

PART 1. JURISDICTION, APPLICATION AND EXEMPTIONS.

3-101. Jurisdiction. These Regulations shall apply to all land located within the City of Wichita and to all unincorporated land in Sedgwick County except as provided in Section 3-102 herein.

3-102. Exception to Jurisdiction. These Regulations shall not apply to the unincorporated areas in the following described sections of land; provided, that the respective city shall: 1) have adopted Subdivision Rules and Regulations for the city and the area surrounding the city not exceeding the limits of the described area below; and 2) agrees to submit a copy of all preliminary and final plats in the unincorporated area to the Metropolitan Area Planning Commission for purposes of review and comment before approval of the final plat by the Planning Commission.

The following descriptions shall be the limits of extraterritorial Subdivision Regulation authority for each of the designated cities.

(A) **Haysville Area**

The following sections in Township 28 South, Range 1 West: The SE 1/4 of Sec. 25 and that part of Sec. 25, lying west of the Flood Control Ditch; Sec. 26; the E 1/2 of Sec. 27, and all of Secs. 34, 35 and 36;

The following sections in Township 28 South, Range 1 East: The S 1/2 of Sec. 28, lying west of the Kansas Turnpike; the S 1/2 of Secs. 29 and 30; the N 1/2 Secs. 31, 32 and 33, except that part lying north of the Flood Control Ditch and east of the Kansas Turnpike; and Sec. 34, lying south of the Flood Control Ditch;

The following sections in Township 29 South, Range 1 West: Secs. 1, 2 and 3; the NW 1/4 and the E 1/2 of Secs. 10, 11, 12 and 13; the NW 1/4 and E 1/2 of Sec. 14, and the NE 1/4 of Sec. 24;

The following sections in Township 29 South, Range 1 East: Sec. 2, lying south of the flood Control Ditch and west of the Arkansas River; Sec. 3, lying south of the Flood Control Ditch; Secs. 4, 5, 6, 7, 8 and 9; the W 1/2 of Secs. 10 and 15; Secs. 16, 17 and 18; the N 1/2 of Secs. 19, 20 and 21; and the NW 1/4 of Sec. 22.

(B) **Derby Area**

The following sections in Township 28 South, Range 1 East: Secs. 25, 26 and; Sec. 27, lying east of the Arkansas River; Sec. 34, lying north and east of the Arkansas River; Sec. 35 lying north and east of the Arkansas River and Sec. 36;

The following sections in Township 28 South, Range 2 East: The SW 1/4 of Secs. 27, 28, 29, 30, 31, 32 and 33; the W 1/2 of Sec. 34; and the SE 1/4 of Sec. 34;

The following sections in Township 29 South, Range 1 East: Sec. 1; Sec. 2, lying north and east of the Arkansas River, the E 1/2 of Secs. 10, 11, 12, 13 and 14; the E 1/2 of Secs. 15, 22, 23 and 24, lying north and east of the Arkansas River;

The following sections in Township 29 South, Range 2 East: Secs. 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17 and 18.

(C) **Mulvane Area**

The following sections in Township 29 South, Range 1 East: Sec. 24, lying south of the Arkansas River; and Secs. 25; 26; 35 and 36;

The following sections in Township 29 South, Range 2 East: Secs. 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34, and the W 1/2 of Sec. 35.

(D) **Valley Center Area**

The following sections in Township 25 South, Range 1 West: Secs. 24 and 25, Sec. 26, lying east of the Little Arkansas River and east of the Little Arkansas River Floodway; Sec. 35, lying north of the Little Arkansas River; and Sec. 36, lying east and north of the Little Arkansas River;

The following sections in Township 25 South, Range 1 East: Sec. 19; the W 1/2 of Sec. 20; the W 1/2 of Sec. 29; Sec. 30 and 31; and the W 1/2 of Sec. 32;

The following section in Township 26 South, Range 1 West: Sec. 1, lying north and east of the Little Arkansas River;

The following sections in Township 26 South, Range 1 East: The W 1/2 of Secs. 5 and 6.

(E) Those areas eligible for annexation into a city that has subdivision regulations adopted as provided by law and where the governing body of that city has agreed by Resolution to annex the proposed subdivision.

3-103. Plat Referral to Other Cities. Except for those cities with extraterritorial Subdivision Regulation jurisdiction, whenever a plat is filed for property that lies within the Zoning Area of Influence as established by the Wichita-Sedgwick County Unified Zoning Code, the plat shall be referred to said city's Planning Commission for review and comment. If the city does not have a Planning Commission, the preliminary plat shall be referred to the city's governing body for comments and review. Any design or improvement standards required by these regulations may be modified to meet the design or improvement standards of that city, provided that such improvement will be tied into, connected to or made a part of that city's system (e.g., streets, water and sewer).

3-104. Compliance required as a condition of issuance of a building or zoning permit.

- (A) Compliance with these regulations is required as a condition of issuance of a building or zoning permit.
- (B) Permits for repairs, maintenance, continuation of an existing use or occupancy, including the expansion or rebuilding of an existing principle and/or accessory structure, provided that total expansion of floor area for non-residential uses does not exceed 30 percent, may be issued notwithstanding Section 3-104(A); provided however, that the Zoning Administrator may deny or withhold such permits if the rebuilding or expansion does not conform to all applicable ordinances, resolutions and codes relating to lot coverage, building setbacks and zoning.
- (C) No building permit, zoning certificate or occupancy certificate shall be issued for a building or structure on any unplatted tract or parcel until the applicant first shows, by satisfactory evidence to the building permit issuing officer or his/her delegated agent, that the following conditions exist:
 - (1) The tract or parcel is not landlocked, i.e., has proper access by way of a public or private road to a city, county, township, or state highway system.
 - (2) The tract or parcel has access to all utility and telephone services by way of a recorded easement dedicated to the public. The easement serving the property shall not be less than 20 feet in width adjacent to a rear property line or 10 feet in width adjacent to a side property line. The easement shall extend continuously to a service entrance point and exit point for all the utilities and telephone services.
 - (3) Any required sewerage permit has been obtained.
 - (4) Any required water well permit has been obtained.
 - (5) All required permits from the State such as, but not limited to, the creation of dams and lakes have been obtained.
 - (6) The proposed building site, as designated on a plot plan, is not located on land subject to flooding as described in Article Section 7-103 of these Regulations.
 - (7) If any portion of the property lies in a flood hazard area as shown on the Flood Boundary and Floodway Map published by the Federal Emergency Management Agency, or if drainage channels and waterways exist on the property that carry runoff from adjacent property or public roads, the flood hazard area or drainage channel shall be protected by grant of easement, dedication or other similar devise as may be required by the Director of the Sedgwick County Bureau of Public Works.
 - (8) If the property is located adjacent to a public road right-of-way that does not conform to the requirements of Article Section 7-201, additional right-of-way shall be granted by dedication or easement as may be required to conform to Article Section 7-201.

It shall be the responsibility of the property owner or his agent to provide to the Zoning Administrator copies of recorded instruments showing both the name of the current owner and a complete legal description of the property for which an exemption is requested.

3-105. Exemptions. In addition to the land outside the jurisdiction of these regulations as outlined in Section 3-102, these regulations shall not apply in the following instances or transactions for properties located within the jurisdiction hereof:

- (A) Any lot, tract or parcel of land located within the area governed by these regulations that has been legally platted in accordance with subdivision regulations in effect prior to the effective date of these regulations.

- (B) The division or further division of land in the unincorporated area of Sedgwick County into lots, tracts or parcels of twenty (20) acres or more when subdivided for agricultural or single-family residential purposes only and that does not involve or result in the creation of any new streets; provided:
 - (1) The division of land is located adjacent to a public road that has been accepted by the County or a township or the division of land is located adjacent to a private road whose right-of-way width conforms to the standards established by Article 7-201. At an official meeting, the Director of Sedgwick County Public Works or the Board of County Commissioners shall determine if the private road meets the standards set forth in Article 7-201.
 - (2) In the case of a private road, there must be covenants filed of record that provide for the maintenance of the private road. The covenants must provide a mechanism that authorizes the County to maintain the private road, and charge incurred costs to the owners of the land benefiting from the road, if the owners fail to maintain the private road.
 - (3) If any portion of the property lies in a flood hazard area as shown on the Flood Boundary and Floodway Map published by the Federal Emergency Management Agency, or if drainage channels and swales exist on the property that carry runoff from adjacent property or public roads, the flood hazard area or drainage channel shall be protected by grant of easement, dedication or other similar devise as may be required by the Director of Sedgwick County Public Works.
 - (4) If the property is located adjacent to a public road right-of-way that does not conform to the requirements of Section 7-201, additional right-of-way shall be granted by dedication or easement as may be required to conform to Section 7-201.
 - (5) For purposes of this provision, measurement of the twenty (20) acres for exemption purposes shall include any adjacent road right-of-way and/or easement. A normal division of property shall be considered an exempt tract. Irregular divisions of property shall contain a full 20 acres, including any rights-of-way and easements, in order to be exempt.

(6) In order for property to be considered for an exemption pursuant to this section, the property owner or his agent shall first file with the Register of Deeds Office a Restrictive Covenant pertaining to such property that has the effect of prohibiting the sale, long-term lease, devise, transfer or division of the property until all portions of the property that are not exempt under this section are first required to be platted according to the provisions set forth herein. Restrictive Covenant forms may be obtained from Metropolitan Area Planning Department or Sedgwick County Code Enforcement.

(C) A boundary shift.

A drainage plan shall be required if the boundary shift contains over 5,000 square feet.

(D) Land used for street or railroad right-of-way, a drainage easement or other public utilities subject to local, state or federal regulations, where no new street or easement of access is involved.

(E) Land used for highway or other public purposes relative to the dedication of a parcel of land for a public use or instruments relating to the vacation of land impressed with a public use.

(F) A correction of a description in a prior conveyance, provided that such a conveyance shall be clearly labeled as a "Correction Conveyance" and shall clearly identify the prior conveyance that is the subject of correction and the error contained in such prior conveyance.

(G) Whenever the lot, tract, or parcel has been sold off, divided, subdivided, resubdivided or replatted by the following dates:

(1) January 1, 1948, for land within the City of Wichita or the City of Wichita's July 1, 1968, three-mile ring;

(2) July 1, 1968, for land beyond the City of Wichita's July 1, 1968, three-mile ring.

(H) The division of land in the unincorporated area for single-family or agricultural purposes that creates no more than one additional parcel, tract or lot than specified in subsection (G) and that results in tracts of land or lots that comply with the design requirements for lots in Section 7-204 of these regulations and with the applicable provisions of the Wichita-Sedgwick County Unified Zoning Code and Chapter 14, Article V, of the Sanitary Code of Sedgwick County Code. This exemption is in addition to the exemption contained in (G) used to determine the requirements for platting.

(I) Any lot split approved in accordance with these regulations.

Any request made in writing for a determination as to qualifications for being exempt from these regulations shall be answered, by the Zoning Administrator with the concurrence of the Planning Director, either in the affirmative or negative, within thirty (30) days after the filing of the request or the exemption shall be considered granted. Appeals of such determination may be taken in accordance with Section 10-101.

3-106. Vesting of Development Rights.

- (A) The rights of landowners of lots or tracts of land created for single-family residential development shall be protected for use as single-family residential lots or tracts of land, and said lots or tracts of land shall not be required to meet the platting requirements of the Subdivision Regulations provided:
 - (1) Verifiable evidence is presented to the Zoning Administrator showing that the individual lots or tracts of land were created before August 29, 1997. Acceptable evidence shall be:
 - (a) Signed and sealed certificates or plats of survey from a Registered Land Surveyor showing the lots or tracts of land proposed to be created, said certificate or plat of survey being dated and recorded with the Register of Deeds of Sedgwick County, Kansas;
 - (b) Recorded Deeds conveying the said lots or tracts of land; or
 - (c) Recorded Affidavits of Equitable Interest on contracts for deed for said lots or tracts of land; and,
 - (2) The division of land into lots or tracts was done in conformance with the Subdivision Regulations that were in effect at the time the individual lots or tracts of land were created.
- (B) Any undeveloped contiguous lots or tracts of land, that otherwise met the requirements under (A)(1)-(2) of this section, that were held in common ownership on August 29, 2002, shall be considered a single lot. Any subsequent division of said lot shall require platting in conformance with the Subdivision Regulations. Undeveloped contiguous lots that otherwise met the requirements under (A)(1)-(2) of this section, that are not held in common ownership shall be exempt from the platting requirements of these regulations.
- (C) Properties divided or platted for any use other than single-family residential purposes shall not be permitted to develop or further develop except in conformance with the Subdivision Regulations and the Wichita-Sedgwick County Unified Zoning Code.
- (D) Persons who obtain a validly issued building permit for any undeveloped contiguous lots or tracts of land that have met the requirements under (A)(1)-(2) of this section prior to August 29, 2002, shall be permitted to develop said property, so long as the permit issued does not expire. Failure to start construction under said permit before the expiration of the permit shall result in the contiguous lots being considered a single lot.
- (E) Any request made in writing for a determination as to the qualifications for meeting the requirements of this section shall be answered by the Zoning Administrator with the concurrence of the Planning Director within thirty (30) days after the filing of the request or the requirements shall be deemed to have been met. It shall be the responsibility of the property owner or the property owner's agent to provide the Zoning Administrator copies of recorded instruments that show the names of the current owners of the lots or tracts of land and a complete legal description of the lots or tracts of land.

PART 2. ADMINISTRATION AND ENFORCEMENT.

3-201. Division of Responsibility. The administration of these regulations is vested with the following governmental branches, agencies or departments of the City of Wichita and Sedgwick County:

- (A) The Wichita-Sedgwick County Metropolitan Area Planning Department;
- (B) The Office of Central Inspection of the City of Wichita;
- (C) The Sedgwick County Code Enforcement;
- (D) The Wichita-Sedgwick County Metropolitan Area Planning Commission;
- (E) The Wichita City Council;
- (F) The Sedgwick County Board of County Commissioners; and
- (G) The City of Wichita - Department of Environmental Services.

The responsibilities of these governmental branches, agencies or departments is as follows:

3-202. Duties of the Planning Department. The Planning Department shall be responsible for the administration of the following provisions of these regulations:

- (A) Maintain permanent and current records with respect to these regulations, including amendments;
- (B) Receive and file all sketch plats, preliminary plats, and final plats, together with applications;
- (C) Forward copies of the preliminary plat to other governmental agencies and departments and representatives of public utilities for their information and recommendations;
- (D) Review all preliminary plats to determine whether such plats comply with these Regulations and review all final plats to determine whether they comply with these Regulations and requirements established by these Regulations for the preliminary plat;
- (E) Forward preliminary and final plats to the Subdivision Committee of the Planning Commission, together with staff recommendations;
- (F) Forward final plats to the Planning Commission, together with the recommendations of the Subdivision Committee;
- (G) Notify township trustees of suburban plats within their respective townships when the dedication of street right-of-way is proposed; and

- (H) Make other determinations and decisions as may be required of the department by these Regulations, the Planning Commission, the Wichita City Council, or the Sedgwick County Board of County Commissioners.

3-203. Duties of the Zoning Administrator. The Zoning Administrator shall be responsible for the administration of the following provisions of these Regulations:

- (A) Review all applications for building permits for compliance with the provisions of these Regulations, and advise the Planning Department when a tract is not in compliance.
- (B) Issue determinations of when property divisions are exempt from these Regulations as provided herein and in concert with the Planning Director.

3-204. Duties of the Planning Commission. The Planning Commission shall:

- (A) Review and approve sketch plats in all cases when the subdivider and the Planning Department have been unable to reach agreement on the sketch plat;
- (B) Upon the appeal of a denial of a preliminary plat by the Subdivision Committee, review and approve, approve conditionally or disapprove preliminary plats;
- (C) Upon receipt of the recommendation of the Subdivision Committee, review and approve or disapprove one-step and final plats;
- (D) Forward the final plat to the Wichita City Council for approval and acceptance of dedications of streets, alleys and other public ways when the property being platted is within the Wichita city limits;
- (E) Forward the final plat to the Board of County Commissioners for approval and acceptance of dedications of streets, alleys and other public ways when the property being platted is outside the city limits of Wichita;
- (F) Designate a Subdivision Committee composed of four (4) or more of its members to perform the duties outlined in Section 3-206 of these regulations;
- (G) Appoint a Utility Advisory Committee consisting of representatives of public and private agencies to perform the duties outlined in Section 3-207 of these Regulations; and,
- (H) Make other determinations and decisions as may be required of the Planning Commission from time to time by these Regulations, or the applicable sections of the Kansas Statutes Annotated.

3-205. Duties of the Wichita City Council and the Board of County Commissioners of Sedgwick County. The duties of the governing bodies shall be to accept the dedication of streets, alleys and other public ways, accept restrictive covenants recommended by the Planning Commission, to approve guarantees for public improvements, and to consider waivers to the improvement standards of these Regulations.

3-206. Subdivision Committee of the Planning Commission. The Planning Commission shall, by resolution or rule, designate a Subdivision Committee composed of four (4) or more of its members. The Chairman of the Planning Commission shall, with the concurrence of the Commission, appoint a chairman of the Committee for such time as deemed appropriate. The Subdivision Committee shall perform, on behalf of the Commission, the duties with respect to sketch plats and preliminary plats imposed on the Commission by Section 3-204 (A) and 3-204 (B) of these Regulations. Any person aggrieved by any decision or determination of the Subdivision Committee shall have the right to appeal the decision or determination to the Planning Commission.

3-207. Utility Advisory Committee. The Chairman of the Planning Commission shall appoint a Utility Advisory Committee whose duty it shall be to review and make recommendations to the Subdivision Committee on all preliminary and final plats and planned development plans where required. The Utility Advisory Committee shall meet with the Subdivision Committee in order to submit its recommendations. The Utility Advisory Committee shall consist of representatives of those public and private agencies having a direct interest in public works, public utilities, health and safety and such other persons as the Commission may from time to time deem necessary.

PART 3. FILING FEES.

3-301. Filing Fees. For the purpose of defraying costs of proceedings described herein, filing fees shall be paid upon the filing of each application as established by the schedule adopted by the governing bodies.

PART 4. ENFORCEMENT AND PENALTY.

3-401. Enforcement. It shall be the duty of the Zoning Administrator and the Director of the Metropolitan Area Planning Department or their agent to enforce these Regulations. The following actions are prohibited:

- (A) Approval of a plat by the Metropolitan Area Planning Commission that does not comply with the provisions of these Regulations.
- (B) The recording of any plats or replats of land laid out with building lots, streets, alleys, utility easements and dedications of the public unless the plat or replat bears the signatures and seals of the Metropolitan Area Planning Commission and appropriate governing body.

3-402. Penalty. A building permit shall not be issued for the construction of any building or structure located on a lot, tract or parcel subdivided or sold in violation of the provisions of these Regulations. In addition, the following shall apply:

- (A) The City or County may seek an injunction or other equitable relief in the district court to stop any violation of these Regulations or of a permit, certificate or other form of authorization granted hereunder.
- (B) The City or County may seek a court order from the district court in the nature of mandamus, abatement or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition that existed prior to the violation.

- (C) The City or County may seek such criminal or civil penalties as are provided by Kansas law, municipal or county code. Any violation occurring within the city shall constitute a misdemeanor with penalties not to exceed \$500 or imprisonment for not more than six (6) months for each offense, or both the fine and imprisonment. For any violation occurring within the unincorporated area, criminal penalties shall not exceed \$500 and any violation shall be a Class H violation, with prosecution pursuant to Chapter 8 of the Sedgwick County Code. For purposes of these penalties, each day's violation shall constitute a separate offense.
- (D) The City or County shall have such other remedies as are, and as may be from time to time, provided by Kansas law, municipal code or county code, for the violation of zoning or related provisions of its code.
- (E) These remedies shall be cumulative.