

RESOLUTION 2023-20

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

- Article 3 – Definitions
- Article 35 – Preliminary Plat Procedure and Content
- Article 40 – Final Plat Procedure, Content and Action By The Planning Commission
- Article 43 – Cross Access Easements
- Article 50 – Minimum Subdivision Design Standards and General Requirements
- Article 56 – Exceptions
- Article 60 – Miscellaneous Provisions
- Article 70 – Supplementary Documents to Accompany the Final Plat
- Article 80 – Submission of Recorded Plats
- Article 85 – Lot And Tract Splits

See Exhibit A.

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 July, 2023; 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 August, 2023, 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 August, 2023 and incorporated herein by reference;

That the amendments listed herein be approved:



Janet Klasinski
Janet Klasinski

Adopted this 2nd day of August, 2023
Board of County Commission
Leavenworth, County, Kansas

Vicky Kaag
Vicky Kaag, Chairman

Jeff Culbertson
Jeff Culbertson, Member

Mike Smith
Mike Smith, Member

voted nay
Doug Smith, Member

absent
Mike Stieben, Member

ARTICLE 3 – DEFINITIONS

Boundary Line Adjustment: ~~The adjustment of one (1) or more common boundaries between existing un-platted tracts or parcels, which will not create additional tracts or parcels. A Boundary Line Adjustment shall only be granted for tracts or parcels which will meet the requirements of the Zoning and Subdivision Regulations, Sanitary Code, and other applicable regulations, and will not create a non-compliant (substandard) tract or parcel. The following exceptions shall be allowed: (BOCC Resolution 2017-13; March 23, 2017)~~

1. ~~Parcels containing structures closer than 105' from the centerline of the road that were built prior to September 27, 1971 shall be eligible for a Boundary Line Adjustment provided the following criteria are met:

 - a. ~~The structure shall be a minimum of 10' from the proposed, future, right of way dedication as determined by the County Engineer.~~
 - b. ~~In the event the structure is destroyed more than 50%, reconstruction shall be subject to current Zoning & Subdivision Regulations, Sanitary Code and any other applicable regulations.~~~~
2. ~~Parcels containing accessory structures closer than 15' from the side and/or rear property line that were build prior to September 27, 1971 shall be eligible for a Boundary Line Adjustment provided the structure will meet the most current applicable Zoning and Subdivision Regulations, Sanitary Code and other applicable regulations upon adjustment of the boundary line.~~

Natural Feature: Characteristics of the subject property that can create physical barriers which may include features such as ponds, lakes, rivers, creeks, terraces, septic systems/lagoons, floodplain, significant changes in elevations or other natural systems.

Side Line: Any lot line that is not considered a front or rear lot line. A side lot line shall include any linked line segments or arcs that intersect with either the front or rear lot line.

Rear Line: A lot line that is opposite and most distant from the front lot line, and in the case of an irregular or triangular-shaped lot, a line 10 feet in length within the lot parallel to and at the maximum distance from the front lot line.

ARTICLE 35 – PRELIMINARY PLAT PROCEDURE AND CONTENT

Section 5. GENERAL

The pre-application and the preliminary procedures are intermediary steps prior to the actual filing of a subdivision for processing as a “final plat” as outlined in Article 40. These two steps do not constitute “submission” as set forth in K.S.A. 12-752.

While the subdivision of land may be denied subject to the Planning Commission’s finding that such subdivision concept does not meet any one requirement set forth in these regulations, the principal reasons for denial are most likely to be:

1. Does not meet Zoning Regulations or not properly zoned.

2. Inadequate service of water or sewerage.
3. Lack of appropriate restraint of storm water runoff or protection from flooding.
4. Streets too steep, lacking continuity or hazardous to public safety.
5. Soils inadequate or lots too steep for development.
6. Destruction of unique natural features.
7. Inadequate right-of-way continuity, grades, site distance, or poor relationship to the Comprehensive Guide Plan pertinent to collector streets, thoroughfares, (arterials) or any street necessary to avoid landlocking abutting property.
8. Not meeting any of the plat subdivision design or improvement requirements for the particular class of subdivision.
9. The applicant refuses to allow the County Planner, Engineer or other officials involved in the review of the plat access to the property for which he/she is requesting approval of such Preliminary Plat.

Section 10. CLASSIFICATION OF SUBDIVISION

1. General: The Comprehensive Plan for Leavenworth County establishes two distinct areas or growth management zones as a tool to better manage such growth and development that is impacting those areas. Any proposed subdivision falling within such areas or zones must meet the requirements as set forth in these regulations.

The boundaries of such areas or growth management zones have been established through the adoption procedures as set forth in the Kansas Statutes, K.S.A. 12-741 et. Seq., for the development and adoption of the Comprehensive Plan. Any change in the boundary of these areas or zones must follow that procedure.

Subdivisions are classified as A, or C and are further defined on the basis of where they are permitted within the growth management zones as follows:

1. Class "A": Any subdivision in which one or more lots lies within the Initial Urban Growth Area of Leavenworth County.
3. Class "C": Any subdivision in which all of the lots lie within the Rural Growth Area of Leavenworth County.
(BOCC Resolution 2020-012; April 1, 2020)

Section 20. PRE-APPLICATION

Prior to the filing of the preliminary plat, the subdivider shall contact the Planning Department to determine:

1. Subdivision requirements and class designation of the proposed subdivision.
2. Procedure for plat filing.

4. Comprehensive Plan requirements for major streets, land use, parks, easements, schools and public open spaces.
5. Zoning requirements for the property being subdivided and adjacent properties.
6. Potential problems resulting from the conceptual design of the subdivision as determined from the pre-application sketch.
7. A pre-application conference with the County Engineer and County Planning Department is required prior to the filing of the preliminary plat. The subdivider, design engineer, and surveyor shall attend this conference.

Section 30. PRELIMINARY PLAT PROCEDURE

In obtaining final approval of a proposed subdivision by the Planning Commission and County Board, the subdivider shall first submit a preliminary plat in accordance with these procedures.

1. The subdivider shall prepare and submit to the Planning Department two (2) copies, one (1) physical and one (1) digital, of a preliminary plat, to be used for review purposes, at least forty-five (45) days before the Planning Commission meets. (BOCC Resolution 2020-012; April 1, 2020)
2. Said plat shall be accompanied by a fee as established by Board Order 1985-8 dated May 13, 1985 (or as amended).
3. The Planning Director shall forthwith refer the digital copy to the County Engineer.
4. Where the preliminary plat is within 660 feet of any incorporated city, the Planning Director shall, at least ten (10) days prior to the Planning Commission meeting, forward a copy of such preliminary plat to the city staff for review and comment.
5.
 - a. The County Engineer shall carefully examine said plat as to its compliance with the regulations of the County and specifically in regards to design and planning issues such as street grades, sight distance, storm drainage, easement locations, etc.
 - b. Each department head shall, submit his/her findings to the Planning Department on a timely basis.
6. A hearing on the proposed plat will be held before the Planning Commission at its next regularly scheduled meeting.
7. Following receipt of required or requested reports, the Planning Commission will review the preliminary plat (see Section 50 of this Article).
8. If approved, a notification shall be sent to the subdivider, thus allowing him/her to proceed with the preparation of the final plat and detailed construction drawings and specifications for the improvements required under these regulations.
9. The approval of the preliminary plat does not constitute final approval or acceptance of the subdivision by the Board of County Commissioners or authorization to proceed on

construction of the improvements within the subdivision, but shall constitute approval of layout and general engineering proposals and plans only.

10. The approval of the preliminary plat shall only be effective for one (1) year, unless an extension is granted by the Planning Commission. If the final plat has not been filed for review and approval within this period, a preliminary plat must again be submitted to the Planning Commission for approval.

Section 40. PRELIMINARY PLAT CONTENT (all subdivision classes)

The preliminary plat shall be made to a scale of one-inch equals one hundred feet (1" = 100') or larger, or if the subdivision contains more than one hundred and sixty (160) acres, the plat may be drawn to a scale of one-inch equals two hundred feet (1" = 200'). Unique conditions may allow for lesser scales approved by the Director of Planning. The preliminary plat shall show:

1. Clearly marked "Preliminary Plat".
2. The proposed name of subdivision and, if different, the title under which the subdivision is to be recorded.
3. The name and address of the owner and the name, address and profession of the person preparing the plat. All parts of the plat must be certified according to State Statutes and Administrative Regulations.
4. The date, scale, north point, and a key map showing the general location of the proposed subdivision in relation to surrounding development.
5. The legal description of the area being platted.
6. The boundary line (based on a survey accurately drawn to scale verifying corner pins in place), the dimensions and the location of the property to be platted, the location of section or quarter section lines, the projected control bench mark (identified as to location, elevation, and published datum). The exterior boundary must comply with Kansas Minimum Standards for Boundary Surveys.

(BOCC Resolution 2020-012; April 1, 2020)

7. Contours with intervals of not more than five (5) feet.
8. The names and location of adjacent subdivisions and the names of record owners and the location of adjoining parcels of unplatted land.
9. The location of property lines, streets and alleys, bridges and culverts, easements, public property, buildings, utilities (pipe sizes, manholes, grades, etc.), watercourses, tree masses, ground covers, lakes and other existing features within or adjacent to the proposed subdivision potentially affecting the plan.
10. The zoning classification and existing use and the proposed use of the area being platted.
11. The layout, numbers and approximate dimensions of proposed lots.

12. The location and dimensions of all existing and proposed building lines and easements.
13. The location, width, and dimensions of all streets, alleys, pedestrian ways and grounds proposed to be dedicated for parks, schools, or any public or semi-public use.
14. Proposed names for all streets in the area being platted.
15. Written and signed agreements explaining how and when the subdivider proposes to provide and install all required sewers or other disposal of sanitary wastes, pavement and drainage structures.
16. Written and signed statement from the Environmental Officer of the County Health Department or designee, stating their approval of the type of sewage system to be used or their recommendations.
17. Applicant shall provide written and signed statements from the appropriate officials of subject utilities and public services, as follows;
 - a. availability of gas,
 - b. electricity and
 - c. water to the proposed subdivision.
 - d. fire response
 - e. State and Local transportation review
18. Any restrictions proposed to be included in the owner's declaration of plat, including but not restricted to those listed in the appendix.
19. General layout of adjacent property, to show how streets and other public facilities in the proposed subdivision relate to adjacent subdivided and unsubdivided property.
20. Preliminary road plans and stormwater drainage calculations shall be prepared in accordance with Leavenworth County's Road Construction and Storm Water Drainage Checklist, , or latest edition approved by the Board of County Commissioners.

Section 50. APPROVAL OR DISAPPROVAL OF THE PRELIMINARY PLAT (all subdivision classes)

1. Within sixty (60) days after the first consideration of a preliminary plat, the Planning Commission shall approve, disapprove or, with the approval of the applicant, table the preliminary plat. Action by the Planning Commission shall be conveyed to the subdivider in writing within ten (10) days after the Planning Commission hearing at which the plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements shall be necessary to meet approval of the Planning Commission. The approval of the preliminary plat does not constitute an acceptance of the subdivision, but is deemed to be an authorization to proceed with the preparation of the final plat.

2. If the Planning Commission disapproves or withholds approval of a preliminary plat, the applicant may request that said plat be submitted to the Governing Body, and the Planning Commission shall send the proposed preliminary plat, together with their report, stating the reason or reasons for the action taken. The Governing Body may make such findings and determinations as are deemed proper.
3. The approval of the preliminary plat shall only be effective for a period of one (1) year, unless an extension is granted by the Planning Commission. If the final plat has not been submitted for approval, within this specified period, the preliminary plat must be resubmitted to the Planning Commission for approval.

Section 60. CONTINUANCE

Applicants may request the continuance of Planning Commission consideration of an application to a specific date. A maximum of three continuances are allowed. After that time, the Planning Commission shall remove the case from the agenda. Once removed the applicant may re-file a new application at any time.

ARTICLE 40 – FINAL PLAT PROCEDURE, CONTENT AND ACTION BY THE PLANNING COMMISSION

Section 10. FINAL PLAT PROCEDURE

1. For final approval, the subdivider shall file with the Planning Department not less than thirty (30) days before the Planning Commissions regularly scheduled meeting:
 - a. Two (2) copies, one (1) physical copy and one (1) digital copy of the final plat. (BOCC Resolution 2020-012; April 1, 2020)
 - b. A letter from the County Engineer stating the engineering specifics and final improvement plans for the final plat meet the county regulations and are substantially in accord with the preliminary plat as previously approved by the Planning Commission. Letter should also state that a copy of the certified, approved plans, profiles, cross-sections (if required) and specifications for the project are on file with the County Engineer.
 - c. A performance guaranty or bond, if required (see definition) in an amount and with sureties approved by the County Engineer.
 - d. The County Surveyor shall carefully examine the exterior boundaries of the final plat for compliance with county and state regulations and Kansas Minimum Standards for Boundary Surveys including the signature, seal, and date of the land surveyor preparing the boundary.
 - e. Before the Final Plat is signed, the developer must submit a letter from a title company certifying the owner(s) of record as of the date that the Board of County Commissioners approved the Final Plat. All certified owners must sign the plat. The certification letter must accompany the Plat when it is recorded.
 - f. A copy of the policy verifying title, easements and liens. These documents should be dated no more than thirty (30) days prior to the application date.

(BOCC Resolution 2020-012; April 1, 2020)

- g. Two (2) copies, one (1) digital and one (1) print, of three-line profiles of streets to be dedicated, indicating the grades thereon, shall be required by the Planning Commission for plats submitted where street grades are more than five (5) percent.
 - h. Certificate stating that all taxes and encumbrances have been paid shall be submitted with the Final Plat.
 - i. If private restrictions are to be filed affecting the subdivision or any part thereof, two (2) copies, one (1) digital and one (1) print shall be submitted to the Planning Commission with the Final Plat.
2. When the final plat has been passed upon by the Planning Commission, the original copy, furnished by the subdivider, shall be signed by the Chairman and Secretary of the Planning Commission and the County Engineer, and shall be forthwith transmitted to the County Commission with the performance guaranty or bond, if required, and a letter from the Planning Director stating the Planning Commission's approval.

The Governing Body shall accept or refuse dedication of land upon a plat within thirty (30) days of its submission to the Governing Body. The Governing Body may defer action for an additional thirty (30) days for the purpose of allowing for modification to comply with requirements established by the Governing Body.

3. In instances where a performance bond has been required, when the final plat has been approved by the County Board and all conditions of that approval have been met, the performance bond accepted and filed with the County Clerk and the plat duly signed as set forth in Section 20, Item 15, the Planning Director shall release the plat to be recorded by the developer/owner in the office of the Register of Deeds of Leavenworth County, Kansas. The Register of Deeds office shall retain 1 paper original for their use. .
4. Approval by the Board of County Commissioners shall constitute final approval of the subdivision of the area and upon receipt of one (1) paper copy by the subdivider from the Planning Commission office with the appropriate and necessary signatures, the subdivider shall cause such plat to be recorded in the Office of the Register of Deeds of Leavenworth County, Kansas, before the County shall recognize the plat as being in full force and effect. A final plat that has been duly approved by the Board shall be in effect for 1 year from the date of approval. Any approved final plat not filed within that period of time shall be declared void. The approved plat may be extended for one year upon appeal to the Board of County Commissioners.
5. Receipt of the duly certified final plat by the subdivider is authorization that he may proceed with the installation and construction of the required improvements subject to acquisition of appropriate permits.
6. The County Engineer shall return any performance bond or guarantee to the subdivider upon meeting all of the requirements as stipulated in Leavenworth County's Road Construction and Storm Water Drainage Standards, 1994 Edition, or latest edition approved by the Board of County Commissioners.

7. No plat or re-plat or dedication or deed of a street or public way shall be filed with the Register of Deeds, as provided by law, until such plat or re-plat or dedication or deed shall have endorsed on it the fact that it has been submitted and approved by the Planning Commission and by the Governing Body.

Section 20. FINAL PLAT CONTENT

The final shall be made to a scale no smaller than one-inch equals two hundred feet (1" = 200') from an accurate survey drawn on a sheet whose overall dimensions are 24" x 36". (A scale of one-inch equals one hundred feet (1" = 100') shall be used if the tract is 1350' in width or less) and shall show:

1. The correct legal description of the property being subdivided.
2. The boundary lines of the area being subdivided with accurate distances and bearings.
3. The lines of all proposed highways, streets and alleys with their width and names.
4. The accurate outline of any portion of the property intended to be dedicated or granted to public use.
5. The lines of departure of one street from another.
6. The lines of all adjoining property and the lines of the adjoining highways, streets and alleys with their widths and names.
7. All lots designated by numbers or letters and streets, avenues and other grounds by names, letters or numbers.
8. The location and widths of building lines of front yards, the location and widths of utility easements for possible future construction, and easements for drainage purposes. Show a note on the plat listing the dimension of side, rear and front setbacks.
9. All dimensions, both linear and angular, necessary for locating the boundaries of the subdivision, lots, streets, alleys, easements, and any other areas for public or private use. Linear dimensions are to be given to the nearest 1/100th of a foot and bearing to the nearest second of angle. The plat must comply with Kansas Minimum Standards for Boundary Surveys.
10. The radii, arcs, chords, points of tangency and central angles for all curvilinear streets and radii for rounded corners.
11. The location of all survey monuments and benchmarks together with their descriptions. All lot corners must be monumented with a minimum #4 (1/2") rebar 24" long with a survey cap bearing the registration number of the responsible party.
12. The name of the subdivision and the scale of the plat, points of the compass, and the name of the owner or owners or subdividers.

13. When private restrictions and trusteeships are of such lengths as to make their lettering on the plat impracticable and thus necessitate the preparation of a separate instrument, reference to such instrument shall be on the plat.
14. Acknowledgement of the owner or owners of the plat restrictions including dedication to public use of all streets, alleys, parks or other open spaces shown thereon and the granting of easements required.
15. The following certificates to be signed:
 - a. Acknowledgement of ownership by owner or owners, and statements by a notary public authorized to take acknowledgements of deeds, to the effect, that all previous taxes have been paid and that all highways, streets, alleys and public grounds shown on the plat are dedicated for public use.
 - b. Land Surveyor certifying that he/she has accurately surveyed such subdivision and that said survey has been performed under his/her direct supervision. Month and year of field survey required.
 - c. Approval of Planning Commission by the Secretary and Chairman of the Planning Commission.
 - d. Approval by the County Engineer, with the following note: The County Engineer's plat review is only for general conformance with the subdivision regulations as adopted by Leavenworth County. The County is not responsible for the accuracy and adequacy of the design, dimensions, elevations, and quantities.
 - e. Approval of the County by the Chairman of the Board of County Commissioners and attested by the County Clerk.
 - f. By the Register of Deeds, stating the day, month, year, time, book and page that said plat was recorded.
 - g. Approval by the County Surveyor, with the following note: "I hereby certify this survey plat meets the requirements of K.S.A. 58-2005. The face of this survey plat was reviewed for compliance with Kansas Minimum Standards for Boundary Surveys. No field verification is implied. This review is for survey information only.
16. True north point, graphic scale and date.
17. All exceptions to and variances from the Zoning & Subdivision Regulations shall be listed on the face of the plat.

ARTICLE 43 – CROSS ACCESS EASEMENTS

(BOCC Resolution 2020-29; September 2, 2020)

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 (“plan set”) submitted to County Staff shall be prepared and sealed by an engineer licensed in the State of Kansas. Plan set submittals shall include all components identified in the current Public Works Cross Access Easement Street and Storm Plan Requirements on file in the Public Works Office. The developer shall provide documentation from the designing engineer stating the Cross Access Easement was built in accordance with the submitted design plans to the County upon completion of the Cross-Access Easement. Building permits shall not be issued until such document has been received. (BOCC Resolution 2021-18; June 16, 2021)
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.

ARTICLE 50 – MINIMUM SUBDIVISION DESIGN STANDARDS AND GENERAL REQUIREMENTS

Section 10. MINIMUM SUBDIVISION DESIGN STANDARDS

Each class of subdivision may require a variance in types of requirements. Care should be taken to utilize the correct requirements.

1. Acreage Subdivisions. Whenever a tract is divided into large lots each containing one or more acres and there are indications that such lots will eventually be re-subdivided into smaller urban sized lots, consideration must be given to the highways, streets, utility easements, and lot arrangement of the original subdivision so that additional streets can be opened which will permit a logical arrangement of smaller lots. Easements providing for future opening and extension of such streets may, at the discretion of the Planning Commission, be made a requirement of the plat.

The preferred subdivision design will be to plat the ultimate lot size and then group lots as indicated in the following example. Such groupings must be sufficient to meet sewage disposal or water supply, or any other code or Comprehensive Plan requirement adopted for the unincorporated portion of the County.

Section 20. UTILITY REQUIREMENTS

In all classes of subdivisions, the required area of the lots will be determined by the method of treatment or disposal of wastewater. The determination of whether or not an approved public sanitary sewer system and an approved water system are available in sufficient size and capacity to serve the subdivision shall be made in the following manner.

1. All applications shall be submitted with a written report from the water department or district in which the subdivision is located on the availability of water to the proposed subdivision. The report from a rural water district shall be signed by the Board of Directors and its engineer. The report from a public water supply system shall be signed by its administrative official and engineer.

2. If the water supply is not from a rural water district or a public water supply system, a performance bond or guaranty shall be filed with the applicable rural water district sufficient to secure that the water system will be constructed in accordance with these regulations.
3. A copy of the preliminary plat shall be sent to the County Sewer District Administrator for a written report on the availability of an approved public sanitary sewer system.
4. Private sewage disposal systems will be allowed in subdivisions where all the lots are greater than 1 acre subject to the following procedure. The plat shall be reviewed by the Planning Department for compliance with the Leavenworth County Sanitary Code. A licensed sanitarian or engineer shall provide evidence that the soils within the platted area will safely handle private wastewater disposal systems or a notation stating that engineered septic systems may be required due to soil conditions.

Section 30. OTHER REQUIREMENTS

The following particular requirements are hereby made of each of the classes of subdivisions:

1. Class "A" Subdivisions:

All class "A" Subdivisions shall be served by an approved public sewage system and an approved public water system and shall be subject to Section 40 Minimum Design Standards. The subdivider may request a waiver of the requirement for an approved public sewage system pursuant to Article 30, Section 30.4 of these regulations.

2. Class "C" Subdivisions:

All class "C" Subdivisions shall be served by an approved public sewage system and an approved public water system, or a private water well if the requirements of the sanitary code are met, and shall be subject to Section 40 Minimum Design Standards. The subdivider may request a waiver of the requirement for an approved public sewage system pursuant to Article 50, Section 30.3. of these regulations.

3. Waiver of Requirement for Approved Sanitary Sewage System.

- a. A subdivider may request that the Planning Commission consider the granting of a waiver to the requirement that a subdivision be served by an approved sanitary sewage system, and be served by individual private sewage disposal systems.
- b. A request for a waiver may be granted in such case, upon a finding by the Planning Commission that all of the following conditions have been met:
 - 1) That the reason or reasons given for the waiver is not created by an action or actions of the property owner or the subdivider;
 - 2) That the strict application of this requirement for which a waiver is sought would constitute unnecessary hardship upon the owner or subdivider. Unnecessary hardship shall not mean that the cost of providing for private sewage disposal systems is less costly than for a public sewage system unless the cost/benefit ratio exceeds 2:1. Unnecessary hardship shall specifically

exclude the reason or reasons given for the waiver which are determined to be for the convenience of the owner or subdivider;

- 3) That the granting of the waiver will not adversely affect the rights of adjacent property owners or residents;
- 4) That the waiver requested will not adversely affect the public health or safety;
- 5) That the waiver requested will not be opposed to the general spirit and intent of the subdivision regulations, zoning regulations and sanitary code.

Section 40. MINIMUM DESIGN STANDARDS (Subdivisions of all classes)

1. Blocks:

- a. Length: Intersection streets, which determine block lengths, shall be provided at such intervals as to serve cross traffic and to meet existing streets in the neighborhood. In residential districts, where no existing adjacent plats are recorded, the blocks shall not exceed one thousand two hundred (1,200) feet in length, except that in outlying Class “C” subdivisions a greater length may be permitted on review by the Planning Director where topography or other conditions justify a departure from this maximum. In blocks longer than seven hundred fifty (750) feet, pedestrian ways and/or easements through the block may be required by the Planning Commission near the center of the block. Such pedestrian ways or easements shall have a minimum width of ten (10) feet. Blocks for business uses should normally not exceed six hundred (600) feet in length.
- b. Width: In residential subdivisions, the block width shall normally be sufficient to allow two (2) tiers of lots of normally not less than two hundred (200) feet nor more than 350 feet in depth. Class “C” subdivisions on review by the Planning Director may, where conditions justify, depart from the maximum. Blocks intended for business use shall be of such width and depth as may be considered most suitable for the prospective use.

2. Streets, Alleys and Public Ways:

- a. Relationship to Adjoining Street System: The arrangement of streets in new subdivisions shall make provisions for the continuation of the existing streets in adjoining subdivisions (or their projection where adjoining property is not subdivided), insofar as they may be necessary for public requirements. The width of such streets in new subdivisions shall not be less than the minimum street widths established herein. Alleys are not normally permitted, but where required, alleys and streets shall be arranged to permit owners of adjoining unsubdivided property to extend streets into the unsubdivided property. Whenever there exists a dedicated or platted half-street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted and dedicated.
- b. Street Names: Streets that are obviously in alignment with existing streets shall bear the names of the existing streets, but in any case, are subject to the final approval of the Governing Body.

- c. Arterial Streets: Arterial or major street alignments shall conform with the Comprehensive Plan.
- d. Collector Streets: Collector streets shall be designed to carry the residential traffic to the major streets and, in general, conform to the Comprehensive Plan.
- e. Minor Streets: Minor streets shall be so designed as to discourage through or nonlocal traffic.
- f. Cul-de-sacs and Dead-end Streets: Except in cases where the unusual topographic conditions may make it advisable to modify these provisions, the following shall apply: (BOCC Resolution 2019-23; September 4, 2019)
 - 1) The radius of a cul-de-sac shall be as stated above and depends on the type of road. The minimum radius for any road for vehicular turnaround shall be forty (40) feet and the minimum radius for right-of-way shall be fifty (50) feet.
 - 2) In the case of temporary dead-end roads, which are stub streets designed to provide future connection with adjoining unsubdivided areas, the Planning Board may require a temporary easement for a turnaround of a nature indicated above.
 - 3) When a subdivision is replatted or the existing road ends and is to be extended, the existing cul-de-sac shall be eliminated and removed and the road brought up to the standards specified in Leavenworth County's Road Construction and Storm Water Drainage Standards, 1994 Edition, or latest edition as approved by the Board of County Commissioners.
- g. Buffer Strips: This includes treatment of railroad right-of-way and limited access highways. Wherever the proposed subdivision contains or is adjacent to a railroad right-of-way or limited access highway, or where lots back onto a public street, the subdivision shall provide the following treatment:

In residential districts a buffer strip at least fifty (50) feet in depth, in addition to the normal required lot depth shall be provided adjacent to the railroad right-of-way and limited access highway. This strip shall be a part of the platted lots, and the planted materials must be approved by the Planning Commission and shall have the following restriction lettered on the face of the plat:

“This strip reserved for the planting of trees or shrubs by the owner or developer; the building of structures is prohibited.”

In commercial and industrial districts, provisions shall be made on each side of the railroad right-of-way or limited access highway for buffer strips approximately parallel to such right-of-way or highway at a distance suitable for the appropriate commercial or industrial use of the land. In no instance shall this be less than one hundred and fifty (150) feet.

Streets parallel to the railroad right-of-way or limited access highway shall, when intersecting a major street, highway or collector street, be located at a minimum distance of two-hundred fifty (250) feet from said right-of-way or highway. Such

distance, where desirable and practical, shall be determined with due consideration of the minimum distance required for the future separation of grades by means of appropriate approach gradients. Location of minor streets immediately adjacent and parallel to railroad right-of-way shall be avoided.

- h. Limited Access: Wherever the proposed subdivision contains or is adjacent to an arterial street or highway, adequate protection of residential properties, limitations of access, and the separation of through and local traffic shall be provided by the reversed frontage with screen plantings, provided by the developer, contained in a non-access reservation along the rear property lines; or by provision of a frontage road.

There shall be no reserve strips for controlling the access to streets except where control of such strips is definitely placed under conditions approved by the Planning Commission.

- i. Intersections: Streets shall intersect each other at as nearly right angles as permitted by topography or other limiting factors of good design but never less than sixty (60) degrees. The number of streets converging at one intersection shall be reduced to two, with no more than four approaches to an intersection without the specific approval of the County Engineer.

Minor streets need not continue across major or collector streets; but if the center lines of such minor streets approach the major streets from the opposite sides thereof within one hundred and fifty (150) feet, they must be aligned or the separation increased to a minimum of one hundred and fifty (150) feet.

See Drawings No. 8 and 9 in Appendix.

- j. Dead End Roads: Where a road does not extend to the boundary of the subdivision, and its continuation is not required by the Planning Commission for access of adjoining property, its terminus should normally not be nearer to such boundary than fifty (50) feet. However, the Planning Commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic or utilities. A circular dead-end street shall be built in accordance with County construction standards and specifications.

See Drawings No. 8 and 9 in Appendix.

- k. Half-Streets: Dedication of half-streets will be discouraged and may not be approved, except where it is essential to the reasonable development of the subdivision and is in conformity with the Comprehensive Plan and other requirements of these regulations.
- l. Alleys: Alleys shall be provided in commercial and industrial districts, except where other definite and assured provisions are made for service access to off-street loading and unloading areas and to off-street parking areas, consistent with and adequate for the uses proposed. Dead-end alleys shall be avoided.
- m. Minimum Requirements: For all streets or roads shall be prepared in accordance with design criteria specified in Leavenworth County's Road Construction and Storm Water Drainage Standards, 1994 Edition, or latest edition as approved by the Board of County Commissioners.

Section 40. MINIMUM DESIGN STANDARDS (Subdivisions of all classes)

3. Lots

- a. The minimum lot width shall conform to the appropriate requirements of the Leavenworth County Zoning & Subdivision Regulations and the Sanitary Code.
- b. The minimum lot depth shall conform to the appropriate requirements of the Leavenworth County Zoning & Subdivision Regulations and the Sanitary Code.
- c. The minimum lot area shall conform to the appropriate requirements of the Leavenworth County Zoning & Subdivision Regulations and the Sanitary Code.
- d. All side lot lines shall bear perpendicular from the center of the street or radially from a curved street. Once outside of the building setback line, side lines can include up to two bearing changes, provided they are within 45 degrees of previous line segment. Rear lot lines are encouraged to be parallel to the front lot line.
- e. Double frontage lots shall be avoided unless, in the opinion of the Planning Commission, a variation to this rule will give better street alignment and lot arrangement.
- f. Every lot shall abut on a street other than an alley.
- g. Building or setback lines shall be shown on the Preliminary Plat and the Final Plat for all lots in the subdivision and shall not be less than the setback required by these regulations.
- h. The subdivision or re-subdivision of a tract or lot shall not be permitted where said subdivision or re-subdivision places an existing permanent structure in violation of these regulations.
- i. Within subdivisions, the lot-depth to lot-width ratios shall not exceed three and a half to one (3.5:1) or be less than one to one (1:1) for lots less than ten (10) acres. The lot-depth to lot-width ratios for lots above ten (10) acres and less than forty acres (40) acres shall not exceed four to one (4:1) or be less than one to one (1:1). Lots greater than forty (40) acres shall have no lot-depth to lot-width ratio.
(BOCC Resolution 2009-42, August 27, 2009)

ARTICLE 56 – EXCEPTIONS

Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of these regulations would result in extraordinary hardship to the subdivider because of unusual topography or other non-self-inflicted conditions; or that these conditions would result in inhibiting the achievement of the objectives of these regulations; the Planning Commission may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured; provided, that such exception, modification or waiver will not have the effect of nullifying the intent and purpose of these regulations or interfering with carrying out the Comprehensive Plan.

In recommending such exception, the Planning Commission shall find the following:

1. That there are special circumstances or conditions affecting the property.
2. That the exception is necessary for the reasonable and acceptable development of the property in question.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to adjacent property.

ARTICLE 85 – LOT AND TRACT SPLITS & BOUNDARY LINE ADJUSTMENTS

Section 20. APPLICATION PROCEDURE

Requests for lot or tract split approval shall be made to the Zoning Administrator by the owner of the land. The application shall include: Two (2) copies, one (1) digital and one (1) physical, of a scale drawing; (2) legal description of the parent lot or tract and the legal descriptions of the newly divided tracts or lots; (3) the location of all structures and other existing features on or adjacent to the lots or tracts together with the precise nature, location, and dimensions. Features to include but are not limited to roads, buildings, private septic systems, fences, ponds, lakes, utilities, hydrants, sewer locations, and the limits of the FEMA floodplain boundary as shown on the latest FEMA FIRM maps; and (4) name, signature and seal of the licensed registered land surveyor who prepared the drawing.

Section 33. ADMINISTRATIVE EXCEPTIONS

A lot or tract split shall only be granted for tracts or parcels that meet the requirements of the Zoning and Subdivision Regulations, Sanitary Code, and other applicable regulations, and will not create a non-compliant (substandard) tract or parcel. The following exceptions shall be allowed: (BOCC Resolution 2017-57; September 28, 2017)

1. Parcels containing structures closer than 105' from the centerline of the road that were built prior to September 27, 1971 shall be eligible for a lot or tract split provided the following criteria are met:
 - a. The structure shall be a minimum of 10' from the proposed, future, right-of-way dedication as determined by the County Engineer.
 - b. In the event the structure is destroyed more than 50%, reconstruction shall be subject to current Zoning & Subdivision Regulations, Sanitary Code and any other applicable regulations.
2. Parcels containing accessory structures closer than 15' from the side and/or rear property line that were built prior to September 27, 1971 shall be eligible for a lot or tract split provided the structure will meet all other current applicable Zoning and Subdivision Regulations, Sanitary Code and other applicable regulations upon completion of the lot or tract split.
3. Parcels containing dwelling units closer than 15' from the side property line and/or closer than 40' from the rear property line that were built prior to September 27, 1971 shall be eligible for a lot or tract split provided the structure will meet all other current applicable Zoning and

Subdivision Regulations, Sanitary Code and other applicable regulations upon completion of the lot or tract split.

Section 34. REQUIREMENTS FOR BOUNDARY LINE ADJUSTMENTS

The adjustment of one (1) or more common boundaries between existing un-platted tracts or parcels, which will not create additional tracts or parcels. A Boundary Line Adjustment shall only be granted for tracts or parcels which will meet the requirements of the Zoning and Subdivision Regulations, Sanitary Code, and other applicable regulations, and will not create a non-compliant (substandard) tract or parcel. The following exceptions shall be allowed: (BOCC Resolution 2017-13; March 23, 2017)

1. Parcels containing structures closer than 105' from the centerline of the road that were built prior to September 27, 1971 shall be eligible for a Boundary Line Adjustment provided the following criteria are met:
 - a. The structure shall be a minimum of 10' from the proposed, future, right-of-way dedication as determined by the County Engineer.
 - b. In the event the structure is destroyed more than 50%, reconstruction shall be subject to current Zoning & Subdivision Regulations, Sanitary Code and any other applicable regulations.
2. Parcels containing accessory structures closer than 15' from the side and/or rear property line that were build prior to September 27, 1971 shall be eligible for a Boundary Line Adjustment provided the structure will meet the most current applicable Zoning and Subdivision Regulations, Sanitary Code and other applicable regulations upon adjustment of the boundary line.

Section 35. PLANNING COMMISSION EXCEPTIONS

When a lot split, tract split or boundary line adjustment exceeds the authority of administrative action, the Planning Commission may grant an exception from the Leavenworth County Zoning & Subdivision Regulations as outlines in Article 56 – Exceptions. The tracts and parcels shall only be granted for tracts or parcels that meet the requirements of the Zoning and Subdivision Regulations, Sanitary Code, and other applicable regulations, unless the Planning Commission has granted an exception.

If an exception is requested, the request shall be made in writing no less than 30 days prior to the anticipated meeting. If approved the Planning Commission chair shall endorse the lot split, tract split or boundary line adjustment.

Section 40. REVIEW BY COUNTY STAFF

The County Planning Director and County Engineer shall, within fifteen (15) days of application, in writing, either approve or deny those applications for Lot/Tract Split based upon their conformance to County Regulations. Their acknowledged endorsement must appear in the following format:

This lot/tract split, as described and shown above, has been submitted to and approved by the following County Staff persons this _____ day of _____, 20____.

Planning Director (Name/Title)

County Engineer (Name/Title)

STATE OF KANSAS)
) SS
COUNTY OF LEAVENWORTH)

Be it remembered that on this _____ day of _____ 20 ____, before me, a notary public in and for said County and State, came _____, to me personally known to be the same persons who executed the forgoing instrument of writing, and duly acknowledged the execution of same. In testimony whereof, I have hereunto set my hand and affixed my notary seal the day and year above written.

(SEAL) Notary Public: _____

My Commission Expires: _____

The County Planning Director shall, within fifteen (15) days of application, in writing, either approve or deny those applications for Boundary Line Adjustment based upon their conformance to County Regulations. Their acknowledged endorsement must appear in the following format:

This boundary line adjustment, as described and shown above, has been submitted to and approved by the following County Staff persons this _____ day of _____, 20____.

Planning Director (Name/Title)

ARTICLE 60 – MISCELLANEOUS PROVISIONS

Section 10. BUILDING AND ZONING PERMITS

After the date of the adoption of these subdivision regulations by the Planning Commission and Governing Body, no building permit or zoning permit shall be issued for any structure that is located upon a lot in an area that has not been subdivided, unless approved in the manner as provided for in these subdivision regulations. This shall not apply to subdivisions or lots of record that were platted prior to the adoption of this subdivision regulation.

Applications for building permits must be approved or rejected within seven (7) days of their submittal. Appeals on the rejection of a building permit application by the Administrative Officer may be made to the Governing Body and shall be made in writing within ten (10) days of such rejection.

Section 20. Repealed

Section 30. Repealed

**ARTICLE 70 – SUPPLEMENTARY DOCUMENTS TO ACCOMPANY THE
FINAL PLAT**

REPEAL
4.

ARTICLE 80 – SUBMISSION OF RECORDED PLATS

REPEAL