

# **SUBDIVISION REGULATIONS**

## **BUTLER COUNTY, KANSAS**

**APRIL 6, 1999**

*With Section 2 and Section 3 amendments*

*Adopted June 2002.*

*Section 2 Again amended*

*Adopted February 28, 2006*

*Article 3, Section 3 Amended June 28, 2010*

*Article 4, Section 3 and Article 5, Sections 2 and 4 Amended October 26,  
2011 By Resolution #11-33*

**AS RECOMMENDED FOR APPROVAL BY THE  
BUTLER COUNTY PLANNING COMMISSION TO THE  
BUTLER COUNTY BOARD OF COUNTY COMMISSIONERS**

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**By**

**Rod Compton, AICP – Planning & Development Director**

## TABLE OF CONTENTS

ARTICLE 1	TITLE/SECTIONS	PAGE
<b>1</b>	<b>General Provisions</b>	
	1-1 Title and Scope.....	1-1
	1-2 Purpose/Policy.....	1-1
	1-3 Authority .....	1-3
	1-4 Jurisdiction .....	1-4
	1-5 Applicability.....	1-7
	1-6 Interpretation and Construction.....	1-8
	1-7 Exemptions.....	1-8
	1-8 Vesting and Development Rights.....	1-9
	1-9 Saving Provision .....	1-10
	1-10 Accrued Rights and Liabilities .....	1-10
	1-11 Severability .....	1-11
	1-12 Effective Date.....	1-11
2.	Plat Filing Requirements	
	2-1 General .....	2-1
	2-2 Pre-application Conference and Sketch Plan .....	2-1
	2-3 Preliminary Plat.....	2-2
	2-4 Final Plat .....	2-5
	2-5 Concurrent Submission of Preliminary and Final Plats .....	2-10
	2-6 Small Subdivision Plat.....	2-10
3.	Lot Splits	
	3-1 Objective .....	3-1
	3-2 Authorization for Approval of Lot Splits; Application Procedure.....	3-1
	3-3 Approval Guidelines .....	3-2
	3-4 Staff Review and Action .....	3-5
4.	Subdivision Design Standards	
	4-1 Applicability .....	4-1
	4-2 Land in Floodplain District .....	4-1
	4-3 Street Standards.....	4-2
	4-4 Block Standards .....	4-4
	4-5 Lot Standards .....	4-5
	4-6 Easements.....	4-6
	4-7 Drainage .....	4-7
5.	Required Improvements	

	5-1 Applicability.....	5-1
	5-2 Guarantee of Installation .....	5-1
	5-3 Improvement Procedures.....	5-3
	5-4 Streets.....	5-4
	5-5 Water and Sanitary Sewer .....	5-5
	5-6 Other Utilities.....	5-6
	5-7 Storm Drainage .....	5-6
	5-8 Sidewalks .....	5-8
	5-9 Monuments.....	5-8
	5-10 Open Space .....	5-8
	5-11 Exceptions for Existing Improvements.....	5-8
1	Administration	
	6-1 Rule Exceptions .....	6-1
	6-2 Appeals.....	6-2
	6-3 Penalties for Violations; Actions for Enforcement .....	6-2
	6-4 Filing Fees.....	6-2
	6-5 Building Permits .....	6-3
	6-6 Land Elevations.....	6-3
6.	Vacations	
	7-1 Review and Recommendation by the Planning Commission .	7-1
	7-2 Fees .....	7-1
7.	Miscellaneous	
	8-1 Validity .....	8-1
	8-2 Repeal of Existing Regulations and Accrued Rights and Liabilities.....	8-1
	8-3 Effective Date.....	8-1
	8-4 Amendments .....	8-2
8.	Definitions	
	9-1 Interpretation and Construction .....	9-1
	9-2 Definitions.....	9-2



# ARTICLE 1

## GENERAL PROVISIONS

### Sections:

- 1-1 Title and Scope
- 1-2 Purpose / Policy
- 1-3 Authority
- 1-4 Jurisdiction
- 1-5 Applicability
- 1-6 Interpretation and Construction
- 1-7 Exemptions
- 1-8 Vesting of Development Rights
- 1-9 Saving Provision
- 1-10 Accrued Rights and Liabilities
- 1-11 Severability
- 1-12 Effective Date

### SECTION 1-1 TITLE AND SCOPE

**1-101.** These regulations, entitled the Butler County Subdivision Regulations, prescribe minimum design requirements and approval procedures for the development of new subdivisions and re-subdivisions of land in those portions of unincorporated Butler County, Kansas, as set forth in Section 1-401.

### SECTION 1-2 PURPOSE/POLICY

**1-201.** The division and improvement of land for urban or nonagricultural development has a significant and lasting impact upon the physical environment of Butler County, Kansas, and it places increasing demands upon public facilities and services. The creation of new streets, lots and utility systems requires significant public and private capital investments. Failure to properly size and construct adequate sewers and streets, ensure available water supplies, manage storm water runoff and erosion, and plan for public services results in physical and environmental problems which are difficult and costly to resolve.

These regulations set forth uniform rules and procedures for the division and improvement of real property to assure that new subdivisions are properly planned and integrated with existing streets, utilities and other public facilities systems; to prevent potential environmental hazards; and to coordinate the use of private and public resources to achieve planned and orderly land development

Revised 10/26/2011

through proper location and design of streets, building lines, open spaces, and utilities; and to establish standards by which streets, utilities and other physical improvements shall be erected, constructed or installed.

It is hereby declared to be the policy of the County to consider the subdivision of land and the subsequent development of subdivided tracts as subject to the control of the Board for the orderly, planned, economic and efficient development of the County. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace, a land shall not be subdivided until available public facilities and improvements exist and proper provision has been made for drainage, water, sewage, and capital improvements. These regulations are adopted for the following purposes:

- (a) To protect and provide for the public health safety, and general welfare of the County;
- (b) To guide the future growth and development of the County in accordance with the Comprehensive Plan and Growth Policies;
- (c) To provide for adequate light, air, and privacy to secure safety from fire, flood and other danger, and to prevent overcrowding of the land and undue congestion of population;
- (d) To insure that each subdivision lot provides a building site safe from damage by the one hundred year flood, where the one hundred year flood lines have been designated by the County Board or from damage by the regulatory flood, where the regulatory flood elevation has been designated by the Federal Insurance Administrator;
- (e) To coordinate the development of each parcel of land with the existing community and to facilitate the proper development of adjoining land;
- (f) To protect the character and the social and economic stability of all parts of the County and to encourage the orderly and beneficial development of all parts of the County as guided by the Comprehensive Plan;
- (g) To provide for the consideration of the effect of zoning and subdivision on the value of land throughout the County and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings to encourage the most appropriate use of each parcel of land through the application of urban and suburban design principles;
- (h) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewage, schools, parks, playgrounds, recreation, and other public requirements and facilities for the proposed subdivision and the community;

Revised 10/26/2011

- (i) To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the County, having particular regard to the avoidance of congestion in the streets and highways, and the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets and building lines.;
- (j) To establish reasonable standards of design and procedures for subdivisions and resubdivisions to provide adequate and accurate records of all land subdivision; and to insure proper legal descriptions and monumenting of subdivided land;
- (k) To prevent the pollution of air, streams and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and management of natural resources and features throughout the County in order to preserve the integrity, stability, and beauty of the community and the value of the land through appropriate development practices;
- (l) To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of land as established in the Zoning Regulations of the County; and
- (m) To provide that the cost of improvements which primarily benefit the tract of land being developed be borne by the owners or developers of the tract, and that the cost of improvements which primarily benefit the whole community be shared by the developer and the community.
- (n) To ensure land is subdivided only when subdivision is necessary to provide for uses of land for which market demand exists and which are in the public interest.
- (o) To remedy the problems associated with inappropriately subdivided lands, including premature subdivision, excess subdivision, partial or incomplete subdivision.

### **SECTION 1-3      AUTHORITY**

**1-301.** These Subdivision Regulations and minimum standards for land development are adopted by the Planning Commission and approved by the Board of County Commissioners under powers conferred by K.S.A. 12-749 and K.S.A. 19-101 et seq.

Revised 10/26/2011

## **SECTION 1-4 JURISDICTION**

**1-401.** These Regulations shall apply to all the unincorporated land in Butler County, except for the areas described below around specified cities for no more than three (3) miles from the city limits; provided, that the city shall 1) have adopted Subdivision Regulations for the city for an extraterritorial area around the city not exceeding the limits of the description below; 2) has officially adopted a Comprehensive Plan for the city and the surrounding area in accordance with state statutes; and 3) agrees to submit a copy of all preliminary and final plats in the unincorporated area to the Butler County Planning Commission for purposes of review and comment before approval of the final plat by the City Planning Commission.

The following descriptions shall be the limits of extraterritorial Subdivision Regulations authority for each of the designated cities provided said city shall have met the requirements set forth in this section:

### **City of Andover**

All of the following Sections, except the City of Andover in Township 26S, Range 3E: South of the centerline of Dry Creek in Sections 31, 32 and 33. In Township 27S, Range 3E: 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, and 34. In Township 28S, Range 3E: All of Sections 3, 4, 5, and 6, and the N1/2 of Sections 7, 8, 9, and 10.

### **City of Augusta**

R4E of the 6th Principle Meridian, said point shall be known as the place of beginning; thence east to the center of Section 11; thence north to the north 1/4 corner of said Section 11; thence east along the section lines to the southeast corner of Section 1, T28S, R4E; thence north along the east section line to the northeast corner of said Section 1, which is the southwest corner of Section 31, T27S, R5E; thence east along the south section line to the south 1/4 corner of said Section 31; thence north along the 1/2-section line to the north 1/4 corner of said Section 31; thence east along the south line of Section 30 to the southeast corner of said Section 30; thence north to the east 1/4 corner of said Section 30; thence east along the 1/4 section line to the center of Section 29, T27S, R5E; thence north along the 1/4 section line to the center of Section 29, T27S, R5E; thence north along the 1/4 southeast corner of Section 31, T26S, R5E; thence north to the east 1/4 corner of said Section 31; thence west to the center of said Section 31; thence north to the north 1/4 corner of Section 31; thence west 1/2 mile to the southeast corner of Section 25, T26S, R4E; thence north to the east 1/4 corner of Section 25; thence west along the 1/2 section line to the west 1/4 corner of said Section 25; thence north to the northeast corner of the S 1/2 of the N 1/2 of Section 26, T26S, R4E; thence west to the northwest corner of the S1/2 of the N1/2 of Section 27, T26S, R4E; thence south to the west 1/4 corner of said 1/4 corner of Section 28; thence west to the south 1/4 corner of Section 29; thence south to the south 1/4 corner of Section 32; thence west to the southwest corner of said Section 32, T26S, R4E; thence south to the northeast corner of Section 7, T27S, R4E; thence west to the north 1/4 corner of said Section 7; thence south to the south 1/4 corner of said Section 7; thence west to the southwest corner of said Section 76; thence south three miles to the northwest corner of Section 31,

Revised 10/26/2011



T27S, R4E; thence east to the north 1/4 corner of said Section 31; thence south to the north 1/4 corner of Section 6, T28S, R4E; thence east to the northeast corner of said Section 6; thence south to the east 1/4 corner of Section 6; thence east to the east 1/4 corner of section 5; thence south to the southeast corner of Section 10; thence east to the place of beginning.

### **City of Benton**

All of the following area, except for the City of Benton, in Township 25S, Range 3E: Sections 31, 32, 33, 34, and 35. In Township 26S, Range 3E: Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30,34 and 35 plus the area in Sections 31, 32 and 33 north of the centerline of Dry Creek.

### **City of Douglass**

All of the following area, except the City of Douglass, in Township 29S, Range 4E: Section 21; the east 3/4 of Section 20; the southeast 1/4 and the east 1/2 of the southwest 1/4 of Section 17; the south 1/2 of Section 16; plus 200 feet of all sides of the above described area which forms a complete rectangle.

**City of El Dorado**

All of the Sections and portions of Sections, except the City of El Dorado, as follows:

<b>T25S R4E</b>	<b>T25S R6E</b>	<b>T26S R5E</b>	<b>T26S R6E</b>
SE 1/4; SE 1/4; Sec. 24	S1/2; SW1/4; Sec. 7	Sec. 1 to 17	W1/2; Sec. 4
E1/2; NE1/4; Sec. 25	NW1/4; SW1/4; Sec. 7	inclusive	W1/2; E1/2; Sec. 4
SE1/4; Sec. 25	S1/2; NE1/4; SW1/4; Sec. 7	N1/2; NW1/4; Sec.18	Sec. 5 to 8
E1/2; Sec. 36	SW1/4; SE1/4; Sec. 7	SE1/4; NW1/4; Sec. 18	W1/2; Sec. 9
	SW1/4; Sec. 17	E1/2; Sec. 18	W1/2; Sec. 9
<b>T25S R5E</b>	SW1/4; NW1/4; Sec. 17	NE1/4; NE1/4; Sec. 19	W1/2; NE1/4; Sec. 9
S1/2; SW1/4; Sec. 10	SW1/4; SE1/4; Sec. 17	N1/2; NW1/4; Sec. 20	NE1/4; NW1/4; Sec. 16
SE1/4; Sec. 10	Sec. 18 to 20	SE1/4; NW1/4; Sec. 20	W1/2; NW1/4; Sec. 16
S1/2; NW1/4; Sec. 11	inclusive	NE1/4; Sec. 20	N1/2; Sec. 17
S1/2; NE1/4; Sec. 11	W1/2; NW1/4; Sec. 21	NW1/4; SE1/4; Sec. 20	SW1/4; Sec. 17
S1/2; Sec. 11	NW1/4; SW1/4; Sec. 21	E1/2/ SE1/4; Sec. 20	W1/2; SE1/4; Sec. 17
S1/2; N1/2; Sec. 12	S1/2; SW1/4; Sec. 21	Sec. 21 to 24	NE1/4; SE1/4; Sec. 17
S1/2; Sec. 12	W1/2; Sec. 28	inclusive	Sec. 18
Sec. 13 to 16	Sec. 29 to 32	N1/2; Sec. 25	N1/2; Sec. 19
inclusive	N1/2; SW1/4; Sec. 25	SW1/4; Sec. 19	NW1/4; SE1/4; Sec. 19
S1/2; Sec. 17	W1/2; Sec. 33	N1/2; Sec. 26	N1/2; NW 1/4; Sec. 20
NE1/4; Sec. 17		N1/2; S1/2; Sec. 26	NW1/4; NW1/4; Sec. 30
S1/2; NW1/4; Sec. 17	<b>T26S R4E</b>	N1/2; SE1/4; Sec. 27	
SE1/4; Sec. 18	E1/2; Sec. 1	N1/2; Sec. 27	
SE1/4; SW1/4; Sec. 18	E1/2; NE1/4; Sec. 12	SE1/4; NE1/4; Sec. 28	
S1/2; Sec. 19	NE1/4; SE1/4; Sec. 12	N1/2; NE1/4; Sec. 28	
NE1/4; Sec. 19		NE1/4; NW 1/4; Sec. 28	
S1/2; NW1/4' Sec. 19			
NE1/4; NW1/4; Sec. 19			

Revised 10/26/2011

Sec. 20 to 36			
inclusive			

**City of Potwin**

All of the following area, except the City of Potwin, in Township 24S, Range 4E: Section 29; the est 1/4 of Section 30; the south 1,160 feet of Section 20; the south 1,160 feet of the east 1/2 of the southeast 1/4 of Section 19; plus 200 feet on the east and south sides and 350 feet on the west side of the above described area which forms a complete rectangle.

**City of Rose Hill**

All of the following area, except the City of Rose Hill, in Township 28S, Range 3E: the south 1/2 of Section 7, 8, and 9, and all of Sections 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, and 33; and in Township 29S, Range 3E: all of Sections 4, 5, and 6; plus 300 feet on the he east and south sides of the above described area which forms a complete rectangle.

**City of Towanda**

All of the following area except in the City of Towanda, in Township 26S, Range 4 E: Sections 8, 9, 16, and 17; the west 1/2 of Sections 10 and 15; the east 1/2 of Sections 7 and 18; plus 400 feet on the north, west and south sides of the above described area which forms a complete rectangle.

**City of Whitewater**

All of the following area, except the City of Whitewater, in Township 24S, Range 3E: Section 18; the north 1/2 of Section 19; the northwest 1/4 of Section 20; the west 1/2 of Section 17; the southwest 1/4 of Section 8; and the south 1/2 of Section 7; plus 300 feet on the north east and south sides of the above described area which forms a complete rectangle.

**SECTION 1-5      APPLICABILITY.....**

**1-501.**These Regulations shall apply to any person desiring to do any of the following:

1.      Subdivide or further subdivide any lot, tract or parcel of land into two or more parts.
2.      Resubdivide any lot, tract or parcel of land that has previously been subdivided into two or more parts.

3. Establish any street, alley, sidewalk, park or other property intended for public use or for the use of prospective or existing owners of lots, tracts or parcels of land fronting on or adjacent to such property.

The owner(s) of any land located within Butler County, Kansas, subdividing said land in a manner previously cited shall cause to be prepared a subdivision plat in accordance with the provisions of these Regulations. No building or zoning permit shall hereafter be issued by Butler County, Kansas, for construction on any land that has not been subdivided in compliance with these Regulations and all other applicable state laws and Butler County Regulations in effect at the time of the subdivision of said land.

## **SECTION 1-6        INTERPRETATION AND CONSTRUCTION**

**1-601.** Where the requirements of these regulations impose restrictions that differ from those requirements imposed by any other provision of these regulations or any other statute, regulation, or other provision of law; the provision which imposes the higher or more restrictive standard shall apply.

The provisions of these 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 of regulations than such easement, covenant, or other private agreement, the requirements of these regulations shall govern.

A subdivision of the land which was not lawfully existing at the time of the adoption of these regulations shall not become or be made lawful solely by reason of the adoption of these regulations.

The provision of these regulations are additional limitations upon all other laws and resolutions heretofore passed or which may be passed hereafter governing any subject matter set forth in the provisions of these regulations.

## **SECTION 1-7        EXEMPTIONS**

**1-701.** The following specific transactions shall be exempt from compliance with the provisions of these Subdivision Regulations.

1.     Boundary adjustments between one or more contiguous lots, tracts, or parcels of land, which will not create any additional lots, tracts or parcels, shall not be subject to the subdivision platting, or replatting requirements of these regulations. However, such boundary line adjustments shall comply with requirements of Article 4 of these regulations.
2.     A conveyance of land, or interest therein, for use as right-of-way by railroad or other public utilities subject to state or federal regulations where no new street or easement of access is created.
3.     A conveyance made to correct a bearing or distance description in a previously recorded conveyance. Any transfer by operation of law.
4.     The subdividing of land used exclusively for cemetery purposes and accessory uses associated therewith.

Revised 10/26/2011

5. 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 regulations. For purposes of these regulations, “legally subdivided, resubdivided, platted or replatted” shall include any certificate of survey submitted and recorded, as provided by these requirements, prior to the effective date of these regulations.
6. The division or further division of land into tracts of forty (40) acres or more when subdivided only for agricultural use and when such division does not involve or result in the creation of new streets, easements of access, or other dedication.
7. The division of a lot, tract or parcel of land that existed prior to the effective date of these regulations where no more than one (1) additional lot, tract or parcel is created, provided, however, that the creation of said additional lot, tract or parcel shall comply with the provisions for lot splits set forth in Article 3 of these regulations. Any further division of the lot, tract or parcel, including any remainder parcel or tract, shall be platted in conformance with the requirements of these regulations.
9. The division of a platted lot used for industrial purposes only, as required by state law.

## **SECTION 1-8 VESTING OF DEVELOPMENT RIGHTS**

**1-801.** In conformance with the provisions of K.S.A. 12-764, and any subsequent amendments, the following shall apply:

1. The rights of landowners of properties platted or subdivided for RR, PRD-B, PRD-A or R development in conformance with the definition of said terms in the Butler County Zoning Regulations shall be protected for use of said land for the intended residential purposes for a period of five (5) years from the time in which such property was first platted or subdivided, provided:
  - a. Verifiable evidence is presented showing the date in which said plat or subdivision of land was first created. Acceptable evidence shall be: signed and sealed certificates or plats of survey from a Registered Land Surveyor showing the several lots proposed to be created, either dated or dated and recorded with the Register of Deeds; recorded Restrictive or Protective Covenants for the development; recorded deeds conveying land; or recorded Affidavits of Equitable Interest on contracts for deed for said tracts of land.

Revised 10/26/2011

b. Within said five (5) year period actual sales occur resulting in separate owners on the tracts of land.

c. The division of land was legally done in conformance with the then Butler County Subdivision Regulations.

2. Except for lots in a recorded plat, any remaining contiguous tracts of land within the area divided under this rule held in common ownership at the conclusion of said five (5) year period shall be considered an unplatted lot, as defined in these regulations, and subsequent divisions of said lot shall be in conformance with the Subdivision Regulations then in effect.
3. Properties divided or platted for any use other than agricultural or residential purposes shall not be permitted to develop or further develop except in conformance with these Regulations and the Butler County Zoning Regulations. Persons who obtain a validly issued permit under the previous Butler County Zoning Regulations shall be permitted to develop the property so long as the permit issued under the previous Butler County Zoning Regulations does not expire. Failure to start construction under said permit before the expiration of the permit shall not protect the owner from the provisions of these regulations or the Butler County Zoning Regulations then in effect.

## **SECTION 1-9      SAVING PROVISION**

**1-901.** These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, corporation, or as waiving any right of the municipality under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation by lawful action of the municipality except as shall be expressly provided for in these regulations.





## **SECTION 1-10 ACCRUED RIGHTS AND LIABILITIES**

**1-1001.** The repeal of regulations provided for herein, shall not affect any rights accrued, fines, penalties, forfeitures, or liabilities incurred thereunder, or actions involving any of the provisions of said regulations or parts thereof. Said regulations repealed are hereby continued in force and effect, after the passage, approval and publication of these regulations, for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions therefore.

## **SECTION 1-11 SEVERABILITY**

**1-1101.** If any section, paragraph, subdivision, clause, phrase, or provision of these regulations shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of these regulations as a whole or any part or provision thereof, other than the part so declared to be invalid or unconstitutional. All regulations or parts of regulations in conflict herewith are hereby repealed.

## **SECTION 1-12 EFFECTIVE DATE**

**1-1201.** These regulations, being designated as the "Subdivision Regulations of Butler County, Kansas", shall be in force and effect from and after passage and publication in accordance with State law.

## SECTION

### 2

## PLAT FILING REQUIREMENTS

### Sections:

**2-1 General Procedure**

**2-2 Pre-application 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

**2-101.** All preliminary and final plats of subdivisions within the area of Butler County shall be submitted to the Planning Commission for its approval, consistent with the provisions of these regulations.

**2-102.** The Zoning Administrator shall have the authority to certify a preliminary plat, final plat, or small subdivision plat application as complete or incomplete. If a plat application is certified as complete, the administrator shall place the application on the Planning Commission's agenda for consideration. If a plat application is certified as incomplete, the administrator shall return the application to the applicant with a written explanation of the determination. The applicant may resubmit the application within 6 months with all requirements of the zoning administrator included without paying another filing fee or may appeal the administrator's determination to the Board of Zoning Appeals. If the application is not resubmitted within 6 months (time of appeal, if applicable, is included) the applicant must reapply and pay another filing fee.

### SECTION 2-2 PREAPPLICATION CONFERENCE AND SKETCH PLAN

**2-201.** Before filing a preliminary plat, the applicant shall consult with the Zoning Administrator for advice regarding general requirements affecting the proposed development. The applicant 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, zoning requirements for the site and adjacent properties and proposed uses.

2. A sketch of the proposed subdivision on a topographic survey map showing proposed streets, lots, and other features.
3. A general location map showing the relationship of the proposed subdivision to existing utilities, major streets, and community facilities and to surrounding developed and undeveloped land.

**2-202.** The Zoning Administrator shall be available to assist the applicant in complying with the requirements pertaining to the proposed subdivision as such requirements are established by these Subdivision Regulations. The pre-application procedure does not require formal application, fee, or filing of a plat with the Planning Commission.

### **SECTION 2-3 PRELIMINARY PLAT**

**2-301. 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 area encompassed by the preliminary plat shall be all the property owned or controlled by the subdivider or the subdivider's agent which can be reasonably expected to be developed in the foreseeable future. The Planning Commission shall satisfy itself that the plat's proposed street pattern and land use for the entire area will conform to the Butler County Comprehensive Plan, as well as with the Butler County's Zoning Regulations regarding lot size and permitted use. The preliminary plat shall also conform to other County codes, regulations, and standards.

**2-302. Contents of Preliminary Plat:** After completion of the preapplication procedure, the applicant may submit to the Planning Commission an application and 10 copies of a preliminary plat and vicinity maps. Such materials shall be submitted to the Planning Commission at least 15 days prior to the regular meeting of the Planning Commission. The appropriate fee shall be paid upon filing the preliminary plat application in accordance with the provisions of Section 6-4 of these regulations. 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 owner and land surveyor. Such subdivision name shall not duplicate the name of any plat heretofore filed in Butler County, Kansas.
3. Show date of preparation, north point, and scale of drawing.
4. Indicate applicable zoning districts for the property and all adjoining property.

5. Show location of property and boundary lines, location, width and names of platted streets or other public ways, railroads and utility rights-of-way, parks and other public open spaces and permanent buildings within or adjacent to the proposed subdivision.
6. Show all existing sewer, water mains, gas mains, culverts or other underground installations, within or adjacent to the proposed subdivision, with pipe size and manholes, grades and location.
7. Show names of adjacent subdivisions together with arrangement of streets and lots, and owners of adjacent parcels of un-subdivided land.
8. Show location of watercourses, bridges, wooded areas, lakes, ravines and such other features as may be pertinent to the subdivision.

Show topography with contours at intervals of two feet and unique topographic features, lakes, and tree masses.

10. Show land within the boundaries of the 100-year floodplain as identified on the Federal Insurance Administration's "Flood Hazard Boundary Maps" for the territory of Butler County, Kansas.
11. Be accompanied by a general location map or a copy of the general location map furnished at the pre-application procedure.
12. 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.
13. Show blocks and lots, showing approximate dimensions and proposed numbers including lot lines and setbacks.
14. Show proposed utility system for sanitary waste, water, electricity and/or natural gas.
15. Show location of proposed culverts, storm sewers, and drainage system.
16. Show proposed easements, dedications and reservations.
17. Show sites to be designated for purposes other than single-family residential including location and size of proposed parks, playgrounds, churches, school sites or other special uses of land to be considered for reservation or dedication for public use.

18. Provide general layout of adjacent un-subdivided property to show how streets and other public facilities in the proposed subdivision relate to the un-subdivided property.

19. 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.

**2-303. Notification of Surrounding Property Owners:** At least 10 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 within 1,000 feet of the subdivision land and/or all abutting property owners by return mail 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. Said notification shall include the time and place of said public hearing.

**2-304. 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.
3. Prepare a staff report to the Planning Commission recommending approval, conditional approval, or denial of the preliminary plat.

**2-305. Planning Board Review and Actions:** The Planning Commission shall conduct a public hearing on the preliminary plat to determine if the same conforms to the provisions of these Subdivision Regulations, and the Planning Commission shall act upon the preliminary plat within 60 days after submission, 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 membership, regardless of the number of Planning Commission members present and voting at the hearing. If such determination is not made within 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 applicant has requested or consented to an extension or waiver of the time limitation.

**2-306. Effect of Preliminary Plat Approval:** Approval of the preliminary plat shall not constitute acceptance of the subdivision by Butler County but authorizes preparation of the final plat. No grading or improvements shall take place in the subdivision prior to approval and endorsement of the final plat by the Planning Commission, acceptance by the County Board of land dedicated for public purposes, and the submittal to and approval of the final plat by the County Board. The

applicant shall file a final plat application along with the required documents described in Section 2-403 within one year of the approval of the preliminary plat by the Planning Commission. Upon failure to do so within the time specified, approval of the preliminary plat is null and void, unless an extension of time, limited to six months, is applied for by the subdivider and granted by the Planning Commission. An extension shall be granted only once.

## **SECTION 2-4 FINAL PLAT**

**2-401. Preparation:** After the preliminary plat has been approved, a final plat for record shall be prepared and submitted to the Planning Commission for final approval. A final plat shall be prepared by a land surveyor licensed in the State of Kansas. The final plat may encompass all or a portion of the area encompassed by the preliminary plat. The final platting process is intended to provide a complete surveyed drawing of the subdivision for the purpose of providing a legal record of lots, streets, areas for dedication and easements for future reference and transactions.

**2-402. 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.

**2-403. Contents of Final Plat:** The applicant shall submit to the Secretary of the Planning Commission a final plat application; two original drawings on mylar or other permanent reproducible material; and 10 copies thereof, to be made by a licensed land surveyor. Such submission shall be made at least 15 days prior to the Planning Commission's public meeting. The appropriate fee shall be paid upon filing the final plat application. All drawings and signatures of certification shall be in waterproof ink. The final plat shall be drawn at a scale of at least 1" = 100' or larger. The size of the sheet on which such final plat is prepared shall be 22 or 24 inches by 36 inches. Each sheet shall have a 1 ½" binding edge along the left-hand side. 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. The dimensions indicated are standard for all final plats and must be complied 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 the County unless it is an addition to and contiguous to the same.
3. Graphic scale and North point.

4. A legal description of the proposed subdivision.
5. A map of the proposed subdivision which shall contain sufficient information and engineering data to locate any line on the ground. Such map shall show the following:
  - a. Location of section, township, range, county and state, including the descriptive boundaries of the subdivision based on an accurate traverse, giving angular and linear dimensions which must be mathematically correct. The allowable error of closing on any portion of the plat shall be one foot in 5,000.
  - b. The location of existing monuments or bench marks shall be shown and described on the final plat. Location of such monuments shall be shown in reference to existing official monuments or the nearest established street lines, including the true angles and distances to such reference points or monuments.
  - c. Space for approval of the final plat by the Planning Commission and space for acceptance by the County Board of the final plat, including land dedicated for public purposes.
  - d. The following certificates:
    - (1) Certification by the licensed land surveyor responsible for the survey and final plat certifying to the accuracy of the survey and plat, and certifying that all permanent monuments as required have been set.
    - (2) Certification signed and acknowledged by all parties holding title or having any title interest in the land subdivided and consenting to the preparation and recording of the plat as submitted including the dedication of any property for public use and the preservation of any property for private use. Also, certification by the subdivider, if different than said parties, that the plat is a true representation of the proposed subdivision.
    - (3) Certification by the County Treasurer of Butler County, Kansas that there are no unpaid taxes, special assessments or tax liens outstanding against the property.
    - (4) The acknowledgment of a notary in the following form:

.....State of \_\_\_\_\_, County of \_\_\_\_\_, SS.

Be it remembered that on this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, a notary public in and for said County and State, came \_\_\_\_\_, to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of same. In testimony whereof, I have hereunto set my hand and affixed my notary seal the day and year above written.

(SEAL).....  
.....Notary Public

(5)The certificate of the Planning Commission in the following form:

This plat of \_\_\_\_\_ Addition has been submitted to and approved by the Planning Commission of Butler County, Kansas this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

\_\_\_\_\_  
Secretary

(6)The acceptance by the Butler County Governing Body, in the following form:

The easements, rights-of-way and other public dedications accepted by the Governing Body of the Butler County, Kansas, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

ATTEST:\_\_\_\_\_  
County Clerk

(7) The certificate of a review surveyor in the following form:

Reviewed in accordance with K.S.A. 58-2005 on this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_



\_\_\_\_\_ R.L.S. # \_\_\_\_\_  
Appointed Land Surveyor, Butler County, Kansas

(9)The certificate of the Register of Deeds in the following form:

State of \_\_\_\_\_, County of \_\_\_\_\_, SS.

This is to certify that this instrument was filed for record in  
the Register of Deeds office on the \_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_\_, in Book \_\_\_\_\_ Page \_\_\_\_\_.

\_\_\_\_\_  
Register of Deeds ..... Deputy

- e. The following additional data and documents shall be submitted with the final plat:

A properly executed written agreement by the applicant to undertake and complete, to the satisfaction of the County, all public improvements required as a condition for approval of the plat. The agreement shall also set out the time limit for the completion of the specified work, the amount of bond or other acceptable surety to be posted as security for satisfactory completion of the work, and the right of the County, in the event the required work is not completed in a proper and timely manner, to perform or complete the work and recover the actual cost thereof from the developer or the applicant's sureties. The applicant's agreement for public improvements will set out the public improvements required and also set out or incorporate by appropriate references, the plans and specifications for said improvements. The applicant's agreement and bond for required public improvements shall be reviewed and approved as to the form and content by the Zoning Administrator and the County Attorney. The Governing Body may defer the submission of the written agreement until after the final plat has been approved.

6. The final plat shall designate the name or names by which the proposed roads 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 if the Planning Commission believes such action is necessary.

**2-404. 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. Prepare a staff report to the Planning Commission recommending approval, conditional approval, or denial to the final plat.

**2-405. Planning Commission Review and Actions:** The Planning Commission shall approve or disapprove the final plat within 60 days from the submission of such plat. 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. If the final plat is disapproved, the applicant shall be notified in writing of the reasons for such disapproval. If the Planning Commission fails to approve or disapprove a preliminary plat within the 60 day period, then the final plat shall be deemed approved and such approval endorsed on the plat by the Chairperson of the Planning Commission, unless the applicant shall have requested or consented to such time limitation. If the final plat is approved, the Chairperson of the Planning Commission shall date and endorse the original.

**2-406. Acceptance of Dedications:** A final plat that has been approved by the Planning Commission shall be submitted to the County Board for its approval and for acceptance of the dedication of streets and other public ways, service, and utility easements and any land dedicated for public purposes. The County Board shall approve or disapprove the plat and accept or refuse the dedication within 30 days after its first meeting following the date of the submission of the final plat to the Butler County Clerk. The County Board may defer action for an additional 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 County Board defers or refuses such dedication, the County Board shall advise the Planning Commission of the reasons for such deferral or refusal. Failure of the County Board 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 Butler County Register of Deeds, said plat shall include a certificate of the County Board that all dedications, if any, are accepted by the County Board.

**2-407. Filing of Plat:** The original of any final plat shall be filed with the Butler 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 County Board and certification thereon.
3. Certification by the County Treasurer of Butler County, Kansas that there are no unpaid taxes, special assessments or tax liens outstanding against the property.
4. Acceptance of financial guarantees for public improvements.
5. Approval of engineering drawings, as required by these regulations.

**2-408. 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 years of filing with the Butler County Register of Deeds, said final plat shall be null and void. The Planning Commission may, at the request of the party who applied for the plat, grant an extension for the validity of the final plat for up to 3 years. The nullification and voiding of a plat by operation of this section shall not affect the validity of any accepted dedication of property for rights-of-way or other public purposes.

## **SECTION 2-5 CONCURRENT SUBMISSION OF PRELIMINARY AND FINAL PLATS**

**2-501.** Nothing contained in Sections 2-3 and 2-4 shall be construed to prohibit the concurrent submission of preliminary and final plats, so long as such submissions contain all the information and follow all the procedures that would otherwise be required by these Subdivision Regulations, if such preliminary and final plats were submitted separately. A public hearing shall be held as required by Section 2-305 of these Subdivision Regulations.

**2-502.** When an applicant submits the preliminary and final plats concurrently, the Planning Commission shall act upon such submittal within 60 days after submission, stating its approval, conditional approval (stating conditions), or disapproval (stating reasons). If such determination is not made within 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 applicant has requested or consented to an extension or waiver of the time limitation.

## **SECTION 2-6 SMALL SUBDIVISION PLAT**

**2-601.** Whenever a subdivision or re-subdivision consists of only one, two or three, lots, the Zoning Administrator may waive the requirements for submission of pre-application plans and data and the preliminary plat. Such waiver shall permit the applicant 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 30 days prior to the regularly scheduled Planning Commission meeting at which approval is sought.
3. Be subject to the notification requirements of Section 2-303 and the Planning Commission public hearing requirements of Section 2-305.
4. Contain the required information for final plats as outlined in Section 2-4.
5. Be accompanied by the filing fee required by these Subdivision Regulations.
6. Be acted upon by the Planning Commission within 60 days after submission, stating its approval, conditional approval (stating conditions), or disapproval (stating reasons). If such determination is not made within 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 applicant has requested or consented to an extension or waiver of the time limitation.

**2-602** The approval of small subdivision final plats shall be subject to the provisions of Section 2-4 except the submission to the County Board shall not be required if there is no need for dedication of streets, or rights-of-way or other public property, or easements in whole or in part.

**2-603** A series of two lot, or three lot subdivisions which create a unified subdivision shall not constitute a small subdivision within the meaning of this Article.

**2-604** Plats of Land Zoned Rural Residential. All land zoned Rural Residential shall comply with the following requirement when platting is undertaken, in addition to other platting requirements in these regulations: For a period of 18 months following the recording of the final plat for lots which comprise less than the entirety of contiguous property owned or controlled by the subdivider and also zoned Rural Residential, no additional lots may be created by platting of any or all the remainder of said contiguous property, unless the property comprising said additional lots is first rezoned to a district classification other than Rural-Residential.

Maximum number of lots allowed in a Rural-Residential subdivision is three (3).

# ARTICLE

## 3

### LOT SPLITS

#### Sections:

##### 3-1 Objective

##### 3-2 Authorization for Approval of Lot Splits; Application Procedure

##### 3-3 Approval Guidelines

##### 3-4 Staff Review and Action

#### SECTION 3-1 OBJECTIVE

**3-101.** The objective of this section is to provide for the division of a tract of land or lot into not more than two 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 Article 2 of these Subdivision Regulations. The new lots cannot, thereafter, be further subdivided without replatting.

#### SECTION 3-2 AUTHORIZATION FOR APPROVAL OF LOT SPLITS; APPLICATION PROCEDURE

**3-201.** Requests for lot split approval shall be made by the owner of the land to the Zoning Administrator. Four copies of a scale drawing of the lots involved if there are no structures thereon, or, if structures are located on any part of the lot being split, four copies of a survey of the lot(s) and the location of the structure(s) thereon together with the precise nature, location and dimensions of the proposed lot split, shall accompany the application. The application shall be accompanied by the names and addresses of all persons to receive notices. Written notices shall be given to all owners of land within 1000 feet of the property proposed to be split. Such owners shall have 14 days from the date of notification to notify the Planning Commission of any protests they may have concerning the lot split. The 14-day waiting period may be waived upon submission in writing of statements from those to be notified that they have no objection to the proposed lot split.

#### SECTION 3-3 APPROVAL GUIDELINES

**3-301.** The division of lots pursuant to this section shall comply with applicable zoning laws, these Subdivision Regulations, and all other applicable regulations. No lot split shall be approved if one of the following applies:

1. A new street or alley is needed or proposed; (see also 3-303 Exceptions).
2. A vacation of streets, alleys, setback lines, access control or easements is required or proposed.

3. If such action will result in significant increases in service requirements, e.g., utilities, schools, traffic control, streets, etc.; or will interfere with maintaining existing service levels, e.g., additional curb cuts, repaving, etc.
4. There is less street 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. (see also 3-303 Exceptions).
7. A substandard size lot or parcel will be created according to these Subdivision Regulations and the Butler County 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 Butler County. (see also 3-302 Homestead Lot Splits).

### **3-302. Homestead Lot Split / Agriculture Preservation Overlay (APO)**

The objective of a Homestead Lot Split is to provide for the division of a tract of land or lot into no more than two lots, one or both of which do not meet the minimum size requirements of the zoning district in which it is located. A Homestead Lot Split may be approved **if, and only if, all of the following applies:**

1. Property must be zoned AG 40, or AG 80, with a minimum lot size that is equivalent to a quarter of a quarter section or half of a quarter section respectively.
2. The newly created lot is no larger than ten (10) acres or smaller than 5 acres in size.
3. An existing, habitable, permanent, residential structure must occupy the proposed newly created parcel.
4. Owner must grant a Conservation Easement (through a land trust or USDA) or Agriculture Preservation Overlay (APO) [through the Planning Department] for the remainder of the acreage needed to meet the minimum area requirement of the zoning district in which it is located. Said easement or overlay is to be a legal attachment to the deed and a certified copy is to be filed with the Register of Deeds and the Planning Department. Agricultural structures only shall be allowed in the Agriculture Preservation Easement. A residence does not constitute an agriculture structure.

Portions of the APO may be vacated only when public sewer is made available to service the property. This rule does not apply to those Conservation Easements made through a land trust or the USDA.

5. The new lots cannot thereafter, be further subdivided without proper zoning classification, replatting, and/or removal of APO.

### **3-303 Mortgage Lot Splits with Agricultural Protection Overlay**

1. Property must be zoned AG 40, or AG 80, with a minimum lot size that is equivalent to a quarter of a quarter section or half of a quarter section respectively.
2. The newly created lot is no larger than ten (10) acres or smaller than 5 acres in size.
3. For purposes of obtaining a mortgage, a property owner may utilize the Mortgage lot split provision to create a legal vacant parcel no larger than ten (10) acres or smaller than five (5) acres provided no building permit for a residence on that parcel will be issued unless the applicant owns all of the adjacent legal non conforming lot of record or owns enough adjacent property to meet the minimum area requirements of the zoning district in which they are located.
4. Owner must grant a Conservation Easement (through a land trust or USDA) or Agriculture Preservation Overlay (APO) [through the Planning Department] for the remainder of the property if it is a legal nonconforming lot of record or if the parent parcel is less than a half of a quarter section in the AG-40 Zoning District or a quarter section in the AG-80 Zoning District; otherwise, the APO will only have to be applied to the remainder of the acreage needed to comply with the minimum acreage requirement of the zoning district in which the property is located, Said easement or overlay is to be a legal attachment to the deed and a certified copy is to be filed with the Register of Deeds and the Planning Department. Agricultural structures only shall be allowed in the Agriculture Preservation Easement. A residence does not constitute an agriculture structure.

Portions of the APO may be vacated only when public sewer is made available to service the property. This rule does not apply to those Conservation Easements made through a land trust or the USDA.

### **3-304 Exceptions**

Exceptions to Approval Guidelines 301.1 and 301.6 shall be allowed **if, and only if, all of the following conditions are met:**

1. The lot, tract, or parcel of land to be split contains a minimum of 80 acres, and is zoned AG-40.
2. Right-of-Way-Reserve shall serve no more than two (2) 40-acre lots and shall be treated as a private road.
3. Required dedication of a 35-foot Right-of-Way-Reserve (unimproved Right-of-Way) is to be located at the ½ mile section line, running the full depth and/or width\* of the property (\*Some properties will have two sides abutting the ½ mile section lines, in such cases, a 35-foot Right-of-Way-Reserve is to be dedicated along both). If a Right-of-Way-Reserve is present on adjoining property, dedication of the 35-foot Right-of-Way-Reserve running the full depth and/or width of the property must be contiguous,

and a public road shall be built to county standards and dedicated to the county as a township road. Costs shall be evenly divided among the owners of the four (4) 40-acre lots.

In cases where the Right-of-Way-Reserve cannot be located at the ½ mile section line due to physical features of the land, dedication of the 35-foot Right-of-Way-Reserve is to be located at the ¼ mile section line, running the full depth and/or width of the property where applicable. Second property line located at the ½ mile section line is to receive dedication of 35-foot Right-of-Way-Reserve also.

4. Prior to sale of the newly created lot, a conspicuous sign shall be posted and maintained at the entrance to said Right-of-Way-Reserve; “Private Drive. Not maintained by Butler County. Street sign shall be placed in accordance to Section 5-402 of the Butler County Subdivision Regulations.
5. Owners of the existing and newly created lot, tract, or parcel shall be allowed use of the Right-of-Way-Reserve as access to the property only by signed, notarized agreement with the County. Agreement shall be a legal attachment to the deed and a copy is to be filed with the Register of Deeds and the Planning Department. Said agreement shall state:
  - a) “Butler County is allowing this Right-of-Way-Reserve to serve as (private drive) access to no more than two (2) lots. It shall be maintained by the private property owners allowed to use it. It shall always be open to police, sheriff, fire and other official vehicles of all state, federal, county, and city agencies.”
  - b) Property owners shall maintain the Right-of-Way-Reserve to the following standards at all times:
    1. An all weather road surface, no greater than 1500 feet in length and at least 14 foot in width shall be maintained in good condition at all times.
    2. Adequate pullover areas not less than 20 feet in width and 35 feet in length shall be provided at intervals no greater than 750 feet apart.
    3. Right-of-Way-Reserve (private drive) is to remain free of potholes, debris, tall grass and weeds, and low-hanging branches – allowing clearance for emergency vehicles at all times.
    4. If the Right-of-Way-Reserve (private drive) is not properly main-tained, each time the County or Township has to perform maintenance, owners of both properties shall pay equal shares of the total costs, **PLUS**, a \$200. per lot administration fee shall be charged to the owners of each property.
  - c) Existing private driveway access from the arterial street shall be closed and removed. Access to both tracts of land shall be from the Right-of-Way-Reserve and both properties shall be addressed accordingly.
  - d) All applicable building setback lines shall be calculated from the edge, not the center, of the Right-of-Way-Reserve.
  - e) School busses will not enter; snow plows / road graders will not clear or



maintain.

6. Right-of-Way-Reserve shall serve no more than two (2) 40-acre lots. If, and when either of these lots is further subdivided; or a contiguous Right-of-Way-Reserve is dedicated on adjoining property to be split, a public road shall be built to county standards and dedicated to the county as a township road. Costs shall be evenly divided among all properties abutting to, and benefiting from the Right-of-Way-Reserve.

All properties accessing from said new street shall be addressed accordingly (for 911-Emergency purposes).

**3-305.** 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.

#### **SECTION 3-4        STAFF REVIEW AND ACTION**

**3-401.** The Planning Commission shall, in writing, either approve with or without conditions or disapprove the lot split within 30 days of application. If approved, and after all conditions have been met, 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 official designated to issue building or occupancy permits, and a copy shall be furnished to the applicant.



# ARTICLE

## 4

### SUBDIVISION DESIGN STANDARDS

#### Sections:

- 4-2 Applicability**
- 4-2 Land in Floodplain District**
- 4-3 Street Standards**
- 4-4 Block Standards**
- 4-5 Lot Standards**
- 4-6 Easements**
- 4-7 Drainage**

#### **SECTION 4-1      APPLICABILITY**

**4-101** All subdivisions of land subject to these regulations shall conform to the following minimum design standards. Such design standards shall govern the approval of subdivision plats by the Planning Commission and by the County Board.

#### **SECTION 4-2      LAND IN FLOODPLAIN DISTRICT**

**4-201.** No land subject to the floodplain zoning regulations adopted by Butler County shall be subdivided for any use not permitted by the underlying zoning district as presented in the Butler County Zoning Regulations.

**4-202.** Subdivisions subject to the floodplain zoning regulations adopted by Butler County shall be designed in accordance with standards established in the Floodplain District of the Butler County Zoning Regulations. Such subdivision proposals shall be designed to assure that all such proposals are consistent with the need to minimize flood damage, that all public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage, and that adequate drainage is provided so as to reduce exposure to flood hazards.

## SECTION 4-3 STREET STANDARDS

**4-301. Conformance with Existing Streets and Highways:** To provide reasonable vehicular movement, arterial streets and collector streets shall be properly integrated with the existing system of streets and highways. Street design standards other than those listed in this section shall conform with standards adopted by the County Board.

**4-302. Streets, Alleys and Public Ways.** (1) **Relationship to Adjoining Street Systems:** 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.

(2) **Street Names:** Streets that are obviously in alignment with other already existing and named streets shall bear the names of the existing streets.

(3) **Arterial Streets:** Federal highways, state highways, county roads, and section line roads shall be considered as arterial streets for the purpose of these regulations until such time as the County adopts a major street plan.

(4) **Local Streets:** Local streets shall be so designed to discourage through or non-local traffic.

(5) **Cul-de-sacs:** An adequate turnaround of not less than a 100-foot diameter right-of-way which shall be provided at the closed end of a dead-end local street segment. Such local street segment shall not exceed 600 feet in length from the intersection of a cross street to the juncture with the cul-de-sac.

(6) **Right Angle Intersections:** Under normal conditions, streets shall be laid out to intersect, as nearly as possible, at right angles. Where topography or other conditions justify a variation from the right angle intersection, the minimum angle shall be 60 degrees.

(7) **Streets Adjacent to a Railroad Right-of-Way, Limited Access Freeway, Principal Highway:** Where lots front or side, but do not back on railroad rights-of-way, limited access freeways or principal highways, 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.

(8) Half-Streets: Half-streets shall be avoided, except 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 half-street, or portion thereof, is existing and adjacent to a tract to be subdivided, the other half of the street shall be based on minimum requirements as set forth in subsection 10 of this section and shall be platted within such tract.

(9) Alleys: Alleys may be required in commercial, industrial, and residential areas. Dead-end alleys shall be avoided, wherever possible; if unavoidable, such alleys shall be provided with adequate turnaround facilities at the dead end. Alleys should be avoided in residential areas except where necessary to logically continue an existing alley.

(10) Minimum Requirements: All right-of-way for streets, alleys and public ways, included in the subdivision, hereafter dedicated and accepted, shall not be less than the minimum width for each classification as follows:

Major Streets:

- .....Minor Arterial-----120 Feet
- .....Major Collector-----100 Feet
- .....Minor Collector----- 80 Feet

Local Streets:

- .....Residential-----70 Feet
- .....Nonresidential-----80 Feet

Cul-De-Sacs-----150 Feet Diameter

Marginal Access Streets or  
Frontage Roads:

- .....Two-Way-----70 Feet
- .....One-Way-----70 Feet

Alley-----20 Feet

Pedestrian Way-----15 Feet

(11) Additional Requirements: When existing or anticipated traffic on arterial and collector streets warrants greater widths of rights-of-way, the additional width shall be dedicated.

(12) Street Grades: The grades of streets, alleys and other public ways included in any subdivision shall not be greater than is necessary for the topographic conditions and shall be subject to the approval of the Engineer.

(13) Street Alignment: Minimum, horizontal and vertical alignment on all streets, except in unusual cases, shall be as follows:

a. Horizontal-Radii at the Centerline:

.....Arterial Streets-----	1432 Feet
.....Major Collector Streets-----	955 Feet
.....Minor Collector Streets-----	521 Feet
.....Local Streets-----	_____

A tangent shall be provided between all reversed curves as recommended by the Engineer to provide for a smooth flow of traffic.

b. Vertical: All changes in street grade shall be connected by vertical curves of such length as to provide for desired sight distance as set out in American Association of State Highway Officials Geometric Design Standards and shall be subject to the approval of the Engineer.

**4-303. 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, 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. Said dedication shall be shown on the preliminary plat and the final plat.

**4-304. Private Streets**: Private streets may be allowed provided all streets must be constructed to a standard approved/adopted by the Board of County Commissioners. If the developer is not required to but wishes to pave interior roads, the roads must be constructed in accordance with a pavement standard approved/adopted by the Board of County Commissioners. In addition, arrangements must be made to allow access to the subdivision by emergency service vehicles.

All private bridges, culverts, or other stream crossings must be designed and constructed in accordance with current AASHTO engineering standards.

The cost of and arrangement for improvements, repairs, and/or maintenance of the interior roads, bridges, culverts, and/or other stream crossings, and any other infrastructure (including, but not limited to storm water and sanitary sewer shall remain the responsibility of those owning property within the subdivision.

All appropriate state and local floodplain management requirements must be complied with.

The developer must execute an agreement with the County that would require the creation of an internal improvement district to construct and/or improve internal storm water, sanitary sewer, and street improvements should the property owners wish to make any or all parts of the infrastructure public. Said agreement must be recorded with the Butler County Register of Deeds and shall be applicable to all properties within the subdivision. The agreement should state that property owners shall not protest against the creation of said district.

#### **SECTION 4-4 BLOCK STANDARDS**

**4-401. (1) Block Length:** Intersecting streets (which determine block length) shall be provided at such intervals as to serve cross traffic adequately and to meet existing streets in the area. In residential districts, where no existing plats are recorded, the blocks shall not exceed 1320 feet in length, except that a greater length may be permitted where topography or other conditions justify a departure from this maximum. In blocks longer than 1000 feet, pedestrian ways and/or easements through the block may be required near the center of the block. Such pedestrian ways or easements shall have a minimum width of 15 feet. Blocks for business use should normally not exceed 1200 feet in length.

(2) Block Width: In residential development, the block width shall normally be sufficient to allow two tiers of lots of appropriate depth. In certain instances, however, a different arrangement may be required in order to provide better circulation or to protect a major circulation route. Blocks intended for business or industrial use shall be of such width and depth as may be considered most suitable for the prospective use.

**4-402. Sidewalks and Walkways:** Sidewalks or pedestrian walkways of a minimum of four feet in width may be required, upon recommendation of the Planning Commission and approval of the County Board where deemed necessary to provide convenient and safe access to schools, parks, playgrounds or other public or private community facilities.

#### **SECTION 4-5 LOT STANDARDS**

**4-501. (1) Lot Standards:** If the proposed subdivision is served with a public water supply and a public sewer system or a community-type sewage treatment plant, approval of the lot sizes shall be subject to the minimum requirements set forth in these regulations and the Zoning Regulations.

(2) Minimum lot width shall be as required by the Zoning Regulations. (Said width shall be measured at the building setback line.) Corner lots should have such additional width as may be necessary to provide front yard setbacks along both street frontages.

(3) Minimum lot depth shall be as required by the zoning regulations. (Said depth shall be measured through the center of the lot and shall be perpendicular to the front property line or radial to the property line on curved streets.)

(4) The maximum depth of residential lots shall not exceed three (3) times the width thereof.

(5) Minimum lot areas shall be subject to the Zoning Regulations of the district in which the subdivision is located and the minimum design standards of this section. The more restrictive of the regulations shall govern.

(6) All side lot lines shall bear 60 to 90 degrees from the street right-of-way line on a straight street or from the tangent of a curved street.

(7) Front building or setback lines shall be shown on the final plat for all lots in the subdivision and shall not be less than the setbacks required by the Zoning Regulations or any other regulations adopted by the County Board; the most restrictive setback requirement shall govern.

(8) Double frontage lots shall be avoided unless, in the opinion of the Planning Commission, a variation to this rule will provide better street alignment and lot arrangement or will better protect the traffic-carrying capacity of a major street.



(9) Every lot shall abut on a street other than an alley.

(10) The subdivision or re-subdivision of a tract or lot shall not be permitted where said subdivision or re-subdivision places an existing permanent structure in violation of the requirements of the Zoning Regulations or the minimum design standards of these regulations.

**4-502. Lots on Collector, Arterial, and Thoroughfare Streets:** Lots with direct access to collector, arterial or thoroughfare streets are not allowed in each subdivision. In subdivisions, all lots must access Subdivision Streets first. Variances can be granted at time of platting for special site-specific restrictions resulting from natural features.

## **SECTION 4-6 EASEMENTS**

**4-601. Utility Easements:** Where alleys are not provided, utility easements of not less than 10 feet in width shall be provided on each side of all rear lot lines, and on side lot lines, where necessary, for utility poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains, and other public utilities. These easements shall provide for a continuous right-of-way at least 20 feet in width. Utility easements shall not be obstructed by fences, structures or landscaping. A property owner may install fences or landscaping at his or her own risk provided that such action does not damage, destroy or interfere with any utility system component.

An additional 12-foot temporary construction easement shall be provided for initial construction of water, sewer, and other utility lines.

**4-602. Drainage Easements:** If a subdivision is traversed by a watercourse, drainage way or channel, then a storm water easement or drainage right-of-way shall be provided. Such easement or right-of-way shall conform substantially to the lines of such watercourse and shall be of such width or construction, or both, as may be necessary to provide adequate storm-water drainage and for access for maintenance thereof. Parallel streets or parkways may be required in connection therewith. The Engineer shall make a study and report his or her recommendation to the Planning Commission as to the desired width of such easement. Such study and report shall be based on the 100 year flood depth (if known).

**4-603. 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 County Board, a pedestrian-way easement may be required. Such easement shall have a minimum width of 15 feet.

## **SECTION 4-7      DRAINAGE**

**4-701. Drainage Plans:** The subdivider shall include a drainage plan, as required by Section 2-302, and shall design required storm-water facilities according to the standards established by the County Engineer. Drainage plans shall include, but are not limited to:

- a.      A complete drainage-area map showing the natural drainage area boundaries, direction of surface flow, any large impervious areas, existing and proposed streets, man-made or natural obstructions to be avoided for storm drainage locations, runoff calculations for existing and for developed conditions, and proposed inlet locations.
- b.      A grading design so that drainage from each lot should flow directly to a channel or detention area without crossing more than four adjacent lots.

**4-702. Detention Facilities:** The subdivider shall install detention facilities when the Planning Commission determines that a subdivision provides enough area for runoff control and determines that detention facilities are necessary, and will not adversely affect downstream conditions.

# ARTICLE

## 5

### REQUIRED IMPROVEMENTS

#### Sections:

- 5-1 Applicability**
- 5-2 Guarantee of Completion of Improvements**
- 5-3 Improvement Procedures**
- 5-4 Streets**
- 5-5 Water and Sanitary Sewer**
- 5-6 Other Utilities**
- 5-7 Storm Drainage**
- 5-8 Sidewalks**
- 5-9 Monuments**
- 5-10 Open Space**
- 5-11 Exceptions for Existing Improvements**

#### **SECTION 5-1      APPLICABILITY**

**5-101.** Prior to and as a condition of final plat approval, the subdivider shall enter into a legal agreement with the County Board 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 Butler County and shall be subject to any applicable surety requirements to guarantee their proper installation.

**5-102.** Construction and materials for construction of roads, road beds, curbs, gutters, sidewalks grades, drains, and shoulders where applicable, shall be acceptable to the County Board, for public dedication and acceptance for such purposes by the County Board regardless of whether or not such improvements are dedicated or accepted for dedication.

#### **SECTION 5-2      GUARANTEE OF INSTALLATION OF IMPROVEMENTS**

**5-201.** Subdivision Improvements: A method for financing proposed improvements and breakdown of anticipated costs shall be submitted with the Final Plat. This shall be accomplished by filing a Subdivision Improvements Agreement or a Benefit District Petition, and shall be required for all subdivisions of land except for Lot Splits; those developments that require no improvements; or those developments being developed with private improvements. The County Board shall have sole

responsibility to accept or reject the Subdivision Improvement Agreement or Benefit District Petition. Financing methods may include, but are not limited to, the following guarantees.

- a. Petition for Establishment of a Benefit District: The percentage split of costs shall be based on the policy established by the County Board. The County may decide not to participate in benefit districts that do not comply with the capital improvements program, or those which are inconsistent with the Comprehensive Plan.
- b. Surety Bonds: The subdivider shall provide the County Engineer with all calculations and information needed to check the cost estimates of said improvements. This cost shall be estimated by the subdivider and shall be verified by the County Engineer. The subdivider shall then be required to obtain a security bond from a surety bonding company authorized to do business in the State of Kansas. The bond shall be made payable to Butler County and shall be a percentage of the total improvements costs as recommended by the County Engineer or such other financial assurance accepted by the County Board. The duration of the bond shall be until such time as the improvements are completed, inspected and accepted by the County.
- c. Alternatives: Other financing methods may include cash or collateral, escrow accounts, property escrow accounts, irrevocable letters of credit, or any other guarantee the County Board shall deem acceptable.

**5-202. Defaulting**: The County Board may, upon advice of the County Engineer, find that the subdivider is in default of the Subdivision Improvements Agreement. Such finding shall occur at a regularly scheduled meeting of the County Board. Two weeks prior to such scheduling meeting, the subdivider shall be notified by registered mail of possible default proceedings. At the meeting the subdivider shall be given the opportunity to rebut findings of default.

Defaulting results from:

- a. Improper construction standards and specifications.
- b. Failure to install agreed upon improvements.
- c. Construction of improvements not according to agreed upon time schedule, allowing for unexpected or unavoidable delays.
- d. Other financial and/or contractual conditions which might lead to the developer being unable to complete the agreed upon improvements.

**5-203. Default Proceedings**: The County Board may find the subdivider not in default, extend the time limit, or:

- a. Should the County Board find the Subdivision Improvements Agreement to have been violated, it may liquidate the improvements guarantee, in whatever form it takes, and apply the proceeds of this guarantee to the construction of the improvements set out in the Subdivision Improvements Agreement.
- b. Should the proceeds of the guarantee not be sufficient to cover the costs of said improvements, the County Board may assess to the subdivider, property owners, or both, the construction costs of the improvements that exceed the amount provided by the subdivider. This may take form of a lien against the property covered in the Subdivision Improvements Agreement.
- c. Should the proceeds of the guarantee exceed the actual cost of the improvements, and any cost incurred in the default procedures, the County shall return the unexpended balance to the individual named on the Subdivision Improvements Agreement as the one having secured the guarantee.

**5-204. Guarantee Release:** When all improvements have been completed and have been inspected, approved and accepted, the County shall authorize the release of the guarantee.

**5-205. Performance Bond:** As a guarantee that all public improvements, especially street improvements, have been done in a satisfactory manner, the subdivider shall provide a performance guarantee to the County for all subdivisions in the unincorporated portion of the County subject to these Regulations. Said performance guarantee shall be for a period of two years. The time period shall begin upon final acceptance of all improvements within the subdivision. Said final acceptance shall be made by the County Engineer. The performance guarantee shall be in the amount acceptable to the County Engineer and shall be in a form acceptable to the County Board (i.e. bond, irrevocable letter of credit, escrow account, etc.), based upon advice from the County Attorney.

### **SECTION 5-3 IMPROVEMENT PROCEDURES**

**5-301. Final Improvement Plans:** Upon the approval of the preliminary plat, the subdivider shall have prepared by a licensed professional engineer, engineering drawings for proposed required improvements containing the data and information specified in Section 5-302. Such drawings shall be certified by a licensed professional engineer, and shall be submitted in duplicate to the County 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 subdivider, to a waiver or an extension of waiver of any time limitation for plat approval.

**5-302. 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 roadway. The profiles of grade lines shall be shown to a scale of one inch equals 20 feet horizontal, and one inch equals 5 feet vertical. This information shall be shown on standard plan and profile sheets unless otherwise required by the County Engineer.

2. Plans, profiles, details, specifications and cost estimates of proposed storm drainage improvements.
3. Plans, profiles, details, specifications and cost estimates of proposed water distribution systems and proposed water supply facilities and water hydrants, if any.
4. Plans, profiles, details, specifications and cost estimates of sewerage 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.
6. Grading plans for all lots and other sites in the subdivision.
7. When unusual site conditions exist, the County 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 N.G.S. datum for vertical control.

**5-303. Review of Plans:** The County Engineer shall review all engineering drawings in order to determine whether such drawings are consistent with the approved preliminary plat and comply with county 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 subdivider of the specific manner in which such drawings do not so conform or comply; the subdivider 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.

**5-304. Approval by Planning Commission:** The Planning Commission shall approve a final plat only when the approval of the County 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 County Engineer.

**5-305. 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 5-303 and 5-304 and there shall have been compliance with all of the requirements relating to an agreement, bond or deposit

specified in these regulations. Construction of improvement shall commence within 12 months of date of approval of the final plat by the County Board.

**5-306. Inspection:** All improvements constructed or erected shall be subject to inspection by the County Engineer or official responsible for setting and enforcing the applicable design and construction standards of the required improvement. The cost attributable to all inspections required by this regulation shall be charged to and paid by the subdivider. Before any required inspections take place, the subdivider 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 subdivider 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.

**5-307. Inspection Procedures:** After notice is received as specified in Section 5-306, 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 5-306.

**5-308. Final Inspection:** Upon completion of all improvements within the area covered by the final plat, the subdivider shall notify the official designated in Section 5-306, 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 subdivider in writing of such defects, deficiencies, or deviations and the subdivider 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 subdivider shall notify the official that the improvements are ready for final re-inspection.

**5-309. Report to Planning Commission and County Board:** 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 County Board and utility that all improvements have been installed in conformance with the engineering plans and specifications accompanying the final plat.

**5-310. Acceptance of Improvements:** Upon the receipt by the County Board 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 County Board 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 County Board or appropriate utility company involved.

#### **SECTION 5-4      STREETS.....**

**5-401. Applicability:** The subdivider shall provide for the improvement of all new streets within the subdivision. All public and private street construction (including bridges and other forms of stream crossings) shall conform to the standards and specifications of Butler County.

**5-402. Street Signs:** Street signs shall be placed at those locations within the area to be subdivided as determined by the Zoning Administrator. The Zoning Administrator shall approve such street signs, the cost of which shall be incurred by the developer.

#### **SECTION 5-5      WATER AND SANITARY SEWER**

**5-501. Applicability:** The type of water supply and sanitary sewer utilized to serve the subdivision shall be subject to the requirements of the County Planning and Development Department and the Kansas Department of Health and Environment.

**5-502. 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 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 acres; such fire hydrants shall also conform to the standards and specifications of any applicable water and fire districts serving the subdivision. In those instances where water is supplied by a private water well, such improvements shall conform with the regulations of the County Planning and Development Department and be approved by the Zoning Administrator.

**5-503. Septic Tanks:** Septic tanks are permitted on lots of three acres or more provided the requirements of the County Planning and Development Department are met. Where septic tanks are allowed, they must be approved by the County Planning and Development Department 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.



**5-504. 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. Unless sanitary service to such a subdivision development is to be provided by an existing municipal or rural sewer district, no final plat shall be approved and no construction therein permitted until a rural sewer district has been formed, and evidence shall be submitted with the final plat showing the establishment of such a district. All community sewage collection and treatment facilities shall be approved by the Kansas Department of Health and Environment. All lagoons shall conform to the requirements of the County Planning and Development Department and be approved by the Zoning Administrator.

## **SECTION 5-6 OTHER UTILITIES**

**5-601.** The subdivider shall be responsible for making the necessary arrangements with the appropriate utility companies for the installation of utility lines and appurtenances. A letter from the utility company, confirming that such installation has been completed, shall be submitted to the Zoning Administrator prior to the issuance of building permits within the subdivision. Underground utility lines and sewer lines which cross underneath a street right-of-way shall be cased from right-of-way to right-of-way prior to the improvement of any such street in order to reduce the damage caused by street cuts.

**5-602. Buried Power and Communication Lines:** Electrical power, telephone, telegraph, and cable television lines shall be buried where: the subdivision is approved after the effective date of these regulations. It shall not be interpreted that existing overhead systems will be required to be removed, replaced or duplicated. The developer may request a waiver concerning the required underground installation. Such request for waiver shall be accompanied with a report from the responsible utility stating per lot cost differential between buried and overhead installations. The Planning Commission shall review the request and make its recommendation to the County Board.

## **SECTION 5-7 STORM DRAINAGE**

**5-701.** The subdivider shall install culverts, storm sewers, rip-rap slopes, stabilized ditches and other improvements to adequately handle storm-water. All improvements shall comply with the minimum standards of Butler County as adopted by the County Board and shall be approved by the Zoning Administrator prior to construction.

## **SECTION 5-8 SIDEWALKS**

**5-801.** Sidewalks may be required, as herein provided, upon the recommendation of the Planning Commission and the approval of the County Board. When required, the subdivider shall install sidewalks on at least one side of the street(s). All sidewalks shall conform to the standards and specifications of Butler County as adopted by the County Board. Sidewalks shall be located in the platted street right-of-way, abutting the property line.

## **SECTION 5-9 MONUMENTS**

**5-901. 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 County Engineer prior to the final acceptance of the plat by the County Board. Said permanent monuments shall be 3/4-inch iron bars, three feet long and shall be set with the top of the monument flush with existing ground lines.

## **SECTION 5-10 OPEN SPACE**

**5-1001. 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 recommendations 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**

**5-1101. Exceptions for Existing Improvements:** (1) Where the proposed subdivision is a re-subdivision 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 County Engineer, no further provision need be made by the subdividers to duplicate such improvements. However, where such existing improvements do not meet said requirements, the subdivider shall provide for the repair, correction, or replacement of such improvements so that all final improvements will then meet said requirements.

(2) Where the proposed subdivision is a re-subdivision or concerns an area presently abutting or containing any existing public street of less than the minimum required right-of-way width or roadway width, land shall be dedicated so as to provide a minimum street right-of-way width established by these regulations and Planning Commission policy, and the subdivider of such proposed subdivision shall provide an additional roadway pavement meeting the minimum standards set by these regulations and the County 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 County 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.



# ARTICLE

## 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

**6-101.** Whenever the Planning Commission deems full conformance to provisions of these regulations is impractical or impossible due to the size, shape, topographic location or condition, or such usage of land included in a subdivision plat being presented for approval, the Planning Commission may recommend authorization of rule exceptions of these regulations in the final plat. Such recommendation shall intend that substantial justice may be done and the public interest be secured. Such Planning Commission recommendation for authorization of exceptions shall be made by letter of transmittal to the County Board. 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 County Board after its consideration of the recommendation of the Planning Commission. The decision of the County Board shall be transmitted in writing to the subdivider and the Planning Commission.

## **SECTION 6-2 APPEALS**

**6-201.** Any decision of the County Engineer on matters contained herein may be appealed to the Planning Commission. Any decision of the Planning Commission on matters contained herein may be appealed to the County Board which may reverse or affirm such decision. In addition, any decision of the Zoning Administrator on matters pertaining herein to lot splits may be appealed to the County Board which may reverse or affirm such decision. Any decision of the Zoning Administrator on matters pertaining to building permits may be appealed to the Board of Zoning Appeals, as provided for by the Zoning Regulations of Butler County, except as provided otherwise in these regulations.

## **Section 6-3 PENALTIES FOR VIOLATIONS, ACTIONS FOR ENFORCEMENT**

**6-301.** 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 \$500.00 or by imprisonment for not more than six months for each and every offense. Each day's violation shall constitute a separate offense.

**6-302.** The County Board or any person, the value or use of whose property is or may be affected by a 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**

**6-401.** 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 County Board.

**6-402.** 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.

**6-403.** 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 Butler County, Kansas. The Zoning Administrator shall file the final plat.

## **SECTION 6-5 BUILDING PERMITS**

**6-501.** No building permit shall hereafter be issued by the Zoning Administrator 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 Butler 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 installed to provide for 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 Butler County regulations in effect at the time of the subdivision of said land.

**6-502. Lot Splits:** The Zoning Administrator shall not issue a building permit for any site which contains a division of a platted lot or an un-platted lot of records, unless such division has been approved in the manner provided by Section 3 (Lot Splits) of these Subdivision Regulations.

**6-503. Dwellings Per Lot:** Unless otherwise allowed by the Butler County Zoning Regulations, the Zoning Administrator shall not issue more than one building permit for a principle structure on each un-platted lot of record, each platted lot created as part of a subdivision, or each lot or tract created by a lot split.

**6--504. 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 Zoning Administrator shall issue or refuse to issue the building permit within 30 days following examination of the recorded plat. If disapproved, the applicant shall have the right to perfect an appeal to the County Board within 30 days.

## **SECTION 6-6 LAND ELEVATIONS**

**6-601.** The Zoning Administrator 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 Zoning Administrator may be appealed to the Board of Zoning Appeals which may reverse, modify or affirm such decision.





# ARTICLE

## 7

### VACATIONS

#### Sections:

#### **7-1 Review and Recommendations by the Planning Commission**

#### **7-2 Fees**

#### **SECTION 7-1 REVIEW AND RECOMMENDATION BY THE PLANNING COMMISSION**

**7-101.** 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 County Board 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, County Board and utilities.

The recommendation of the Planning Commission shall be submitted to the County Board for its action. No vacation shall be recommended for approval unless it be 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**

**7-201.** An application for vacation shall be accompanied by such application fees as are set out by separate resolution adopted by the County Board. 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 County Board.



# ARTICLE

## 8

### MISCELLANEOUS

#### Sections:

##### **8-1 Validity**

##### **8-2 Repeal of Existing Regulations and Accrued Rights and Liabilities**

##### **8-3 Effective Date**

##### **8-4 Amendments**

#### **SECTION 8-1 VALIDITY**

**8-101.** 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 REPEAL OF EXISTING REGULATIONS AND ACCRUED RIGHTS AND LIABILITIES**

**8-201.** The adoption of these regulations repeals the existing subdivision regulations of Butler County in their entirety.

**8-202.** Despite the repeal of regulations existing at the time of adoption of these regulations, nothing contained in these regulations shall affect any rights accrued or liabilities incurred under said previously existing regulations.

#### **SECTION 8-3 EFFECTIVE DATE**

**8-301.** These regulations, being designated as the "Subdivision Regulations of Butler County, Kansas", shall be in full force and effect from and after their passage and publication.

#### **SECTION 8-4 AMENDMENTS**

**8-401.** Amendment Procedure: These regulations may be amended at any time, in accordance with K.S.A. 12-749(c) and amendments thereto, after the Planning Commission has held a public hearing on the proposed amendment. A notice of such public hearing shall be published for two consecutive weeks, the second of which shall be at least 20 days prior to the public hearing. Such notice shall fix the time and place for such hearing and shall describe such proposal in general terms.

Revised 10/26/2011

**8-402. 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.

**8-403. 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 County Board.

**8-404. Action by the County Board:** When the Planning Commission submits a recommendation of approval or disapproval of such amendment, the County Board may either: (1) Approve such recommendation by resolution; (2) override the Planning Commission recommendation 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 County Board's failure to approve or disapprove. If the County Board returns the Planning Commission recommendations, the Planning Commission, after considering the same, may resubmit its original recommendations giving the reasons therefore or submit new and amended recommendations. Upon the receipt of such recommendations, the County Board, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendations by resolution, or it need take no further action thereon. If the Planning Commission fails to deliver its recommendations to the County Board following the Planning Commission's next regular meeting after receipt of the County Board's report, the County Board 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 resolution.

## ARTICLE 9

### DEFINITIONS

#### Sections:

#### 9-1 Interpretation and Construction

#### 9-2 Definitions

#### SECTION 9-1 INTERPRETATION AND CONSTRUCTION

**9-101.** The following rules and regulations regarding interpretation and construction of these Subdivision Regulations shall apply:

1. Where the conditions imposed by the provisions of these regulations are neither more restrictive or less restrictive than comparable conditions imposed by any other provision of any other applicable law, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.
2. The provisions of these 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 regulations shall govern.
3. A subdivision of land which was not lawful at the time of the adoption of these regulations shall not become or be made lawful solely by reason of adoption of these regulations.
4. The provisions of these regulations are cumulative and are additional limitations upon all other laws theretofore passed or which may be passed hereafter governing any subject matter in the provisions of these regulations.
5. In the construction of these regulations, the provisions and rules of this section shall be preserved 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 words in 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" is mandatory.
- (e) The word "may" is permissive.
- (f) The word "person" includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.
- (g) Unless otherwise specified, all distances shall be measured horizontally.
- (h) The masculine gender shall include the feminine gender, and the feminine gender shall include the masculine gender.
- (i) Any word or phrase which is defined in this Article or elsewhere in these regulations shall have the meaning as so defined whenever the word or phrase is used in these regulations, unless such definition is expressly limited in its meaning or scope.

## **SECTION 9-2      DEFINITIONS**

**9-201.** Definitions for the interpretation of the Subdivision Regulations are as follows:

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

**ADMINISTRATOR:** A person designated by the County Board as the administrator of these regulations. See Zoning Administrator.

**AGRICULTURAL PURPOSES, LAND USED FOR:** The use of a tract of land for the production of plants, animals or horticultural products, including but not limited to: forages; grains and feed crops; dairy animals and dairy products; beef cattle, sheep, swine and horses; bees and apiary products; trees and forest products; fruits, nuts, and berries; vegetables; or nursery, floral, ornamental or greenhouse products. Land used for agricultural purposes shall not include the following:

- a. Lands which are used for recreational purposes; suburban residential acreages; rural residential home sites and yard plots whose primary function is for residential or recreational purposes even though such properties may produce or maintain some of the plants or animals listed herein.
- b. The operation or maintenance of greenhouses, nurseries or hydroponic farms operated at retail.

- c. Wholesale or retail sales as an accessory use unless the same are permitted by these Regulations.
- d. The operation of maintenance of a commercial stockyard.
- e. The operation of an auction sales yard.

**ALLEY:** A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

**APPLICANT:** The owner or duly designated representative of land proposed to be subdivided, or for which other action has been requested. Consent shall be required from the legal owner of the premises.

**AREA:** The size of a piece of land, usually described in terms of square feet or acres.

**ARTERIAL STREET:** See *Street*.

**BENEFIT DISTRICT, SPECIAL:** A Special Benefit District shall include: sewer district; water district, rural water district, water supply district; fire district; improvement district; industrial district; and drainage district as may be created by order of the Board of County Commissioners. Also see Improvement District.

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

**BUILDING:** Any covered structure built for the support, shelter, or enclosure of person, animals, or movable property of any kind and which is permanently affixed to the land.

**BUILDING LINE:** See *Setback Line*.

**BUILDING SETBACK LINE:** A line on a plat generally parallel to the street right-of-way indicating the limit beyond which no buildings or structures may be erected.

**CERTIFY:** Whenever these regulations require that an agency or official certify the existence of some fact or circumstance, the County may require that such certification be made in any manner, oral or written, which provides

**COMPREHENSIVE PLAN:** The duly adopted comprehensive plan for the development of the community which may include maps, charts, illustrations and texts for, but not necessarily limited to the following:

- (a) Land use studies
- (b) Goals and objectives
- (c) Population study and forecasts
- (d) Economic base study
- (e) Housing survey
- (f) Transportation plan
- (g) Community facilities and public utilities plan
- (h) General development plan
- (i) Drainage
- (j) Recreation/Open Space Plan

**COMMON OWNERSHIP:** Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockbroker, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

**CONSERVATION EASEMENT:** An easement that limits the use of the land to specific purposes or treatments or otherwise restricts the ability to use the land as zoned, or to freeze the plat preventing re-subdivision, or other purposes. See *Easement*.

**CONTIGUOUS:** Lots are contiguous when at least one boundary line of one lot touches a boundary line or lines of another lot.

**CORNER LOT:** A lot abutting upon two or more streets at their intersection.

**COUNTY:** The Board of County Commissioners of Butler County, Kansas, or its officers, staff, boards, or agencies.

**COUNTY ATTORNEY:** The County Attorney, or such licensed attorney designated by the County Attorney, responsible for the prosecution of all violations of these regulations in accordance with the provisions contained herein, and as established by law.

**COUNTY COMMISSION:** The Board of County Commissioners of Butler County, Kansas. (May also be referred to as Governing Body or County Board).

**COUNTY COUNSELOR:** The County Counselor, or such licensed attorney designated by the County Counselor or the County Board to furnish legal assistance for the administration of these Regulations.

**COUNTY ENGINEER:** The County Engineer, or such licensed engineer designated by the County Engineer or County Board to provide engineering assistance in administering these



and other regulations governing areas of normal responsibilities assigned to the County Engineer.

**COUNTY HEALTH OFFICER:** The Director of the Butler County Health Department, or such person designated by the County Board to administer the health regulations and Sanitary Code of Butler County.

**CUL-DE-SAC:** A local street with only one outlet that terminates in a vehicular turnaround and having an appropriate terminal for the safe and convenient reversal of traffic movement.

**DEAD-END STREET:** A street having one outlet.

**DEDICATION:** The transfer of private property to public or common ownership for a public purpose. The transfer may be in fee simple interest or less than fee simple interest including easements. Dedication requires the acceptance of the interest to be complete.

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

**DESIGN:** The location of streets, alignment of streets, grades and widths of streets, alignment of easements, grades and widths of easements, alignment and right-of-way for drainage and sanitary sewers, and the designation of minimum lot area, width and length.

**DESIGN STANDARDS OR DESIGN REQUIREMENTS:** All requirements and regulations that relate to the design and layout of subdivisions.

**DOUBLE FRONTAGE:** A lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.

**DRAINAGE:** The process and course by which surface water (usually from rainfall) moves across the land surface or is conveyed through channels, waterways, pipes, culverts, ducts, or other means. See *Storm-water Management*.

**EASEMENT:** A right or authorization from a property owner to another for a specific and limited use of property.

**ESCROW:** A deposit of cash with the local government or escrow agent to secure the promise to perform some act.

**EXACTIONS:** Requirement of development to dedicate or pay for all or a portion of land or costs of public facilities as a condition of development approval.

**FENCE:** A freestanding structure of metal, masonry composition, wood or any combination thereof resting on or partially buried in the ground and rising above ground level, used for confinement, screen or partition purposes.

**FINAL PLAT:** a plan or map prepared in accordance with the provision of these subdivision regulations and those of any other applicable local regulation, which plat is prepared to be placed on record in the office of the Register of Deeds of Butler County, Kansas.

**FLAG LOT:** A lot, tract or parcel of land that provides minimum footage to a road or street by a narrow strip of land and whose main body of land lies to the rear of the property.

**FLOOD PLAIN OR FLOOD PLAIN DISTRICT:** That area designated by the governing body as susceptible to flooding.

**FRONTAGE:**

- a. **STREET FRONTAGE:** All of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.
- b. **LOT FRONTAGE:** The distance for which the front boundary line of the lot and the right-of-way are coincident.

**GOVERNING BODY:** The Board of County Commissioners of Butler County, Kansas.

**GRADE:** The slope of a road, street or other public way (rise/run), specified in percent (%).

**HALF STREET:** A street bordering one or more property lines of a subdivision tract to which the subdivider has allocated only a portion of the required street right-of-way width.

**IMPACT FEE:** A fee imposed on new development by the County pursuant to these regulations in order to mitigate the impacts on community facilities created by the demand for capital improvements by the new development. Impact fees do not include the dedication of rights-of-way or easements for such facilities, or the construction of such improvements.

**IMPROVEMENT:** Street pavements, curbs, pedestrian ways, permanent street monuments, trees, utilities or other appropriate item(s) that are required to be constructed or are agreed to be constructed, by the subdivider on the land to be used for public or private use by the lot owners in the subdivision as a condition precedent to the approval and acceptance of the final plat.

**IMPROVEMENT DISTRICT:** An area deemed by the County Board to benefit from an improvement and subject to a special assessment for all or a portion of the cost of the improvement. See *Benefit District*.

**INDIVIDUAL SEWAGE DISPOSAL SYSTEM:** A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device.

**LANDSCAPING:** The improvement of a lot, parcel, or tract of land with grass, shrubs, and/or trees. Landscaping may include pedestrian walks, flower beds, ornamental objects such as fountains, statuary, and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.

**LOCAL STREET:** See *Street Classification*.

**LOT:** A portion of a subdivision or other parcel of land intended as a unit of ownership and occupied or intended to be occupied by one main building and an accessory building or a complex of buildings, including the open spaces and parking required by these regulations and/or the Butler County Zoning Regulations. A lot may be more than one lot of record or may be a metes-and-bounds described tract having its principal frontage upon a street. A lot may be either more than one lot of record under single ownership or control, or may be a metes-and-bounds described tract under single ownership or control having its principal frontage upon a street.

**LOT COVERAGE:** That percentage of a lot which, when viewed directly from above, would be covered by a structure or structures, or any part thereof, excluding projecting roof eaves.

**LOT, DEPTH:** The mean horizontal distance between the front lot line and the rear lot line.

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

**LOT OF RECORD:** A lot that is part of a recorded subdivision or a parcel of land which has been recorded in the office of the Butler County Register of Deeds.

**LOT SPLIT:** The dividing or re-dividing of a lot or lots into not more than two tracts or lots, subject to the criteria within these regulations.

**LOT WIDTH:** The mean horizontal distance between the side lot lines.

**MAINTENANCE GUARANTEE:** A guarantee of facilities or work to ensure the correction of any failures of any improvements required pursuant to these Regulations, or to maintain same.

**MAJOR STREET:** See *Street Classification*.

**MINIMUM ELEVATION:** The finished floor elevation of the lowest floor.

**MONUMENT:** The device, usually a metallic bar or tube used to mark and identify the corners in the boundaries of subdivisions or lots.

**OPEN SPACE:** An area of land or water or combination thereof planned for passive or active recreation, 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.

**PARCEL:** A property having definite boundaries created through having a legal description legally recorded in the Butler County Register of Deeds office, not including lots created by platting or subdivision. Also called a *tract*.

**PERFORMANCE BOND OR GUARANTY:** Any form of guaranty acceptable by the County Board but, most frequently a surety bond cash deposit, letter of credit, made out to the County Board in an amount equal to the full cost of the improvements which are required by these regulations, said cost being estimated by the County Engineer, and said surety bond or cash deposit being legally sufficient to secure to the County Board that said improvements will be constructed in accordance with these regulations.

**PERSON:** Any individual or group of individuals, or any corporation, general or limited partnership, joint venture, unincorporated association, or governmental or quasi-governmental entity.

**PLANNING AND DEVELOPMENT DEPARTMENT:** The County department charged with responsibility for the land use regulatory program for those portions of Butler County subject to these regulations.

**PLAT:** A map of a subdivision, showing the location, boundaries, and ownership of individual properties.

**PRELIMINARY PLAT:** The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Planning Commission for approval.

**PUBLIC SEWERS:** The collection lines, laterals and mains as well as all treatment facilities attached thereto and duly approved by the Kansas State Department of Health and Environment.

**PUBLIC WATER:** Water supplied for the domestic purposes by the county and approved by the Kansas State Department of Health and Environment.

**RESUBDIVISION (REPLAT):** The further subdivision of a tract of land which has previously been lawfully subdivided and for which a plat of such prior subdivision has been duly recorded.

**RIGHT-OF-WAY:** A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for any other special use. The usage of the term "right-of-way" for land platting purposes shall mean that every 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 or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

**SALE OR LEASE.** Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, devise, intestate succession, or other transfer of an interest in a subdivision or part thereof, whether by metes and bounds or lot and block description.

**SECRETARY:** Secretary of the Butler County Planning Commission.

**SETBACK LINE:** A line on a plat generally parallel to the street right-of-way, indicating the limit beyond which building or structures may not be erected or extended.

**SIDEWALK:** A paved walkway located along the side of a street.

**SITE:** Same as "lot," plot, or zoning lot.

**SKETCH PLAN:** A map or plan of a proposed subdivision preparatory to the preparation of the preliminary plat to enable the subdivider to save time and expense in reaching tentative general agreements by a discussion of the form and objectives of these regulations.

**SMALL SUBDIVISION PLAT:** A map or drawing of a proposed subdivision containing three lots or less giving, in form suitable for filing in the office of the Butler County Register of Deeds, necessary affidavits, dedications and acceptances, and containing a complete legal description (including references to field markers) sufficient to locate on the ground all streets, alleys, blocks, lots and other divisions of the subdivision.

**STORMWATER MANAGEMENT:** The management of drainage to ensure that water moves in a manner that protects people and property from damage or flooding. Storm-water Management includes man-made and natural channels, drainage structures, storage areas, sedimentation control, and erosion control.

**STREET:** An easement or right-of-way, other than an alley, which provides principal access to adjacent properties.

- a. **Arterial Street:** An arterial or thoroughfare that primarily serves as a transportation link for vehicular traffic and which prohibits direct access from residential lots. An arterial may be classified as either a Major Arterial or a Minor Arterial, as defined in the Highway Functional Classification system of the U.S. Department of Transportation, Federal Highway Administration.
- b. **Collector Street:** A street intended to move traffic from local streets to arterial streets. A collector street serves a neighborhood or large subdivision and should be designed to discourage residential properties from facing onto it. A collector may be classified as either a Major Collector or Minor Collector, as defined in the Highway Functional Classification system of the U.S. Department of Transportation, Federal Highway Administration.
- c. **Local Street:** A street intended to provide access to other streets from individual properties.
- d. **Cul-de-sac:** A local street with only one outlet and having a circular turnaround for the safe and convenient reversal of traffic movement.
- e. **Dead End Street:** A street having only one outlet.
- f. **Frontage Street:** A public or private, marginal access roadway, generally paralleling and contiguous to a street or highway, providing access to abutting properties. A frontage road is designed to promote safety by eliminating unlimited ingress and egress to the principal street or highway by providing points of access at generally uniformly spaced intervals.
- g. **Major Street:** For purposes of these regulations, a major street shall consist of all arterial and collector streets, as well as all section-line roads and those similarly constructed roads that fall on half-section and/or quarter-section lines or that deviate from such alignments only because of topography or other natural features.
- h. **Offset Street:** A continuous street whose centerline is not tangent through an intersection.
- i. **Subdivision Street:** A street that shall provide direct access to each lot within the subdivision. The subdivision street shall only intersect principal streets or highways at safe, uniformly spaced intervals.

**STREET WIDTH:** The distance measured perpendicular to the centerline of the paved portion of the right-of-way; either to the back of the curb, where a curb exists, or to the edge of the pavement where no curb exists.

**STRUCTURE:** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Structures include, but are not limited to: buildings, walls, sheds, and towers.

**SUBDIVIDE:** The act or process of creating a subdivision.

**SUBDIVISION:** Any land, vacant or improved, which is divided or proposed to be divided into two or more lots, parcels, sites, units, plots or interests for the purpose of offering same for sale, lease or development, either on the installment plan or upon any and all other plans, terms and conditions, including re-subdivision. A subdivision includes the division or development of residential and nonresidential zoned land, whether by deed, metes-and-bounds description, map, plat or other recorded instrument.

**SUBDIVISION, NON-RESIDENTIAL:** A subdivision which is other than residential such as commercial or industrial. Such subdivision shall comply with the applicable provisions of these regulations.

**TRACT:** See *Parcel*.

**TRANSFER OF DEVELOPMENT RIGHTS:** The conveyance of development rights by deed, easement, or other legal instrument, authorized by county resolution, to another parcel of land and the recording of that conveyance.

**VESTED RIGHTS:** Right to initiate or continue the establishment of a use which will be contrary to restriction or regulation coming into effect when the project associated with the use is completed.

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

**ZONING ADMINISTRATOR:** The person or persons authorized and empowered by the County Board to administer the requirements of these regulations.