

ARTICLE 5: REQUIREMENTS FOR IMPROVEMENTS

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5-101 Applicability:

Prior to and as a condition of approval of any final plat by the Governing Body, the developer shall agree to install or provide for the installation of certain improvements within the proposed subdivision. Such improvements installed by the developer shall comply with the standards and specifications of the County, utility company or public agency having jurisdiction and shall be subject to any applicable surety requirements to guarantee their proper installation.

5-102 Required Improvements:

Every developer shall install, or through the appropriate public agency and/or utility company provide for the installation of the following improvements in accordance with the conditions and specifications required herein.

1. Water Supply and Sewage Disposal:

A. Water Supply:

- 1) It shall be the responsibility of the developer to either arrange for extension of water service from the appropriate water service provider in accordance with said entity's policies relative to the same, or provide sufficient proof of available water supply for all of the lots proposed to be created. If water is to be provided as on-site wells, then the developer shall provide sufficient proof of quantity and quality of water to support the intensity of development proposed.
- 2) In instances where water service is provided by an incorporated city, the developer shall contract with said city for the installation, maintenance, and operation of fire hydrants in accordance with said City's requirements.
- 3) All water supply plans and profiles shall be subject to the approval of the Kansas Department of Health and Environment.

B. Sanitary Sewer System:

- 1) All subdivisions within established service areas of sewer systems or sewer districts within Marion County shall connect to said sanitary sewer system. All connections shall be subject to the approval of the entity responsible for said sewer system.

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- 2) Where the installation of sanitary sewers is not required by these regulations, the developer may provide for the installation of private individual sewage treatment systems on each individual lot at the time improvements are erected thereon. All such individual sewage treatment systems shall be constructed and maintained in accordance with the Marion County Sanitation Code.
 - 3) All sanitary sewer plans and profiles shall be subject to the approval of the Kansas Department of Health and Environment.
2. Provision for Storm Drainage: The developer shall make adequate provision for the control and discharge of storm water from the platted area and in doing so shall give consideration to the alternatives and principles of storm water management. When necessary, the construction of storm sewers shall be properly integrated with any existing storm sewer system and shall provide for the anticipated extension of said system to serve additional areas. The storm drainage plan and subsequent installation of culverts, storm sewers, stabilization ditches, storm water detention or retention ponds and other improvements shall follow accepted engineering standards and principles of design and construction. All storm drainage plans shall be prepared by a registered engineer of the State of Kansas and shall bear the seal of said registered engineer and must receive approval of the County.
3. Provisions for Streets: The developer shall provide for the improvement of all new streets within the platted area. Such street improvements should adequately reflect the classification of the particular street, its location and anticipated volume of traffic. All grades, drainage facilities and surfacing requirements shall be constructed according to the standards and specifications of the County. Said construction standards are on file and available in the office of Marion County Public Works. All street plans, profiles and specifications shall be submitted to and approved by the County Engineer. Final acceptance of the construction of said streets shall be made by the County.
4. Inspections: All construction and installation shall be inspected by the County. The developer shall pay for inspection personnel furnished by the County, under the supervision of the County Public Works Department, on all improvements constructed by the developer as contractor or subcontractor. A schedule of fees shall be prepared by the County.
5. Installation of Utility Lines & Appurtenances: The developer shall be responsible for making the necessary arrangements with the appropriate utility companies for the installation of utility lines and appurtenances. The installation of such utilities shall be done in such a manner as to not interfere with other underground utilities and their installation shall be coordinated through the County. Underground utility lines which cross underneath the right of way of a street shall be installed prior to the improvement of any such street in order to reduce the damage caused by street cuts. Incidental appurtenances, such as transformer enclosures and meter cabinets, shall be located so as not to be hazardous to the public and shall be approved by the County.
6. Installation of Monuments: The developer shall install monuments within the area to be subdivided. Such monuments shall be installed in accordance with the minimum standards established by the Board of Technical Professions as authorized by Kansas statutes.

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7. Exceptions: All improvement requirements as set out within this Article shall be provided for in all subdivisions with the following exceptions:
 - A. Upon specific request from the developer and concurrence of the Governing Body, certain improvements may be waived. Such waiver may include, but not be limited to, instances where the proposed subdivision is a re-subdivision and/or concerns an area presently having any or all the required improvements as set out in Section 5 102 and where such improvements comply with the requirements of said Section and are in acceptable condition as determined by the County Engineer.
 - B. The Governing Body may make other reasonable requirements for dedications or installations of public improvements or facilities deemed necessary to meet the public needs caused by the new subdivision. Such additional requirements may include, but not be limited to, the provision of park or open space land as is warranted by the reasonably foreseeable future population and use of the area as a result of the proposed subdivision.

5-103 Financing:

1. Subdivision Improvements: A method for financing proposed improvements and a 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 which require no improvements. Benefit District financing is not available for construction of unpaved roads or any drainage improvements for a subdivision in the unincorporated portion of Marion County. The Governing Body 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 Governing Body. 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 developer 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 developer and shall be verified by the County Engineer. The developer 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 Marion County, and shall be for one hundred percent (100%) of the total improvement costs. Financial assurance in a form other than a bond may be accepted by the Governing Body. 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, or any other guarantee the Governing Body shall deem acceptable.

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2. Defaulting: The Governing Body may, upon advice of the County Engineer, find that the developer is in default of the Subdivision Improvements Agreement. Such finding shall occur at a regularly scheduled meeting of said Governing Body. Two (2) weeks prior to such scheduled meeting, the developer shall be notified by registered mail of possible default proceedings. At the meeting the developer 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.
3. Default Proceedings: The Governing Body may find the developer not in default, extend the time limit, or:
 - A. Should the Governing Body 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 Governing Body may assess to the developer, property owners, or both, the construction costs of the improvements that exceed the amount provided by the developer. This may take the 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.
 4. Guarantee Release: When all improvements have been completed and have been inspected, approved and accepted, the County shall authorize the release of the guarantee.

5-104 Relation to Plat Approval:

1. Adequate Public Facilities: Prior to approval of the Preliminary Plat, the Planning Commission shall find that sufficient public facilities and services are either available, shall be available within a reasonable time as programmed in the Capital Improvements Program, or shall be provided by the developer in accordance with the requirements of these regulations to adequately service the type of subdivision and development being proposed.

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2. Subdivision Improvements: When the construction or installation of street improvements, sidewalk improvements, public water supply, sanitary sewer systems, storm sewer systems or other drainage improvements, or other facilities is required to serve the proposed development within a subdivision, a prerequisite for the consideration of the Final Plat shall be the submission of a Benefit District Petition or a Subdivision Improvements Agreement specifically setting forth the extent, time schedule, and method of financing such construction or installation as proposed by the owner or developer. The Benefit District Petition or the Subdivision Improvements Agreement shall contain sufficient information to make a determination that the proposed construction or installation shall meet or exceed the standards set forth in the Subdivision Regulations herein and as adopted by the County. A phased construction time schedule may be recommended by the Planning Commission, subject to approval by the Governing Body, which is based on the owner's or developer's estimate of the pace at which development will proceed within the subdivision.
3. Final Approval: Any approval required under this section does not obligate the Planning Commission to approve the proposed plat if the Planning Commission finds the overall development to be inconsistent with any established policies and plans.

5-105 Relocation of Existing Facilities:

1. Financial Obligations: Whenever any existing improvements and/or utilities are required to be relocated or upgraded due to the subdivision or construction of improvements required as a condition for approval of the subdivision plat, and in the event such was not known at the time of initial construction, the costs of such relocation or upgrading shall be the sole responsibility of the new subdivision. Franchise agreements between the County and private utilities in effect at the time of construction may dictate the responsibility for absorbing costs associated with relocating or repairing utility lines. Responsibility may also depend on whether the relocation or repair is a private or public benefit.
2. Duplication of Improvements: Where the proposed subdivision is a re-subdivision or concerns an area presently having any or all required improvements as set out above, and where such improvements meet the requirements of these regulations and are in good condition as determined by the County Engineer, no further provision need be made by the developer to duplicate such improvements. The developer shall provide for the repair, correction or replacement of improvements so that all improvements will then meet the said requirements.
3. Street Widening or Reduction: Where the proposed subdivision is a re-subdivision or concerns an area presently abutting or containing any existing public street or 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/or County policy. The developer of such proposed subdivision shall provide an additional roadway pavement meeting the minimum standards set by these regulations and the County. The County Engineer shall determine what adjustment to make where the widenings merge with existing streets which are of smaller width at the boundary of such proposed subdivision. The County Engineer may approve reduction of the minimum roadway width, as required by these regulations, to match an existing roadway system where physical consideration warrants such action.

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5-106 Acceptance:

No improvements shall be accepted until the County Engineer has inspected said improvements and certified that they meet the applicable standards, or the standards as approved for the project by the governing body.

5-107 Building Permits:

No building permits shall be granted until the proposed subdivision has been approved and recorded, or the lot on which the permit is requested is or has been created in conformance with the provision of these Regulations, and all infrastructure improvements have been made or guaranteed.

5-108 Off-Site Improvements:

The Planning Commission may, upon advice and findings, require the developer to submit a Subdivision Improvements Agreement or a Benefit District Petition, in accordance with the provisions of this Article, for the installation or upgrading of off-site improvements if such need is substantially created by a proposed subdivision. Off-site improvements should be within dedicated easements or rights-of-way and serve a public purpose. The financing of such improvements shall be handled as if they were on-site improvements. The Governing Body may require such subdivision to participate in the following facilities and improvements, or any other off-site improvements as recommended by the Planning Commission, if the need is created by a proposed subdivision:

1. Special grading requirements;
2. Street improvements;
3. Drainage improvements; or,
4. Traffic control devices.