

SUBDIVISION REGULATIONS

The City of Andover, Kansas

1995

SUBDIVISION REGULATIONS
Of the
CITY OF ANDOVER, KANSAS

Official Copy as Incorporated
By Ordinance No. 830

Prepared by the
Andover City Planning Commission

Technical Assistance by
Foster & Associates
Planning Consultants
Wichita, Kansas
And
City Subdivision Administrator

Edition of
April, 1995

Effective date
August 31, 1995

© Foster & Associates, Planning Consultants, 1995.
All Rights reserved.

		TABLE OF CONTENTS		
Section			Page	
Article 1. TITLE, PURPOSE, AUTHORITY, JURISDICTION, APPLICABILITY AND EXEMPTIONS				
100	Title		6	
101	Purpose		6	
102	Authority		7	
103	Jurisdiction		7	
104	Applicability		7	
105	Exemptions		7	
Article 2. INTERPRETATION, CONSTRUCTION AND DEFINITIONS				
100	Rules of Interpretation		9	
101	Rules of Construction		9	
102	Definitions		10- 15	
Article 3. ADMINISTRATION, PERMITS, ENFORCEMENT, VIOLATIONS AND FEES				
100	Division of Administrative Responsibility		16	
101	Duties of the Subdivision Administrator		16	
102	Duties of the City Clerk		16	
103	Duties of the Subdivision Committee		17	
104	Duties of the Planning Commission		17	
105	Duties of the Governing Body		18	
106	Building and Zoning Permits		18	
107	Enforcement		18	
108	Violations		19	
109	Fees		19	
110	Reports		19	
Article 4. PROCEDURE FOR APPROVAL OF PRELIMINARY AND FINAL PLATS				
100	Submittal of Sketch Plan		20	
101	Filing of Preliminary Plat		20	
102	Distribution and Review of Preliminary Plat		20	
103	Action by the Planning Commission on Preliminary Plat		20	
104	Failure of planning Commission to Act on Preliminary Plat		21	
105	Effect of Approval of Preliminary Plat		21	
106	Filing of Final Plat		21	
107	Planning Commission Action on the Final Plat		22	
108	Failure of Planning Commission to Act on Final Plat		22	
109	Submittal to Governing Body of Final Plat		22	
110	Governing Body Action on Final Plat		22	
111	Acceptance of Dedications by County		22	

112	Recording of Final Plat	22
113	Unit Developments	23
114	Approval of Plats for Small Tracts	23
	Article 5. CONTENTS OF PRELIMINARY AND FINAL PLATS	
100	Contents of Preliminary Plat	25
101	Contents of Final Plat	27
	Article 6. DESIGN STANDARDS	
100	Scope	35
101	Comprehensive Development Plan	35
102	Land for Public Facility Sites	35
103	Land for Open Space	35
104	Land Subject to Flooding	35
105	Land Subject to Excessive Erosion by Wind or Water	35
106	Access	36
107	Streets- Layout and Design	36
108	Alleys	40
109	Blocks and Pedestrian Ways	40
110	Lots	40
111	Easements	42
112	Commercial and Industrial Subdivisions	43
	Article 7. INSTALLATION OF REQUIRED IMPROVEMENTS	
100	Subdivision Types	44
101	Engineering and Governmental Jurisdiction	44
102	Required Improvements	44
103	Exceptions for Existing Improvements	47
104	Agreement and Guarantees for Installation of Required Improvements	48
105	Off-Site Improvements	50
	Article 8. IMPROVEMENT PROCEDURES	
100	Submittal of Petitions	51
101	Final Improvement Plans	51
102	Construction of Improvements	52
103	Acceptance of Improvements	52
	Article 9. PROCEDURE FOR APPROVAL OF LOT SPLITS	
100	Application Procedure	54
101	Approval Guidelines	54
102	Exception for Industrial Plats	55

	Article 10. VACATIONS AND CORRECTIONS	
100	Vacation of Unrecorded Plat	57
101	Vacation of Recorded Plat	57
102	Correction of Platting Errors	58
103	Vacation of Streets, Alleys, Easements and Plats	58
	Article 11. APPEALS, WAIVERS AND MODIFICATIONS	
100	Appeals General	62
101	Appeals on Improvement Standards	62
102	Waiver of Required Improvements or Guarantees for Installation of Same	62
103	Modifications	62
	Article 12. AMENDMENTS AND REVIEW	
100	Amendment Procedure	63
101	Annual Review	63
102	Judicial Review	63
	Article 13. SEVERABILITY AND EFFECTIVE DATE	
100	Severability	64
101	Effective Date	

**SUBDIVISION REGULATIONS
Of the
CITY OF ANDOVER, KANSAS**

ARTICLE 1.

**TITLE, PURPOSE, AUTHORITY, JURISDICTION, APPLICABILITY
AND EXEMPTIONS**

100 Title.

These regulations shall be known and may be cited as the “Subdivision Regulations of the City of Andover, Kansas” and shall hereinafter be referred to as “these regulations.”

101 Purpose.

Responsible land subdivision is the initial step in the process of orderly community development. Once land has been divided into streets, lots and blocks and publicly recorded, the correction of defects is difficult and costly. These regulations are designed and intended to serve the following purposes:

- A. To provide for the harmonious development of the City of Andover and for a portion of the surrounding unincorporated area of Butler County;
- B. To provide for (1) desirable lot layouts, (2) efficient and orderly location of streets and roadways and the extend and manner in which they shall be improved, and (3) provision made for storm drainage;
- C. To provide for adequate water supply, sewage and disposal, various utility services and other improvements to protect public health, safety and general welfare;
- D. To provide for and secure to the proper governmental agencies the actual construction of all such necessary on-site and off-site public improvements including the reservation or dedication of land for park and recreational purposes;
- E. To provide protection from periodic flooding conditions;
- F. To reserve or dedicate land for open space to preserve natural areas for watercourses, drainage ways, woodland, rugged topography, wildlife habitat, and for water quality and quantity, and to protect land from soil erosion;
- G. To avoid water and air pollution and the congestion of population and traffic;
- H. To facilitate safety by adequate access for fire fighting equipment and police protection;
- I. To coordinate the subdividing of land with applicable zoning regulations, various construction codes and other City and County regulations which also affect the development of the land;
- J. To establish administrative procedures necessary to assure a fair and uniform basis for a working relationship with subdividers, utility providers and various governmental agencies, all of whom are contributing to the development of the community; and
- K. To realize the goals, policies and planning proposals as contained in the adopted Comprehensive Development Plan.

- 102** **Authority.** These regulations are adopted under authority established by K.S.A., 12-741 et seq. as amended, 12-742, 12-749, 12-751 and 12-752, 12-760 and 12-761, 12-764, 12-766, 12-3009 through 12-3012, and 12-3301 and 12-3302.
- 103** **Jurisdiction.** These regulations shall apply to all subdivisions of land within the corporate limits of the City of Andover as presently exists or are hereinafter established, and within the following land descriptions outside of the City of Andover and located all in Butler County, Kansas; provided, that such land is within three miles of the city limits, and not more than one-half the distance to another city;
- That land in Bruno and Pleasant Township of Butler County, Kansas, excluding the City of Andover, which contains the following area; All of the following sections in Township 27S Range 3E, 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, and 34. In Township 28S, Range 3E; all of sections 3, 4, 5, 6, and the north ½ of sections 7, 8, 9, and 10.
- All such land is included in the Planning Area for the Comprehensive Development Plan.
- 104** **Applicability.** The owner(s) of any land within the jurisdiction of these regulations desiring to vacate rights-of-way, easements, other public reservations or recorded plats or to:
- A. Divide or further divide land into two or more lots or parcels; or
 - B. Otherwise alter the boundaries of lots or parcels of land;
 - C. Establish land for use as streets, alleys or other property intended for public use or for the use of a purchaser or owner(s) of lots or parcels; shall cause a plat to be made in accordance with the provisions of these regulations, unless exempted under Section 1-105.
- 105** **Exemptions.** Notwithstanding the requirements of Sections 1-103 and 104, these regulations shall not apply in the following instances or transactions:
- A. Whenever any lot, parcel or tract of land located within the area governed by these regulations has been legally subdivided, resubdivided or replatted and recorded prior to the effective date of these regulations.
 - B. The division of land in the unincorporated area which creates no more than one additional lot or tract of land than specified in Section 1-105A, and which (1) does not involve any new streets or easements of access; (2) has land to be used for dwelling purposes that is not located in an area subject to flooding as determined by Section 6-104 of these regulations; (3) is to be used for agricultural or single-family residential purposes only; (4) meets the standards set by these regulations for the disposal of sewage and for water supply including lot size; and (5) conforms with any applicable zoning regulations. Any further division of either of the resulting lots shall be platted in conformance with the requirements of these regulations.
 - C. A transaction between owners of adjoining land which involves only a

change in the boundary between the land owned by such persons and which does not create an additional lot or which does not result in the creation of a substandard lot by either owner according to any applicable zoning regulations or sanitary code.

- D. A conveyance or dedication of land or interest therein for use as a street, highway, road or railroad right-of-way, a drainage easement or public utilities subject to local, state or federal regulations, where no new street or easement of access is created.
- E. The layout of burial lots in the cemeteries; however, the actual cemetery tract is not exempt.
- F. Any lot split in industrially zoned areas divided in accordance with the provisions of Section 9-102 of these regulations.
- G. Any transfer by operation of law.

Any request made in writing for a determination as to qualifications for being exempt from these regulations shall be answered by the Subdivision Administrator either in the affirmative or negative within 30 days of filing such a request containing all relevant information.

ARTICLE 2.

100 Rules of Interpretation

INTERPRETATION, CONSTRUCTION AND DEFINITIONS

- A. Overlapping or Contradictory Regulations. Where the conditions imposed by the provisions of these regulations are either more restrictive or less restrictive than comparable conditions imposed by any other provision of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.
- B. Private Agreements. The provisions of these regulations are not intended to abrogate any lawful and valid easement, deed restriction, covenant or other private agreement of legal relationship; provided, that where the requirements of these regulations are more restrictive or impose higher standards or regulations than such private agreements, the requirements of these regulations shall govern. The City does not have the responsibility to enforce such private agreements.
- C. Cumulative Limitations. The provisions of these regulations are cumulative and additional limitations upon all other laws and ordinances heretofore passed or which may be passed hereafter governing any subject matter set forth In the provisions of these regulations.
- D. Unlawful Subdivisions. A subdivision of land which was not lawfully existing at the time of the adoption of these regulations shall not be come ore be made lawful solely by reason of the adoption of these regulations
- E. Vesting of Development Rights. For the purpose of single-family residential developments according to K.S.A. 12-764, as amended, development rights in such land use shall vest upon recording of a final plat of such land after January 1, 1992. If construction of a principle structure is not commenced on such land within five years of recording a final plat, the development rights in such land shall expire and, thus, all revisions to zoning or subdivision regulations becoming effective during the period vested shall thereafter apply to such platted land.

101 Rules of Construction.

- A. The language set forth in these regulations shall be interpreted in accordance with the following rules of construction:
 - 1. The singular number includes the plural and plural the singular;
 - 2. The present tense includes the past and future tenses and the future the present
 - 3. The word “**shall**” is mandatory while the word “**may**” is permissive; and
 - 4. The word “**City**” means the City of Andover;
 - 5. The word “**County**” means Butler County, Kansas
 - 6. The word “**Clerk**” means the City Clerk unless otherwise identified as the County Clerk
 - 7. The words “**County Engineer**” mean the officially appointed engineer for Butler County.

8. The words “**Planning Commission**” means the Andover City Planning Commission.
 9. The words “**the Governing Body**” means the Mayor and City Council of the City of Andover, Kansas, unless otherwise identified as the Board of County Commissioners of Butler county, Kansas or the applicable township trustees who are cooperating in the installation of improvements. (See Section 7-101.)
 10. The words “**Planning Area**” means the City plus a perimeter area outside of and around the city limits all within Butler County designated by the City in their comprehensive development plan as the official study area for planning purposes.
 11. The words “**Comprehensive Plan**” means the Comprehensive Development Plan for the Andover Planning Area of Butler County, Kansas, which has been adopted by the Planning Commission, approved by the Governing Body and includes, among other elements, plans for land use, transportation, utilities and community facilities.
 12. The words “**subdivision jurisdiction**” means the area as described in Section 1-103 for which the extraterritorial jurisdiction of these regulations is applicable for purposes of subdividing land, such jurisdiction cannot exceed the boundary of the Planning Area.
- B. Any word or phrase which is defined in this Article or elsewhere in these regulations shall have the meaning as so defined whenever used in these regulations, unless such definition is expressly limited in its meaning or scope.
- C. Words or terms not herein defined shall have their ordinary meaning in relation to the context as defined in a dictionary or by statute.

102 Definitions.

ACCELERATION LANE:

ACCESS CONTROL:

AGRICULTURE:

APPLICANT:

BENCH MARK:

The following definitions shall be used in the interpretation and construction of these regulations:

An added roadway lane which permits integration and merging of slower moving vehicles into the main vehicular stream of traffic.

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

The use of a tract of land under one ownership for growing crops, pasturage, horticulture, nurseries, truck farms, dairying or the raising of poultry or cattle and other livestock, except feedlots, and including the structures necessary for carrying out farming operations and the dwelling(s) of those owning and/or operating the premises. The feeding or disposal of community or collected garbage shall not be deemed an agricultural use, or shall riding academies, livery or boarding stables, dog kennels, or commercial or hydroponic greenhouses; however, forested and non-producing open space land are considered as agricultural.

A person submitting an application for approval of a preliminary and/ or final plat or a lot split.

Surveying mark made in some object which is permanently fixed in the

<u>BLOCK:</u>	ground showing the height of that point in relation to sea level.
<u>BUILDING SETBACK LINE:</u>	A series of lots or tract of land bounded by streets, public parks, cemeteries, railway rights-of-ways, waterways, city limits or a combination thereof. A line on a lot or other parcel of land indicating the limit beyond which buildings or structures may not be erected or altered and establishing the minimum open space to be provided. Such line may be more, but not less restrictive than applicable zoning or other regulations.
<u>CURB CUT:</u>	The opening along a curb line at which point vehicles may enter or leave a roadway.
<u>DECELERATION LANE:</u>	An added roadway lane that permits vehicles to slow down and leave the main vehicular stream of traffic.
<u>DEDICATION:</u>	A gift or donation of property by the owner to a governmental unit. The transfer is conveyed by a plat or a written separate instrument. The act of dedicating is completed with a formal acceptance by the Governing Body.
<u>DESIGN STANDARDS:</u>	The basic land planning principles established as guides or requirements for the design layout of subdivisions as described in these regulations.
<u>DETENTION POND:</u>	A storage facility for the temporary storage of storm water runoff. The storm water may be released by gravity or by mechanical means at such time as downstream facilities can handle the flow.
<u>EASEMENT:</u>	A public dedication or private grant by a property owner of the specific use of a strip of land or portion of land by others.
<u>ENGINEER:</u>	A professional engineer licensed by the State of Kansas or licensed to practice in the State of Kansas who designs or engineers and inspects public improvements in connection with the approval of the plats and construction of related improvements. (See LAND PLANNER and LAND SURVEYOR)
<u>FLAG LOT:</u>	A lot, tract or parcel of land that provides minimum frontage to a road or street by a narrow strip of land for a driveway and whose main body of land lies to the rear of the property which is adjacent to the road or street. When such lots are permitted, a building setback line must be shown on the recorded plat which is not less than that required by applicable zoning regulations. (See Section 6-106 for Access)
<u>FRONTAGE:</u>	The property on one side of a street between two intersecting streets (crossing or terminating) measured along the line of the street; or with a dead-end street, all property abutting one side of such street measured from the nearest intersecting street and the end of the dead-end street.
<u>IMPROVEMENTS, PUBLIC:</u>	Any street, roadway, alley, sidewalk, planting strip, cross walkway, off-street parking area , sanitary sewer, storm sewer, drainage ditch, water main or other facility for which a Governing Body may ultimately assume the responsibility for maintenance and / or operation.
<u>LAND PLANNER:</u>	A professional architect, engineer, landscape architect or surveyor licensed by the State of Kansas or licensed to practice in the State of Kansas who is responsible for the design and preparation of a preliminary plat. (See ENGINEER and LAND SURVEYOR.)
<u>LAND SURVEYOR:</u>	A registered land surveyor licensed by the State of Kansas or licensed to practice in the State of Kansas who is responsible for the survey and preparation of the final plat. (See ENGINEER and LAND PLANNER.)
<u>LOT:</u>	A portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for development.

1. **LOT, DOUBLE FRONTAGE:** A lot, two opposite lot lines of which abut upon streets which are more or less parallel.
2. **LOT, REVERSE FRONTAGE:** A lot whose rear lot line also serves as the street line for a limited access highway or street.

LOT DEPTH:

The distance between the midpoint of the front lot line and the midpoint of the rear lot line.

LOT LINE:

The boundary line of a lot.

LOT SPLIT:

The dividing of a lot in a recorded plat or replat of a subdivision into not more than two parcels which creates an additional lot and meets the criteria established within these regulations. A lot split is not created by the transfer or sale of a lot plus a portion of an adjacent lot or the combining of portions of two lots to form a lot which is equal to or larger than the other platted lots in the block as long as an additional lot is not created. (See Article 9 for Procedure for Approval of Lot Splits.)

LOT WIDTH:

The distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing the lot depth at the established building setback line.

MINIMUM PAD ELEVATION

The lowest ground elevation completely surrounding a structure or the lowest flood proofed opening into a structure. This elevation is expressed in city datum or mean sea level.

MONUMENT:

A device used to mark and identify the corners in the boundaries of subdivisions, blocks and lots and the points of curves in the street rights-of-way. Usually such devices are made of a metallic bar or tube and may or may not be in concrete.

OWNER:

Any individual, firm, association, partnership, corporation, trust, or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

PARKING STRIP:

That portion of street right-of-way that is unpaved and which is located between the back of a curb and the street right-of-way line. Such strip provides right-of-way for the installation of public utilities (typically gas and water lines), street signs, street lights, sidewalks, driveways, traffic control devices, fire hydrants, street furniture, street trees and other ancillary lanes that are often provided for as part of street pavement.

PEDESTRIAN WAY (CROSSWALK):

A right-of-way across a block or providing access within a block to be used primarily by pedestrians.

PETITION:

A legal instrument which serves as the basis for initiation of a public improvement project. A petition is frequently used during the platting process to guarantee the construction of certain improvements, e.g., street paving, water and sewer lines, drainage, etc. A petition is valid if its signatures are more than 50% either by area within the benefit district or by ownerships. Petitions are also used to initiate the vacation of streets, alleys, easements, other public reservations and plats. (See Section 7-103A for improvement petitions and Section 10-103 for vacation petitions.)

PLAT:

A map or drawing on which the subdivider's plan of the subdivision is presented and which he submits for approval and intends in final form to record.

1. **SKETCH PLAN:** A map or plan of a proposed subdivision made prior to the preparation of the preliminary plan to enable the subdivider

to save time and expense in reaching tentative general agreements by a discussion of the form and objectives of their regulations.

2. **PRELIMINARY PLAT:** A tentative map or plan of a proposed subdivision of land showing the character and general details of the proposed development.
3. **FINAL PLAT:** A formal document by drawing and writing representing a subdivision which is prepared in accordance with these regulation to be placed on record with the County Register of Deeds.
4. **REPLAT:** A new plat or a revision to a subdivision or portion thereof for which a final plat has previously been recorded. The approval of a replat is processed in the manner as a final plat.

RESERVE:

An area of property within a subdivision which is platted for specific uses, e.g., open space landscaping, entry monuments, recreational facilities, utilities, drainage, floodway, etc. Typically, future ownership and maintenance responsibilities for a reserve is set forth by a restrictive covenant which provides that a homeowners or lot owners association will hold title to the reserve and therefore be responsible for the reserve's maintenance. The restrictive covenant may provide for ownership and maintenance to be tied to the ownership of an adjacent lot; Ownership and maintenance is not assigned to an individual, partnership or corporation except in the case of a reserve platted for possible future sale to a public body for a public facility. (See Section 6-102 for Land for Public Facility Sites and Section 6-103 for Land for Open Space.)

RESTRICTIVE COVENANTS:

Contracts entered into between private parties which constitute a restriction on the use of private property within a subdivision for the benefit of property owners and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values. Such restrictions may be set forth in a deed. Restrictions are also placed of record by separate instruments including homeowner association agreements. Restrictive covenants usually run with the land. (See section 2-100B for Private Agreements.)

RESUBDIVISION:

The subdivision of a tract of land which has previously been lawfully subdivided and a plat of such prior subdivision duly recorded. Sometimes referred to as a "replat".

RIGHT-OF-WAY:

The area between boundary lines of a street or other easement.

ROADWAY:

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

SCREENING:

Fencing or evergreen vegetation maintained for the purpose of concealing from view the area behind such fencing or vegetation. When fencing is used for screening, it shall not be less than six nor more than eight in height, unless otherwise provided. (See Section 6-111E for screening easement).

SIDEWALK:

That portion of a street or pedestrian way, paved or otherwise surfaced, intended for pedestrian use only. (See PEDESTRIAN WAY [CROSSWALK].)

STREET:

The entire right-of-way width between the boundary lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic, and the placement of utilities and including the term "road", "highway", "lane", "place", "avenue", "alley" or other similar designation.

1. **ALLEY:** A right-of-way along the side of or in the rear of lots which affords a secondary means of access to and from streets and such lots.
2. **ARTERIAL:** A street of considerable continuity which is primarily a traffic artery for intercommunication among large areas and which provides access to abutting properties only as a secondary function.
3. **COLLECTOR:** A street supplementary to the major street system and a means of intercommunication between this system and smaller areas which is used for both through traffic and for access to abutting properties
4. **CUL-DE-SAC:** A short street with one end open to traffic and being permanently terminated by a vehicular turn-around at the other end.
5. **DEAD END:** A street having only one outlet for traffic
6. **EXPRESSWAY:** Any divided street or highway with no access from abutting property and which has either a separate or at-grade access from other public streets and highways. Such streets have a minimum of four traffic lanes.
7. **HALF-STREET:** A portion of the right-of-way of a street, usually along the edge of a subdivision where the remaining portion of the street is intended to be provided in another subdivision.
8. **LOCAL:** A street intended primarily for access to abutting properties and of limited continuity within a neighborhood.
9. **MARGINAL ACCESS OR FRONTAGE ROAD:** A local street which is parallel with and adjacent to a limited access highway or arterial street and which provides access to abutting properties and protection from fast through traffic on the parallel streets.

**STREET WIDTH:
SUBDIVIDE LAND:**

The shortest distance between lines delineating the right-of-way of a street. To partition a parcel of land into two or more parcels, tracts, lots or sites for the purpose of transfer of ownership or development, whether immediate or future, when such parcel exists as a unit or contiguous units under a single ownership.

SUBDIVIDER:

The owner, or any other person, firm or corporation authorized by the owner, undertaking proceedings under the provisions of these regulations to subdivide land.

**SUBDIVIDER'S
AGREEMENT:**

A contractual agreement signed and notarized by the subdivider and the applicable Governing Body which is conditioned upon acceptance of the final plat for the dedications thereon with primary concern for the design, installation, inspection and financing or guarantees for public improvements. (See Section 7-104A for Agreement and Guarantees for Installation of Required Improvements.)

SUBDIVISION:

Either an act of subdividing land as defined in this section or a tract of land subdivided.

**SUBDIVISION
ADMINISTRATOR:**

A person appointed by the mayor with the consent of the City Council as administrator of these regulations. (See Section 3-101 for Duties of Subdivision Administrator.)

TURN-AROUND:

An area at the closed end of a street with a single common ingress and egress within which vehicles may reverse their direction.

VISION TRIANGLE:

A triangular area at the intersection of streets maintained in such a manner as

to provide a safe and open line of vision for drivers of vehicles approaching the intersection. Within the vision triangle, no one shall install, construct, plant, park or maintain any sign, fence, hedge, shrubbery, tree, natural growth or other obstruction which would materially impede vision between the heights of 33 inches and eight feet above the street level. Such restrictions shall not apply to official traffic signs, signals and utility poles. (See Section 6-111C for vision triangle easement and City Zoning Regulations for definition of VISION TRIANGLE.)

WATERCOURSE:

A stream of water having a course, current and cross-section.

ARTICLE 3.

ADMINISTRATION, PERMITS, ENFORCEMENT, VIOLATIONS AND FEES.

100 Division of Administrative Responsibility.

The administration of these regulations is vested in the following governmental branches of the City:

- A. Subdivision Administrator.
- B. City Clerk
- C. Subdivision Committee
- D. Planning Commission
- E. Governing Body

Each of the above named governmental branches shall have the responsibilities hereinafter set forth.

101 Duties of the Subdivision Administrator.

The Subdivision Administrator or designee shall administer the provisions of these regulations and in furtherance of such authority, shall:

- A. Serve as an assistant to the Planning commission on (1) the review of sketch plans, plats and lot splits; and (2) the vacation of plats, rights-of-way, easements and other public reservations.
- B. Inform applicants of procedures required for subdivision approval and vacations, provide application forms and other administrative forms to facilitate the process, and convey to subdividers the decisions of the Planning Commission.
- C. Receive and establish files for all sketch plans, preliminary and final plats, replats, final plats for small tracts, lot splits and vacations together with applications therefore.
- D. Forward copies of the preliminary plat and final plats for small tracts, when deemed necessary, to other appropriate governmental agencies and public and private utility providers for their comments and recommendations.
- E. Review and compile a list of comments on all preliminary plats to determine whether such plats comply with these regulations and similarly review and compile a list on all final plats to determine whether they comply with the preliminary plat and these regulations.
- F. Forward sketch plans, preliminary and final plats and lot splits to the Subdivision Committee and/or Planning Commission for their consideration, together with the list of comments and recommendations.
- G. Following approval by the Planning Commission and recommendations on vacations forward to the Governing Body all final plats, replats, final plats for small tracts as well as vacations after having checked and assembled all pertinent data and drawings.
- H. Make such other determinations and decisions as may be required by these regulations.

102 Duties of the City Clerk.

The City Clerk shall:

- A. File at least three copies of these model regulations marked by the Clerk as "Official Copy as Incorporated by Ordinance No. 1137 ", (i.e., the

ordinance approved by the Governing Body) and all sections or portions thereof intended to be omitted clearly marked to show any such omissions or showing the sections, articles, parts or portions that are incorporated and to which shall be appended a copy of the incorporating ordinance. Such copies maintained by the clerk shall be open to inspection and available to the public at all reasonable business hours.

- B. Distribute at cost to the City, official copies of these regulations similarly marked as described in Section 3-102A to the applicable police department, court, Subdivision administrator, Zoning Administrator, building inspector, city Attorney and all administrative departments of the City charged with the enforcement of these regulations. Subsequent amendments to these regulations shall be appended to such copies.
- C. Process the required fees.
- D. Provide clerical assistance to the Governing Body so as to facilitate and record their actions in the exercise of their duties relating to these regulations.

103 **Duties of the
Subdivision
Committee**

The Planning commission may create a Subdivision committee composed of any three or more of its members. The chairperson shall, with the concurrence of the commission, appoint the members and designate the chairman and vice-chairman of the Committee for such period of time as deemed appropriate.

The Subdivision Administrator and other non-commission members such as public and private officials engaged in public works, utilities, sanitation, safety and building and committee members. Township trustees will be invited to Committee meetings when plats or vacations are proposed in their township. The Subdivision Committee, among other assignments, may:

- A. Review sketch plans and forward comments to the potential subdivider.
- B. Review preliminary plats to determine compliance with these regulations, review final plats to determine whether they comply with the preliminary plat and these regulations, and forward such determinations and recommendations as may be appropriate to the Planning Commission.
- C. When deemed desirable, review proposed lot splits and vacations for recommendations to the Planning Commission.

Any person aggrieved by any comments, determinations or recommendations of the Subdivision committee shall have a right to appeal to the Planning Commission.

104 **Duties of the
Planning
Commission**

The Planning Commission shall:

- A. Review the sketch plans, when submitted, and forward comments to the potential subdivider whenever this responsibility is not otherwise performed by a Subdivision committee.
- B. Review and approve, approve conditionally or disapprove preliminary plats and lot splits.
- C. Review and approve, approve conditionally or disapprove final plats and transmit the same to the Governing Body for their acceptance of

dedications of streets, alleys, and other public ways and sites.

- D. Make recommendations to the Governing Body on vacations of recorded plats, rights-of-way, easements and other public reservations.
- E. Make such other determinations and decisions as may be required of the Commission from time to time by these regulations or applicable sections of the Kansas Statutes Annotated.

105 **Duties of the
Governing Body**

The Governing Body shall:

- A. Accept or not accept dedications of streets, alleys and other public ways and sites shown on final plats and, in cases of disapproval or modification, inform the subdivider in writing of the reasons.
- B. Approve or not approve vacations of recorded plats, rights-of-way, easements and other public reservations and, in the unincorporated area, to recommend or protest such vacations to be considered by the Board of County Commissioners.

106 **Building and
Zoning Permits.**

No building or zoning permit or occupancy certificate except those involving repairs, maintenance, continuation of an existing use or occupancy or accessory structures, shall be issued for a principal building or structure or use on any lot, tract or parcel of any subdivision that is subject to the provisions of these regulations until a copy of the recorded plat is available for examination by the applicable official charged with issuing such permits or certificates. Furthermore, no such building or zoning occupancy certificates shall be issued for the use of any building or structure within a subdivision approved for platting, replatting or lot splitting until required utility facilities have been installed and made ready to service the property; roadways providing access to the subject lot or lots have been constructed or are in the course of construction; or guarantees have been provided to ensure the installation of such utilities and roadways. If platting is not required, dedications in lieu of platting may be required to obtain easements and access control and to widen rights-of-way as well as to provide necessary public improvements during the process of issuing permits. (See Section 2-100E for Vesting of Development Rights.) (See Section 1-105 for exemptions from platting.)

107 **Enforcement.**

No plat shall be approved which does not comply with the provisions of these regulations or be entitled to record at the County Register of Deeds or have any validity until it shall have been approved in the manner prescribed in these regulations. It shall be the duty of the Subdivision Administrator and the applicable official charged with issuing building and zoning permits and occupancy certificates in conjunction with the city attorney or their designees to enforce these regulations. The following actions are specifically prohibited:

- A. The transfer of sale by metes and bounds description of any land subject to the applicability of Section 1-104 which is not otherwise exempted by Section 1-105.
- B. Approval of a plat by the Planning Commission which does not comply with the provisions of these regulations.
- C. The transfer or sales of any lot, tract or parcel of land located in a plat

accepted for dedications by the Governing Body which has not been recorded with the Register of Deeds.

- D. The recording of any plats or replats of land laid out with building lots, roads or streets, alleys, utility or other easements and dedications to the public unless the plat or replat bears the signatures of the Planning Commission and the Governing Body.

108 **Violations.**

- A. Penalties. Pursuant to K.S.A. 12-761, as amended, any violations of these regulations shall be deemed to be a misdemeanor. Any person, firm, association, partnership, or corporation convicted thereof, shall be punished by a fine not to exceed \$500 or by imprisonment for not more than six months for each offense or by both such fine and imprisonment. Each day's violation shall constitute a separate offense.
- B. Remedies. The City shall further have the authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing any provisions of these regulations and to abate nuisances maintained in violation thereof; and in addition to other remedies, the appropriate authorities of the City of Andover may institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violation, or to prevent the occupancy of such buildings, structures or land.
- C. Flood Plain Violations. Any person, company, corporation, institution, municipality or agency of the state who violates any provision of the flood plain provisions of these regulations shall be subject to the penalties and remedies as provided in Sections 3-108A and B above. Such remedies may also be instituted by the Attorney General and the Chief Engineer of the Division of Water Resources of the Kansas State Board of Agriculture.

109 **Fees.**

For purposes of wholly or partially defraying the costs of the administrative and enforcement provisions described in these regulations, including the cost of engineering and inspection services and recording legal documents, the applicant upon filing an application for a preliminary or final plat, plat for small tracts, lot split or vacation, shall pay the Clerk a fee according to the fee schedule approved by the Governing Body. No part of such fee shall thereafter be refunded.

110 **Reports.**

The Subdivision Administrator shall periodically report verbally or in writing to the Governing Body and the Planning Commission a summary of all subdivisions and the number of lots recorded on final plats during the preceding period, giving details of any permitted variations, as well as the current status of all applications in process for sketch plans, preliminary and final plats, lot splits and vacations. Such a report shall include comments on any problems encountered in the administration or enforcement of these regulations which may especially be of use at the annual review established by Section 12-101.

ARTICLE 4.

PROCEDURE FOR APPROVAL OF PRELIMINARY AND FINAL PLATS.

100 Submittal of Sketch Plan.

The subdivider may, if deemed desirable, submit a sketch plan in order to receive the pre-plat comments of the Subdivision Committee and/or the Planning Commission which may prove helpful in designing the preliminary plat. Three copies of the sketch plan should be submitted to the Subdivision administrator in a simple format sufficient to convey the location of proposed streets and utilities, the general layout of lots, and to not any particular design situations which could benefit from an early discussion of the problems. One copy of the sketch plan shall be returned to the subdivider with notations marked as to the comments resulting from such a review process. No fee shall be charged for the sketch plan review.

101 Filing of Preliminary Plat

An application shall be filed with the subdivision administrator at least 20 days prior to the next regular meeting of the Planning Commission and such number of copies of the preliminary plat as may be determined necessary by the Commission for proper review by affected and interested governmental and public and private organizations. Such plat shall not be accepted for filing until the fee as provided for in Section 3-108 has been paid by the subdivider to the Clerk. The preliminary plat shall contain the information as set out in Section 5-100 of these regulations.

102 Distribution and Review of Preliminary Plat.

After the filing of the preliminary plat, the Subdivision Administrator shall distribute copies to affected and interested governmental and public and private organizations as appropriate. Organizations receiving copies shall have 15 days to review the preliminary plat and to make their comments and recommendations to the Planning Commission. A lack of response in 15 days shall, at the discretion of the planning Commission, signify approval, unless during this period a written request for an extension of one time only not to exceed 15 days is submitted to the Planning Commission.

103 Action by the Planning Commission on Preliminary Plat.

The Planning commission shall review the preliminary plat and consider the comments and recommendations of the organizations to whom the preliminary plat had been submitted for review. If deemed desirable, the Commission may mail notices or copies of agendas to interested parties and conduct a public hearing for the purpose of receiving information supporting or opposing the preliminary plat.

- A. The Planning commission shall determine whether the preliminary plat generally meets the design standards and requirements of these regulations, the Comprehensive Plan, the applicable zoning regulations and other applicable provisions of the ordinances of the city.
- B. If satisfied, the planning Commission shall approve the preliminary plat and so notify the subdivider in writing.
- C. If the Planning Commission determines that the preliminary plat does not satisfy the foregoing conditions, it may suggest modifications so as to satisfy such conditions and in such event:
 - 1. The subdivider may amend the preliminary plat so as to incorporate such modifications and resubmit the plat to the

Commission, which shall then grant its approval if such amendments satisfactorily incorporate the suggested modifications; or

2. The subdivider may reject the suggested modifications or, within the time allowed for Commission action, may refrain from taking any action thereon. In either event, the preliminary plat shall be deemed to have been disapproved and the commission shall thereupon furnish the subdivider with a written statement setting forth the reasons for disapproval of the preliminary plat.
- D. If the Planning commission determines that the preliminary plat does not satisfy the conditions of these regulations and that modifications would be too extensive or impractical, it shall disapprove the preliminary plat and immediately notify the subdivider in writing of its action, all within 60 days.

104 **Failure of Planning Commission to Act on Preliminary plat.**

If the Planning commission fails to approve or disapprove a preliminary plat within 60 days after the date such plat is filed with the Subdivision Administrator or from the date the subdivider has filed the last item of required data, whichever date is later, then such preliminary plat shall be deemed to have been approved, unless the subdivider shall have consented in writing to extend or waive such time limitation.

105 **Effect of Approval of Preliminary Plat.**

- A. Approval of the preliminary plat shall not constitute approval of the subdivision by the Planning Commission, but shall signify in general the acceptability of the proposed subdivision.
- B. Such approval shall be considered permission to submit the final plat accompanied by the information required by Section 5-101R.
- C. Such approval shall be effective for no more than 12 months from the date approval was granted, unless, upon application from the subdivider, the Planning Commission grants an extension of time beyond such period. If a final plat for the entire subdivision or a unit thereof has not been filed with the Subdivision administrator within such period, or any extensions granted thereto, the preliminary plat must be resubmitted to the Commission as if such plat had never been approved, except that no additional fee shall be charged for such re-submittal if there are no substantive changes from the previous preliminary plat approval.

106 **Filing of a Final Plat.**

An application for final plat approval, together with a sufficient number of copies as determined by the Planning Commission for proper review, shall be filed with the subdivision Administrator at least 15 days prior to the next regular meeting of the commission and within 12 months after the date that the preliminary plat has been approve. The Administrator shall transmit the final plat to the Commission and to other affected and interested governmental and public and private organizations as desirable for any further recommendations. The final plat shall contain the information as set out in Section 5-101 of these regulations. An application for a replat approval

is processed in the same manner as a final plat. (See Section 2-102 for definition of a REPLAT under the heading of PLAT.)

- 107** **Planning Commission Action on the Final Plat.** The Planning commission shall, within 60 days after the first meeting of the Commission following the date that the plat with all required data is filed with the Subdivision administrator, review and approve the final plat if:
- A. It is substantially the same as the approved preliminary plat; or
 - B. There has been compliance with all conditions which may have been attached to the approval of the preliminary plat; and
 - C. It complies with all of the provisions contained in these regulations and of other applicable regulations or laws.
- 108** **Failure of Planning Commission to Act on Final Plat.** If the Planning Commission fails to approve or disapprove the final plat within the 60 days designated by state law for its consideration as stated in Section 4-107, it shall be deemed to have been approved and a certificate shall be issued by the secretary upon demand, unless the subdivider shall have consented in writing to extend or waive such time limitation. (See K.S. A. 12-752[b].)
- 109** **Submittal to Governing Body of Final Plat.** Before a final plat is recorded, it shall be submitted to the Governing Body for its acceptance of dedications for street rights-of-way and other public ways, drainage and utility easements, and any land dedicated for public use and accompanied by guarantees for the installation of required improvements according to Section 7-104.
- 110** **Governing Body Action on Final Plat.** The Governing Body shall either accept or not accept the dedication of any land for public purposes within 30 days after the first meeting of the Governing Body following the date of the submission of the plat to the clerk. The Governing Body may defer actions for an additional 30 days for the purpose of allowing for modifications to comply with the requirements established by the Governing Body. If the Governing Body defers action on the plat or declines to accept the dedications thereto, it shall advise the Planning commission and the subdivider in writing of the reasons therefore. Acceptance of the dedications on the plat shall be shown over the signature of the mayor and attested to by the Clerk
- 111** **Acceptance of Dedications by County.** All final plats outside the city shall also be submitted by the subdivider to the appropriate county official for presentation to the Board of County Commissioners for their acceptance of dedications for street rights-of-way and other public ways, drainage and utility easement, and any land dedicated for public use and accompanied by guarantees for the installation of required improvements according to Section 7-104.
- 112** **Recording of Final Plat.** The final plat with all required signatures and in the exact form as accepted by the Governing Body shall be recorded by the subdivider with the County Register of Deeds. The subdivider shall pay the recording fee and any outstanding real estate taxes and special assessments. Approval of the final plat by the Planning Commission and acceptance by the Governing Body

shall be null and void if (1) the plat is not acceptable for recording in the office of the Register of Deeds; or (2) is not recorded within 60 days after the final acceptance by the Governing Body; or (3) is not recorded within 15 days after final acceptance by the applicable County Governing Body under the preconstruction procedures of Section 7-104C. The subdivider shall submit to the Subdivision Administrator such number of copies of the recorded plat as is necessary for record keeping purposes of the City and other affected governmental agencies. (See Section 5-101R1 for title report and Section 10-100C for Vacation of Unrecorded Plat.)

113 **Unit
Developments.**

The foregoing provisions of these regulations to the contrary notwithstanding, an approved preliminary plat may be submitted for final approval in separate geographic units rather than as a whole, provided the following conditions are met:

- A. Each unit of a plat of subdivision shall contain an area of sufficient size based on physical conditions and ability to install improvements economically.
- B. The approval of the Planning Commission as to the feasibility of such development, in separate units, including the feasibility of the proposed sequence of development, shall be secured.
- C. A final plat of at least one unit shall be filed within 12 months from the date of approval of the preliminary plat, and final plats of all such units shall be filed within five years from the date that the preliminary plat was approved. The Planning Commission on application of the subdivider, may, from time to time, grant extensions of time within which to submit such final plats, provided that each such extension shall be for no more than one year.
- D. All steps required for the approval of final plats, including the recording thereof, shall be adhered to with respect to each unit so submitted.
- E. A replat of all or a portion of a recorded final plat may be submitted at any time.

114 **Approval of Plats
for Small Tracts.**

- A. Authorization. Any other provision of these regulations to the contrary notwithstanding, if a proposed plat of subdivision or resubdivision complies with the requirements of Section 4-114B, then the Planning Commission may approve a final plat of such subdivision or resubdivision when neither a sketch plan nor a preliminary plat has been filed by the subdivider and a preliminary plat has not been approved by the Planning commission.
- B. Requirements. In order to qualify for approval in the manner provided in Section 4-114A, a proposed plat of subdivision shall comply with the following requirements:
 - 1. The proposed plat of subdivision shall include not more than ten acres if a residential plat, nor more than five acres for any other type of plat.
 - 2. The proposed plat of subdivision shall create not more than five lots, tracts or parcels of land.

3. No public street or easement of access is sought to be dedicated or is contemplated or projected through (as opposed to adjacent to) the lot, tract or parcel proposed to be subdivided or resubdivided.
4. The proposed plat of subdivision shall be in the form required by Section 5-101 and shall contain all the data, information and certificates required on final plats as well as the supplemental information.
5. Submission of the fees as required by Section 3-109.

C. Procedures.

1. Final plats filed for approval pursuant to Section 4-114 shall be filed with the Subdivision administrator who may submit such plat for review and recommendations to affected and interested governmental agencies and public and private utility providers as deemed desirable. The Administrator may require the subdivider to submit topographic information whenever the property proposed to be subdivided or resubdivided is traversed by or is adjacent to a known watercourse, including intermittent streams or is subject to flooding as defined in Section 6-104.
2. The approval of final plats by the planning commission pursuant to Section 4-114 shall be subject to the same procedural provisions of a final plat, except insofar as the said sections require prior approval of, or compliance with, an approved preliminary plat.

ARTICLE 5.

**100 Contents of
Preliminary Plat.**

CONTENTS OF PRELIMINARY AND FINAL PLATS

The preliminary plat shall be drawn at a scale of not less than one inch equals 100 feet; however, areas over 100 acres may be at a scale of one inch equals 200 feet.

A. General Information. The following general information shall be shown on the preliminary plat:

1. Proposed name of the subdivision not duplicating or resembling the name of any plat heretofore recorded within the area of jurisdiction of these regulations. The use of the word "Addition" should be used for a plat which has just been or is in the process of being annexed and not for the subdivision of land already in the City.
2. Date of preparation, north point and scale of drawing.
3. An identification clearly stating that the drawing is a preliminary plat.
4. Location of the subdivision by quarter-section, section, township and range and by measured distances to a section corner to further define the location and boundary of the tract.
5. Names of adjacent subdivisions or, in the case of unplatted land, the name of the owner or owners of adjacent property.
6. The name and address of the landowner, the subdivider and the name and seal of the land planner who prepared the plat and surveyor who did the topographic survey.

B. Existing Conditions. The following existing conditions shall be shown on the preliminary plat:

1. The location, right-of-way, width and names of all existing public or private street within or adjacent to the tract, together with easements, railroad rights-of-way and other important features such as section lines and corners, city and township boundary lines and monuments.
2. The horizontal location within the subdivision and the adjoining streets and property of existing sanitary and storm water sewers including flow lines, water mains, culverts, catch basins, manholes, fire hydrants, underground wiring, pipe lines and gas lines proposed to serve the subdivision.
3. Contour lines or spot elevations based on Mean Sea Level (MSL) or other datum approved by the Planning commission having the following intervals:
 - a. Two-foot contour intervals for ground slopes less than 10%
 - b. Five-foot contour intervals for ground slopes exceeding 10%.
 - c. Spot elevations where the ground is too flat for contours.
 - d. Ten-foot contours on lots ten acres or larger used for residential or agricultural purposes where no known watercourse or area subject to flooding as determined by Section 6-104 is involved. USGS map data is acceptable.

The date of the topographic survey shall be shown including the location, elevation and description of the bench mark controlling

the vertical survey.

4. Locations of existing monuments or survey markers used in preparation of the survey.
 5. The location and direction of all watercourses and areas subject to flooding as determined by Section 6-104.
 6. Significant natural features including, but not limited to rock outcroppings, marshes, lakes and wooded areas.
 7. Existing use of the property including the location of all existing structures showing those that will be removed and those that will remain on the property after the final plat is recorded.
 8. Boundary line of proposed subdivision clearly indicated and total acreage therein.
 9. Zoning district classifications on and adjacent to the tract, if any.
- C. Proposed Subdivision Plat. The following information with respect to the manner in which the tract is to be subdivided and developed shall be included on the preliminary plat.
1. Streets showing the location, right-of-way, width, names and approximate grades thereof. The preliminary plat shall show the relationship of all streets to any projected streets shown or to any related Comprehensive Plan proposal or, if none proposed, then as determined by the Planning Commission.
 2. Street names which do not duplicate any heretofore used in the City or its environs, unless the street is an extension of or in line with an already named street, in which event that name shall be used. Appropriate prefixes and suffixes which provide relative direction and type of street should accompany such names. Street names shall be subject to the approval of the Planning Commission and follow the applicable City's or County's street naming and Property numbering Policy, if adopted. Property numbers are assigned by the city or County depending upon the agreed upon jurisdictional policy.
 3. Easements showing width and purpose such as for utilities, drainage, screening, open space, pedestrian ways and alleys.
 4. Location and type of utilities to be installed including provisions for storm water drainage.
 5. Lots showing approximate dimensions, minimum lot sizes and proposed lot numbers and block letters or numbers.
 6. Sites, if any, to be allocated for development with other than single-family dwellings or to be dedicated or reserved for park, recreation area, open space or other public or private purposes. (See Section 2-102 for definition of RESERVE.)
 7. Proposed building setback lines, if any, but not less than applicable zoning regulations. The setback should be measured from the existing or proposed street right-of-way, whichever is a greater distance.
- D. Additional Data and Information to be Submitted with the Preliminary Plat. The following information shall be submitted in separate statements and/or drawings accompanying the preliminary plat, or, if practical, such information may be shown on the preliminary plat:

1. A vicinity map showing existing subdivisions, streets and unsubdivided tracts adjacent to the proposed subdivision and showing the manner in which the proposed streets may be extended to connect with existing streets.
2. A statement as to the nature and type of improvements proposed for the subdivision, and in what manner the subdivider intends to finance and guarantee their installation, e.g., petition, actual construction, monetary guarantee, etc. (See section 7-103 for guarantees for installation of improvements.)
3. If deemed necessary, a preliminary drainage plan based on standards and policies of the applicable jurisdiction.

101 Contents of Final Plat.

The final plat shall be prepared by a registered land surveyor and drawn in waterproof black ink on Mylar or its equivalent. Alternatively, a final plat may be prepared with a photographic process provided it is submitted on .004 inch polyester photographic film such as Mylar or its equivalent. The permitted page sizes shall be 24 inches by 36 inches or smaller. Larger sizes will not be accepted. The scale shall be not less than 100 feet to one inch except that a variation in scale may be allowed where the Planning Commission determines it is necessary for a proper exhibit of the subdivision. When more than one sheet is used for any plat, each such sheet shall be numbered consecutively and each such sheet shall contain a notation showing the whole number of sheets in the plat and its relation to other sheets (e.g., Sheet 1 of 3). Linear dimensions shall be given in feet and decimals of a foot. The final plat shall show on the face thereof:

- A. The name of the subdivision followed by a reference to its location by quarter-section, section, township and range.
- B. The date of preparation, scale, north point, legend and controlling physical features, such as highways, railroads, watercourses and areas subject to flooding as determined by Section 6-104.
- C. Legal description of the tract boundaries. (See Section 5-101 Q 1 for land surveyor's certificate and description.)
- D. Reference ties to previous surveys and plats, as follows: (See Section 7-102J for monuments as required improvements.)
 1. Distance and direction to the monuments used to locate the land described in the certificate of survey.
 2. The location of all other monuments required to be installed by these regulations.
- E. Location and elevation of permanent bench mark, if required.
- F. Tract boundary, block boundary, street and other right-of-way lines with distances and angles (and/or bearings). Where these lines follow a curve (all curves must be circular), the central angle, the radius, points of curvature, length of curve and length of intermediate tangents shall be shown. Error of closure of the perimeter survey shall not exceed one foot for each 10,000 feet.
- G. Lot lines with dimensions. Side lot lines shall be at right angles or radial to street lines unless otherwise shown. Rear lot lines shall be parallel to block or tract lines unless otherwise indicated. Points of deflection of rear lot lines shall be indicated by angles and distances.

- H. Lot numbers beginning with number one and numbered consecutively in each block.
- I. Block letters or numbers continuing consecutively without omission or duplication throughout the subdivision. Such identification shall be solid, of sufficient size and thickness to stand out, and so placed as not to obliterate any figure.
- J. All easements shall be denoted by fine dashed lines, clearly identified and, if already on record, the recorded reference of such easements. If an easement is not definitely located of record, a statement of such easement shall be included. The width of the easement with sufficient ties to locate it definitely with respect to the subdivision must be shown and its purpose such as for utilities, drainage, screening, open space, pedestrian ways or alleys. If the easement is being dedicated through the plat, it shall be properly referenced in the owner's certificate and dedication.
- K. The width of street rights-of-way and any portion thereof being dedicated by the plat as well as the width of any existing right-of-way and the centerline of any adjacent perimeter streets.
- L. The name of each street shown on the subdivision plat including appropriate prefixes and suffixes.
- M. Minimum building setback lines, if any, but not less than applicable zoning regulations. The setback should be measured from the existing or proposed street right-of-way, whichever is a greater distance.
- N. Land parcels to be dedicated or reserved for any purpose, public or private, to be distinguished from lots or tracts intended for sale. (See Section 2-102 for definition of RESERVE.)
- O. When deemed desirable, the minimum pad elevation of each lot or parcel of land based on the design criteria of Section 6-104 so that each pad is elevated at least one foot above the 100-year flood elevation. (See Section 2-102 for definition of MINIMUM PAD ELEVATION.)
- P. Marginal lines encircling the sheet. All information shall be within this margin.
- Q. The following certificates, which may be combined where appropriate: (Certificates requiring a seal should be located near the edge of the plat to facilitate affixing the seal. All names on the plat must also be typed or clearly printed under the signature.)
 - 1. A certificate signed by a registered land surveyor responsible for the survey and final plat. The surveyor shall not sign the plat until all monuments, irons or bench marks have been set as required by these regulations. Such signature shall be accompanied by the legal description of the land surveyed, the total acreage, the month and year such survey was made and the surveyor's seal. This certificate may be in the following form:

LAND SURVEYOR'S CERTIFICATE AND DESCRIPTION

I, the undersigned, registered land surveyor of the State of Kansas, do hereby certify that the following described tract of land was surveyed on _____, 20____ and the accompanying final plat prepared and that all the monuments shown herein actually exist and their positions are correctly shown to

the best of my knowledge and belief:

(Legal description, date of survey and acreage. If applicable, reference may be made to indicate that existing public easements and dedications are being vacated according to provision of K.S.A. 12-512b. [See Section 10-101A1 for provisions of K.S.A. 12-512b.])

Date _____, 20____

(SEAL)

(Land Surveyor's name and license number)

- 2. Certificates signed and acknowledged by all parties having any record or possessory right, title or interest in the land subdivided including mortgagees consenting to the preparation and recording of the subdivision plat; and dedicating all tracts of land shown on the final plat which are intended for public use as highways, streets, alleys, easements and public sites. These certificates may be in the following form:

OWNER'S CERTIFICATE AND DEDICATION

STATE OF KANSAS)
)SS
COUNTY OF BUTLER)

This is to certify that the undersigned owner(s) of the land described in the Land Surveyor's Certificate; have caused the same to be surveyed and subdivided on the accompanying plat into; (an addition to) (located in) the City of Andover, Butler County, Kansas; that all highways, streets, alleys, easements and public sites as denoted on the plat are hereby dedicated to and for the use of the public for the purpose of constructing, operating, maintaining and repairing public improvements; and further that the land contained herein is held and shall be conveyed subject to any applicable restrictions, reservations and covenants now on file or hereafter filed in the Office of the Register of Deeds of Butler County, Kansas.

Date Signed:_____

Date Signed:_____

Owner
Print or type below signature

Owner
Print or type below signature

MORTGAGE HOLDER

We, (Name of institution and location), by (Name and title of officer), holders of a mortgage on the above described property do hereby consent to the plat of (Name of plat), City of Andover, Butler County, Kansas.

(Name of institution and location)

(Name and title)

- 3. The acknowledgment of a notary in the following form for an individual capacity or modified if a representative capacity:

NOTARY CERTIFICATE

STATE OF KANSAS)
)SS
COUNTY OF BUTLER)

The foregoing instrument was acknowledged before me this day of _____, 20____, by (Name of Person[s]) .

(SEAL) _____, Notary Public

My appointment expires: _____

4. The certificate of the Planning Commission in the following form:

PLANNING COMMISSION CERTIFICATE

STATE OF KANSAS)
)SS
COUNTY OF BUTLER)

This plat was approved by the Andover City Planning Commission on _____, 20__

Signed _____, 20__

_____, Chairperson
(Print name below)

ATTEST:

_____, Secretary
(Print name below)

5. If the plat is an addition to the City, i.e., an annexation, a certificate signed by the City Attorney indicating that all conditions of K.S.A. 12-401 have been met: (See Section 5-100A1 for use of the word "Addition.")

CITY ATTORNEY'S CERTIFICATE

STATE OF KANSAS)
)SS
COUNTY OF BUTLER)

This plat is approved pursuant to the provisions of K.S.A. 12-401.

Date Signed: _____, 20__.

_____, City Attorney
(Print name below)

6. The acceptance of dedications by the Governing Body in the following form:

GOVERNING BODY CERTIFICATE

STATE OF KANSAS)
)SS
COUNTY OF BUTLER)

The dedications shown on this plat, if any, are hereby accepted by the Governing Body of the City of Andover, Kansas on _____, 20____.

_____, Mayor
(Print name below)

(SEAL)

ATTEST:

_____, City Clerk
(Print name below signature)

7. The acceptance of dedications by the Board of County Commissioners for plats outside the City only in the following form:

COUNTY COMMISSIONERS' CERTIFICATE

STATE OF KANSAS)
)SS
COUNTY OF BUTLER)

The dedications shown on this plat, if any, are hereby accepted by the Board of County Commissioners, Butler County, Kansas, on _____, 20____.

(SEAL) _____, Chairman
(Print name below)

ATTEST:

_____, County Clerk
(Print name below)

8. A place to note the transfer record date of the County Clerk and the recording certificate of the County Register of Deeds. Plats are not entitled to record unless all current real estate taxes and special assessments are paid in full on the land being platted. (See Section 5-101R1 for title report.)

- R. The following additional information shall be submitted with the final plat:
1. A title report by an abstract or a title insurance company, or an attorney's opinion of title, showing the owner of the land and all other persons who have an interest therein and describing any encumbrances on the plat, including such items as rights-of-way, easements, pipelines, leases, mineral rights, mortgages, real estate taxes, special assessments and other encumbrances affecting the ownership. (See Section 5-101 Q 8 on payment of real estate taxes and special assessments before recording.)
 2. If deemed necessary, a final drainage plan based on the standards and policies set by the applicable jurisdiction.
 3. A copy, if any, of restrictive covenants applicable to the subdivision. As a service to the subdivider, such restrictions may be reviewed by the Planning Commission and other officials to determine if any potential conflicts exist with the City's laws. If the condition exists for outside the City utility service as described in Section 5-101 Q 9, then restrictive covenants must be submitted for review of the annexation waiver provisions.

ARTICLE 6.

DESIGN STANDARDS

100 Scope.

All subdivision of land subject to these regulations shall conform to the minimum design standards of this Article according to the classifications of urban and rural type subdivisions as defined in article 7-100.

101 Comprehensive Development Plan.

Subdivisions shall conform with the intent of the Comprehensive Plan.

102 Land for Public Facility Sites.

Public agencies using the Comprehensive Plan as a guide may use the following procedure for acquiring sites for public facilities which does not preclude voluntary dedication and mutual negotiations for land or the use of the condemnation laws of the State: (See Section 2-102 for definition of RESERVE.)

103 Land for Open Space.

The following conditions may be required as part of the approval of any subdivision plat: (See Section 2-102 for definition of RESERVE.)

A. That the subdividers provide appropriate dedication of land or easements for the preservation of open space areas within a subdivision. Such open space may be needed to preserve areas containing natural watercourses, drainage ways, areas subject to periodic flooding, substantial woodland, rugged topography and wildlife habitat; to maintain water quality and quantity; and to protect land from soil erosion. In general, such land is not normally considered as buildable land and should not be developed in order to maintain the quality of the environment.

104 Land Subject to Flooding.

A. Whenever a subdivision of land including platting for manufactured home parks and other developments on one-lot plats is located on flood prone land identified on a Flood Insurance Rate Map(s) (F.I.R.M.) prepared by the Federal Emergency Management Agency, the following requirements shall apply: (See City Zoning Regulations for floodway and floodway fringe districts.) (See section 5-101 O for minimum pad elevations.)

1. Show on the preliminary and final plats the boundary lines and elevations for both floodway, if any, and 100-year flood level; and
2. Assure that (a) all such subdivisions are consistent with the need to minimize flood damage, (b) all public utilities and facilities, such as sewer, water, gas and electrical systems are located, elevated and constructed to minimize or eliminate flood damage, and (c) adequate drainage is provided so as to reduce exposure to flood hazards.

105 Land Subject to Excessive Erosion

On land subject to excessive soil movement by the forces of wind and/ or water and that may cause environmental health hazards, necessary preventive

**by Wind or
Water.**

measures shall be a part of the subdivision plat. Conservation standards applicable to subdivisions shall be adhered to which are used by the Butler county Conservation District.

106 Access.

All lots located in any subdivision must contain at least 40 feet of frontage for driveways directly connected to an opened public street and not across the land of others. Flag lots are not permitted, unless warranted by an unusual shape of the land or the ownership of property. (See Section 2-102 for definition of FLAG LOT.)

**107 Streets- Layout
and Design**

- A. The arrangement, character, extent, width, grade and location of all streets shall conform to the intent of the Comprehensive Plan, and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic within the subdivision and adjoining lands; to topographical conditions, to the run-off of storm water; to public convenience and safety; and in their appropriate relations to the proposed uses of the land to be served by such streets.
- B. Where such is not shown on a Comprehensive Plan, the arrangement of streets in a subdivision shall either:
 - 1. Provide for the continuation or appropriate projection of existing streets in surrounding areas; or
 - 2. Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographic or other conditions make continuance or conformance to existing streets impracticable.
- C. Local streets shall be laid out so that their use through traffic will be discouraged.
- D. If a subdivision abuts or contains an existing or proposed limited access highway, arterial street or railroad right-of-way, the Planning Commission may require marginal access streets, reverse frontage lots with access control provisions along the rear property line and screening, deep lots with rear service alleys or such other design as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- E. Reserve strips controlling access of streets shall be prohibited except where their control is placed with the applicable Governing Body under acceptable conditions.
- F. Street right-of-way requirements for other than arterials shall be determined by the total aggregate needs for the functional components for the particular systems being considered. The total aggregates shall be in increments of even feet, even numbers only. The components involved shall be as follows depending upon the urban or rural type of characteristics of the street needed based on land use, traffic and density:
 - 1. Moving or traffic lanes may be variable from nine to 12 feet depending on function, e.g., low density residential, cul-de-sac residential, collector, industrial, etc., and on design speed of the roadway. A moving lane may utilize a portion of the surface of

- certain types of curb construction.
2. Parking lanes for on-street storage of vehicles shall be at least eight feet in width. For computation purposes, up to two feet for curb or shoulder may be included as part of the parking lane.
 3. Curbs shall be considered to require two feet irrespective of construction type.
 4. Shoulders for rural type roadways shall be not less than three feet in width.
 5. Parking strips for streets shall be at least 14 ½ feet in width from the back of curb to the right-of-way line. This area shall be used for the installation of utilities, street signs, street lights, traffic control devices, fire hydrants, sidewalks, driveways, street furniture, street trees from an approved city list and to provide a transition area in grades, if necessary, between the roadway and the property adjacent to the right-of-way. Parking strips for rural type roads shall be variable in width based on drainage needs.
 6. Based on the above general criteria, street rights-of-way and roadways shall be calculated from the following guidelines:

URBAN AREA

R-O-W for Roadway
Street in feet * Width in feet **

a. Collector including Commercial, Industrial or Multiple-Family Areas.	70	40
b. Local Residential including Cul-de-sacs and Single and Two-Family Areas.	64	34
c. Local Marginal Access Street (two moving lanes with no parking on one side plus a parking strip between curb and the main road right-of-way).	50	28
d. Alleys for residential, if necessary, and Commercial Areas.	20	20

@-----@

**** Face of curb to face of curb.**

RURAL AREA

Street in feet * Width in feet **

a. Collector including Industrial or Commercial Areas (Two moving lanes, parking shoulders, ditches and parking	70	30
---	----	----

	strips.)		
b.	Local Residential (Two moving lanes, parking shoulder, ditches and parking strips.)	60	26

@-----

***** Includes three-foot shoulder on each side.**

These widths may be modified by the planning Commission on a showing that special conditions exist such as drainage and utility requirements, safe and efficient traffic and pedestrian movement, intersection design, etc. In applying these standards, workable street systems must be established. When a pattern of widths based on function for a given area has been established, the pattern shall be followed until another system can be established or ties into a collector or arterial system. Access control and acceleration and deceleration lanes may be required to properly handle traffic flow and to protect the carrying capacity of the street.

@-----

*** Note: for arterial standards, see sections 6-107 G and H.**

- G. Arterial right-of-way widths shall be as shown on the Comprehensive Plan and where not shown thereon shall not be less than 100 feet; except that 150 feet of right-of-way shall be required within 250 feet from the intersection of the center lines of an arterial street with any other arterial street and tapered to 100 feet right-of-way at a distance of 350 feet from the intersection; except
- H. For streets and roadways on the Functional Classification System of the County, prevailing design standards shall apply.
- I. Wherever possible, there shall be an inside tangent at least 100 feet in length introduced between reverse curves on arterial and collector streets.
- J. Streets shall be laid out so as to provide for horizontal sight distances on all curves depending upon design speed. These distances shall be:

Arterial Streets:	500 feet
Collector Streets:	300 feet
Local Streets	200 feet

The sight distance shall be measured within street rights-of-way from a height of four and one-half feet above the proposed pavement surface in the right-hand lane of the roadway.
- K. Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than 80 degrees.
- L. Street jogs are to be avoided on arterial and collector streets. On local streets, center line offsets of less than 150 feet should be avoided.
- M. Roadway grades, wherever feasible, shall not exceed the following with due allowance for reasonable vertical curves:

Roadway Type	Percent Grade
Arterial	6%
Collector	7%

Local 7%
 Marginal Access 7%

- N. No roadway grade shall be less than 0.4 of one percent, unless approved by the applicable engineer. Greater percentages of grade may be required where necessary to provide adequate drainage.
- O. Roadway pavement at intersections shall be rounded by the following minimum radii:

<u>Type of Roadway</u>	<u>Intersection Width</u>	<u>Minimum Curb Radii</u>
Local Residential	Local Residential	25 feet
Local Residential	Collector	30 feet
Local Residential	Arterial	50 feet
Commercial/ Industrial Collector or Arterial	Commercial/ Industrial Collector or Arterial	50 feet

- P. Half-streets shall be avoided, except for arterial streets and collector streets where applicable, or where they are essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations; or, when the Planning Commission finds that it will be practicable to require the dedication of the other half of the street when the adjoining property is subdivided. Whenever a half-street, or portion thereof, exists and is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract. No construction of the roadway shall occur until the full right-of-way is provided.
- Q. The length of cul-de-sacs and the dimensions of the turn-around shall be determined as follows:
 1. Cul-se-sacs in single-family areas should not generally be longer than seven times the average lot width or 500 feet, whichever is less. In multiple-family residential areas, such streets shall not exceed 300 feet.
 2. In urban type subdivisions, they shall have a turn-diameter of at least 70 feet and a street property line diameter of at least 100 feet, or shall have an alternate turn-around area such as hammerheads, etc., as providing service equal to the foregoing requirement.
 3. For rural type subdivisions, a minimum street property line diameter of 120 feet or more may be required for fire protection and other equipment.
- R. Subdividers are encouraged to consider projects designed to maximize solar access when not in conflict with existing contours or drainage. When the long axis of individual structures is parallel to the street, streets should be oriented as nearly as possible in an east/west direction. If the long axis of structures is perpendicular to the street, north/south street orientation is preferable for solar access purposes.

108 **Alleys.**

- A. Alleys shall be provided in commercial and industrial areas, except that the Planning Commission may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking spaces consistent and adequate for the uses proposed. Alleys in residential districts are to be discouraged.
- B. When provided, the minimum right-of-way of an alley shall be 20 feet.
- C. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, a turning radius shall be provided to permit safe vehicular movement.
- D. Dead-end alleys shall be avoided where possible, but if unavoidable, such alleys shall be provided with adequate turn-around

109 **Blocks and
Pedestrian Ways**

- A. The lengths, widths and shapes of blocks shall be determined with due regard to:
 - 1. Provision of adequate building sites suitable for the special needs of the type of use contemplated.
 - 2. Zoning requirements as to lot sizes and dimensions, off-street parking and loading, etc.
 - 3. Need for convenient access, circulation, control and safety or street traffic.
 - 4. Limitations and opportunities of topography.
- B. A block should not exceed 1,320 feet in length, unless the previous layout or topographic conditions justify a variation. In general, blocks shall not be less than 400 feet unless necessary because of existing street patterns.
- C. All blocks shall be so designed so as to provide two tiers of lots, unless a different arrangement is required in order to comply with or be permitted by other sections of these regulations.
- D. Blocks may be irregular in shape, provided they are harmonious with the overall pattern of blocks in the proposed subdivision.
- E. In extra long blocks, a public pedestrian way may be required to provide access to public or private facilities such as schools, or parks. (See Section 2-102 for definition of PEDESTRIAN WAY [CROSSWALK].)

110 **Lots.**

- A. The lot size, width, depth, shape and orientation, and the minimum building setback lines, if any desired, shall be appropriate for the location of the subdivision and for the type of development and use contemplated. (See Section 6-106 for FLAG LOTS.)
- B. Lot dimensions shall conform to the minimum requirements of applicable zoning regulations and sanitary codes, unless higher standards are established in accordance with this subsection:
 - 1. All subdivisions in the city shall be connected to public water supply and sewage disposal systems as well as subdivisions in the surrounding jurisdiction wherever the latter is deemed feasible by the Governing Body. *

2. If the proposed subdivision is serviced with a public sewage system and public water supply, the minimum lot area requirement shall be 20,000 square feet in the unincorporated area only.
 3. If the proposed subdivision in the unincorporated area intends to use an on-lot well for water supply and or a private sewage disposal system, the minimum lot area requirement shall be 5 acres (217,800 square feet).
 4. Notwithstanding the provisions of these regulations in Sections 6-110B2 and 3, it is the intent of these regulations to encourage the installation of public water supplies and public sewage disposal systems wherever feasible. In order to determine such feasibility, the Planning Commission may require the subdivider to provide certain basic engineering data and cost estimates on which to base such a decision. Furthermore, if on-lot water supply and sewage disposal installations are used, additional lot area may be required if the area to be subdivided has a high water table, is periodically flooded with water or if the soil conditions prove to be unsuitable based on percolations test which may be required of the subdivider. If a lagoon system is used for sewage disposal, the lot size must be a minimum of five acres, the lagoon fenced and the edge of the lagoon not less than 300 feet from any existing off-premises dwelling or 100 feet from the nearest property line.
- C. In those areas where there may be municipal-type water and/or sanitary sewer facilities anticipated in the foreseeable future, but which are not yet available, the Planning commission may require that lots be so designed and arranged that they may readily be converted to urban type building sites without replatting. When such a condition prevails, land should be subdivided into lots so that by combining lots, a building site is created initially with an area of not less than the required for on-lot wells and/or sewage treatment systems. The creation of such a building site through use of multiple groups of lots shall be contingent upon the establishment for record of restrictive covenants satisfactory to the legal counsel of the Planning Commission, providing that no more than one dwelling unit shall be built on such an aggregate group of lots until such time as municipal-type water and sewer service is available.
- D. As a general guideline, the maximum depth of all residential lots shall not exceed two and one-half times the width thereof. For all other types of lots, the depth shall not exceed three times the width.
- E. The area of the street right-of-way shall not be included and calculated in the area of the lot with respect to minimum lot area requirements of these regulations or of any zoning regulations applicable to the property. Lots shall be required to have more than the minimum area dimensions provided for in this section where such greater area or dimensions are required to meet the yard requirements of the zoning regulations.
- F. There shall be no double frontage lots for individual dwellings (e.g., single and two-family units), except where the lots abut upon a limited access highway or arterial street or where the topography of the land prevents reasonable subdivision in small units. Double frontage lots

shall not have vehicular access between such lots and an abutting limited access highway or arterial street.

- G. Reversed frontage lots shall be avoided except where such are essential to provide a separation of residential development from limited access highways and arterial streets or to overcome specific disadvantages of topography and orientation.
- H. Corner lots for residential use shall have extra width, if necessary, to permit appropriate building setback from and orientation to both streets.
- I. Side lines of lots shall be at right angles or radial to the street line or substantially so.

@-----@

* **NOTE:** All public sanitary sewer systems and sewage treatment plants are further subject to the regulations of the Kansas Department of Health and Environment. .

111 **Easements.**

- A. Utility easements shall be provided where necessary and centered on rear or side lot lines. Such easements shall be at least 20 feet wide along rear lot lines and 10 feet wide along side lot lines, except that easements for street lighting purposes shall not in any event be required to exceed 10 feet. Side lot easements, when needed for other than street lighting purposes such as drainage, may exceed 10 feet.
- B. Drainage Easement. If a subdivision is traversed by a watercourse, drainage way or channel or a detention pond is constructed, then a storm water easement or drainage right-of-way shall be provided. Such easement or right-of-way shall conform substantially to the lines of such watercourse and location of a detention pond and shall be of such width or construction, or both, as may be necessary to assure adequate storm water drainage and for access for maintenance thereof. All drainage easements shall be vegetated with perennial grasses or otherwise stabilized to prevent soil erosion and sediment movement by wind or water. Parallel streets or parkways may be required in connection therewith. (See Section 2-102 for definition of DETENTION POND.)

In rural-type subdivisions, a triangular drainage and utility easement may be required at the corners of intersecting street rights-of-way. Where street rights-of-way intersect at 90 degrees, the limit of such easement would be defined by a line drawn between two points located on the right-of-way lines which are 25 feet back each way from the corner. All drainage easements will be vegetated with adapted perennial grasses or otherwise stabilized to prevent soil erosion and sediment movement by wind or water.

- C. Vision triangle easements may be required on any corner lot to provide an open and usable vision path for drivers of vehicles approaching the intersection. The extent of vision triangle easements shall be based on the type of intersection (3-way, four, protected, unprotected, etc.): the type of street (local, collector, arterial, commercial or industrial); topography; proposed street grades (if any); and the design speeds contemplated for such roadways. (See Section 2-102 for definition of

VISION TRIANGLE.)

- D. Wherever a lot or group of lots side or back on to an existing high pressure oil or gas transmission line, a building setback easement shall be established on each side of such line to the minimum safe standards as provided by the applicable oil or gas company to the subdivider or to such standards as may be adopted by the City, state or federal governments, whichever provides the most setback distance. The easement shall be provided on that part of the lot which abuts the oil or gas line and no principal buildings or structures shall be located or constructed within such an easement.
- E. A screening easement may be required to provide for fencing and/or an adequate area for the mature growth of landscaping with appropriate maintenance. (See Section 2-102 for definition of SCREENING.)

**112 Commercial and
Industrial
Subdivisions.**

- A. Streets. Notwithstanding the other provisions of these regulations, the minimum width of streets adjacent to areas designed, proposed or zoned for commercial or industrial use may be increased by the Planning Commission to such extent as may be deemed necessary to assure the free flow of through traffic without interference from parked or parking motor vehicles.
- B. Blocks and lots intended for commercial or industrial use shall be designed specifically for such purpose with adequate space set aside for off-street parking and loading.
- C. Marginal Access Street. When lots or blocks in a proposed commercial or industrial subdivision front on any limited access highway or arterial street, the subdivider may be required to dedicate and improve a marginal access street to provide ingress and egress to and from such lots or blocks.

ARTICLE 7.

100 Subdivision Types.

INSTALLATION OF REQUIRED IMPROVEMENTS

For the purposes of these regulations, subdivisions shall be classified as follows:

A. Urban Type Subdivisions.

1. All subdivisions located wholly within the corporate limits of the City.
2. All subdivisions located partially within, adjoining or touching the corporate limits of the City.
3. All subdivisions adjoining or touching the boundary of a tract of land for which annexation proceedings have commenced by the city or the owner has a pending request to be annexed.
4. All subdivisions adjoining or touching another subdivision which has previously received final plat approval by the city and adjoins or touches the corporate limits of the City.
5. All subdivisions which have or intend to have both municipal type water supply and sewage disposal systems, or are subdividing all or portions of the subdivision for commercial or industrial purposes, or for public or semi-public purposes which are directly related to an urban type residential subdivision. (Note: Service by a rural water district could be considered a “municipal type” if the particular size of pipes in that location permitted adequate quantity and pressure commensurate with urban needs.)

B. Rural Type Subdivisions. All other subdivisions required to be platted by these regulations not otherwise classified as the urban type as described in Section 7-100A.

101 Engineering and Governmental jurisdiction.

In setting certain standards and specifications, approving engineering drawings, inspecting improvements, recommending acceptance of improvements, preparing petition forms and establishing the amount of surety for guaranteeing the installation of such improvements; the engineer designated by the city, the County Engineer, or utility provider representative shall be designated as responsible for the improvements within their respective jurisdictions. The term “applicable” Governing Body may mean either the City Council for urban type subdivisions in the city or the township trustees or County Board of Commissioners for urban and rural type subdivisions in the unincorporated area. “The” Governing Body refers to the City only. Coordination to achieve cooperation among the governing bodies is the responsibility of the City and , in particular, the Subdivision Administrator.

102 Required Improvements.

As a condition to final plat approval, the subdivider of a proposed subdivision shall be responsible to install or, in cooperation with governmental bodies and utility companies, cause to be installed the following necessary facilities and improvements as listed below. The design and installation of such facilities and improvements shall include such sizing of pipes and extensions of streets as may be deemed desirable within the subdivision to facilitate development of adjacent land. All requirements are applicable to both urban and rural type

subdivisions as defined in Section 7-100 unless specifically described otherwise.

- A. All streets, alleys, curbs, gutters and street drainage facilities in urban type subdivisions shall be constructed in accordance with established City standards. All urban type streets shall be constructed of concrete, asphalt or asphaltic concrete and no gravel or sanded roadways shall be constructed. All roadways in rural type subdivisions shall be constructed in accordance with standards established by the County Engineer with gravel or sanded surface and no other materials such as oiled surface, macadam or similar materials shall be used. If other than gravel or sanded surface materials are particularly required, urban construction standards as described above shall apply. To accommodate any future improvements in both urban and rural areas, the entire right-of-way of collector and local streets and roadways shall be graded to match the level of the road surface. All stumps, trees that cannot be saved, boulders and similar items shall be removed from such right-of-way. In the unincorporated area, streets and roadways are subject to final acceptance by the applicable township trustee or the County.
- B. The storm drainage system shall be provided, separate and independent of the sanitary sewer system meeting all of the specifications and requirements of the city in urban type subdivisions or the County Engineer in rural types. Such storm drainage system shall be connected to any existing storm sewer system, where available , or if such connection is not available, other adequate means for the discharge of such storm water including the use of detention ponds shall be provided by the subdivider into the nearest major water channel. If it is determined that adequate drainage can be accomplished by a natural drainage way across private property, a drainage easement may be required; however, any initial channelization is the responsibility of the subdivider and continued maintenance the responsibility of the adjacent property owner(s)
- C. Sidewalks shall be constructed in accordance with standards set by the city in urban type subdivisions under the following conditions: (Also, see Section 6-109E for pedestrian ways.)
 - 1. Sidewalks may be required on one or both sides of the street when needed to service pedestrian traffic flow leading to schools, parks, shopping areas or places of public assembly and where heavy traffic would warrant sidewalks for safety purposes. Sidewalks may also be required in residential areas where the lot frontage is less than 150 feet. Sidewalks shall be required to extend or complete connecting links in the sidewalk system.
 - 2. In general, sidewalks shall be constructed with the inside edge of the sidewalk one foot outside the property line, except in the central business district.
 - 3. All sidewalks shall provide handicap access in conformity with K.S.A. 58-1301 et seq. and the federal Americans with disabilities act of 1990, 42 USCA 12101, as may be amended.
- D. Street signs of such location, type and size as shall be approved by the applicable Governing Body, giving due regard to the prevailing type,

size and pattern of location utilized throughout the area.

- E. Wherever a municipal type water supply system or its equivalent is required to be constructed by these by these regulations, such construction shall be in accordance with the standards and requirements set by the applicable agency supplying the water. In all other areas, a water supply shall be provided which meets the standards of the County Sanitary Code. In those areas where there is a municipal type water supply system, mains shall be of such size as to support the use of fire hydrants as required by Section 7-102F.
- F. Fire hydrants of the type and quality specified by City standards, but not less than the minimum standards of the national Board of Fire Underwriters, shall be provided wherever there shall be constructed a municipal type water supply system. Such hydrants shall be subject to the inspection and approval of the applicable Fire chief.
- G. Sanitary Sewer Systems.
 - 1. Wherever sanitary sewers are to be installed as required by these regulations, such sewers are to be constructed in accordance with standards set by the City subject to the regulations of the Kansas Department of Health and Environment.
 - 2. Wherever septic tank systems or wastewater lagoons are to be used for sewage disposal on individual lots, the determination of the suitability of the lot(s) and the standards for installation and inspection of such facilities shall be governed by the County Sanitary Code.
- H. Underground wiring in residential subdivisions, unless found to be unfeasible, is required for electric power, street lights and telephone service in urban type subdivision, except:
 - 1. For lines rated over 12,000 volts;
 - 2. Appurtenance serving such lines which may be mounted on the ground, such as transformers, transformer pads, telephone service pedestals and street light poles; or
 - 3. For those proposed subdivisions or replats of existing subdivisions located in areas which presently have an overhead type utility distribution system.

All such installation shall be under contract with the applicable utility provider. Cable television, if installed, shall be placed underground in accordance with the above requirements. Where telephone, electric, street lights and gas lines are placed underground entirely throughout a subdivision, conduits or cables shall be placed within easements or dedicated public ways in a manner which will not conflict with other underground services. Further, all transformer boxes shall be located so as not to be unsightly or hazardous to the public.

Nothing in this section shall be construed as requiring underground installation of lines beyond the boundaries of the area contained in the preliminary plat.

All utility lines for telephone and electric service, when carried on overhead poles in other than the above urban type subdivision, shall be placed in rear

lot line easements or designated side lot line easements.

- I. If screening of public or private areas is to be required, a screening plan of landscaping and/or fencing shall be prepared and approved by the planning Commission and such screening installed. (See Section 2-102 for definition of SCREENING.)
- J. Monuments as shown on the final plat shall be placed at all block corners, angle points, points of curves in streets, and at intermediate pints as shall be required by the applicable engineer. Monuments shall be made of iron rebar not less than 5/8" in outside diameter and not less than 18" in length set in concrete. All monuments shall be securely placed and set in such a manner that the top of the monument shall be at least 3" below finish grade ground level. Bench marks may also be required of such material, size and length as may be approved by the applicable engineer. (See Section 2-102 for definition of MONUMENT and Section 5-101D for monuments shown on the final plat.)
- K. Whenever existing sanitary or storm water sewers, water lines, drainage channels, culverts, underground or overhead electric and communication lines, gas lines, pipe lines, transmission lines are required to be relocated due to the subdivision or construction of improvements required as a condition of approval of the subdivision and in the event such was not known at the time of subdivision approval for any reason, the costs of such relocation shall be the sole responsibility of the subdivider.
- L. Where required, applicable measures will be taken during construction to minimize soil erosion and sedimentation by wind or water. Conservation standards shall be adhered to which have been adopted by the county Conservation District.

103 Exceptions for Existing Improvements.

- A. Where the proposed subdivision is a resubdivision or concerns an area presently having any or all required improvement as set out in Section 7-102 and where such improvements meet the requirements of said section and are in good condition as determined by the applicable Governing Body, no further provision need be made by the subdivider to duplicate such improvements. Where such existing improvements, however, do not meet the requirements, the subdivider shall provide for the repair, correction or replacement of such improvements so that all improvements will then meet the aforesaid requirements.
- B. Where the proposed subdivision is a resubdivision or concerns an area presently abutting or containing any existing public street of less than the minimum required right-of-way width or roadway width, land shall be dedicated in so far as is possible so as to provide for a minimum street right-of-way width and an additional roadway pavement meeting the minimum standards as set by these regulations. The applicable Governing Body shall determine what adjustment to make where the aforesaid widenings merge with existing streets which are of smaller width at the boundary of such proposed subdivision. The minimum right-of-way and roadway width required by these regulations may be

reduced to match an existing roadway system if the extension of such roadway is already improved at each end of the roadway in the subdivision.

104 Agreement and Guarantees for Installation of Required Improvements.

Except for monuments, one of the following methods shall be used by the subdivider to guarantee that improvements required by these regulations can or will be installed in accordance with approved plans and specifications. This does not preclude the possibility that the applicable Governing Body may, at its discretion and in recognition of its financial position, share in the cost of improvements, especially oversized improvements which may benefit other related areas or the municipality-at-large:

- A. Fiscal sureties may be offered and the following shall apply: (See Section 2-102 for definition of SUBDIVIDER’S AGREEMENT.)
 - 1. The subdivider shall enter into a **“Subdivider’s Agreement”** with the applicable Governing Body under which the subdivider agrees to install such required improvements. Such agreement shall be conditioned upon the acceptances of the final plat by the applicable Governing Body and filed with the applicable Clerk.
 - 2. Simultaneously with the execution of the **“Subdivider’s Agreement”** provided for in Section 7-104A1, the subdivider shall furnish a corporate completion bond by a firm authorized to do business in Kansas with good and sufficient sureties thereon or a cashier’s check, escrow account or irrevocable letter of credit in favor of the applicable Governing Body, in the amount of the estimated cost as approved by the official responsible for setting and enforcing the applicable design and construction standards of the installation of the required improvements. Such financial guarantee shall be conditioned upon the acceptance of the final plat and further conditioned upon the actual completion and satisfactory installation of such required improvements within two years from the date that the final plat is accepted by the Governing Body.
 - 3. Simultaneously with the execution of the **“Subdivider’s Agreement”** provided for in section 7-104A1, if the subdivider furnishes a corporate completion bond, he or she shall also deposit in escrow with the applicable Governing Body cash in the amount of 15% of the cost of all improvements to be made in accordance with the plans and specifications for required improvements or an equivalent amount in the form of a maintenance bond or other securities that may be deemed sufficient by the applicable Governing Body. If a subdivider furnishes a cashier’s check, escrow account or irrevocable letter of credit, 15% of the amount of such guarantees shall be returned by, or held as a deposit in escrow after, the final completion of such improvement. The subdivider shall agree that such deposit in escrow may be held by the applicable Governing Body for a period of 18 months after such improvements are completed for the purpose of:
 - a. Guaranteeing and securing the correction of any defect in

material or workmanship furnished for such improvements, latent in character, and not discernible at the time of final inspection or acceptance by the applicable Governing Body; and

- b. Guarantee against any damage to such improvements by reason of the settling of the ground, base or foundation thereof.

Such escrow agreement shall provide that, as such defects have so developed, that the deposit may be applied by the applicable Governing Body for any amounts incurred correcting such defects; and that the balance of such deposit, if any, held at the end of such 18-month period shall be returned by the applicable Governing Body to the depositor, or paid to the order of the depositor without payment of interest.

- B. Petitions to the applicable Governing Body may be submitted as a means of guaranteeing to such Governing Body the authority to install improvements at such time as they deem appropriate. Petitions may be submitted only when the following conditions exist:
 1. The petitions must be valid as may be provided for under Kansas law.
 2. The petitions must be approved by the applicable Governing Body concurrently with the acceptance of the final plat.
 3. The initiating resolution for such improvement must be adopted by the applicable Governing Body concurrently with the petition approval or as soon thereafter as may be provided by law. The cost of the publication of said resolution shall be born by the subdivider.
 4. A certificate signed by the petitioner must be recorded with the County Register of Deeds stating that such petitions have been filed and approved by the applicable Governing Body and that certain land within the plat as described will be liable in the future for special assessment for the required improvements authorized.
- C. For streets and related drainage only in rural type subdivisions, preconstruction of improvements as an alternative method of guaranteeing their installation may be used if approved by the County Governing Body. In this event, the subdivider may request such Governing Body to hold the final plat acceptance until such time as an inspection certifies that the required improvements have been properly constructed. Such a preconstruction procedure shall be temporarily conditioned on subsequent acceptance of the final plat and a time limit for actual construction mutually agreed upon. Maintenance guarantees may also be required if deemed desirable. (See section 7-104A3 for maintenance guarantee methods.)
- D. The subdivider shall, prior to the acceptance of the final plat, submit a letter from the utility provider(s) involved stating that satisfactory arrangements have been made by the subdivider guaranteeing the installation of their respective services.
- E. Monuments and bench marks shall be installed and their installation certified by a registered land surveyor on the final plat before such plat

is recorded with the County Register of Deeds. (See Section 5-101 Q 1 for Land Surveyor's Certificate.)

105 **Off-site**
Improvements.

The applicable Governing Body may, upon making a finding of necessity, require the subdivider to install or upgrade off-site improvements located outside the perimeter of a subdivision if such need is substantially created by a proposed subdivision. Such off-site improvements should be within dedicated rights-of-way or easements and serve a public purpose. The financing and guaranteeing of such improvements shall be administered as if they were the same as on-site improvements under Section 7-104. The applicable Governing Body may require such subdivision to participate in the following facilities and improvements, or any other off-site improvements as recommended by the Planning commission, if the need is created by a proposed subdivision:

- A. Drainage improvements;
- B. Pedestrian ways and sidewalks;
- C. Screening;
- D. Special grading requirements;
- E. Street improvements; or
- F. Traffic control devices.

ARTICLE 8.

**100 Submittal of
Petitions.**

IMPROVEMENT PROCEDURES

If petitions are proposed to meet the requirements of Article 7, the subdivider shall so indicate at the time of submittal of the preliminary plat. If the petition method is authorized by the applicable Governing Body, petitions shall accompany the final plat for approval by such Governing Body.

**101 Final
Improvement
Plans.**

When the use of petitions has not been requested by the subdivider or authorized by the applicable Governing Body and a letter(s) of satisfactory arrangements from a utility provider(s) are not being utilized to guarantee improvements (See Section 7-104D for letter from utility), the subdivider shall have prepared by an engineer (which may be contracted for privately or with any governmental agency or utility), engineering drawings for proposed required improvements containing the data and information specified in Section 8-101A. Such drawings shall be certified by a licensed engineer and shall be submitted to the applicable reviewing official in duplicate at least 20 days prior to the date that approval is requested.

- A. Content. The engineering drawings shall contain the following data plus additional information deemed necessary by the applicable engineer:
 - 1. Plans, details, specifications and cost estimates for roadway, alley and sidewalk construction; including plans, profile indicating existing topography and elevation including curb and sidewalk elevation when required, intersection control elevation and paving geometrics for each street with a typical cross section of the roadway. The profiles of grade lines shall be shown to a scale of one inch equals 100 feet horizontal, and one inch equals 10 feet vertical; or to a scale approved by the applicable engineer. This information shall be shown on a standard plan and profile sheets unless otherwise required by the engineer and use topographic information cited in Section 5-100B3.
 - 2. Plans, profiles, details, specifications and cost estimates of proposed storm drainage improvements.
 - 3. Plans, profiles, details, specifications and cost estimates of proposed water distribution system, water supply facilities and fire hydrants.
 - 4. Plans, profiles, details, specifications and cost estimates of proposed sanitary sewage system.
 - 5. All plans for other utilities such as for electric, gas and telephone shall be prepared by or at the direction of the utility providing the service.

- B. Review. The applicable engineer, official or agency responsible for determining specifications and standards shall review all engineering drawings in order to determine whether such drawings are consistent with the approved final plat and comply with the design standards. If such drawings are consistent and so comply, the reviewing official shall forward to the applicable Governing Body a notice to that effect. In the event that the drawings do not so comply, the reviewing official shall notify the subdivider of the specific manner in which such drawings do

not comply, and he may then correct such drawings. If such drawings are not corrected, the reviewing official shall forward to such Governing Body a notice as to the items of nonconformity or noncompliance.

102 **Construction of Improvements.**

No improvements shall be constructed nor shall any work preliminary thereto be done, except as provided for under a preconstruction agreement in rural-type subdivisions, until such time as the engineering construction drawings shall have been approved and there shall have been compliance with all of the requirements relating to the subdivider's Agreement and such guarantees as are specified in Section 7-104 of these regulations.

- A. **Inspection.** All improvements constructed or erected shall be subject to inspection by the applicable engineer or official responsible for setting and enforcing the applicable design and construction standards of the required improvements. The cost attributable to all inspections required by these regulations shall be charged to and paid by the subdivider. In so far as is possible, the subdivider shall give at least 48 hours notification to such official prior to the performance of any inspection work.
- B. **Inspection Procedures.** After notice is received as specified in Section 8-102A above, the applicable engineer or official designated may conduct an on-site inspection to determine that the work complies with the approved engineering plans and specifications. If in the opinion of such engineer or official, the work does not comply with such final drawings, he shall have authority to order that all such work shall be terminated until such time as necessary steps are taken to correct any defects or deficiencies. Upon the correction of such defects or deficiencies, the subdivider shall again notify the applicable engineer or official as provided in Section 8-102A that the work is again ready for inspection.
- C. **Final Inspection.** Upon completion of all improvements within the area covered by the final plat, the subdivider shall notify the applicable engineer or official designated in Section 8-102A above, who shall thereupon conduct a final inspection of all improvements installed. If such final inspection indicates that there are any defects or deficiencies in such improvements as installed, or if there are any deviations in such improvements as installed from the final engineering plans and specifications, he shall notify the subdivider in writing and the subdivider shall, at his sole cost and expense, correct such defects or deviations within six months of the date of notification. When such defects, deficiencies or deviations have been corrected, subdivider shall notify the official that the improvements are again ready for final inspection. After the final inspection is made and before acceptance of the improvement by the applicable Governing Body, the subdivider shall file a statement with the engineer or official which is executed by the subdivider, certifying that all obligations incurred in the construction of the improvement involved have been properly paid and settled.

103 **Acceptance of Improvements.**

If a final inspection indicates that all improvements as installed contain no unacceptable defects, deficiencies or deviations, within 15 days from the

submission of the subdivider's statement of obligation paid, the applicable engineer or official designated shall certify to the applicable Governing Body and utility provider(s) that all improvements have been installed in conformity with the engineering plans and specifications accompanying the final plat. Upon the receipt by the applicable Governing Body of such notification and in conformity with the requirements of these regulations and all other applicable statutes, ordinances and regulations, such Governing Body shall thereupon by resolution or utility by letter formally accept such improvements. The improvements shall become the property of such Governing Body or utility provider involved. Prior to this final action, however, neither the acceptance of the final plat, any subsequent annexation to the City or irrespective of any act(s) of employees, such actions shall not constitute their formal acceptance of improvements.

ARTICLE 9.

**100 Application
Procedure.**

PROCEDURE FOR APPROVAL OF LOT SPLITS

The Planning Commission is hereby authorized to approve or disapprove lots splits. An application with the required fee for a lot split approval shall be submitted to the Subdivision Administrator by the owner of the land. (See Section 3-109 for Fees.) Four copies of a drawing to scale of the lots involved if there are no structures on the lot shall accompany the application or four copies of a survey if there are structures on the lot showing the precise location of structures thereon. Each drawing or survey shall show the location, dimensions and legal description of the proposed split; the square footage contained in each portion of the original lot; all existing easements including public reservations such as building setback lines or access control and a certificate of approval as worded in Section 9-101C.

Written notices shall be distributed by the Administrator to all owners of land adjacent to the property proposed to be split including such owners across the street or other public way. The application for a lot split must be accompanied by a list of the names and addresses of all persons to receive notices. Such owners shall have 10 days from the date of mailing the notification to inform the Administrator of any protest or concerns they may have on the lot split. The 10 day waiting period may be waived upon presentation of a written statement of no objection from those to be notified.

**101 Approval
Guidelines.**

Approval or disapproval of lot splits shall be made based on the following guidelines:

- A. A lot split shall **not** be approved unless **all** the following requirements have or can be satisfied:
 - 1. A new street or alley is needed or proposed.
 - 2. A vacation of streets, alleys, setback lines, access control or easements is required and has not been satisfied.
 - 3. Such action will result in significant increases in service requirements, e.g., utilities, drainage, sidewalks, traffic control, streets, etc. or will interfere with maintaining existing service levels, e.g., additional curb cuts, repaving, etc.
 - 4. There is less street right-of-way than required by these regulations or the Comprehensive Plan unless such dedication can be made by separate instrument.
 - 5. All easement requirements have not been satisfied.
 - 6. Such split will result in a lot without direct access from its frontage to an opened public street. (See Section 6-106 for Access.)
 - 7. A substandard sized lot will be created or an existing structure will not be able to meet all yard requirements according to applicable zoning regulations or sanitary code.
 - 8. The lot is subject to periodic flooding which cannot be feasible corrected by fill.
 - 9. The lot has been previously split without replatting.
- B. The Planning Commission may make such additional requirements as deemed necessary to carry out the intent and purpose of existing land

development regulations and applicable Governing Body policy. Requirements may include, but not be limited to, the installation of public facilities, water supply and sewage disposal and/or the dedication of right-of-way and easements.

- C. The Planning Commission shall, in writing, either approve with or without conditions or disapprove the lot split within 45 days of application. If approved, and after all conditions have been met, the chairperson of the Planning Commission shall sign the following certificate of approval as required on the lot split drawing or survey. Acknowledgement of th certificate may be made by a notary public or by the County Clerk, Register of Deeds, Mayor or Clerk. (See K.S.A. 58-2211, as amended.)

CERTIFICATE OF LOT SPLIT APPROVAL

STATE OF KANSAS)
)ss
CITY OF ANDOVER)

I hereby certify that this lot split has been examined by the Andover City Planning Commission and found to comply with the subdivision Regulations of the City of Andover, Kansas, and is, therefore, approved for recording.

Date Signed: _____, 20__.

_____, Chairperson
(Print Name)

STATE OF KANSAS)
)ss
COUNTY OF BUTLER)

The foregoing instrument was acknowledged before me this ____ day of _____, 20 ____, by _____.

(SEAL)

_____, Notary Public

My appointment expires. _____

102 **Exception for** According to K.S.A. 12-752(f), a lot which is zoned for industrial purposes

Industrial Plats.

and for which a plat has been officially recorded may be further divided into two or more tracts without further replatting such a lot; provided, that none of the conditions under Section 9-101A is found to exist or has not otherwise been satisfied.

ARTICLE 10.

VACATIONS AND CORRECTIONS

100 **Vacation of
Unrecorded Plat.**

- A. Upon written request of the subdivider to the Planning Commission, a preliminary or final plat may be withdrawn from consideration either before or after approval by the Commission. Upon approval of the request by a motion of the Commission, the Subdivision Administrator is automatically directed to remove the case file from the city records.
- B. Upon written request of the subdivider to the Clerk, a final plat for which dedications, if any, have been accepted by the applicable Governing Body may be vacated by motion of such Governing Body; provided, that (1) the plat has not been recorded; (2) no lots have been sold or transferred; and (3) no improvements have been installed. After the plat is vacated, the Administrator shall see that all fiscal sureties are returned to the subdivider except for those expenditures which have been incurred by the City or county in administrative, legal or engineering costs prior to the date of the request for vacation. Upon the return of such sureties, the Administrator is automatically directed to remove the case file including any petitions from the city records.
- C. Upon determining from the County Register of Deeds that a final plat has not been recorded within 60 days from its final acceptance by the Governing Body or within 15 days after a final acceptance by the County Governing Body under the preconstruction procedures of Section 7-104C, the Administrator shall notify the subdivider that the plat is null and void and that the case file will be removed from the City records within 30 days unless a reapplication for platting is received during that time. (See Section 4-112 for Recording of Final Plat.)

101 **Vacation of
Recorded Plat.**

- A. (Inside the City or in the extraterritorial subdivision jurisdiction area.) Recorded plats may be vacated by either replatting according to Section 10-101A1 below or directly vacated according to Section 10-101A2:
 - 1. According to K.S.A. 12-512b, any recorded plat or part thereof or street, alley or other public reservation, including, without limitation, easements, dedicated building setback lines and access control, whether established by instrument, condemnation or earlier plats, shall be vacated both as to use and as to title without any further proceedings upon the filing and recording with the County Register of Deeds in accordance with K.S.A. 12-403, any plat or replat duly executed in accordance with these regulations which embraces the same lands as those heretofore embraced by the earlier plat or part thereof or street, alley or other public reservation. Streets, alleys or other public reservations which may be vacated shall revert, as provided for in K.S.A. 12-506, to abutting property owners according to their frontage thereon; provided, that such land to be reverted was derived directly or

indirectly from the owner of the land from which such street, alley or public reservation was originally platted. The proper completion of the Owner's Certificate and Dedication as required by Section 5-101Q2 shall constitute appropriate notice to all persons having property rights or interests affected by the above platting or replatting.

2. Recorded plats may also be vacated without replatting. The procedure is the same as provided for in Section 10-103.

**102 Correction of
Platting Errors.**

- A. According to K.S.A. 12-420, procedures are provided to correct certain platting errors. If, after recording a final plat, an error is found in distances, angles, bearings, subdivision or street names, block or lot numbers, the computation of dimension or elevation or other details of the plat, except in connection with the outer boundaries of the plat, and if the property described in that part of the plat containing the error is under the ownership of the person who caused the plat to be prepared, the applicable City or County Engineer, after substantiation of the existence of the error, may file an affidavit with the county Register of Deeds that the error was made. The affidavit shall describe the nature and extent of the error and the appropriate correction. The Register of Deeds shall record the affidavit and shall place in the margin of the recorded plat a notation that the affidavit has been filed, the date of filing and the book and page where it is recorded. The filing of the affidavit shall correct any such errors, but shall have no effect on the validity of the plat or any property interest recorded by reference thereto. A copy of the recorded affidavit shall be filed with the Subdivision Administrator. The county will bill the person requesting the correction for engineering costs and recording fees.

**103 Vacation of
Streets, Alleys,
Easements and
Plats.**

- A. (Inside the City only.) According to K.S.A. 12-504 and 505, the following procedures are provided to vacate streets, alleys or other public reservations such as, but not limited to public easements, dedicated building setback lines, access control, or a part thereof, and including all or parts of recorded plats:
 1. Petitions for vacations may be accepted by the Subdivision Administrator from the Governing Body, the owner of platted land or the owner of land adjoining on both sides of any street, alley, easement or other public reservation. All nongovernmental petitioners will be billed a processing fee. (See Section 3-109 for fees.) the Clerk on behalf of the Governing Body shall give public notices for two consecutive weeks (*no longer state statute*) in the city newspaper. Such notice shall state the nature of the vacation petition; the legal description of the property and the date, time

and place for the hearing before the Governing Body. The hearing may be adjourned from time to time and place for the hearing before the Governing Body. The hearing may be adjourned from time to time upon a motion to continue in the future at some stated date, time and place. If the Governing Body determines from the testimony presented that:

- a. Due and legal notice has been given'
- b. No private rights will be injured or endangered;
- c. The public will suffer no loss or inconvenience; and
- d. In justice to the petitioner(s) the vacation should be granted;

Then the Governing Body shall order that such vacation be approved and entered at length in the minutes. Such order may provide for the reservation to the City and/or the owners of any lesser property rights for public utilities, rights-of-way and easements for public service facilities originally located in such vacated land or planned for the future. Furthermore, the approval may be conditioned upon the petitioner's responsibility to remove or relocate all underground or surface utilities or paving in or on the vacated land. The petition shall not be approved if a written objection is filed with the Clerk, at or before the hearing, by any owner who would be a proper party to the petition, but has not joined therein. The Clerk shall certify a copy of the order to the County Register of Deeds; however, such certification shall be withheld until such time as any conditions attached to the order have been satisfied.

The Register of Deeds shall note on the recorded plat of the "townsite," i.e., the city, or the applicable platted addition, the words, "canceled by order" or "canceled in part by order" and give the book and page where recorded.

2. Prior to the above hearing by the Governing Body, the Planning Commission shall hold a public hearing to consider a recommendation to the Governing Body as to whether the vacation should be approved or disapproved and with or without conditions attached. The Commission by rule shall mail a notice 10 days before the hearing to all affected utility providers; all owners of and proposed for vacation; all landowners abutting a street, alley or easement including any segment remaining open; and owners on the opposite side of the street from vacations of setback and access control. The petitioner(s) shall provide a list of such landowners as required by the Subdivision Administrator, including names, addresses and zip codes. The Planning commission shall announce at their hearing when the Governing Body will hold its hearing on the vacation.
- B. (Inside the City only.) According to K.S.A. 14-423 and 423a, the following procedures are also provided to vacate streets, avenues, alleys or lanes, and including all or part of recorded plats, but not to include public easements, dedicated building setback lines or access control:
1. Petitions for vacations may be accepted by the Subdivision

Administrator from any person or governmental agency. All nongovernmental petitions will be billed a processing fee. (See Section 3-109 for Fees.) The Governing Body shall consider such vacation on its agenda and may make inquiry to any person, staff, utility provider or governmental agency it desires in order to determine the desirability of the vacation. No public hearing is required. If approved, the City Clerk shall publish the effectuating ordinance. Immediately upon publication, the City Clerk shall file a certified copy with the County Clerk to enter on the transfer records and then record the ordinance with the County Register of Deeds. No fee shall be charged by either office. The ordinance shall provide that the vacation shall become effective 30 days after publication unless one or more interested parties file a written protest with the City clerk before the expiration time. If such a protest is made, the Governing Body shall set a hearing date 10 days after the end of the 30-day waiting period and the protester(s) notified. The hearing may be continued from time to time and at the conclusion the Governing Body shall adopt a resolution confirming the vacation ordinance and filing the same with the county Clerk and Register of Deeds as before. If the resolution is not adopted, the vacation ordinance shall become null and void and the County Clerk and Register of Deeds so notified. Whenever a street, avenue, alley or lane is vacated whether in plat or not, the same shall revert to the adjacent owners in proportion to their frontage or proportion as to how it was acquired.

2. Prior to the initial consideration by the Governing Body, the planning Commission shall hold a public hearing and give notice in the same manner as provided for in Section 10-103A2.
- C. (In the extraterritorial subdivision jurisdiction area only.) According to K.S.A. 58-2613 through 2615, the following procedures are provided to vacate streets, alleys, public easements or public reservations, e.g., building setback lines and access control, and including all or parts of recorded plats:
1. The owners of any platted land proposed for vacation or the adjoining owners on both sides of any street, alley, public reservations, e.g., building setback lines and access control, and including all or parts of recorded plats:
 - a. Due and regular notices have been given;
 - b. The public will suffer no loss or inconvenience; and
 - c. No private rights will be injured or endangered; then the Commissioners shall order such vacation be made and entered in the minutes of the proceedings. No such vacation shall be granted; however, if the Governing Body protests against such vacation. Such order shall protect and provide for the property rights of public utilities, rights-of-way and easements for public service facilities in existence and use. The County Clerk shall record a certified copy of the order with the county Register of Deeds. The petitioner shall pay

the clerk for the cost of recording. (See Section 3-109 for Fees.)

2. Prior to the above hearing by the Board of County Commissioners, the Planning Commission shall hold a public hearing to consider a recommendation to the Governing Body as to whether the vacation should be recommended for approval with or without conditions attached by the County Commissioners or protested against. The Commission by rule shall mail a notice 10 days before the hearing to all affected utility providers; all owners of land proposed for vacation; all landowners abutting a street, alley or easement including any segment remaining open; owners on the opposite side of the street from vacations of setbacks and access control; and the County Engineer. The petitioner(s) shall provide a list of such landowners as required by the Subdivision Administrator, including names, addresses and zip codes. The Planning Commission shall announce at the hearing when the Governing Body will consider the vacation and, if available, the date, time and place of the County Commissioners; hearing. Unless the Governing Body deems it desirable to protest the vacation, a resolution shall be adopted to recommend the vacation to the County Commissioners which may or may not be subject to conditions. If conditions are required, the city Clerk shall refrain from certifying the resolution until such time as the conditions are satisfied. After certification, the City Clerk will provide the petitioner with a copy of the resolution.

ARTICLE 11.

APPEALS, WAIVERS AND MODIFICATIONS

- 100 Appeals General.** The subdivider of a proposed subdivision may appeal decisions made in the enforcement of these regulations by the Subdivision Administrator to the Planning Commission and by the planning Commission to the Governing Body. In the event the Governing Body sustains the Planning Commission, the action of the Planning Commission shall be final except as otherwise provided by law. If the Governing Body overrules the Planning Commission, the Governing Body shall make its decision, in writing or in the minutes of the meeting, stating the reason therefore and return such decision and plat to the Planning Commission for consideration of re-approval.
- 101 Appeals on Improvement Standards.** Any appeal as to approval of standards or plans and engineering drawings in connection with required improvements shall be directed to the applicable Governing Body and that action shall be final.
- 102 Waiver of Required Improvements or Guarantees for installation of Same.** Any waiver of the required improvements or guarantees for their installation may be made only by the applicable Governing Body on a showing that such improvements are not technically feasible or necessary.
- 103 Modifications.** In cases in which there is unwarranted hardship in carrying out the literal provisions of these regulations as to design criteria, the Planning Commission may grant a modification from such provision according to the following guidelines:
- A. A request for a modification shall be made to the Subdivision Administrator who shall transmit it to the Planning commission. The Planning Commission shall give the subdivider and any other interested person an opportunity to be heard with respect to the requested modification.
 - B. The Planning Commission shall not grant a modification unless it shall find that (1) the strict application of these regulations will create an unwarranted hardship; (2) modification is in harmony with the general spirit and intended purpose of these regulations; (3) the rights of adjacent property owners will not adversely be affected; and (4) the public safety, health and general welfare will be protected.
 - C. When used in this Section, the term “unwarranted hardship” shall mean the effective deprivation of use as distinguished from a mere inconvenience.
 - D. Modifications permitted under the provisions of this Article shall not include modifications from the requirements of improvement standards, required improvements or guaranteeing their installation unless approved by the applicable Governing Body as provided for in Sections 11-101 and 102. Furthermore, variances may not be granted from the provisions of applicable zoning regulations by these modification procedures.

ARTICLE 12.

AMENDMENTS AND REVIEW

**100 Amendment
Procedure.**

These regulations may be amended at any time after the Planning Commission shall have held a public hearing on the proposed amendment. A notice of such public hearing shall be published once in the official city newspaper so that at least **20 days shall elapse** between the publication date and the date of such hearing. Such notice shall fix the time and place for the hearing and shall describe such proposed amendment(s) in general terms. The hearing may be adjourned from time to time. At its conclusion, the Planning commission shall prepare its recommendations and by an affirmative vote of a majority of the entire membership of the commission adopt the proposed amendments to these regulations and submit them, together with the written summary of the hearing thereon, to the Governing Body. The Governing Body either may: (1) Approve such recommendations by ordinance; (2) override the Planning Commission recommendation by a 2/3 majority vote; or (3) return the same to the Commission for further consideration, together with a statement specifying the basis for the Governing Body's failure to approve or disapprove. If the Governing Body returns the commission's recommendations, the Commission after considering the same, may resubmit their original recommendations giving the reasons therefore or submit new and amended recommendations. Upon the receipt of such recommendations, the Governing Body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendations by an ordinance, or it need take no further action thereon. If the Commission fails to deliver its recommendations to the Governing Body following the Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the commission as a resubmission of the original recommendations and proceed accordingly. The amended regulations shall become effective upon publication of the respective adopting ordinance. A copy of such legal publication shall be added to the Appendix of these regulations.

101 Annual Review.

In order to maintain these regulations, the Planning Commission shall annually hold a public review at its regular meeting in January to consider amendments, if any, to these regulations. Notification of such a public review may be distributed to governmental agencies and interested parties. If amendments are deemed desirable, the amendment procedure as described in Section 12-100 shall be followed. During the intervening period between reviews, the Subdivision Administrator shall maintain a list of possible amendments which may be periodically brought to his or her attention.

102 Judicial Review.

As provided by K.S.A. 12-760, as amended, any ordinance, regulation or decision provided for or authorized by these regulations shall be reasonable and any person aggrieved thereby may have the reasonableness of any decision determined by bringing an action against the City within 30 days after a final decision is made by the city. Such action shall be brought in the Butler County District Court.

ARTICLE 13.

SEVERABILITY AND EFFECTIVE DATE

100 Severability.

If any part or provision of these regulations is adjudged unconstitutional or otherwise invalid by any court of competent jurisdiction, then such part or provision shall be considered separately and apart from the remaining parts or provisions of these regulations, and said part or provision to be completely severable from the remainder.

INDEX	
	A- Section
Abstract	5-101
Acceptance of Improvements	8-103
Access	6-106
Administrative Responsibility	3-100
Agreement- Installation of Required Improvements	7-104
Agreement- Subdivider's	7-104
Alleys-	6-108
Alleys-	7-102
Amendment Procedure	12-100
Annual Review	12-100
Appeals	11-100
Appeals on Improvement Standards	11-100
Applicability	1-104
Attorney's Opinion of Title	5-101
Authority	1-102
Bench Marks	7-104
Blocks and Pedestrian Ways	6-109
Building Permits	3-106
Cable Television	7-102
Certificate:	
City Attorney's Certificate	5-101
County Commissioners' Certificate	5-101
Governing Body Certificate	5-101
Lot Split Approval	9-101
Mortgage Holder	5-101
Notary Certificate	5-109
Owner's Certificate	5-101
Register of Deed's Certificate	5-101
Surveyor's Certificate	5-101
Transfer Record	5-101
Certificate, Petition	7-104
Commercial Subdivision	6-112
Completion Bond	7-104
Construction of Improvements	8-102
Contents:	
Final Plat	5-101
Preliminary Plat	5-100
Contradictory Regulations	2-100
Corrections	10-100
Cul-de-sacs	6-107
Cumulative Limitations	2-100

Curbs & Gutters	7-102
Dedications	4-111
Defective Material	
Correction	7-104
Guarantee	7-104
Definitions	2-102
Design Standards	6-100
Drainage	7-102
Drainage Easements	6-111
Drainage Improvements	7-105
Drainage Plan	5-101
Drainage Storm	7-102
Duties	
City Clerk	3-102
Governing Body	3-105
Planning Commission	3-104
Subdivision Administrator	3-101
Subdivision Committee	3-103
Easements	
Drainage Easements	6-111
Utility Easements	6-111
Vision Triangle Easements	6-111
Electric Power	7-102
Enforcement	3-107
Engineering and Governmental Jurisdiction	7-101
Engineering Drawings	
Cost Estimates	8-101
Details	8-101
Plans	8-101
Specifications	8-101
Engineering Drawings, Review	8-101
Erosion	6-104
Errors, Correction of Platting Platting Errors	10-102
Escrow	7-104
Exception for Industrial Plats	9-102
Exemptions	1-105
Existing Improvements	7-103
Fencing	7-102
Final Inspection	7-102
Final Inspection	8-102
Final Plat	4-106
Final Plat- Contents	5-101
Fire Hydrants	7-102

Flood Plan Violations	3-108
Flooding- Land Subject to	6-104
Government	7-101
Grades- Roadway Grades	6-107
Guarantees	
Completion Bond	7-104
Escrow	7-104
Improvements or Guarantees	11-102
Installation of Required Improvements	7-104
Letter of Credit	7-104
Petitions	7-104
Gutters & Curbs	
Gutters	7-102
Improvement Plans	8-100
Improvement Procedures	8-100
Improvement Resolution	7-104
Improvements	7-102
Improvements or Guarantees	11-101
Improvements, Acceptance	8-103
Improvements, Construction	8-102
Improvements, Existing	7-103
Improvements, Off-site	7-105
Industrial Subdivision	6-112
Inspection- Improvements	8-102
Inspection Procedures	8-102
Judicial Review	12-202
Jurisdiction	
Engineering and Governmental Jurisdiction	7-101
Landscaping	7-102
Letter of Credit	7-104
Local Streets	6-107
Lot	
Depth	6-110
Double frontage lots	6-110
Lot area	6-110
Reversed frontage lots	6-110
Width	6-110
Lot Splits	9-100
Lots	
Depth	6-110
Shape	6-110
Size	6-110
Width	6-110

Maintenance Guarantees	7-104
Modifications	11-100
Monuments	7-102 7-104
Off-site Improvements	7-105
Open Space	6-103
Parking Lanes	6-107
Parking Strips	6-107
Pedestrian Ways	7-105
Petitions	7-104
Petitions for Vacations	10-103
Petitions, Submittal	8-100
Planning Area	2-100
Jurisdiction	1-103
Plans, Improvement	8-101
Plats for Small Tracts	4-114
Platting Errors	10-102
Preliminary Plat	4-101
Contents	5-100
Private Agreements	2-100
Public Facility Sites	6-102
Purpose	1-101
Recording Final Plat	4-112
Reports	3-110
Reserve	6-103
Reserve Strips	6-107
Resolution Improvement	7-104
Restrictive Covenants	5-101
Resubdivision	7-103
Right-of-Way	6-107
Right-of-Way Arterial	6-107
Rights-of-Way	6-107
Rural Type Subdivision	7-100
Sanitary Codes	6-110
Sanitary Sewer	7-102
Screening	7-102 7-105
Septic Tank	6-110 7-102
Sewage lagoon	6-110
Sidewalks	7-102 7-105

Pedestrian Ways	7-102
Sight Distances Horizontal	6-107
Sketch Plan	4-100
Small Tract Plats	4-114
Solar Access	6-107
Storm Drainage	7-102
Street Signs	7-102
Street Improvements	7-105
Streets	6-107
Center line offsets of	6-107
Streets, Rural	
Collector	6-107
Local Residential	6-107
Rural Area	6-107
Streets, Urban	
Alleys	6-107
Collector	6-107
Local	6-107
Local Marginal Access	6-107
Urban Area	6-107
Streets- Layout and Design	6-107
Subdividers Agreement	7-104
Subdivision Type	7-100
Rural Type Subdivisions	7-100
Urban Type Subdivisions	7-100
Telephone	7-102
Title	1-100
Title Report	5-101
Traffic Control	7-105
Traffic Lanes	6-107
Transformer Boxes	7-102
Turn-around	6-107
Underground Wiring	7-102
Unit Developments	4-113
Unlawful Subdivision	2-100
Urban Type Subdivisions	7-100
Utility Easements	6-111
Utility Lines	7-102
Vacation	10-100
Vacation of Recorded Plat	9-102
Vacation of Streets, Alleys, Easements and Plats	10-103
Vacation of Unrecorded Plat	9-100
Vesting of Development Rights	2-100

Violations	3-108
Flood Plain Violations	3-108
Penalties	3-108
Remedies	3-108
Vision Triangle Easements	6-111
Waiver	11-100
Improvements or Guarantees	11-102
Wastewater Lagoon	6-110 7-102
Water Supply	6-110
Workmanship	
Correction	7-104
Guarantee	7-104
Zoning Permits	3-106