

## ARTICLE 1: GENERAL PROVISIONS

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#### **1-101 Title and Scope:**

These regulations shall be known and may be cited as the “Subdivision Regulations of Marion County, Kansas”, and shall hereinafter be referred to as “these regulations.” These regulations prescribe the minimum design requirements and approval procedures for the development of new subdivisions and re-subdivisions of land in all of Marion County, Kansas, outside the corporate limits of all incorporated cities.

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

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

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

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

These Regulations shall apply to all of Marion County, Kansas, outside the corporate limits of all incorporated cities.

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

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

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

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

The owner(s) of any land located within that portion of Marion County, Kansas, subject to these regulations, subdividing said land in a manner previously cited shall cause to be prepared a subdivision plat in accordance with the provisions of these regulations. No building permit, on-site wastewater permit, certificate of occupancy or other similar permit shall hereafter be issued by Marion County, Kansas, or other permitting authorities, for construction on any land that has not been prepared and approved in compliance with these regulations and all other applicable state laws, and Marion County resolutions, including tracts of land created by "lot split" or similar administrative action.

### 1-105 Exemptions:

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

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



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- F. For purposes of this provision, measurement of the forty (40) acres for exemption purposes shall include any adjacent road right-of-way or easement. A lot described as a quarter/quarter (i.e.  $\frac{1}{4}$  of  $\frac{1}{4}$  of a section) or as a Government Lot from the original government survey shall be deemed to meet the lot size requirements for this provision even though said lot may net less than a full 40 acres. An irregular division of property described by metes and bounds, or any other metes and bounds description of a tract of land shall contain a full forty (40) acres, including any rights-of-way and easements, in order to be exempt.
- 3. A transaction between owners of adjoining tracts of land or lots which involves only a change in the boundary between the land owned by such persons, provided the approval of such boundary shift is in compliance with the requirements of these regulations; that no additional lots are created, and such tracts of land or lots comply with the design requirements for lots in Section 4 105 of these regulations and applicable provisions of the Marion County Zoning Regulations.
- 4. The use of land for street or railroad right of way, a drainage easement or other public utility subject to local, state or federal regulations, provided no new street or easement of access is created or involved.
- 5. Land used for highway or other public purposes relative to the dedication of a parcel of land for a public use or instruments relating to the vacation of land impressed with a public use.
- 6. A correction of a description in a prior conveyance, provided that such a conveyance shall be clearly labeled as a "Correction Conveyance" and shall clearly identify the prior conveyance which is the subject of correction and the error contained in such prior conveyance.
- 7. Any lot split approved in compliance with the requirements of these regulations.
- 8. The issuance of permits for repairs, maintenance, continuance of an existing use or occupancy, including the expansion or rebuilding of an existing principal and/or accessory structure. This provision shall apply only when the repairs and/or expansion conform to all applicable resolutions and codes relating to lot coverage, building setbacks and zoning. In addition, no building permit, zoning certificate or occupancy certificate shall be issued for a building or structure on any unplatted lot, tract or parcel of land until the applicant has first shown, by satisfactory evidence to the building permit issuing officer or his (her) delegated agent, that the following conditions exist:
  - A. The tract or parcel is not landlocked, i.e., has proper frontage and access to a public road or street.
  - B. The tract or parcel has access to all utility and telephone services by way of a recorded easement dedicated to the public. The easement serving the property shall not be less than 20 feet in width where adjacent to a rear property line or less than 10 feet in width where adjacent to a side property line. The easement shall extend continuously to a service entrance point and exit point for all the utilities and telephone services.
  - C. Any required permit for utility service has been obtained.
  - D. Any required on-site wastewater system permit has been obtained.
  - E. Any required on-site water well permit has been obtained.

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- F. The proposed building site, as designated on a plot plan, is not located on land subject to flooding. Any designated flood hazard areas, channels or waterways which exist on the property and which carry runoff from adjacent property or public roads shall be protected by a recorded grant of easement, dedication or similar devise.
- G. If the property is located adjacent to a public road right-of-way that does not conform to the requirements of these regulations, additional right-of-way shall be granted by dedication or easement as may be required to conform to the provisions of these regulations.

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

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

### **1-106 Administration and Enforcement:**

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

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

2. Duties of the Marion County Planning and Zoning Department. The Planning and Zoning Department shall be responsible for the administration of the following provisions of these regulations:
  - A. Maintain permanent and current records with respect to these regulations, including amendments;
  - B. Review and approve sketch plats as required by these regulations;
  - C. Receive and file all preliminary plats and final plats, together with applications;
  - D. Forward copies of the preliminary plat to other governmental agencies and departments and representatives of public utilities for their information and recommendations;
  - E. Review all preliminary plats to determine whether such plats comply with these regulations and review all final plats to determine whether they comply with these regulations and the requirements established for the preliminary plat;
  - F. Forward preliminary and final plats to the Planning Commission, together with staff recommendations;



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- G. Review all applications for building permits for compliance with the provisions of these regulations.
  - H. Issue determinations of when property divisions are exempt from these regulations as provided herein.
  - I. Review all applications for lots splits and boundary shifts for compliance with the provisions of these regulations.
  - J. Make other determinations and decisions as may be required of the department by these regulations or by the Planning Commission, or the Board of County Commissioners of Marion County, Kansas.
3. Duties of the Planning Commission. The Planning Commission shall:
- A. Review and approve sketch plats in all cases when the subdivider and the Planning and Zoning Department have been unable to reach agreement on the sketch plat;
  - B. Review and approve, approve conditionally, or disapprove preliminary plats;
  - C. Review and approve or disapprove final plats;
  - D. Forward the final plat to the Board of County Commissioners for approval and acceptance of dedications of streets, alleys and other public ways when the property being platted is in the unincorporated portion of Marion County;
  - E. Make other determinations and decisions as may be required of the Planning Commission from time to time by these regulations, or the applicable sections of the Kansas Statutes Annotated.
4. Duties of the Board of County Commissioners of Marion County. The duties of the Board of County Commissioners shall be to
- A. Act upon the plat by approving or denying the plat, including whether to accept the dedication of streets, alleys and other public ways within the unincorporated portion of Marion County;
  - B. Accept restrictive covenants recommended by the Planning Commission;
  - C. Approve guarantees for public improvements; and,
  - D. Consider rule exceptions to the improvement standards of these regulations.
5. Enforcement. It shall be the duty of the Zoning Administrator to enforce these regulations. The following actions are prohibited:
- A. Approval of a plat by the Planning Commission that does not comply with the provisions of these regulations.
  - B. The transfer or sales of any tract or parcel of land located in a plat approved by the Board of County Commissioners that has not been recorded with the Register of Deeds.

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- C. The recording of any plats or replats of land laid out with building lots, streets, alleys, utility easements and dedications of the public unless the plat or replat bears the signatures and seals of the Planning Commission, and the Board of County Commissioners of Marion County, Kansas.

### 1-107 Definitions:

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

1. ACCESS: The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.
2. ACCESS CONTROL: Access control is the limitation of public access rights to and from properties abutting streets or highways. Access control is used on higher functional classes of roadways to preserve high-quality traffic service and to improve safety.
3. ADMINISTRATIVE OFFICER: See Zoning Administrator.
4. ALLEY: A public or private thoroughfare which provides only a secondary means of access to abutting property.
5. APPLICANT: The owner of a tract of land, or his duly designated representative, for which an application for action has been requested.
6. BENCHMARK: Surveying mark made in some object that is permanently fixed in the ground, showing the height of that point in relation to National Geodetic Vertical Datum (NGVD).
7. BLOCK: A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroads, rights-of-way, shoreline or waterways, or boundary lines of municipalities.
8. BOND: Any form of security including cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the appropriate governing body. All bonds shall be approved by the appropriate governing body whenever a bond is required by these regulations.
9. BOUNDARY SHIFT: A change in the boundary between adjoining lots, tracts or parcels of land that does not create an additional building site; provided such transaction, when completed, shall result in tracts of land or lots which comply with the design requirements of these Regulations and with applicable provisions of the Marion County Zoning Regulations.



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10. **BUILDING SETBACK LINE (FRONT):** A line nearest the front of and across a lot or parcel of land establishing the minimum open space to be provided between the front line of a building or structure and the line of the fronting street right-of-way.
11. **CLUSTER SUBDIVISION:** A form of development for single-family residential subdivisions that permits a reduction in lot area and bulk requirements, provided that there is no increase in the number of lots permitted under a conventional subdivision and the resultant land area is devoted to open space. The clustering design technique concentrates building in specific areas on the site to allow the remaining land to be set aside for recreation, meaningful common open space and preservation of environmentally sensitive features.
12. **COMPREHENSIVE PLAN:** Any official map or street plan, the future land use map or plan, or any other map or plan adopted by the Planning Commission and the Board of County Commissioners for the guidance of growth and improvement of Marion County.
13. **COUNTY:** The Board of County Commissioners of Marion County, Kansas, or its delegated staff, boards or agencies.
14. **COUNTY ENGINEER:** The County Engineer, or such licensed engineer designated by the County Engineer or Governing Body, to provide engineering assistance in administering these and other Regulations governing areas of normal responsibilities assigned to the County Engineer.
15. **COUNTY HEALTH OFFICER:** The Director of the Marion County Health Department, or such person designated to administer the health regulations of Marion County, Kansas.
16. **DEDICATION:** Gift or donation of property by the owner to a governmental unit. The transfer is conveyed by a plat or a separate written instrument. The act of dedicating is completed with a formal acceptance by the governing body.
17. **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.
18. **DESIGN STANDARDS OR DESIGN REQUIREMENTS:** All requirements and regulations relating to design and layout of subdivisions contained in Article 4 of these regulations.
19. **DETENTION POND:** A storage facility for the temporary storage of storm water runoff. The storm water may be released to downstream facilities at a designed rate of flow.
20. **EASEMENT:** A grant by a property owner to specific persons or the public to use land for a specific purpose or purposes. Also, a right acquired by prescription.
21. **EASEMENT, AVIGATIONAL:** An air rights easement that protects air lanes around airports.
22. **EASEMENT, DRAINAGE:** An easement required for the installation of storm water sewers or waterways, and/or required for the preservation or maintenance of a natural stream, water course or other drainage facility.
23. **EASEMENT, PRIVATE:** A right-of-way granted for limited use of land for a public purpose.

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



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

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



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

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

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

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

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



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- B. Hedges trimmed to a height of less than thirty-three inches above the midpoint of the adjacent travel lane for rural roadways;
  - C. Any plant species trimmed so as to leave at all times a clear and unobstructed cross view;
  - D. Ornamental fences not exceeding four feet in height, provided the ratio of the solid portion of the fence to the open shall not exceed one to four;
  - E. Official warning signs or signals;
  - F. Locations where the contour of the ground is such that there can be no cross visibility at the intersection;
  - G. Signs mounted ten feet or more above the ground whose supports do not constitute an obstruction.
91. WALKWAY: Any pathway, surfaced or otherwise, intended for pedestrian use only.
92. WATER TABLE: The upper surface of groundwater, or that level below where the soil is seasonally saturated with water. See GROUNDWATER.
93. WATERWAY: Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or flood water.
94. ZONING ADMINISTRATOR: The person or persons authorized and empowered by the Governing Body to administer the provisions and requirements of these regulations.

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

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

1. The rights of landowners of properties platted or subdivided for non-agricultural residential development shall be protected for use of said land for the intended non-agricultural residential purposes for a period of five (5) years from the time in which such property was first platted or subdivided, provided:
  - A. For property that was not formally platted, verifiable evidence is presented showing the date in which said plat or subdivision of land was first created. Acceptable evidence shall be: signed and sealed certificates or plats of survey from a Registered Land Surveyor showing the several lots proposed to be created, either dated or dated and recorded with the Register of Deeds; recorded Restrictive or Protective Covenants for the development; or recorded Affidavits of Equitable Interest on contracts for deed for said tracts of land.
  - B. Within said five (5) year period actual sales occur resulting in separate owners on the tracts of land.
  - C. The division of land was legally done in conformance with the applicable laws of the State of Kansas.

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2. Except for lots in a recorded plat, any remaining contiguous tracts of land within the area divided under this rule held in common ownership at the conclusion of said five (5) year period shall be considered an unplatted lot, as defined in these Regulations, and subsequent divisions of said lot shall be in conformance with the Subdivision Regulations then in effect.
3. Properties divided or platted for any use other than agricultural or residential purposes shall not be permitted to develop or further develop except in conformance with these Regulations and the Marion County Zoning Regulations.
4. Notwithstanding the provisions of this section, all individual lots or tracts of land that are identified by individual deed as of the effective date of these Regulations, and amendments thereto, shall retain the right to be considered as a buildable lot under these Regulations and the Marion County Zoning Regulations provided said lot or tract of land can meet the requirements of the Marion County Sanitation Code. This provision shall not enable owners of lots or tracts of land to divide such properties except in conformance with these Regulations.