

# Article 1

## General Provisions

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### 1.100 Title and Authority

1. Title: This ordinance shall be known and cited as the St. Marys Unified Development Code, hereinafter cited as the UDC. Chapter 2 shall be known as the subdivision regulations.
2. Authority. This ordinance is adopted under authority of KSA 12-749.
3. The provisions of Chapter Two apply only to new subdivisions or the expansion portions of existing subdivisions undertaken after the effective date of this ordinance.

### 1.101 Purposes

1. This ordinance is adopted to serve the following purposes:
  - a) Provide for the harmonious and orderly development of St. Marys and the extra-territorial zone in accordance with the comprehensive plan.

- b) Ensure adequate traffic circulation through coordinated street systems with relation to major thoroughfares and adjoining subdivisions.
- c) Provide safe and convenient vehicular and pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for proper location and width of streets and building lines.
- d) Achieve individual property lots of reasonable utility and livability.
- e) Ensure that public facilities and services are available concurrent with development and will have sufficient capacity to serve the proposed subdivision.
- f) Provide for the conservation and protection of natural resources, and prevent the pollution of air, streams, and ponds.
- g) Ensure compatibility between adjacent and neighboring subdivisions; to promote harmony in the relationships and transitions between subdivisions and between new development and existing development.
- h) Ensure the conveyance of land by accurate legal description.
- i) Establish minimum standards of design and procedures for subdivisions and re-subdivisions to further the orderly layout and use of land.

### **1.102 Relationship to the Comprehensive Plan**

1. The St. Marys Unified Development Code is intended to implement the planning goals and policies contained in the St. Marys comprehensive plan and other planning documents and policies of the Planning Commission.
2. It is hereby acknowledged that the St. Marys comprehensive plan and amendments thereto shall constitute the basis or guide for public action to insure a coordinated and harmonious development or redevelopment which will best promote the health, safety, and welfare.

### **1.103 Jurisdiction**

1. These regulations shall apply to all land located within the city limits of St. Marys and the extra-territorial zone as defined by legal description and adopted by the City Commission pursuant to state law.

## 1.104 Applicability

1. The provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. It shall be unlawful for any person to subdivide land without being in compliance with these subdivision regulations.
2. It shall be unlawful for any person to sell or otherwise convey land for the purpose of laying out any subdivisions, suburban lots, building lots, tracts or parcels or any owner of any land to establish any street, alley, park or other property intended for public use or to offer for development purposes any land without reference to a valid, recorded plat or approved certificate of survey.
  - a) Exception: Selling of land for future development purposes.
3. The Zoning Administrator shall not convey a plat of any subdivision to the Register of Deeds of Pottawatomie County, Kansas, to be recorded until the following actions have been completed.
  - a) Plat is accepted by Pottawatomie County and bears their signature(s).
  - b) Plat is approved by the Planning Commission
  - c) Plat bears the endorsement of the Planning Commission
  - d) The City Commission has accepted any dedications or public improvements and the plat bears their signatures.
4. No building permit (or certificate of zoning compliance for buildings in the extra territorial zone) shall be issued for the construction of any building or structure located on a lot or parcel subdivided or sold in violation of the provisions of these regulations, nor shall the municipality have any obligation to extend utility services to any parcel created in violation of these regulations.
5. No building permit shall be issued for any parcel or plat of land that was created by subdivision after the effective date of these regulations that is not in conformity with the provisions of these subdivision regulations.
6. Exemptions. The following sales, resales, conveyances, and auctions of land which involve splitting, dividing, or parceling are exempt from the provisions of this ordinance.

- a) A split, division, or transfer of land for a valid agricultural purpose.
- b) A split, division or transfer of land 40 acres or greater in area, in which case only a valid metes and bounds legal description shall be required.
- c) The subdivision of any land used exclusively for cemetery purposes and associated accessory uses.
- d) The vacation of land used for public use (i.e., right-of-way, alley, or utility easement).
- e) The land is owned by, or held in trust for, the United States government, the State of Kansas, Pottawatomie County (or its political subdivisions), or the City of St. Marys.

**1.105 Fees**

- 1. The City Commission shall adopt by ordinance the fee schedule for filing applications under these regulations. The applicant shall pay all fees associated with the filing of an application for a subdivision.

**1.106 Enforcement and Penalties**

- 1. It shall be the responsibility of the Zoning Enforcement Officer [the Zoning Administrator] to interpret and administrate the rules and regulations contained in these regulations.
- 2. A violation of any regulation adopted in this ordinance shall be a misdemeanor and shall be punishable by a fine not to exceed \$500.00 or by imprisonment for not more than six months for each offense, or by fine and imprisonment. Each day's violation may constitute a separate offense. In addition, the City may institute appropriate action, including injunction and mandamus, to prevent unlawful erection, construction or alteration of structures, use of the land, occupation of buildings, abatement of nuisances, failure to obtain permits, sale of land for development purposes without reference to a valid plat, refusal to obey and adhere to a lawful order of the Zoning Administrator, or any other violation of the UDC.
- 3. Any person or agent who fails to apply for a building permit before construction starts including any dirt work, footing, slab, support or foundation shall be required to pay a late charge in accord with the following schedule:

New or Relocated Principal Buildings		Additions to Structures or Accessory Buildings
First Offense	\$100	\$75

Second Offense	\$200	\$75
Third Offense	\$300	\$200
Thereafter	\$400	\$400

4. Additional Late Charges for All Structures: An additional \$200.00 fee shall be added to the initial charge if a valid permit is not obtained within 7 working days after the Zoning Administrator issues a Stop Work Order. A stay of this action shall be granted to the violator if a proper appeal is filed with the Board of Zoning Appeals or court of competent jurisdiction prior to the 7<sup>th</sup> workday.
5. The Zoning Administrator and/or the designated deputy, upon finding a violation of these regulations (or if a proposed action would constitute a violation), shall have the power to:
  - a) Issue a Notice of Violation that shall specify the offense, the name of the property owner or agent and/or occupant, the legal description of the property, and the remedy.
  - b) Issue a Stop Work Order that commands any person to immediately cease and desist from any unlawful construction, use or alteration of any building or land.
6. Whenever a violation of this ordinance occurs or is alleged to have occurred, any person may file a complaint with the Zoning Administrator stating fully the facts or grounds upon which the complaint is based. The Zoning Administrator shall promptly record and investigate such complaint and take appropriate action as provided in this ordinance.
7. Whenever any provision of this ordinance is violated, the Zoning Administrator shall promptly notify in writing the person(s) responsible for the violations. The notification shall contain the nature of the violation and any corrective orders.
8. The Zoning Administrator shall have the following remedies without limitations:
  - a) No Action. Following any complaint, and after careful consideration, the Zoning Administrator may issue a "No Conflict" opinion.
  - b) Informal Contact. The Zoning Administrator shall have the authority to abate the zoning violation through informal meetings or conversations.
  - c) Agreement to Abate. The Zoning Administrator may enter into an agreement with a violator to abate or remedy a violation within a period not to exceed six (6) months, unless extended by the Planning Commission.

- d) Notice and Order. (See #5. a and b) listed above.
- e) Permits. The Zoning Administrator may refuse to issue any required permits on tracts, parcels, or lots cited for active violations of this ordinance.

## **1.107 Conditions on Plats**

1. The Planning Commission is authorized to attach reasonable conditions consistent with the provisions of the Uniform Development Code to a preliminary or final plat concerning design, dedication, improvement, and restrictive use of the land to conform to the comprehensive plan and the physical and economic development of the city and to promote the health, safety, and general welfare of the future lot owners in the subdivision and community at large.
2. The City Commission or County Commission is authorized to attach reasonable conditions to a final plat concerning dedication, improvements, guarantee of installation, utility extension, or easements to conform to the comprehensive plan and the physical and economic development of the city and to promote the health, safety, and general welfare of the future lot owners in the subdivision and the community at large.

## **1.108 Variances and Waiver of Conditions**

1. The Planning Commission may grant variances from the provisions of these subdivision regulations where there exists an extraordinary hardship or practical difficulty that would prevent strict compliance with these rules or regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal. The Planning Commission shall consider variances as a separate agenda item prior to action on a preliminary or final plat. The applicant and any other interested person shall be given an opportunity to be heard with respect to the proposed variance request. The Planning Commission shall not approve a variance unless it shall make findings that all of the following apply:
  - a) The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other nearby property.
  - b) The conditions upon which the request is based are unique to the property in question.
  - c) Because of the particular physical surroundings, shape, or topographical conditions of the specific property

involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience.

- d) The proposed variance request is in harmony with the intended purposes of these regulations as identified in Section 1.101.
2. When a plat is presented that includes land for which a planned unit development plan has been approved, the Planning Commission may vary the design standards in these regulations as necessary to conform to the approved planned unit development plan.

### **1.109 Interpretation and Conflict**

1. The provision of these regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule, or regulation, or other provision of law, the provision that is more restrictive or imposes higher standards shall control.
2. The provisions of these regulations are not intended to abrogate any easement, covenants, or other private agreement; provided, that where the requirements of these regulations are more restrictive or impose higher standards or regulation than such easement, covenant, or private agreement, the requirements of these regulations shall govern.
3. A subdivision of land, that was not lawful at the time of the adoption of these regulations, shall not become or is made lawful solely by reason of adoption of these regulations.

### **1.110 Severability**

1. The intent of the City Commission of City of St. Marys is that the provisions of this UDC are separable, in accord with the following:
  - a) If a court of competent jurisdiction adjudges any provision of this ordinance to be invalid, such judgment shall not affect any other provision of this ordinance.
  - b) If any court of competent jurisdiction shall find invalid the application of any provision of this ordinance to a particular parcel of land, building, or other structure, this judgment shall not affect the application of said provisions to any other parcel of land, building, or structure.

### **1.111 Vested Rights**

1. For the purpose of single-family residential developments, development rights in such land use shall vest upon recording of a plat of such land. If construction is not commenced on such land within five years of recording a plat, the development rights in such shall expire. Construction commencement shall mean the start of the construction of infrastructure (road and utilities) as necessary to allow for the construction and occupation of residences.
2. For all purposes other than single-family developments, the right to use land for a particular purpose shall vest upon the issuance of all permits required for such use by a city or county and construction has begun and substantial amounts of work have been completed under a validly issued permit. Substantial amount of work shall mean installation of a foundation and the expenditure of at least \$2,500.00.

### **1.112 Vacation or Replat of Plats**

1. The vacation or replat of any plat shall be accomplished in accordance with K.S.A. 12-512b.

### **1.113 Amendments**

1. These regulations may be amended at any time after the Planning Commission holds a public hearing on the proposed amendment. A notice of such public hearing shall be published in the official city newspaper as provided by law. The Planning Commission may, after such public hearing, adopt such amendment, but such amendment shall not become effective until approved by the City Commission in accordance with state law.

### **1.114 Repeal of Previous Regulations**

1. The 1993 subdivision regulations for the City of St. Marys, Kansas adopted on the 16<sup>th</sup> day of November 1993, and all amendments thereto are hereby repealed effective from and after the date of the approval and adoption by the City Commission and publication of the adopting ordinance for these subdivision regulations.



## **1.115 Effective Date**

1. The provision of these subdivision regulations shall be effective from and after the date of their approval and adoption by the City Commission and publication of the adopting ordinance.