

MONTGOMERY COUNTY
SUBDIVISION REGULATIONS

MONTGOMERY COUNTY
KANSAS

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Subdivision Regulations
Montgomery County, Kansas

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ARTICLE 1
GENERAL PROVISIONS

Sections:

- 1-101 Title and Scope
- 1-102 Purpose
- 1-103 Applicability
- 1-104 Exemptions
- 1-105 Definitions

1-101 Title and Scope: These Regulations, entitled the Montgomery County Subdivision Regulations, prescribe minimum design requirements and approval procedures for the development of new subdivisions and resubdivisions of land in Montgomery County, Kansas.

1-102 Purpose: The division and improvement of land for urban or nonagricultural development has a significant and lasting impact upon the physical environment of Montgomery 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 and failure to properly size and construct adequate sewers and streets, insure available water supplies, 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.

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 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.

1-103 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.
2. Resubdivide 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 for the use of prospective or existing owners of lots or tracts of land on or adjacent to such property.

The owner(s) of any land located within Montgomery 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 permit shall hereafter be issued by Montgomery County for construction on any land that has not been subdivided in compliance with these Regulations and all other applicable state laws and Montgomery County regulations in effect at the time of the subdivision of said land.

1-104 Exemptions: These Regulations shall not apply in the following instances:

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 tracts of 20 acres or more when subdivided only for agricultural purposes, when it does not entail the establishment of a new residential dwelling, and when it does not involve or result in the creation of any new streets, easements of access or other dedication.
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 no additional lots are created and such tracts of land or lots comply with the design requirements for lots in Section 4-104 of these Regulations and applicable provisions of the Montgomery County Zoning Regulations.
4. The use of land for right-of-way by railroads or public utilities subject to local, state or federal regulations, provided no new street is created or involved.
5. The division of a tract of land or lot in the unincorporated area which creates no more than one additional tract or lot subject to the provisions for tract or lot splits described in Article 3 of these Regulations and provided such division does not involve the creation of any new streets or easements of access and such newly created tracts or lots comply with the design requirements for lots in Section 4-104 of these Regulations and applicable provisions of the Montgomery County Zoning Regulations. Any further division of the lots or tracts of land shall be platted in compliance with the requirements of these Regulations.
6. The division of previously-improved land for industrial purposes on that portion of the land outside the City limits of the City of Coffeyville described on Exhibit A, attached hereto and incorporated herein by reference, into sixteen or fewer tracts with approximate boundaries as depicted on the drawing of the area on file with the County Clerk.

1-105 Definitions: For the purpose of these Regulations, certain terms, words, and phrases are hereby defined and shall have the meaning assigned to them in this Section when used or referred to throughout these Regulations.

1. Access: The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.
2. Agricultural Use: The use of a tract of land for the raising of crops; animal husbandry; dairying; pasturage; general farming; truck farming; cultivation of field crops; orchards; groves; raising fish, birds or poultry; and accessory uses necessary for the carrying out of farming operations, including structures for storage, processing and sale of products raised on the premises. Agricultural uses shall not include the following:
 - a. The operation or maintenance of greenhouses, nurseries, or hydroponic farms operated at retail.
 - b. Wholesale or retail sales as an accessory use unless the same are permitted by the Montgomery County Zoning Regulations.
 - c. The operation or maintenance of a commercial stockyard or feedlot.

3. Alley: A public or private thoroughfare which provides only a secondary means of access to abutting property.
4. Arterial Street: See Major Street.
5. Block: A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroads, right-of-ways, shoreline or waterways, or boundary lines of municipalities.
6. Bond: Any form of security including cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to Montgomery County. All bonds shall be approved by Montgomery County whenever a bond is required by these Regulations.
7. Collector Road: A road intended to move traffic from local roads to secondary arterials. A collector road serves a neighborhood or large subdivision and should be designed so that no residential properties may face onto it.
8. Corner Lot: A lot abutting upon two or more streets at their intersection.
9. County: The Board of County Commissioners of Montgomery County, Kansas, or its delegated staff, boards or agencies.
10. County Counselor: The County Counselor, or such licensed attorney designated by the County Counselor or the Governing Body, to furnish legal assistance or the administration of these Regulations.
11. County Engineer: The County Engineer, or such licensed engineer designated by the County Engineer or Governing Body, to provide assistance in administering these and other regulations governing areas of normal responsibilities assigned to the County Engineer.
12. Director of Environmental Health: Director of Environmental Health shall mean the person appointed by the Montgomery County Commissioners and must be a registered Sanitarian.
13. Cul-de-sac: A local street with only one outlet and having a circular turnaround for the safe and convenient reversal of traffic movement.
14. Dead-end Street: A street having only one outlet.
15. 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.
16. Double Frontage: A lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.
17. 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.
18. Final Plat: The map, plan or record of a subdivision and any accompanying materials, as described in these Regulations.
19. Flag Lots: A lot, tract or parcel of land that provides a 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.

20. 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.
21. Frontage Road: A public or private, marginal access roadway, generally paralleling and contiguous to a street or highway, providing access to abutting properties and which is designed to promote safety by eliminating unlimited ingress and egress to such street or highway by providing points of access at generally uniformly spaced intervals.
22. Governing Body: The Board of County Commissioners of Montgomery County, Kansas.
23. Grade: The slope of a road, street or other public way, specified in percent (%).
24. 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.
25. Local Road: A road intended to provide access to other roads from individual properties.
26. 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 Montgomery 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.
27. Major Streets: An arterial or thoroughfare which primarily serves as a transportation link for vehicular traffic.
28. Monument: The device, usually a metallic bar or tube, used to mark and identify the corners in the boundaries of subdivisions or lots.
29. 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.
30. Offset Street: A continuous street whose centerline is not tangent through an intersection.
31. Preliminary Plat: The preliminary plat drawing or drawings, described in these Regulations, indicating the proposed manner or layout of the subdivision.
32. Resubdivision: 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. Tract or lot splitting may be allowed as specified within these Regulations.
33. 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 area.

34. Setback: The distance between a building and the lot line, or road easement line, whichever provides the desired minimum distance.
35. Short-Form Plat: A map or drawing of a proposed subdivision containing four lots or less giving, in form suitable for filing in the office of the County Register of Deeds, necessary affidavits, dedications and acceptances, and containing a complete engineering description (including references to field markers) sufficient to locate on the ground all streets, alleys, blocks, lots and other divisions of the subdivision.
36. Sidewalk: A paved walkway located along the side of a street.
37. Street: An easement or right-of-way, other than an alley, which provides principal access to adjacent properties.
38. 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 resubdivision. 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.
39. Subdivision, Nonresidential: A subdivision whose use is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of these Regulations.
40. Tract or Lot Split: The dividing or redividing of a lot or tract of land into not more than two tracts or lots, subject to the criteria within these Regulations.
41. Walkway: Any pathway, surfaced or otherwise, intended for pedestrian use only.
42. Zoning Administrator: The person or persons authorized and empowered by the Governing Body to administer the requirements of these Regulations.

ARTICLE 2
PROCEDURE FOR APPROVAL OF SUBDIVISIONS

Sections:

- 2-101 General Provisions
- 2-102 Pre-Platting Conference
- 2-103 Preliminary Plat
- 2-104 Final Plat
- 2-105 Short-Form Plat

2-101 General Provisions: This Article establishes uniform procedures and platting requirements for subdivisions subject to these Regulations. No final plat shall be filed or recorded with the County Register of Deeds as required by law unless and until it has been acted upon by the Montgomery County Planning Board and approved by the Governing Body as required herein.

2-102 Pre-Platting Conference: Any person desiring to subdivide land into five or more lots shall be required to attend a pre-platting conference with the Montgomery County Zoning Administrator as a first step to filing an application for a preliminary plat. Owners of proposed subdivisions of less than five lots are encouraged to hold a pre-platting conference; however, it is not mandatory and they may proceed with filing a preliminary plat. Arrangements for this conference shall be made by contacting the Montgomery County Zoning Administrator.

The purpose of the pre-platting conference is to inform the Montgomery County staff of possible future subdivisions so that the staff may determine and inform the applicant of the effect, feasibility and compatibility of the proposal in relation to Montgomery County's utility and street system and any County development policies and plans. The conference enables the staff to inform owners and their agents of the general conformance or nonconformance of the subdivision proposal with these Regulations, identify additional requirements for further processing of the proposal, and to advise them of applicable zoning provisions or conflicts and special design considerations presented by particular environmental features on or affecting the site (i.e., flood plains, excessive slope areas, soil problems, high water tables, etc.).

The land owner or his representative may, if he deems it desirable, prepare a schematic drawing of the proposed subdivision in order to receive any pre-plat comments of the staff which may prove helpful in designing the preliminary plat. The sketch plan should convey the location and size of streets and the orientation, number and dimensions of the lots; plans for water supply and sanitary sewage disposal; and any particular design problems posed by the existing natural or manmade conditions and characteristics of the site which could benefit from an early discussion.

In addition to the Zoning Administrator and representatives of the owner(s) intending to subdivide the land, principal participants involved in the pre-platting conference may include representatives of the Montgomery County Engineer's Office and other persons and agencies as applicable. No verbal, written or schematically illustrated statements made during the course of the conference shall be held as legally binding or construed in any way as granting or assuring approval of the proposed subdivision since the Governing Body has final authority on all subdivision plats upon action from the Montgomery County Planning Board.

2-103 Preliminary Plat:

1. Application: A subdivision application shall be filed with the Zoning Administrator and shall be accompanied by 20 copies of the preliminary plat. The appropriate fee of \$100 per lot, but not to exceed \$500 per subdivision shall be paid upon filing the application.

2. Preliminary Plat Contents: The following information shall be shown on the preliminary plat or attached thereto:
- a. Items Pertaining to the Title:
- (1) The name of the proposed subdivision.
 - (2) Location of the subdivision by reference to a section corner.
 - (3) The name(s) and address(es) of the owner(s)/developer(s) and the licensed surveyor or engineer who prepared the plat.
 - (4) North arrow.
 - (5) Scale of the drawing(s). The preliminary plat shall be drawn to a scale of not less than 1" = 200'; however, with special conditions and prior approval of the County Engineer, this scale may be exceeded.
 - (6) The legal description of the entire dimensions of the subdivision.
- b. Items Pertaining to the Subject Property (Existing):
- (1) All of the land to be platted as well as all platted or unplatted adjacent properties shall be shown. The boundary of the platted area shall be indicated by a heavy solid line.
 - (2) Existing contours with the contour intervals not more than 2 feet. All elevations and contours shall be related to mean sea level.
 - (3) The location, width and names of all existing platted or private streets or other public ways within or adjacent to the tract, together with easements, railroad and utility right-of-ways, parks and other significant features such as city boundary lines and monuments.
 - (4) Environmental features including the location and direction of drainage channels and areas subject to flooding by the Intermediate Regional Flood (100-year flood).
 - (5) All airports, sanitary landfills, feedlots or other similar uses located within two miles of the proposed plat shall be shown on a vicinity map.
 - (6) Information regarding type of soil as available from the Soil Conservation office.
 - (7) Percolation test data as required by the Director of Environmental Health shall be submitted for all subdivisions to be served by an individual sewage disposal systems.
- c. Items Pertaining to the Plat (Proposed):
- (1) Layout and names of streets with general dimensions and appropriate grades and their relationship to adjoining or projected streets or roadways.
 - (2) Intended layout, numbers and dimensions of lots.
 - (3) Parcels of land intended to be dedicated or reserved for parks, schools, or

other public use, or to be reserved for the use of property owners within the subdivision.

- (4) Location and type of utilities to be installed, including the approximate location of extensions of any storm sewers and water mains.
- (5) Utility and other easements indicating width and purpose.
- (6) A statement or other indication of phasing of the development and an appropriate timetable if applicable.
- (7) Vicinity sketch which indicates the relationship between the proposed subdivision and surrounding properties, streets and other features.
- (8) The platting of any subdivision containing 5 or more lots either singly or multi-family shall be required to supply a letter from the school district servicing that subdivision, outlining the pickup points provided by the school bus(es).

d. Items to Accompany the Plat :

- (1) The names and addresses of all owners of property within 1,000 feet of the proposed platted area. The applicant may submit the same list of owners of property within 1,000 feet submitted for a rezoning application, provided the application for preliminary plat is made within six months of the application for such rezoning.
3. Application Complete: Upon receipt of the preliminary plat and supportive data required in this Section, the Zoning Administrator shall certify the application as complete and affix the date of application acceptance on the plat or application form. He shall then place the preliminary plat on the agenda for consideration at the next meeting of the Montgomery County Planning Board no less than 20 days before the next regular meeting.
 4. General County Staff and Utility Review: The Zoning Administrator shall distribute copies of the preliminary plat to the appropriate Montgomery County departments and agencies and the affected utility companies for review and comment. All general staff and utility review comments shall be coordinated by the Zoning Administrator and shall be forwarded along with a report and recommendation to the Planning Board.
 5. Planning Board Review and Action: The Montgomery County Planning Board shall conduct a public hearing on the preliminary plat of which notice shall be published once in the official County newspaper at least 15 days prior to the hearing date. In addition, notices of the public hearing on the proposed preliminary plat shall be mailed to all property owners within 1,000 feet of the proposed plat.

After reviewing the preliminary plat based on the objectives and requirements of these Regulations, comments from concerned citizens, and the report from the Zoning Administrator, the Planning Board shall take action on the acceptance, modification or rejection of the preliminary plat. Approval of the preliminary plat by the Planning board shall permit the applicant to proceed with the filing of a final plat as described in Section 2-104. The Zoning Administrator shall forward a statement of the action taken by the Planning Board to the Governing Body. The Governing Body, at its request, may require that it must approve the preliminary plat before the applicant can submit a final plat.

6. Effect of Approved Preliminary Plat: Approval of the preliminary plat does not constitute final acceptance of the subdivision by Montgomery County. It establishes the overall layout

and design of the proposed subdivision and authorizes the applicant to prepare a final plat. Any deviation of the final plat from the intent of the approved preliminary plat as determined by the Planning Board shall be disallowed and shall cause the reinitiation of the preliminary platting process. The applicant shall file a final plat application along with the required documents described in Section 2-104 within one year of the approval of the preliminary plat by the Planning Board and/or Governing Body. 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 by the developer and granted by the Planning Board. An extension shall be granted only once.

2-104 Final Plat:

1. Application: 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. The final plat submitted may be for all of the property approved in the preliminary plat or may be for only a portion or “phase” thereof. The applicant shall file 20 copies of the final plat with the Zoning Administrator along with the additional information required herein.

2. Final Plat Contents: The following information shall be shown on the final plat and attached thereto:
 - a. Items to be Included on the Final Plat: These items are on file in the County Engineer’s office.

 - b. Additional Items to Accompany the Final Plat:
 - (1) Two copies of separate drawings showing a profile and cross section of all streets, alleys or public ways to be dedicated for public use. The profiles and cross sections shall be drawn to specifications as on file and acceptable to the County Engineer’s office.

 - (2) A certificate which states that the person or persons whose names are signed to this document and/or appear on the final plat are the sole and lawful owners of the property, that the plat is made with their desires, and that they dedicate the areas shown on the plat or as set forth in the document to the perpetual use and ownership by the public for the specific purpose stated therein or thereon. Ownership shall be verified by the County Clerk.

 - (3) Certification by the County Clerk showing that all due or unpaid taxes have been paid in full.

 - (4) A copy of any restrictive covenants applicable to the subdivision, if any; provided, the developer or subsequent homeowners association shall be responsible for the enforcement of any and all restrictive covenants filed for any subdivision and no provisions of said restrictive covenants shall supersede any restrictions or regulations established by these or any other local or state rules, regulations or laws.

- (5) Three copies of a properly executed written agreement by the developer 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 timely manner, to perform or complete the work and recover the actual cost thereof from the developer or the developer's sureties. The developer's agreement for public improvements will set out the public improvements required and so set out or incorporate by appropriate references, the plans and specifications for said improvements. The developer's agreement and bond for required public improvements shall be reviewed and approved as to the form and content by the County Engineer and County Counselor.
 - (6) Adequate space shall be made available on the plat for certificate of Register of Deeds in form of a seal or stamp.
3. Application Complete: Upon receipt of the final plat, engineering drawings and certification documents required in this Section, the Zoning Administrator shall certify the final plat application as complete. He shall then place the final plat on the agenda for consideration at the next regular meeting of the Planning Board which is held no less than 10 days after said application or no more than 45 days thereafter.
4. General County Staff and Utility Review: The Zoning Administrator shall transmit copies of the final plat, along with the other documents submitted, to the appropriate Montgomery County departments and agencies and utility companies as the Administrator deems necessary for review and to assure compliance with the approved preliminary plat. The Zoning Administrator shall serve as final plat coordinator and all review comments shall be directed to such person and forwarded to the Planning Board along with a report and recommendation.
5. Planning Board Review and Action: The Planning Board shall review the final plat for compliance with the approved preliminary plat and for completion of all final requirements. After consideration, the Planning Board shall either recommend to the Governing Body to approve or deny the final plat or table for additional information. The Zoning Administrator shall forward a statement of the action taken by the Planning Board together with the minutes and 8 copies of the final plat to the Governing Body.
6. Governing Body Review and Action: Upon recommendation from the Planning Board, the Governing Body shall take action to approve or disapprove the final plat including the acceptance of street and other public way dedications, service and utility easements, and land dedicated for other public use.
7. Recording of Final Plat: The final plat shall be recorded and filed with the Register of Deeds of Montgomery County, Kansas, after approval of the final plat by the Governing Body as required by State law.

2-105 Short-Form Plat:

1. Application: A short-form plat procedure is included for the purpose and intent of providing a means of approving a subdivision of land that contains four lots or less and, in all other respects, meets the requirements of these Regulations. The submission and approval of a preliminary plat is not required as a prerequisite for a short-form plat approval. If the proposed subdivision qualifies for a short-form plat, the applicant shall file 20 copies of the plat with the Zoning Administrator along with the additional information required herein.
2. Short-Form Plat Contents: A short-form plat must be drawn with ink on mylar and must be drawn to a scale of not less than 1" = 200'. Except for the above requirement, a short-form plat must meet all of the requirements necessary for the approval of a final plat as stated herein, including but not limited to all bonding requirements.
3. Short-Form Plat Review and Action: The review and approval procedures for a short-form plat are the same as specified herein for a final plat, except that a public hearing shall be held in compliance with the requirements and procedures outlined herein for a preliminary plat.
4. Limitations: For any property located within the legal boundaries described where a short-form plat is filed, no further short-term plat procedure is available unless ten years has elapsed since the original short-form plat was finally approved.

ARTICLE 3
TRACT OR LOT SPLITS

Sections:

- 3-101 Objective
- 3-102 Authorization for Approval of Lot Splits
- 3-103 Application Procedure
- 3-104 Approval Guidelines
- 3-105 Saving Clause

3-101 Objective: The objective of this Article is to provide for the division of a tract of land or lot into not more than 2 tracts or lots without having to comply with the platting requirements described in Article 2. Such tract or lot split shall be subject to the guidelines established in Section 3-104 and any further divisions of the tract(s) or lot(s) shall be in compliance with the requirements of Article 2.

3-102 Authorization for Approval of Lot Splits: The Zoning Administrator is hereby authorized to approve or disapprove a tract or lot split in accordance with the provisions of this Article. Appeals from a decision made by the Zoning Administrator may be made by the applicant to the Governing Body for a final determination.

3-103 Application Procedure: The application for a tract or lot split shall be made to the Zoning Administrator on forms provided and shall be accompanied by the following information:

1. Three copies of a drawing to a scale of not less than 1" = 100' showing the lots involved, the precise location of any structures thereon, and the location and dimensions of the original and proposed lots or tracts. Said drawing shall be a certificate of survey from a licensed engineer or land surveyor to determine the exact location of the structures and the precise dimensions of the lots or tracts.

3-104 Approval Guidelines: No tract or lot split shall be approved if one or more of the following applies:

1. A new street or alley is needed or proposed.
2. Such action will result in significant increases in service requirements, e.g., utilities, traffic control, streets, etc.; or will interfere with maintaining existing service levels, e.g., additional curb cuts or points of access, repaving, etc.
3. 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.
4. Any easement requirements have not been satisfied.
5. Such split will result in a tract or lot without direct access to and/or less than 50 feet of frontage on a street.
6. A substandard sized tract or lot will be created according to these Regulations or the Montgomery County Zoning Regulations.

The Zoning Administrator shall, in writing, either approve, with or without conditions, or disapprove the tract or lot split within 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 limited to, installation of public facilities or dedication of right-of-way and/or easements.

7. The tract or lot can only be granted in accordance with Montgomery County Sanitary Code.

3-105 Saving Clause: Nothing in this Article shall be deemed to be in conflict with K.S.A. 79-405 et seq.

ARTICLE 4
SUBDIVISION DESIGN STANDARDS

Sections:

- 4-101 Applicability
- 4-102 Street Standards
- 4-103 Block Standards
- 4-104 Lots
- 4-105 Easements

- 4-101 Applicability: All subdivisions of land subject to these Regulations shall conform to the following minimum design standards. Such design criteria shall govern the approval of subdivision plats by the Montgomery County Planning Board and the Governing Body. All plats shall be prepared under the direct supervision of a registered engineer or land surveyor of the State of Kansas, and all submittals shall bear the seal of said registered engineer or land surveyor.

All subdivisions shall be platted with due consideration toward sound traffic engineering principles, safe and accessible building sites, adequate methods of storm water drainage and provisions for a sanitary water supply and effective sewage disposal system. All subdivision plats shall be consistent with applicable County wide development plans and policies and shall be coordinated with existing, planned or committed public improvements.

4-102 Street Standards:

1. External Street Considerations: The arrangement, alignment, and width of streets in new subdivisions shall be properly integrated with the existing principal street or road system and where appropriate shall provide for the continuation of existing principal streets in adjoining subdivisions or their projection where adjoining property is not platted. In no case shall the width of streets in new subdivisions be less than the minimum street widths established in this Article.
2. Internal Street Layout: The location, arrangement, character and type of all streets shall be designed in relation to topographical conditions, the extent and impact of storm water runoff, the safe and convenient circulation of traffic within the subdivision and the uses of the land to be served by such streets. When possible, local streets shall be planned so as to discourage through traffic and to conveniently channel traffic onto collector and arterial streets.
3. Street Intersections: Streets shall be designed to intersect as nearly as possible at right angles except where topography or other natural conditions justify a variation. However, in no instances shall two streets intersect at an interior angle of less than 45 degrees without written consent of the County Engineer.
4. Offset Streets: Offset streets whose centerlines are separated by less than 125 feet shall be avoided except where topography or other conditions justify a variation.
5. Dead-End Streets and Cul-De-Sacs: Permanent dead-end streets shall be cul-de-sacs. A cul-de-sac shall be no longer than 1,000 feet in length and shall have an adequate turnaround with a minimum 60 foot radius right-of-way at the closed end. Temporary dead-end streets longer than 100 feet intended to be continued for access to adjoining property shall have a temporary turnaround area to provide service equal to the cul-de-sac requirement stated above.

6. Right-Of-Way and Street Widths: The widths for all road-of-way and roadways shall not be less than the minimum dimensions for each of the street classifications as established and on file in the County Engineer's office.
7. Road Grades: Minimum and maximum grades for roads shall conform to those standards established and on file with the County Engineer.
8. Street Names: Streets which are substantially in alignment with existing streets shall, unless otherwise illogical or due to severe directional change, bear the names of the existing streets. The names of such new streets shall be approved by the Planning Board and the U.S. Postal Service.
9. Street Surfacing: All streets shall be constructed according to the standards and specifications of the County as established by and on file with the County Engineer.
10. Alleys: Alleys are prohibited from subdivisions except in extra-territorial areas in the Counties.

4-103 Block Standards:

1. Lengths: Blocks shall be delineated by intersecting streets at such intervals as to sufficiently provide for cross traffic and to furnish access to existing streets adjoining the new subdivision. In residential districts, no block shall be longer than 1,320 feet between centerline of streets, except variations may be allowed in instances where topography or other conditions prohibit compliance.
2. Design: The configuration of blocks shall be determined with regard given to:
 - a. Zoning requirements as to lot sizes and dimensions.
 - b. Provisions of adequate building sites suitable to the particular needs of the type of use intended.
 - c. Topography as it affects storm water drainage, erosion , and wastewater systems.
 - d. Need for convenient circulation, access, safety and control of vehicular and pedestrian traffic.
3. Walkways: Pedestrian walkways may be required where deemed necessary by the Planning Board to provide convenient access to schools, parks, playgrounds or other public or private community facilities.

4-104 Lots:

1. Frontage Requirements: Every lot shall have at least 100 feet of frontage on a street, except those lots fronting on the end of a cul-de-sac which shall have at least 50 feet of frontage.
2. Size: The size, width, depth, shape and orientation of lots and any minimum building setback lines shall be appropriate to provide safe and adequate building sites based upon the location of the subdivision and for the type of development and use intended. As a minimum, lots shall have dimensions and sizes and provide for space requirements no less than as required by the Montgomery County Zoning Regulations.

3. Double Frontage Double frontage lots shall be avoided for single-family residential dwellings except where the lots abut upon a limited access highway, arterial street or section line road or where the topography of the land prevents reasonable subdivision into additional lots. Double frontage lots shall not have vehicular access between such lots and an abutting limited access highway, arterial street or section line road.
4. Major Streets: When possible, lots intended for residential use facing on major streets shall be avoided. It is preferable that the sides or backs of such lots adjoin major streets with the vehicular egress from such lots being oriented to a minor street. This provision shall also apply to lots adjoining section line roads.
5. Corner Lots: Corner lots intended for residential use shall have additional width to allow appropriate building setback and orientation to both streets to provide adequate corner visibility. If such corner lot abuts a section line road, the lot shall not have access granted to the section line road but by the other road, if possible.
6. Flag Lots: Flag lots are strictly prohibited.
7. Permanent Structure Lots: The subdivision or resubdivision of a tract or lot shall not be permitted where said subdivision or resubdivision places an existing permanent structure in violation of these regulations and/or the requirements of the zoning ordinance.

4-105 Easements:

1. Utility : Permanent easements shall be provided where necessary for the location and servicing of utility poles, wires, conduits, storm and sanitary sewers, water and gas mains and other public utilities. Utility easements located along rear or side lot lines shall measure at least 15 feet wide and shall be centered on such rear or side lot lines, provided, whenever utility easements are located around the perimeter of the area to be subdivided, they shall be contained wholly within such area. Utility easements located along the front lot lines shall measure at least 10 feet wide. No utilities shall be buried within the driving surface or shoulders of the road.
2. Drainage: A drainage easement may be required for a proposed subdivision which is traversed by a watercourse, drainage way or drainage channel. Such easement shall conform substantially to the lines of such watercourse and shall be of such width as may be necessary to provide adequate storm water drainage and access for maintenance.
3. Pressurized or Flow Lines: Where a lot or group of lots side or back on existing high pressure transportation lines, or oil flow lines, a twenty-five (25) foot easement shall be provided on each side of said transportation lines. The twenty-five (25) foot easement shall be provided on that part of the lot which abuts the transportation lines and no building or structure shall be located or constructed within twenty-five (25) foot easement.
4. Public Sites & Open Sites: In subdividing land, due consideration shall be given by the subdivider to the dedication or reservation of sites for schools, parks, playgrounds and other public recreational areas or open spaces. Any areas dedicated or reserved shall conform with the recommendation in the approved Comprehensive Plan. 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.

ARTICLE 5
REQUIREMENTS FOR IMPROVEMENTS

Sections:

- 5-101 Applicability
- 5-102 Required Improvements
- 5-103 Guarantee of Completion of Improvements

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: The type of water supply and sewage disposal utilized to serve the subdivision shall be subject to the requirements of the Montgomery County Sanitary Code. The plans for water supply and disposal of sewage to serve the platted area shall give due consideration to the present and/or foreseeable future needs of the subject property and adjoining properties intended to develop, as well as the overall effectiveness of the system based on the characteristics of the land and the nature of the development. In those instances where a public water supply is provided through a Rural Water District, such construction and installation of the water supply shall be in compliance with the applicable Rural Water District supplying the water. Additionally, the construction of all public water supply systems shall be subject to the regulations of the Kansas State Department of Health and Environment.
2. Provisions 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 Engineer.
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 the County Engineer. All street plans and specifications shall be approved by the County Engineer and final acceptance of the construction of said streets shall be made by the County Engineer.

4. 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 Engineer. 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 Engineer.
5. Installation of Monuments: The developer shall install monuments within the area to be subdivided. Such monuments shall be of the size and type and placed as required by the County Engineer.
6. Street Signs: Street signs shall be placed at those locations within the area to be subdivided as determined by the County Engineer. The County Engineer shall approve such street signs, the cost of which shall be incurred by the developer.
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 resubdivision 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 Guarantee of Completion of Improvements: In the event those physical improvements required in this Article and intended to be dedicated to the County for ownership and maintenance have not been installed and accepted by the County prior to the approval of the final plat by the Governing Body, the developer shall, before approval of the final plat, enter into an agreement with the County in which the developer agrees to install such required improvements within a time frame acceptable to the County.

As a guarantee for the completion of public improvements, the developer shall provide surety in the form of a corporate surety bond, certified check, or other form of acceptable by the County Counselor to be filed with the County Clerk and in an amount not less than the County Engineer's certified estimate of the cost of constructing or completing the improvements. The surety shall be retained by the County until the actual completion and acceptance of such required improvements in an acceptable manner and within the time specified in the agreement between the developer and the County has occurred.

As a guarantee that all improvements have been installed in a satisfactory manner, the developer shall provide a maintenance bond to the County. Said bond shall be required for only the first year following acceptance of such improvements by the County Engineer. The amount of the bond shall be in an amount acceptable to the County Engineer and shall be in such form as acceptable by the County Counselor.

ARTICLE 6
ADMINISTRATION

Sections:

- 6-101 Rule Exceptions
- 6-102 Appeals
- 6-103 Zoning Administration
- 6-104 Construction Permits
- 6-105 Penalty for Violation, Actions

6-101 Rule Exceptions: The standards and procedures required in these Regulations shall be interpreted and applied literally in the case of all subdivision plats submitted after the date of the adoption of these Regulations. In case, however, of hardship caused by size, location or configuration of land, topography or other factors which affect a specific tract or subdivision or portion thereof, the applicant may request a rule exception from one or more of the requirements contained herein. A rule exception may be requested, on forms provided, at the time of filing of the preliminary plat application. A rule exception must be approved by the Governing Body, provided, that in its judgement, such action will not violate the public interest, unnecessarily burden the County, or will annul the intent and purpose of these Regulations.

6-102 Appeals: Any decision of the Montgomery County Planning Board or the Zoning Administrator on matters contained herein may be appealed to the Governing Body and the Governing Body may reverse or affirm such decision.

6-103 Zoning Administration:

- a. Authorization: A Zoning Administrator shall be appointed by the County Commissioners and shall be responsible for the enforcement of these regulations.
- b. Duties of the Zoning Administrator: The Zoning Administrator shall enforce these regulations and in addition thereto and in furtherance of said authority, he shall:
 - (1) Approve and issue all zoning permits and make and maintain records thereof.
 - (2) Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of the zoning regulations.
 - (3) Receive, file and forward to the Board of Zoning Appeals the records in all appeals and all applications for conditional uses and variances.
 - (4) Maintain permanent and current records of the Zoning Regulations including, but not limited to, all zoning maps, amendments, conditional uses, variances, appeals and applications thereof and records of hearing thereon.
 - (5) Maintain for distribution to the public a supply of copies of the zoning map or maps, the compiled text of the Zoning Regulations, and the rules of the Board of Zoning Appeals.

6-104 Construction Permits:

- a. Construction Permits: Unless a construction permit shall first have been obtained from the Office of the Zoning Administrator:
- (1) The construction of any structure shall not be commenced and;
 - (2) The improvement of land preliminary to any use of such land shall not be commenced.
- Any construction permit issued in conflict with the provisions of these regulations shall be null and void.
- b. Application for Construction Permit: Every application for a construction permit shall include at least the following:
- (1) A legal description of the piece of parcel of land, lots, block or blocks or parts or portions thereof, the piece or parcel, lot, lots, block or blocks, or parts or portions thereof, according to the recorded plat of such land.
 - (2) Proof of Availability of Service. Written proof of availability of service obtained from the providers of electrical, water, sewage services shall be submitted to the Zoning Administrator before a construction permit shall be issued in the R-1, R-2, R-3, R-4, B-1, B-2, I-1 and I-2 districts.
- c. Issuance of Construction Permit: A construction permit shall be either issued or refused by the Zoning Administrator within five (5) days of receipt of an application or within such further period as may be agreed to by the applicant. No construction permit shall be issued unless all the zoning requirements of this resolution are met.
- d. Period of Validity: A construction permit shall become null and void one (1) year after the date on which it is issued unless within such one-year period, of a structure is commenced or a use is commenced.

6-105 Penalty for Violation, Actions:

- a. Violation and Penalty: the owner or agent of a building or premises in or upon which a violation of any provision of this regulation has been committed or shall exist: or the lessee or tenant of an entire premises in or upon which violation has been committed or shall exist shall receive a fine not to exceed \$200 for each offense. Each day that such violation shall exist without correction or good faith effort on the part of the violator to correct the violation (as determined by the Zoning Administrator) shall constitute a separate offense.

ARTICLE 7
MISCELLANEOUS

Sections:

- 7-101 Validity
- 7-102 Accrued Rights and Liabilities Saved
- 7-103 Severability
- 7-104 Effective Date

- 7-101 Validity: 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.
- 7-102 Accrued Rights and Liabilities Saved: The repeal of regulations provided in Section 7-105 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 below 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.
- 7-103 Severability: Each article, section, and subdivision of a section of these Regulations are hereby declared to be independent of every other article, section, or subdivision of a section, so far as inducement for the passage of these Regulations is concerned.
- 7-104 Effective Date: These Regulations, being designated as the “Subdivision Regulations of Montgomery County, Kansas”, shall be in full force and effective from and after its passage and publication in accordance with K. S. A. 12-3301 through 12-3305.