

## ARTICLE 7. INSTALLATION OF REQUIRED IMPROVEMENTS

**100** Subdivision Types. For the purposes of these regulations, subdivisions shall be classified as follows:

A. Urban Type Subdivisions.

1. All subdivisions located wholly within the corporate limits of the City.
2. All subdivisions located partially within, adjoining or touching the corporate limits of the City.
3. All subdivisions adjoining or touching the boundary of a tract of land for which annexation proceedings have commenced by the City or the owner has a pending request to be annexed.
4. All subdivisions adjoining or touching another subdivision which has previously received final plat approval by the City and adjoins or touches the corporate limits of the City.
5. All subdivisions which have or intend to have both municipal type water supply and sewage disposal systems, or are subdividing all or portions of the subdivision for commercial or industrial purposes, or for public or semi-public purposes which are directly related to an urban type residential subdivision. (Note: Service by a rural water district could be considered a "municipal type" if the particular size of pipes in that location permitted adequate quantity and pressure commensurate with urban needs.)

B. Rural Type Subdivisions. All other subdivisions required to be platted by these regulations not otherwise classified as the urban type as described in Section 7-100A.

**101** Engineering and Governmental Jurisdiction. In setting certain standards and specifications, approving engineering drawings, inspecting improvements, recommending acceptance of improvements, preparing petition forms and establishing the amount of surety for guaranteeing the installation of such improvements; the engineer designated by the City, the County Engineer, or utility provider representative shall be designated as responsible for the improvements within their respective jurisdictions. The term "applicable" Governing Body may mean either the City Council for urban type subdivisions in the City, or the township trustees or County Board of Commissioners for urban and rural type subdivisions in the unincorporated area. "The" Governing Body refers to the City only. Coordination to achieve cooperation among the governing bodies is the responsibility of the City and, in particular, the Subdivision Administrator.

**102 Required Improvements.** As a condition to final plat acceptance, the subdivider of a proposed subdivision shall be responsible to install or, in cooperation with governmental bodies and utility companies, cause to be installed the following necessary facilities and improvements as listed below. The design and installation of such facilities and improvements shall include such sizing of pipes and extensions of streets as may be deemed desirable within the subdivision to facilitate development of adjacent land. All requirements are applicable to both urban and rural- type subdivisions as defined in Section 7-100 unless specifically described otherwise.

- A. All streets, alleys, curbs, gutters and street drainage facilities in urban type subdivisions shall be constructed in accordance with established City standards. All urban type streets shall be constructed of concrete, asphalt or asphaltic concrete and no gravel or sanded roadways shall be constructed. All roadways in rural type subdivisions shall be constructed in accordance with standards established by the County Engineer with gravel or sanded surface and no other materials such as oiled surface, macadam or similar materials shall be used. If other than gravel or sanded surface materials are particularly required, urban construction standards as described above shall apply. To accommodate any future improvements in both urban and rural areas, the entire right-of-way of collector and local streets and roadways shall be graded to match the level of the road surface. All stumps, trees that cannot be saved, boulders and similar items shall be removed from such right of way. In the unincorporated area, streets and roadways are subject to final acceptance by the applicable township trustees or the County.
- B. A storm drainage system shall be provided, separate and independent of the sanitary sewer system, meeting all of the specifications and requirements of the City in urban type subdivisions or the County Engineer in rural types. Such storm drainage system shall be connected to any existing storm sewer system, where available, or if such connection is not available, other adequate means for the discharge of such storm water including the use of detention ponds shall be provided by the subdivider into the nearest major water channel. If it is determined that adequate drainage can be accomplished by a natural drainage way across private property, a drainage easement may be required; however, any initial channelization is the responsibility of the subdivider and continued maintenance the responsibility of the adjacent property owner(s). \*
- C. Sidewalks shall be constructed in accordance with standards set by the City in urban type subdivisions under the following conditions: (Also, see Section 6-109E for pedestrian ways.)
  - 1. Sidewalks may be required on one or both sides of the street when needed to service pedestrian traffic flow leading to schools, parks, shopping areas or places of public assembly and where heavy traffic would warrant sidewalks for safety purposes. Sidewalks may also be required in residential areas where the lot frontage is less than 250 feet. Sidewalks shall be required to extend or complete connecting links in the sidewalk system.

\* **Note:** When required by the Kansas Department of Health and Environment, non-point source storm water permit applications must be filed before construction begins under the National Pollution Discharge Elimination System (N.P.D.E.S.).

2. In general, sidewalks shall be constructed with the inside edge of the sidewalk one foot outside the property line, except in the central business district.
  3. All sidewalks shall provide handicap access in conformity with K.S.A. 58-1301 et seq. and the federal Americans with Disabilities Act of 1990, 42 USCA 12101, as may be amended.
- D. Street signs shall be installed in accordance with specifications set by the applicable Governing Body subject to the standards of the Manual of Uniform Traffic Control Devices as adopted by the Secretary of the Kansas Department of Transportation and endorsed by the Federal Highway Administrator. (See K.S.A. 8-2003 for sign manual.)
- E. Wherever a municipal-type water supply system or its equivalent is required to be constructed by these regulations, such construction shall be in accordance with the standards and requirements set by the applicable agency supplying the water. In all other areas, a water supply shall be provided which meets the standards of the County sanitary code. In those areas where there is a municipal type water supply system, mains shall be of such size as to support the use of fire hydrants as required by Section 7-102F.
- F. Fire hydrants of the type and quality specified by City standards, but not less than the minimum standards of the National Fire Protection Association (NFPA), shall be provided wherever there shall be constructed a municipal type water supply system. Such hydrants shall be subject to the inspection and approval of the applicable Fire Chief.
- G. Sanitary Sewer Systems.
1. Wherever sanitary sewers are to be installed as required by these regulations, such sewers are to be constructed in accordance with standards set by the City subject to the regulations of the Kansas Department of Health and Environment.
  2. Wherever septic tank systems or wastewater lagoons are to be used for sewage disposal on individual lots, the determination of the suitability of the lot(s) and the standards for installation and inspection of such facilities shall be governed by the County sanitary code.
- H. Underground wiring in residential subdivisions, unless found to be unfeasible, is required for electric power, street lights and telephone service in urban type subdivision, except:
1. For lines rated over 12,000 volts;
  2. Appurtenance serving such lines which may be mounted on the ground, such as transformers, transformer pads, telephone service pedestals and street light poles; or
  3. For those proposed subdivisions or replats of existing subdivisions located in areas which presently have an overhead type utility distribution system.

All such installation shall be under contract with the applicable utility provider. Cable television, if installed, shall be placed underground in accordance with the above requirements. Where telephone, electric, street lights and gas lines are placed underground entirely throughout a subdivision, conduits or cables shall be placed within easements or dedicated public ways in a manner which will not conflict with other underground services. Further, all transformer boxes shall be located so as not to be unsightly or hazardous to the public.

Nothing in this section shall be construed as requiring underground installation of lines beyond the boundaries of the area contained in the preliminary plat.

All utility lines for telephone and electric service, when carried on overhead poles in other than the above urban type subdivision, shall be placed in rear lot line easements or designated side lot line easements.

- I. If screening of public or private areas is to be required, a screening plan of landscaping and/or fencing shall be prepared and approved by the Planning Commission and such screening installed. (See Section 2-102 for definition of SCREENING.)
- J. Monuments as shown on the final plat shall be placed at all central points such as block corners, angle points, points of curves in streets and as may be required by the applicable engineer. Monuments shall be made of iron pipes (minimum inside diameter of one-half inch) or solid steel rods, e.g., rebars which are not less than one-half inch in outside diameter and not less than 24 inches in length and affixed with a plastic or metal cap which identifies the registration number of the surveyor in responsible charge. All monuments shall be securely placed and set in such a manner that the top of the monument shall be at grade ground level. If cultivation of the land for farming purposes is anticipated, monuments may be lowered nine inches below grade ground level. Bench marks may also be required of such material, size and length as may be approved by the applicable engineer. (See Section 2-102 for definitions of BENCH MARK and MONUMENT and Sections 5-101 D and E for monuments and bench mark(s) to be shown on the final plat.)
- K. Whenever existing sanitary or storm water sewers, water lines, drainage channels, culverts, underground or overhead electric and communication lines, gas lines, pipe lines, transmission lines are required to be relocated due to the subdivision or construction of improvements required as a condition of approval of the subdivision and in the event such was not known at the time of subdivision approval for any reason, the costs of such relocation shall be the sole responsibility of the subdivider.
- L. Where required, applicable measures will be taken during construction to minimize soil erosion and sedimentation by wind or water. Conservation standards shall be adhered to which have been adopted by the County Conservation District.

**103 Exceptions for Existing Improvements.**

- A. Where the proposed subdivision is a resubdivision or concerns an area presently having any or all required improvements as set out in Section 7-102 and where such improvements meet the requirements of said section and are in good condition as determined by the applicable Governing Body, no further provision need be made by the subdivider to duplicate such improvements. Where such existing improvements, however, do not meet the requirements, the subdivider shall provide for the repair, correction or replacement of such improvements so that all improvements will then meet the aforesaid requirements.
- B. Where the proposed subdivision is a resubdivision or concerns an area presently abutting or containing any existing public street of less than the minimum required right of way width or roadway width, land shall be dedicated in so far as is possible so as to provide for a minimum street right of way width and an additional roadway pavement meeting the minimum standards as set by these regulations. The applicable Governing Body shall determine what adjustment to make where the aforesaid widenings merge with existing streets which are of smaller width at the boundary of such proposed subdivision. The minimum right of way and roadway width required by these regulations may be reduced to match an existing roadway system if the extension of such roadway is already improved at each end of the roadway in the subdivision.

**104 Agreement and Guarantees for Installation of Required Improvements.** Except for monuments, one of the following methods shall be used by the subdivider to guarantee that improvements required by these regulations can or will be installed in accordance with approved plans and specifications. This does not preclude the possibility that the applicable Governing Body may, at its discretion and in recognition of its financial position, share in the cost of oversized improvements which may benefit other related areas or the municipality-at-large: (See Section 2-102 for definition of HOMEOWNERS' ASSOCIATION.)

- A. Fiscal sureties may be offered and the following shall apply: (See Section 2-102 for definition of DEVELOPER'S AGREEMENT.)
  - 1. The subdivider shall enter into a "**Developer's Agreement**" with the applicable Governing Body under which the subdivider agrees to install such required improvements. Such agreement shall be conditioned upon the acceptance of the final plat by the applicable Governing Body and filed with the County Register of Deeds.
  - 2. Simultaneously with the execution of the Developer's Agreement provided for in Section 7-104A1, the subdivider shall furnish a corporate completion bond by a firm authorized to do business in Kansas with good and sufficient sureties thereon or a cashier's check, escrow account or irrevocable letter of credit in favor of the applicable Governing Body, in the amount of the estimated cost as approved by the official responsible for setting and enforcing the applicable design and construction standards of the installation of the required improvements. Such financial guarantee shall be conditioned upon the acceptance of the final plat and further conditioned upon the actual completion and satisfactory installation of such required improvements within two years from the date that the final plat is accepted by the Governing Body.

3. Simultaneously with the execution of the Developer's Agreement provided for in Section 7-104A1, if the subdivider furnishes a corporate completion bond, he or she shall also deposit in escrow with the applicable Governing Body cash in the amount of 15% of the cost of all improvements to be made in accordance with the plans and specifications for required improvements or an equivalent amount in the form of a maintenance bond or other securities that may be deemed sufficient by the applicable Governing Body. If a subdivider furnishes a cashier's check, escrow account or irrevocable letter of credit, 15% of the amount of such guarantees shall be returned by, or held as a deposit in escrow after, the final completion of such improvements. The subdivider shall agree that such deposit in escrow may be held by the applicable Governing Body for a period of 18 months after such improvements are completed for the purpose of:
  - a. Guaranteeing and securing the correction of any defect in material or workmanship furnished for such improvements, latent in character, and not discernible at the time of final inspection or acceptance by the applicable Governing Body; and
  - b. Guarantee against any damage to such improvements by reason of the settling of the ground, base or foundation thereof.

Such escrow agreement shall provide that, as such defects have so developed, that the deposit may be applied by the applicable Governing Body for any amounts incurred correcting such defects; and that the balance of such deposit, if any, held at the end of such 18-month period shall be returned by the applicable Governing Body to the depositor, or paid to the order of the depositor without payment of interest.

- B. Petitions to the applicable Governing Body may be submitted as a means of guaranteeing to such Governing Body the authority to install improvements at such time as they deem appropriate. Petitions may be submitted only when the following conditions exist:
  1. The petitions must be valid as may be provided for under Kansas law.
  2. The petitions must be approved by the applicable Governing Body concurrently with the acceptance of the final plat.
  3. The initiating resolution for such improvement must be adopted by the applicable Governing Body concurrently with the petition approval or as soon thereafter as may be provided by law. The cost of the publication of said resolution shall be born by the subdivider.
  4. A certificate signed by the petitioner must be recorded with the County Register of Deeds stating that such petitions have been filed and approved by the applicable Governing Body and that certain land within the plat as described will be liable in the future for special assessment for the required improvements authorized.

- C. For streets and related drainage only in rural type subdivisions, preconstruction of improvements as an alternative method of guaranteeing their installation may be used if approved by the County Governing Body. In this event, the subdivider may request such Governing Body to hold the final plat acceptance until such time as an inspection certifies that the required improvements have been properly constructed. Such a preconstruction procedure shall be temporarily conditioned on subsequent acceptance of the final plat and a time limit for actual construction mutually agreed upon. Maintenance guarantees may also be required if deemed desirable. (See Section 7-104A3 for maintenance guarantee methods.)
- D. The subdivider shall, prior to the acceptance of the final plat, submit a letter from the utility provider(s) involved stating that satisfactory arrangements have been made by the subdivider guaranteeing the installation of their respective services.
- E. Monuments and bench marks shall be installed and their installation certified by a licensed land surveyor on the final plat before such plat is recorded with the County Register of Deeds. (See Section 5-101 Q 1 for Land Surveyor's Certificate.)

**105 Off-site Improvements.** The applicable Governing Body may, upon making a finding of necessity, require the subdivider to install or upgrade off-site improvements located outside the perimeter of a subdivision if such need is substantially created by a proposed subdivision. Such off-site improvements should be within dedicated rights of way or easements and serve a public purpose. The financing and guaranteeing of such improvements shall be administered as if they were the same as on-site improvements under Section 7-104. The applicable 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:

- A. Drainage improvements;
- B. Pedestrian ways and sidewalks;
- C. Screening;
- D. Special grading requirements;
- E. Street improvements; or
- F. Traffic control devices.