections:

- 8-1 Validity
- 8-2 Interpretation and Construction
- 8-3 Repeal of Existing Regulations and Accrued Rights and Liabilities
- 8-4 Effective Date
- 8-5 Amendments

Section 8-1. Validity

8-1.01 Should any section, clause or provision of these Subdivision Regulations be declared invalid or unconstitutional by any court of record, the same shall not affect the validity of these Regulations as a whole, or any part thereof, other than the part so declared to be invalid or unconstitutional.

Section 8-2. Interpretation and Construction

8-2.01 Where the conditions imposed by the provisions of these Subdivision Regulations are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and pose higher standards or requirements shall govern.

8-2.02 The provisions of these Subdivision Regulations are not intended to abrogate any easement, covenant, or other private agreement; provided, however, that where the requirements of these Regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement, the requirements of these Subdivision Regulations shall govern.

Section 8-3. Repeal of Existing Regulations and Accrued Rights and Liabilities

8-3.01 The adoption of these Subdivision Regulations repeals all previous township subdivision regulations and any Miami County Subdivision Regulations amended by the adoption of these current Subdivision Regulations.

8-3.02 Despite the repeal of regulations existing at the time of adoption of these Regulations, nothing contained in these Subdivision Regulations shall affect any rights accrued or liabilities incurred under said previously existing regulations.

Section 8-4. Effective Date

8-4.01 These Regulations, being designated as the “Subdivision Regulations of Miami County, Kansas,” shall be in full force and effect as of August 1, 2002.

Section 8-5. Amendments

8-5.01 These Subdivision Regulations may be changed or amended in accordance with K.S.A. 12-749 et seq.