

## ARTICLE 3: LOTS SPLITS AND BOUNDARY SHIFTS

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### Sections:

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

The objective of this Article is to create a procedure for the division of certain property in the unincorporated portion of Marion County into not more than four (4) lots without having to be platted; and under certain circumstances, to provided for existing platted lots to be divided into not more than two (2) lots without having to be re-platted by complying with the formal platting requirements described in Article 2 of these regulations. It is also the objective to provide a procedure for a boundary shift between two adjoining properties. Such lot split or boundary shift shall be subject to the guidelines established in Section 3-104 and any further divisions of the lot or lots so established shall be platted in compliance with the requirements of Article 2 of these regulations.

#### **3-102 Authorization for Approval of Lot Splits:**

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

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

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

1. A copy of a drawing to a scale, if possible, of not less than 1" = 100', showing the lot(s) involved, the precise location of any structures thereon, and the location and dimensions of the original and proposed lots. Said drawing shall be a certificate of survey from a licensed land surveyor to determine the exact location of the structures and the precise dimensions of the lots. To facilitate the recording of the lot split and/or boundary shift, the drawing shall be on either letter or legal-size paper.
2. The legal description(s) for the proposed lot(s).
3. The location of existing parking and curb cuts, if any. In the case of a non-residential lot split, required off-street parking shall be shown.
4. The amount of square footage contained in each portion of the original lot.
5. All existing easements and, if any, access control. If the easements or access control were granted by separate instrument, the recording information shall be indicated.
6. All platted building setbacks.

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7. The location of existing municipal water mains, water meters, sanitary sewer laterals, gas mains, gas meters, and storm sewer lines which serve the property subject to the lot split or boundary shift.
8. The location of electric, telephone and other utility services to the property subject to the lot split or boundary shift.
9. A 3-inch by 5-inch blank space for the approval acknowledgment of the Zoning Administrator.

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

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

1. A new street or extension of an existing street, or a vacation of streets, alleys or setback lines, is required or proposed.
2. There is less street right of way than required by these regulations, unless dedication of additional right of way can be made by separate instrument.
3. Any easement requirements have not been satisfied.
4. Such lot split or boundary shift will result in a landlocked tract.
5. Such lot split or boundary shift will result in a lot(s) without direct access to and/or less than minimum frontage on a street required by the Marion County Zoning Regulations.
6. A substandard sized lot will be created according to these regulations or the Marion County Zoning Regulations. This includes both the created lot and the parent lot.

For those lot splits or boundary shifts which result in significant increases in service requirements, e.g., utilities, traffic control, streets, etc; or which interfere with maintaining existing service levels, e.g., additional curb cuts or points of access, repaving, etc; or which propose private easements for access utilities; review of the lot split or boundary shift by the Planning Commission may be required. Such determination shall be made by the Zoning Administrator. If such a review is necessary, sufficient additional copies of the proposed lot split or boundary shift, and all supporting documentation, shall be provided by the applicant for distribution to the Planning Commission.

The Zoning Administrator shall, in writing, either approve, with or without conditions, or disapprove the lot split or boundary shift within fifteen (15) working days of the application.

The Zoning Administrator may make such additional requirements as deemed necessary to carry out the intent and purpose of these regulations. Such requirements may include, but not be limited to, installation of public facilities, dedication of right of way and/or easements, or submission of covenants for the protection of other landowners in the original subdivision.



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### 3-105 Agricultural Lot Splits:

The creation of up to three (3) additional lots, for a total of four (4) lots including the original parent tract, in the unincorporated portion of Marion County on properties zoned and used as agricultural shall be permitted without requiring either a rezoning or a plat. The intent of this provision is to accommodate those divisions of agricultural lands for creation of additional building sites, as well as those that are necessary because of mortgage or lending requirements. This process is established; provided:

1. The provisions of Section 3-103 are complied with completely.
2. The approval guidelines specified in Section 3-104 are complied with to the extent they are applicable to an agricultural lot split.
3. All lots created shall maintain the minimum lot frontage on a public road as required under the provisions of the Marion County Zoning Regulations for properties in the appropriate Agricultural Zoning District as closely as possible. In the event a proposed lot fails to meet the minimum standard, the creation of flag lots, or the use of access easements, with a minimum 50-foot lot frontage may be permissible. Further, the smallest lot created shall not be less than **three (3)** acres in size.
4. A recordable covenant or agreement between the owner and Marion County for the entire original tract, executed by the owner and/or owners and the County, restricting further division of the original tract without rezoning of all the original tract and platting of the remaining portion of the original tract. The covenant or agreement shall include the requirements that rezoning and platting shall be in conformance with the then applicable Zoning and Subdivision Regulations of Marion County, Kansas, shall be binding on all heirs and assigns of all lots, and shall provide binding consent from all lot owners for the County to take subsequent action to rezone the property as noted below. Said covenant or agreement shall be recorded with the Register of Deeds of Marion County prior to the approval of the agricultural lot split.
5. In the event any of the lots or tracts created by this provision are subsequently divided for any reason, including for mortgage purposes, the subject lots and tracts are subject to the Zoning and Subdivision Regulations then in effect and no further splits shall occur until such properties have been rezoned and platted. No owner shall be accountable for the inclusion of other lots in the platting; however, the County may include by its own action all the lots in any subsequent zoning action.

### 3-106 Homestead Agricultural Lot Splits:

The creation of one (1) homestead agricultural lot, for a total of two (2) lots including the original parent tract, in the unincorporated portion of Marion County on properties zoned and used as agricultural shall be permitted without requiring either a rezoning or a plat. Unlike Agricultural Lot Splits authorized herein, the intent of this provision is to accommodate those divisions of agricultural lands for creation of a non-compliant lot that does not have direct frontage on an existing public road, and which will only be accessible by reason of an access easement. In all other respects, the provisions regarding Agricultural Lot Splits as established herein shall apply; provided, however, the approval of said Homestead Agricultural Lot Split shall only be permitted after consideration by the Planning Commission in the same manner as consideration of a plat, including all required public hearings and notice requirements; and final approval

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by the Board of County Commissioners following recommendation from the Planning Commission. The Zoning Administrator shall not have the authority to approve a Homestead Agricultural Lot Split.

A Homestead Agricultural Lot Split shall be subject to the following requirements:

1. The provisions of Section 3-103 are complied with to the greatest degree possible.
2. The approval guidelines specified in Section 3-104 are complied with to the extent they are applicable to a Homestead Agricultural Lot Split.
3. The smallest non-compliant agricultural lot created shall not be less than **three (3)** acres in size. All lots established shall be brought into compliance with the Marion County Sanitation Code with respect to all on-site water and/or wastewater systems associated therewith.
4. The recordable survey shall also identify and establish all necessary easements for access and appropriate utility services and appropriate documentation shall be provided regarding responsibilities of the owners of the lots regarding ownership, maintenance and all other associated aspects regarding the use of these easements.
5. A recordable covenant or agreement between the owner and Marion County for the entire original tract, executed by the owner and/or owners and the County, restricting further division of the original tract without rezoning of all the original tract and platting of the remaining portion of the original tract. The covenant or agreement shall include the requirements that rezoning and platting shall be in conformance with the then applicable Zoning and Subdivision Regulations of Marion County, Kansas, shall be binding on all heirs and assigns of all lots, and shall provide binding consent from all lot owners for the County to take subsequent action to rezone the property as noted below. Said covenant or agreement shall be recorded with the Register of Deeds of Marion County prior to the approval of the Homestead Agricultural Lot Split.
6. In the event any of the lots or tracts created by this provision are subsequently divided for any reason, including for mortgage purposes, the subject lots and tracts are subject to the Zoning and Subdivision Regulations then in effect and no further splits shall be considered legal and/or buildable until all the property originally included in the Homestead Agricultural Lot Split have been rezoned and platted. No owner shall be accountable for the inclusion of other lots in the platting; however, the County may include by its own action all the lots in any subsequent zoning action.