

RESOLUTION 2020-29

A resolution of the Leavenworth County Kansas Board of County Commission, to amend the following articles of the 2006 Zoning and Subdivision Regulations:

ARTICLE 43 – CROSS ACCESS EASEMENTS

Section 1. OVERVIEW

The purpose of this policy is to allow an administrative approval procedure for divisions of land to accommodate rural residential development within Leavenworth County where it is not desired by the applicant to build internal roads to County Standards. These developments shall be known as “Cluster Development” and they shall be accompanied by a subdivision plat in accordance with the Leavenworth County Zoning and Subdivision Regulations. These developments should be thoughtfully considered and should give forethought to future development.

Section 2. PROCEDURES

1. Cross Access Easements shall accompany a request for a subdivision development which shall be known as “Cluster Development.” The subdivision plat shall be subject to the requirements of the zoning district set forth in the Leavenworth County Zoning and Subdivision Regulations.
 - a. Parcels located within a Cluster Development shall be subject to the zoning district requirements for lot area and lot frontage in which the tract of land is located.
 - b. Parcels which are located within a Cluster Development shall be serviced by a “Cross Access Easement.” A Cross Access Easement shall provide access to each lot within a cluster development, but will in no way be considered a public, county-maintained road.
 - c. Lots within Cluster Developments shall be situated so that all lots are accessed by the cross-access easement. Cross access easements shall be subject to the Leavenworth County Access Management policy requirements for driveway spacing.
 - d. Cluster Developments with cross access easements shall not be permitted within 660’ of an incorporated city
2. The cross access easement shall be established by separate legal instrument and shall be recorded with the Leavenworth County Register of Deeds. A separate restrictive covenant that encompasses, by legal description, the entire development must be filed in conjunction with the easement. The covenant shall clearly state that maintenance of the cross access easement is the sole responsibility of the developer and/or the future property owners of the properties the CAE provides access to. The covenant shall clearly state the cross access easement is not a public right-of-way and will in no way be maintained by the County.
3. If any portion of the development lies within a FEMA designated regulatory floodplain, or if drainage channel or swales exist on the development that carry runoff from adjacent property, the FEMA designated regulatory floodplain, channel or swale shall be protected by grant of an easement according to the same standards that apply to typical subdivisions. Maintenance of the drainage easement shall be the responsibility of the property owner.

Section 3. ACCESS AND ROAD STANDARDS

1. A cluster development with an access easement shall have direct access to a fully maintained public road.
2. Only one access point shall be allowed for the entire development.

3. When established as part of a cluster development, the road and drainage plans submitted to County Staff shall be prepared and sealed by an engineer licensed in the State of Kansas.
4. There will be no consideration by the County to assume responsibility of the cross access easement until the cross access easement is built to the current County standard in place at the time the request is made to accept the roadway. Any improvements or upgrades will be the sole responsibility of the developer and/or the owners of the properties being accessed by the CAE.

Section 4. AMENDMENTS TO THE DEVELOPMENT

1. Any further division for development purposes is prohibited until an amended Replat is approved by the Governing Body and recorded with the Register of Deeds.

WHEREAS, it is hereby found that the Leavenworth County Planning Commission, after notice as required by law, did conduct a public hearing upon the amendment of the Leavenworth County Zoning and Subdivision Regulations the 12th day of August, 2020; and

WHEREAS, it is hereby found that the Leavenworth County Planning Commission, based upon specific findings of fact incorporated by reference herein, did recommend that the amendment be approved, as set forth; and


WHEREAS, the Board of County Commission considered, in session on 2nd day of September, 2020, the recommendation of the Leavenworth County Planning Commission.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commission of Leavenworth County, Kansas, that:

1. Based upon the recommendation and findings of fact of the Leavenworth County Planning Commission; and,
2. Based upon the findings of fact adopted by the Board of County Commission in regular session on the 2nd day of September, 2020 and incorporated herein by reference;

That the amendments listed herein be approved:

Adopted this 2nd day of September, 2020
Board of County Commission
Leavenworth, County, Kansas



Doug Smith, Chairman



Jeff Culbertson, Member




Vicky Kaaz, Member




Chad Schimke, Member





Janet Klasinski


/s/ Mike Stieben, Member