

ARTICLE 31.
MINIMUM INFRASTRUCTURE REQUIREMENTS

Section 1. PURPOSE:

This Article recognizes that the infrastructure and services needed by development are available in varying degrees within the County. Areas in the cities usually have existing or planned infrastructure which would be adequate to meet the needs of existing and planned future development. In most of unincorporated Johnson County, however, the existing or planned infrastructure usually is adequate only for existing development and, perhaps, very limited, additional rural development. Some, but not all, of the infrastructure that would be needed for more than rural development is either available or included in planned infrastructure improvements in a few County areas. Descriptions and summaries of available infrastructure are included in the Comprehensive Plan. The County's Capital Improvements Plan summarizes capital improvement projects the County plans to undertake within five (5) year periods.

The Comprehensive Plan establishes important public policies for rational and orderly development patterns and practices which respect natural and man-made constraints and opportunities for development in the County. The minimum infrastructure requirements and the infrastructure recommendations in this Article support the plan, and are intended to help implement the important public policies, goals, and objectives established in the plan. This Article also is intended to support the implementation of other development policies, regulations, and design and construction standards such as the Environmental Sanitary Code, the Street Construction and Storm Drainage Standards for New Subdivisions, and the Fire Code, as adopted by the County.

Furthermore, it is the purpose of this Article to help control and prevent premature land development which might pose a threat to the health, safety or general welfare of the community at large, or occupants of land in the particular area near new development. Applications for rezoning, conditional use permit, final development plan, or final plat approval shall not be approved without public facilities and services available or provided in accordance with this Article.

Section 2. MINIMUM INFRASTRUCTURE REQUIREMENTS, HIGHLY RECOMMENDED INFRASTRUCTURE FACTORS, AND RECOMMENDED INFRASTRUCTURE FACTORS:

A. In General:

1. Section 4 of this Article is a table that establishes the infrastructure categories that are required and both recommended infrastructure factors and highly recommended infrastructure factors. The minimum infrastructure categories that are required and the recommended infrastructure factors and highly recommended infrastructure factors in this Article shall not apply to existing legally-established nonconforming lots as provided in Article 24 of these regulations, nor to existing legally-established lots zoned Residential Neighborhood One District (RN-1), Residential Neighborhood Two District (RN-2), or Residential Low Density District (RLD) on the effective date of these regulations.
2. Unless otherwise specifically allowed by these regulations, minimum infrastructure shall be available or provided as required by this Article.

- B. Recommended Infrastructure Factors and Highly Recommended Infrastructure Factors: After the effective date of these regulations, in each zoning district, it is required that all Minimum Infrastructure Requirements set forth in this Article shall be met prior to rezoning or development of any site. Compliance with the highly recommended infrastructure factors established by this

Article is required unless the applicant can show good cause why the highly recommended infrastructure factors should not be provided and that a waiver should be allowed in accordance with Section 2 (E) below. Compliance with the recommended infrastructure factors may lend support for favorable disposition of applications for sites which could not otherwise accommodate the proposed development as required by this Article if such zoning or development is also found to be consistent with the policies, goals, and objectives of the County and especially the Comprehensive Plan.

- C. Required Minimum Infrastructure: In each zoning district, at least the minimum infrastructure required by this Article must be available for each phase of development.

The minimum infrastructure required shall be preliminarily planned and designed by the applicant and reviewed by the County before approval of a preliminary development plan or preliminary plat. The minimum infrastructure required shall either be available or provided before approval of zoning, final development plan, or final plat. Otherwise, the approval of any final development plan or final plat shall be conditioned on the required infrastructure being provided fully before land is used in accordance with such approval. Such conditional approval shall be allowed if the applicant:

1. Assures that the required infrastructure of utilities, facilities or services:
 - a. Shall be provided by the developer(s) or others,
 - b. Shall be available before the site is used in accordance with the zoning,
 - c. Shall be essentially equivalent to and in accordance with the standards of the agencies which would normally provide such infrastructure, facilities or services, and
 - d. If provided privately, shall be continuously provided, operated, and maintained until equivalent infrastructure is available from other sources.

Written verification(s), such as executed agreement(s) and surety for the agreement(s), acceptable to the County shall be provided before the application is approved.

2. Makes provisions acceptable to the County for off-setting any added public cost or early commitment of public funds necessitated to provide the utilities, facilities or services needed by such development.

- D. Minimum Infrastructure for Conditional Uses and Special Permits: Each conditional use and special permit shall be considered with respect to the infrastructure available and whether additional or improved infrastructure would be needed for the proposed conditional use or special permit. The minimum infrastructure requirements in this Article shall be guidelines for interpretation of the minimum infrastructure required for each conditional use or special permit. If additional or improved infrastructure would be needed, a conditional use permit or special permit may be approved if the applicant shall comply with Section 2, (C) (1) or (2) immediately above.

- E. Waiver: In the event that an application does not establish the availability of minimum required infrastructure or the highly recommended infrastructure factors pursuant to the criteria set forth in this Article, and the applicant does not propose to provide the minimum facilities and services, approval of the application may occur only upon express findings by the Zoning Board and the Board of County Commissioners that, due to the nature of the proposed development, the occupants of a particular facility or service will not be endangered and the insufficiency of a particular facility or service will not pose a threat to the health, safety or general welfare of nearby properties or the community at large.

Section 3. INFRASTRUCTURE CATEGORIES AND FACTORS ESTABLISHED:

A. Fire Station Service Area (Required Category /Recommended Factor, see Section 4):

The tract shall be within five (5) miles via existing streets along the route from the tract to either an existing fire station or a fire station being constructed and which is scheduled to be operational by the time the tract would be occupied and used as zoned.

B. Roads (Required Category, see Section 4):

Category 1. External Roads Serving Subdivisions or Development Tracts in the Rural District, (RUR), or in the Planned Rural District, (PRUR):

- a. A minimum of one road, with at least a 20-foot wide gravel driving surface, shall provide continuous access from the subdivision or development tract to a road constructed with at least an asphaltic concrete surface. However, this requirement shall not apply to Lot Splits in accordance with the provisions of Article 29, Section 5 of these regulations.
- b. All abutting gravel roads shall have at least a 20-foot wide driving surface. However, this requirement shall not apply to Lot Splits in accordance with the provisions of Article 29, Section 5 of these regulations.
- c. Lots in new subdivisions with PRUR, Planned Rural District Zoning shall not have access directly onto a Highway, onto a CARNP designated Parkway, or onto a CARNP designated Arterial Street. Lots with RUR, Rural and PRUR, Planned Rural District Zoning shall comply with the frontage and other requirements of Article 30, Section 2(B)(2) of these regulations.

Category 2. External Roads Serving 3-acre lot Residential Subdivisions:

- a. A minimum of one road, constructed with at least an asphaltic concrete surface, shall provide continuous access from the subdivision or development tract:
 - 1). to the nearest Highway, or
 - 2). to the nearest CARNP designated Parkway or CARNP designated Arterial Street that has at least an asphaltic concrete surface.
- b. All abutting gravel roads shall have at least a 22-foot wide driving surface.
- c. In addition to other access requirements and restrictions that are contained within these regulations, no lots shall front or gain direct access to a road that does not have at least an asphaltic concrete surface.
- d. Abutting roads contiguous to the subdivision or development tract onto which local streets in the subdivision or development connect shall be constructed to at least the Type “B” Collector Street Standard but with at least 4-foot wide gravel shoulders.
- e. Lots shall not have access directly onto a Highway, a CARNP designated Parkway, or a CARNP designated Arterial Street. Compliance with the frontage and other requirements of Article 30, Section 2(B)(2) of these regulations is also required.

Category 3. External Roads Serving 2-acre and 1-acre lot Residential Subdivisions:

- a. A minimum of one road, constructed with at least an asphaltic concrete surface, shall provide continuous access from the subdivision or development tract:
 - 1). to the nearest Highway, or
 - 2). to the nearest CARNP designated Parkway or CARNP designated Arterial Street constructed with at least an asphaltic concrete surface.
- b. All abutting roads shall have at least an asphaltic concrete surface.
- c. Abutting roads contiguous to the subdivision or development tract onto which local roads in the subdivision or development connect, shall be constructed to at least the Type “B” Collector Street Standard but with at least 4-foot wide gravel shoulders.
- d. Lots shall not have access directly onto a Highway, a CARNP designated Parkway, or a CARNP designated Arterial Street. Compliance with the frontage and other requirements of Article 30, Section 2(B)(2) of these regulations is also required.

Category 4. External Roads Serving Planned Residential Urban District Subdivisions:

- a. A minimum of one road, constructed to at least the Type “B” Collector Street Standard but with at least 4-foot wide gravel shoulders shall provide continuous access from the subdivision or development tract:
 - 1). to the nearest Highway, or
 - 2). to the nearest CARNP designated Parkway or CARNP designated Arterial Street that has been constructed to at least the Type “B” Collector Street Standard but with at least 4-foot wide gravel shoulders.
- b. All section line and 1/2-section line roads abutting the subdivision or development tract shall be constructed to at least the Type "B" Collector Street Standard in accordance with the then applicable Street Construction and Storm Drainage Standards for New Subdivisions, as adopted by the County.
- c. Lots shall not have access directly onto a Highway, a CARNP designated Parkway, or a CARNP designated Arterial Street. Compliance with the frontage and other requirements of Article 30, Section 2(B)(2) of these regulations is also required.

Category 5. External Roads Serving Planned Retail Business or Planned Employment Center Sites:

- a. All section line and 1/2-section line roads abutting the development shall be constructed to at least the Type "B" Collector Street Standard in accordance with the then applicable Street Construction and Storm Drainage Standards for New Subdivisions, as adopted by the County.
- b. A minimum of one (1) road, constructed to at least the Type “B” Collector Street Standard in accordance with the then applicable Street Construction and Storm Drainage Standards for New Subdivisions, as adopted by the County, shall provide continuous access from lots within the subdivision or development tract:

- 1). to the nearest Highway, or
- 2). to the nearest Collector Street or CARNP designated Parkway or CARNP designated Arterial Street that has been constructed to at least the Type “B” Collector Street Standard but with at least 4-foot wide gravel shoulders.

Category 6. All Interior, On-Site Roads: All roads in any subdivision or development tract shall be designed and constructed to comply with the then applicable Street Construction and Storm Drainage Standards for New Subdivisions, as adopted by the County.

C. Storm Drainage (Required Category, see Section 4):

Storm drainage systems and facilities shall be available or designed and constructed to comply with the then applicable County design criteria, construction standards, policies and regulations for storm drainage systems and facilities. The development shall also comply with the then applicable County Flood Plain Regulations.

D. Wastewater Disposal (Required Category/ Highly Recommended Factor, see Section 4):

Category 1. Wastewater collection and treatment shall be available or provided in accordance with the then applicable County policies, regulations and standards for on-site wastewater disposal and the Environmental Sanitary Code of the County. Alternatively, public sanitary sewers shall be available or provided with adequate capacity to serve the estimated wastewater collection and treatment needs of the proposed development. Sanitary sewers, when provided, shall be designed and constructed to comply with the then applicable County design criteria, construction standards, policies and regulations for sanitary sewers.

Provided further, however, if a subdivision, including resubdivision (hereinafter in this subsection “Subdivision”) contains any lots smaller than seven (7) acres in size and is located in any one (1) of the following areas:

- (i). The Blue Valley Area Plan, Urban Fringe Area, as designated in the Rural Comprehensive Plan;
- (ii). The Lone Elm Area Plan, with the exclusion, however, of the Rural Cluster area and the Rural Fringe area of said plan, as designated in the Rural Comprehensive Plan;
- (iii). The Urban Fringe Policy Area, as designated in the Rural Comprehensive Plan; or
- (iv). Any area where, in the opinion of the Chief Engineer of the Johnson County Unified Wastewater District, it is considered likely or reasonable to expect that sanitary sewer service would be available for a Subdivision within a fifteen (15) year period of time.

then the developer of the Subdivision shall provide:

- a. Sanitary sewers if the Subdivision is upstream of and one thousand three hundred twenty (1,320) feet or less from the boundary of a sanitary sewer district or a sanitary sewer line capable of being connected to and capable of serving the new lots; or
- b. Dry Low-Pressure Sewers or dry gravity sewers if the Subdivision is not in an area where sanitary sewers are required by subparagraph a.

However, if, the Chief Engineer of the Johnson County Unified Wastewater District, considers it unlikely or unreasonable to expect that sanitary sewer service would be available within a fifteen (15) year period of time to a Subdivision located within an area set forth

within subparagraphs (i), (ii) or (iii) above, then the Chief Engineer may recommend to the BOCC that a waiver, either full or partial, be granted from the requirements set forth in this subsection, as deemed appropriate under the facts and circumstances involving the particular Subdivision.

Likewise, if the Rural Comprehensive Plan identifies any portions of the county or in particular the areas described in paragraphs (i), (ii), (iii) or (iv) above to be non-sewerable, then the Director of Planning may recommend to the BOCC that a waiver, either full or partial, be granted from the requirements set forth in this subsection, as deemed appropriate under the facts and circumstances involving the particular Subdivision.

Additionally, if the Chief Engineer of the Johnson County Wastewater District considers it advisable, based upon specific facts and circumstances that are particular to a given subdivision, to forego requiring the provision of sanitary sewers, dry low-pressure sewers, or dry gravity sewers, although the criteria designated above in items (i) through (iv) and (a) through (b) requiring such sewers have been satisfied, then the Chief Engineer may recommend to the BOCC that a waiver, either full or partial, be granted from the requirements set forth in this subsection. For purposes of this waiver, facts and circumstances particular to a given subdivision may include, but not be limited to: 1) the platting of a one or two lot subdivision; or 2) the replatting to combine several lots in a subdivision; when an existing, functional, on-site septic system is being utilized.

Category 2/ Factor 2. Unless other methods are specifically allowed by the Environmental Sanitary Code, wastewater collection and treatment shall be available via approved sanitary sewers with an adequate capacity to serve the estimated wastewater collection and treatment needs of the proposed development in accordance with adopted policies and standards. Sanitary sewers shall be designed and constructed to comply with the then applicable County design criteria, construction standards, policies and regulations for sanitary sewers. Holding tanks complying with the Environmental Sanitary Code may be used to provide temporary, interim wastewater collection service to new development in an established sanitary sewer district while sanitary sewer facilities are being planned and constructed to serve the needs of the development. Provided, that temporary, interim holding tanks shall not be used unless the developer has entered into a written agreement and posted performance and maintenance bonds or other surety acceptable to the Chief Counsel to guarantee that the holding tank will be installed and maintained solely by private parties in accordance with applicable standards, policies and rules.

E. Water Supply (Required Category/Recommended Factor/Highly Recommended Factor, see Section 4):

Category 1/ Factor 1. Potable water supply shall be available or provided from a public water source.

Category 2/ Factor 2. Potable water supply shall be available or provided with sufficient quantities for domestic needs and from a public water source. For purposes of fire protection, all development shall comply with applicable codes and standards including minimum fire-flow requirements of the then applicable fire code as adopted by the Board.

F. Schools (Highly Recommended Factor, see Section 4):

Factor 1. Residential subdivisions with any lot smaller than three (3) acres and ten (10) lots or more shall be within five (5) road miles of an existing elementary school.

Factor 2. Residential subdivisions with any lot smaller than one (1) acre and ten (10) lots or more shall be within three (3) road miles of an elementary school.

G. Parks, Recreation Facilities and Open Space (Highly Recommended Factor /Recommended Factor, see Section 4):

Factor 1. Residential subdivisions with any lot smaller than three (3) acres and twenty (20) lots or more shall be within ten (10) road miles of a developed park with at least ten (10) acres.

Factor 2. Residential subdivisions with any lot smaller than one (1) acre and twenty (20) lots or more shall be within five (5) road miles of a developed park with at least five (5) acres.

Section 4. MINIMUM INFRASTRUCTURE CHART:

The table below establishes the recommended and highly recommended infrastructure factors and minimum infrastructure requirements for each zoning district, according to the infrastructure factors and categories defined in Section 3 of this Article.

		ZONING DISTRICTS																						
		RURAL		RESIDENTIAL					RESIDENTIAL URBAN					MFG. HOMES		RETAIL BUSINESS			EMPLOYMENT CENTER				ADULT USE	
		RUR	PRUR	RLD	RN-2	RN-1	PRLD	PRN-2	PRN-1	PRU-1A	PRU-1B	PRU-2	PRU-3	PRU-4	PRMHP	PRMHS	PRB-1	PRB-2	PRB-3	PEC-1	PEC-2	PEC-3	PEC-4	PAE
MINIMUM INFRASTRUCTURE CATEGORIES & FACTORS	FIRE STATION AREA			○			○																	
	ROAD 1																							
	ROAD 2																							
	ROAD 3																							
	ROAD 4																							
	ROAD 5																							
	ROAD 6																							
	STORM DRAINAGE*																							
	WASTEWATER 1																							
	WASTEWATER 2			●	●		●	●																
	WATER 1	○	●																					
	WATER 2			●			●																	
	SCHOOLS 1				●	●		●	●															
	SCHOOLS 2									●	●	●	●	●	●	●								
	PARK 1			○	○		○	○																
	PARK 2									●	●	●	●	●	●	●								

REQUIRED CATEGORY
 HIGHLY RECOMMENDED FACTOR
 RECOMMENDED FACTOR
 NOT REQUIRED OR APPLICABLE
 *REQUIRED FOR ALL SUBDIVISION PLATS AND DEVELOPMENT PLANS

Each conditional use shall be considered with respect to the infrastructure available and whether additional or improved infrastructure would be needed for the proposed conditional use. If additional or improved infrastructure would be needed, a conditional use permit may be approved if the applicant shall comply with Section 2 (C)(1) or (2) of this Article.

Any of these requirements are subject to Section 2 (E) of this Article regarding waivers.