

# **CITY OF MARION**

## **SUBDIVISION REGULATIONS**

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# **SECTION**

## **1**

### **GENERAL PROVISIONS**

#### **Sections:**

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

#### **Section 1-1. Title and Jurisdiction**

- 1-1.01** These regulations, entitled the Subdivision Regulations of Marion, Kansas, prescribe minimum design requirements, uniform plat approval procedures and guidelines for the development of new subdivisions and resubdivisions of land within the jurisdiction of the City of Marion.
- 1-1.02** These regulations shall apply to all land located inside the municipal boundary of the City of Marion, plus such surrounding unincorporated area as may be added to the jurisdiction by ordinance.

#### **Section 1-2. Purpose**

**1-2.01** 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 entities and to promote the public health, safety, convenience, general welfare and to conserve land values within the jurisdiction of Marion, 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 the development of Marion, Kansas conforms with the goals, policies, and recommendations of the adopted Comprehensive Plan.
3. To provide adequate and accurate records of all applicable land subdivision.
4. To provide for and secure the actual construction of improvements which

comply with these regulations.

5. To provide for adequate public input regarding the subdivision of private land
6. 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
7. To insure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision.
8. To establish reasonable standards of design and uniform procedures for subdivisions in order to further the orderly layout and use of land.
9. To preserve the natural beauty and topography of Marion and to insure appropriate development with regard to those natural features.

### **Section 1-3. Applicability**

**1-3.01 Plat Required:** After the effective date of these Subdivision Regulations, the owner or owners of any land located within the territory of Marion, Kansas subdividing the same into two (2) or more lots or blocks or tracts or parcels, for the purpose of laying out any subdivision, lots, tracts or parcels or the owner of any land establishing any street, alley, park or other property intended for public use or for the use of purchasers or owners of lots, tracts or parcels of land fronting thereon or adjacent thereto, shall cause a plat to be made unless exempted under Section 1-5.

**1-3.02 Filing of Plat:** The Register of Deeds of Marion County shall not file any plat of any subdivision until such plat shall bear the endorsement of the Planning Commission and land dedicated to public purposes has been acted upon by the Governing Body as provided for in these Subdivision Regulations. Any fees associated with the recording of the final plat shall be the responsibility of the subdivider.

**1-3.03 Sale of Proposed Subdivision Lots:** No owner, or agent of the owner, of any lot located in a proposed subdivision shall transfer or sell any such lot before a plat of such subdivision has been approved by the Planning Commission, in accordance with the provisions of these Subdivision Regulations, and filed with the Register of Deeds of Marion 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 Governing Body under powers conferred by K.S.A. 12-749.

## **Section 1-5. Exemptions**

**1-5.01** The following specific transaction shall be exempt from compliance with the provisions of these Subdivision Regulations:

1. 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.
2. A conveyance made to correct a description in a prior conveyance.
3. Any transfer of operation of law.
4. Any lot, parcel or tract of land located within the area governed by these Subdivision Regulations which has been legally subdivided, resubdivided, platted, or replatted prior to the effective date of these Subdivision Regulations.
5. The division of a tract of land or lot which creates no more than one (1) additional tract or lot subject to the provisions for tract or lot splits described in Section 3 of these Subdivision Regulations. After any such lot or tract split, however, further division of the lot requirements of these Subdivision Regulations.
6. Lots zoned for industrial purposes which are platted need not be replatted if divided into two or more tracts.
7. The division or further division of land into lots or parcels, each of which contains more than 10 acres, where such subdivision does not involve the creation of any new streets or easements of access.
8. A transaction between owners of adjoining land which involves only a change in the boundary between the land owned by such persons and does not create an additional lot.
9. The subdividing of land used exclusively for cemetery purposes and accessory uses associated therewith.
10. Prior subdivisions that are more than 25% complete.

## **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 these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations their most reasonable application.

In the construction of these regulations, the provisions and rules of this section shall be observed and applied, except when the context clearly requires otherwise:

- a. Words used in the present tense shall include the future.
- b. Words in the singular number include the plural number, and the plural number include the singular number.
- c. The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- d. The word "shall" infers mandatory action.
- e. The word "may" infers permissive activity.
- f. The word "person" includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.

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

**AGRICULTURE:** The use of a tract of land for growing crops, pasturage and nurseries, including the structures necessary for carrying out farming operations and the residence(s) of those owning and operating the premises such as a member of the family thereof, or persons employed thereon and their families. The feeding or disposal of community or collected garbage shall not be deemed an agricultural use, nor shall riding academies, livery or boarding stables, dog kennels, commercial feedlots, or commercial greenhouses; however, forested and non-producing open space land are considered agricultural.

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

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

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



**BUILDING OFFICIAL:** The Marion City official assigned the responsibility of issuing building permits and conducting building inspections.

**BUILDING SETBACK LINE:** See SETBACK.

**CITY:** City of Marion, Kansas.

**CITY ATTORNEY:** The City Attorney of Marion, Kansas.

**CITY CLERK:** The City Clerk of Marion, Kansas.

**COLLECTOR STREET:** See STREET, ARTERIAL.

**COMPREHENSIVE PLAN:** The duly adopted Comprehensive Plan for the territory of Marion, Kansas and surrounding planning area, including subsequent amendments.

**COUNTY:** Marion County, Kansas.

**COUNTY ATTORNEY:** The County Attorney of Marion County, Kansas.

**COUNTY CLERK:** The County Clerk of Marion County, Kansas.

**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.

**DEAD-END STREET:** See STREET, DEAD END

**DESIGN STANDARDS OR DESIGN REQUIREMENTS:** All requirements and regulations relating to design and layout of subdivisions contained in these regulations.

**DEVELOPER:** The owner, or any other person, firm or corporation authorized by the owners, undertaking proceedings under the provisions of these regulations for the purpose of subdividing land.

**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.

**ENGINEER:** The City Engineer, or such licensed engineer designated by the City to provide engineering assistance in administering these and other regulations governing area of normal responsibilities assigned to the City Engineer.

**FINAL PLAT:** See PLAT, FINAL.

**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 a least a one (1) percent chance of flooding in any given year. Floodplain boundaries in the territory of Marion are shown on the Federal Insurance Administration's "Preliminary Flood Hazard Boundary Maps" for Marion, Kansas, dated October 2, 2009.

**FLOODPLAIN OVERLAY ZONING DISTRICT:** The FP zoning district of Marion Zoning Regulations.

**FRONTAGE:** The property on one side of a street between two intersecting streets (crossing or terminating) measured along the line of the street; or with a dead-end street, all property abutting one side of such street measured from the nearest intersecting street and the end of the dead-end street.

**GOVERNING BODY:** The Marion City Council of Marion, Kansas. In the case of unincorporated lands located in Marion County, the term shall refer to the Marion County Board of County Commissioners.

**GRADE:** The slope of a road, street 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 or blocks for a principal residential or commercial, office, or industrial use.

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

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

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

**LOT, REVERSE FRONTAGE:** A corner lot of which size and shape that a building erected thereon might logically be designed to face on either adjoining street, thus causing it to rear on the side yard of an abutting lot.

**LOT DEPTH:** The distance between the midpoint of the front lot line and the midpoint of the rear lot line.

**LOT OF RECORD:** A lot which is a part of a subdivision, the plat of which has been recorded in the office of the Marion 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 Marion County Register of Deeds.

**LOT LINE:** The boundary line of a lot.

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

**LOT WIDTH:** The distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing the lot depth at the established building setback line.

**OPEN SPACE:** An area of land or water, or combination thereof, planned for passive or active recreation or for protection, conservation or for preservation of natural resources, but does not include areas utilized for streets, alleys, driveways, or private roads, off-street parking or loading areas, or required front, rear or side yards.

**OWNER:** Any person or persons, firm or firms, corporation or corporations, or any other legal entity having legal title to land sought to be subdivided under these regulations.

**PEDESTRIAN WAY:** A right-of-way dedicated to public use, which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

**PLANNING AGENCY:** The Planning Commission of the City of Marion, Kansas.

**PLANNING AREA:** The area within the city boundaries and within the unincorporated area of Marion County described in these Subdivision Regulations.

**PLANNING COMMISSION:** The Planning Commission of the City of Marion, Kansas.

**PLAN, SKETCH:** A plan as required by a registered land surveyor to describe the precise location and dimension of lots, establish easements, dedicate street rights-of-way, and otherwise describe property to be subdivided and requiring approval of the Planning Commission specified in K.S.A. 12-752.

**PLAT, FINAL:** A plat prepared by a registered land surveyor to describe the precise location and dimension of lots, establish easements, dedicate street rights-of-way, and otherwise describe property to be subdivided and which requires approval of the Marion Planning Commission as set out in K.S.A. 12-752 and amendments thereto.

**PLAT, PRELIMINARY:** A plat for a proposed subdivision of land showing streets, lot, 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 Zoning Administrator.

**PRELIMINARY PLAT:** See PLAT, PRELIMINARY.

**REGISTER OF DEEDS:** The Marion County, Kansas Register of Deeds

**REPLAT:** The subdivision of a tract of land which has previously been lawfully subdivided and

a plat of such prior subdivision duly recorded.

**RESTRICTIVE COVENANTS:** Contracts entered into between private parties which constitute a restriction on the use of all private property within a subdivision for the benefit of property owners; and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.

**RESUBDIVISION:** A change in a map of an approved or recorded subdivision plat if such change effects any street layout shown on such map, any area reserved thereon for public use, or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

**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.

**ROAD OR ROADWAY:** The paved or improved area existing on the street right-of-way which is used for vehicular traffic, exclusive of sidewalks, driveways or related uses.

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

**SANITATION CODE:** The Sanitation Code of Marion, Kansas, or for unincorporated areas, the sanitation code of Marion County.

**SCREENING:** Decorative fencing or evergreen vegetation maintained for the purpose of concealing from view the area behind such fencing or evergreen vegetation.

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

**SIDEWALK:** That portion of a street, paved or otherwise surfaced, intended for pedestrian use only.

**SKETCH PLAN:** See PLAN, SKETCH.

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

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

**STREET, HALF:** A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision.

**STREET, LOCAL:** Any public street or road designed primarily to provide access to one property or more.

**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.

**STREET WIDTH:** The shortest distance between the property lines abutting both sides of a street right-of-way.

**SUBDIVIDE LAND:** To partition a parcel of land into two or more parcels, tracts, lots or sites for the purpose of transfer or ownership or development, whether immediate or future, when such parcel exists as a unit or contiguous units under a single ownership.

**SUBDIVIDER:** See DEVELOPER.

**SUBDIVISION:** Except for a "lot split" as defined in these Subdivision Regulations, any land, vacant or improved, which is divided or resubdivided into two (2) or more lots, parcels, sites, units, plots, or interested 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, RURAL DENSITY:** A residential subdivision with lots three (3) acres or larger.

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

**VISION TRIANGLE:** A triangular area at the intersection of streets maintained in such a manner as to provide a safe and open line of vision for drivers of vehicles and pedestrians approaching the intersection. Within the vision triangle, no one shall install, construct, plant, park, or maintain any sign, fence, hedge, shrubbery, tree, natural growth or other obstruction which would materially impede vision between the heights of 33 inches and eight feet above the street level. Such restrictions shall not apply to official traffic signs and signals and utility poles.

**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 ADMINISTRATOR:** The Marion City official assigned the responsibility of administering the Zoning Regulations and Subdivision Regulations.

**ZONING REGULATIONS:** The adopted Marion Zoning Regulations.

## **Section 1-7. Duties**

**1-7.01 Duties of the Office of the Zoning Administrator:** 1. Maintain permanent and current records with respect to these regulations, including amendments thereto. 2. File copies of all preliminary and final plats together with applications therefor. 3. Transmit final plat to the Governing Body for acceptance of dedications of streets, alleys, and other public ways and sites. 4. Determine whether an application for any subdivision approval is complete and notify the applicant as to whether the application is in compliance with these regulations.

**1-7.02 Duties of the Building Official:** 1. Issue building permits when all subdivision approval is complete. 2. Make changes to land elevations designated on a plat, as authorized by K.S.A. 12-749(b), and amendments thereto.

**1-7.03 Duties of the Marion Planning Commission:** 1. Review and approve, approve conditionally, or disapprove preliminary plats. 2. Review and approve, approve conditionally, or disapprove final plats and transmit approved final plats to the Governing Body for acceptance of dedications of streets, alleys and other public ways and sites. 3. In the case of land lying outside of the city limits, to transmit the final plat to the Marion County Board of County Commissioners for acceptance of dedications of streets, alleys and other public ways and sites. 4. Make other determinations and decisions as may be required by the Planning Commission from time to time by these regulations and by the applicable state statutes.

**1-7.04 Duties of the Marion City Council:** 1. Consider Planning Commission recommendations of final plats and accept or reject dedications of easements and rights-of-way. 2. Approve engineering drawings of proposed improvements prior to construction. 3. Accept or reject financial guarantees from subdividers in lieu of immediate completion or installation of improvements required by these regulations. 4. Take other action as required from time to time including the consideration of amendments to these regulations.

## **SECTION**

### **2**

## **PLAT FILING REQUIREMENTS**

### Sections:

- 2-1 General Procedure
- 2-2 Preapplication Conference and Sketch Plan
- 2-3 Preliminary Plat
- 2-4 Final Plat
- 2-5 Concurrent Submission of Preliminary and Final Plats
- 2-6 Small Subdivision Plat

### **Section 2-1. General Procedure**

**2-1.01** All preliminary and final plats of subdivision within the area of Marion shall be submitted to the Planning Commission for its approval. The Register of Deeds of Marion 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 Governing Body as required herein.

**2-1.02** The Zoning Administrator shall have the authority to certify a preliminary plat, final plat, and a small subdivision plat application as complete or incomplete. If a plat application is certified as incomplete, then said administrator shall return the application to the applicant with a written explanation of the determination. The applicant may reapply and pay another filing fee, or may appeal said administrator's determination to the Board of Zoning Appeals as provided by the Zoning Regulations.

### **Section 2-2. Preapplication Conference and Sketch Plan**

**2-2.01** Before filing a preliminary plat, the subdivider shall consult with the Zoning Administrator for advice regarding general requirements affecting the proposed development. The subdivider shall furnish the Zoning Administrator with the following information when such information is considered necessary by the Zoning Administrator:

1. A general description of existing conditions of the site, including data on existing land and soil characteristics, existing covenants, availability of utilities and other public facilities, 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 relationships of the proposed subdivision to existing utilities, major streets, and community facilities and to surrounding developed and undeveloped land.

**2-2.02** The Zoning Administrator 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.

### **Section 2-3. Preliminary Plat**

**2-3.01** Conformance with Comprehensive Plan and Zoning Regulations: A preliminary plat of the proposed subdivision shall be prepared by the subdivider or the subdivider's agent and 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 Marion Comprehensive Plan, as well as with Marion's Zoning Regulations regarding lot size and permitted use. The preliminary plat shall also conform to other local codes, regulations, and standards.

**2-3.02** Contents of Preliminary Plat: Within a reasonable time after completion of the preapplication procedure, the subdivider may submit to the Planning Commission an application and 10 copies of a preliminary plat. The appropriate fee shall be paid upon filing the preliminary plat application. Such preliminary plat shall:

1. Be drawn to a scale of not more than 100 feet to 1 inch unless the area of the subdivision is over 100 acres, then to the scale of not more than 200 feet to 1 inch.
2. State the name of the proposed subdivision, legal description of the site to be subdivided, location, acreage, names and addresses of owners and land surveyor. Such subdivision name shall not duplicate the name of any plat heretofore filed in Marion County, Kansas.
3. Show date of preparation, north point, and scale of drawing.
4. Show the location of the subdivision by measured distance to a section corner to define the location and boundaries of the tract which will be subdivided.
5. Show the existing uses of the property including the location of all existing structures that will remain on the property after the final plat is recorded.
6. Indicate applicable zoning districts for the property and all adjoining property.
7. Show names of adjoining subdivisions, or, in case of unplatted land, the names of adjoining owners.



8. Show location of property lines, existing roads, existing utilities with size of lines, easements, and sewer systems.
9. Show topography with contours at intervals of two (2) feet and unique topographic features, lakes, and tree masses.
10. Show location of watercourses, areas subject to flooding, bridges, wooded areas, lakes, ravines and such other features as may be pertinent to the subdivision.
11. Show land within the boundaries of the 100-year Floodplain as identified on the Federal Insurance Administration's "Preliminary Flood Hazard Boundary Maps" for the territory of Marion, Kansas (dated October 2, 2009).
12. Be accompanied by a general location map or a copy of the general location map furnished at the preapplication procedure.
13. Show proposed streets, including location, width, names and approximate grade and showing the manner in which the proposed streets may be extended to connect with existing streets.
14. Show blocks and lots, showing approximate dimensions and proposed number including lot lines and setbacks.
15. Show proposed utility system for sanitary waste, water, electricity, natural gas, telephone and cable television.
16. Show location of proposed culverts, storm sewers, and drainage system.
17. Show proposed easements, dedications and reservations.
18. Show sites to be designated for purposes other than single-family residential.
19. Such plat shall be clearly labeled as a preliminary plat.
20. A statement as to the general nature and type of improvements proposed for the subdivision, and in what manner the subdivider intends to finance and provide for their installation.
21. Show proposed building setback lines, if any.
22. Provide general layout of adjacent unsubdivided property to show how streets and other public facilities in the proposed subdivision relate to the unsubdivided property.
23. Be accompanied by proposed deed restrictions, if any, in outline form.
24. A title report by an abstract or title insurance company, or an attorney's opinion of title, showing the name of the owner of the land and all other persons who have an interest in, or an encumbrance on the plat. The consent of all such persons shall be shown on the plat and their signatures shall be notarized.

**2-3.03 Notification of Surrounding Property Owners:** At least twenty (20) days prior to the Planning Commission public hearing at which the preliminary plat is to be considered for approval, the Zoning Administrator shall notify all property owners of land located within 200 feet of the subdivision land and/or all abutting property owners if the proposed subdivision is located within municipal boundaries or within 1,000 feet of the subdivision land and/or all abutting property owners if the proposed subdivision is located adjacent to or within unincorporated territory that such a hearing will take place. The applicant shall provide a listing of names and addresses to the Zoning Administrator sufficient to enable notification pursuant to this section. Notification shall include the time and place of said public hearing. An affidavit that this requirement has been met shall be filed with the Zoning Administrator prior to said public hearing; the Zoning Administrator shall then file said affidavit with the Secretary of the Planning Commission at the public hearing.

**2-3.04 Staff Review and Actions:** Upon receipt of the preliminary plat and supporting data required in this section, the Zoning Administrator shall perform the following tasks:

1. Certify the application as complete (if applicable) and affix the date of application acceptance on the preliminary plat.
2. Place the preliminary plat on the agenda for consideration at the next regularly scheduled meeting of the Planning Commission if the plat has been received at least fourteen (14) days prior to a regularly scheduled Planning Commission meeting.
3. Distribute a copy of the preliminary plat to appropriate public officials and any affected utility companies for review and comment.
4. Coordinate a 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.
5. Cause a notice to be published in an officially designated newspaper qualified to publish legal notices in Marion County giving the name of the subdivision and the appropriate acreage. The notice shall first be published at least twenty (20) days prior to the regularly scheduled Planning Commission meeting at which approval of the plat is sought.

**2-3.05 Planning Commission Review and Actions:** The Planning Commission shall review 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 submission, (with a possible extension by the Planning Commission if deemed necessary) stating its approval, conditional approval (stating conditions), or disapproval (stating reasons). Action on a preliminary plat shall be taken by a majority vote of the Planning Commission members present and voting at the hearing. If such determination is not made within sixty (60) days after the preliminary plat has been submitted 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.

**2-3.06 Effect of Preliminary Plat Approval:** Approval of the preliminary plat shall not constitute acceptance of the subdivision of the city 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 Governing Body on land dedicated for the public purposes, and the submittal to and approval of street construction plans by the city.

**2-3.07 Preliminary Plat Validity:** Within one (1) year of preliminary plat approval, the subdivider shall file in good faith a final plat for any portion of said preliminary plat. If such final plat or portion thereof is not filed within one (1) year of preliminary plat approval, said preliminary plat shall be null and void, unless, upon an application of the applicant, the Planning Commission grants an extension of time beyond such period. After such time period or extension granted thereto, the preliminary plat may be resubmitted to the Planning Commission as if such plat had never been approved. An additional fee equal to a fee charged for a plat that has never been submitted shall be charged for that re-submission of such plat.

## **Section 2-4. Final Plat**

**2-4.01 Preparation:** Within six months after the date that the preliminary plat has been approved, a final plat of record shall be prepared and submitted to the Planning Commission for final approval. The final plat may encompass all or a portion of the area encompassed by the preliminary plat. The final plat shall be prepared by a land surveyor licensed in the State of Kansas.

**2-4.02 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.

**2-4.03 Contents of Final Plat:** The subdivider shall submit to the Zoning Administrator a final plat application; the original drawing on tracing cloth, mylar, vellum, or other permanent reproducible material; and 10 copies thereof, to be made by a licensed land surveyor. The appropriate fee shall be paid upon filing the final plat application. All drawing and signatures of certification shall be in waterproof ink. The scale shall not be more than 100 feet to 1 inch. The size of the sheet on which such final plat is prepared shall be 22 inches by 34 inches or smaller. Where the proposed plat is of unusual size, the final plat shall be submitted on two or more sheets of the same dimensions. If two or more sheets are required, an index map of the same dimensions shall be filed showing the entire development at a smaller scale. When more than one sheet is used for any plat, each such sheet shall be numbered consecutively and each such sheet shall contain a notation showing the whole number of sheets in the plat and its relation to other sheets (e.g. sheet 1 of 3 sheets). Linear dimensions shall be given in feet and decimals of a foot. The dimensions indicated are standard for all final plats and must be compiled with. Title, description, and other written data to be located either right or left. 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 subdivision. The name of the platted subdivision shall not duplicate the name of any platted subdivision previously recorded in Marion County unless it is an addition to and contiguous to the same.
3. Legend, 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 engineering 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 a 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 and non-tangent 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 Federal Insurance Administration's "Preliminary Flood Hazard Boundary Map" for Marion, Kansas (dated October 2, 2009), the Floodplain shall be shown within a contour line. The contour line shall intersect the side lines of the lots; the Floodplain area shall be clearly labeled on the plat with the words "Floodplain area."
  - d. All public utility easements included in the plat shall be shown by their widths and relationships to the lot or street lines.
  - 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 and 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 (5b) above.

- f. Other improvements to be installed by the subdivider on the land to be used for public 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. Space for approval of the final plat by the Planning Commission and space for acceptance by the Governing Body of land dedicated for public purposes.
6. The following certificates, duly signed as appropriate, shall appear on the final plat upon its submittal:

### **SURVEYOR'S CERTIFICATE**

STATE OF KANSAS)

) ss:

COUNTY OF MARION )

I, the undersigned, do hereby certify that I am a registered land surveyor in the State of Kansas, with experience and proficiency in land surveying; that the heretofore described property was surveyed and subdivided by me, or under my supervision; that all Subdivision Regulations of the City of Marion, Kansas, have been complied with in the preparation of this plat; and that all monuments shown herein actually exist and their positions are correctly shown to the best of my knowledge and belief.

Given under my hand and seal at \_\_\_\_\_, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 20\_\_\_\_.

### OWNER'S CERTIFICATION AND DEDICATION

STATE OF KANSAS )  
 ) ss:  
COUNTY OF MARION )

This is to certify that the undersigned owner(s) of the land described in the Survey Certificate: have caused the same to be surveyed and subdivided on the accompanying plat into lots, blocks, streets, and other public ways under the name of

\_\_\_\_\_;

that all highways, streets, alleys, easements and public grounds as denoted on the plat are hereby dedicated to and for the use of the public for the purpose of constructing, operating, maintaining, and repairing public improvements; and further that the land contained herein is held and shall be conveyed subject to any restrictions, reservations, and covenants on file or hereafter filed in the Office of the Register of Deeds of Marion, Kansas.

Date Signed: \_\_\_\_\_

Date Signed: \_\_\_\_\_

\_\_\_\_\_, Owner

\_\_\_\_\_, Owner

### PROTECTIVE COVENANTS

Purchase and subsequent improvement of lots within the Subdivision shall be subject to the provisions of "Protective Covenants of the Subdivision" submitted separately herewith.

Date Signed: \_\_\_\_\_

Date Signed: \_\_\_\_\_

\_\_\_\_\_, Owner

\_\_\_\_\_, Owner

### ABTRACTOR CERTIFICATE

STATE OF KANSAS )  
 ) ss  
COUNTY OF MARION )

I, the undersigned, being a duly licensed and bonded abstractor and an authorized representative thereof, hereby certify that the above is the legal owner(s) of the property shown on this plat.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20 .

**NOTARY CERTIFICATE**

STATE OF KANSAS       )  
  ) ss  
COUNTY OF MARION    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by \_\_\_\_\_.

\_\_\_\_\_, Notary Public

(SEAL)

My appointment expires:

**PLANNING COMMISSION CERTIFICATE**

STATE OF KANSAS       )  
  ) ss  
COUNTY OF MARION    )

This plat was approved by the Marion City Planning Commission on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, and was recommended for approval by the City Council of Marion, Kansas.

Date Signed: \_\_\_\_\_

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Secretary

**CITY COUNCIL'S CERTIFICATE**

STATE OF KANSAS       )  
  ) ss  
COUNTY OF MARION    )

This plat approved and all dedications shown on this plat, if any, are hereby accepted by the City Council, City of Marion, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(SEAL) \_\_\_\_\_  
Mayor

ATTEST:

City Clerk

## CERTIFICATE OF THE CITY ATTORNEY

STATE OF KANSAS )

) ss

COUNTY OF MARION )

Approved this \_\_\_\_ day of \_\_\_\_\_, A.D. 20

City attorney for the City of Marion, Kansas.

City Attorney

## REGISTER OF DEEDS CERTIFICATE

STATE OF KANSAS )

) ss

COUNTY OF MARION )

This is to certify that this instrument was filed for record in the Register of Deeds Office,  
at \_\_\_\_ a.m./p.m., on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

(SEAL) \_\_\_\_\_

Register of Deeds

7. An updated title report if there has been a change of ownership, interest or encumbrance on the property since the filing of the title report with the preliminary plat.
8. The final plat shall designate the name or names by which the proposed road or streets are to be officially known. The final plat shall also establish a uniform series of key numbers for all blocks and lots from which official street addresses may be designated. The Zoning Administrator reserves the right to require different names and numbering systems of the Planning Commission believes such action is necessary.
9. The name and address of the owner and surveyor.

**2-4.04 Staff Review and Actions:** Upon receipt of the final plat and certification documents required in this section, the Zoning Administrator shall perform the following tasks:

1. Certify the final plat application as complete (if applicable) and affix the date of application acceptance on the final plat.
2. Place the final plat on the agenda for consideration at the next regularly scheduled meeting of the Planning Commission.



3. Distribute a copy of the final plat to appropriate public officials and any affected utility companies.
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 to the final plan.

**2-4.05 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. Action on a final plat shall be taken by a majority vote of the Planning Commission membership, regardless of the number of Planning Commission members present and voting at the hearing. The Planning Commission shall act upon the final plat within sixty (60) days after submission, stating its approval, conditional approval (stating conditions), or disapproval (stating reasons). If such determination is not made within sixty (60) days after the final plat has been submitted for consideration, such final 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 Zoning Administrator shall give the subdivider written notice of the Planning Commission's action whether approval, conditional approval or disapproval. In case of approval, the chairman of the Planning Commission shall date and endorse the original final plat.

**2-4.06 Acceptance of Dedications:** A final plat that has been approved by the Planning Commission shall be submitted to the Governing Body for a review of the completion of all final platting requirements and its acceptance of the dedication of streets and other public ways, service, and utility easements and any land dedicated for public purposes. The Governing Body shall approve, conditionally approve (stating conditions), or disapprove the Final Plat and 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 City Clerk. The Governing Body 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 Governing Body defers or refuses such dedication, the Governing Body shall advise the Planning Commission of the reasons for such deferral or refusal. Failure of the Governing Body 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 Marion County Register of Deeds, said plat shall include a certificate of the Governing Body that all dedications, if any, are accepted by said Governing Body.

**2-4.07 Filing of Plat:** The original of any plat shall be filed with the Marion County Register of Deeds by the Zoning Administrator only after all approvals, 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 Governing Body and certification thereon.

3. Certification by the County Treasurer of Marion County, Kansas, that there are no unpaid taxes, special assessments or tax liens outstanding against the property.
4. Certification by the City Attorney.
5. Acceptance of financial guarantees for public improvements.

**2-4.08 Final Plat Validity:** If a building permit for substantial construction has not been applied for and issued for any portion of a subdivision within five (5) years of filing with the Marion County Register of Deeds, said final plat shall be null and void.

### **Section 2-5. Concurrent Submission of Preliminary and Final Plats**

**2-5.01** Nothing contained in Section 2-3 and 2-4 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.

**2-5.02** When a subdivider submits the preliminary and final plats concurrently, the Planning Commission and the Governing Body shall act upon such submittal within sixty (60) days after submission, stating its approval, conditional approval (stating conditions), or disapproval (stating reasons). If such determination is not made within sixty (60) days after the preliminary and final plats have been concurrently submitted 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.

### **Section 2-6. Small Subdivision Plat**

**2-6.01** Whenever a subdivision or resubdivision consists of only one (1), two (2), three (3), or four (4) lots, the Zoning Administrator may waive the requirements for submission of preapplication plans and data and the preliminary plat. Such waiver shall permit the subdivider to file with the Zoning Administrator a "small subdivision plat" which shall:

1. Be discussed with the Zoning Administrator before submission.
2. Be submitted to the Zoning Administrator at least fourteen (14) days prior to the regularly scheduled Planning Commission meeting at which approval is sought.
3. Contain the required information for final plats as outlined in Section 2-4.
4. Be accompanied by the filing fee required by these Subdivision Regulations

5. Be acted upon by the Planning Commission and Governing Body within sixty (60) days after submission, stating its approval, conditional approval (stating conditions), or disapproval (stating reasons). If such determination is not made within sixty (60) days after the small subdivision plat has been submitted 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.
  6. Be subject to the notification requirements of Section 2-3.03.
- 2-6.02** The approval of small subdivision final plats shall be subject to the provisions of Section 2-4. Submission to the Governing Body is required even if there is a need for dedication of streets or easements in whole or in part.
- 2-6.03** 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**

## **LOT SPLITS**

### **Sections:**

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

### **Section 3-1. Objective**

**3-1.01** The objective of this session is to provide for the division of a tract of land or lot into not more than two (2) lots which meet the minimum size and area requirements to the zoning district in which said lots are located without having to comply with the platting requirements described in Section 2 of these Subdivision Regulations. The new lots cannot, thereafter, be further subdivided without replatting.

### **Section 3-2. Authorization for Approval of Lot Splits**

**3-2.01** The Planning Commission is hereby authorized to approve or disapprove lot splits in accordance with the provisions of this section. Appeals from a decision made by the Zoning Administrator may be made by the applicant to the Governing Body for final determinations.

### **Section 3-3. Application Procedure**

**3-3.01** Requests for lot splits shall be made by the owner of the land to the Zoning Administrator. The applicant shall submit four (4) copies of a drawing to scale, no smaller than 11" x 17", of the lots involved showing the precise location of any structures thereon, together with the precise nature, location and dimensions of the split. A survey shall be required by the Zoning Administrator.

### **Section 3-4. Approval Guidelines**

**3-4.01** The division of lots pursuant to this section shall comply with applicable zoning laws, these Subdivision Regulations, and all other applicable regulations. No lot splits 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.
3. If such action will result in significant increases in service requirements, e.g., utilities, schools, traffic control, streets, etc.; or will interfere with maintaining existing service levels, e.g., additional curb cuts, repaving, etc.

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 tract without direct access to a public street.
7. A substandard size lot or parcel will be created according to these Subdivision Regulations and the City's Zoning Regulations, except where a lot split will result in the substandard-sized portion being recombined with an abutting lot or parcel to produce a standard size lot, and where this recombination is duly filed and recorded with the Register of Deeds of Marion County.

**3-4.02** The Planning Commission may make such additional requirements as deemed necessary to carry out the intent and purposes of existing land development regulations and policy. Requirements may include, but not be limited to, installation of public facilities, dedication of right-of-way and easements, and submission of covenants for the protection of other landowners in the original subdivision.

### **Section 3-5. Staff Review and Action**

**3-5.01** The Planning Commission, with the direction of the Zoning Administrator, shall, in writing, either approve with or without conditions or disapprove the lot split within thirty (30) days of application and if disapproved the applicant shall have the right to perfect an appeal to the Governing Body within thirty (30) days. If approved, and after all conditions have been met, the Chairman of the Planning Commission shall sign and furnish a certificate of approval to be affixed to the lot split survey, and a certified copy thereof shall be filed with the Register of Deeds, the Building Official, and a copy shall be furnished to the applicant.

## **CERTIFICATION OF LOT SPLIT APPROVAL**

STATE OF KANSAS )

) ss

COUNTY OF MARION     )

I hereby certify that this lot split has been examined and found to comply with the Subdivision Regulations of the City of Marion, Kansas, and is, therefore, approved for recording.

Date Signed: \_\_\_\_\_

Planning Commission Chairman

Planning Commission Secretary

A copy of the lot split approval shall be filed by the Administrator with the applicable official designation to issue building and/or zoning permits and two (2) copies shall be furnished to the applicant, one of which the applicant shall file with the County Register of Deeds.

### **Section 3-6. Building Permits**

**3-6.01** No building permit shall be issued for any site which contains a division of a platted lot or a lot of record, unless such division has been approved in the manner provided in this section.

## SECTION

### 4

## SUBDIVISION DESIGN STANDARDS

### Sections:

- 4-1 Applicability
- 4-2 Land in Floodplain Overlay Zoning District
- 4-3 Street Standards
- 4-4 Block Standards
- 4-5 Lot Standards
- 4-6 Alleys
- 4-7 Easements
- 4-8 Commercial, Office, Industrial Subdivisions
- 4-9 Dedication or Reservation of Open Spaces

### Section 4-1. Applicability

**4-1.01** 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 Governing Body.

### Section 4-2. Land in Floodplain Overlay Zoning District

**4-2.01** No land in the F-P Floodplain Overlay Zoning District shall be subdivided for any use not permitted by the underlying zoning district as presented in the Marion's Zoning Regulations.

**4-2.02** Subdivisions in the F-P Floodplain Overlay Zoning District shall be designed in accordance with standards established in the Floodplain Overlay District of the Marion Zoning Regulations. Such subdivision proposals shall be designed to assure that all such proposals are consistent with the need to minimize the 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 4-3. Street Standards

**4-3.01** Conformance with the Comprehensive 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

Marion Comprehensive Plan. Street design standards other than those listed in this section shall conform with standards adopted by the Governing Body.

**4-3.02 Streets, Alleys and Public Ways:**

- (1) **Relationship to Adjoining Streets:** The arrangement of streets in new subdivisions shall make provisions for the continuation of the principal existing streets in adjoining additions (or their proper projection where adjoining property is not subdivided) insofar as they may be necessary public requirements. The width of such streets in new subdivisions shall be not less than the minimum street widths established herein. Alleys, when required, and street arrangement must cause no hardship to owners of adjoining property when they plat their land and seek to provide for convenient access to it. Whenever there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted and dedicated. 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.
- (2) **Street Names:** No street names shall be used which will duplicate or be confused with the names of existing streets. Existing street names shall be used where they are or would be logical extensions of existing streets, even though separated by undeveloped land. Street names shall be subject to the approval of the Planning Commission.
- (3) **Adjoining Limited Access Highway, Arterial Street or Railroad Right-of-Way:** If a subdivision abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access streets, reverse frontage with screened planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

If a subdivision borders on, or contains a railroad right-of-way or a limited access highway, the Planning Commission may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

- (4) **Reserve Strips:** Reserve strips controlling access to streets shall be prohibited except where their control is placed with the Governing Body under conditions approved by the Planning Commission.
- (5) **Street Jogs:** Street jogs are to be avoided on arterial and collector streets. On local streets with right-of-way of 66 feet or less, center line offsets of less than 150 feet should be avoided.
- (6) **Inside Tangent:** Wherever possible, there shall be an inside tangent at least 50 feet in length introduced between reverse curves on arterial and collector streets.



- (7) Dead-End Streets and Cul-de-sacs: Dead-end streets shall not be approved unless such dead-end streets are provided 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 six hundred (600) feet for urban density residential uses. A cul-de-sac shall be no longer than nine hundred (900) feet for rural density residential uses. Cul-de-sacs shall have an adequate turnaround with a minimum right-of-way radius at the closed end of fifty (50) feet for urban density subdivisions and sixty-six (66) feet for rural density subdivisions and commercial, office, and industrial subdivisions. Temporary dead-end streets longer than one hundred (100) feet shall have a temporary turnaround area to provide service equal to the cul-de-sac requirements stated above.
- (8) Right Angle Intersections: Under normal conditions, streets shall be laid out to intersect, as nearly as possible, at right angles. However, in no instance shall two (2) streets intersect at an interior angle less than seventy-five (75) degrees without written consent of the Zoning Administrator.
- (9) Streets Adjacent to a Railroad Right-of-Way, or Principal Highway: Where lots front or side, but do not back on railroad rights-of-way, principal highways or arterial streets, a marginal access street or frontage road may be required parallel and adjacent to the boundary of such rights-of-way. The distance from said rights-of-way shall be determined, with due consideration to minimum distance required for approach connections to future grade separated intersections.
- (10) Half Streets: Half streets shall be avoided, except for arterial streets and collector streets where applicable, or where they are essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, or, when the Planning Commission finds that it will be practical to require the dedication of the other half of the street when the adjoining property is subdivided. Whenever a halfstreet, or portion thereof, is existing and adjacent to a tract to be subdivided, the other half of the street shall be based on minimum requirements as set forth in subsection 12 of this section and shall be platted within such tract.
- (11) Alleys: Alleys shall not be permitted in residential areas except where the City officials may permit if easements are not adequate or feasible. Alleys shall have a minimum right-of-way width of 20 feet. Dead-end alleys shall be avoided, wherever possible; if unavoidable, such alleys shall be provided with adequate turnaround facilities at the dead-end. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, a turning radius shall be provided to permit safe vehicular movement.

**4-3.03 Local Streets**: Local streets shall be in a logical layout, conform to topographical 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 (125) feet or more.

**4-3.04 Right-of-way Standards:** Right-of-way (ROW) land for new public streets in subdivisions shall be dedicated for public use in conformity with the following and shall not be less than the minimum dimensions for each of the following street classifications:

<u>Street Classification</u>				
Local Street ROW		Collector Street ROW		
Rural Density * Subdivisions	Urban Density + Subdivisions	Rural Density * Subdivisions	Urban Density + Subdivisions	Arterial Street ROW
66'	66'	80"	80"	100'

\*Subdivisions with lots three (3) acres or larger.

+ Subdivisions with lots smaller than three (3) acres.

**4-3.05 Dedication of Abutting Street Right-of-Way:** When a proposed subdivision abuts an existing public right-of-way for a local street or a proposed public right-of-way for a collector or arterial street as shown in the Comprehensive 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 4-3.04. Said dedication shall be shown on the preliminary plat and the final plat.

**4-3.06 Private Streets:** Private streets shall be discouraged in any subdivision, resubdivision, plat, or replat approved after the effective date of these regulations.

#### **Section 4-4. Block Standards**

**4-4.01** In general, intersection streets determining block lengths shall be provided at such intervals as to serve cross traffic adequately and to meet existing or future streets. Where no existing plats control, the blocks shall not exceed six hundred (600) feet between centerlines of streets, except variations may be allowed in instances where topography or other conditions prohibit compliance.

**4-4.02 Sidewalks and Walkways:** Sidewalks or pedestrian walkways of a minimum of four and one-half (4-1/2) feet in width may be required, upon recommendation of the Planning Commission and approval of the Governing Body, where deemed necessary to provide convenient and safe access to schools, parks, playgrounds, or other public or private community facilities. In general, sidewalks are required on both sides of the street in urban density subdivisions and on one side of the street on rural density subdivisions.

## **Section 4-5. Lot Standards**

**4-5.01 Access:** All lots within a subdivision or part of lot splits shall have at least one (1) lot line adjacent to a public street or road. In no instance shall access to any lot within a subdivision be granted solely by access easement or other similar technique.

**4-5.02 Lots on Collector, Arterial, and Thoroughfare Streets:** The number of lots with direct access to collector streets as shown in the Marion Comprehensive Plan shall be kept to a minimum in each subdivision.

**4-5.03 Conformance with the Zoning Ordinance:** The area, width, and depth of lots shall conform to the Marion Zoning Ordinance. Other factors that may be considered include topography, location, and physical features.

**4-5.04 Double Frontage Lots:** Double frontage lots shall be avoided for single-family and two-family residential dwellings except where the lots abut upon a thoroughfare, arterial, or collector street as shown in the Marion Comprehensive 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.

## **Section 4-6 Easements**

**4-6.01 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 (20) feet wide in total, except that easements for street lighting purposes may be located along front lot lines and shall measure at least ten (10) feet wide.

**4-6.02 Drainage Easements:** Drainage easements for water courses, drainage channel or streams which traverse a subdivision shall be required. The subdivider shall cause a study to be made by a licensed professional engineer and report the findings of said study to the Zoning Administrator, who shall in turn recommend to the Planning Commission the desired width of such easement. Such study and report shall be based on the 100-year flood depth (if known), or the regulatory flood elevation when provided by the Federal Insurance Administration.

**4-6.03 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 Governing Body, a pedestrian-way easement may be required. Such easement shall have a minimum width of fifteen (15) feet.

## **Section 4-7. Commercial, Office, Industrial Subdivisions**

**4-7.01** At a minimum, roads in commercial, office and industrial subdivisions shall be designed as collector streets and shall conform to the urban density subdivision standards presented in this section.

## **Section 4-8. Dedication or Reservation of Open Spaces**

**4-8.01** In subdividing land, due consideration shall be given by the subdivider to the dedication or reservation of sites for parks, playgrounds or open space. All areas to be reserved for, or dedicated to, public use shall be indicated on the preliminary plat in order that it may be determined when and in what manner such areas will be dedicated to or acquired by the appropriate agency.

**4-8.02** Such dedication or reservation shall not exceed ten (10) percent of the tract being subdivided, exclusive of streets, alley, easements or other public ways. As an alternative to such dedication or reservation and at the sole election of the city, the subdivider may be required to pay an in-lieu fee equal in amount to the value of the land proposed to be dedicated or reserved.

## SECTION

### 5

## REQUIRED IMPROVEMENTS

Sections:

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

### Section 5-1. Applicability

**5-1.01** Prior to and as a condition of final plat approval, the subdivider shall enter into a legal agreement with the Governing Body 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 City of Marion, utility company or public agency having authority and shall be subject to any applicable surety requirements to guarantee their proper installation.

**5-1.02** All improvements installed by the subdivider shall comply with the specifications and standards adopted by the Governing Body, which specifications and standards are not included in this section but may be acquired from the Zoning Administrator.

**5-1.03** Construction and materials for construction of roads, road beds, curbs, gutters, sidewalks, grades, drains, and shoulders where applicable, shall be acceptable to the Governing Body, for public dedication and acceptance for such purposes by said Governing Body regardless of whether or not such improvements are dedicated or accepted for dedication.

### Section 5-2. Guarantee of Completion of Improvements

**5-2.01** 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 Governing Body, in the amount of the total estimated cost of said required improvements as determined by the Zoning Administrator and approved by the Governing Body. Said surety shall be furnished at the time construction plans for required improvements are submitted to the Zoning Administrator for approval.

**5-2.02** The approved surety shall be filed with the City Clerk and retained by the City 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 City. 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 City, the Governing Body is empowered by K.S.A. 12-741 et. seq. and these Subdivision Regulations to enforce such security bond by all legal and equitable remedies.

**5-2.03** 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.

**5-2.04** As a guarantee that the improvement of all streets dedicated to public use has been done in a satisfactory manner, the subdivider shall provide a maintenance bond to the city. Said bond shall be required only for the first year following the Subdivision Regulations acceptance of such improvements for maintenance. The amount of the bond shall be filed with the City Clerk in an amount acceptable to the Subdivision Regulations and in such form as accepted by the Governing Body.

**5-2.05** As an alternative method of guaranteeing required improvements, the subdivider may request that the Zoning Administrator not file the approved final plat with the Register of Deeds and a building permit shall not be issued until such time as the Zoning Administrator certifies that: a) required improvements have been properly constructed and installed, and b) a maintenance bond has been filed as required by these Subdivision Regulations.

### **Section 5-3. Improvement Procedures**

**5-3.01 Final Improvement Plans:** Upon the recording of the final plat and prior to the issuance of a building permit, the applicant shall have prepared by a licensed professional engineer, engineering drawings for proposed required improvements containing the data and information specified in Section 5-3.02. Such drawings shall be certified by a licensed professional engineer and shall be submitted in duplicate to the City Engineer at least 30 days prior to the date that approval of the final plat is requested. Failure to do so will be considered automatic consent, by the applicant, to a waiver or an extension of a waiver of any time limitation for plat approval.

**5-3.02 Content of Engineering Drawings:** Engineering drawings for required improvements shall contain the following data and information:

1. Plans, profiles, details, specifications and cost estimates for roadway and sidewalk construction, including plans and profiles for each street with a typical cross section of the roadways. The profiles of grade lines shall be shown to a scale of one inch equals 100 feet horizontal, and one inch equals 10 feet vertical. This information shall be shown on standard plan and profile sheets unless otherwise required by the City Engineer.

2. Plans, profiles, details, specifications and cost estimates of proposed storm drainage improvements.
3. Plans, profiles, details specifications and cost estimates of proposed water distribution systems and proposed water supply facilities and water hydrants, if any.
4. Plans, profiles, details, specifications and cost estimates of sewage systems and of any required sewage treatment facilities.
5. Plans, profiles, details, specifications and cost estimates of other utilities that are required in these regulations, including underground wiring.
6. Grading plans for all lots and other sites in the subdivision.
7. When usual site conditions exist, the City Engineer may require such additional plans, specifications and drawings as may be necessary for an adequate review of the improvements to be installed.
8. All plans shall be based on U.S.G.S. datum for vertical control.

**5-3.03 Review of Plans:** The City Engineer shall review all engineering drawings in order to determine whether such drawings are consistent with the approved preliminary plat and comply with City design standards. If such drawings are consistent and in compliance, the Engineer shall forward to the Planning Commission a notice that such drawings do so conform or comply. The Engineer shall notify the applicant of the specific manner in which such drawings do not so conform or comply; the applicant may then correct such drawings. If such drawings are not corrected, the Engineer shall forward to the Planning Commission a notice as to the items of nonconformity or noncompliance.

**5-3.04 Approval by Planning Commission:** The Planning Commission shall approve a final plat only when the approval of the City Engineer and notice therefrom has been received indicating that the plans and engineering drawings have been approved or that the appropriate petitions, if authorized, have been filed with the City Engineer.

**5-3.05 Construction of Improvements:** No improvements shall be constructed nor shall any work preliminary thereto be done until such time as a final plat and the engineering drawings accompanying it shall have been approved as set forth in Sections 5-3.03 and 5-3.04 and there shall have been compliance with all of the requirements relating to an agreement, bond or deposit specified in these regulations.

**5-3.06 Inspection:** All improvements constructed or erected shall be subject to inspection by the City Engineer or official responsible for setting and enforcing the applicable design and construction standards of the required improvement. The cost attributable to all inspections required by this regulation shall be charged to and paid by the applicant. Before any required inspections take place, the applicant may be required to post a deposit with such official or such agency entrusted to keep such security for the official to cover the cost of such inspections. The applicant shall give at least 48 hours written notification to such official prior to the performance of any of the following work:

1. All phases of roadway and sidewalk construction; and
2. All phases of construction including, but not limited to, water lines, sanitary sewer lines, storm drainage, underground wiring and other required improvements.

**5-3.07 Inspection Procedures:** After notice is received as specified in Section 5-3.06, the official designated in that section may conduct an on-site inspection to determine that the work complies with the approved engineering plans and specifications. If, in the opinion of such official, such work does not comply with such final drawings, that official shall have authority to order that all such work shall be terminated until necessary steps are taken to correct any defects or deficiencies. Upon the correction of such defects or deficiencies, the subdivider shall again notify the official as provided in Section 5-3.06.

**5-3.08 Final Inspection:** Upon completion of all improvements within the areas covered by the final plat, the applicant shall notify the official designated in Section 5-3.06, who shall thereupon conduct a final inspection of all improvements installed. If such final inspection indicates that there are any defects or deficiencies in such improvements as installed from the final engineering plans and specifications, that official shall notify the applicant in writing of such defects, deficiencies, or deviations and the applicant shall, at his or her sole cost and expense, correct such defects or deviations within six months of the date of notification. When such defects, deficiencies or deviations have been corrected, the applicant shall notify the official that the improvements are ready for final re-inspection.

**5-3.09 Report to Planning Commission and Governing Body:** When a final inspection or reinspection indicates that all installed improvements contain no defects, deficiencies or deviations, the inspecting official shall, within 10 days of such final inspection, certify to the Planning Commission, the Governing Body and utilities that all improvements have been installed in conformance with the engineering plans and specifications accompanying the final plat.

**5-3.10 Acceptance of Improvements:** Upon the receipt by the Governing Body of the certificate of the official that all improvements have been installed in conformance with the approved engineering drawings, and with the requirements of these regulations, and all other applicable statutes, resolutions and regulations the Governing Body and/or such appropriate utility shall thereupon, by resolution or by letter, respectively, formally accept such improvements. The improvements shall become the property of the Governing Body or appropriate utility company involved.

## **Section 5-4. Streets**

**5-4.01 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 the City.



**5-4.02 Approval by Director of Public Works: Permits:** All public street plans and specifications shall be approved by and constructed under the supervision of the Director of Public Works or a delegated official. No grading or other construction shall take place within a public right-of-way until the construction plans have been approved by the Director of Public Works. A permit shall be issued by the Director of Public Works for the construction of all new public streets within the area designated on the final plat. No public street shall be accepted by the Director of Public Works for maintenance until it meets city standards adopted by the Governing Body.

**5-4.03 Street Signs:** Street signs shall be placed at those locations within the area to be subdivided as determined by the Zoning Administrator or a delegated official. The Zoning Administrator or a delegated official shall approve such street signs, the cost of which shall be incurred by the developer.

**5-4.04 Release of Surety:** Prior to the release of surety by the Governing Body, the Zoning Administrator or a delegated official shall confirm to said Governing Body that all street construction within the subdivision conforms to the standards and specifications of the City.

**5-4.05 Private Streets:** Private streets shall generally be discouraged in any subdivision, resubdivision, plat, replat, or lot split approved after the effective date of these regulations.

**5-4.06 Subdivision Entrance Structures:** Where one or more entrances or street structures, such as monuments, pillars, fences, walls, statuary or other decorative features are to be installed in a permanent fashion, the location, size and design shall be included on the street plans submitted to the City Engineer for approval. This submission shall also include a copy of the by-laws or other documentation of the Association which will have permanent responsibility for maintenance. Such by-laws or other documentation shall contain language which will, in the opinion of the City Attorney, assure proper maintenance of such associations.

**5-4.06 Street Lighting:** Street lighting shall be placed at those locations within the area to be subdivided as determined by the Zoning Administrator. Street lighting shall comply with standards adopted by the Governing Body.

## **Section 5-5. Water and Sanitary Sewer**

**5-5.01 Applicability:** The type of water supply and sanitary sewer utilized to serve the subdivision shall be subject to the requirement and standards administered by the City, County Health Department and the Kansas Department of Health and Environment..

**5-5.02 Water:** Before approval of a final plat, 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 an urban density subdivision with lots smaller 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.

**5-5.03 Septic Tanks:** Septic tanks are permitted on lots of three (3) acres or more provided it is not feasible to provide sewers to the lots, as determined by the City. Where septic tanks are allowed, they must be approved by the City and a septic tank permit issued by the same. No final plat shall be approved until evidence is presented to the Planning Commission by the Zoning Administrator that septic tank installation is feasible on each proposed lot in a subdivision.

**5-5.04 Community Sewage Facilities:** Community sewage collection and treatment facilities (including lagoons) and service connections shall be provided by the subdivider for any subdivision consisting of lots smaller than three (3) acres. Unless sanitary service to such a subdivision development is to be provided by the city, 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.

## **Section 5-6. Other Utilities**

**5-6.01. Installation of Utility Lines:** The subdivider shall be responsible for making the necessary arrangements with the appropriate utility companies for the installation of utility lines and appurtenances. All electric utilities shall be installed underground where deemed feasible by the City. A letter from the utility company, confirming that such installation has been completed, shall be caused 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.

**5-6.02 Buried Power and Communication Lines:** Electrical power, telephone, telegraph, and cable television lines shall be buried where the subdivision is approved after date of passage of these regulations. It shall not be interpreted that existing overhead systems will be required to be removed, replaced or duplicated, except that that developer may request a waiver from the Governing Body concerning the required underground installation of electric power. Such request for waiver shall be accompanied with a report from the responsible utility stating per lot cost differential between buried and overhead installations.

## **Section 5-7. Storm Drainage**

**5-7.01** The subdivider shall install culverts, storm sewers, rip-rap slopes, stabilized ditches and other improvements to adequately handle stormwater. All improvements shall comply with the minimum standards of the City as adopted by the Governing Body and shall be approved by the Zoning Administrator prior to construction.

## **Section 5-8. Sidewalks**

**5-8.01** Sidewalks may be required, as herein provided, upon the recommendation of the Planning Commission and the approval of the Governing Body. When required, the subdivider shall install sidewalks on both sides of the street in urban density subdivisions and on one (1) side in rural density subdivisions. All sidewalks shall conform to the standards and specifications of Marion as adopted by the Governing Body. Sidewalks shall be located in the platted street right-of-way, abutting the property line.

## **Section 5-9. Monuments**

**5-9.01 Permanent Monuments:** Permanent monuments shall be placed at all block corners, angle points, points of curve in streets and at intermediate points as required by the City prior to the final acceptance of the plat by the Governing Body. Said permanent monuments shall be 3/4-inch iron bars, three (3) feet long and shall be set with the top of the monument flush with existing ground lines.

## **Section 5-10. Open Space**

**5-10.01 Dedication or Reservation of Public Sites and Open Spaces:** In subdividing an existing plat, due consideration should be given by the subdivider to the dedication or reservation of suitable sites for schools, parks, playgrounds, or other public recreational areas or open spaces. As an alternative to such dedication or reservation, the Planning Commission may provide for the payment of a fee in lieu of dedication of land. Any areas so dedicated or reserved shall conform as nearly as possible to the recommendation of the Planning Commission in its Comprehensive Plan and to the recommendation of the Board of Education. All areas to be reserved for, or dedicated to, public use shall be indicated on the preliminary plat in order that it may be determined when and in what manner such areas will be dedicated to or acquired by the appropriate agency. A written statement from the Board of Education shall be submitted by the subdivider indicating whether or not a school site in the proposed subdivision is desired.

## **Section 5-11. Exceptions for Existing Improvements**

**5-11.01 Exceptions for Existing Improvements:** (1) Where the proposed subdivision is a resubdivision or concerns an area presently having any or all required improvements as previously set out, and where such improvements meet the requirements of this section and are in good condition as determined by the City Engineer, no further provision need be made by the applicant to duplicate such improvements. However, where such existing improvements do not meet said requirements, the improvements so that all final improvements will then meet said requirements.

(2) Where the proposed subdivision is a resubdivision or concerns an area presently abutting or containing any existing public street of less than the minimum required right-of-way width established by these regulations and Planning Commission policy, and the applicant for such proposed subdivision shall provide an additional roadway pavement meeting the minimum standards set by these regulations and the City Engineer. The Engineer shall determine what adjustment to make where the aforesaid widening merge with existing streets which are of smaller width at the boundary of such proposed subdivision. The Engineer may reduce the minimum roadway required by these regulations to match an existing roadway system if the extension of such roadway is already improved at each end of the roadway in the subdivision and the roadway in the subdivision to be reduced is two blocks or less in length. The City Engineer may also require lanes to be painted on such widened streets designating driving and parking areas. The foregoing provisions requiring the widening of pavement may be waived by the Planning Commission when the length of such pavement is less than one block.

## **SECTION**

### **6**

## **ADMINISTRATION**

### Sections:

- 6-1 Rule Exceptions
- 6-2 Appeals
- 6-3 Penalties for Violations; Actions for Enforcement
- 6-4 Filing Fees
- 6-5 Building Permits
- 6-6 Land Elevations

### **Section 6-1. Rule Exceptions**

**6-1.01** 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 exception from Section 5 (Required Improvements) of these Subdivision Regulations shall not be granted. A rule exception may be requested, on form provided, at the time of filing the preliminary or final plat. A rule exception may be approved by the Governing Body provided that, in its judgment, such action will not violate the public interest, unnecessarily burden the city or will annul the intent and purpose of these regulations. In recommending such exceptions, the Planning Commission shall find the following:

1. That there are special circumstances or conditions affecting the property.
2. That the exceptions are necessary for the reasonable and acceptable development of the property in question.
3. That the granting of the exceptions will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.

Such request for exception shall be approved or disapproved by the Governing Body after its consideration of the recommendation of the Planning Commission. The decision of the Governing Body shall be transmitted in writing to the applicant and the Planning Commission.

**6-1.02** Any appeal as to approval concerning improvement standards or engineering drawings in connection with required improvements shall be directed to the Governing Body.

## **Section 6-2. Appeals**

**6-2.01** Any decision of the Planning Commission on matters contained herein may be appealed to the Governing Body and the Governing Body may reverse or affirm such decision. In addition, any decision of the Zoning Administrator on matters pertaining herein to split lots may be appealed to the Governing Body and the Governing Body may reverse or affirm such decision. Any decision of the Building Official on matters pertaining to building permits may be appealed to the Board of Zoning Appeals, as provided for by the Marion Zoning Regulations.

## **Section 6-3. Penalties for Violations, Actions for Enforcement**

**6-3.01** 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 two hundred dollars (\$200.00) and/or six (6) months imprisonment for each offense. Each day's violation shall constitute a separate offense.

**6-3.02** The Governing Body, 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, and to abate nuisances maintained in violation thereof.

## **Section 6-4. Filing Fees**

**6-4.01** A filing fee shall be paid by all subdividers submitting preliminary plats for approval by the Planning Commission. Said fee shall be set by resolution of the Governing Body.

**6-4.02** The filing fee shall be paid to the Secretary of the Planning Commission through the Zoning Administrator at the time the preliminary plat is submitted. This fee shall apply to approval of the preliminary plat and final plat, provided that the final plat includes the same area to be subdivided as the preliminary plat. If the final plat is submitted in segments, then the filing fee shall apply to all submittals except the first.

**6-4.03** In addition to the above mentioned filing fee, the applicant shall deposit with the Zoning Administrator a fee for recording and filing of the plat when the final plat is submitted to the Planning Commission. The amount of such fee shall be determined by the Register of Deeds of Marion County, Kansas. The Zoning Administrator shall file the final plat.

## **Section 6-5. Building Permits**

**6-5.01** No building permit shall hereafter be issued by the Building Official for construction on any land subject to these Subdivision Regulations until:

1. An endorsed copy of the subdivision plat has been recorded in the office of the Register of Deeds of Marion County.
2. A recorded plat of the subdivision or an approved lot split is available for the Zoning Administrator's examination.

3. Required public improvements have been substantially completed to provide for adequate occupancy of the subdivision or for that part of the subdivision being developed.
4. There has been compliance with all of the provisions of these Subdivision Regulations, the conditions of plat approval, and all other applicable state laws and Marion regulations in effect at the time of the subdivision of said land.

**6-5.02 Lot Splits:** The Building Official shall not issue a building permit for any site which contains a division of a platted lot or an unplatted lot of record, unless such division has been approved in the manner provided by Section 3 (Lot Splits) of these Subdivision Regulations.

**6-5.03 Dwellings Per Lot:** Unless otherwise allowed by the City of Marion Zoning Regulations, the Building Official shall not issue more than one (1) building permit for a structure on each unplatted lot of record, each platted lot created as part of a subdivision, or each lot or tract created by a lot split.

**6-5.04 Administration:** Upon receipt of the building permit application and certification by the Zoning Administrator that the application is complete, the Zoning Administrator shall affix the date of acceptance on the application. The Building Official shall issue or refuse to issue the building permit within thirty (30) days after acceptance of the complete application. If disapproved, the applicant shall have the right to perfect an appeal to the Governing Body within thirty (30) days.

## **Section 6-6. Land Elevations**

**6-6.01** The Building Official may change land elevations designated on a preliminary plat, final plat, small subdivision plat, or lot split upon application of the subdivider, the Planning Commission, or the Zoning Administrator. Such decision of the Building Official may be appealed to the Governing Body and the Governing Body may reverse or affirm such decision.

## SECTION

### 7

## VACATIONS

Sections:

- 7-1 Review and Recommendations by the Planning Commission
- 7-2 Fees

### **Sections 7-1. Review and Recommendation by the Planning Commission**

**7-1.01 Application for Vacation:** Before any application for the vacation of any public right-of-way, street, alley, easement, plat, setback or access control shall be approved or recommended for approval by the Governing Body, the application shall be submitted to the Secretary of the Planning Commission for review and recommendation by the Planning Commission. Said recommendation shall include conditions which are appropriate to protect the best interests of the public, Governing Body and utilities.

The recommendation of the Planning Commission shall be submitted to the Governing Body for its action. No vacation shall be recommended for approval unless it is established that no private rights will be injured or endangered by such vacation and that the public will suffer no loss or inconvenience by such a vacation.

### **Section 7-2. Fees**

**7-1.02** An application for vacation shall be accompanied by such application fees as are set out by separate ordinance adopted by the Governing Body. A written receipt shall be issued to the person(s) making such a payment and records thereof shall be kept in such a manner as prescribed by law. No fee shall be required when said application is submitted by any department of the City, County, State or Federal government. No fee shall be refunded in the event of disapproval by the Governing Body.

## **SECTION**

### **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 impose 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, 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 the existing subdivision requirements of Marion in their entirety.

**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 Marion, Kansas," shall be in full force and effect from and after their passage and publication.

## **Section 8-5. Amendments**

**8-5.01 Amendment Procedure:** These Subdivision Regulations may be changed or amended in accordance with K.S.A. 12-749. Such changes or amendments may be adopted at any time after the Planning Commission has held at least one public hearing on the proposed change or amendment, public notice of which shall be given in the official city newspaper. Said public hearing shall be held not less than twenty (20) days after the last publication. No changes or amendments adopted by the Planning Commission shall become effective unless and until the same have been submitted to and approved by the Governing Body.

**8-5.02 Public Hearing:** The hearing shall be conducted and a record of the proceedings shall be preserved in such manner and according to such procedures as the Planning Commission may from time to time prescribe by rule. Any interested person or party may appear and be heard at the hearing.

**8-5.03 Action by the Planning Commission:** Upon the conclusion of the public hearing, the Planning Commission shall prepare and adopt its recommendations and by an affirmative vote of a majority of the entire membership adopt the same in the form of proposed subdivision regulations. The Planning Commission shall submit the same together with a record of the hearing to the Governing Body.

**8-5.04 Action by the Governing Body:** When the Planning Commission submits a recommendation of approval or disapproval of such amendment, the Governing Body may either: (1) Approve such recommendation by ordinance; (2) override the Planning Commission recommendations by a 2/3 majority vote; or (3) may return the same to the Planning Commission for further consideration, together with a statement specifying the basis for the Governing Body's failure to approve or disapprove. If the Governing Body returns the Planning Commission recommendations, the Planning Commission, after considering the same, may resubmit its original recommendations giving the reasons therefor or submit new and amended recommendations. Upon the receipt of such recommendations, the Governing Body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendations by ordinance, or it need take no further action thereon. If the Planning Commission fails to deliver its recommendations to the Governing Body following the Planning Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendations and proceed accordingly. The proposed subdivision regulations and any amendments thereto shall become effective upon publication of the adopting ordinance.