



Legislation Details (With Text)

**File #:** 240468      **Version:** 1      **Name:**  
**Type:** Ordinance      **Status:** Passed  
**File created:** 4/18/2024      **In control:** Council  
**On agenda:** 6/13/2024      **Final action:** 6/13/2024  
**Title:** Sponsor: Director of the City Planning Department

Amending Chapter 88, Code of Ordinances, by repealing Section 88-405-10, Streets, and enacting in lieu thereof a new section of like number and subject matter; and repealing Section 88-405-21, Installation or Financial Guarantee of Required Improvements, and enacting in lieu thereof a new section of like number and subject matter; repealing Section 88-405-26, Plats Straddling Jurisdictional Boundaries, and enacting in lieu thereof a new section of like number and subject matter; repealing Section 88-415-02, Scope and Applicability, and enacting in lieu thereof a new section of like number and subject matter; repealing Section 88-415-08, Administration and Procedures, and enacting in lieu thereof a new section of like number and subject matter; repealing Section 88-415-10, Inspections, and enacting in lieu thereof a new section of like number and subject matter; repealing Section 88-415-11, Plan Review Process, and enacting in lieu thereof a new section of like number and subject matter; repealing Section 88-570-02, Applicability; Authorized Administrative Adjustments; all in order to redirect certain permitting and inspection functions from the City Planning and Development Department to the Water Services and Public Works Departments.

**Sponsors:** Director of City Planning & Development

**Indexes:**

**Code sections:**

**Attachments:** 1. 1\_CD-CPC-2024-00042 Staff Report, 2. CD-CPC-2024-00042 PPT, 3. DRAFT Ord - Chapter 88 Changes 3.26, 4. Docket Memo 4.24 Text Amend, 5. Authenticated Ordinance 240468

Date	Ver.	Action By	Action	Result
6/13/2024	1	Council	Passed	Pass
6/11/2024	1	Neighborhood Planning and Development Committee		
6/4/2024	1	Neighborhood Planning and Development Committee	Hold on Agenda	
5/23/2024	1	Council	referred	

ORDINANCE NO. 240468

Sponsor: Director of the City Planning Department

Amending Chapter 88, Code of Ordinances, by repealing Section 88-405-10, Streets, and enacting in lieu thereof a new section of like number and subject matter; and repealing Section 88-405-21, Installation or Financial Guarantee of Required Improvements, and enacting in lieu thereof a new section of like number and subject matter; repealing Section 88-405-26, Plats Straddling Jurisdictional Boundaries, and enacting in lieu thereof a new section of like number and subject matter; repealing Section 88-415-02, Scope and Applicability, and enacting in lieu thereof a new section of like number and subject matter; repealing Section 88-415-08, Administration and Procedures, and enacting in lieu thereof a new section of like number and subject matter; repealing Section 88-415-10, Inspections, and enacting in lieu thereof a new section of like number and subject

matter; repealing Section 88-415-11, Plan Review Process, and enacting in lieu thereof a new section of like number and subject matter; repealing Section 88-570-02, Applicability; Authorized Administrative Adjustments; all in order to redirect certain permitting and inspection functions from the City Planning and Development Department to the Water Services and Public Works Departments.

TO BE IT ORDANIED BY COUNCIL OF KANSAS CITY:

Section 1. That Chapter 88, Code of Ordinances, is hereby amended by repealing Section 88-405-04, Required Dedications and Reservations, Section 88-405-06, Blocks, Section 88-405-10, Streets, Section 88-405-21, Installation or Financial Guarantee of Required Improvements, Section 88-405-26, Plats Straddling Jurisdictional Boundaries, Section 88-415-02, Scope and Applicability, Section 88-415-08, Administration and Procedures, Section 88-415-10, Inspections, Section 88-415-11, Plan Review Process, and Section 88-570-02, Applicability; Authorized Administrative Adjustments, all in order to divert certain permitting and inspection function from the City Planning and Development Department to the Water Services and Public Works Departments, said sections to read as follows:

**88-405-04 REQUIRED DEDICATIONS AND RESERVATIONS**

In subdividing land, re-subdividing an existing plat, or creating any new residential units, a developer must dedicate rights-of-way for public streets and conform to adopted plans in providing suitable sites for parks, playgrounds, or other public or private recreational areas or open spaces in accordance with the standards of this zoning and development code. All areas to be dedicated or reserved must be indicated on the preliminary plat. A developer must provide a release or subordination of any dedicated right-of-way from and subordination of any deeds of trust to any building lines, lot lines, and easements on the plat, as required by the director.

**88-405-06 BLOCKS**

**88-405-06-A.** The length, width, and shape of blocks must be suited for the planned use of the land, zoning requirements, and need for convenient access, control and safety of street traffic and the limitations, and opportunities relating to the terrain and natural environment.

**88-405-06-B.** Blocks may not exceed 600 feet in length in residential subdivisions with a gross density of 4 or more dwelling units per acre. In lower density residential subdivisions blocks may not exceed 1,200 feet in length. The city planning and development director is authorized to allow longer block lengths if the director determines that (1) topography, sensitive natural resources or other physical constraints make shorter block lengths undesirable or impractical; (2) the design ensures adequate access for emergency vehicles and (3) the design promotes reasonable, safe and convenient non-motorized transportation access to existing or reasonably anticipated future streets, schools, shopping areas, parks, trails, open spaces, transit stops and similar areas.

**88-405-10 STREETS**

**88-405-10-A. TRAFFIC MOVEMENT AND PEDESTRIAN CIRCULATION PRINCIPLES**

The street and pedestrian circulation layout for all new subdivisions must conform to the arrangement, width and location indicated on the major street plan, comprehensive plan, the walkability plan, complete streets ordinance, or approved area plan. Street and pedestrian circulation systems must be laid out and designed with due regard for topography and drainage

and to:

1. create an integrated system of lots, streets, trails, and infrastructure that provides for efficient movement of pedestrians, bicycles, and automobiles within the subdivision and to and from adjacent development;
2. provide for the efficient movement of through traffic by providing an interconnected hierarchy of streets in order to avoid isolation of residential areas and over-reliance on major roads;
3. provide safe and attractive pedestrian routes to nearby commercial centers, as well as nearby public/civic, employment, and recreation uses; and
4. be uncomplicated, so that emergency services, public services, and visitors can find their way to their intended destinations.

#### **88-405-10-B. CONNECTIONS TO ABUTTING PROPERTY**

1. A network of interconnected streets is intended to:
  - (a) provide safe, convenient, and efficient means of access to lots;
  - (b) promote orderly development patterns;
  - (c) facilitate the effective and efficient provision of emergency and public services; and
  - (d) avoid degradation of traffic carrying capacity on the major street network.
2. Streets in new subdivisions must connect with dedicated streets in adjacent subdivisions and provide for future extension of streets into adjacent areas that are likely to be developed in the future. Waivers to street connection requirements may be approved in accordance with 88-405-25 if topography, sensitive natural resources or other physical constraints make such connections undesirable or impractical.
3. Streets proposed for future extension ("stub streets") must be terminated with temporary turnarounds when the stub street extends 150 feet or more from the nearest intersecting street right-of-way or when more than one lot will have access solely from the stub street. Stub streets are subject to the maximum cul-de-sac length standard of 88-405-10-C.
4. Temporary turnarounds must be constructed in accordance with the city's Standards, Specifications, and Design Criteria. Unless otherwise expressly approved they must be located on (off-site) adjacent property. An off-site temporary roadway easement is required and evidence of such a recorded easement must be submitted at the time of application for permit. If the developer owns the off-site property, the temporary roadway easement may be recorded simultaneously with the final plat for the subject property.
5. If providing a temporary turnaround on (off-site) adjacent property is not practical or the developer is not able to obtain the required off-site temporary easement, the director of public works may approve one of the following options:
  - (a) elimination of the off-site temporary turnaround in lieu of an on-site permanent concentric bubble right-of-way curbed turn-around centered on the extending street centerline prior to the termination point of the street extension (minimum lot sizes, dimensions, and setbacks must be maintained for lots fronting on the turn-

around right-of-way); or

(b) provision of an on-site, non-concentric bubble temporary turn-around on one or more lots and provision of a temporary easement encumbrance over the entire lot or lots affected by the turn-around. If a portion of a lot is encumbered by the turn-around, the entire lot must be covered by the easement without exception. The easement will be retained until the street is extended in a subsequent phase or plat, the temporary turn-around is removed, all permanent street improvements are completed and accepted across the lot or lots, thus eliminating the need for the temporary turn-around and easement.

6. The developer must post a sign at the terminus of all stub streets indicating that the stub street is intended to be opened to through traffic when the adjacent property is developed. The sign must state "FUTURE THROUGH STREET. TO BE CONNECTED WHEN ABUTTING PROPERTY DEVELOPS." The city may provide specifications for required signs.

#### **88-405-10-C. CUL-DE-SACS**

1. Cul-de-sacs streets may not exceed 600 feet in length unless otherwise expressly approved by the city planning and development director or city plan commission. In no event may a cul-de-sac street be approved that exceeds 1,320 feet in length or that serves more than 20 dwelling units. The length of a cul-de-sac street is measured from the center point of its turnaround, along the centerline of its right-of-way to the nearest edge of the right-of-way of the nearest intersecting street.
2. A pedestrian access easement must be provided to connect from the terminus of the cul-de-sac streets with existing or reasonably anticipated future streets, schools, shopping areas, parks, trails, open spaces, transit stops and similar areas. The city planning and development director is authorized to waive this pedestrian access easement requirement when a pedestrian connection is deemed impractical or will not serve the intended purpose of providing safe and convenient non-motorized transportation access to such areas.
3. Turnarounds at the end of cul-de-sac streets must be constructed in accordance with the city's Standards, Specifications, and Design Criteria.

#### **88-405-10-D. INTERSECTIONS**

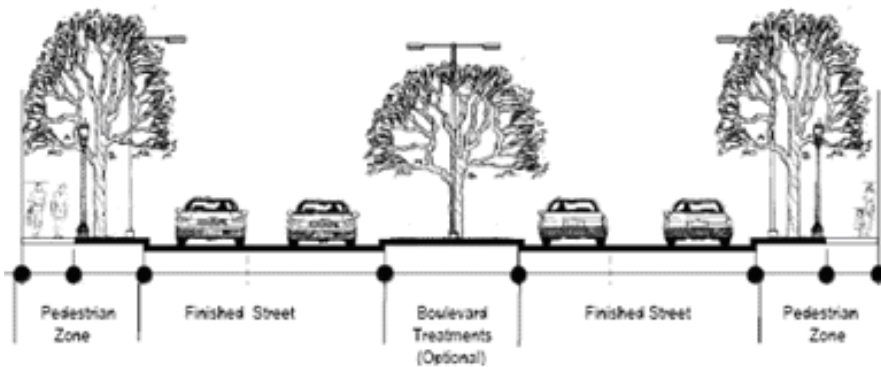
1. Streets must intersect each other at right angles unless otherwise dictated by pedestrian and vehicle safety, topography, or other factors of environmentally sensitive site design.
2. Intersection radii must comply with the city's Standards, Specifications, and Design Criteria, provided that the director of public works may require a greater or reduced radius when anticipated traffic or roadway and intersection improvements warrant.

#### **88-405-10-E. RIGHT-OF-WAY WIDTH**

Proposed streets must have a right-of-way width that will safely accommodate the transportation (vehicular, pedestrian, and bicycle) improvements and street cross-sections needed to provide appropriate, safe, and adequate access to the subject development, in accordance with the city's Major Street Plan and Standards, Specifications, and Design Criteria.

#### **88-405-10-F. CROSS-SECTION DESIGN**

## 1. DESCRIPTION



### (a) FINISHED STREET

The finished street component of a street cross-section is the portion of the right-of-way comprised of the paved street from curb to curb, or edge to edge where curb and gutter is not provided. The finished street includes the following elements:

- (1) vehicle travel lanes;
- (2) on-street parking, where applicable;
- (3) turn lanes, where necessary;
- (4) on-street bicycle facilities, where applicable; and
- (5) finished street edge (e.g., curb/gutter, swale/ditch, shoulder, and street lighting.)

### (b) PEDESTRIAN ZONE

The pedestrian zone component of a street cross-section is the portion of the right-of-way that primarily accommodates pedestrian movement and buffers pedestrians and adjacent land uses from moving vehicles on the finished street. The pedestrian zone includes the following elements:

- (1) pedestrian facility (e.g., sidewalk or trail), providing dedicated areas for pedestrian travel along streets;
- (2) amenity/buffer area (e.g., tree lawn, vegetated natural buffer, expanded sidewalk), providing separation of pedestrians from moving vehicle lanes and providing a landscape amenity or occasionally street furniture along the street; and
- (3) off-street bicycle facilities (optional), providing dedicated or shared off-street bicycle facilities along bike routes in areas where on-street facilities would be inappropriate or impractical.

### (c) BOULEVARD TREATMENT

The boulevard treatment is an optional component of a street cross-section that includes a landscaped median as the focal point of the street and may include additional design elements such as frontage access lanes (i.e., "slip roads"), buffer

strips, and parking.

## 2. **REQUIRED IMPROVEMENTS**

Street cross-sections must be designed and constructed in accordance with adopted public works standards or plans found to be in general compliance with this ordinance during the subdivision approval process.

### **88-405-10-G. GRADES**

Street grades must provide safe and convenient traffic conditions while avoiding excessive grading and unnecessary removal of ground cover and tree growth. Street grades must comply with the Public Works's Standards, Specifications, and Design Criteria.

### **88-405-10-H. VERTICAL CURVATURE**

All changes in street grade must be connected by vertical curves and be designed for safe stopping sight distances and safe sight distance at the entrance to subdivisions, in accordance with the Public Work's Standards, Specifications, and Design Criteria. The development review committee is authorized to require that applicants submit a sight distance analysis at the time of preliminary subdivision plat review.

### **88-405-10-I. HORIZONTAL CURVATURE**

The required centerline radius of horizontal curves must be based on engineering considerations of topography, length of street, number of curves and other factors, as determined by the of public works. Horizontal curves on arterial streets must be designed in accordance with the Public Work's Standards, Specifications, and Design Criteria.

### **88-405-10-J. ALLEYS**

Alleys and service lanes are permitted and encouraged within new subdivisions. Alleys, whether public or private, must comply with the department of public works' Standards, Specifications, and Design Criteria or plans found to be in general compliance with this ordinance during the subdivision approval process. Dead-end alleys are prohibited.

### **88-405-10-K. HALF STREETS**

Where an existing dedicated or platted half street is adjacent to the tract being subdivided, the other half of the street right-of-way must be dedicated by the subdivider in conformance with the requirements of the major street plan. Half street dedications for minor or access streets are not permitted unless there is satisfactory agreement with the city that both adjacent developers agree to dedicate and construct one-half of the street.

### **88-405-10-L. STREET NAMES**

Street names must be assigned by the street naming committee at the time of preliminary plat approval. The developer must submit a street name sign plan with the preliminary plat submittal. The street name sign plan must be drawn at a readable scale that shows the proposed street layout with proposed names, perimeter streets and street names, lot lines, and proposed street name sign locations, with a note stating the names to be put on each sign. The sign locations, size, and message must comply with department of public works' "Specifications for Fabricating and Installing Street Name Signs."

### **88-405-10-M. BOULEVARD AND PARKWAY DESIGN STANDARDS**

Construction of any street that has been designated as a boulevard or parkway on the major street plan, or a park under the jurisdiction of the board of parks and recreation commissioners must conform to the

design standards that have been adopted and approved by the city council as part of the Boulevard and Parkway Standards.

## **88-405-10-N. SUBORDINATION AGREEMENTS**

### **1. PURPOSE**

The city requires that street rights-of-way dedicated to the public be and remain available for access to individual properties and to other streets and roadways. In order to ensure that the rights of the public to the use of street right-of-way will not be infringed upon, this section requires that any utility or other easement be subordinate to the rights of the public in the street right-of-way, except as otherwise expressly stated.

### **2. CONTENTS OF SUBORDINATION AGREEMENT**

(a) In the case of a dedication of right-of-way that involves dedication over a pre-existing utility easement before the dedication of the right-of-way to the city, a subordination agreement must include an agreement by the easement holder to subordinate its easement to the city's public right-of-way subject to the rights of the easement holder to be reimbursed if future improvements to the right-of-way require the relocation or adjustment of the utility's facilities located within the easement or cause conditions that constructively require the relocation or adjustment of the utility's facilities located within the easement. Agreements that include the following provisions are acceptable to the city:

- (1) The city agrees that utility's obligation to relocate is dependent upon the city providing the utility with an easement for the relocation; and
- (2) The city agrees that if future improvements to the right-of-way require the relocation or modification or other adjustment of the utility's facilities located in the easement, the city will not require the utility to pay the cost of relocating, modifying, or adjusting its facilities. In those cases, the agreement must also provide that if the utility's future improvement, reconstruction, or maintenance of its facilities located in the easement damages the right-of-way, the utility will repair or replace the existing right-of-way in accordance with city standards in effect on the date of damage. Notwithstanding anything contained herein to the contrary, should the improvements set forth in the construction plan or plans for improvements required by the final plat within the new right-of-way require the relocation or other adjustment of the utility's facilities located in the easement or cause conditions that constructively require the relocation or adjustment of the utility's facilities located within the easement, the developer will be responsible for all costs associated with relocating, modifying, or adjusting in any way the utility's facilities, including easement acquisition costs, associated with the improvements.

(b) In the case of a dedication of right-of-way to the city that involves a utility easement that was recorded after the site or development plan, or preliminary plat, whichever occurs earlier, was submitted for approval, a subordination agreement must include the agreement by the easement holder to subordinate its easement to the city's public right-of-way without a requirement for the easement holder to be reimbursed if it is required to relocate its existing facilities located within the

easement. The agreement must also provide that if the utility's future improvement, reconstruction or maintenance of its facilities located in the easement damages the right-of-way, the utility will repair or replace the existing right-of-way in accordance with city standards in effect on the date of damage. Notwithstanding anything contained herein to the contrary, this subsection will not apply to situations where the developer granted the utility easement before January 1, 2011 or where the utility easement was provided to the utility company under condemnation or the threat of condemnation; in those situations, the subordination agreement as required in subsection 2(a) will be acceptable.

### 3. EXCEPTION REQUESTS

In the case of special circumstances where a developer is unable to obtain the subordination from the easement holder or is unable to obtain the form of the subordination agreement as required in subsection 2, a developer may request at the time of final plat approval by the city council an exception to the requirement for the subordination of the easement or to the form of the required subordination agreement as delineated above in subsection 2. This request may be approved by the city council in consideration of all of the following information:

- (a) the utility or easement holder consents to the dedication of the right-of-way over its easement;
- (b) the date the utility obtained the easement and a copy of the easement;
- (c) the name of the entity that granted the easement to the utility;
- (d) a description of the facilities located in the easement; and
- (e) an explanation of the steps taken by the applicant to minimize the crossings of the streets with the utility easements;
- (f) the efforts made by the developer to obtain the subordination from the easement holder or to obtain the subordination agreement in the form delineated in subsection 2 from the easement holder; and
- (g) the city council may require the developer to submit additional information to support its request, including an estimate from the utility of how much it would cost to relocate the facilities located in the easement and an explanation of the likelihood that future improvements to the right-of-way will require a relocation or adjust to the utilities' facilities.

### 4. GRANT OF EXCEPTION

In reviewing the request for an exception to the requirement for subordination of the easement or for the use of a subordination agreement in a form other than as provided in subsection 2, the city council may consider all of the following:

- (a) that there are special circumstances or conditions affecting the property that were not caused by the developer;
- (b) that approval of the plat without the subordination or without the form required by subsection 2 is necessary for reasonable and acceptable development of the property in question, taking into account whether there is another solution, feasible



for the developer to pursue, that would induce the holder of the easement to subordinate its easement to the city's new right-of-way in conformance with subsection 2; and

- (c) that approval of the exception to the requirement for a subordination or for a form that conforms to the requirements of subsection 2 will not be detrimental to the public welfare, taking into account whether the potential financial burden to the city is outweighed by the benefit of the new development.

## **88-405-21 INSTALLATION OR FINANCIAL GUARANTEE OF REQUIRED IMPROVEMENTS**

### **88-405-21-A. PREREQUISITE TO RELEASE OF FINAL SUBDIVISION PLAT FOR RECORDING**

1. After construction plans have been reviewed for compliance with applicable requirements but before a final subdivision plat is released by the city for recording, the developer must install or guarantee the completion of required improvements and guarantee maintenance of such improvements.
2. If the developer chooses to complete required improvements prior to release of a final plat for recording, the developer must obtain construction permits and post required maintenance guarantees for the installed improvements
3. If the developer chooses not to install required improvements before release of the final subdivision plat for recording, the developer must obtain construction permits and post a financial guarantee of performance and maintenance in accordance with 88-405-21-B.

### **88-405-21-B. FINANCIAL GUARANTEES**

Financial guarantees for temporarily deferred improvements must be provided in the form of bonds, escrow, or letters of credit in accordance with this subsection.

#### **1. BONDS**

- (a) The developer may post a performance bond for all or a portion of the required improvements, in an amount estimated by the director of public works or director of water services (as applicable) to be sufficient to cover the entire cost of construction, engineering, installation, and dedication of the improvements to be covered by the bond. Bonds for partial improvements may be accepted only if the balance of the public improvements are completed before release of the final plat for recording.
- (b) Performance bonds must comply with the requirements of RSMo 89.410 and are subject to approval by the director of finance.
- (c) Within 2 years of the date that the performance bonds are posted, the developer must obtain all required construction permits and post performance and maintenance bonds for completion of the required improvements. The director of public works or director of water services (as applicable) may, upon proof of hardship, extend the 2-year life of the bond for a maximum of one additional year. Further extensions may be granted by the city council. In the event of any time extension, the director of public works or director of water services (as applicable) may require an increase in the bond amount if the director determines that the

original bond amount will not be sufficient to cover the costs of construction, engineering, installation, and dedication of the improvements to be covered by the bond.

- (d) The city is authorized to delay release of final plats for subsequent phases of the subdivision until required public improvements are installed in accordance with the construction permit and bond provisions.
- (e) The city is authorized to accept one bond on a project with work performed for the public works department and water services department.

**2. ESCROW OR LETTER OF CREDIT**

- (a) The developer may enter into an escrow or a letter of credit agreement with the city. This form of financial guarantee requires that the applicant place in escrow or submit a letter of credit in an amount estimated by the director of public works or director of water services (as applicable) to be sufficient to cover the entire cost of construction, engineering, installation, and dedication of the improvements to be covered by the financial guarantee. Unless a completion date is properly extended by the director of public works or director of water services (as applicable) for the escrow or letter of credit agreement, public improvements must be completed in accordance with the following timetable:

<b>Improvement</b>	<b>Required Completion (years from plat recording)</b>
Wastewater (sewer)	2
Stormwater management	2
Streets	2
Sidewalks	2
All other	2

- (b) The escrow or letter of credit agreement must be submitted before the final plat is forwarded to the city council.

(c) The city is authorized to delay release of final plats for subsequent phases of the subdivision until required public improvements are installed.**88-405-26 PLATS STRADDLING JURISDICTIONAL BOUNDARIES**

Wherever access to a subdivision is required across land within another municipality or political jurisdiction, the city plan commission may request an opinion from the city attorney that access is legally established and also from the director of public works to ensure that the access road is adequately improved or that a performance bond has been duly executed and is sufficient to ensure construction of the access road.

**88-415-02 SCOPE AND APPLICABILITY**

**88-415-02-A.** The stream buffer standards of this article apply to all stream corridors identified on the Kansas City Natural Resource Map. In the event of conflict between the stream buffer standards of this article and the stream buffer provisions of the city's Standards, Specifications, and Design Criteria, the stream buffer standards of this article govern. If a variance is obtained,

the stream buffer provisions apply to the relocated stream and mitigated natural resources. For the purpose of this article, storm sewer systems, human-made channels (except those designed to function as natural streams), and roadside ditches are not considered streams and are not subject to the stream buffer provisions of this article.

**88-415-02-B.** In the event of conflict between the stream buffer regulations of this article and Federal Aviation Administration (FAA) requirements, FAA requirements govern.

**88-415-02-C.** The stream buffer regulations of this article are not intended to prohibit maintenance of existing city-owned facilities within the stream buffer, nor do the regulations require the removal of lawfully established facilities or improvements from the stream buffer area.

**88-415-02-D.** Beginning February 14, 2009, the stream buffer regulations of this article (88-415) will apply to all applications for approval of development plans, project plans, preliminary plats, final plats, and amendments to such plans or plats except as follows:

1. If the city plan commission has not recommended approval of a final plat for a unified development plan, preliminary plan, development plan, special use permit or any other Board of Zoning Adjustment approval, or preliminary plat that was approved before January 1, 2003 (referred to as a "pre-2003 approved plan"), the regulations of this article will not apply to any phases of the pre-2003 approved plan as long as the city plan commission recommends approval of the first final plat within one year of the date that the city planning and development director sends certified mail notice of this requirement to the subject property owner.
2. If the city plan commission has recommended approval of a final plat for a pre-2003 approved plan before February 14, 2009, the regulations of this article will not apply to any phases of the pre-2003 approved plan as long as the city plan commission recommends approval of the next final plat for the pre-2003 approved plan by February 14, 2014.
3. In all other cases where a unified development plan, preliminary plan, development plan or preliminary plat has been approved after January 1, 2003 and before February 14, 2009, the regulations of this article will not apply to any phases of the unified development plan, preliminary plan, development plan or preliminary plat as long as the city plan commission recommends approval of the next final plat by February 14, 2014.
4. If the requirements of 88-415-02-D.1, 88-415-02-D.2 and 88-415-02-D.3 have been met, the regulations of this article will not apply to any phases of the unified development plan, preliminary plan, development plan or preliminary plat as long as the city plan commission recommends approval of each subsequent final plat within 3 years of the date that city plan commission recommended approval of the immediately preceding final plat.
5. The regulations of this article will not apply to amended development plans or amended preliminary plats if no significant changes are made. A significant change is any change that: (1) adds additional land area to the approved plan; (2) changes the overall land use in a way that would increase stormwater runoff volumes and rates; (3) increases the number of lots by 10% or more (as compared to the number of lots included in the originally approved plan/plat); or (4) increases the developed area by 10% or more (as compared to the originally approved plan/plat).

6. The regulations of this article will not apply to amended development plans or amended preliminary plats if the proposed changes to the development plan or preliminary plat are not located in an area on the development plan or preliminary plat where the buffer requirements would normally apply. If the proposed changes are located in an area where the stream buffer requirements would normally apply, then the amendment of that area on the plan/plat must comply with the regulations of this article for the amended area only.

**88-415-02-E.** The water services director is authorized to approve an extension of the time frames established in 88-415-02-D.1, 88-415-02-D.2, 88-415-02-D.3, and 88-415-02-D.4 for a maximum of one year. Extension requests must be submitted in writing and include an explanation and justification for the request.

**88-415-02-F.** For purposes of this section 88-415-02, "unified development" means a development consisting of one or more zoning or subdivision applications that were approved by city council on or about the same date on contiguous property through the same applicant. Additionally, for purposes of this section, commercial and residential plans approved collectively as one unified development (although approved through separate ordinances and plans) will be construed to be a single approved preliminary plan or phase.

## **88-415-08 ADMINISTRATION AND PROCEDURES**

### **88-415-08-A. REVIEW FOR COMPLIANCE**

Review for compliance with these standards will be conducted in conjunction with platting. Developments that are not subject to platting, will be subject to site or development plan review, which must be conducted prior to application for a building permit.

### **88-415-08-B. EXCEPTIONS**

Exceptions to the stream buffer standards of this section may be approved by the city council subject to all applicable city, state, and federal regulations. When exceptions are approved, applicants must mitigate impacts in accordance with the mitigation standards 88-415-07-C.

1. In order to approve an exception request, the city council must find that strict application of one or more stream buffer standards would result in an unnecessary hardship for the subject property and that such unnecessary hardship is unique to the subject property and not generally applicable to other similarly situated property. In order to approve the exception request, the city council must also determine that adequate mitigation measures in accordance with 88-415-07-C will be provided in conjunction with the project.
2. Applicants must submit a stream buffer exception application and mitigation plan to the water services director in a form and manner required by the water services director. The exception application and/or mitigation plan must include the following:
  - a. a written description of the perceived hardship;
  - b. a description of all measures taken to avoid or otherwise minimize encroachment into the buffer zone (beyond the extent of encroachment allowed by 88-415-05-C.2);
  - c. proposed mitigation for any encroachment, as required by 88-415-08-B.4; and

- d. a preliminary buffer plan, as required by 88-415-07-D that clearly displays the location and total acreage of proposed clearing and grading, and the percentage of outer zone area proposed to be cleared. The buffer plan must also include the limits and total acreage of proposed mitigation, and ratio of proposed mitigation to cleared area.
3. The water services director must review the plan for compliance with the stream buffer regulations of this article and approve, approve with conditions or deny the application for exception. An exception may be approved when the water services director determines that a bona fide hardship exists and when the integrity of the stream corridor will be protected through avoidance, minimization, and appropriate mitigation measures.
4. Disturbed natural resources must also be mitigated in conjunction with 88-415-07-C. Any additional mitigation beyond that allowed in 88-415-07-C must comply with the following criteria. Federal mitigation credits, revegetation or restoration of any portion of the original disturbance counts toward the required mitigation.
  - a. Mitigation of outer zone vegetation that is contiguous to the remaining outer zone vegetation must be provided at a ratio of 1.5 units of mitigation area to 1 unit of existing outer zone area.
  - b. Mitigation of outer zone vegetation that is not contiguous to the remaining outer zone vegetation but is along the same stream reach must be provided at a ratio of 2 to 1.
  - c. Mitigation of outer zone vegetation that is not located along the same stream reach, but is provided within the same watershed, must be provided at a ratio of 2.5 to 1.
  - d. Mitigation of outer zone vegetation that is not located in the same watershed must be provided at a ratio of 3 to 1.
  - e. In all cases, a continuous outer zone vegetation connection of at least 25 feet must be maintained to avoid fragmenting the vegetated area.
  - f. Encroachment into the middle or streamside zones or alteration of the stream channel must be mitigated at a ratio of 4 to 1.
  - g. The water services director may approve mitigation at city-designated locations in lieu of locations owned or controlled by the applicant.
5. Utilities may encroach into the streamside zone only when available system connection points physically preclude an alignment farther from the edge of stream, or, in the case of sanitary and storm sewers, when the controlling elevations provide insufficient head for normal system function. Streambanks and natural resource areas affected by allowed encroachments must be stabilized in accordance with the city's Standards, Specifications, and Design Criteria, and natural resources must be mitigated in accordance with 88-415-07-C and 88-415-08-B.4.

#### **88-415-08-C. MAP REVISIONS**

The water services director is authorized to maintain, update and make corrections to the Kansas City Natural Resource Map to ensure its accuracy. When map updates add stream reaches or otherwise propose to or have the effect of expanding the land area affected by the stream buffer

regulations of this article, the water services director shall cause all affected owners to be noticed in the same manner as zoning map amendments (See 88-515-04).

### **88-415-10 INSPECTIONS**

Required stream buffers must be inspected by the water services director to confirm that such buffers conform to the approved stream buffer plan prior to recording of a plat or prior to the issuance of a building permit by the city planning and development director, whichever occurs first. The property owner shall cause the stream buffer to be accessible to the water services director to facilitate inspection, construction, maintenance, and other activities related to the stream and public infrastructure in the buffer area.

### **88-415-11 PLAN REVIEW PROCESS**

Upon the filing of any application required by this zoning and development code, the director of water services shall evaluate:

**88-415-11-A.** When a regulated stream or floodplain is present on the subject property; or

**88-415-11-B.** When a regulated stream is located on an adjacent property and within 200 feet of the subject property; or

**88-415-11-C.** When the outside edge of a 100-year floodplain, with or without a regulated stream contained therein, is located on adjacent property and is within 150 feet of the subject property.

### **88-570-02 APPLICABILITY; AUTHORIZED ADMINISTRATIVE ADJUSTMENTS**

The city planning and development director, director of public works, and director of water services have the authority to review and approve the following administrative adjustments:

#### **88-570-02-A. P/O DISTRICT-BUILDING LOCATION STANDARDS**

1. The city planning and development director is authorized to approve an administrative adjustment to the building placement standards of 88-230-03-A.
2. Such an administrative adjustment may be approved only when the city planning and development director determines that useable public spaces or pedestrian amenities (e.g., extra-wide sidewalk, plaza with seating or outdoor dining area) will be provided between the building and the street.

#### **88-570-02-B. P/O DISTRICT-TRANSPARENT WINDOW STANDARDS**

1. The city planning and development director is authorized to approve an administrative adjustment to the ground-floor transparency standards of 88-230-03-B.
2. Such an administrative adjustment may be approved only when the city planning and development director determines that (1) such a reduction will be offset by the provision of other pedestrian amenities or building or site design features that are not otherwise required by this zoning and development code.

#### **88-570-02-C. P/O DISTRICT-DOOR AND ENTRANCE STANDARDS**

1. The city planning and development director is authorized to approve an administrative adjustment to the door and entrance standards of 88-230-03-C.
2. Such an administrative adjustment may be approved only when the city planning and development

director determines that a safe pedestrian walkway not exceeding 20 feet in length is provided between the building entrance and the sidewalk abutting street.

#### **88-570-02-D. P/O DISTRICT-DRIVEWAY AND VEHICLE ACCESS STANDARDS**

1. The director of public works is authorized to approve an administrative adjustment to the driveway and vehicle access standards of 88-230- 03-E,
2. Such an administrative adjustment may be approved only when the director of public works determines, in consultation with other appropriate city officials that access to the subject lot cannot be safely accommodated by alley or side (non-pedestrian) street access.

#### **88-570-02-E. GROUND-FLOOR COMMERCIAL SPACE**

The city planning and development director is authorized to approve an administrative adjustment to reduce the ground-floor commercial floor area requirement of 88-120-07 by up to 20%.

#### **88-570-02-F. BICYCLE PARKING**

1. The city planning and development director is authorized to approve an administrative adjustment reducing the number of bicycle spaces required under 88-420-09.
2. Such an administrative adjustment may be approved only when the city planning and development director determines that use will generate reduced bicycle traffic or that it would be impossible to provide bicycle parking at the subject location.

#### **88-570-02-G. LANDSCAPING**

The city planning and development director is authorized to approve administrative adjustments to otherwise applicable landscape standards, as expressly authorized in 88-42513.

#### **88-570-02-H. MINOR AMENDMENTS TO APPROVED DEVELOPMENT PLANS**

Unless otherwise expressly stated in this zoning and development code or as part of the final action to approve a development plan, the city planning and development director is authorized to approve an administrative adjustment allowing minor amendments to approved development plans. For the purpose of this provision, minor amendments are changes that:

1. do not increase building coverage by more than 10%, cumulative;
2. do not increase the cumulative floor area by more than 10% or 1,500 square feet, whichever is less;
3. do not increase building height by more than 10% or 6 feet, whichever is less;
4. do not increase the total cumulative impervious surface coverage by more than 10% or 2,000 square feet, whichever is less;
5. do not involve extensive site modifications;
6. do not increase the number of dwelling units or residential occupancy by more than 10%; or
7. do not, in the determination of the city planning and development director, have impacts that warrant city plan commission, city council, or board of zoning adjustment review of the application.

**88-570-02-I. TRAIL ENCROACHMENTS INTO STREAMSIDE BUFFER ZONE**

The director of water services is authorized to approve an administrative adjustment allowing paved or unpaved trails to encroach into the streamside zone (See 88- 415-05-A. 1). Administrative adjustments for (paved or unpaved) trail encroachments into the streamside zone may be approved only when the director of water services determines that alternative alignments are not feasible due to topography, the presence of existing structures such as bridges or flood control levees, the inability to acquire property to accommodate other trail alignments, or when that the trail represents the termini of existing trails and trail rights-of-way. Streambanks and natural resource areas affected by allowed encroachments must be stabilized in accordance with the city's Standards, Specifications and Design Criteria, and natural resources must be mitigated in accordance with 88-415-07-C and 88-415-08-B.4.

**88-570-02-J. NONCONFORMITIES**

The city planning and development director is authorized to approve an administrative adjustment allowing expansion of a nonconforming use into another part of the same building, in accordance with Section 88-610-04-C.

**88-570-02-K. SIGNS**

The city planning and development director is authorized to approve an administrative adjustment to allow an electronic, digital or motorized wall sign that is directed toward the interior of a site that is at least 3 acres and that meets each of the following standards:

1. The sign is not visible from any other site or any right of way.
2. The design of the sign is compatible with the design of the development and the other existing signs on the site.
3. The sign will not negatively impact the use or enjoyment of any other property.

Section 2. That Council finds and declares that before taking any action on the proposed amendment hereinabove, all public notices and hearings required by law have been given and had.

---

I hereby certified that as required by Chapter 88, Code of Ordinances, the foregoing was duly advertised and public hearings were held.

---

Secretary, City Plan Commission

Approved as to form:

---

Dustin E. Johnson  
Assistant City Attorney