

# **SUBDIVISION REGULATIONS\***

## **ARTICLE I. IN GENERAL**

### **SECTION 1. PURPOSE**

The purpose of these subdivision and development regulations is to assure that the subdivision of land, which is the initial step in urbanization, will be in the public interest and for general welfare. Since the allocation and arrangement of parcels of land for both private uses and public uses helps to influence the health, safety, economy, livability and amenities of an area, these regulations are intended to:

1. Provide for the harmonious and orderly development of the City of Merriam by making provisions for adequate open space, traffic, recreation, drainage, utilities, light and air, and other public needs;
2. Contribute to conditions conducive to health, safety, aesthetics, convenience, prosperity and efficiency; and
3. Provide for the conservation and protection of human and natural resources. These regulations are designed, intended, and shall be administered in a manner:
  - a. To insure that the development of the City of Merriam shall confirm substantially with the comprehensive plan of the city, the zoning ordinance enacted in accordance with such plan and adopted major street plan.
  - b. To provide for the conservation of existing neighborhoods, to encourage the concept of neighborhood planning in new developments and to prevent the development of slums and blight areas.
  - c. To coordinate the development of each parcel of land with the existing community, and to facilitate the proper development of adjoining land.

\*State law reference; Subdivision regulation, K.S.A. 12-187 et seq.

- d. To encourage the best possible use of each parcel of land through the application of urban design principles.
- e. To provide adequate and accurate records of all land subdivisions.
- f. To provide that the cost of improvements which benefit primarily the tract of land being developed be borne primarily by the owners or developers of the tract, and that the cost of improvements which benefit primarily the whole community be shared by the developer and the community.
- g. To insure that each subdivision lot provides a building site safe from damage by the one-hundred-year flood where the one-hundred-year flood line has been designed.

## **SECTION 2. AUTHORITY**

These subdivision and development regulations and minimum standards for land development are adopted by the Merriam Planning Commission and approved by the Merriam City Council under powers conferred by Article 12, Section 5 of the Kansas Constitution and K.S.A. 12.705.

## **SECTION 3. JURISDICTION**

These regulations shall apply to all land within the City of Merriam.

## **SECTION 4. APPLICABILITY**

After the effective date of these regulations, any owner(s) subdividing land in any zoning district or establishing any alley, street or other property intended for public use or for the use of purchasers or owners of lots, tracts, or parcels of land fronting on or adjacent thereto, shall cause a subdivision plat to be made in accordance with these regulations unless exempted under Section V of this ordinance. The Register of Deeds of Johnson County, Kansas, shall not record any plat of any subdivision until such plat bears the endorsement of the Planning Commission.

## **SECTION 5. EXEMPTIONS**

Notwithstanding the requirements of Section 4 of this ordinance, these regulations shall not apply to the following:

- a. A division of a tract of land for agricultural purposes, when such division does not involve the erection of any new public streets, roads, or easements.
- b. Any transfer by testamentary disposition.
- c. The subdividing of land used exclusively for cemetery purposes and accessory uses associated therewith.
- d. The vacation of land impressed with a public use.

## **SECTION 6. FEES**

The following fees shall be paid by all persons or corporations submitting preliminary plats for approval by the Planning Commission and shall be computed to the nearest dollar. The fee shall be fifty dollars (\$50.00) plus:

- a. Five dollars (\$5.00) per lot for ten (10) or less lots in a subdivision;
- b. Four dollars (\$4.00) per lot for eleven (11) to fifty (50) lots in a subdivision;
- c. Three dollars (\$3.00) per lot for fifty-one (51) to one hundred fifty (150) lots in a subdivision;
- d. Two dollars (\$2.00) per lot for one hundred fifty-one (151) or more lots in subdivision;
- e. Minimum total fee shall be fifty-five dollars (\$55.00).

This fee shall be paid at the time that application is made to submit preliminary plat and final plat, provided that the final plat includes the same area to be subdivided as the preliminary plat. If the final plat is submitted in segments, then the above fee schedule shall apply to all submittals except the first.

## **SECTION 7. ADMINISTRATION**

The administration of these regulations is vested in the Merriam City Staff, Merriam Planning Commission, and the City Council for the City of Merriam, Kansas.

- a. The city staff shall:

1. Maintain permanent and current records with respect to these regulations, including amendments thereto;
  2. Receive and file, on behalf of the Planning Commission, preliminary plats, and final plats together with other necessary information;
  3. Distribute copies of preliminary plats to other appropriate governmental agencies and departments for their review and recommendations;
  4. Review all data, preliminary plats and small area subdivision for compliance with these regulations;
  5. Review final plats for compliance with the approved preliminary plat and with the final plat provisions of these regulations.
  6. Present preliminary and final plats together with staff recommendations to the Planning Commission;
  7. Make such other determinations and decisions as may be required by these regulations or by the Planning Commission.
- b. The Planning Commission shall:
1. Review and approve, conditionally approve, or disapprove preliminary plats;
  2. Review and approve or disapprove final plats, and unless disapproved, transmit the same to the governing body for acceptance of dedication of streets, alleys, and other public ways and sites;
  3. Make such other determinations and decisions as may from time to time be required by these regulations, or by applicable sections of the Kansas Statutes Annotated.

## **SECTION 8. AGENDA**

A plat submitted for preliminary or final approval shall be placed on the agenda of the Planning Commission if, in the judgment of the city staff, it fulfills the requirements of Sections 12 and 13 respectively, of these regulations.

## **SECTION 9. PRELIMINARY PLAT**

The subdivider shall file a preliminary plat with the city staff in accordance with the following provisions:

- a. The subdivider shall submit ten (10) copies of the preliminary plat of the proposed subdivision, together with any supplementary data specified by these regulations and written application, at least fifteen (15) days prior to a regularly scheduled Planning Commission meeting.
- b. The subdivision fee required by Section 6 of this ordinance, shall be paid to the Merriam City Clerk by the subdivider before the preliminary plat is accepted for staff review and Planning Commission consideration.
- c. The contents of the preliminary plat shall be set forth in Section 12 of this ordinance.
- d. The Merriam City Clerk shall cause a notice to be published in the official city newspaper giving the name of the subdivision, the owner, a brief description of the subdivision, and the approximate acreage. The notice shall be published at least seven (7) days prior to a regular meeting of the Planning Commission at which the preliminary plat is to be considered initially.
- e. The Planning Commission shall review the preliminary plat and other material submitted with it to determine conformity with these regulations and it shall act upon the plat within sixty (60) days after submission, stating its approval, conditional approval (stating conditions) or disapproval (stating reasons), unless the subdivider shall waive or consent to an extension of the sixty-day period.
- f. Approval of the preliminary plat shall not constitute approval of the final plat.
- g. The city staff shall give written notice to the subdivider of the action of the Planning Commission. If the preliminary plat has been disapproved, or conditionally approved, the notice shall specifically state the ways in which the preliminary plat fails to conform with these regulations.
- h. Approval of a preliminary plat by the Planning Commission shall be effective for no more than one year from the date approval was granted unless, upon application by the subdivider, the Planning Commission grants an extension of the time beyond such period. If a final plat has not been submitted, approved, and filed within such one-year period, or within an extension period, a preliminary plat must be resubmitted to the

Planning Commission, including the payment of the appropriate fees as required in Section 6 of this ordinance.

- i. A final plat may cover only part of the area included in the preliminary plat: Provided, that the area represented by the final plat of any part of the entire subdivision is of sufficient size to permit the economical installation of public improvements and the proposed improvements are consistent with those proposed in the preliminary plat. Each such final plat shall be designated as Phase I, Phase 2 and so on.

## SECTION 10. FINAL PLAT

Following approval of the preliminary plat, the final plat may be submitted to the Planning Commission for review; however, no final plat shall be considered for final approval or acceptance unless all provisions of these regulations have been met, including compliance with conditions set forth by the Planning Commission on the preliminary plat, and no final plat shall be considered if it differs materially from the preliminary plat as previously approved by the Planning Commission. The following procedure shall be followed:

- a. The subdivider shall submit ten (10) prints, two (2) of which shall be linen, together with a title report showing ownership, existing easements, taxes, special assessments and all supplementary data specified by these regulations, to the city staff at least fifteen (15) days prior to a regularly scheduled Planning Commission meeting.
- b. The Planning Commission shall act upon the final plat within sixty (60) days of submission of the complete information as required by these regulations, unless the subdivider has consented to an extension or waiver of the time limitation.
- c. The city staff shall give the subdivider written notice of the Planning Commission's action whether approval or disapproval (stating reasons). In case of approval, the Chairman of the Planning Commission shall date and endorse the original final plat.
- d. A final plat that has been approved by the Planning Commission shall be submitted to the City Council for its acceptance of the dedication of streets and other public ways, service, and utility easements and any land dedicated for public use. Failure of the City Council to execute an acceptance of dedication shown on the plat shall be deemed to be a refusal of the proposed dedication.

- e. The original of any final plat shall be filed with the Register of Deeds of Johnson County, Kansas, only after approval as required by this ordinance; and one linen of the recorded final plat shall be filed with the City Clerk.

**SECTION 11. SMALL SUBDIVISION PLAT**

- a. Whenever a subdivision or resubdivision consists of only one, two (2), three (3) or four (4) lots, and does not include the dedication of public land and abuts an improved public street, the Planning Commission may waive the requirements for submission of the preliminary plat. Such waiver shall permit the subdivider to file with the city staff a small subdivision final plat which shall:
  - 1. Be submitted to the city staff at least fifteen (15) days prior to a regularly scheduled Planning Commission meeting;
  - 2. Contain the required information for final plats as outlined in Section 13 of this ordinance;
  - 3. Be accompanied by the filing fee required by Section 6 of this ordinance.
- b. The approval of small subdivision final plats shall be subject to the provisions of Section 10.
- c. Whenever a small subdivision plat submitted hereunder abuts on a public street not improved to current city standards, the Planning Commission shall require such street to be improved to current standards, or may, at its discretion, waive such requirement when the Planning Commission determines that such improvement is not in the best interest of the city.
- d. A series of two-lot, three-lot, or four-lot subdivisions which create a unified subdivision shall not constitute a small subdivision within the meaning of this section.

**SECTION 12. PLAT REQUIREMENTS AND CONTENTS: PRELIMINARY PLAT**

- a. The preliminary plat shall be drawn to a scale of one (1) inch equals one hundred (100) feet or less. However, areas over one hundred (100) acres may be drawn to a scale of one (1) inch equals two hundred (200) feet.
- b. The preliminary plat shall:
  1. State the name of the proposed subdivision;
  2. List names and addresses of the subdivider, the land planner or subdivision designer (if any) and the licensed engineer or surveyor;
  3. Show date of preparation, north arrow and graphic scale;
  4. Identify the plat as a preliminary plat;
  5. Give a legal description of the proposed subdivision complete with section, township, range, principal meridian, county, and acreage;
  6. Show names of adjoining subdivisions;
  7. Show topography; contour interval not greater than five (5) feet. (Two-foot contour intervals preferred). Where available, contours may be taken from recent aerial photographic maps of the area; or
  8. Be accompanied by the general location map and plan.
- c. The preliminary plat shall also show the following existing conditions:
  2. Location and direction flow of all watercourses; water surface elevation of the one-hundred-year flood at all locations affected within the subdivision;
  3. Location of natural features, such as rock outcroppings, unique topographic features, lakes, tree masses, isolated preservable trees and insofar as can reasonably be shown, natural features to be removed;

4. Existing use of the property, including the location of all existing buildings, indicating those that will be removed and those that will remain on the property after the final plat is recorded;
  5. Horizontal location and vertical elevation (if available) of existing sanitary sewers, storm water sewers, and culverts within and adjacent to the proposed subdivision, and the location of existing water mains, underground wiring, pipelines, and gas lines;
  6. Zoning of all land within and adjacent (with 200 feet) of the tract;
  7. Location, description and elevation of all benchmarks established or source used for vertical control.
- d. The preliminary plan shall further show the following;
1. Proposed streets (including location, width, names, approximate grades), and their relation to platted streets or roads as shown on any adopted general development plan of adjacent property;
  2. Easements, showing width and general purpose;
  3. Blocks and lots, showing approximate dimensions and proposed block and lot numbers;
  4. Sites designated for other than single-family use by the adopted comprehensive plan;
  5. Sites proposed for dedication as drainageway, park, school or other public purpose;
  6. Sites proposed by the applicant for land uses not in conformance with adopted comprehensive or neighborhood plans accompanied by a note on the face of the plat stating that approval of the preliminary plat does not certify approval of these proposed land uses.
  7. Proposed street lighting and traffic light signal plans, showing location and design of all poles and equipment.

- e. The following supplementary data and information shall be submitted with the preliminary plat or be included thereon:
  - 1. A summary of site characteristics as follows: Gross acreage of the subdivision; acreage within the various land use districts; acreage dedicated for streets and other public uses; total number of building lots; maximum, minimum, and average lot size dimensions.
  - 2. A statement as to the general nature and type of public improvements proposed for the subdivision, and the manner by which the subdivider intends to provide for their installation, as for example, by petition, actual construction, escrow deposit, or performance bond. If other than by petition, the approximate time for completion of such improvements should be indicated.
  - 3. A title report showing ownership, existing easements, taxes, special assessments and other related information. (Ord. No. 1070, & 1, 1-16-89)

**SECTION 13. FINAL PLAT**

- a. The final plat shall be prepared by a licensed professional engineer or licensed land surveyor on linen. All drawings and signatures shall be in waterproof ink. The overall sheet size shall not exceed twenty-four (24) inches by thirty-six (36) inches. The scale shall be one (1) inch equals one hundred (100) feet or less.
- b. The final plat shall show the following:
  - 1. Name under which the subdivision is to be recorded;
  - 2. All information required on the preliminary plat as set forth in Section 12 of this ordinance;
  - 3. Accurate dimensions for all lines, angles, and curves used to describe boundaries, streets, alleys, easements and areas to be reserved for public use. Boundary survey of the subdivision shall have an error of closure of not greater than one in ten thousand (10,000). Data for all curves shall include radius, arc length, chord length and central angle.

## SECTION 14. LOT SPLITS

- a. An existing lot may be divided by a lot split into not more than two (2) lots: Provided that the new lots shall not thereafter be further divided without replatting, provided further, that lots zoned for industrial purposes may be divided into two (2) or more tracts without replatting. The resulting lots may be of any size so long as they are in conformance with the applicable zoning ordinance and with these regulations.
- b. A written application for a lot split shall be made to the city staff upon forms provided for such purpose along with applicable fees as provided for in Section 6. Each application shall be submitted with ten (10) copies of a plat plan at a scale of one (1) inch to fifty (50) feet or less and shall contain the following information:
  1. Location of the existing lot within the subdivision (if any) as related to the existing streets;
  2. Location of existing easements and utilities;
  3. Dimensions of the divided portions;
  4. Location and width of accessways, existing and proposed;
  5. Dimensions of all existing structures and their locations with respect to the existing lot lines.
- c. Upon receipt of the application, the Planning Commission shall approve or not approve such application within sixty (60) days.
- d. The division of lots pursuant to this regulation shall comply with the comprehensive plans, any major street and road plans, applicable zoning laws, these regulations and all other applicable regulations. No lot split shall be ratified if:
  1. A new street or alley is needed or proposed;
  2. There is less street or road right-of-way than required by these regulations;
  3. Any easement requirements have not been satisfied;

4. The lot split will result in a tract without direct access to a street or road;
  5. A lot parcel of substandard size will be created;
  6. Ratification will result in a substantial increase in service requirements (e.g. utilities, schools, traffic control, streets, etc.); and will constitute a significant deviation from the criteria upon which ratification of any original plat was granted.
- e. No building permit shall be issued for any site that contains a division of a platted lot of record, unless such division has been ratified in the manner provided by these regulations.

#### **SECTION 15. BUILDING AND OCCUPANCY PERMITS**

Building and occupancy permits in subdivisions shall not be issued by the official charged with issuing such permits until:

- a. A recorded plat of the subdivision or approved application for a lot split is made available for his examination;
- b. Required public improvements has been substantially completed to provide for adequate occupancy of the subdivision or for that part of the subdivision being developed;
- c. There has been compliance with these regulations and the conditions of plat approval.

### **ARTICLE II. DESIGN STANDARDS**

#### **SECTION 16. SCOPE**

All subdivision of land shall conform to the design standards of this article.

#### **SECTION 17. PLAN**

Subdivisions shall be designed so that they comply with the comprehensive plan.

**SECTION 18. ACCESS**

All lots within a subdivision and parts of lot splits shall have at least one boundary adjacent to a public street or road, except that private streets may be permitted as part of a planned unit development.

**SECTION 19. PARKS, PLAYGROUNDS, SCHOOLS, OPEN SPACE PUBLIC FACILITIES**

The Planning Commission shall encourage the donation, reservations, dedication of sites for parks, playgrounds, schools, open space and other public facilities.

**SECTION 20. LAND SUBJECT TO FLOODING**

Structures in a subdivision must be essentially flood-damage-free from a one hundred-year frequency flood.

**SECTION 21. COMMUNITY ASSETS**

Proposed subdivision plans shall give due regard to such natural features as water courses and topography and to the preservation of natural vegetation, existing structures, historical sites and other community assets that, when preserved would benefit the environment.

**SECTION 22. STREETS, LAYOUT, DESIGN**

- a. The arrangement of arterial and collector streets shall conform to any adopted major streets and road plan of the city.
- b. The street layout shall conform to an approved neighborhood development plan or, in the absence of such development plan, to the street layout and design standards of this article.
- c. Any existing or platted street that terminates at the boundary line of a proposed subdivision shall be continued into the subdivision in such a manner as to provide reasonable vehicular movement.
- d. The subdivision shall provide a logical street layout in relation to topographical conditions, public convenience, safety, and the prooosed use of the land to be served by such streets.
- e. The local street layout shall be such that it will discourage use by nonlocal traffic.
- f. Local streets intersecting opposite sides of another local or collector street shall be offset one hundred (100 feet or more).

- g. Collector streets intersecting the same side of an arterial street shall be spaced at intervals of one thousand (1,000) feet or more.
- h. Streets shall intersect as nearly as possible at right angles.
- i. Streets shall provide for street openings to adjacent undeveloped land as required, in the opinion of the Planning Commission, to avoid landlocked property.
- j. A cul-de-sac shall be no more than five hundred fifty (550) feet in length unless topography or other factors justify a greater distance.
- k. All cul-de-sacs shall have a minimum right-of-way radius of fifty (50) feet.
- l. Streets longer than one lot which dead end against property boundaries of undeveloped land shall provide an improved temporary turnaround when required by the Planning Commission.
- m. Not more than two (2) streets shall intersect at any one point.
- n. Wherever the proposed subdivision contains or is adjacent to a limited or partial access road, an arterial street, or a railroad right-of-way, the Planning Commission may require the following for the protection of the integrity and subsequent safety, efficiency and economy of the access, arterial, or railroad right-of-way:
  - 1. A street approximately parallel to and on each side (where applicable) of such limited or partial access road, arterial street, or railroad right-of-way at a distance suitable for the appropriate use of the land between such streets;
  - 2. Reverse frontage lots with access control provisions along the rear property line;
  - 3. Deep lots with minor collector streets, or any other treatment as may be necessary;
  - 4. Adequate distance between such parallel roads and the arterial, limited access road, or railroad so as to provide for proper approach grades and future grade separation.

- o. Street right-of-way shall be dedicated in conformity with any adopted major streets and roads plan element of the comprehensive plan and shall be as follows:

Minimum Right-of-way for Street

Primary arterial with median includes limited access routes...	120 feet
Primary arterial without median.....	80 feet
Collector.....	60 feet
Local.....	50 feet
Marginal access or frontage road.....	50 feet

- p. The grades of streets shall not exceed the following:

Grade

Arterial.....	8%
Collector.....	10%
Marginal access or frontage road.....	12%
Local.....	12%
Unless a variance is granted by the Planning Commission	

- q. The finished grade for all streets and roads designed to provide for ingress, egress and circulation within a subdivision located in the floodplain shall be such that the flood depth for the one-hundred-year flood will not exceed the following:

Depth

Arterial.....	1.0 feet
Collector.....	2.0 feet
Marginal access or frontage road.....	2.0 feet
Local.....	2.0 feet

A variance may be granted by the Planning Commission, subject to review in accordance with K.S.A. 12-734.

- r. The radius of curvature of the center line of all street rights-of-way shall be not less than the following, except that in the case of unusual physical conditions the Planning Commission may approve a variance:

Radius, Minimum

Primary arterial.....	500 feet
Secondary arterial.....	250 feet
Collector.....	250 feet
Local, marginal access and frontage.....	100 feet

Any reverse curve on primary arterials shall be joined by a tangent of at least one hundred (100) feet in length.

- s. Half-streets are prohibited, except where essential to the reasonable development of the subdivision in conformity with the other provisions of these regulations: Provided, that the Planning Commission finds that it will be practical to obtain the dedication of the other half of the street right-of-way when the adjoining property is subdivided. Whenever a half-street, or portion thereof, is existing and adjacent to a tract to be subdivided, the other half of the street, or portion thereof, shall comply with the right-of-way requirements of these regulations and shall be platted within each tract.
- t. All new construction shall meet the design and construction requirements of the city.
- u. No street names shall be used which will duplicate or be confused with the names of existing streets. Existing street names shall be used where the street to be named is, or would be, a logical extension of an existing street even though separated by undeveloped land, natural physical barriers or man-made obstructions.

Street names shall be proposed by the subdivider and approved by the governing body and the United States Postal Service.

**SECTION 23. ALLEYS**

- a. Alleys shall be provided in commercial and industrial districts, except that the Planning Commission may waive this requirement where other definite or assured provisions are made for service access, off-street loading and unloading and parking spaces consistent with and adequate for the uses proposed.

- b. Alleys designed to serve commercial and industrial areas shall have a right-of way width of not less than thirty (30) feet.
- c. Alleys shall comply with the construction standards of the city as provided in these regulations.
- d. Alleys shall not be permitted in residential areas.
- e. Intersecting alleys should be avoided. Where such intersections are necessary, a turning radius shall be provided to permit safe vehicular movement.
- f. Dead-end alleys should be avoided. Where such alleys are necessary, they shall be provided with adequate turn-around facilities.

**SECTION 24. EASEMENTS**

- a. Utility easements shall be provided where necessary to service the subdivision. They shall be centered (easement half on each lot) on rear or side lot lines and shall be at least fifteen (15) and ten (10) feet wide respectively, except that easements for street lighting purposes only shall not exceed ten (10) feet.
- b. Drainage easements for water courses, drainage channels or streams which traverse a subdivision may be required as determined by the City Engineer. Such study and report shall be based on the one-hundred-year flood depth.
- c. Pedestrian way easement for pedestrian use may be required when a block exceeds eight hundred feet (800') in length. Such easements shall extend entirely across the width of the block at approximately its midpoint. It shall have a minimum width of ten feet (10')

**SECTION 25. BLOCKS**

- a. The lengths, widths, and shapes of blocks shall be determined with due regard to:
  - 1. Limitations and opportunities of topography;

2. Provision of building sites adequate for the special needs of the type of use contemplated;
  3. Zoning requirements as to lot sizes and dimensions;
  4. Need for convenient access, circulation, and control of street traffic for safety.
- b. A block shall not exceed one thousand three hundred twenty (1,320) feet in length (center line to center line of roads or streets) unless such blocks are adjacent to a limited access highway or arterial street or unless previous adjacent layout or topographical conditions justify a variation from this requirement.
  - c. Block planned for residential purposes should be of sufficient width to allow for two (2) tiers of lots of appropriate depth.
  - d. Blocks may be irregular in shape provided their design meets the requirements of lot standards, traffic flow, and control considerations.

## **SECTION 26. LOTS**

- a. The size, width, depth, shape and orientation of each lot in a subdivision should take into consideration, location, topography, physical features, type of use contemplated and the appropriate zoning ordinance, as well as effect on adjacent lots.
- b. Lots for commercial and industrial use should be of appropriate size and arrangement to allow for adequate off-street parking and loading facilities.
- c. The length of the front building line shall be not less than allowed by the zoning ordinance.
- d. Double frontage and reverse frontage lots should be avoided except where they are needed to provide for the separation of residential development from arterial streets or to overcome specific disadvantages of topography and orientation.
- e. Corner lots should be wider than interior lots to allow for appropriate building setbacks and sufficient yard space.

**SECTION 27. BUSINESS, COMMERCIAL, INDUSTRIAL SUBDIVISIONS**

- a. Streets. Notwithstanding the other provisions of these regulations, the minimum right-of-way width of streets adjacent to an area designed, proposed or zoned for business, commercial or industrial use may be increased by the Planning Commission to such extent as the Commission may deem necessary to assure the free flow of through traffic without interference from parked or parking vehicles.
- c. Blocks. Blocks intended for business, commercial, or industrial use shall be designed specifically for such purpose, with adequate space set aside for off-street parking and loading.

**SECTION 28. PLANNED UNIT DEVELOPMENT**

- a. A planned unit development may be approved by the Planning Commission even though the design of the project does not include standard street, lot, and subdivision arrangements; provided, that variation from the standards of these regulations can be accomplished without destroying the purpose and intent of these regulations.
- b. No plat shall be approved for any subdivision prior to the Planning Commission's endorsement on a plat that such plat conforms to the requirements of these regulations: Provided, that the subdivider has presented evidence that one of the following will be submitted to the governing body:
  - 1. A written certification from the city engineer that all required public improvements in that portion of a subdivision authorized for development have been completed in accordance with applicable improvement standards;
  - 2. A corporate surety performance bond from a corporation qualified to do business in Kansas, in a form satisfactory to the governing body, in an amount estimated by the city engineer to be sufficient to assure the governing body of the construction and installation of the incomplete portion of required public improvements in accordance with applicable improvement standards;
  - 3. A petition for construction and installation of all or a portion of the required public improvements; or
  - 4. A cash escrow deposit in an amount estimated by the city engineer to be sufficient to assure the governing body of the construction and installation of the incomplete portion of the required public

improvements in accordance with applicable improvement standards.

- c. The governing body may, at its discretion, determine which of such methods for insuring completion of improvements shall be presented by the subdivider.

### **SECTION 30. ESCROW DEPOSIT**

- a. The amount of the cash escrow deposit determined in accordance with Section 29 of this article, shall be deposited by the City Clerk in a special escrow account in the commercial bank in which the funds of the governing body are then deposited. This escrow deposit shall be invested and reinvested by such bank in short term securities, the interest or discount from which shall be paid to the subdiviider upon final release of such escrow deposit as hereinafter provided.

Upon written certification from the city engineer that the required improvements have been thirty (30) percent completed, the City Clerk shall release thirty (30) percent of such escrow deposit to the subdivider.

Upon a like certification that the required improvements have been fifty (50) percent and thereafter, seventy-five (75) percent completed, the City Clerk shall release twenty (20) percent and twenty-five (25) percent respectively, of the original escrow deposit to the subdivider. Upon written certification from the city engineer that the required improvements have been completed in accordance with applicable improvement standards, the balance of such escrow deposit, together with all earnings accrued thereon, shall be released to the subdivider.

- b. In the event the governing body find that the completion of the required improvements would impose an unnecessary hardship upon a subdivider, the governing body may, upon written application from the subdivider, release the cash escrow deposit, in whole or in part, as the governing body may in its discretion determine.

**SECTION 31. PERFORMANCE BOND**

- a. In the event a performance bond has been presented for insuring the completion of improvements in a subdivision, no occupancy permit shall be issued for any building in the subdivision prior to:
  - 1. The completion of required improvements in accordance with applicable improvement standards, and
  - 2. A written certification from the city engineer to the governing body that all required improvements have been completed, and that they are undamaged.
- b. Upon written certification from the city engineer that all required improvements have been completed in accordance with applicable improvement standards, the City Clerk shall release both the principal and surety from the performance bond. Upon written certification from the city engineer that a portion of the required improvements have been completed in accordance with applicable improvement standards, the City Clerk shall, if it (he) finds the public improvements have been at least fifty (50) percent completed, reduce the performance bond in the ratio that the improvements completed bear to the total improvements required.
- c. In the event the governing body finds that the completion of the required improvements would impose an unnecessary hardship upon a subdivider, the governing body may, upon written application from the subdivider, release the performance bond, in whole or in part, as the governing body may in its discretion determine.

**SECTION 32. SIDEWALKS AND PEDESTRIAN WAYS**

- a. Public sidewalks shall be installed on one side of all local residential and collector streets and on both sides of all other streets unless such installation is specifically waived by the Planning Commission, except that no sidewalk shall be required on the outer side (that side nearest arterial or collector street) of any frontage road. If frontage roads are contemplated, sidewalks will not be required on the adjacent paralleling arterial or collector street. Sidewalks will be installed on the side of the

frontage road away from the adjacent paralleling arterial or collector street when the frontage road is constructed;

- b. Sidewalks shall be installed according to specifications adopted by the governing body. Such sidewalks shall extend from curb to curb of intersection streets and shall be constructed as near as possible to property lines;
- c. The Planning Commission may require the installation of an improved pedestrian way not less than four (4) feet wide in easement space dedicated for that purpose;
- d. No petitions for street improvements shall be considered by the governing body unless such petitions are accompanied by valid petitions for construction of sidewalks or pedestrian ways, except where the Planning Commission has specifically waived the installation as provided in paragraph (a) above. The total cost of all sidewalks or pedestrian way improvements shall be borne by the property benefited in the improvement district.

### **SECTION 33. SANITARY SEWERS**

No subdivision shall be approved and no construction therein permitted until a sewer district has been created. Septic tanks with lateral fields, sand filters, and other on-site disposals shall not be permitted except that innovative disposal techniques may be permitted by the City Council after investigation and reports by the State and City Health Officials.

### **SECTION 34. WATER SUPPLY**

No subdivision shall be approved and no construction therein permitted until evidence of availability of an approved public water supply has been presented. Fire hydrants shall be provided as an integral part of any public water supply system.

**SECTION 35. OTHER PUBLIC IMPROVEMENTS**

Construction standards for all other public improvements, such as curbs, gutters, streets, alleys, storm sewers, and storm drainage, shall be according to the standards of the City of Merriam.

**SECTION 36. STREET LIGHTING, TRAFFIC LIGHT SIGNALS AND COMMUNICATION EQUIPMENT**

- a. All electrical wiring systems serving buildings and structures, including wiring for street lighting, traffic light signals and communication equipment, shall be installed underground in accordance with the requirements of the governing body and standard engineering practices.
- b. The subdivider or developer shall at no expense to the City install street lighting and traffic light signals as shown on the plans submitted to and approved by the City. Such installations shall further be subject to the Kansas City Power and Light Company, or its successor having jurisdiction over street lighting, accepting the installation upon completion and charging the City annually for:
  1. Maintenance and energy for such street lighting; and
  2. Energy for traffic light signals.
- c. As an alternative to item b above pertaining to street lighting, the subdivider or developer may pay the City a lump sum amount per street light upon the approval of the final plat. The lump sum amount per street light will be set by the City in an amount not less than one thousand two hundred dollars (\$1,200.00). Said amount will be determined on the basis of the then current cost of installation of the street lights within the City. Upon the receipt of payment, the City will request Kansas City Power and Light, or its successor having jurisdiction over street lighting, to install the street lights as shown on the approved plan and will thereafter pay the costs of installation, annual maintenance and energy. (Ord. No. 1070, ss 1, 1-16-18)

## **ARTICLE III. OTHER PROVISIONS**

### **SECTION 37. APPEALS**

The subdivider of a proposed subdivision may appeal to the governing body decisions made in the enforcement or interpretation of these regulations by the Planning Commission or the city staff. Any such appeal shall provide a hearing *de novo*. In the event the governing body sustains such decisions, the prior enforcement or interpretation shall be final, except as otherwise provided by law. If the governing body overrules the Planning Commission, the governing body shall state its decision, and the reasons therefor, in writing, and submit the decision and plat to the Planning Commission, seeking concurrence. In case of nonconcurrence, the decision of the governing body shall be final.

### **SECTION 38. VARIANCES**

In cases where there is hardship in carrying out the literal provisions of these regulations (such as design criteria pertaining to lot width, lot depth, block depth, etc.), the Board of Zoning Appeals may grant a variance from such provisions.

- a. The Board of Zoning Appeals shall not grant a variance unless it finds that:
  1. Strict application of these regulations will create an undue hardship upon the subdivider;
  2. The proposed variance is in harmony with the intended purpose of these regulations;
  3. The public safety and welfare will be protected.

### **SECTION 39. VARIANCE: PLANNED UNIT DEVELOPMENT**

When a plat is presented which includes land for which a planned unit development plan has been approved, the Planning Commission may vary the design standards in these regulations as necessary to conform to such finally approved planned unit development plan.

## SECTION 40. DEFINITIONS

Any word or phrase which is defined in this section shall have the meaning assigned to it by this section whenever the word or phrase is used in these regulations:

1. *Agricultural purposes.* The growing of crops and the raising of livestock and poultry for profit on a tract of land of ten (10) acres or more. The feeding or disposal of community or collected garbage shall not be deemed to be an agricultural use.
2. *Alley.* A minor right-of-way dedicated to public use which gives a secondary means of vehicular access to the rear or side of properties otherwise abutting a street and which may be used for public utility purposes.
2. *Arterial street.* A street serving major traffic movements, designed primarily as a traffic carrier between, around, and across cities, which forms part of the through-street network. (The designed function is to move traffic safely, efficiently, and quickly; to protect this function direct access is prohibited where practical. Such streets are subject to various and necessary control of entrances, exits, and curb uses).
4. *Block.* A parcel of land used or intended to be used for urban purposes and entirely surrounded by public streets, highways, railroad rights-of-way, public walks, parks or greenstrips, rural land or drainage channels or a combination thereof.
5. *Board of Zoning Appeals.* The Merriam Board of Zoning Appeals.
6. *Building line or setback line (front).* A line nearest the front of and across a lot or parcel of land establishing the minimum open space to be provided between the front line of a building or structure and the line of the fronting street right-of-way.
7. *Collector street.* A street which is designed to serve traffic needs between arterial and local streets and not to provide access to abutting properties.
8. *Comprehensive plan.* The comprehensive development plan for the city officially approved or adopted to provide long-range development policies, and which may include, among other things the plan for land use, land subdivision, circulations, and community facilities.
9. *Cul-de-sac.* A street that has one outlet and is permanently terminated by a vehicle turnaround at the other end.

10. *Design standards or design requirements.* All requirements and regulations that relate to design and layout of subdivisions.
11. *Double frontage lot.* A lot with two opposite lot lines abutting upon streets which are substantially parallel.
12. *Engineer.* A professional engineer or land surveyor licensed by the State of Kansas or licensed to practice in the State of Kansas.
13. *Final plat.* A map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications, restrictions, and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets, alleys, public areas and other dimensions of land.
14. *Governing body.* The Merriam City Council.
15. *Half-street.* A street bordering one or more property lines of a subdivision tract to which the subdivider has allocated only a portion of the required street width.
16. *Local Street.* A street or road which provides primarily for direct access to adjoining properties and is designed to serve minor traffic needs.
17. *Lot.* The smallest basic portion of a subdivision or other tract of land, normally intended to be developed and transferred individually.
18. *Lot depth.* The mean horizontal distance between the front lot line and the rear lot line.
19. *Lot width.* The mean horizontal distance between the side lot lines.
20. *Marginal access street (frontage road).* A local street which is parallel with and adjacent to a limited access arterial street, road, or highway and is designed to provide direct access to adjacent property.
21. *Neighborhood development plan.* A general design plan for a designated neighborhood or planning area showing proposed collector streets, frontage roads, and concepts of local streets, school and park sites, and general land use areas for the neighborhood.
22. *One-hundred-year-flood.* A flood having a chance occurrence in any one year of one percent. A ten-year-flood is a flood having a chance occurrence in any one year of (10) percent.

23. *Owner.* Any person or persons, firm or firms, corporation or corporations, or any other legal entity having title to land.
24. *Pedestrian-way.* A strip of land dedicated for public use which is reserved across a block for the purpose of providing pedestrian access to adjacent areas.
25. *Planning Commission.* The Merriam Planning Commission.
26. *Preliminary plat.* A map of a proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate its suitability for the proposed subdivision.
27. *Private street or road.* A nondedicated way which forms the principal vehicular access to property.
28. *Public improvements.* All public facilities constructed or erected by a subdivider within a subdivision to permit and facilitate the use of lots or blocks for a principal residential, business or manufacturing purpose.
29. *Public water.* Water supplied for domestic purposes by a municipality, county or water district and approved by the Kansas State Department of Health.
30. *Resubdivison.* The further subdivision of a tract of land which has previously been lawfully subdivided and for which a plat of such prior subdivision has been duly recorded.
31. *Road or roadway.* The paved or improved area of a street right-of-way, exclusive of sidewalks, driveways, or related uses.
32. *Street.* The dedicated right-of-way or easement, whether public or private.
33. *Street width.* The distance measured perpendicular to the center line of the paved portion of the right-of-way; either to the back of the curb, where a curb exists, or to the edge of the pavement where no curb exists.
34. *Subdivider.* A person, firm, corporation, partnership, or association subdividing land.
35. *Subdivision.* The voluntary division of a lot, parcel, or tract of land into two (2) or more parts for the purpose, whether immediate or future of sale or building development, including resubdivision.
36. *Minimum elevation for building.* The finished floor elevation of the lowest floor.

**SECTION 41. INTERPRETATION AND CONSTRUCTION**

- a. Where the conditions imposed by the provisions of these regulations are either more restrictive or less restrictive than comparable conditions imposed by any other provision of any other applicable law, ordinance, resolution, rule, or regulation of any kinds, the regulations which are more restrictive and impose higher standards or requirements shall govern.
- b. The provisions of these regulations are not intended to abrogate any easement, covenant, or other private agreement; provided, that where the requirements of these regulations are more restrictive or impose higher standards or regulation than such easement, covenant, or other private agreement, the requires of these regulations shall govern.
- c. A subdivision of land which was not lawful at the time of the adoption of these regulations shall not become or be made lawful solely by reason of adoption of these regulations.

**SECTION 42. AMENDMENT PROCEDURE**

These regulations may be amended at any time after the Planning Commission has held a public hearing on the proposed amendment. A notice of such public hearing shall be published in the official city newspaper as provided by law. The Planning Commission may, after such public hearing, adopt such amendment, but such amendment shall not become effective until approved by the governing body.

**SECTION 43. PENALTY**

Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for a period not to exceed ninety (90) days, or by both such fine and imprisonment. Each transfer, or offer for sale, of a lot or parcel of land in violation of these regulations shall be considered a separate offense.

# SUBDIVISION REGULATION

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