

RESOLUTION NO. HR-06-10-7

A Home Rule Resolution of the Board of County Commissioners of Douglas County, Kansas Adopting Access Management Standards for Public Roads in the Unincorporated Areas of Douglas County, Kansas, Adopting Classifications of Public Roads in the Unincorporated Areas of Douglas County, Kansas and Setting Minimum Frontage and Entrance Spacing Requirements For Access Onto Such Public Roads

WHEREAS, K.S.A. 19-101a, and amendments thereto, authorizes the Board of County Commissioners (hereinafter after the "Board") to transact all County business and perform all powers of local legislation and administration it deems appropriate.

WHEREAS, the Board has previously adopted and extended a moratorium prohibiting, with limited exceptions, the issuance of building permits for the construction or placement of dwellings and mobile homes in the unincorporated area of Douglas County unless the tract of land upon which the dwelling or mobile home will sit has 250 feet of frontage along a public road right-of-way and the dwelling or mobile home gains its primary access directly to and from an existing public roadway within such public road right-of-way.

WHEREAS, the foregoing moratorium was adopted and extended because the Board was concerned about the danger created by permitting too many driveways spaced too close together onto public roads and the Board wished to study the desirability of creating permanent regulations to address safety concerns associated with access to public roads.

WHEREAS, the Board has studied and has initiated for public hearing certain amendments to the Douglas County subdivision regulations applicable to the unincorporated areas of Douglas County (the "Douglas County Subdivision Regulations"), that delete the "5 acre exemption" clause and create administrative review procedures for divisions for rural residential development that permit certain subdivisions of property in the unincorporated areas of Douglas County without the necessity of formal platting, if the residential development parcels meet minimum lot frontage requirements corresponding to the functional classification of the public road to which the resulting parcels will have access.

WHEREAS, the Board also desires to further amend the Douglas County Subdivision Regulations, setting forth minimum public road spacing requirements for purposes of approval of subdivision plats by reference to the Douglas County Access Management Standards.

WHEREAS, the Board adopts this Resolution to establish Douglas County Access Management Standards, which adopt (i) initial road classifications for roads in the unincorporated areas of Douglas County, (ii) minimum frontage requirements depending upon the functional classification of the road, and (iii) minimum entrance spacing standards for driveways and public road spacing requirements depending upon the functional

classification of the road, all of which implement the amendments to the Douglas County Subdivision Regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS, SITTING IN REGULAR SESSION THIS 25th DAY OF OCTOBER, 2006 AND INTENDING TO EXERCISE THE POWERS OF HOME RULE LEGISLATION PURSUANT TO K.S.A. 19-101a, DOES HEREBY RESOLVE AS FOLLOWS:

1. Road Access and Spacing Standards. New Article 5 is hereby Added to Chapter IX (Public Works) of the Douglas County Code as follows:

CHAPTER IX. PUBLIC WORKS

* * *

ARTICLE 5. PUBLIC ROAD ACCESS MANAGEMENT STANDARDS

9-501. The Entrance Spacing Standards For Entrance Permits for platted and unplatted property onto public roads in the unincorporated areas of Douglas County (regardless of which governmental entity maintains the public road) are hereby adopted as follows:

<u>Access Class</u>	(feet) <u>Minimum Frontage</u>	(feet) <u>Desirable Entrance Spacing</u>	(feet) <u>Corner Clearance From Intersection</u>
Freeway:	Subject to KDOT policy		
Principal Arterial:*	1320	1320	820
Minor Arterial:	660	660	600
Major Collector: Posted or design speed (as determined by County Engineer)			
55 mph	660	660	600
40 – 50 mph	500	500	450
Minor Collector:	330	330	250
Local:	250	250	200
*Access to state and federal highways subject to KDOT policy. Some Entrance Spacing Standards concepts are shown on Figure 9-501.			

Notwithstanding the foregoing, no entrance permit other than a field permit may be issued for entrance onto a public road that is then designated a "minimum maintenance road" pursuant to K.S.A. 68-5,102, as amended.

- 9-502. No property for which a deed, an affidavit of equitable interest, or plat of survey is recorded with the Office of the Douglas County Register of Deeds on or before October 25, 2006, which instrument identifies the property as a separate tract of real estate, shall be denied an entrance permit onto a public road classified as Minor Collector or Local for purposes of construction of a residential dwelling solely for the reason that the property does not have sufficient frontage along a public road if the property has not been further divided since the effective date of Section 9-501 and any of the following apply with respect to the subject property:
- a. It has 250 feet of frontage along a public road right-of-way and the dwelling or mobile home gains its primary access directly to and from an existing public roadway within such public road right-of-way; or
 - b. It has 250 feet of frontage along a public road right-of-way and the dwelling or mobile home will gain its primary access directly to and from a public roadway to be constructed within such public road right-of-way if (1) engineered plans for construction or improvement of the public roadway to current county standards have been approved by the County Engineer, and (2) a sufficient bond or letter of credit, in an amount determined by the County Engineer, is provided to ensure construction or improvement of the public roadway to current County standards; or
 - c. It has access to a public road by virtue of a private drive approved by the Board prior to the effective date of this Article; or
 - d. Is located within a subdivision which has been platted as provided in the Subdivision Regulations for the unincorporated area of Douglas County; or
 - e. A deed or an affidavit of equitable interest for the property was recorded with the Register of Deeds on or before August 17, 1994 describing the property as a single tract under one ownership; or
 - f. A variance of the above requirements is granted by the Board of Douglas County Commissioners, based upon a finding that all of the following conditions have been met:
 - (1) That the variance requested arises from such condition which is unique and is created by this Article and not by an action or actions of the property owner;
 - (2) That the granting of this variance will not adversely affect the rights of adjacent property owners or residents;

- (3) That the strict application of the provisions of this Article will constitute unnecessary hardships upon the property owner represented in the application;
- (4) That the variance desired will not adversely affect the public health, safety, morals, order, convenience, or general welfare; and
- (5) That granting the variance desired will not be opposed to the general spirit and intent of this Article.

The provisions of this Section shall not apply to property divided after the effective date of this Article.

9-503 For purposes of this Article, the following words shall have the following definitions:

- a. Field Permit. The term "field permit" means an entrance permit which allows access to a public road only for agricultural purposes, but not for purposes of access to a residential or commercial building. No entrance permit for the construction or placement of dwellings, mobile home, or commercial building shall be issued with respect to property that gains its access to an adjacent public road by a field permit.
- b. Frontage. The term "frontage" means the portion of private property touching the adjacent public road right-of-way from which the property gains its primary access, provided, however, that such private property must have a depth equal or greater than required by applicable Zoning Regulations or Subdivision Regulations.
- c. Public Road Right-of-Way. The term "public road right-of-way" means any right of way within which a public road may be constructed, whether or not a public road actually is constructed, including state highways, county roads, township roads, and any other road that has been dedicated to and accepted for public use.
- d. Public Road. The term "public road" means the part of the public road right-of-way that is improved and ordinarily used by the public for vehicular traffic, but does not include the shoulder, and, where a highway includes two or more separate roads, the term public road refers to any one road separately and not to all of the roads collectively.

9-504. The Minimum Public Road Spacing Standards for spacing between new public roads intersecting with other public roads (regardless of which governmental entity maintains the public road) for purposes of approval of subdivision plats pursuant to the Douglas County Subdivision Regulations

shall depend upon the road classification of the other public road and are hereby adopted as follows:

<u>Access Class</u>	(feet) Minimum Public Road <u>Spacing</u>
Freeway:	Subject to KDOT policy
Principal Arterial:*	2640
Minor Arterial:	1320
Major Collector: Posted or design speed (as determined by County Engineer) 55 mph 40 – 50 mph	 1320 1320
Minor Collector:	1320
Local:	660
*Access to state and federal highways subject to KDOT policy. Some Minimum Public Road Spacing Standards concepts are shown on Figure 9-501.	

9-505. The Minimum Frontage Spacing , Desirable Entrance Spacing and Minimum Public Road Spacing standards set forth in Section 9-501 and Section 9-504 are based upon a one-mile section being exactly 5280 feet. Thus, distances of 2640, 1320 feet, 660 feet and 330 feet are intended to require 1/2 mile, 1/4 mile, 1/8 mile, and 1/16 mile nominal distances, respectively. If any particular one-mile section is shorter than 5280 feet, the distances set forth in Section 9-501 and Section 9-504 shall vary proportionately. For instance, if a section has a length of 5275 feet, the minimum frontage along a Principal Arterial abutting that section is 1318.75 feet ($1320 \times 5275/5280$), thus allowing as many as four entrances along that section.

9-506. The road classifications shown on the Major Thoroughfares Map - Douglas County, as adopted in Chapter 8, Horizon 2020, shall be used in connection with the Douglas County Subdivision Regulations applicable to the unincorporated areas of Douglas County, the entrance spacing

standards set forth in Section 9-501, and the minimum public road spacing standards set forth in Section 9-504. The Major Thoroughfares Map - Douglas County, as adopted in Chapter 8, Horizon 2020, as amended, is hereby incorporated herein by this reference.

- 9-507. Recognizing that configuration of existing land parcels, topography, sight distances, and other engineering considerations may make it impractical or undesirable to strictly comply with the desirable entrance spacing standards and corner clearance standards set forth in Section 9-501, and further recognizing the strict compliance with the minimum frontage, desirable entrance spacing, and corner clearance standards, may impair a property owner's right to access abutting public roads, the County Engineer is hereby authorized to grant exceptions to the standards set forth in Section 9-501 as follows: (i) if sound engineering design practices for a particular tract dictate different spacing of entrances, the County Engineer may grant exceptions to the desirable entrance spacing standards and the corner clearance standards; and (ii) if provisions of state common law requires access to property abutting public roads, the County Engineer may grant exceptions to the minimum frontage standards. Entrance permits issued pursuant to clause (ii) shall be issued only to comply with state law requiring access to property abutting public roads and shall be limited to a field permit.
- 9-508. No building permit shall be issued for construction on a tract of land that gains its primary access from (i) a public road, unless a lawful entrance permit has first been issued, provided, however, that no building permit for a residential, commercial, or industrial use shall be issued if the entrance permit is a field permit; or (ii) a private road, unless approved by the Board.
- 9-509. Entrance Permits onto township-maintained roads classified as Minor Collector or higher classification shall be issued according to the following process:
- a. Each respective Township shall administer and issue entrance permits onto roads that it maintains.
 - b. The County Engineer or designee shall provide the following information on the township entrance permit:
 - (1) Certification that proposed entrance installation meets the requirements of this Article.
 - (2) Required or optimal entrance location, if any.
 - (3) Approved entrance type (single, shared, residential, field, commercial, etc.)

- c. No building permit shall be issued for a tract of land that gains its primary access from a township-maintained road classified as Minor Collector or higher unless the entrance permit includes approval of the County Engineer or designee.

- 9-510. Entrance Permits onto township-maintained roads classified as Local shall be issued by the appropriate Township, and do not require approval of the County Engineer or designee.
- 9-511. If the County Engineer, in the County Engineer's professional opinion, determines that a proposed entrance may result in an unreasonable safety risk to the traveling public or property owner due to configuration of land parcels, topography, sight distances, traffic characteristics or other engineering considerations, and if no feasible means of mitigation or alternative entrance location exists along the property frontage, the County Engineer is authorized to deny an entrance permit for purposes of construction of a residential dwelling, even if the frontage along the public road satisfies the standards set forth in Section 9-501 or is exempt from those standards based upon Section 9-502.
- 9-512. If any owner of a tract of property for which a deed, affidavit of equitable interest, or plat of survey is recorded with the Office of the Douglas County Register of Deeds on or before October 25, 2006, which instrument identifies the property as a separate tract of real estate and which separate tract of real estate has not been subsequently divided since the effective date of Section 9-501, is denied an entrance permit onto a public road for purposes of construction of a residential dwelling solely for the reason that the property does not have sufficient frontage along a public road, the owner may file an application with the Douglas County Department of Public Works for a variance to the strict application of this Article. Such request shall provide justification for the requested variance and shall be heard by the designee of the Board of County Commissioners within a reasonable time after the filing of the application. In addition to other relevant issues, the person hearing the owner's application may consider and require alternatives to the requested entrance permit so as to reduce the number of entrances onto the public road, including but not limited to requiring shared entrances, frontage roads, obtaining an entrance from a different road, or combining adjacent tracts of property under the same ownership or control into one tract. In reaching a decision on the owner's application, the designee of the Board of County Commissioners shall consider the economic impact of the denial of an entrance permit or the requirement of an alternative entrance, the extent to which the denial or alternative requirement interferes with the owner's reasonable investment-backed expectations, and the adverse impacts of the proposed access to the safety of the public road. The designee's decision shall be in writing and shall be promptly conveyed to

the owner. Any owner adversely affected by the decision of the designee of the Board of County Commissioners may appeal the decision to the Board of County Commissioners by written notice filed with the Board within 30 days of the written decision of the designee, specifically stating the basis for the appeal and the requested relief. The Board of County Commissioners may affirm, reverse, or affirm in part and reverse in part the decision of the designee, or may remand the application back to the designee for further consideration in accordance with instructions provided by the Board.

9-513. If any provision or condition of this Article shall be held to be invalid or unenforceable, the validity or enforceability of the remaining provisions and conditions will not be affected thereby.

2. Repeal. Resolution No. HR-06-8-5 (a Resolution imposing a moratorium, with certain exceptions, on the issuance of building permits for tracts of land having less than 250 feet of frontage along a public roadway) and Resolution No. HR-06-9-6 (a Resolution imposing a moratorium on the issuance of building permits for tracts of land gaining access to a minimum maintenance road) are hereby repealed.

3. Effective Date. This Resolution shall take effect and be in force from and after its adoption and publication once in the official County newspaper.

IN WITNESS WHEREOF, the foregoing Resolution was adopted this 15th day of

October, 2006.

BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, KANSAS:

ATTEST:



BOB JOHNSON, Chair



JERE McELHANEY, Member



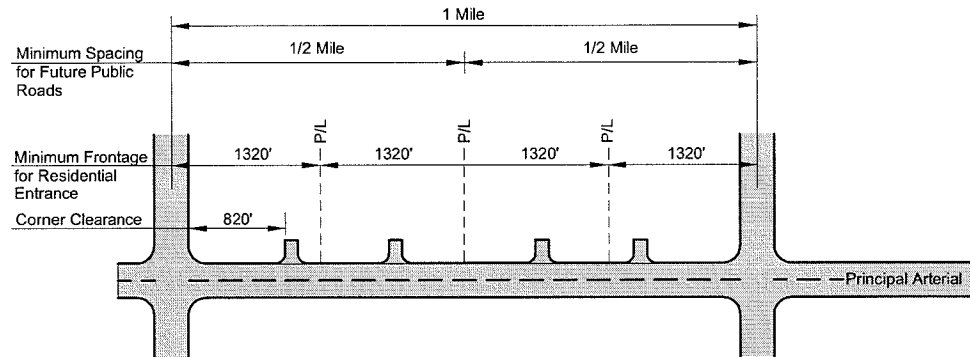
CHARLES JONES, Member



Jameson D. Shew, County Clerk

Conceptional Schematics to Illustrate Concepts of Minimum Property Frontage, Corner Clearance and Minimum Public Road Spacing

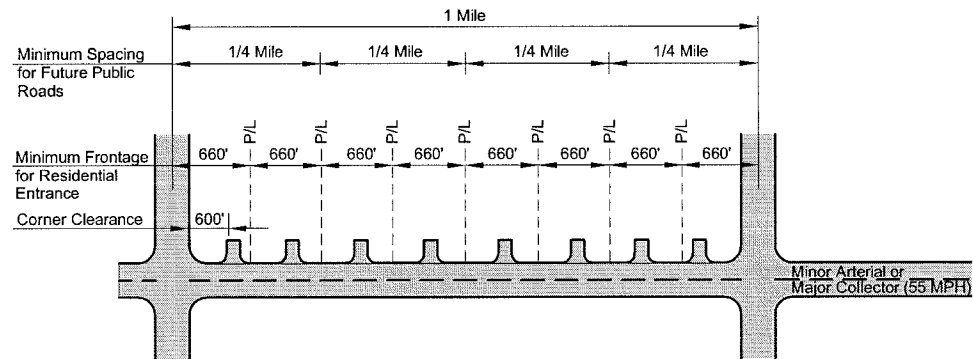
Principal Arterial



P/L = Property Line

Note: Shared entrances constructed at or near property lines are allowable, and may be required by the County Engineer.

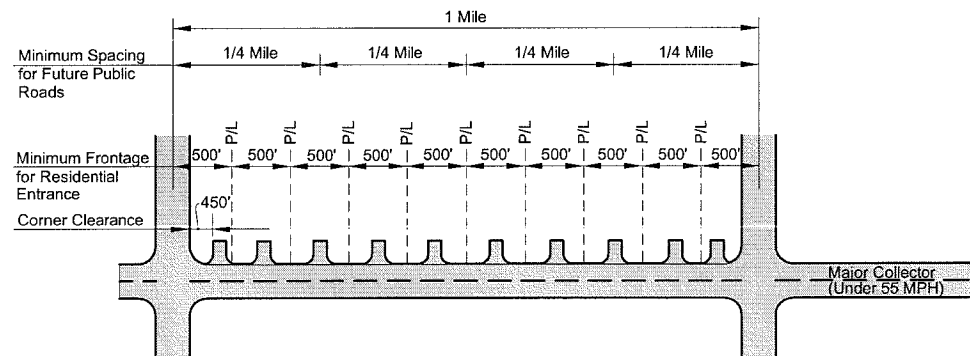
Minor Arterial or Major Collector (55 MPH)



P/L = Property Line

Note: Shared entrances constructed at or near property lines are allowable, and may be required by the County Engineer.

Major Collector (40-50 MPH)

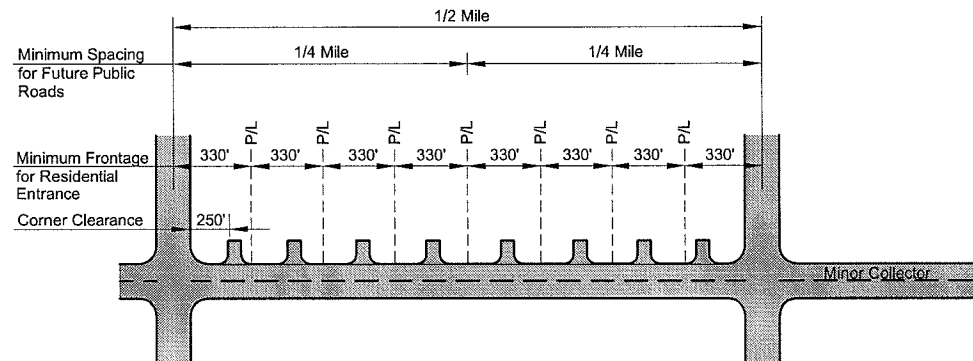


P/L = Property Line

Note: Shared entrances constructed at or near property lines are allowable, and may be required by the County Engineer.

Conceptional Schematics to Illustrate Concepts of Minimum Property Frontage, Corner Clearance and Minimum Public Road Spacing

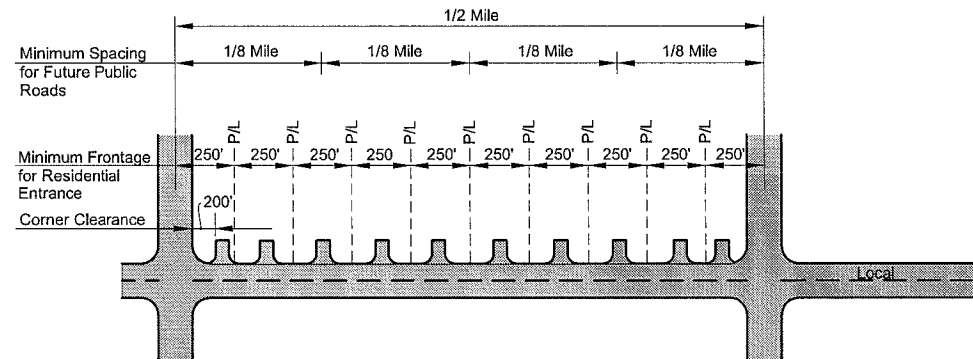
Minor Collector



P/L = Property Line

Note: Shared entrances constructed at or near property lines are allowable, and may be required by the County Engineer.

Local



P/L = Property Line

Note: Shared entrances constructed at or near property lines are allowable, and may be required by the County Engineer.