

DEFINITIONS

SECTION 3-1 RULES OF CONSTRUCTION

3-101. a. The language set forth in these regulations shall be interpreted in accordance with the following rules of construction:

1. The singular number includes the plural and the plural the singular.
2. The present tense includes the past and the future tenses and the future the present.
3. The word "shall" is mandatory while the word "may" is permissive.
4. The words "Building Official" means the officially appointed building official for the City of Emporia, Kansas.
5. The words "Comprehensive Plan" mean the Comprehensive Plan for the City of Emporia, Kansas and the Metropolitan Planning Area of Lyon County, which has been adopted by the Planning Commission, approved by the Governing Body and includes, among other elements, plans for land use, transportation, utilities and community facilities.
6. The words "subdivision jurisdiction" mean the area as described in Section 1-501 for which the extraterritorial jurisdiction of these regulations is applicable for purposes of subdividing land.

b. Any word or phrase which is defined in this Article or elsewhere in these regulations shall have the meaning as so defined whenever used in these regulations, unless such definition is expressly limited in its meaning or scope.

c. Terms used in these regulations and not defined in this Article or elsewhere in these regulations but defined in the Emporia-Lyon County Metropolitan Planning Area Zoning Regulations shall have the definition set forth in such zoning regulations for such terms.

d. Words or terms not herein defined shall have their ordinary meaning in relation to the context as defined in a dictionary or by statute.

SECTION 3-2 DEFINITIONS

3-201. The following definitions shall be used in the interpretation and construction of these regulations:

Access. The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.

Access Control. The limitation of public access rights to and from properties abutting streets or highways. Access control is used on major streets and highways, when necessary, to preserve high-quality traffic service and to improve safety.

Agriculture. The use of a tract of land 10 contiguous acres or more in area under one ownership for growing crops, pasturage, horticulture, nurseries, truck farms, dairying or the raising of poultry or cattle and other livestock, except feedlots, and including the structures necessary for carrying out farming operations and the dwelling(s) of those owning and/or operating the premises. Riding academies, boarding stables, dog kennels, or commercial or hydroponic greenhouses shall not be deemed agricultural uses; however, forested and non-

producing open space land are considered as agricultural.

Alley. A dedicated public right-of-way, other than a street which provides only a secondary means of access to abutting property.

Benchmark. Surveying mark made in some object which is permanently fixed in the ground showing the height of that point in relation to sea level. See *Monument*.

Block. A piece of or parcel of land entirely surrounded by public highway, streets, streams, railroad rights-of-way or parks, or a combination thereof.

Bond. See *Performance Bond or Guaranty*.

Control Marker. See *Monument*.

Cul-de-sac. A vehicular turnaround which is located at the closed end of a dead end street or alley.

Curb Cut. The opening along a curb line at which point vehicles may enter or leave a roadway.

Cluster Development. See Section 10-2.

Dedication. A gift or donation of property by the owner to the City or County. The transfer is conveyed by a plat or a written separate instrument. The act of dedicating is completed with a formal acceptance by the Governing Body.

Design. The location of streets, alignment of streets, grades, and widths of streets, alignment of easements, grades and widths of easements, alignment and rights-of-way for drainage and sanitary sewers, and the designation of minimum lot area, width and length.

Drainage. The process and course by which surface water moves across the land surface or is conveyed through channels, waterways, pipes, culverts, ducts, or other means. See *Stormwater Management*.

Easement. An intent in land that is held by someone other than the owner that entitles the holder to a specific limited use or right.

Exactions. Requirement of development to dedicate or pay for all or a portion of land for or costs of public facilities as a condition of development approval.

Final Plat. A formal document by drawing and writing representing a subdivision which is prepared in accordance with these regulations to be placed on record with the Lyon County Register of Deeds.

Frontage.

- a. **Street frontage:** All of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.
- b. **Lot Frontage:** The distance for which the front boundary line of the lot and the right-of-way are coincident.

Governing Body. The elected Governing Body having jurisdiction for approval of plats and dedications of property within the city limits is the City Commission, and for approval of plats and dedications of property in the Metropolitan Planning Area is the County Commission.

Impact fee. A fee imposed by the City on new development pursuant to these

regulations in order to mitigate the impacts on community facilities created by the demand for capital improvements by the new development. Impact fees do not include the dedication of rights-of-way or easements for such facilities, or the construction of such improvements.

Improvements. Street work utilities and other facilities that are to be installed, or agreed to be installed, by the subdivider on the land to be used for public or private use of the lot owners in the subdivision and local neighborhood traffic and drainage needs, as a condition precedent to the approval and acceptance of a final plat, lot-split or PUD.

Improvement District. An area deemed by the Governing Body to be benefitted by a public improvement and subject to a special assessment for all or a portion of the cost of the improvement. See *Benefit District*.

Land Surveyor or Registered land Surveyor. A licensed land surveyor registered in the State of Kansas or licensed to practice in the State of Kansas who is responsible for the survey and preparation of the final plat.

Local Street. A street intended primarily for access to abutting properties and of limited continuity within a neighborhood.

Lot. A parcel or tract of land (legally described or platted) which is on record in the office of the Lyon County Register of Deeds. For the purpose of these regulations, a lot shall have a frontage upon a public street.

Lot Coverage. That percentage of a lot which, when viewed directly from above, would be covered by a structure or structures, or any part thereof, excluding projecting roof eaves.

Lot Depth. The mean horizontal distance between the front and rear lot lines.

Lot Line. The boundary line of a lot.

Lot Pin. See *Monument*.

Lot of Record. A lot which is part of a recorded subdivision or a parcel of land which has been recorded in the office of the Lyon County Register of Deeds.

Lot Split. The dividing of a lot in a recorded plat or replat of a subdivision into not more than two parcels which creates an additional lot and meets the criteria established within these regulations.

Lot Width. The distance between the side lot lines at right angles at the building setback line.

Minor Plat. A subdivision of land into no more than five (5) lots fronting on an existing street and not involving any new street or extension of public facilities.

Monument. A device used to mark and identify the corners of the boundaries of subdivisions, blocks and lots and the points of intersection, tangent and curvature of street right-of-ways. Monuments are steel or iron bars or pipes at least ½" in diameter and at least 24" long bearing the surveyor's identification cap. These regulations create three categories of monuments, as follows, with each monument conforming to the standards for boundary surveys as established by the Kansas Board of Technical Professions and further meeting the following requirements applicable to the category of monument:

Monument A 36" long 5/8" diameter solid bar to identify the corner boundaries of subdivision blocks. Monument locations shall be marked by a steel fence post. Exterior monuments shall be encased in concrete

using a 12" long, 4" diameter section of PVC pipe.

Lot Pin A solid bar to mark the corners, points of curvature and points of tangent of lots.

Control Marker A pipe to mark the points of curvature, tangent and intersection of the centerline of street right-of-way. Control markers for point of intersection shall be 36" long 5/8" diameter pipe.

Open Space. An area of land or water or combination thereof planned for passive or active recreation, but does not include areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas, or required front, rear or side yards.

Pedestrian Way. A right-of-way dedicated to public use, which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

Performance Bond or Guaranty. Any form of guaranty acceptable by the Governing Body of the City or County, whichever is applicable, most frequently a surety bond, cash deposit, letter of credit, made out to the Governing Body in an amount equal to the full cost of the improvements which are required by these regulations, said cost being estimated by the Engineer having jurisdiction, and said surety bond or cash deposit being legally sufficient to secure to the Governing Body that said improvements will be constructed in accordance with these regulations.

Planned Unit Development (PUD). A plan for the development of larger tracts of land as a total design complex which may include residential, commercial or industrial uses or a combination thereof, in a manner which encourages: innovation in development; a greater variety in type, design, and layout of buildings; conservation of land through more efficient use of open space; and efficient use of public facilities and services.

Planning Commission. The Emporia-Lyon County Metropolitan Area Planning Commission.

Preliminary Plat. A tentative map or plan of a proposed subdivision of land showing the character and general details of the proposed development.

Replat. A new plat or a revision to a subdivision or portion thereof for which a final plat has previously been recorded. The approval of a replat is processed in the same manner as a final plat.

Right-of-Way. A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for any other special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

Roadway. That portion of a street, alley or highway right-of-way which has been graded, surfaced or otherwise improved for use by vehicular traffic, exclusive of sidewalks, driveways and related uses.

Secretary. Secretary of the Planning Commission.

Setback Line or Building Line. A line on a plat generally parallel to the street right-of-way, indicating the limit beyond which buildings or structures may not be erected or altered, except as otherwise provided in these zoning regulations.

Stormwater Management. The management of drainage to ensure that water moves in a manner that protects people and property from damage or flooding. Stormwater management includes man-made and natural channels, drainage structures, storage areas, sedimentation control, and erosion control. See *Drainage*.

Street. A right-of-way, dedicated to public use, which provides principal vehicular and pedestrian access to adjacent properties.

1. **Arterial.** A street which provides for through traffic movement between and around areas and across the city, with direct access to abutting property; subject to necessary control of entrances, exits, and curb uses.
2. **Collector.** A street which provides for traffic movement between arterials and local streets, with direct access to abutting property.
3. **Local.** A street which provides for direct access to abutting property and for local traffic movement whether in business, industrial or residential uses.
4. **Frontage Street.** A public or private, marginal access roadway, generally paralleling and contiguous to a street or highway, providing access to abutting properties. A frontage road is designed to promote safety by eliminating unlimited ingress and egress to the principal street or highway by providing points of access at generally uniformly spaced intervals.

Structure. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Structures do not include fences but do include, but are not limited to: buildings, walls, sheds and towers.

Subdivider. A person, firm, corporation, partnership, or association who causes land to be divided into a subdivision for himself or for others.

Subdivider's Agreement. A contractual agreement signed and notarized by the subdivider and the applicable Governing Body which is conditioned upon acceptance of the final plat for the dedications thereon with primary concern for the design, installation, inspection and financing or guarantees for public improvements.

Subdivision. The division of a tract of land into two or more lots or parcels for the purpose of transfer of ownership or building development, or, if a new street is involved, any division of a parcel of land. The term "subdivision" includes "re-subdivision", and the term "re-subdivision" shall include any further subdivision of a lot or parcel of land previously subdivided, for sale, use, or other purposes, which varies from the latest, approved plat of the same.

Subdivision Regulations. The adopted Emporia-Lyon County Metropolitan

Area Subdivision Regulations.

Zero Lot Line. A one or two family dwelling subdivision which allows one (1) exterior wall of a structure on or within one (1) foot of a side property line and the other side yard is double the normal side yard required by the zoning district regulations.

Zoning Administrator. The person authorized and empowered by the Governing Body having jurisdiction to administer these regulations.

Zoning Regulations. The adopted Emporia-Lyon County Metropolitan Area Zoning Regulations.