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SUBDIVISION REGULATIONS FINNEY COUNTY, KANSAS

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by Resolution No. 43-96

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October 21, 1996

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SUBDIVISION REGULATIONS

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ARTICLE

General Provisions

1.1 **Title.** These regulations shall officially be known, cited, and referred to as the Subdivision Regulations of Finney County, Kansas.

1.2 **Policy.**

1. It is declared to be the policy of the county to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the county pursuant to the official comprehensive plan of the county for the orderly, planned, efficient, and economical development of the county.
2. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land shall not be subdivided until adequate public facilities and improvements exist and proper provision has been made for drainage, water, sewerage, and capital improvements such as parks, recreational facilities, transportation facilities, and improvements.
3. The existing and proposed public improvements shall conform to and be properly related to the proposals shown in the Finney County, Kansas, Comprehensive Plan, Official Map, and the capital budget and program of the county, and it is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in building, zoning regulations, the Comprehensive Plan, Official Map and land use plan, and the capital budget and program of the county.
4. The land that has been subdivided prior to the effective date of these regulations should, whenever possible, be brought within the scope of these regulations to further the purposes of regulation(s) identified in Section 1.3.

1.3 **Purposes.** These regulations are adopted for the following purposes:

1. To protect and provide for the public health, safety, and general welfare of the county.
2. To guide the future growth and development of the county in accordance with the Finney County, Kansas, Comprehensive Land Use Plan.
3. To provide for adequate light, air, and privacy, to secure safety from fire, flood, and other danger, and to prevent overcrowding of the land undue congestion of population.
4. To protect the character and the social and economic stability of all parts of the county and to encourage the orderly and beneficial development of the community through appropriate growth management techniques assuring the timing and sequencing of development, promotion of infill development in existing neighborhoods and non-residential areas with adequate public facilities, to assure proper urban, suburban and rural form and open space separation of urban and suburban areas, to protect the environmentally critical areas and areas premature for urban and suburban development.
5. To protect and conserve the value of land throughout the county and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings.
6. To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and other public requirements and facilities.

7. To provide the most beneficial relationship between the uses of land buildings and the circulation of traffic throughout the county, having particular regard to the avoidance of congestion in the streets and highways and the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets and building lines.
8. To establish reasonable standards of design and procedures for subdivisions and resubdivisions in order to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land.
9. To ensure that public facilities and services are available concurrent with development and will have a sufficient capacity to serve the proposed subdivision and that the community will be required to bear no more than its fair share of the cost of providing the facilities and services through requiring the developer to pay fees, furnish land, or establish mitigation measures to ensure that the development provides its fair share of capital facilities needs generated by the development.
10. To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table, and to encourage the wise use and management of natural resources throughout the county in order to preserve the integrity, stability, and beauty of the community and the value of the land.
11. To preserve the natural beauty and topography of the county and to ensure appropriate development with regard to these natural features.
12. To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of development as established in the zoning regulation of the county.
13. To ensure that land is subdivided only when subdivision is necessary to provide for uses of land for which market demand exists and which are in the public interest.
14. To remedy the problems associated with inappropriately subdivided lands, including premature subdivision, excess subdivision, partial or incomplete subdivision, scattered and low-grade subdivision.

- 1.4 **Authority.** The Holcomb-Garden City-Finney County Area Planning Commission (hereinafter “Planning Commission”) is vested with the authority to review, approve, conditionally approve and disapprove applications for the subdivision of land, including sketch, preliminary, parcel and final plats. The Planning Commission may grant variances from these regulations pursuant to the provisions of Section 1.12. This authority is in accordance with K.S.A. 12-749 through 12-752 as may be amended from time to time.

Applications submitted for review in accordance with these regulations shall be complete. Incomplete submittals will be returned to the submitting party by the Secretary to the Planning Commission with a letter so stating. Timelines identified in these regulations shall not begin unless, and until, a complete application is submitted and accepted as complete by the Secretary to the Planning Commission. Complete applications shall be acknowledged by the Secretary to the Planning Commission by letter to the submitting party and/or owner.

1.5 **Jurisdiction.**

1. These regulations apply to all subdivision of land, as defined in Section 2.2 – Words and Terms Defined, located outside of any corporate limits all land within the boundaries of Finney County, Kansas as provided by law with the exception of the following identified property which is transferred to the City of Garden City Subdivision authority via Interlocal Agreement. (Resolution No. 22-98 – 8/17/98)
 - A TRACT OF LAND BEING THE Southeast Quarter of Section 4, Township 24 South, Range 32 West of the 6th P.M., Finney County, Kansas, except that portion that lies to the Northwest of a line that connects from the West Quarter Corner to the North Quarter Corner of the Southeast Quarter, and a tract of land described as follows:
 - Beginning 388.29 feet North and 40 feet West of the SE Corner of Section 4; thence North 400 feet; thence West 217.8 feet; thence South 400 feet; thence East 217.8 feet to the point of beginning, and
 - That portion of said Quarter that lies Southeast of the North right-of-way line of K-156.

- Three tracts of land located in Section 9, Township 24 South, Range 32 West, of the 6th P.M., Finney County, Kansas, more particularly described as follows:
 - Beginning at the Northeast corner of Section 9; thence South along the East Section line to the Southeast corner of said Section; thence West along the Section line to the intersection with the East right-of-way line of US 50/83 by-pass; thence North along the East right-of-way line of US 50/83 by-pass to the intersection with the South right-of-way line of K-156; thence in a Northeasterly direction along the South right-of-way line of K-156 to the intersection with the North Section line of Section 9; thence East to the Northeast corner as a point of beginning, except the South 200 feet of the East Half of the South East Quarter, and except the Jennie Barker Road and Schulman Road right-of-way, and
 - Beginning at the North Quarter corner of Section 9, Township 24 South, Range 32 West, of the 6th P.M., Finney County, Kansas; thence East along the North Section line for a distance of 969.00 feet to the point of beginning; thence South 00°00'00" West for a distance of 662.81 feet; thence at a bearing of South 46°54'13" East for a distance of 475.69 feet to the North right-of-way line of K-156; thence continuing along the North right-of-way line in a Northeasterly direction to a point that intersects the North Section line of Section 9; thence West along the North Section line of Section 9 to the point of beginning except the Mary Street right-of-way, and
 - The North 655 feet of the West 750 feet of the Northeast Quarter of Section 9 except the Highway 50/83 and Mary Street Rights-of-Way. (Resolution No. 21-99 – 7/19/99)
2. No land may be subdivided through the use of any legal description other than with reference to a plat approved by the Planning Commission in accordance with these regulations.
 3. All plans, plats or replats of land laid out in building lots, and the streets, alleys or other portions of the same, intended to be dedicated for public use or for the use of purchasers or owners of the lots fronting thereon or adjacent thereto, shall be submitted to the Holcomb-Garden City-Finney County Area Planning Commission for its consideration and approval as provided by law. Recommendation shall be submitted to the Board of County Commissioners of Finney County for their official consideration and action in the acceptance of right-of-way and easements dedicated/granted for public purpose. The Planning Commission shall determine if the plat conforms to the provisions of the subdivision regulations. If such determination is not made within sixty (60) days after the first meeting of such commission following the date of the submission of the plat to the Secretary thereof, such plat shall be deemed to have been approved and a certificate shall be issued by the Secretary of the Planning Commission upon demand. If the Planning Commission finds that the plat does not conform to the requirements of the subdivision regulations, the Planning Commission shall notify the owner or owners of such fact. If the plat conforms to the requirements of the Regulations, there shall be endorsed thereon the fact that the plat has been submitted to and approved by the Planning Commission.
 4. The Board of County Commissioners shall accept or refuse the dedication of land for public purposes within thirty (30) days after the first meeting of the Governing Body following the date of the submission of the plat to the County Clerk. The Board may defer action for an additional thirty (30) days for the purpose of allowing for modifications to comply with the requirements established by the Board. No additional filing fees shall be assessed during that period. If the Board defers or refuses such dedication, it shall advise the Planning Commission of the reasons therefor.
 5. The Planning Commission also shall have the authority to review and approve, development of lands subdivided prior to or following the effective date of these regulations as follows:
 - a. The plat of the subdivided land was recorded without the prior approval of the Planning Commission and the Governing Body whether or not prior approval was required at the time the land was subdivided and the plat contains contiguous lots in common ownership where one or more of the lots are undeveloped, whether the lots are owned by the original subdivider or an immediate or remote grantee from the original subdivider;

The plat of the subdivided land has been of record for more than five (5) years, was not approved after October 21, 1996 and contains contiguous lots in common ownership where one or more of the contiguous lots are undeveloped, and one or more is non-conforming under the zoning regulation, whether the lots are owned by the original subdivider or an immediate or remote grantee from the original subdivider;
 - b. The plat has been of record for more than five (5) years, was approved after October 21, 1996 and contains contiguous lots in common ownership where one or more of the contiguous lots are

- undeveloped, and one or more is non-conforming under the zoning regulation, whether the lots are owned by the original subdivider or an immediate or remote grantee from the original subdivider;
- c. The original subdivider or his successor failed to complete subdivision improvement requirements pursuant to a subdivision improvement agreement entered into when the plat contains contiguous lots in common ownership where one or more of the contiguous lots is undeveloped, whether the lots are owned by the original subdivider or an immediate or remote grantee from the original subdivider; except that this Section 1.5(3)(d) shall not apply if the county has obtained possession of sufficient funds from security provided by the subdivider with which to complete construction of improvements in the subdivision.
 - d. Whenever the jurisdiction of the Planning Commission extends to one of the situations described in Section 1.5(3)(a)-(d), only the sale or development of an undeveloped lot or lots contiguous to a lot or lots in common ownership shall be subject to these regulations.
6. No land described in this Section 1.5 shall be subdivided or developed until each of the following conditions has occurred in accordance with these regulations:
 - a. The subdivider or his agent has submitted a conforming sketch plat of the subdivision to the Secretary of the Planning Commission; and
 - b. The subdivider or his agent has obtained approval of the sketch plat, a preliminary or parcel plat when required, and a final plat from the Planning Commission and the Governing Body; and
 - c. The subdivider or his agent files the approved plats with the Register of Deeds for Finney County.
 - d. The Board of County Commissioners of Finney County, Kansas, by the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself from and makes inapplicable to it, the provisions of K.S.A. 12-749 relating to establishing subdivision regulations for all or for part of the unincorporated areas of the county by exempting agricultural land from the provisions hereof. [Resolution No. 21-96, January 22, 1996]
 7. No building or zoning permit or certificate of occupancy shall be issued for the use or construction of any structure upon any lot, tract or parcel of land located within the area governed by these Regulations or for any parcel or plat of land created by subdivision after the effective date of, and not in substantial conformity with, the provisions of these subdivision regulations, and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with these regulations.
 8. The Register of Deeds shall not file any plat or record of survey used in lieu of a plat until such plat shall bear the endorsement herein before provided and the land dedicated for public purposes has been accepted by the Board of County Commissioners.

1.6 **Enactment.** In order that land may be subdivided in accordance with these purposes and policies, these subdivision regulations are hereby adopted and made effective as of October 21, 1996. All applications for subdivision approval including final plats, pending on the effective date of these regulations shall be reviewed under these regulations except that these regulations will not apply if preliminary plat approval was obtained prior to the effective date of these regulations and the subdivider has constructed subdivision improvements prior to submission of the final plat as required by the county unless the Planning Commission determines on the record that application of these regulations is necessary to avoid a substantial risk of injury to public health, safety, and general welfare.

1.7 **Interpretation, Conflict, and Separability.**

1. **Interpretation.** In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.
 - a. **Public Provisions.** These regulations are not intended to interfere with, abrogate, or annul any other rule or regulation, statute, or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other rule or regulation, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.

- b. *Private Provisions.* These regulations are not intended to abrogate any easement, covenant or other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction imposes duties and obligations more restrictive or standards that are higher than the requirements of these regulations, or the determinations of the Planning Commission or the Governing Body in approving a subdivision or in enforcing these regulations, and the private provisions shall be operative and supplemental to these regulations and the determinations made under the regulations.
2. *Separability.* If any part or provision of these regulations or the application of these regulations to any person or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application direction involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The Governing Body hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.
- 1.8 Saving Provision.** These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the county under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation by lawful action of the municipality except as shall be expressly provided for in these regulations.
- 1.9 Reservations and Repeals.** Upon the adoption of these regulations according to law, the Subdivision Regulations of Finney County, Kansas, adopted December 28, 1995, as amended, are hereby repealed, except as to those sections expressly retained in these regulations.
- 1.10 Amendments.** For the purpose of protecting the public health, safety, and general welfare, the Planning Commission may from time to time propose amendments to these regulations which shall then be approved or disapproved by the Governing Body via Resolution and published in the official newspaper of the County.
- 1.11 Public Purpose.** Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the state to this county. The developer has the duty of compliance with reasonable conditions laid down by the Planning Commission for design, dedication, improvement, and restrictive use of the land to conform to the physical and economic development of the county and to the health, safety, and general welfare of the future lot owners in the subdivision and the community at large.
- 1.12 Variances, Exceptions, and Waiver of Conditions.**
1. *General.* Where the Planning Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances, exceptions, and waiver of conditions to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that the variance, exception, or waiver conditions shall not have the effect of nullifying the intent and purpose of these regulations; and further provided the Planning Commission shall not approve variances, exceptions, and waiver of conditions unless it shall make findings based upon the evidence presented to it in each specific case that:
- a. The granting of the variance, exception, or waiver of conditions will not be detrimental to the public safety, health, or welfare or injurious to other property;
- b. The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property;

- c. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;
 - d. The relief sought will not in any manner vary the provisions of the Zoning Regulation, Comprehensive Plan, or Official Map, except that those documents may be amended in the manner prescribed by law.
2. **Conditions.** In approving variances, exceptions, or waivers of conditions, the Planning Commission may require such conditions as will, in its judgment, secure substantially the purposes described in Section 1.3.
 3. **Procedures.** A petition for a variance, exception, or waiver of conditions shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the Planning Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

1.13 Enforcement, Violations, and Penalties.

1. **General.**

- a. It shall be the duty of the Secretary to the Planning Commission to enforce these requirements and to bring to the attention of the County Prosecuting Attorney or his designated agent any violations of these regulations.
 - b. No owner, or agent of the owner, of any parcel of the land located in a proposed subdivision shall transfer or sell any part of the parcel before a final plat of the subdivision has been approved by the Planning Commission in accordance with the provision of the regulations and filed with the Register of Deeds, Finney County, Kansas.
 - c. The subdivision of any lot or any parcel of land by the use of metes and bounds description for the purpose of sale, or development is prohibited.
 - d. No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of these regulations, nor shall the county have any obligation to issue certificates of occupancy or to extend utility services to any parcel created in violation of these regulations.
2. **Violations and Penalties.** Any person who violates any of these regulations shall be subject to a fine of not to exceed \$500.00 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 pursuant to the provisions of Section 12-761, Kansas Statutes Annotated.
 3. **Civil Enforcement.** Appropriate actions and proceedings may be taken in law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation and to prevent illegal occupancy of a building structure of premises. These remedies shall be in addition to the penalties described above.

ARTICLE

2

Definitions

2.1 Usage.

1. For the purpose of these regulations, certain numbers, abbreviations, terms, and words shall be used, interpreted, and defined as set forth in this Article.
2. Unless the context clearly indicates to the contrary, words used in the present tense included the future tense and words used in the plural include the singular.

2.2 Words and Terms Defined.

1. *Adequate Public Facilities.* Facilities determined to be capable of supporting and servicing the physical area and designated intensity of the proposed subdivision as determined by the Governing Body based upon specific levels of service.
2. *Administrative Assistant to the Planning Commission.* Known as the Secretary of the Planning Commission, the officer appointed by the Governing Body to administer these regulations and to assist administratively other Boards and Commissions. If no such officer is appointed, the Building and Zoning Inspector shall serve also as Administrative Assistant.
3. *Affordable Housing.* Housing that is affordable to low-income, or moderate-income persons as defined herein for the county and is constructed for occupancy exclusively for such low-income, or moderate-income person(s) for a period of not less than thirty (30) years. Affordable housing shall be constructed on a basement, the basement shall have a bathroom rough-in and window wells which have a 36"x36" clear open space outside of the window for each planned sleeping room. There shall be at least a half bath on the main floor, not exceed a turn-key cap of \$64,500 which will include land and home with paved streets, curbs, water and sewer utilities, sidewalks, open space in the development and limitation of home design on the same street or cul-de-sac of no more than four (4) units that have the same street elevation. The project may utilize through the use of a covenant or deed restriction, a development agreement.
4. *Affordable Unit.* A designated unit of affordable housing which is sold or rented to a household of low, or moderate income.
5. *Alley.* A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.
6. *Applicant.* The owner of land proposed to be subdivided or their representatives who shall have express written authority to act on behalf of the owner. Consent shall be required from the legal owner of the premises.
7. *Area of Benefit.* An area of land which is designated by the Planning Commission as receiving benefits from or creating the need for the construction, acquisition, or improvement of a Public Facilities Project.

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8. *Area Plan.* A document encompassing a specific geographic area of the local government which is prepared for the purpose of specifically implementing the local government comprehensive plan by (1) refining the policies of the comprehensive plan to a specific geographic area; (2) containing specific recommendation as to the detailed policies and regulations applicable to a focused development scheme. The area plan shall consist of goals, objectives and policies; requirements for capital improvements; the level of service required for public facilities; physical and environmental conditions; housing and land use characteristics of the area; and maps, diagrams, and other appropriate materials showing existing and future conditions.
9. *Area-related Facility.* A capital improvement which is designated in the capital improvements program as serving new development and which is not a site-related facility. Area-related facility may include land dedication or construction of an oversized capital improvement, whether located offsite, or within or on the perimeter of the development site.
10. *Assessment District.* See *Public Facility Service Area.*
11. *Average Density.* See *Cluster Zoning.*
12. *Base Price.* 2.5 times the median income for a family of four persons within Finney County, Kansas on the date on which a housing unit is sold.
13. *Base Rent.* Thirty percent (30%) of the median income for Finney County, Kansas.
14. *Block.* A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities.
15. *Bond.* Any form of a surety bond in an amount and form satisfactory to the Governing Body. The Governing Body shall approve all bonds whenever a bond is required by these regulations.
16. *Buffer.* See External Buffer.
17. *Building.* Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind.
18. *Building Overlay Zone.* A boundary on the zoning map which distinguishes between the requirement to obtain a building permit for all structures except those related to agricultural endeavors as determined by the Board of County Commissioners and the balance of Finney County which only requires building permits for commercial structures, industrial structures and residential dwelling units in "new" subdivisions

created after the adoption of this regulation. Agriculturally related structures are not required to obtain building permits.

19. *Building and Zoning Inspector.* The person designated by the local government to enforce the Zoning Regulation. If no Administrative Assistant to the Planning Commission is appointed to administer these regulations, the Building and Zoning Inspector shall administer these regulations.
20. *Capital Improvement.* A public facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the local government.
21. *Capital Improvements Program.* A plan setting forth, by category of public facilities, those capital improvements and that portion of their costs which are attributable to serving new development within designated service areas for such public facilities over a period of specified years (10-15). Capital improvements program may refer either to the plan for a particular service area or to the aggregation of capital improvements and the associated costs programmed for all service areas for a particular category of public facilities.
22. *Central Sewerage System.* A community sewer system including collection and treatment facilities established by the developer to serve a new subdivision in an outlying area.
23. *Central Water System.* A private water company formed by a developer to serve new subdivision in an outlying area. It includes water treatment and distribution facilities.
24. *Certify.* Whenever these regulations require that an agency or official certify the existence of some fact or circumstance, the county by administrative rule may require that such certification be made in any manner, oral or written, which provides reasonable assurance of the accuracy of the certification.
25. *Cluster Zoning.* A technique which allows lots to be reduced in size and buildings sited closer together provided the total development density does not exceed that which could be constructed on the site under conventional zoning and the remaining land is utilized for open space or public purposes.

26. *Collector Roads.* A road intended to move traffic from local roads to secondary arterials. A collector road serves a neighborhood or large subdivision and should be designed so that no residential properties face onto it.
27. *Common Ownership.* Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockbroker, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.
28. *Community Improvement District.* See *Public Facility Service Area.*
29. *Comprehensive Land Use Plan.* A comprehensive plan for development of the local government prepared and adopted by the Planning Commission, pursuant to State law, and including any part of such plan separately adopted and any amendment to such plan, or parts thereof.
30. *Concurrency.* Requirement that development applications demonstrate those adequate public facilities is available at prescribed levels of service concurrent with the impact or occupancy of development units.
31. *Condominium.* A unit available for sale in fee simple contained in a multi-occupancy project subject to covenants and restrictions placing control over the common facilities in an elected board.
32. *Construction of housing by a Sponsor.* Construction of housing units by an entity which includes the sponsor as a partner or joint venture, provided that the sponsor has general liability for the obligations of such entity. Construction of housing shall include rehabilitation of substandard, deteriorated units which:
 - a. Are unsafe, unsanitary, or a danger to the health, safety, or welfare of an occupant;
 - b. Have a rehabilitation cost in excess of \$20,000 per unit; and
 - c. Have been occupied continuously for three years prior to commencement of construction to rehabilitate the units, except for those units owned and operated by a government agency or a nonprofit organization.
33. *Construction Plan.* The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the Planning Commission as a condition of the approval of the plat.
34. *Contiguous.* Lots are contiguous when at least one boundary line of one lot touches a boundary line or lines of another lot. Touching does not mean at a cross section point.
35. *Cooperative.* An entire project which is under the common ownership of a Board of Directors with units leased and stock sold to individual cooperators.
36. *Credit.* The amount of the reduction of an impact fee or fees, payments or charges for the same type of capital improvement for which the fee has been charged.
37. *Cul-de-Sac.* A local street with only one outlet that terminates in a vehicular turnaround and having an appropriate terminal for the safe and convenient reversal of traffic movement. It shall serve twenty (20) or less lots, is less than 600 feet long and whose primary function is to provide access to abutting property.
38. *Design Criteria.* Standards that set forth specific improvement requirements.
39. *Designated Unit.* A housing unit identified and reported to Secretary of the Planning Commission by the sponsor of an office development project subject to Section 5.13 of these Regulations as a unit that shall be affordable to households of low or moderate income.
40. *Developer.* The owner of land proposed to be subdivided or its representative who is responsible for any undertaking that requires review and/or approval under these regulations. See *Subdivider.*
41. *Development Agreement.* Agreement between the Governing Body and developer through which the Governing Body agrees to vest development use or intensity or refrain from interfering with subsequent phases of development through new legislation in exchange for the provision of public facilities or amenities by the developer in excess of those required under current community regulations.
42. *Easement.* Authorization by a property owner for another to use the owner's property for a specified purpose.
43. *Equivalent Dwelling Units.* See *Service Unit.*

44. *Escrow*. A deposit of cash with the local government or escrow agent to secure the promise to perform some act.
45. *Exaction's*. Requirement of development to dedicate or pay for all or a portion of land or costs of public facilities as a condition of development approval.
46. *Expenditure*. A sum of money paid out in return for some benefit or to fulfill some obligation. The term includes binding contractual commitments whether by development agreement or otherwise to make future expenditures as well as any other substantial changes in position.
47. *External Buffer*. A naturally vegetated area or vegetated area along the exterior boundaries of an entire development processed in accordance with a multiphase or phased subdivision application which is landscaped and maintained as open space in order to eliminate or minimize conflicts between such development and adjacent land uses.
48. *Fair Share*. A properly balanced and well-ordered plan to meet the housing needs of the community and the region.
49. *Final Subdivision Plat*. The map of a subdivision to be recorded after approval by the Planning Commission and any accompanying material as described in these regulations.
50. *Flexible Zoning*. Zoning which permits uses of land and density of buildings and structures different from those which are allowed as of right within the zoning district in which the land is situated. Flexible zoning applications shall include, but not be limited to, all special permits and special uses, planned unit developments, group housing projects, community unit projects, and average density or density zoning projects.
51. *Frontage*. That side of a lot abutting on a street or way and ordinarily regarded as the front of the lot; but it shall not be considered as the ordinary side of a corner lot.
52. *Frontage Street*. Any street to be constructed by the developer or any existing street where development shall take place on both sides.
53. *Governing Body*. The body of the local government having the power to adopt regulations.
54. *Grade*. The slope of a road, street, or other public way specified in percentage terms.
55. *Health Department and Health Officer*. The agency and person designated by the Governing Body to administer the health regulations of the local government.
56. *Health, Safety, or General Welfare*. The purpose for which the county may adopt and enforce land use regulations for the prevention of harm or promotion of public benefit to the community; commonly referred to as police power.
57. *High Density*. Those residential zoning districts in which the density is equal to or greater than one dwelling unit per 10,000 square feet.
58. *Highway, Limited Access*. A freeway or expressway providing a traffic way for through traffic, in respect to which owners or occupants of abutting property on lands and other persons have no legal right to access to or from the same, except at such points and in such manner as maybe determined by the public authority having jurisdiction over the traffic way.
59. *Homeowners Association*. *See Property Owners Association*.
60. *Household*. Any person or persons who reside or intend to reside in the same housing unit.
61. *Impact Fee*. A fee imposed on new development by the local government pursuant to this article in order to mitigate the impacts on community facilities created by the demand for capital improvements by the new development. Impact fees do not include the dedication of rights-of-way or easements for such facilities, or the construction of such improvements.
62. *Improvements*. *See Lot Improvement or Public Improvement*.
63. *Individual Sewage Disposal System*. A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device.
64. *Infill Development*. Development designed to occupy scattered or vacant parcels of land which remain after the majority of development has occurred in an area.
65. *Landscaping*. Acting with the purpose of meeting specific criteria regarding uses of outside space, including ground cover, buffers, and shade trees.

66. *Linkage.* A program that requires developers constructing nonresidential structures to either construct affordable housing units or pay money in lieu of construction into a designated fund to provide housing for the future employees of the site.
67. *Local Government.* The county of Finney County, Kansas.
68. *Local Government Attorney.* The licensed attorney designated by the Governing Body to furnish legal assistance for the administration of these regulations.
69. *Local Government Engineer.* The licensed engineer designated by the Governing Body to furnish engineering assistance for the administration of these regulations.
70. *Local Road.* A road whose sole function is to provide access to abutting properties and to other roads from individual properties and to provide right-of-way beneath it for sewer, water, and storm drainage pipes.
71. *Lot.* A tract, plot, or 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 possession, or for building development.
72. *Lot, Corner.* A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding 135 degrees.
73. *Lot Improvement.* Any building, structure, place, work of art, or other object situated on a lot.
74. *Low Density.* Those residential zoning districts in which the density is equal to or less than one dwelling unit per 40,000 square feet.
75. *Major Subdivision.* All subdivisions not classified as minor subdivisions, including but not limited to subdivisions of four (4) or more lots, or any size subdivision requiring any new street or extension of the local government facilities or the creation of any public improvements.
76. *Market Value.* The fair market value of a designated unit at the time such value is determined by the Secretary to the Planning Commission.
77. *Master Preliminary Plat.* That portion of a preliminary plat submitted in connection with a multiphase or phased subdivision application which provides the information and graphics meeting the requirements of this ordinance for the purpose of implementing an integrated development scheme for all phases of the proposed subdivision.
78. *Medium Density.* Those residential zoning districts in which the density is between 10,000 and 40,000 square feet per dwelling unit.
79. *Minor Subdivision.* Any subdivision containing not more than three (3) lots fronting on an existing street, not involving any new street or road, or the extension of municipal facilities or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Finney County, Kansas, Comprehensive Land Use Plan; Official Map; Zoning Regulation, or these regulations.
80. *Model Home.* A dwelling unit used initially for display purposes which typifies the type of units that will be constructed in the subdivision and which will not be permanently occupied during its use as a model.
81. *Money in Lieu of Land.* Payment of money into a county earmarked fund to provide for acquisition of facilities off-site in place of dedicating land or providing such facility on site.
82. *Neighborhood Park and Recreation Improvement Fund.* A special fund established by the Governing Body to retain moneys contributed by developers in accordance with the "money in lieu of land" provisions of these regulations.
83. *New Development.* A project involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of land; any of which has the effect of increasing the requirements for capital improvements, measured by number of service units to be generated by such activity, and which requires either the approval of a plat pursuant to the County's subdivision regulations, the issuance of a building permit, or connection to the County's water or sanitary sewer system.
84. *Nonresidential Subdivision.* A subdivision whose intended use is other than residential, such as commercial or industrial.

85. *Notice of Noncompliance.* A notice issued by the Secretary to the Planning Commission informing the applicant for approval of a major subdivision that the sketch plat is not in compliance with these regulations and that the applicant may not apply for preliminary plat approval.
86. *Notice to Proceed.* A notice issued by the Secretary to the Planning Commission informing the applicant for approval of a major subdivision that the sketch plat is in compliance with these regulations and that the applicant may proceed to apply for preliminary plat approval.
87. *Offset.* The amount of the reduction of an impact fee designed to fairly reflect the value of area-related facilities or other oversized facilities, pursuant to rules herein established or administrative guidelines, provided by a developer pursuant to the local government's subdivision or zoning regulations or requirements.
88. *Off-Site.* Any premises not located within the area of the property to be subdivided, whether or not in the common ownership of the applicant for subdivision approval.
89. *Office Development Project.* Any new construction, addition, extension, conversion, or enlargement, or combination thereof, of an existing structure which includes any gross square feet of office space.
90. *Office Use.* Space within a structure or portion thereof intended or primarily suitable for occupancy by persons or entities which perform, provide for their own benefit, or provide to others at that location, services including but not limited to the following: professional, banking, insurance, management, consulting, technical, sales, and design; or the office functions of manufacturing and warehousing businesses, but excluding retail uses; repair; any business characterized by the physical transfer of tangible goods to customers on the premises; wholesale shipping, receiving, and storage; and design showcases or any other space intended and primarily suitable for display of goods.
91. *Official Map.* The map established by the Governing Body pursuant to law showing the streets, highways, parks, drainage systems and setback lines laid out, adopted, and established by law, and any amendments or additions to adopted by the Governing Body resulting from the approval of subdivision plats by the Planning Commission and the subsequent filing of approved plats.
92. *Ordinance.* Any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.
93. *Other Land Division.* The division of any land, lot, or parcel for the purposes of sale or lease for more than one (1) year, whether immediate or future, into: (a) Two or three lots, parcels or fractional interests, any one of which is less than forty (40) acres in area; (b) Two or more lots, parcels or fractional interest each of which is forty (40) acres or more, but less than 160 acres in area; (c) "Sale" or "lease" includes every disposition, transfer, or offer or attempt to dispose of or transfer land or an interest or estate thereof; (d) "fractional interest" means an undivided interest in land, lots, or parcels in which, for the purpose of sale or lease, such interest is created and such interest is evidenced by a receipt, certificate, deed, or other document conveying such interest.
94. *Outlying Communities.* The varied character of Finney County's unincorporated outlying communities requires special consideration. Development within designated communities may be urban, suburban or rural in character. This Plan permits the continuation of existing development patterns, including both residential and non-residential development. Depending on the character of the community and proposed development, urban, suburban or rural standards may apply.
95. *Owned Unit.* A designated unit which is a condominium, stock cooperative, or community apartment.
96. *Owner.* The record owners of the fee or a venter in possession, including any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under the definition of *Same Ownership*.
97. *Performance Criteria.* Regulation of development based on open space ratio, impervious surface ratio, density, and floor area ratio.
98. *Perimeter Street.* Any existing street to which the parcel of land to be subdivided abuts on only one (1) side.
99. *Person.* Any individual or group of individuals, or any corporation, general or limited partnership, joint venture, unincorporated association, or governmental or quasi-governmental entity.
100. *Phased Subdivision Application.* An application for subdivision approval submitted pursuant to a Master Preliminary Plat, or at the option of the subdivider, pursuant to a specific plan in which the

- applicant proposes to immediately subdivide the property but will develop in one or more individual phase(s) over a period of time. A phased subdivision application may include an application for approval of, or conversion to, horizontal or vertical condominiums, nonresidential development projects, planned unit developments, mixed-use projects, and residential developments.
101. *Planned Unit Development (PUD)*. A development constructed on a tract of minimum size under single ownership planned and developed as an integral unit and consisting of a combination of residential and/ or nonresidential uses on the land.
 102. *Planning Commission*. The local government's Planning Commission established in accordance with law.
 103. *Plat*. A plan, map, or chart of a piece of land with actual or proposed features (as lots, topography) as outlined in the regulations for sketch, preliminary, partial, minor or final plat. [See Subdivision Plat]
 104. *Police Power*. Inherent, delegated, or authorized legislative power for purposes of regulation to secure health, safety, and general welfare.
 105. *Preliminary Plat*. The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Planning Commission for approval.
 106. *Primary Arterial*. A road intended to move through traffic to and from major attractions such as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators within the governmental unit; and/or as a route for traffic between communities or large areas and/or which carries high volumes of traffic.
 107. *Property Owners Association*. An association or organization, whether or not incorporated, which operates under and pursuant to recorded covenants or deed restrictions, through which each owner of a portion of a subdivision, be it a lot, parcel site, unit, plot, condominium, or any other interest is automatically a member as a condition of ownership and each such member is subject to a charge or assessment for a pro-rated share of expense of the association which may become a lien against the lot, parcel, unit, condominium, or other interest of the member.
 108. *Public Facility* means [separately identify categories of public facilities and the types of improvements for which an impact fee will be charged for each such category under this article]. Public facility excludes those improvements that are site-related facilities.
 109. *Public Facility Impact Fee*. An impact fee to be imposed and collected for [identify category of public facility and define for each category for which a fee is to be charged].
 110. *Public Facility Improvements Program* [identify improvements program to correspond to public facilities for which an impact fee will be charged]. The adopted plan, as may be amended from time to time, which identifies the public facilities and their costs for each public facility benefit area or sub-area, which serve new development for a period not to exceed ten (10) years, which are to be financed in whole or in part through the imposition of public facilities fees pursuant to this article.
 111. *Public Facilities Project*. Any and all public improvements; the need for which is directly or indirectly generated by development, including but not limited to the following:
 - a. Water mains, pipes, conduits, tunnels, hydrants, and other necessary works and appliances for providing water service.
 - b. Lines, conduits, and other necessary works and appliances for providing electric power service.
 - c. Mains, pipes, and other necessary works and appliances for providing gas service.
 - d. Poles, posts, wires, pipes, conduits, lamps, and other necessary works and appliances for lighting purposes.
 - e. Sidewalks, crosswalks, steps, safety zones, platforms, seats, statuary, fountains, culverts, bridges, curbs, gutters, tunnels, subways or viaducts, parks and parkways, recreation areas, including any structures, buildings, and other facilities necessary to make parks and parkways and recreation areas useful for the purposes for which intended.
 - f. Sanitary sewers or instrumentality's of sanitation, together with the necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, disposal plants, connecting sewers, ditches, drains, conduits, tunnels, channels, or other appurtenances.
 - g. Drains, tunnels, sewers, conduits, culverts and channels for drainage purposes; with necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, disposal plants, connecting sewers, ditches, drains, conduits, channels, and appurtenances.

- h. Pipes, hydrants, and appliances for fire protection.
 - i. Breakwaters, levees, bulkheads, groins and walls of rock, or other material to protect the streets, places, public ways, and other property from overflow by water, or to prevent beach erosion or to promote accretion to beaches.
 - j. Retaining walls, embankments, buildings, and any other structures or facilities necessary or suitable in connection with any of the work mentioned in this section.
 - k. Compaction of land, change of grade or contours, construction of caissons, retaining walls, drains, and other structures suitable for the purpose of stabilizing land.
 - l. Works, systems, or facilities for the transportation of people, including rolling stock and other equipment appurtenant thereto.
 - m. All other work auxiliary to that described in subparagraph 12 which may be required to carry out that work, including terminal and intermediate stations, structures, platforms, or other facilities which may be necessary for the loading of people into and unloading of people from such transportation facilities.
 - n. The grading or regrading, the paving or repaving, the planking or replanking, the macadamizing or remacadamizing, the graveling or regrading, and the oiling or reoiling of streets.
 - o. Acquisition, construction, improvement, and equipping of temporary and permanent school buildings.
 - p. Acquisition, construction, improvement, and equipping of fire stations.
 - q. Acquisition, construction, improvement, and equipping of police stations.
 - r. Acquisition, construction, and installation of traffic signs, signals, lights, and lighting.
 - s. Public works maintenance facilities.
 - t. All other work auxiliary to any of the above which may be required to carry out that work including, but not limited to, the maintenance of Public Facilities Projects and administrative, engineering, architectural, and legal work performed in connection with establishing, implementing, and monitoring Public Facilities Projects.
 - u. Acquisition of any and all property, easements, and rights-of-way which may be required to carry out the purposes of the project.
111. *Public Facility Service Area.* The service area for [identify category of public facility and define for each category for which a fee is to be charged].
112. *Public Hearing.* An adjudicatory proceeding held by the Planning Commission preceded by published notice and actual notice to certain persons and at which certain persons, including the applicant, may call witnesses and introduce evidence for the purpose of demonstrating that plat approval should or should not be granted. Witnesses shall be sworn and subject to cross-examination. The rules of civil procedure binding on the courts shall not, however, bind the Planning Commission.
113. *Public Improvement.* Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may effect an improvement for which local government responsibility is established.
114. *Public Meeting.* A meeting of the Planning Commission or Governing Body preceded by notice, open to the public and at which the public may, at the discretion of the body holding the public meeting, be heard.
115. *Recoupment.* The imposition of an impact fee to reimburse the local government for capital improvements previously oversized to serve new development.
116. *Registered Engineer.* An engineer properly licensed and registered in the State of Kansas.
117. *Registered Land Surveyor.* A land surveyor properly licensed and registered in the State of Kansas.
118. *Rental Unit.* A designated unit which is not a condominium, stock cooperative, or community apartment.
119. *Resubdivision.* Any change in a map of an approved or recorded subdivision plat that affects any street layout on the map or area reserved thereon for public use or any lot line, or that affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

120. *Retail Use.* Space within any structure or portion thereof intended or primarily suitable for occupancy by persons or entities which supply commodities to customers on the premises including, but not limited to, stores, shops, restaurants, bars, eating and drinking businesses, and also including all space accessory to such retail use.
121. *Right-of-Way.* A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for any other special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.
122. *Road, Classification.* For the purpose of providing for the development of the streets, highways, roads and rights-of-way in the governmental unit, and for their future improvement, reconstruction, realignment, and necessary widening, including provision for curbs and sidewalks, each existing street, highway, road, and right-of-way, and those located on approved and filed plats, have been designated on the Official Map of the local government and classified therein. The classification of each street, highway, road, and right-of-way is based upon its location in the respective zoning districts of the local government and its present and estimated future traffic volume and its relative importance and function as specified in the Master Plan of the local government. The required improvements shall be measured as set forth for each street classification on the Official Map.
123. *Road, Dead-End.* A road or a portion of a road with only one (1) vehicular-traffic outlet.
124. *Road Right-of-Way Width.* The distance between property lines measured at right angles to the center line of the street.
125. *Rural Development Area (RDA).* This is an area where residents presently enjoy a rural lifestyle, wide open spaces and few neighbors. Most of the land in Finney County is included in this area type. Properties in these areas are generally at least five (5) acres in size, and many are much larger than this. Minimum lot sizes are established at forty (40) acres, with existing smaller ones being considered non-conforming. Specific authority will be developed to allow owners of a homestead to breakout up to three (3) lots, sized between two (2) acres and forty (40) acres and the owner will not be considered a subdivider. However, they will be required to prepare and record, after approval, a Parcel Plat [a minor subdivision plat] of the division.
126. *Sale or Lease.* Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, devise, intestate succession, or other transfer of an interest in a subdivision or part thereof, whether by metes and bounds or lot and block description.
127. *Screening.* Either (a) a strip at least ten (10) feet wide of densely planted (or having equivalent natural growth) shrubs or trees at least four (4) feet high at the time of planting, of a type that will form a year-round dense screen at least six (6) feet high; or (b) an opaque wall or barrier or uniformly painted fence at least six (6) feet high.
128. *Secondary Arterial.* A road intended to collect and distribute traffic in a manner similar to primary arterials, except that these roads service minor traffic-generating areas such as community commercial areas, primary and secondary educational facilities, hospitals, major recreational areas, churches, and offices and are designed to carry traffic from collector streets to the system of primary arterials.
129. *Security.* The letter of credit or cash escrow provided by the applicant to secure its promises in the subdivision improvement agreement.
130. *Service Area.* The area for a particular category of public facilities within the jurisdiction of the local government and within which impact fees for capital improvements will be collected for new development occurring within such area and within which fees so collected will be expended for those types of improvements for

that category of public facility identified in the public facility improvements program. Service areas may be subdivided into sub-areas for purposes of assuring that impact fees collected and expended therein reasonably benefit new development within such areas.

131. *Service Unit.* Either [identify, collectively, each service unit for each category of public facility for which an impact fee is to be charged], which is the standardized measure of consumption, use, or generation attributable to a new unit of development for that category of public facility and which is set forth in the impact fee schedules for that category of public facility.
132. *Setback.* The distance between a building and the street line nearest to the building.
133. *Shade Tree.* A tree in a public place, street, special easement, or right-of-way adjoining a street as provided in these regulations.
134. *Site-related facility.* An improvement or facility which is for the primary use or benefit of a new development and/or which is for the primary purpose of safe and adequate provision of [identify categories of public facilities for which an impact fee is to be charged] to serve the new development, and which is not included in the capital improvements program and for which the developer or property owner is solely responsible under subdivision or other applicable regulations.
135. *Sketch Plat.* A sketch preparatory to the preliminary plat (or final plat in the case of minor subdivisions) to enable the subdivider to save time and expense in reaching general agreement with the Planning Commission as to the form of the plat and the objectives of these regulations.
136. *Street.* See *Road.*
137. *Structure.* Anything constructed or erected.
138. *Subdivide.* The act or process of creating a subdivision.
139. *Subdivider.* Any person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who (2) directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest, lot, parcel site, unit, or plat in a subdivision, or, who (3) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel site, unit, or plat in a subdivision, and who (4) is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.
140. *Subdivision.* Any land, vacant or improved, which is divided or proposed to be divided into more than two (2) lots, parcels, sites, units, plots, condominiums, tracts, or interests for the purpose of offer, sale, lease, or development whether immediate or future, either on the installment plan or upon any and all other plans, terms, and conditions. Subdivision includes the division or development of residentially and non-residentially zoned land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument. Provided Subdivision tracts shall not again be divided without replatting such lot and condominium creation or conversion.
141. *Subdivision Agent.* Any person who represents, or acts for or on behalf of, a subdivider or developer, in selling, leasing, or developing, or offering to sell, lease, or develop any interest, lot, parcel, unit, site, or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal services.
142. *Subdivision Improvement Agreement.* A contract entered into by the applicant and the Planning Commission on behalf of the municipality by which the applicant promises to complete the required public improvements within the subdivision within a specified time period following final subdivision plat approval.
143. *Subdivision, Major.* See *Major Subdivision*
144. *Subdivision, Minor.* See *Minor Subdivision*
145. *Subdivision Plat.* The final map or drawing, described in these regulations, on which the subdivider's plan of subdivision is presented to the Planning Commission for approval and which, if approved, may be submitted to the County Clerk or Recorder of Deeds for filing.
146. *Suburban Development Area (SDA).* This is an area intended for development of lower density residential neighborhoods with some of the amenities of urban areas. Suburban lot sizes range from two to five acres in size with a typical lot size of 2.5 acres. Neighborhood commercial uses will be permitted at appropriate locations where they are compatible with adjacent uses and infrastructure.
147. *Temporary Improvement.* Improvements built and maintained by a subdivider during construction of the subdivision and prior to release of the performance bond.

148. *Tract*. A lot. The term "tract" is used interchangeably with the term "lot," particularly in the context of subdivision, where a "tract" is subdivided into several lots, parcels, sites, units, plots, condominiums, tracts, or interests.
149. *Transfer of Development Rights*. The conveyance of development rights by deed, easement, or other legal instrument, authorized by ordinance or regulation, to another parcel of land and the recording of that conveyance.
150. *Urban Development Area (UDA)*. This area known as the "urban overlay" is intended to provide for more intense residential and non-residential development near cities and in outlying communities. While residential densities typically will range from two to five dwellings per acre, high density development of up to 25 units per acre may be permitted. Urban services and facilities will be required for both residential and non-residential development in this area.
151. *Use to Use Relationship*. Focusing on the unique aspects of established, newly developed and redeveloping neighborhoods, and commercial/industrial areas in order to achieve improved compatibility and fit of infill development projects and at the same time assist in the preservation and conservation of stable existing neighborhoods and commercial areas.
152. *Vehicle-Non-Access-Easement [VNAE]*. An easement on the rear of a "double-fronted" lot which is one (1') foot wide and has erected upon it a solid six (6') foot wall of block, brick or stone or combination of materials as approved by the Planning Commission. The utilization of an VNAE will negate the requirement of double front yard setbacks. The VNAE is preferred over double fronted lot designs.
153. *Vested Rights*. Right to initiate or continue the establishment of a use which will be contrary to a restriction or regulation coming into effect when the project associated with the use is completed.

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ARTICLE

3

Subdivision Application Procedure and Approval Process

3.1 General Procedure.

1. **Classification of Subdivisions.** Before any land is subdivided the owner of the property proposed to be subdivided, or his authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the following procedures, which include two (2) principal steps for a minor subdivision and three (3) principal steps for a major subdivision:
 - a. *Minor Subdivision.*
 - i. Sketch Plat
 - ii. Final Subdivision Plat
 - b. *Major Subdivision.*
 - i. Sketch Plat
 - ii. Preliminary Plat
 - iii. Final Subdivision Plat
 - c. *Parcel Plat Subdivision*
 - i. Other Land Division
 - ii. One Submission to the Secretary of Planning Commission for Review, recommendation of Approval or Disapproval, signature of Chairman, County Commission and the County Engineer.
2. **Official Subdivision Dates.** For the purposes of these regulations, for both parcel plat, major and minor subdivisions, the date of the meeting of the Planning Commission at which the public meeting or hearing on approval of a sketch, preliminary or final subdivision plat, including any adjourned date thereof, is closed, shall constitute the Official Submission Date of the plat on which the statutory period required for formal approval, conditional approval or disapproval of the sketch, preliminary or final subdivision plat shall commence to run.
3. **Coordination of Flexible Zoning Application with Subdivision Approval.**
 - a. It is the intent of these regulations that subdivision review be carried out simultaneously with the review of flexible zoning application under the Zoning Regulation. The plans required for flexible zoning applications shall be submitted in a form to satisfy the requirements of the subdivision regulations.
 - b. *General Requirement.* Whenever the Zoning Regulation authorizes flexible zoning applications which permit uses of land and density of buildings and structures different from those which are allowed as of right within the zoning district in which the land is situated, and the application entails the division of the land, vacant or improved, into two (2) or more lots, parcels,

sites, units, plots, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any or all other plans, terms, or conditions, including resubdivision, whether residential or nonresidential, with the exception that lots zoned for industrial purposes may be divided into two (2) or more tracts without replatting such lot, and subdivision approval by the Planning Commission shall be required in addition to all other procedures and approvals required in the Zoning Regulation, whether or not applicable zoning procedures also require Planning Commission approval, review or recommendation. Flexible zoning applications shall include, but not be limited to, all conditional permits and conditional uses, planned unit developments, group housing projects, community unit projects, average density or density zoning projects, and shall apply to all such applications, whether before the Governing Body, Board of Zoning Appeals, Planning Commission, Building and Zoning Inspector, or other official or agency of the local government.

c. *Procedure to Be Followed:*

- i. *Sketch Plat and Preliminary Plat Approval Required.* Whenever a flexible zoning application is submitted which involves a subdivision of land as set forth in Section 3.1(3)(b) of these regulations, the application shall be submitted first to the Secretary of the Area Planning Commission who is authorized to accept the application under the Zoning Regulation. The application shall be made on the forms required for a sketch plat as set forth in Section 3.2 of these regulations and shall include all information required of a sketch plat application as set forth in Sections 3.2 and 7.1. The Secretary of the Area Planning Commission shall then refer the application to the Planning Commission for sketch plat and, when required, preliminary plat approval. The Planning Commission shall also, when applicable under the provisions of the Zoning Regulation, make such reviews of use, density, and bulk standards as are required under the flexible zoning regulation.
- ii. *Referral Back for Zoning Approval.* After completing its review the Planning Commission shall make the approved sketch plat and/or preliminary plat (when required) a conditional approval, or disapproval, together with such recommendations and review of use, density, and bulk standards as it was required to make under the flexible zoning regulation of the Zoning Regulation, to the Governing Body, authorized under the Zoning Regulation to approve the zoning application. Application shall then be made to the Planning Commission for final plat approval. No building permits or certificates of occupancy shall be issued for the project until the zoning application has been finally approved and the final subdivision plat is recorded with the Register of Deeds for Finney County, Kansas.

4. *Subdivision Fees.*

- a. Major Subdivision Sketch Plat: \$50.00 plus \$10.00 per lot.
- b. Minor Subdivision Sketch Plat: \$30.00 plus \$5.00 per lot.
- c. Revised Subdivision Sketch Plat (Not requested by Planning Commission)
 - i. Minor Revision: \$25.00 plus \$5.00 per lot.
 - ii. Major Revision: \$40.00 plus \$10.00 per lot.
- d. Major Subdivision Preliminary Plat: \$75.00 plus \$10.00 per lot.
- e. Minor Subdivision Preliminary Plat: \$50.00 plus \$5.00 per lot.
- f. Revised Subdivision Preliminary Plat (Not requested by Planning Commission)
 - i. Minor Revision: \$25.00 plus \$5.00 per lot.
 - ii. Major Revision: \$40.00 plus \$10.00 per lot.
- g. Major Subdivision Final Plat: \$ 50.00 plus \$5.00 per lot.
- h. Minor Subdivision Final Plat: \$ 30.00 plus \$5.00 per lot.
- i. Amended Major Final Plat: \$40.00 plus \$3.00 per lot.
- j. Parcel Plat: \$50.00 plus \$10.00 per lot.
 - i. Minor Revision: \$25.00 plus \$5.00 per lot.
 - ii. Major Revision: \$40.00 plus \$ 5.00 per lot.
- k. Application for Petition of Exception: \$100.00 for each requested variation of the regulation not submitted at the Preliminary or Revised Preliminary Plat review stage.

- l. Application for Reversion to Acreage or Abandonment: \$50.00 minimum plus \$5.00 per acre for areas larger than two (2) acres, with a maximum application fee of \$150.00 dollars, all properties on any single application must be contiguous.
- m. Government Agencies with Architect/Engineer Seal: NO FEE.
- n. Roadways, P.U.E., DE, etc. or Abandonment: \$50.00
- o. Manufactured Home Subdivisions: \$150.00 plus \$5.00 per space
- p. *NOTE: Air Space and Parcels are considered the same as lots.*

3.2 Sketch Plat.

1. **Discussion of Requirements.** Before preparing the sketch plat for a subdivision, the applicant shall schedule an appointment and meet with the Secretary to the Planning Commission to discuss the procedure for approval of a subdivision plat and the requirements as to general layout of streets and for reservations of land, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing services, including schools. The Secretary shall also advise the applicant, when appropriate, to discuss the proposed subdivision with those officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction.
2. **Application Procedure and Requirements.** Prior to subdividing land and after meeting with the Secretary, the owner of the land, or his authorized agent, shall file an application for approval of a sketch plat with the Planning Commission. The application shall:
 - a. Be made on forms available at the office of the Secretary of the Planning Commission;
 - b. Include all contiguous holdings of the owner including land in “common ownership” as defined in these regulations, with an indication of the portion which is proposed to be subdivided, accompanied by an affidavit of ownership, which shall include the dates the respective holdings of land were acquired, together with the book and page where each conveyance to the present owner is recorded in the Register of Deeds Office. The affidavit shall advise as to the legal owner of the property, the contract owner of the property, the date the contract of sale was executed, and, if any corporations are involved;
 - c. Be accompanied by minimum of seven (7) copies of the sketch plat as described in these regulations and complying in all respects with these regulations;
 - d. Be presented to the Secretary to the Planning Commission in duplicate;
 - e. Be accompanied by a fee as stipulated in Section 3.1(4); also
 - f. The application shall include an address and telephone number of an agent located within the territory of the local government who shall be authorized to receive all notices required by these regulations.
3. **Classification and Approval Procedure.** The Secretary shall determine whether the sketch plat constitutes a major, minor or other land division subdivision and notify the applicant of the classification within twenty (20) days from the date that the sketch plat is submitted to the Secretary.
 - a. **Minor Subdivision.** If the sketch plat constitutes a minor subdivision, the Secretary shall place the matter on the next available regular meeting agenda of the Planning Commission for formal approval, disapproval or conditional approval of the sketch plat following a public hearing. The Commission shall provide notice and hold public hearing on the sketch plat in the same manner required for preliminary plats in Section 3.3 (2). The Planning Commission shall approve, conditionally approve, or disapprove the sketch plat within thirty (30) days from the Official Submission Date. Subsequent to an approval or conditional approval by the Planning Commission, the applicant may proceed directly to the filing of an application for approval of a final subdivision plat as provided in these regulations. If the sketch plat of a minor subdivision is disapproved by the Planning Commission, the applicant may appeal to the governing body as provided in Section 3.8. The applicant shall have one (1) year from the date that the sketch plat is

approved by the Planning Commission (or Governing Body upon appeal) to submit a final subdivision plat, after which time a new sketch plat must be submitted for approval in accordance with the regulations at the time of new submittal.

b. *Major Subdivision.*

i. *Notice to Proceed.*

If the sketch plat constitutes a major subdivision, *the Secretary shall issue a Notice to Proceed only if the sketch plat complies with all applicable laws governing the subdivision of land.* The Notice to Proceed shall include, as appropriate, Recommended changes in the sketch plat to be incorporated into the preliminary plat to assist the applicant in obtaining preliminary plat approval from the Planning Commission. If the Secretary determines that the sketch plat does not comply with all applicable laws governing the subdivision of land and the applicant refuses to modify the sketch plat, the Secretary shall issue a Notice of Noncompliance. The Secretary shall issue either the Notice to Proceed or the Notice of Noncompliance not later than twenty (20) days after the date on which the sketch plat was submitted to the Secretary. After receipt of a Notice to Proceed, the applicant must first file an application for approval of a preliminary plat, as provided in these regulations, before filing for final subdivision plat approval.

ii. *Referral of Sketch Plat.*

If the Secretary issues a Notice to Proceed, the Secretary shall transmit the sketch plat for review to appropriate officials or agencies of the local government, adjoining counties or municipalities, school and special districts, and other official bodies as it deems necessary or as mandated by law. The Secretary shall request that all officials and agencies to whom a request for review has been made, submit their report to the Secretary within thirty (30) days after receipt of the request. The Secretary will consider all the reports submitted by the officials and agencies concerning the sketch plat and shall submit a report to the Planning Commission upon the applicant's submission of a preliminary plat.

3.3 Preliminary Plat. No sooner than thirty (30) days and no later than 120 days after the date of the Notice to Proceed, the applicant may apply for preliminary plat approval. If the applicant fails to apply for preliminary plat approval within the 120-day period, a new sketch plat must be submitted following the applicable regulations in effect at the time of filing.

1. ***Application Procedure and Requirements.*** Based on the Notice to Proceed, the applicant shall file in duplicate with the Secretary an application for approval of a preliminary plat if it elects to proceed. The preliminary plat shall conform substantially to the sketch plat submitted by the applicant and which formed the basis for the notice to Proceed. The application shall:

- a. Be made on forms available at the office of the Secretary to the Planning Commission together with a fee as stipulated in Section 3.1(4).
- b. Include all land which the applicant proposes to subdivide and all land immediately adjacent extending one hundred (100') feet from the subject property, or of that directly opposite the subject property, extending one hundred (100') feet from the street frontage of opposite land, with the names of owners as shown in the Assessor's files.
- c. Be accompanied by a minimum of ten (10) copies of the preliminary plat as described in these regulations.
- d. Be accompanied by a minimum of three (3) copies of construction plans as described in these regulations.
- e. Comply in all respects with the sketch plat.
- f. Be presented to the Secretary to the Planning Commission at least four (4) weeks prior to a regular meeting of the Commission.

2. ***Public Hearing.*** Upon receipt of a formal application for preliminary plat approval and all accompanying material, the Secretary to the planning Commission shall call a public hearing for the

next scheduled meeting of the Planning Commission to be held at least four (4) weeks after the date of the application. The Secretary shall post notice of the public hearing by Agenda of the Planning Commission on the public bulletin board outside of the office of the Secretary of the Planning Commission at least fifteen (15) days prior to the public hearing and mail notices to all property owners, as specified in Section 3.3 (1) (b), and shall maintain file copies of the plat and construction plans when appropriate for public review prior to the hearing.

3. **Preliminary Approval.** After the Planning Commission has reviewed the preliminary plat and construction plans, the report of the Secretary, any municipal recommendations and testimony and exhibits submitted at the public hearing, the applicant shall be advised of any required changes and/or additions. The Commission shall approve, conditionally approve, or disapprove the preliminary plat within thirty (30) days from the Official Submission Date. One (1) copy of the proposed preliminary plat shall be returned to the developer with the date of approval, conditional approval, or disapproval and the reasons therefore accompanying the plat. Before the commission approves a preliminary plat showing park reservation or land for other local government use that is proposed to be dedicated to the local government, the Commission shall obtain approval of the park or land reservation from the Governing Body. If the Planning Commission disapproves the proposed subdivision, the applicant may execute an appeal in the manner prescribed in Section 3.8.
4. **Standards for Approval of Preliminary Plats.** No preliminary plat of a proposed subdivision shall be approved by the Planning Commission unless the applicant proves by clear and convincing evidence that:
 - a. Definite provision has been made for a water supply system that is sufficient in terms of quantity, dependability, and quality to provide an appropriate supply of water for the type of subdivision proposed;
 - b. If a public sewage system is proposed, adequate provision has been made for such a system and, if other methods of sewage disposal are proposed, that such systems will comply with federal, state, and local laws and regulations;
 - c. All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the subdivider and that the proposed uses of these areas are compatible with such conditions;
 - d. The subdivider has the financial ability to complete the proposed subdivision in accordance with all applicable federal, state, and local laws and regulations;
 - e. There is not other available subdivided land in the jurisdiction of the county that would be suitable for the applicant's proposed uses of the subdivision;
 - f. The proposed subdivision will not result in the scattered subdivision of land that leaves undeveloped parcels of land lacking urban, suburban or rural services between developed parcels;
 - g. The subdivider has taken every effort to mitigate the impact of the proposed subdivision on public health, safety, and welfare;
 - h. The subdivider at this time shall submit for Governing Body approval, a proposed Developers Agreement which shall be a condition for approval of the Final Plat.

The Planning Commission is authorized to disapprove the preliminary plat even though the land proposed for subdivision is zoned for the use to which the proposed subdivision will be put and the proposed use is consistent with the Finney County, Kansas, Comprehensive Land Use Plan.

5. **Other Land Divisions.** Certain basic improvements and design standards may be necessary and desirable in order to insure proper development of any specific area. Therefore, some of these basic improvements and design standards are also needed when other land divisions are involved. These provisions are necessary to prevent circumventing the intent and spirit of these Subdivision Regulations.

The creation of up to three (3) lots on "homestead" lands used for agricultural purposes shall be permitted without requiring a rezoning; however, they must follow the Parcel Plat procedure of Finney County. These divisions shall be a minimum of five (5) acres to forty (40) acres in size. However, a minimum size of two (2) acres shall be permitted with the installation of an Aerobic Treatment Unit (ATU) septic system. They may be created because of mortgage or lending requirements; or to break out for immediate or related family members.

For the purposes of this Regulation the term “homestead” shall mean: “the home and adjoining land occupied by a family that is a minimum of forty (40) acres in size at the date of the adoption of this Regulation. Further, the creation of up to three (3) lots on “homestead” lands shall be limited to those “homesteads” in existence at the time of adoption of the Finney County Zoning Regulations adopted by Resolution 40-95.

Other land divisions shall be the division of any land, lot, or parcel for the purposes of sale or lease whether immediate or future, into: (a) two or three lots, parcels or fractional interests, any one of which is less than forty (40) acres in area; (b) “fractional interest” means an undivided interest in land, lots, or parcels in which, for the purpose of sale or lease, such interest is created and such interest is evidenced by a receipt, certificate, deed, or other document conveying such interest.

1. Before proceeding with any division of land or the preparation of a Parcel Plat, the owner or his agent should meet with the Secretary of the Planning Commission or his staff for an informal discussion on the proposed Other Land Division.
2. All Parcel Plats shall be a minimum of five (5) acres to forty (40) acres in size. However, a minimum of two (2) acres shall be permitted with the installation of an Aerobic Treatment Unit (ATU) septic system.
3. A Parcel Plat conforming to standard submittal practices for mylar may then be prepared and submitted with four (4) prints to the Secretary of the Planning Commission. The Secretary or his designate shall review the Parcel Plat, as it relates to the following:
 - a. Any current Finney County Comprehensive Plan;
 - b. Provisions for Utility Easements;
 - c. The applicable requirements of these regulations;
 - d. Zoning requirements;
 - e. Provisions for access to each parcel; and
 - f. Minimum usable lot area requirements.
3. *Fees:* as stipulated in Section 3.1(4)
A copy of the Parcel Plat shall be submitted to the Engineering Department, and other agencies as determined by the Secretary of the Planning Commission [Secretary] for evaluation and recommendation. Interested agencies shall have five (5) working days from the date the application is deemed completed by the Secretary to submit their report to the Secretary. No reply by an agency shall be interpreted as having no objections.

Within a period of time as set by the Secretary from deposit of the Parcel Plat, the Secretary shall review the reports submitted by other departments and shall determine whether or not the Parcel Plat meets the requirements of these Regulations and make specific recommendations, where he deems it necessary, in writing, to be incorporated by the owner on a revised Parcel Plat. Upon written approval from the Secretary the tracings and appropriate recording fee should be submitted to the Secretary.

4. The Parcel Plat shall contain the information listed herein:
 - a. Name, address and telephone number of the divider and/or owner(s) of the land;
 - b. Name, address and telephone number of the person who prepared the plat;
 - c. Legal description of original parcel;
 - d. Source of water supply and proposed method of sewage disposal for each parcel; and
 - e. Proof of ownership if a dedication is included on the plat.
5. If the Secretary disapproves the recording of the Parcel Plat, the owner or his agent may appeal the decision to the Planning Commission.

6. Upon approval and certification that all parcels have surveyed and monumented the Secretary shall record the Parcel Plat. If a dedication is included the Clerk of the County Commission shall record the Plat after the Board of County Commissioners accepts the dedication.

Parcel Plats

A. Subdivision plats shall conform to the specifications as established within the Subdivision Regulations, Finney County, Kansas.

B. Parcel Plats:

1. Parcel Plats shall be prepared in accordance with 3.3(5) of the Subdivision Regulations and the following:

- a. The Parcel Plat shall be a map, legibly drawn with black India ink, printed or reproduced by a process guaranteeing a permanent record in black on a reproducible tracing cloth or mylar, 18 x 24 inches. A half (1/2") inch blank margin shall be left at all edges of the map, except that the left 18" side shall have a two (2") inch margin for binding purposes.
- b. Parcel Plats will not be recorded until all conditions of approval have been met and all parcels staked.

2. Parcel Plats shall show:

- a. A description of monuments found, set, reset, replaced, or removed in surveying the parcels. The description should include the kind, size, and locations, and other pertinent data.
- b. Ties to witness monuments and/or adjoining lots or parcels, basis of bearings, bearing and length of lines, North indicator, scale of plat, date or period of survey, existing property lines, areas involved and owner of the property being divided.
- c. Names and legal designation of lot or parcel in which survey is located. The parcels shall be sold under a common name, the name shall appear on the plat as "Parcel Plat of _____."
- d. Certificates required by the Surveyor of record.
- e. All existing roadways, utilities, easements and dedications within or contiguous to the area being surveyed and their names, if any, shall be shown on the plat. Items listed above, if of record, shall be so referenced.
- f. Each parcel shall be numbered or designated in some logical manner.
- g. The land being divided shall be indicated by a 1/8 inch colored border outside the actual border. The colored border shall be on the reverse side of the linen or mylar.
- h. All existing dedications or easements shall be identified.

(Resolution No. 22-99 – 7/19/99)

6. **Public Improvements.** The Planning Commission shall require that the applicant execute a subdivision improvement agreement and provide security for the agreement as provided in Section 4.1 (2). The Planning Commission shall require the applicant to indicate on the plat all roads and public improvements to be dedicated, all special districts for water, fire, and utility improvements which shall be required to be established or extended, and any other special requirements deemed necessary by the Planning commission in order to conform the subdivision plat to the Official Map and the Finney County, Kansas, Comprehensive Land Use Plan.

7. **Effective Period of Preliminary Plat Approval.** The approval of a preliminary plat shall be effective for a period of one (1) year from the date that the preliminary plat is approved by the Planning Commission, [unless specifically addressed in a developers agreement approved by the Governing Body and the developer] at the end of which time the applicant must have submitted a final subdivision plat for approval. This may be a phase of the approved preliminary plat. If a subdivision plat is not

submitted for final approval within the one (1) year period, the preliminary approval shall be null and void, and the applicant shall be required to submit a new plat for sketch plat review subject to the then existing zoning restrictions and subdivision regulations.

8. **Zoning and Subdivision Regulations.** Every preliminary plat shall conform to existing zoning regulations and subdivision regulations applicable at the time that the proposed preliminary is submitted for the approval of the Planning Commission unless the Planning Commission or Governing Body has taken official action toward amending the applicable zoning and subdivision regulations and the applicant has reason to know of that action.
9. **Grading of Site Prior to Final Approval.** Where extensive grading is necessary to provide adequate building sites, drainage, or access to the lots, a general grading plan may be required and submitted with the construction plans to the County Engineer.
10. **Model Homes.** For the purpose of allowing the early construction of model homes in a subdivision, the Planning Commission in its sole discretion may permit a portion of a major subdivision involving no more than two (2) lots be created in accordance with the procedures for minor subdivisions, provided the portion derives access from an existing city, township, county, or state highway, and provided no future road or other improvement is anticipated where the lots are proposed. No sale of the model homes or lots may occur until the recordation of the subdivision is complete. The subdivision plat for the "minor" portion shall be submitted to the Planning Commission simultaneously with the preliminary plat for the entire major subdivision. Subsequent to preliminary approval, the model homes may be constructed, subject to such additional requirements as the Planning Commission may require.

3.4 Amendments to Preliminary Plat. At any time after preliminary plat approval and before submission of a final plat, the applicant may request of the Secretary of the Planning Commission that an amendment be made in the approval or conditional approval of the preliminary plat. Under regulations established by the Planning Commission, the Secretary may agree to proposed amendments that are deemed to be minor. Fees shall be submitted as stipulated in Section 3.1(4). If the proposed amendment is major, the Planning Commission shall hold a hearing on the proposed major amendment in accordance with the same requirements for preliminary plat approval found in Section 3.2(2). Any public hearing on a proposed major amendment shall be limited to whether the proposed major amendment should or should not be approved. The Commission shall approve or disapprove any proposed major amendment and make any modifications in the terms and conditions of preliminary plat approval reasonably related to the proposed amendment. If the applicant is unwilling to accept the proposed major amendment under the terms and conditions required by the Commission, the applicant may withdraw the proposed major amendment. A major amendment shall include, but is not limited to, any amendment that results in or has the effect of decreasing open space in the subdivision by ten percent (10%) or more or increasing density in the subdivision by ten percent (10%) or more shall be a major amendment. An applicant may not propose more than two (2) amendments—whether major or minor—to any preliminary plat. The Commission shall render a decision on the proposed major amendment within thirty (30) days after the meeting at which the public hearing was held, including any adjourned session, was closed.

3.5 Final Subdivision Plat.

1. **Application Procedure and Requirements.** Following the approval of the sketch plat in the case of a minor subdivision, or of the preliminary plat in the case of a major subdivision, the applicant, if he wishes to proceed with the subdivision, shall file with the Planning Commission an application for final approval of a subdivision plat. The application shall:
 - a. Be made on forms available at the office of the Secretary of the Planning Commission, together with a fee as stipulated in Section 3.1(4) and a fee of Six Dollars (\$6.00) for reproduction of plans.
 - b. Include the entire subdivision, or section thereof, which derives access from an existing state, county, or local government highway.
 - c. Be accompanied by a minimum of ten (10) copies of the subdivision plat and the construction plans, as described in these regulations.

- d. Comply in all respects with the sketch plat or preliminary plat, as approved, whichever is applicable, depending upon the classification of the subdivision.
 - e. Be presented to the Secretary of the Planning Commission at least four (4) weeks prior to a regular meeting of the Commission in order that a public meeting may be scheduled and the required fifteen (15) days public notice and personal notice to the owners listed in Section 3.5(1)(h) may be given. The notice shall advise the public that the final plat and all conforming documents have received by the Planning Commission and may be reviewed by members of the public who may then submit written comments to the Commission concerning whether final approval should be granted. The notice shall include a deadline for receipt of comments and shall include the date of the public meeting at which final plat approval will be considered.
 - f. Be accompanied by all formal irrevocable offers of dedication to the public of all streets, local government uses, utilities, parks, and easements, in a form approved by the County Counsel. The offers of dedication shall be shown on the final plat.
 - g. Be accompanied by the Developers Agreement and security, if required, in a form satisfactory to County Counsel and in an amount established by the Planning Commission upon recommendation of the County Engineer and shall include a provision that the subdivider shall comply with all the terms of the resolution of final subdivision plat approval as determined by the Planning Commission and shall include, but not be limited to, the performance of all required subdivision and offsite improvements, and that all improvements and land included in the irrevocable offer of dedication shall be dedicated to the County free and clear of all liens and encumbrances on the premises.
 - h. The applicant shall submit an abstractor's Certificate of Ownership of adjacent property owners to the boundary of the property to be subdivided. The Certificate of Ownership shall list all owners of adjacent property located within 100 feet of the property to be subdivided. The Certificate of Ownership must be submitted with the application to subdivide.
 - i. Be accompanied by an inspection fee in an amount to be determined on the basis of the provisions of these regulations and by written assurance from the public utility companies that necessary utilities will be installed and proof that the applicant has submitted petitions in writing for the creation or extension of any improvement district as required by the Planning commission upon preliminary plat approval.
2. **Endorsement of Environmental Code and Flood Plain Regulations.** The final subdivision plat shall be properly endorsed by the Officer designated with the responsibility of review with respect to all sewer and water facilities and that same comply with all rules, regulations, and requirements of the County, State and federal authorities.
 3. **Notice of Public Meeting.** Upon receipt of formal application and all accompanying material, the Secretary to the Planning Commission shall call a public meeting for the next scheduled meeting of the Planning Commission to be held at least four (4) weeks after the date of the application. The Secretary shall post notice of the public hearing by Agenda of the Planning Commission on the public bulletin board outside of the office of the Secretary of the Planning Commission at least fifteen (15) days prior to the public hearing and mail notices to all property owners, as specified in Section 3.5 (1) (h), and shall maintain file copies of the plat and construction plans when appropriate for public review prior to the hearing. All notices shall advise that the final plat for the subdivision and related documents are on file with the Planning Commission and may be reviewed by members of the public who may then submit written comment on whether final plat approval should be granted. The notices shall include a deadline for receipt of comments and shall include the date, time and place of the public meeting at which final plat approval will be considered.
 4. **Public Meeting and Determination.** After the public meeting, the Planning Commission shall, within sixty days from the Official Submission Date for the final subdivision plat, approve or disapprove the subdivision application by resolution which shall set forth in detail any reasons for disapproval. One copy of the final subdivision plat shall be returned to the applicant with the date of approval or disapproval noted on the plat, and, if the plat is disapproved, the reasons for disapproval accompanying the plat.
 5. **Appeal in the Event of Disapproval.** If the Planning Commission disapproves the final plat, the applicant may appeal to the Governing Body in the manner prescribed in Section 3.8.

6. **Submission and Review.** Subsequent to the resolution of the Planning Commission, three (3) paper copies of the construction plans, and one (1) copy of the original of the subdivision plat on reproduction mylar which meet the criteria established herein, and two (2) copies of the subdivision plat on sepiya paper and two (2) copies of the subdivision plat on paper shall be submitted to the Secretary for final review. A check payable to the County Register of Deeds in the amount of the current filing fee shall be provided and a copy of an official Tax Receipts Inquiry showing *all real estate taxes for any year past due and unpaid and: (1) Payment of at least the first half of all real estate taxes on land to be platted if such plat is presented for recording between December 20 and June 20 of the next year; or (2) payment of all such real estate taxes if such plat is presented for recording on and after June 20 but before December 20 of the same year.* No final approval shall be endorsed on the plat until a review has indicated that all requirements of the resolution have been met. (Resolution No. 22-99 – 7/19/99)
- a. The Subdivider/Developer shall submit three (3) full size copies on paper sheets to the specification of the Planning Director and three (3) 11x17 copies of the final plat for review thirty (30) days prior to the date of the meeting on which the plat is to be heard. Following final plat approval, by the Planning Commission, the Subdivider/Developer shall provide a minimum of two (2) Mylar with original signatures and two (2) paper copies to the Planning Director. The size of the sheets on which final plats are submitted shall be of dimensions legible for scale of 1"=50', or as approved by Director due to plat size. Further, the plat shall be submitted in digital format, solar oriented with bearings oriented to Kansas State Plain Coordinate System containing the final subdivision plat information, and a 8 ½" x 11" copy of the information shall be submitted with the Mylar of the final plat. Where the proposed plat is of unusual size, the final plat shall be submitted on two (2) or more sheets of like size. If more than two (2) sheets are required, an index sheet of the same dimensions shall be filed showing the entire development at a smaller scale. (Reso.#6-2010, 04/05/10)
 - b. The title of each plat shall consist of the subdivision name placed at the top of each sheet. Below the title on the first sheet shall appear a subtitle consisting of a general description of all the property being subdivided by reference to governmental subdivisions or portions thereof; by sections, township and range; by metes and bounds description; or by reference to subdivision plats previously recorded in the Office of the Recorder of Deeds, Finney County, Kansas. In addition, a small scale location or vicinity map, showing the relative location of the subdivision with respect to township, range, section, and any access roads, shall be shown on the face sheet.
 - c. Location and description of section or quarter corner, either found or set, and ties to such corners, all dimensions, angles, bearings, and similar data on the plat shall be referred, indicated and referenced. Boundaries of the tract to be subdivided shall be fully balanced and closed, showing all the bearings and distances determined by an accurate survey in the field. Corners of the subdivision shall be noted, monuments found or set shall be indicated and described; two (2) corners to the subdivision traverse shall be tied by course and distance to separate section corners or quarter section corners.
 - d. Presentation of the plat shall be neat, clear, legible, and complete in all respects and shall be sufficiently detailed to include, but shall not be limited, to the following:
 1. Tract boundary lines, lot and parcel lines, easement lines, street centerlines, and section lines, all showing accurate bearings and dimensions with dimensions expressed in feet and decimals thereof the hundredth.
 2. Width of streets, width of easements and indication of their purpose, angle, radius, tangent, and length of all curves.
 3. Location and description of existing or found monuments, such as section corners and subdivision boundary corners, elevation of bench marks (for a condominium development), existing rights-of-way and easements, if any. Easements shall be clearly dimensioned, labeled, and identified, and if already of record, properly referenced to the record. If any easement is not definitely located of record, a statement of such easement shall appear on the title sheet.
 4. Where there are contiguous developments, show name of tract with reference of record, street names, street width, easements clearly dimensioned, labeled, and identified, if any.

5. The legend shall specify the type of monuments used.
 6. Any excepted parcel(s) within the plat boundary shall be accurately depicted by bearings and distances on the plat.
 7. Each lot shall be numbered and each block may be numbered or lettered. Each street shall be named. All lots not intended for sale or resale for private purposes, and all parcels offered for dedication for any purpose, public or private, and any private streets permitted shall be so designated.
 8. If any portion of any land within the boundaries shown on a subdivision plat is subject to overflow, inundation or flood hazard by storm water such fact and said portion shall be clearly shown on such plat and enclosed in a border on each sheet of said plat.
 9. The plat shall also show other data that is required by law.
- f. Certifications required on the Final Plat: Dedications, certifications, approvals, acknowledgements, endorsements, acceptance of dedications shall appear only once and upon the first or first and such other sheets as may be required, of several sheets.

1. Certificates which shall appear on the plat are as follows:

- a. Certification and dedication by the parties holding title, signed and acknowledged by all parties having title interest in the land being platted and consenting to the preparation and recording of the plat as submitted. The original copy of the plat shall carry the signatures of the owners(s) or corporation and shall be duly notarized by a Notary Public, at the time it is presented for approval to the Area Planning Commission or staff for approval.

b. Surveyor's Certificate:

This is to certify that the survey and monumentation of the above described land division was made under my direction and supervision and is accurately represented on this plat.

Signature, Date, Registration No., Seal

c. Certification by a Registered Land Surveyor, Licensed Professional Engineer or other persons qualified by the Kansas State Board of Technical Professions, under the Laws of Kansas.

d. Certification by the County Surveyor:

This map has been examined this _____ day of _____, 200____, for compliance with the requirements of the Act Concerning Land Surveys in the State of Kansas.

County Surveyor, Finney County, Kansas

e. Recorder's Certificate:

Filed and Recorded in envelope number _____ at the Finney County Register of Deeds office in Garden City, Finney County, Kansas.

By _____
(name) Register of Deeds

f. This certification ONLY need be presented on plats designated **Other Land Divisions** as set forth in Article 3.3.5

APPROVAL:

accepted on behalf of the public the foregoing described parcel of real property offered for dedication for public use, in conformity with the terms of the offer of dedication.

(Seal)
Clerk, Board of County Commissioners, Finney County, Kansas

1. County Counsel.
(Resolution No. 22-99 – 7/19/99)

3.6 Vested Rights and Development Agreements.

1. **Effect of Approval.** Except as otherwise provided in this Section 3.6, no vested rights shall accrue to the owner or developer of any subdivision by reason of preliminary or final plat approval until the actual signing of the final plat by the Governing Body.
2. **Effect of Recordation.** Except as otherwise provided in this Section 3.6, no vested rights shall accrue to the owner or developer of any subdivision by virtue of the recordation of a final plat.
3. **Applicable Laws.** K.S.A. 12-764 prescribes vesting for platted developments:
 - a. If the plat is for a single-family residential development, development rights in such land use statutorily vest upon recording of the plat. If construction has not commenced, however, within five (5) years of recording the plat, the development rights will expire. K.S.A. 12-764(a).
 - b. If the application or plat is for any purpose other than single-family, the right to use land for a particular purpose will vest upon the issuance of all permits required for such use by the county and construction has begun and substantially completed under a validly issued permit. K.S.A. 12-764(b).
 - c. Vesting must occur in the same manner for all uses of land within the same land-use classification under adopted zoning regulations. K.S.A. 12-764(c).

To obtain final plat approval, the applicant shall be in compliance with all federal and state laws applicable at the time that the final plat is considered for approval by the Planning Commission. The applicant also shall be in compliance with all local laws and regulations applicable at the time that the preliminary plat was submitted to the Planning Commission in accordance with Section 3.3(7) (or, if a minor subdivision, at the time the sketch plat was submitted to the Secretary to the Planning Commission), except that the applicant shall comply with those local laws and regulations in effect at the time that the final plat is considered for approval by the Commission if the Planning Commission makes a determination on the record that compliance with any of those local laws and regulations is reasonably necessary to protect public health and safety. If the Planning Commission required the applicant to complete public improvements in the subdivision prior to final plat approval [the developer elects to construct the subdivision in lieu of providing Improvement Guarantees], and the improvements have, in fact, been completed, the applicant may be required to comply with local laws and regulations in effect at the time that the final plat is considered for approval only if the Planning Commission makes a finding on the record that such compliance is necessary to prevent a substantial risk of injury to public health, safety and general welfare.

4. **Development Agreements.** By the passage of these regulations the Governing Body has made the requirement of a Developers Agreement a condition of final plat approval. The county may, but under no circumstances is it required to, enter into a Development Agreement:
 - a. **General.** The Development Agreement shall constitute a binding contract between the subdivider of the proposed subdivision and the county (the “parties”) and shall contain those terms and conditions agreed to by the parties and those required by this Section 3.6(4). The Local Government Attorney or designee is authorized to negotiate Development Agreements on behalf of the county.
 - b. **Covenants.** Any covenant by the county contained in the Development Agreement to refrain from exercising any legislative, quasi-legislative, quasi-judicial or other discretionary power, including rezoning or the adoption of any rule or regulation that would affect the proposed subdivision, shall be limited to a period of five (5) years. The covenant shall also contain a proviso that the county may, without incurring any liability, engage in action that otherwise would constitute a breach of

the covenant if it makes a determination on the record that the action is necessary to avoid a substantial risk of injury to public health, safety, and general welfare. The covenant shall contain the additional proviso that the county may, without incurring any liability, engage in action that otherwise would constitute a breach of the covenant if the action is required by federal or state law.

- c. *Third Party Rights.* Except as otherwise expressly provided in the Development Agreement, the Development Agreement shall create no rights enforceable by any party who/which is not a party to the Development Agreement.
- d. *Limitation on Liability.* The Development Agreement shall contain a clause that any breach of the Development Agreement by the county shall give rise only to damages under state contract law and shall not give rise to any liability for violation of the fifth and fourteenth amendments of the U.S. Constitution or similar state constitutional provisions.
- e. *Developer's Compliance.* The Development Agreement shall include a clause that the government's duties under the Agreement are expressly conditioned upon the subdivider's substantial compliance with each and every term, condition, provision, and covenant of the Agreement, all applicable federal, state and local laws and regulations, and its obligations under the subdivision improvement agreement.
- f. *Adoption.* The Development Agreement shall be adopted by the governing body pursuant to applicable state and local laws and shall be recorded in the Register of Deeds Office of Finney County, Kansas.
- g. *Incorporation as Matter of Law.* All clauses, covenants, and provisos required by these regulations to be included in a Development Agreement shall be incorporated into the Development Agreement as a matter of law without respect to the intent of the parties.

3.7 Signing and Recordation of Subdivision Plat.

1. *Signing of Plat.*

- a. When a subdivision improvement agreement and security are required, the Chairman of the Planning Commission and the Secretary to the Planning Commission shall endorse approval on the final plat after the agreement and security have been approved by the Planning Commission, and all the conditions of the resolution pertaining to the final plat have been satisfied.
- b. When installation of improvements is required prior to recordation of the final plat, the Chairman of the Planning Commission and Secretary to the Planning Commission shall endorse approval on the final plat *after all conditions of the resolution have been satisfied and all improvements satisfactorily completed.* There shall be written evidence that the required public facilities have been installed in a manner satisfactory to the local government as shown by a certificate signed by the County Engineer and County Counsel stating that the necessary dedication of public lands and improvements has been accomplished.

2. *Recordation of Plat.*

- a. The Chairman and Secretary will sign the reproducible mylar original of the final subdivision plat and two (2) sepia prints of the final subdivision plat.
- b. It shall be the responsibility of the Secretary to the Planning Commission to file the final plat with the Register of Deeds Office within ten (10) days of the date of signature of the Governing Body.

3. *Sectionalizing/Phasing Major Subdivision Plat.* Prior to granting final approval of a major subdivision plat, the Planning Commission may permit the plat to be divided into two or more sections and may impose such conditions upon the filing of the sections as it may deem necessary to assure the orderly development of the plat. The Planning Commission may require that the subdivision improvement, Developers Agreement and security be in such amount as is commensurate with the section or sections of the plat to be filed and may defer the remaining amount of the security until the remaining sections of the plat are offered for filing. The developer may also file irrevocable offers to dedicate streets and public improvements in the sections offered to be filed and defer filing offers of dedication for the remaining sections until those sections, subject to any conditions imposed by the Planning Commission, shall be granted concurrently with final approval of the plat. If sectionalizing or phasing is approved, the entire approved subdivision plat including all sections shall be filed within ninety (90) days after the date of final approval with the County Clerk's Office and such sections as

have been authorized by the Governing Body shall be filed with the Register of Deeds Office. Such sections must contain at least ten percent (10%) of the total number of lots contained in the approved plat. The approval of all remaining sections not filed with the Register of Deeds Office shall automatically expire unless such sections have been approved for filing by the Governing Body, all fees paid, all instruments and offers of dedication submitted and subdivision improvement agreements, security and performance bonds, if any, approved and actually filed with the Register of Deeds Office within three (3) years of the date of final subdivision approval of the subdivision plat.

- 3.8 Appeals to Governing Body.** The applicant for subdivision approval may appeal the disapproval of any sketch, preliminary, or final subdivision plat by the Planning Commission by filing a Notice of Appeal with the governing body, with a copy to the Planning Commission, no later than ten (10) days after the date on which the Planning Commission notifies the applicant that it has disapproved the sketch, preliminary, or final subdivision plat. The Notice of Appeal shall set forth in clear and concise fashion the basis for the appeal. The appeal shall be considered at the next regularly scheduled public meeting of the Governing Body, at which time it may affirm or reverse the decision of the Planning Commission. The Governing Body may reverse the decision of the Planning Commission only by a unanimous vote of the members of the governing body present at the meeting. On appeal, the applicant shall be allowed to make a presentation to the Governing Body. The presentation shall be limited to information provided at the public meeting before the Planning Commission. New information not heard by the Planning Commission at the public meeting shall not be admitted. If this new information is deemed critical for the approval process by the Developer, the Governing Body shall refer the matter of approval back to the Planning Commission for a rehearing at their next regularly scheduled meeting. If no new information is submitted for consideration the Governing Body shall render a decision affirming or reversing the Planning Commission no later than forty-five (45) days after the date on which the Notice of Appeal is filed. If the Governing Body reverses the Planning Commission, the applicant may proceed to submit a preliminary or final plat as is appropriate under the conditions for approval agreed to by the governing body.
- 3.9 Time Periods for Action.** Whenever these regulations establish a time period for action by the Governing Body, Planning Commission, Secretary to the Planning Commission, or any other person or entity and the action is not taken within the time period, the applicant shall have a right to file an action in mandamus to compel action. In addition, the county shall be liable to the applicant in the sum of \$500.00 for each and every day that the county fails to act following the expiration of the time period. The government's duty to act shall be dependent on the applicant's substantial compliance with all applicable application and approval procedures.
- 3.10 Suspension and Invalidation of Final Plat.** If the county suspends final plat approval for any subdivision under these regulations, it shall record a document with the Clerk and Register of Deeds Office for Finney County, Kansas declaring that final approval for the subdivision is suspended and that the further sale, lease, or development of property within the subdivision is prohibited except that this prohibition shall not apply to persons or parties who have acquired property from the subdivider unless the person or party acquiring property meets the definition of "common ownership" in Section 2.2(26). If any court of competent jurisdiction invalidates final plat approval for any subdivision, the county shall record a document with the Register of Deeds Office for Finney County, Kansas declaring that the final plat for the subdivision is no longer valid and that further subdivision activity is prohibited.

ARTICLE

4

Assurance for Completion and Maintenance of Improvements

4.1 Improvements and Subdivision Improvement Agreement.

1. **Completion of Improvements.** Before the final subdivision plat is signed by the Chairman of the Planning Commission, all applicants shall be required to complete, in accordance with the Governing Body's decision and to the satisfaction of the County Engineer, all the street, sanitary and other public improvements, including lot improvements on the individual lots of the subdivision, as required in these regulations, specified in the final subdivision plat and as approved by the Governing Body, and to dedicate those public improvements to the local government, free and clear of all liens and encumbrances on the dedicated property and public improvements.
2. **Subdivision Developers Agreement and Guarantee.**
 - a. **Developers Agreement.** The Governing Body, in its sole discretion, may waive the requirement that the applicant complete and dedicate all public improvements prior to approval of the final subdivision plat and, as an alternative, permit the applicant to enter into a subdivision improvement agreement by which the subdivider covenants to complete all required public improvements no later than two (2) years following the date on which the Chairman of the Governing Body signs the final subdivision plat. The applicant shall covenant to maintain each required public improvement for a period of one (1) year following the acceptance by the governing body of the dedication of that completed public improvement and also shall warrant that completed public improvement and also shall warrant that all required public improvements will be free from defect for a period of two (2) years following the acceptance by the governing body of the dedication of the last completed public improvement. The subdivision developers agreement shall contain such other terms and conditions agreed to by the applicant and the Governing Body.
 - b. **Covenants to Run.** The subdivision developers agreement shall provide that the covenants contained in the agreement shall run with the land and bind all successors, heirs, and assignees of the subdivider. The agreement will be adopted by the Governing Body, pursuant to applicable state and local laws and shall be recorded in the Register of Deeds Office of Finney County, Kansas.
 - c. **Security.** Whenever the Governing Body permits an applicant to enter into a subdivision developers agreement, it shall require the applicant to provide for the security of such improvements. K.S.A. 12-749(b) authorizes subdivision regulations to "provide that in lieu of the completion of any work or improvements prior to the final approval of the plat, the governing body may accept a corporate surety bond, cashier's check, escrow account, letter of credit or other

like security ... conditioned upon the actual completion of such work or improvements.” Such bonds are enforceable by all equitable remedies.

K.S.A. 19-2961(a) authorizes the board of county commissioners to accept “...a completion bond, cashier’s check, escrow account or other like security ...” In addition, however, the county board may require a maintenance bond, cashier’s check, escrow account or other like security in a reasonable amount to be in force for a period of one year, after approval of such work or improvements.

1. *Completion Bond.* The developer, prior to selling the subdivided land, must demonstrate, to the satisfaction of the local governing body, that all required improvements have been completed.
 2. *Corporate Surety Bonds.* The developer insures that the improvement will be installed through a qualified insurance company. Should the developer fail to install the required improvements, the county is the first beneficiary of the policy and is guaranteed that the improvements will be installed.
 3. *Escrow Accounts.* A developer is required to deposit some or all the cost of improvements into an escrow account. The funds are then made available when construction begins. An escrow agent holds the money for benefit of the local unit of government.
 4. *Letters of Credit.* A letter of credit is issued by a local financial institution, which retains title to the property as collateral.
 5. *Special Assessments.* The county lends its credit to assist the developer to fund the installation of improvements. The development is put up as collateral. The county borrows money, and the developer repays the loan. The bonds are usually repaid by means of assessments against properties benefited by the public improvement and by county at-large contributions. See K.S.A. 12-6901 et seq.
 6. *Property Escrow.* The county takes title to the property and places it into an escrow account. As the developer completes improvements, title is returned.
 7. *Sequential (Staged) Subdividing.* A developer is put on a phased development schedule. The developer cannot begin the next phase without first completing the previous phase.
3. **Governmental Units.** Governmental units to which these contract and security provisions apply may file, in lieu of the contract and security, a certified resolution or ordinance from officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this Article.
 4. **Failure to Complete Improvement.** For subdivisions for which no subdivision improvement agreement has been executed and no security has been posted, if the improvements are not completed within the period specified by the Governing Body in the Developers Agreement, the sketch plat or preliminary plat approval shall be deemed to have expired. In those cases where a subdivision improvement agreement has been executed and security has been posted and required public improvements have not been installed within the terms of the agreement, the local government may then: (1) declare the agreement to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the agreement is declared to be in default; (2) suspend final subdivision plat approval until the improvements are completed and record a document to that effect for the purpose of public notice; (3) obtain funds under the security and complete improvements itself or through a third party; (4) assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision for which improvements were not constructed, in whole or in part, in exchange for that subsequent owner’s promise to complete improvements in the subdivision; (5) exercise any other rights available under the law.
 5. **Acceptance of Dedication Offers.** Acceptance of formal offers of dedication of streets, public areas, easements, and parks shall be by ordinance of the governing body. The approval of a subdivision plat by the Planning Commission or Governing Body, whether sketch, preliminary or final, shall not be deemed to constitute or imply the acceptance by the county of any street, easement, or park shown on plat. Dedication of streets, public areas, easements, and parks shall be by statement on the final plat and shall be accepted by the approval of the plat by the governing body and its subsequent recording.

4.2 Inspection of Improvements.

1. **General Procedure and Fees.** The Governing Body may provide for inspection of required improvements during construction and ensure their satisfactory completion. The applicant shall pay to the municipality an inspection fee based on the estimated cost of inspection, and where the improvements are completed prior to final plat approval, the subdivision plat shall not be signed by the Chairman of the Governing Body unless the inspection fee has been paid at the time of application. These fees shall be due and payable upon demand of the county and no building permits or certificates of occupancy shall be issued until all fees are paid. If the County Engineer finds upon inspection that any one or more of the required improvements have not been constructed in accordance with the county's construction standards and specifications, the applicant shall be responsible for properly completing the improvements.
2. **Release or Reduction of Security.**
 - a. **Certificate of Satisfactory Completion.** The governing body will not accept dedication of required improvements, nor release nor reduce the amount of any security posted by the subdivider until the County Engineer has submitted a certificate stating that all required improvements have been satisfactorily completed and until (1) the applicant's engineer or surveyor has certified to the County Engineer, through submission of a detailed "as-built" survey plat of the subdivision, indicating location, dimensions, materials, testing results, and other information required by the Planning Commission or County Engineer, that the layout of the line and grade of all public improvements is in accordance with construction plans for the subdivision, and (2) a title insurance policy has been furnished when required by the County Counsel indicating that they are free and clear of any and all liens and encumbrances. Upon such approval and recommendation by the County Engineer, and County Counsel, the governing body shall thereafter accept the improvements for dedication in accordance with the established procedure.
 - b. **Reduction of Escrowed Funds and Security.** If the security posted by the subdivider was a cash escrow, the amount of that escrow shall be reduced upon actual acceptance of the dedication of public improvements and then only to the ratio that the cost of the public improvement for which dedication was accepted bears to the total cost of public improvements for the subdivision. In no event shall a cash escrow be reduced below twenty-five percent (25%) of the principal amount. Funds held in the escrow account shall not be released to the subdivider, in whole or in part, except upon express written instructions of the local government attorney. At the end of the maintenance and warranty periods, all escrowed funds, if any, shall be released to the subdivider. If the security provided by the subdivider was a letter of credit, the Local Government Attorney shall execute waivers of the county's right to draw funds under the credit upon actual acceptance of the dedication of public improvements and then only to the ratio that the cost of the public improvement for which dedication was accepted bears to the total cost of public improvements for the subdivision. In no event shall waivers be executed that would reduce the security below twenty-five (25%) percent of its original amount.

4.3 Escrow Deposits for Lot Improvements.

1. **Acceptance of Escrow Funds.** Whenever, by reason of the season of the year, any lot improvements required by the subdivision regulations cannot be performed, the Building Inspector may issue a certificate of occupancy, provided there is no danger to health, safety, or general welfare upon accepting a cash escrow deposit in an amount to be determined by the Building Official for the cost of the lot improvements. The subdivision improvement agreement and security covering the lot improvements shall remain in full force and effect.
2. **Procedures on Escrow Fund.** All required improvements for which escrow monies have been accepted by the Building Inspector at the time of issuance of a certificate of occupancy shall be installed by the subdivider within a period of nine (9) months from the date of deposit and issuance of the certificate of occupancy. If the improvements have not been properly installed at the end of the time period, notice to the developer requiring it to install the improvements, and if they are not then installed properly, the Building Inspector may request the governing body to proceed to contract out the work for the installation of the necessary improvements in a sum not to exceed the amount of the

escrow deposit. At the time of the issuance of the certificate of occupancy for which escrow monies are being deposited with the Building Inspector, the developer shall obtain and file with the Building Inspector prior to obtaining the certificate of occupancy a notarized statement from the purchaser or purchasers of the premises authorizing the Building Inspector to install the improvements at the end of the nine-month period if the improvements have not been duly installed by the subdivider.

4.4 Maintenance of Improvements.

The developer shall be required to maintain all required public improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks, if required by the governing body, until acceptance of the improvements by the governing body. Following the acceptance of any public improvement by the county, the government may, in its sole discretion require the subdivider to maintain the improvement for a period of one (1) year from the date of acceptance.

4.5 Deferral or Waiver of Required Improvements.

1. The governing body may defer or waive at the time of final approval, subject to appropriate conditions, the provision of any or all public improvements as, in its judgment, are not requisite in the interests of the public health, safety, and general welfare, or which are inappropriate because of the inadequacy or inexistence of connecting facilities. Any determination to defer or waive the provision of any public improvement must be made on the record and the reasons for the deferral or waiver also shall be expressly made on the record.
2. Whenever it is deemed necessary by the governing body to defer the construction of any improvement required under these regulations because of incompatible grades, future planning, inadequate or nonexistent connecting facilities, or for other reasons, the subdivider shall pay his share of the costs of the future improvements to the county prior to signing the final subdivision plat by the Governing Body, or the developer may execute a separate subdivision improvement agreement secured by a letter of credit guaranteeing completion of the deferred improvements upon demand of the county.

4.6 Issuance of Building Permits and Certificates of Occupancy.

1. When a subdivision improvement agreement and security have been required for a subdivision, no certificate of occupancy for any building in the subdivision shall be issued prior to the completion of the required public improvements and the acceptance of the dedication of those improvements by the county, as required in the Governing Body's approval of the final subdivision plat.
2. The extent of street improvement shall be adequate for vehicular access by the prospective occupant(s) and by police and fire equipment prior to the issuance of an occupancy permit. The developer shall, at the time of the offer of acceptance, submit monies in escrow to the county in a sum determined by the County Engineer for the necessary final improvement of the street.
3. No building permit shall be issued for the final ten percent (10%) of lots in a subdivision, or if ten percent (10%) be less than two (2), for the final two (2) lots of a subdivision, until all public improvements required by the Governing Body for the subdivision have been fully completed and the county has accepted the developer's offer(s) to accept the improvements.

4.7 Consumer Protection Legislation and Conflicts of Interest Statutes.

1. No building permit or certificate of occupancy shall be granted or issued if a developer or its authorized agent has violated any federal, state or local law pertaining to (1) consumer protection; or (2) real estate land sales, promotion, or practices; or (3) any applicable conflicts-of-interest legislation with respect to the lot or parcel of land which is the subject of the permit or certificate until a court of competent jurisdiction so orders.
2. With respect to any lot or parcel of land described in the immediately preceding section, if a building permit or certificate of occupancy has been granted or issued, it may be revoked by the county until a court of competent jurisdiction orders otherwise, provided that in no event shall the rights of

intervening innocent third parties in possession of a certificate of occupancy be prejudiced by any such revocation.

3. Any violation of a federal, state, or local consumer protection law, including, but not limited to: Postal Reorganization Act of 1970; the Disclosure Act; the Truth in Lending Act; the Uniform Commercial Credit Code; state subdivision disclosure acts, or any conflicts of interest statute, law, or ordinance shall be deemed a violation of these regulations and subject to all of the penalties and proceedings as set forth in Section 1.13.

4.8 Improvement Districts/Benefit Districts/Special Assessment Financing

1. Developer may propose to the Governing Body the creation of Improvement Districts, Benefit Districts or Special Assessment Financing to fund necessary infrastructure improvements within the proposed subdivision.
2. Property owners/developers requesting the formation of the above shall be required to provide evidence demonstrating the financial capability to satisfy associated financial obligations.
3. Special assessment financing pursuant to 2. Above shall not be authorized whenever there exists more than 500 undeveloped residential lots subject to special assessments within the unincorporated area of Finney County, provided further that no single developer shall be permitted to have more than 100 undeveloped lots subject to special assessments.
 - It is the policy of the Governing Body to limit access of “special assessment financing” to an individual, company, partnership, L.L.C., or corporation.
 - No individual may be a part of one company, partnership, L.L.C., or corporation as well as another under another name and request “special assessment financing” where the combined entities would exceed the 100 undeveloped lot cap.
 - Utilize a combination of private financing and special assessment financing for necessary improvements specifying that special assessment financing is requested for one or more of the following improvements:
 - (i) Off site infrastructure improvements.
 - (ii) Curb and gutter, including curb ramps and storm sewer as applicable for subdivision located within Urban Overlay Zones.
 - (iii) Street improvements and/or street lighting.
 - (iv) Sanitary sewer and/or public water systems.
 - (v) Note: Engineering cost for the above improvements may be included in the special assessment financing, contingent upon entering into an engineering contract for professional services between County and Developers Consultant.
4. The following formula for “special assessment financing” will be utilized when determining utilization of the 100/500 cap for land owners or developers pursuant to paragraph 3:
 - If full utilization of items i-iv is applied for the developer is charged one (1) full lot, or
 - If one (1) of the four (4) is applied for the developer is charged ¼ of a full lot, or
 - If two (2) of the four (4) are applied for the developer is charged ½ of a full lot, or
 - If three (3) of the four (4) are applied for the developer is charged ¾ of a full lot.

ARTICLE

5

Requirements for Improvements, Reservations, and Design

5.1 General Improvements.

1. ***Conformance to Applicable Rules and Regulations.*** In addition to the requirements established in these regulations, all subdivision plats shall comply with the following laws, rules, and regulations:
 - a. All applicable statutory provisions.
 - b. The local government zoning ordinance, building, and all other applicable laws of the appropriate jurisdictions.
 - c. The Official Comprehensive Plan, Official Map, Public Utilities Plan, and Capital Improvements Program of the local government, including all streets, drainage systems, and parks shown on the Official Map or Comprehensive Plan as adopted.
 - d. The special requirement of these regulations and any rules of the Health Department and/or appropriate state, sub-state or contracted agencies.
 - e. The rules of the State Highway Department if the subdivision or any lot contained therein abuts a state highway or connecting street.
 - f. The standards and regulations adopted by the County Engineer and all boards, commissions, agencies, and officials of the Local Government.
 - g. Plat approval may be withheld if a subdivision is not in conformity with the above laws, regulations, guidelines, and policies as well as the purposes of these regulations established in Section 1.3 of these regulations.
2. ***Adequate Public Facilities.*** No preliminary plat shall be approved unless the Planning Commission determines that public facilities will be adequate to support and service the area of the proposed subdivision. The applicant shall, at the request of the Planning Commission, submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on and use of public facilities by possible uses of said subdivision. Public facilities and services to be examined for adequacy will include roads and public transportation facilities, sewerage, and water service.
 - a. Periodically the Governing Body will establish by resolution, after public hearing, guidelines for the determination of the adequacy of public facilities and services. To provide the basis for the guidelines, the Planning Commission must prepare an analysis of current growth and the amount of additional growth that can be accommodated by future public facilities and services. The Planning Commission must also recommend any changes in preliminary plat approval criteria it finds appropriate in the light of its experience in administering these regulations.
 - b. The applicant for a preliminary plat must, at the request of the Planning Commission, submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on and use of public facilities and services by possible uses of said subdivision.

- c. *Comprehensive Plan Consistency Required.* Proposed public improvements shall conform to and be properly related to the Local Government's comprehensive plan and all applicable capital improvement plans.
 - d. *Water.* All habitable buildings and buildable lots shall be connected to a public water system within urban overlay zones or individual well capable of providing water for health and emergency purposes.
 - e. *Wastewater.* All habitable buildings and buildable lots shall be served by an approved means of wastewater collection and treatment.
 - f. *Stormwater Management.* Drainage improvements shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent increases in downstream flooding. The County or Local Government may require the use of control methods such as retention or detention, and/or the construction of offsite drainage improvements to mitigate the impacts of the proposed developments.
 - g. *Roads.* Proposed roads shall provide a safe, convenient, and functional system for vehicular, pedestrian, within urban overlay zones shall be properly related to the comprehensive plan; and shall be appropriate for the particular traffic characteristics of each proposed development and may provide for a functional system for pedestrian traffic within urban overlay zones.
 - h. *Extension Policies.* All public improvements and required easements shall be extended through the parcel on which new development is proposed. Streets, water lines, wastewater systems, drainage facilities, electric lines, gas, and telecommunications lines shall be constructed through new development to promote the logical extension of public infrastructure. The county may require the applicant of a subdivision to extend offsite improvements to reach the subdivision or oversize required public facilities to serve anticipated future development as a condition of plat approval subject to rebate agreement within the developer agreement or the County assuming the cost of oversize.
3. ***Self-Imposed Restrictions.*** If the owner places restrictions on any of the land contained in the subdivision greater than those required by the Zoning Regulation or these regulations, such restrictions or reference to those restrictions may be required to be indicated on the subdivision plat, or the Planning Commission may require that restrictive covenants be recorded with the County Register of Deeds in a form to be approved by the Local Government Attorney. The subdivider shall grant to the local government the right to enforce the restrictive covenants set forth in the developer agreement through the recording of the developer agreement.
4. ***Monuments.*** The applicant shall place permanent reference monuments in the subdivision as required in these regulations and as approved by a Registered Land Surveyor.
- a. Monuments shall be located on street right-of-way lines, at street intersections, angle points of curve and block corners. They shall be spaced so as to be within sight of each other, the sight lines being contained wholly within the street limits.
 - b. The external boundaries of a subdivision shall be monumented in the field by monuments consisting of iron pipes or iron rod or other material capable of being detected by commonly used magnetic locators set rigidly in a concrete base per instructions given in Kansas Statutes Annotated 58-2001. These monuments shall have affixed thereto a cap or other device bearing the registration number of the surveyor in responsible charge. These monuments shall be placed not more than 1,400 feet apart in any straight line and at all comers, at each end of all curves, at the point where a curve changes-its radius, at all angle points in any line, and at all angle points along the meander line, those points to be not less than twenty (20') feet back from the bank of any river or stream, except that when such corners or points fall within a street, or proposed future street, the monuments shall be placed in the side line of the street.
 - c. All internal boundaries and those corners and points not referred to in the preceding paragraph shall be monumented by a material capable of being detected by commonly used magnetic locators. The monuments shall have affixed thereto a cap or other device bearing the registration number of the surveyor in responsible charge. Unless extenuating circumstances dictate, the minimum size monument shall be an iron pipe not less than ½" OD or a solid steel rod not less than ½" in diameter, the minimum length shall be 24 inches. These monuments shall be placed at all block corners, lot lines, at each end of all curves, at a point where a river changes its radius, and at all angle points in any line.

- d. All monuments required by these regulations shall be set flush with the ground and planted in such a manner that they will not be removed by frost.
5. **Character of the Land.** Land that the Planning Commission finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features that will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the Planning Commission, upon recommendation of the County Engineer, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses as shall not involve any danger to public health, safety, and welfare.
6. **Subdivision Name.** The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by these regulations. The Planning Commission shall have final authority to designate the name of the subdivision, which shall be determined at sketch plat approval.

5.2 Lot Improvements.

1. **Lot Arrangement.** The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the Zoning Regulation and Health Regulations and in providing driveway access to buildings on the lots from an approved street.
2. **Lot Dimensions.** Lot dimensions shall comply with the minimum standards of the Zoning Regulations. Where lots are more than double the minimum required area for the zoning district, the Planning Commission may require that those lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve potential lots, all in compliance with the Zoning Regulation and these regulations. In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum front-yard setback from both streets. Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in the Zoning .
3. **Lot Orientation.** The lot line common to the street right-of-way shall be the front line. All lots shall face the front line and a similar line across the street. Wherever feasible, lots shall be arranged so that the rear line does not abut the side line of an adjacent lot.
4. **Double Frontage Lots and Access to Lots.**
 - a. **Double Frontage Lots.** Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation. In such cases the utilization of Vehicle Non-Access Easements (VNAE) will be required. A solid fence of brick, block or stone or an approved variation by the Planning Commission shall be erected on the VNAE.
 - b. **Access from Major and Secondary Arterials.** Lots shall not, in general, derive access exclusively from a major or secondary street. Where driveway access from a major or secondary street may be necessary for several adjoining lots, the Planning Commission may require that such lots be served by a combined access drive in order to limit possible traffic hazards on the street. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on major and secondary arterials.
5. **Lot Drainage.** Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots.
6. **Debris and Waste.** No cut trees, timber, debris, earth, rocks, stones, soil, junk, rubbish, or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street at the time of the issuance of a certificate of occupancy in areas designated suburban or urban, and removal of those

items and materials shall be required prior to issuance of any certificate of occupancy on a subdivision. No items and materials as described in the preceding sentence shall be left or deposited in any area of the subdivision at the time of expiration of any subdivision improvement agreement or dedication of public improvements, whichever is sooner.

5.3 Roads.

1. *General Requirements.*

- a. *Frontage on Improved Roads.* No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing street on the Official Map, or if there is no Official Map, unless such street is:
- i. An existing state, county, or township highway; or
 - ii. A street shown upon a plat approved by the governing body and recorded in the County Recorder of Deeds' office. Such street or highway must be suitably improved as required by the highway rules, regulations, specifications, or orders, or be secured by a performance bond required under these subdivision regulations, with the width and right-of-way required by these subdivision regulations or the Official Map Plan.

Wherever the area to be subdivided is to utilize existing road frontage, the road shall be suitably improved as provided above.

- b. [Optional] *Level of Service.* No development shall be approved if such development, at full occupancy, will result in or increase traffic on an arterial or collector so that the street does not function at a proper level of service as determined by the County Engineer. The applicant may propose and construct approved traffic mitigation measures to provide adequate roadway capacity for the proposed development. The applicant for any development projected to generate more than 1,000 vehicle trip ends per day shall submit a traffic impact analysis.
- c. *Grading and Improvement Plan.* Roads shall be graded and improved and conform to the county construction standards and specifications and shall be approved as to design and specifications by the County Engineer, in accordance with the construction plans required to be submitted prior to final plat approval.
- d. *Classification.* All roads shall be classified as either [insert road types, e.g., major arterial, minor arterial, collector, or local as determined by the County Engineer]. In classifying roads, the county or local government shall consider projected traffic demands after 20 years of development.
- e. *Topography and Arrangement.*
- i. Roads shall be related appropriately to the topography. Local roads shall be curved wherever possible to avoid conformity of lot appearance. All streets shall be arranged so as to obtain as many building sites as possible at, or above, the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. Specific standards are contained in the design standards of these regulations.
 - ii. All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights-of-way as established on the Official Map and/or Comprehensive Plan.
 - iii. All thoroughfares shall be properly related to special traffic generators such as industries, business districts, schools, churches, and shopping centers; to population densities; and to the pattern of existing and proposed land uses.
 - iv. Minor or local streets shall be laid out to conform as much as possible to the topography to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.
 - v. The rigid rectangular gridiron street pattern shall not be adhered to, and the use of curvilinear streets, cul-de-sacs, or U-shaped streets shall be encouraged where such use will result in a more desirable layout.
 - vi. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Planning Commission such extension is not necessary or desirable for the coordination of the layout of

- the subdivision with the existing layout or the most advantageous future development of adjacent tracks.
- vii. In business and industrial developments, the streets and other access ways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provision of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.
- f. *Blocks.*
- i. Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to major streets, railroads, or waterways.
- ii. The lengths, widths, and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated, but block lengths in residential areas shall not exceed two thousand two hundred (2,200') feet or twelve (12x) times the minimum lot width required in the zoning district, nor be less than four hundred (400') feet in length. Wherever practicable, blocks along major arterials and collector streets shall be not less than one thousand (1,000) feet in length.
- iii. In long blocks the Planning Commission may require the reservation of an easement through the block to accommodate utilities, drainage facilities, or pedestrian traffic.
- iv. Pedestrian ways or crosswalks, not less than ten (10') feet wide, may be required by the Planning Commission through the center of blocks more than eight hundred (800') feet long where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation, or other community facilities in urban designated areas. Blocks designed for industrial uses shall be of such length and width as may be determined suitable by the Planning Commission for prospective use.
- g. *Access to Primary Arterials.* Where a subdivision borders on or contains an existing or proposed primary arterial, the Planning Commission may require that access to such streets be limited by one of the following means:
- i. The subdivision of lots so as to back onto the primary arterial and front onto a parallel local street; no access shall be provided from the primary arterial, and screening sitting on an approved VNAE shall be provided in a strip of land along the rear property line of such lots.
- ii. A series of cul-de-sacs, U-shaped streets, or short loops entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the primary arterial.
- iii. A marginal access or service road (separated from the primary arterial by a planning or grass strip and having access at suitable points).
- h. *Road Names.* The sketch plat as submitted shall not indicate any names for proposed streets. The Planning Commission shall name all roads upon recommendation of the Secretary to the Planning Commission at the time of preliminary approval. The Secretary shall consult the local postmaster prior to rendering its recommendation to the Planning Commission. Names shall be sufficiently different in sound and spelling from other road names in the municipality so as not to cause confusion. A road which is (or is planned as) a continuation of an existing road shall bear the same name.
- i. *Road Regulatory Signs.* The County shall install all road signs before issuance of certificates of occupancy for any residence on the streets approved. Street name signs are to be placed at all intersections within or abutting the subdivision, the type and location of which to be approved by the County Engineer.
- j. *Street Lights.* Installation of streetlights may be required in accordance with design and specification standards approved by the County Engineer.
- k. *Reserve Strips.* The creation of reserve strips shall not be permitted adjacent to a proposed street in such a manner as to deny access from adjacent property to the street.
- l. *Construction of Roads and Dead-End Roads.*
- i. *Construction of Roads.*
- The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when the continuation is necessary for convenient movement of traffic, effective fire protection, for efficient provision of utilities, and where the continuation is in accordance with the Local Government traffic plan. If the adjacent property is undeveloped

and the street must temporarily be a dead-end street, the right-of-way shall be extended to the property line. A temporary T- or L-shaped turnabout shall be provided on all temporary dead-end streets, with the notation on the subdivision plat that land outside the normal street right-of-way shall revert to abutters whenever the street is continued. The Planning Commission may limit the length of temporary dead-end streets in accordance with the design standards of these regulations.

ii. **Dead-End Roads (Permanent).**

Where a road does not extend beyond the boundary of the subdivision and its continuation is not required by the Planning Commission for access to adjoining property, its terminus shall normally not be nearer to such boundary than fifty (50') feet. However, the Planning Commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street in accordance with County construction standards and specifications. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length in accordance with the design standards of these regulations.

2. **Design Standards.**

- a. **General.** In order to provide for roads of suitable location, width, and improvement to accommodate prospective traffic and afford satisfactory access to police, fire fighting, snow removal, sanitation, and road-maintenance equipment, and to coordinate roads so as to compose a convenient system and avoid undue hardships to adjoining properties, the following design standards for roads are hereby required (Road classification may be indicated on the Comprehensive Plan or Official Map; otherwise, it shall be determined by the Planning Commission).
- b. **Road Surfacing and Improvements.** After sewer and water utilities have been installed by the developer, the developer shall construct curbs and gutters in urban areas and shall surface or cause to be surfaced roadways in both urban and suburban areas to the widths prescribed in these regulations. All surfacing shall be of a character as is suitable for the expected traffic and in harmony with similar improvements in the surrounding areas. Types of pavement shall be as determined by the County Engineer. Adequate provision shall be made for culverts, drains, and bridges. All road pavement, shoulders, drainage improvements and structures, curbs, turnarounds, and sidewalks shall conform to all construction standards and specifications adopted by the Planning Commission, County Engineer, or Governing Body and shall be incorporated into the construction plans required to be submitted by the developer for plat approval.
- c. **Excess Right-of-Way.** Right-of-way widths in excess of the standards designated in these regulations shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall not be in excess of three-to-one.
- d. **Railroads and Limited Access Highways.** Railroad rights-of-way and limited access highways where so located as to affect the subdivision of adjoining lands shall be treated as follows:
- i. In residential districts a buffer strip at least 25 feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad right-of-way or limited access highway. This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening. The placement of structure on this land is prohibited."
 - ii. In districts zoned for business, commercial, or industrial uses the nearest street extending parallel or approximately parallel to the railroad right-of-way shall, wherever practicable, be at a sufficient distance from the railroad right-of-way to ensure suitable depth for commercial or industrial sites.
 - iii. When streets parallel to the railroad right-of-way intersect a street, which crosses the railroad right-of-way at grade, they shall, to the extent practicable, be at a distance of at least 150 feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.
- e. **Intersections.**
- i. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two (2) new streets at an angle of less than seventy-five (75°) degrees shall not be acceptable. An oblique street should be curved approaching an intersection and should be

approximately at right angles for at least one hundred (100') feet therefrom. Not more than two (2) streets shall intersect at any one point unless specifically approved by the Planning Commission.

- ii. Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs with center-line offsets of less than 150 feet shall not be permitted, except where the intersected street has separated dual drives without median breaks at either intersection. Where streets intersect major streets, their alignment shall be continuous. Intersection of major streets shall be at least eight hundred (800') feet apart,
 - iii. Minimum curb radius at the intersection of two (2) local urban streets shall be at least twenty (20') feet; and minimum curb radius at an intersection involving a collector street shall be at least twenty-five (25') feet. Alley intersections and abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practice to permit safe vehicular movement.
 - iv. Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a two percent (2%) rate at a distance of sixty (60') feet, measured from the nearest right-of-way line of the intersecting street.
 - v. Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer shall cut such ground and/or vegetation (including trees) in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance.
 - vi. The cross-slopes on all streets, including intersections, shall be two percent (2%) or less.
- f. **Bridges.** Bridges of primary benefit to the applicant, as determined by the Planning Commission, shall be constructed at the full expense of the applicant without reimbursement from the County. The sharing expense for the construction of bridges not of primary benefit to the applicant as determined by the Planning Commission, will be fixed by special agreement between the Governing Body and the applicant. The cost of bridges that do not solely benefit the developer shall be charged to the developer pro rata based on the percentage obtained by dividing the service area of the bridge into the area of the land being developed by the subdivider.
3. **Road Dedications and Reservations.**
- a. **New Perimeter Streets.** Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half-streets. Where an existing half-street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The Planning Commission may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within its own subdivision boundaries.
 - b. **Widening and Realignment of Existing Roads.** Where a subdivision borders an existing narrow road or when the Comprehensive Plan, Official Map, or zoning setback regulations indicate plans for realignment or widening a road that would require use of some of the land in the subdivision, the applicant shall be required to improve and dedicate at its expense those areas for widening or realignment of those roads. Frontage roads and streets as described above shall be improved and dedicated by the applicant at its own expense to the full width as required by these subdivision regulations when the applicant's development activities contribute to the need for the road expansion. Land reserved for any road purposes may not be counted in satisfying yard or area requirements of the Zoning Regulation whether the land is to be dedicated to the county in fee simple or an easement is granted to the County.

5.4 Drainage and Storm Sewers.

1. **General Requirements.** The Planning Commission shall not recommend for approval any plat of subdivision that does not make adequate provision for storm and flood water runoff channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, where required, shall be designed by the Rational Method, or other methods as approved by the Planning Commission, and a copy of design computations shall be submitted along with plans. Inlets shall be provided so that surface water is not carried across or around any intersection, nor for a

distance of more than 600 feet in the gutter. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each and every lot and block.

2. ***Nature of Storm Water Facilities.***

- a. *Location.* The applicant may be required by the Planning Commission to carry away by pipe or open ditch any spring or surface water that may exist either previously to, or as a result of the subdivision. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with the construction standards and specifications.
- b. *Accessibility to Public Storm Sewers.*
 - i. Where a public storm sewer is accessible, the applicant shall install storm sewer facilities, or if no outlets are within a reasonable distance, adequate provision shall be made for the disposal of storm waters, subject to the specifications of the County Engineer. However, in subdivisions containing lots less than 15,000 square feet in area and in business and industrial districts, underground storm sewer systems shall be constructed throughout the subdivisions and be conducted to an approved out-fall. Inspection of facilities shall be conducted by the County Engineer.
 - ii. If a connection to a public storm sewer will be provided eventually, as determined by the Local Government Engineer and the Planning Commission, the developer shall make arrangements for future storm water disposal by a public utility system at the time the plat receives final approval. Provision for such connection shall be incorporated by inclusion in the subdivision improvement agreement required for the subdivision plat.
- c. *Accommodation of Upstream Drainage Areas.* A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The County Engineer shall approve the necessary size of the facility, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development permitted by the Zoning Regulation.
- d. *Effect on Downstream Drainage Areas.* The County Engineer shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. Local government drainage studies together with such other studies as shall be appropriate, shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Planning Commission may withhold approval of the subdivision until provision has been made for the expansion of the existing downstream drainage facility. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.
- e. *Areas of poor Drainage.* Whenever a plat is submitted for an area that is subject to flooding, the Planning Commission may approve such subdivision provided that the applicant fills the affected area of the subdivision to an elevation sufficient to place the elevation of streets and lots at a minimum of twelve (12) inches above the elevation of the one hundred (100) year floodplain, as determined by the Area Planning Director or County Engineer subject to adopted FEMA flood regulations. The plat of the subdivision shall provide for an overflow zone along the bank of any stream or watercourse, in a width that shall be sufficient in times of high water to contain or move the water, and no fill shall be placed in the overflow zone nor shall any structure be erected or placed in the overflow zone. The boundaries of the overflow zone shall be subject to approval by the County Engineer. The Planning Commission may deny subdivision approval for areas of extremely poor drainage.
- f. *Floodplain Areas.* The Planning Commission may, when it deems it necessary for the health, safety, or welfare of the present and future population of the area and necessary to the conservation of water, drainage, and sanitary facilities, prohibit the subdivision of any portion of the property that lies within the floodplain of any stream or drainage course. These floodplain areas shall be preserved from any and all destruction or damage resulting from clearing, grading, or dumping of earth, waste material, or stumps, except at the discretion of the Planning Commission.

3. ***Dedication of Drainage Easements.***

- a. *General Requirements.* When a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.
- b. *Drainage Easements.*
 - i. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual, unobstructed easements at least fifteen (15) feet in width for drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall extend from the road to a natural watercourse or to other drainage facilities.
 - ii. When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and recorded in the Register of Deeds office.
 - iii. The applicant shall dedicate, either in fee or by a drainage or conservation easement, land on both sides of existing watercourses to a distance to be determined by the Planning Commission.
 - iv. Low-lying lands along water courses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways. Such land or lands subject to periodic flooding shall not be computed in determining the number of lots to be utilized for average density procedures nor for computing the area requirement of any lot.

5.5 Water Facilities.

1. *General Requirements.*

- a. When a public water main is not accessible, the developer shall take necessary action to extend or create a water-supply district for the purpose of providing a water-supply system capable of providing for domestic water use and fire protection within an urban or suburban district.
- b. When a public water main or public water system is accessible, the developer shall install adequate water facilities (including fire hydrants) subject to the specifications of state or local authorities. All water mains shall be at least six (6) inches in diameter to supply fire hydrants.
- c. Water main extensions shall be approved by the officially designated agency of the state or county.
- d. The location of all fire hydrants, all water supply improvements, and the boundary lines of proposed districts, indicating all improvements proposed to be served, shall be shown on the preliminary plat, and the cost of installing same shall be borne by the developer and included in the subdivision improvement agreement and security to be furnished by the developer.

2. *Individual Wells and Central Water Systems.*

- a. In zoning districts with a density of one/half unit per acre or less and when a public water system is not available in the discretion of the Planning Commission, individual wells may be used or a central water system provided in a manner so that an adequate supply of potable water will be available to every lot in the subdivision. Water samples shall be submitted to the Kansas Department Health and Environment (KDHE) for its approval, and individual wells and central water systems shall be approved by the appropriate health authorities. Approvals shall be submitted to the Planning Commission prior to final subdivision plat approval.
- b. If the Planning Commission requires that a connection to a public water main be eventually provided as a condition to approval of an individual well or central water system, the applicant shall make arrangements prior to receiving final plat approval for future water service. Performance or cash bonds may be required to ensure compliance.

3. *Fire Hydrants.* Fire hydrants shall be required for all subdivisions except those coming under Section 5.5(2). Fire hydrants shall be located no more than 1,000 feet apart and within 500 feet of any structure and shall be approved by the applicable fire protection unit. To eliminate future street openings, all underground utilities for fire hydrants, together with the fire hydrants themselves, and all other supply improvements shall be installed before any final paving of a street shown on the subdivision plat.

5.6 Sewerage Facilities.

1. **General Requirements.** The applicant shall install sanitary sewer facilities in a manner prescribed by the local government construction standards and specifications. All plans shall be designed and approved in accordance with the rules, regulations, and standards of the County Engineer, KDHE, and other appropriate agencies. Necessary action shall be taken by the applicant to extend or create a sanitary sewer district for the purpose of providing sewerage facilities to the subdivision when no district exists for the land to be subdivided.
2. **High-Density Residential and Non-residential Districts in Urban Development Areas.** Sanitary sewerage facilities shall connect with public sanitary sewerage systems. Sewers shall be installed to serve each lot and to grades and sizes required by approving officials and agencies. No individual disposal system (septic tanks) shall be permitted. Sanitary sewerage facilities (including the installation of laterals in the right-of-way) shall be subject to the specifications, rules, regulations, and guidelines of KDHE, County Engineer, and other appropriate agencies.
3. **Low-and Medium-Density Residential Districts.** Sanitary sewerage systems shall be constructed as follows:
 - a. When a public sanitary sewerage system is reasonably accessible, the applicant shall connect with same and provide sewers accessible to each lot in the subdivision.
 - b. When public sanitary sewerage systems are not reasonably accessible but will become available within a reasonable time (not to exceed fifteen [15] years), the applicant may choose one of the following alternatives:
 - i. Central sewerage system with the maintenance cost to be assessed against each property benefited. Where plans for future public sanitary sewerage systems exist, the applicant shall install the sewer lines, laterals, and mains to be in permanent conformance with such plans and ready for connection to such public sewer mains; or
 - ii. Individual disposal systems, provided the applicant shall install sanitary sewer lines, laterals, and mains from the street curb to a point in the subdivision boundary where a future connection with the public sewer main shall be made. Sewer lines shall be laid from the house to the street line, and a connection shall be available in the home to connect from the individual disposal system to the sewer system when the public sewers become available. Such sewer systems shall be capped until ready for use and shall conform to all plans for installation of the public sewer system, where such exist, and shall be ready for connection to such public sewer main.
 - c. When sanitary sewer systems are not reasonably accessible and will not become available for a period in excess of fifteen (15) years, the applicant may install sewerage systems as follows:
 - i. Medium-Density Residential Districts. Only a central sewerage system may be constructed. No individual disposal system will be permitted. Where plans exist for a public sewer system to be built, for a period in excess of fifteen (15) years, the applicant shall install all sewer lines, laterals, and mains to be in permanent conformance with such plans and ready for connection to such public sewer main.
 - ii. Low-Density Residential District. Individual disposal systems or central sewerage systems shall be used.
4. **Mandatory Connection to Public Sewer System.** If a public sanitary sewer is accessible and a sanitary sewer is placed in a street or alley abutting upon property, the owner of the property shall be required to connect to the sewer for the purpose of disposing of waste, and it shall be unlawful for any such owner or occupant to maintain upon any such property an individual sewage disposal system.
5. **Individual Disposal System Requirements.** If public sewer facilities are not available and individual disposal systems are proposed, minimum lot areas shall conform to the requirements of the Zoning Regulations and percolation tests and test holes shall be made as directed by the County Inspector and the results submitted to same. The individual disposal system, including the size of the septic tanks and size of the tile fields or other secondary treatment device, shall also be approved by the County Inspector.
6. **Design Criteria for Sanitary Sewers.**

- a. *General Guidelines.* These design criteria are not intended to cover extraordinary situations. Deviations will be allowed and may be required in those instances when considered justified by the County Engineer.
- b. *Design Factors as Approved by Kansas Department of Health and Environment (KDHE).* Sanitary sewer systems should be designed for the ultimate tributary population. Due consideration should be given to current zoning regulations and approved planning and zoning reports where applicable. Sewer capacities should be adequate to handle the anticipated maximum hourly quantity of sewage and industrial waste together with an adequate allowance for infiltration and other extraneous flow.

5.7 Sidewalks.

1. **Required Improvements.**
 - a. Sidewalks shall be included within the dedicated non-pavement right-of-way of all roads shown in urban districts, where lots are in the size of ½ acre or less.
 - b. Concrete curbs are required for all roads when sidewalks are required by these regulations or when required in the discretion of the Planning Commission.
 - c. Sidewalks shall be improved as required in Section 5.3(2)(b) of these regulations.
2. **Pedestrian Accesses.** The Planning Commission may require, in order to facilitate pedestrian access from the roads to schools, parks, playgrounds, or other nearby roads, perpetual unobstructed easements at least twenty (20) feet in width. Easements shall be indicated on the plat.

5.8 Utilities.

1. **Location.** All utility facilities within designated urban overlay areas, including but not limited to gas, electric power, telephone, and CATV cables, shall be located underground throughout the subdivision. Whenever existing utility facilities are located above ground, except when existing on public roads and rights-of-way, they shall be removed and placed underground. All utility facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the Planning Commission, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.
2. **Easements.**
 - a. Easements centered on rear lot lines shall be provided for utilities (private and county) and such easements shall be at least twenty (20) feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements established in adjoining properties.
 - b. When topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least ten (10') feet in width shall be provided along side lot lines with satisfactory access to the road or rear lot lines. Easements shall be indicated on the plat.

5.9 Public Uses.

1. **Parks, Playgrounds, and Recreation Areas.**
 - a. *Recreation Standards.* The Planning Commission may require that land be reserved for parks and playgrounds or other recreation purposes in locations designated on the Comprehensive Plan or otherwise where such reservations would be appropriate. Each reservation shall be of suitable size, dimension, topography, and general character and shall have adequate road access for the particular purposes envisioned by the Planning Commission. The area shall be shown and marked on the plat, "Reserved for Park and/or Recreation Purposes." When recreation areas are required, the Planning Commission shall determine the number of acres to be reserved from the following table, which has been prepared on the basis of providing three (3) acres of recreation area for every one hundred (100) dwelling units. The Planning Commission may refer such proposed reservations to the local government official or department in charge of parks and recreation for recommendation.

i. Table of Recreation Requirements.

Single-Family Lots Size of Lot	Percentage of Total Land in Subdivision to be Reserved for Recreation Purposes
80,000 sq.ft. & greater	1.5%
50,000 sq.ft.	2.5%
40,000 sq.ft.	3.0%
35,000 sq.ft.	3.5%
25,000 sq.ft.	5.0%
15,000 sq.ft.	8.0%

ii. Multifamily and High-Density Residential. The Planning Commission shall determine the acreage for reservation based on the number of dwelling units per acre to occupy the site as permitted by the Zoning Regulation.

- b. *Minimum Size of Park and Playground Reservations.* In general, land reserved for recreation purposes shall have an area of at least four (4) acres. When the percentages from the Table of Recreation Requirements would create less than four (4) acres, the Commission may require that the recreation area be located at a suitable place on the edge of the subdivision so that additional land may be added at such time as the adjacent land is subdivided. In no case shall an area of less than two (2) acres be reserved for recreation purposes if it will be impractical or impossible to secure additional lands in order to increase its area. Where recreation land in any subdivision is not reserved, or the land reserved is less than the percentage in Section 5.9(1)(a), the provisions of Section 5.9(1)(d) shall be applicable.
- c. *Recreation Sites.* Land reserved for recreation purposes shall be of a character and location suitable for use as a playground, play field, or for other recreation purposes, and shall be relatively level and dry; and shall be improved by the developer to the standards required by the Planning Commission, which improvements shall be included in the subdivision improvement agreement and security. A recreation site shall have a total frontage on one (1) or more streets of at least two hundred (200') feet, and no other dimension of the site shall be less than two hundred (200') feet, and no other dimension of the site shall be less than two hundred (200') feet in depth. The Planning Commission may refer any subdivision proposed to contain a dedicated park to the local government or department in charge of parks and recreation for a recommendation. All land to be reserved for dedication to the local government for park purposes shall have prior approval of the Governing Body and shall be shown marked on the plat, "Reserved for Park and /or Recreation Purposes."
- d. *Alternative Procedure: Money in Lieu of Land.* Where, with respect to a particular subdivision, the reservation of land required pursuant to this section does not equal the percentage of total land required to be reserved in Section 5.9(1)(a), the Planning Commission shall require, prior to final approval of the subdivision plat, that the applicant deposit with the Governing Body a cash payment in lieu of land reservation. Such deposit shall be placed in a Neighborhood Park and Recreation Improvement Fund to be established by the Governing Body. The deposit shall be used by the local government for improvement of a neighborhood park, playground, or recreation area including the acquisition of property. The deposit must be used for facilities that actually will be available to and benefit the persons in the subdivision for which payment was made and be located in the general neighborhood of subdivision. The Planning Commission shall determine the amount to be deposited, based on the following formula: two hundred dollars (\$200) multiplied by the number of times that the total area of the subdivision is divisible by the required minimum lot size of the zoning district in which it is located, less a credit for the amount of land actually reserved for recreation purposes, if any, as the land reserved bears in proportion to the land required for reservation in Section 5.9(1)(a), but not including any lands reserved through density zoning.
- e. *Applicability to Land Utilizing Average Density.* Any subdivision plat in which the principle of average density of flexible zoning has been utilized shall not be exempt from the provisions

of its section, except as to such portion of land which is actually dedicated to the local government for park and recreation purposes. If no further area, other than the area to be reserved through averaging, is required by the Planning Commission, the full fee shall be paid as required in Section 5.9(l)(d). If further land is required for reservation, apart from that reserved by averaging, credit shall be given as provided by Section 5.9(l)(d).

f. *Other Recreation Reservations.* The provisions of this section are minimum standards. None of the paragraphs above shall be construed as prohibiting a developer from reserving other land for recreation purposes in addition to the requirements of this section.

2. **Other Public Uses.**

a. *Plat to Provide for Public Uses.* Except when a applicant utilizes planned unit development or density zoning in which land is set aside by the developer as required by the provision of the Zoning Regulation, whenever a tract to be subdivided includes a school, recreation uses [in excess of the requirements of Section 5.9(l)], or other public use as indicated on the Comprehensive Plan or any portion thereof, the space shall be suitably incorporated by the applicant into it's sketch plat. After proper determination of it's necessity by the Planning Commission and the appropriate local government official or other public agency involved in the acquisition and use of each such site and a determination has been made to acquire the site by the public agency, the site shall be suitably incorporated by the applicant into the preliminary and final plats.

b. *Referral to Public Body.* The Planning Commission shall refer the sketch plat to the public body concerned with acquisition for its consideration and report. The Planning Commission may propose alternate areas for such acquisition and shall allow the public body or agency 30 days for reply. The agency's recommendation, if affirmative, shall include a map showing the boundaries and area of the parcel to be acquired and an estimate of the time required to complete the acquisition.

c. *Notice to Property Owner.* Upon a receipt of an affirmative report, the Planning Commission shall notify the property owner and shall designate on the preliminary and final plats that area proposed to be acquired by the public body.

d. *Duration of Land Reservation.* The acquisition of land reserved by a public agency on the final plat shall be initiated within twelve (12) months of notification, in writing, from the owner that he intends to develop the land. Such letter of intent shall be accompanied by a sketch plat of the proposed development and a tentative schedule of construction. Failure on the part of the public agency to initiate acquisition within the prescribed 12 months shall result in the removal of the "reserved" designation from the property involved and the freeing of the property for development in accordance with these regulations.

5.10 Preservation of Natural Features and Amenities.

1. *General.* Existing features that would add value to residential development or to the local government as a whole, such as trees, as herein defined, watercourses and falls, beaches, historic spots, and similar irreplaceable assets, shall be preserved in the design of the subdivision. No trees shall be removed from any subdivision nor any change of grade of the land effected until approval of the preliminary plat has been granted. All trees on the plat required to be retained shall be preserved, and all trees where required shall be welled and protected against change of grade. The sketch plat shall show the number and location of existing trees as required by these regulations and shall further indicate all those marked for retention.

5.11 Nonresidential Subdivisions.

1. *General.* If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision with respect to the land shall make provision as the Planning Commission may require. A nonresidential subdivision shall also be subject to all the requirements of site plan approval set forth in the Zoning Regulation. Site plan approval and nonresidential subdivision plat approval may proceed simultaneously at the discretion of the Planning Commission. A nonresidential subdivision shall be subject to all the

requirements of these regulations, as well as such additional standards required by the Planning Commission, and shall conform to the proposed land use and standards established in the Comprehensive Plan, Official Map, and Zoning Regulation.

2. **Standards.** In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the Commission that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:
 - a. Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.
 - b. Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.
 - c. Special requirements may be imposed by the local government with respect to street, curb, gutter, and sidewalk design and construction.
 - d. Special requirements may be imposed by the county or local government with respect to the installation of public utilities, including water, sewer, and storm water drainage.
 - e. Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary.
 - f. Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential areas.

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ARTICLE

6

Land Readjustment

6.1 Resubdivision of Land.

1. **Procedure for Resubdivision.** Whenever a developer desires to re-subdivide an already approved final subdivision plat, the developer shall first obtain approval for the resubdivision by the same procedures prescribed for the subdivision of land.
2. **Resubdivision.** Resubdivision includes:
 - a. Any change in any street layout or any other public improvement;
 - b. Any change in any lot line;
 - c. Any change in the amount of land reserved for public use or the common use of lot owners;
 - d. Any change in any easements shown on the approved plat.
3. **Waiver.** Whenever the Planning Commission, in its sole discretion, makes a finding on the record that the purposes of these regulations may be served by permitting resubdivision by the procedure established in this Section 6.1(3), the Planning Commission may waive the requirement of Section 6.1(1). The Planning Commission, after an application for resubdivision that includes an express request for waiver, shall post notice of the application and shall provide personal notice to property owners in the subdivision. The notice shall include:
 - a. The name and legal description of the subdivision affected by the application;
 - b. The proposed changes in the final subdivision plat;
 - c. The place and time at which the application and any accompanying documents may be reviewed by the public;
 - d. The place and time at which written comments on the proposed resubdivision may be submitted by the public; and
 - e. The place and time of the public meeting at which the Planning Commission will consider whether to approve, conditionally approve, or disapprove the proposed resubdivision.
No sooner than thirty (30) days and no later than forty-five (45) days after notice is posted, the Planning Commission shall consider the application for resubdivision at a public meeting and shall approve, conditionally approve, or disapprove the application.
4. **Procedure for Subdivisions When Future Resubdivision is Indicated.** Whenever land is subdivided and the subdivision plat shows one or more lots containing more than one (1) acre of land and there is reason to believe that such lots eventually will be re-subdivided, the Planning Commission may require that the applicant allow for the future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of streets may be made a requirement of plat approval.

6.2 Plat Vacation.

1. **Owner Initiated Plat Vacation.** The owner or owners of lots in any approved subdivision, including the developer, may petition the Planning Commission to vacate the plat with respect to their properties.

The petition shall be filed in triplicate on forms provided by the Planning Commission and one (1) copy shall be referred to the governing body by the Planning Commission.

- a. *Notice and Hearing.* The Planning Commission shall post notice and provide personal notice of the petition for vacation to all owners of property within the affected subdivision and shall state in the notice the time and place for a public hearing on the vacation petition. The public hearing shall be no sooner than thirty (30) and no later than forty-five (45) days after the posting and personal notice.
- b. *Criteria.* The Planning Commission shall approve the petition for vacation on such terms and conditions as are reasonable to protect public health, safety, and welfare; but in no event may the Planning Commission approve a petition for vacation if it will materially injure the rights of any non-consenting property owner or any public rights in public improvements unless expressly agreed to by the governing body.
- c. *Recordation of Revised Plat.* Upon approval of any petition for vacation, the Planning Commission shall direct the petitioners to prepare a Revised Final Subdivision Plat in accordance with these regulations. The Revised Final Subdivision Plat may be recorded only after having been properly signed.
- d. *Developer Initiated Vacation.* When the developer of the subdivision, or its successor, owns all of the lots in the subdivision, the developer or successor may petition for vacation of the subdivision plat and the petition may be approved, conditionally approved, or disapproved at a regular public meeting of the Planning Commission subject to the criteria in Section 6.2(1)(b). The petition shall be made in triplicate on forms provided by the Planning Commission at least thirty (30) days prior to a regular Planning Commission public meeting and the Commission shall refer one (1) copy of the petition to the governing body. Regardless of the Planning Commission's action on the petition, the developer or its successor will have no right to a refund of any monies, fees, or charges paid to the county nor to the return of any property or consideration dedicated or delivered to the county except as may have previously been agreed to by the Planning Commission, the governing body, and the developer.

2. **Government Initiated Plat Vacation.**

- a. *General Conditions.* The Planning Commission, on its motion, may vacate the plat of an approved subdivision when:
 - i. No lots within the approved subdivision have been sold within five (5) years from the date that the plat was signed by the Governing Body;
 - ii. The developer has breached a subdivision improvement agreement and the municipality is unable to obtain funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by the developer or its successor;
 - iii. The plat has been of record for more than five (5) years and the Planning Commission determines that the further sale of lots within the subdivision presents a threat to public health, safety and welfare, except that the vacation shall apply only to lots owned by the developer or its successor.
- b. *Procedure.* Upon any motion of the Planning Commission to vacate the plat of any previously approved subdivision, in whole or in part, the Commission shall post notice and provide personal notice to all property owners within the subdivision and shall also provide notice to the governing body. The notice shall state the time and place for a public hearing on the motion to vacate the subdivision plat. The public hearing shall be no sooner than thirty (30) and no later than forty-five (45) days from the date of the posted and personal notice. The Planning Commission shall approve the resolution effecting the vacation only if the criteria in Section 6.2(1)(b) are satisfied.
- c. *Recordation of Notice.* If the Planning Commission adopts a resolution vacating a plat in whole, it shall forward a copy of the resolution to the Clerk of Finney County. If the Planning Commission adopts a resolution vacating a plat in part, it shall cause a Revised Final Subdivision Plat to be forwarded to the governing body for final approval/disapproval. If approved the Revised Final Subdivision Plat shall be recorded which shows that portion of the original subdivision plat that has been vacated and that portion that has not been vacated.

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ARTICLE

7

Specifications for Documents to be Submitted

7.1 Sketch Plat.

Sketch plats submitted to the Planning Commission, prepared in pen or pencil, shall be drawn to a convenient scale of not more than one hundred (100') feet to an inch and shall show the following information:

1. **Name.**
 - a. Name of subdivision if property is within an existing subdivision.
 - b. Proposed name if not within a previously platted subdivision. The proposed name shall not duplicate the name of any plat previously recorded.
 - c. Name of property if no subdivision name has been chosen. (This is commonly the name by which the property is locally known.)
2. **Ownership.**
 - a. Name and address, including telephone number, of legal owner or agent of property, and citation of last instrument conveying title to each parcel of property involved in the proposed subdivision, giving grantor, grantee, date, and land records reference.
 - b. Citation of any existing legal rights-of-way or easements affecting the property.
 - c. Existing covenants on the property, if any.
 - d. Name and address, including telephone number, of the professional person(s) responsible for subdivision design, for the design of public improvements, and for surveys.
3. **Description.** Location of property by government lot, section, township, range and county, graphic scale, north arrow, and date.
 - a. Location of property lines, existing easements, burial grounds, railroad rights-of-way, watercourses, and existing wooded areas or trees eight (8") inches or more in diameter, measured four (4') feet above ground level; location, width, and names of all existing or platted streets or other public ways within or immediately adjacent to the tract; names of adjoining property owners from the latest assessment rolls within five hundred (500') feet of any perimeter boundary of the subdivision.
 - b. Location, sizes, elevations, and slopes of existing sewers, water mains, culverts, and other underground structures within the tract and immediately adjacent thereto; existing permanent building and utility poles on or immediately adjacent to the site and utility rights-of-way.
 - c. Approximate topography, at the same scale as the sketch plat.
 - d. The approximate location and widths of proposed streets.
 - e. Preliminary proposals for connection with existing water supply and sanitary sewage systems, or alternative means of providing water supply and sanitary waste treatment and disposal; preliminary provisions for collecting and discharging surface water drainage.
 - f. The approximate location, dimensions, and areas of all proposed or existing lots.

- g. The approximate location, dimensions, and area of all parcels of land proposed to be set aside for park or playground use or other public use, or for the use of property owners in the proposed subdivision.
- h. The location of temporary stakes to enable the Planning Commission to find and appraise features of the sketch plat in the field.
- i. Whenever the sketch plat covers only a part of an applicant's contiguous holdings, the applicant shall submit, at the scale of no more than two hundred (200') feet to the inch, a sketch in pen or pencil of the proposed subdivision area, together with its proposed street system, and an indication of the probable future street system, and an indication of the probable future street and drainage system of the remaining portion of the tract.
- j. A vicinity map showing streets and other general development of the surrounding area.

7.2 Preliminary Plat.

1. **General.** The preliminary plat shall be prepared by a licensed land surveyor at a convenient scale not more than one (1") inch equals one hundred (50') feet, or at the discretion of the Director of Community Development, and the sheets shall be numbered in sequence if more than one (1) sheet is used.
2. **Features.** The preliminary plat shall show the following:
 - a. The location of property with respect to surrounding property and streets [show existing development or approved preliminary plat of adjacent land within 100' of the submitted plat], the names of all adjoining property owners of record, or the names of adjoining developments; the names of adjoining streets.
 - b. The location and dimensions of all boundary lines of the property to be expressed in feet and decimals of a foot.
 - c. The location of existing streets, easements, water bodies, streams, and other pertinent features such as swamps, railroads, buildings, parks, cemeteries, drainage ditches, and bridges, as determined by the Planning Commission.
 - d. The location and width of all existing and proposed streets and easements, alleys, and other public ways, and easement and proposed street rights-of-way and building set-back lines.
 - e. The locations, dimensions, and areas of all proposed or existing lots.
 - f. The location and dimensions of all property proposed to be set aside for park or playground use, or other public or private reservation, with designation of the purpose of those set asides, and conditions, if any, of the dedication or reservation.
 - g. The name and address of the owner or owners of land to be subdivided, the name and address of the subdivider if other than the owner, and the name of the land surveyor.
 - h. The date of the map, approximate true north point, scale, and title of the subdivision.
 - i. Sufficient data acceptable to the County Engineer to determine readily the location, bearing, and length of all lines, and to reproduce such lines upon the ground; the location of all proposed monuments.
 - j. Names of the subdivision and all new streets as approved by the Planning Commission.
 - k. Indication of the use of any lot (single-family, two-family, multifamily, townhouse) and all uses other than residential proposed by the subdivider.
 - l. Blocks shall be consecutively numbered or lettered in alphabetical order. The blocks in numbered additions to subdivisions bearing the same name shall be numbered or lettered consecutively throughout the several additions.
 - m. All lots in each block shall be consecutively numbered. Outlots shall be lettered in alphabetical order. If blocks are numbered or lettered, outlots shall be lettered in alphabetical order within each block.
 - n. All information required on sketch plat should also be shown on the preliminary plat, and the following notation shall also be shown:
 - i. Explanation of drainage easements, if any.
 - ii. Explanation of site easements, if any.
 - iii. Explanation of reservations, if any.

- h. Title, name, address, and signature of professional engineer and surveyor, and date revision dates.

7.4 Final Subdivision Plat.

1. **General.** The final subdivision plat shall be presented in map form, legibly drawn with India ink, printed or reproduced by a process guaranteeing a permanent record in black on a tracing cloth or reproducible mylar at the same scale and contain the same information, except for any changes or additions required by resolution of the Planning Commission, as shown on the preliminary plat. The preliminary plat may be used as the final subdivision plat if it meets these requirements and is revised in accordance with the Planning Commission's resolution. All revision dates must be shown as well as the following:
 - a. Notation of any self-imposed restrictions and locations of any building lines proposed to be established in this manner, if required by the Planning Commission in accordance with these regulations.
 - b. Endorsement of KDHE or designated agency granting approval of liquid waste systems.
 - c. Endorsement on the plat by every person having a security interest in the subdivision property that they are subordinating their liens to all covenants, servitude's, and easements imposed on the property.
 - d. Lots numbered as approved by the County Engineer.
 - e. All monuments erected, corners, and other points established in the field in their proper places. The material of which the monuments, corners, or other points are made shall be noted at the representation thereof or by legend, except that lot corners need not be shown. The legend for metal monuments shall indicate the kind of metal, the diameter, length, and weight per lineal foot of the monuments.
 - f. Provide a computer disc of the final plat in a format approved by the County Engineer.
2. **Preparation.** A land surveyor licensed by the state shall prepare the final subdivision plat.

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ARTICLE

8

Appendix A

Forms For Subdivision Approval Procedures

The following forms are keyed to the Finney County Interim Subdivision Regulations. These forms will provide the important vehicle necessary to successfully carry out the objectives of the Finney County Interim Subdivision Regulations.

Form 1.	Application for Sketch Plat Approval.....	81
Form 2.	Sketch Plat Checklist.....	84
Form 3.	Application for Preliminary Plat Approval.....	87
Form 4.	Preliminary Plat Checklist.....	90
Form 5.	Application for Final Plat Approval.....	93
Form 6.	Checklist for Filing of Final Subdivision Plat.....	96
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Form 8.	Offer of Irrevocable Dedication	102
Form 9.	Performance Bond	105
Form 10.	Acknowledgments.....	107

FORM 1. APPLICATION FOR SKETCH PLAT APPROVAL
(To be filed in duplicate)
(Incomplete Applications will not be accepted)

Date _____

1. Name of Subdivision _____

2. Name of Applicant _____ Phone _____

Address _____ (Street No. And
Name)

3. Name of Local Agent _____

Address _____ (Street
No. And Name) (Post Office) (State) (Zip Code)

4. Owner of Record _____ Phone _____

Address _____ (Street No. And
Name) (Post Office) (State) (Zip Code)

5. Engineer _____ Phone _____

Address _____ (Street No. And
Name) (Post Office) (State) (Zip Code)

6. Land Surveyor _____ Phone _____

Address _____ (Street
No. And Name) (Post Office) (State) (Zip Code)

7. Attorney _____ Phone _____

Address _____ (Street
No. And Name) (Post Office) (State) (Zip Code)

8. Subdivision Location: on the _____ side of _____ feet

_____ of _____
(Direction) (Street)

9. Postal Delivery Area _____ School District _____

10. Total Acreage _____ Zone _____ Number of Lots _____

Fee Required at \$ _____ per Lot _____

11. Tax Map Designation: Section _____ Lots _____

12. Is any open space being offered as part of this subdivision application?

If so, what amount? _____

13. Has the Board of Zoning Appeals granted any variance, exception, or special permit concerning this property?

If so, list Case No. and Name _____

14. Is any variance from the Subdivision Regulations requested? _____ If so, describe

15. Proposed Classification of Subdivision _____
(Major or Minor)

16. Does the application involve a flexible zoning application? _____

If so, describe _____

17. Attach seven (7) copies of Sketch Plat.

The applicant hereby consents to the provisions of § 3.5(4) of the subdivision regulations providing that the decision of the Planning Commission shall be made within sixty (60) days after the close of the public hearing on final plat approval.

List all contiguous holdings in the same ownership (as defined in the Subdivision Regulations).

Section _____ Lot(s) _____

Attached hereto is an affidavit of ownership indicating the dates the respective holdings of land were acquired, together with the book and page of each conveyance into the present owner as recorded in the Finney County, Register of Deeds Office. This affidavit shall indicate the legal owner of the property, the contract owner of the property, and the date the contract of sale was executed. IN THE EVENT OF CORPORATE OWNERSHIP: A list of all directors, officers, and stockholders of each corporation owning more than five percent (5%) of any class of stock must be attached [this need only be provided if developer is requesting special assessment financing, the formation of improvement districts or benefit districts].

STATE OF KANSAS)
) SS:
COUNTY OF FINNEY)

I, _____ hereby depose and say that all of the above statements and the statements contained in the papers submitted herewith are true.

Mailing Address _____
(Street)

(City) (State) (Zip Code)

Subscribed and sworn to before me this day of _____

(City) (State) (Zip Code)

MY COMMISSION EXPIRES:

THIS MAY NOT BE THE MOST RECENT COPY OF THE ADOPTED SUBDIVISION REGULATIONS OF FINNEY COUNTY, KS. PLEASE CONTACT THE NEIGHBORHOOD & DEVELOPMENT SERVICES DEPARTMENT AT 620-276-1170 WITH ANY QUESTIONS.

**FORM 2. SKETCH PLAT CHECKLIST
(For Local Government Use Only)**

Subdivision _____

- _____ 1. Two copies of application _____ 2. Received check for \$ _____ (____ lots at \$ ____ ea.)
- _____ 3. Seven copies of Plat (At scale of 1" = 100' or less) showing the following information:
- _____ 4. Legal Description (Lot, Section, Township, Range, County)
- _____ 5. Name of Proposed Subdivision _____ 6. Graphics Scale
- _____ 7. North Arrow _____ 8. Date
- _____ 9. Property Owners Name and Address
- _____ 10. Covenants, Liens and Encumbrances
- _____ 11. Conveyance (Book and Page) to Owner
- _____ 12. Name and Address of licensed professional engineer, surveyor preparing the Sketch _____ Plat,
Attorney.
- _____ 13. Location of Property Lines _____ 14. Existing Easements
- _____ 15. Burial Grounds _____ 16. Railroad Rights-of-Way
- _____ 17. Water Courses _____ 18. Existing Wooded Areas
- _____ 19. Trees eight inches (8") or more in diameter, measured four feet (4') above ground level.
- _____ 20. Location, width, and names of all existing or platted streets or other public ways within or immediately adjacent to tract.
- _____ 21. Names of adjoining property owners from the latest County, City, or Township assessment rolls within five hundred feet (500') of any perimeter boundary of the subdivision.
- _____ 22. Location, sizes, elevations and slopes of existing sewers, water mains, culverts, and other underground structures within the tract and immediately adjacent thereto.
- _____ 23. Existing permanent buildings.
- _____ 24. Utility poles on or immediately adjacent to the site and utility right-of-way.
- _____ 25. Approximate Topography, at the same scale as the Sketch Plat.
- _____ 26. The approximate location and widths of proposed streets.
- _____ 27. Preliminary proposals for connection with existing water supply and sanitary sewerage systems, preliminary provisions for collecting and discharging surface water drainage.

- ____ 28. The approximate location, dimensions and areas of all proposed or existing lots.
- ____ 29. The approximate location, dimensions, and areas of all parcels of land proposed to be set aside for park or playground use or other public use or for the use of property owners in the proposed subdivision.
- ____ 30. The location of temporary stakes to enable the Planning Commission to find and appraise features of the sketch plat in the field.
- ____ 31. Whenever the sketch plat covers only a part of an applicant's contiguous holdings, the applicant shall submit, at the scale of no more than two hundred feet (200') to the inch, a sketch in pen of the proposed subdivision area, together with its proposed street systems and an indication of the probable future street and drainage system for the remaining portion of the tract.
- ____ 32. A vicinity map showing streets and other general developments of the surrounding area at a scale of 1" = 100'; the sketch plat shall show all school and improvement district lines and zoning district lines with the zones properly designated.
- ____ 33. Has applicant or agent discussed sketch plat with Secretary to Planning Commission prior to filing?

Date of Conference _____

With Whom _____

- ____ 34. Referred to the following officials, agencies, and municipalities:

Official, Agency or Local Government	Date
_____	_____
_____	_____
_____	_____
_____	_____

- ____ 35. Reports (or protests) from Officials, Agencies and Local Governments received:

Official, Agency or Local Government	Date
_____	_____
_____	_____
_____	_____
_____	_____

- ____ 36. Date sketch plat referred to Planning Commission _____

- ____ 37. Date of Planning Commission Meeting on Sketch Plat _____

- ____ 38. Date of Approval of Sketch Plat _____

- ____ 39. Conditions and Remarks by Planning Commission

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Date Received in the Office of the Secretary of the Planning Commission: _____

Application (is) (is not) complete as submitted.

Named individual reviewing the submitted application: _____

**FORM 3. APPLICATION FOR
PRELIMINARY PLAT APPROVAL
(To be filed in duplicate)
(Incomplete Applications will not be accepted)**

- Date _____
Major _____
Minor _____
1. Name of Subdivision _____
2. Name of Applicant _____ Phone _____
Address _____
(Street No. and Name) (Post Office) (State) (Zip Code)
3. Name of Local Agent _____ Phone _____
Address _____
(Street No. and Name) (Post Office) (State) (Zip Code)
4. Owner of Record _____ Phone _____
Address _____
(Street No. and Name) (Post Office) (State) (Zip Code)
5. Engineer _____ Phone _____
Address _____
(Street No. and Name) (Post Office) (State) (Zip Code)
6. Land Surveyor _____ Phone _____
Address _____
(Street No. and Name) (Post Office) (State) (Zip Code)
7. Attorney _____ Phone _____
Address _____
(Street No. and Name) (Post Office) (State) (Zip Code)
8. Subdivision Location: on the _____ side of _____
_____ feet _____ of _____
(Direction) (Street)
9. Postal Delivery Area _____ School District _____
10. Total Acreage _____ Zone _____ Number of Lots _____
11. Tax Map Designation: Section _____ Lot(s) _____

12. Has the Board of Zoning Appeals granted variance, exception, or conditional permit concerning this property?

If so, list Case No. and Name _____

13. Date of sketch plat approval _____

14. Have any changes been made since this plat was last before the Board? _____

If so, describe _____

15. List all land proposed to be subdivided _____

16. Owners of land 100 feet adjacent or opposite _____

17. Attach ten (10) copies of proposed preliminary plat.

18. Attach three (3) copies of construction plans.

19. List all contiguous holdings in the same ownership:

Section _____ Lot(s) _____

The applicant hereby consents to the provisions of § 3.5(4) of the subdivision regulations providing that the decision of the Planning Commission shall be made within sixty (60) days after the close of the public hearing on final plat approval.

Attached hereto is an affidavit of ownership indicating the dates the respective holdings of land were acquired, together with the book and page of each conveyance into the present owner as recorded in the County Register of Deeds office. This affidavit shall indicate the legal ownership of the property, the contract owner of the property, and the date the contract of sale was executed.

IN THE EVENT OF CORPORATE OWNERSHIP: A list of all directors, officers, stockholders of each corporation owning more than five percent (5%) of any class of stock must be attached [this need only be provided if developer is requesting special assessment financing, the formation of improvement district(s) or benefit district(s)].

STATE OF KANSAS)
) SS:
COUNTY OF FINNEY)

I, _____ hereby depose and say that all of the above statements and the statements contained in the papers submitted herewith are true.

Mailing Address _____
(Street)

(City) (State) (Zip Code)

Subscribed and sworn to before me this day of _____

(City) (State) (Zip Code)

MY COMMISSION EXPIRES:

THIS MAY NOT BE THE MOST RECENT COPY OF THE ADOPTED SUBDIVISION REGULATIONS OF FINNEY COUNTY, KS. PLEASE CONTACT THE NEIGHBORHOOD & DEVELOPMENT SERVICES DEPARTMENT AT 620-276-1170 WITH ANY QUESTIONS.

FORM 4. PRELIMINARY PLAT CHECKLIST
(Incomplete checklist will not be accepted)

Subdivision _____

- _____ 1. Two copies of application _____ 2. Received check for \$ _____ (_____ lots at \$ _____ ea.)
- _____ 3. Ten copies of plat (at a scale of not more than 1" = 100').
- _____ 4. Location of property with respect to surrounding property and streets.
- _____ 5. Names of all adjoining property owners, or names of adjoining developers.
- _____ 6. Names of adjoining streets.
- _____ 7. Location and dimensions of all boundary lines of the property in feet and decimals of a foot.
- _____ 8. Location of existing streets. _____ 9. Location of existing easements.
- _____ 10. Location of existing water bodies, streams, and other pertinent features such as swamps, railroads, buildings, parks, cemeteries, drainage ditches, bridges, etc.
- _____ 11. Locations, dimensions, and areas of all proposed or existing lots.
- _____ 12. Location and dimensions of all property proposed to be set aside for park or playground use, or other public or private reservation, with designation of the purpose thereof, and conditions, if any, of the dedication or reservation.
- _____ 13. Date of plat. _____ 14. Approximate true north point.
- _____ 15. Scale of plat. _____ 16. Title of subdivision.
- _____ 17. Data from which the location, bearing, and length of all lines can be determined and reproduced on the ground.
- _____ 18. Location of all proposed monuments.
- _____ 19. Names of new streets as approved by the Planning Commission.
- _____ 20. Indication of the use of any lot and all uses other than residential.
- _____ 21. Blocks consecutively numbered or lettered.
- _____ 22. Lots in each block consecutively numbered.
- _____ 23. Explanation of drainage easements.
- _____ 24. Explanation of site easements.
- _____ 25. Explanation of shade tree easements.
- _____ 26. Explanation of reservations.

____ 27. All information shown on sketch plat.

____ 28. Endorsement of owner.

____ 29. Construction plans (at a scale of not more than 1" = 50')

- ____ A. Profiles showing existing and proposed elevations along center lines of all roads. Where a proposed road intersects an existing road or roads, the elevation along the center line of the existing road or roads within one hundred (100') feet of the intersection, shall be shown.
- ____ B. Approximate radii of all curves, lengths of tangents, and central angles on all streets.
- ____ C. If required, where steep slopes exist, cross-sections of all proposed streets at one-hundred foot stations shown at five (5) points as follows: On a line at right angles to the center line of the street, and said elevation points shall be at the center line of the street, each property line, and points twenty-five (25) feet inside each property line.
- ____ D. Plans and profiles showing the locations and typical cross-section of street pavements including curbs and gutters, sidewalks, drainage easements, servitude's, rights-of-way, manholes, and catch basins.
- ____ E. Locations of street trees.
- ____ F. Location of street lighting standards.
- ____ G. Location of street signs.
- ____ H. Location, size, and invert elevations of existing and proposed sanitary sewers, storm water drains, and fire hydrants, showing connection to any existing and proposed utility systems.
- ____ I. Location and size of all water, gas, or other underground utilities or structures.
- ____ J. Location, size, elevation, and other appropriate description of any existing facilities or utilities including, but not limited to, existing streets, sewers, drains, water mains, easements, water bodies, streams and other pertinent features such as swamps, railroads, buildings, features; noted on the Official Map (Major Street Plan) or Comprehensive Plan, and each tree with a diameter of eight (8) inches or more measured twelve (12") inches above ground level, at the point of connection to proposed facilities and utilities within the subdivision.
- ____ K. Water elevations of adjoining lakes or streams at date of survey and approximate high and low water elevations referred to the U.S.G.S. datum plane.
- ____ L. If the subdivision borders a lake, river, or stream, the distances and bearings of a meander line established not less than twenty (20') feet back from the ordinary high water mark of such waterways.
- ____ M. Topography at the same scale as sketch plat with contour interval of two feet.
- ____ N. Other specifications and references required by the local government construction standards and specifications, including a site-grading plan for the entire subdivision.
- ____ O. Title, name, address and signature of professional engineer and surveyor.
- ____ P. Date, including revision dates.

____Q. Notation of approval.

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Date Received in the Office of the Secretary of the Planning Commission: _____

Application (is) (is not) complete as submitted.

Named individual reviewing the submitted application: _____

**FORM 5. APPLICATION FOR FINAL PLAT APPROVAL
(To be filed in duplicate)
(Incomplete Applications will not be accepted)**

- Date _____
Major _____
Minor _____
1. Name of Subdivision _____
2. Name of Applicant _____ Phone _____
Address _____
(Street No. and Name) (Post Office) (State) (Zip Code)
3. Name of Local Agent _____ Phone _____
Address _____
(Street No. and Name) (Post Office) (State) (Zip Code)
4. Owner of Record _____ Phone _____
Address _____
(Street No. and Name) (Post Office) (State) (Zip Code)
5. Engineer _____ Phone _____
Address _____
(Street No. and Name) (Post Office) (State) (Zip Code)
6. Land Surveyor _____ Phone _____
Address _____
(Street No. and Name) (Post Office) (State) (Zip Code)
7. Attorney _____ Phone _____
Address _____
(Street No. and Name) (Post Office) (State) (Zip Code)
8. Subdivision Location: on the _____ side of _____
_____ feet _____ of _____
(Direction) (Street)
9. Postal Delivery Area _____ School District _____
10. Total Acreage _____ Zone _____ Number of Lots _____
11. Tax Map Designation: Section _____ Lot(s) _____
12. Has the Board of Zoning Appeals granted variance, exception, or conditional permit concerning this property?

If so, list Case No. and Name _____

13. Date of sketch plat approval _____

14. Date of preliminary plat approval _____

15. Have any changes been made since this plat was last before the Commission?

List all contiguous holdings in the same ownership:

Section _____ Lot(s) _____

Attached hereto is an affidavit of ownership indicating the dates the respective holdings of land were acquired, together with the book and page of each conveyance into the present owner as recorded in the County Register of Deeds Office. This affidavit shall indicate the legal owner of the property, the contract owner of the property, and the date the Contract of Sale was executed. IN THE EVENT OF CORPORATE OWNERSHIP: A list of all directors, officers, and stockholders of each corporation owning more than five percent (5%) of any class of stock must be attached [this need only be provided if developer is requesting special assessment financing, the formation of improvement district(s) or benefit district(s)].

The applicant hereby consents to the provisions of § 3.5(4) of the subdivision regulations providing that the decision of the Planning Commission shall be made within sixty (60) days after the close of the public hearing on final plat approval.

STATE OF KANSAS)
) SS:
COUNTY OF FINNEY)

I, _____ hereby depose and say that all of the above statements and the statements contained in the papers submitted herewith are true.

(Signature)

Mailing Address _____
(Street)

(City) (State) (Zip Code)

Subscribed and sworn to before me this day of _____

(City) (State) (Zip Code)

MY COMMISSION EXPIRES:

**FORM 6. CHECKLIST FOR FILING OF
FINAL SUBDIVISION PLAT
(Incomplete Checklist will not be accepted)**

Plat Name _____ Major _____
Minor _____

Location _____

Owner _____

1. Date of Final Approval _____

2. Date(s) of Re-approval _____

3. Bonds:

Public Improvement _____

Sewer _____

Other _____

Other _____

(Bond Resolutions Provided On _____)

4. Fees: (To governing body)

A. Money in lieu of land _____

B. Two percent (2%) Inspection Fee _____

C. Money In Lieu of Public Improvement _____

D. Register of Deeds (For Filing of Plat) _____

E. Street Signs _____

F. Other _____

G. Other _____

5. Linen:

Received _____

Checked: _____

_____ a. Signature Block

_____ b. Owner's Signature

_____ c. Tax Lot Designations

_____ d. Seal(s)

THIS MAY NOT BE THE MOST RECENT COPY OF THE ADOPTED SUBDIVISION REGULATIONS OF FINNEY COUNTY, KS. PLEASE CONTACT THE NEIGHBORHOOD & DEVELOPMENT SERVICES DEPARTMENT AT 620-276-1170 WITH ANY QUESTIONS.

- _____ e. _____
- _____ f. _____
- _____ g. _____
- _____ h. _____

5. Instruments Necessary for Public Improvements (Checked by County Engineer)
 (a) Off-Site (Easements, Servitude's, Agreements, Deeds)

- 1. _____
- 2. _____
- 3. _____
- 4. _____

(b) Streets

- 1. _____
- 2. _____
- 3. _____
- 4. _____

(c) Road Widening (City, County, Township, State)

- 1. _____
- 2. _____
- 3. _____
- 4. _____

(d) On-Site Drainage (Easements)

- 1. _____
- 2. _____
- 3. _____
- 4. _____

(e) Sewer Line (Easements)

- 1. _____
- 2. _____

(PURPOSE)

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(f) Reserved Lands

1. _____

2. _____

(g) Other Right-of-Way

1. _____

2. _____

(h) Conformity to Engineering Report

1. _____

(Instruments checked above to be recorded immediately)

APPROVED FOR FILING: _____
COUNTY ENGINEER

6. Secretary to Planning Commission

1. List of Stockholders _____

2. Performance Bonds _____

3. (a) Off-Site Instruments _____

(b) Title Report* _____

(c) Releases of any existing mortgages _____

(d) Check for recording _____

4. (a) On-Site Instruments _____

(b) Agreement of Dedication _____

(c) Title Report* _____

(d) Releases of any existing mortgages _____

(e) Check for Recording (Agreement and Releases) _____

5. Water Supply Distribution Formation (Special District) _____

6. Sanitary Sewer Formation (Special District) _____

Instruments Received _____
Secretary to the Planning Commission

THIS MAY NOT BE THE MOST RECENT COPY OF THE APPROVED SUBMISSION REGULATIONS OF FINNEY COUNTY, KS. PLEASE CONTACT THE NEIGHBORHOOD & DEVELOPMENT SERVICES DEPARTMENT AT 620-276-1170 WITH ANY QUESTIONS.

Instruments Approved

Local Government Attorney

*Can be included in one title report.

Filed _____

Book _____

Page _____

THIS MAY NOT BE THE MOST RECENT COPY OF THE ADOPTED SUBDIVISION REGULATIONS OF FINNEY COUNTY, KS. PLEASE CONTACT THE NEIGHBORHOOD & DEVELOPMENT SERVICES DEPARTMENT AT 620-276-1170 WITH ANY QUESTIONS.

**FORM 7. RESOLUTION OF PLANNING COMMISSION
APPROVING FINAL SUBDIVISION PLAT**

Name of Plat _____

Name of Owner _____

PLANNING COMMISSION

Address

The following is an extract from the minutes of the meeting of the Holcomb-Garden City-Finney County Area Planning Commission held _____

1. That roads, sidewalks, curbs, drainage systems, storm drains, catch basins, rights-of-way, easements, open spaces, park and recreation sites, and other improvements and installations, etc., be constructed as set forth on such approved final plat, including the construction of all off-site improvements and drainage systems.
2. That all of the aforesaid improvements and installations be constructed in accordance with local government specifications. That in addition to the improvements and installations set forth on the approved final plat, all stipulations and undertakings appearing in the minutes of the Planning Commission, together with the Developers Agreement offering irrevocable dedication of such improvements which the owner or developer has agreed to, are incorporated in this Resolution by reference, as well as all Agreements, regulations, rules, resolutions and orders of the local government.
3. That said _____ as owners of the above plat, execute and file with the Clerk a performance bond in the amount of \$ _____ sufficient to cover the full cost of said _____ improvements as estimated by the Commission or other appropriate local government officials or agencies, which performance bond shall be issued by a Bonding or Surety Company to be approved by the Governing Body and shall also be approved by such Governing Body as to form sufficiency and manner of execution. Said performance bond shall run for a term of _____ () years (not exceeding _____ () years), provided, however, that the terms of such performance bond may be extended by the Planning Commission with the consent of the parties thereto as provided by law, for a period not to exceed one (1) additional year. The bond shall also provide, among other things, that in the event that any required improvements have not been installed and deeded to the county free and clear of all encumbrances as provided by this Resolution, with the terms of such performance bond, the Governing Body may thereupon declare said performance bond to be in default and collect the sum remaining payable thereunder and apply said sum towards obtaining free and clear title to said improvements, including payment of all liens and encumbrances on the property and all costs and expenses, including legal fees, incurred by the local government in acquiring free and clear title, and install such improvements as are covered by such performance bond commensurate with the extent of building development that has taken place in the subdivision but not exceeding in cost, the amount of such proceeds.
4. That the final plat will not be signed by the Chairman of the Planning commission until the submission and approval of the required bond by the Governing Body of the local government.
5. That said bond will not be released or reduced until the public improvements are approved "as built" by the office of the local government engineer and all improvements, roads, rights-of-way, easements, open spaces, park and recreation sites, including off-site improvements, and land have been deeded to and accepted by the local government, in accordance with the procedure for dedication of improvements adopted by the Governing

Body and after approval of the Planning Commission, after public hearing as provided for by law, subject to approval by the Governing Body.

6. This Resolution expires on _____

STATE OF KANSAS)
) SS
COUNTY OF FINNEY)

I, _____ Secretary to the Planning Commission of the Local Government, hereby certify that I have compared the foregoing copy of an extract from the minutes of the _____ Holcomb-Garden City-Finney County Area Planning Commission held _____, _____ with the original now in my office, and find the same to be a true and correct transcript therefrom.

IN TESTIMONY WHEREOF, I have hereunder subscribed my name this _____ day of _____, 200____.

, Secretary
Holcomb-Garden City-Finney County Area
Planning Commission

THIS MAY NOT BE THE MOST RECENT COPY OF THE ADOPTED SUBDIVISION REGULATIONS OF FINNEY COUNTY, KS. PLEASE CONTACT THE NEIGHBORHOOD SURVEY OR PLANNING SERVICES DEPARTMENT AT 620-276-1170 WITH ANY QUESTIONS.

FORM 8. OFFER OF IRREVOCABLE DEDICATION

AGREEMENT made this ____ day of _____, 200__ by and between _____

_____, a _____, having its office and place of business at _____

_____, hereinafter designated as Developer, and the local government having its principal office at _____, hereinafter designated as the local government;

WHEREAS, the Area Planning Commission of Finney County is in the process of

approving a subdivision plat entitled _____, dated

_____, made by _____; and

WHEREAS, said map designates certain public improvements consisting of

to be dedicated to the county free and clear of all encumbrances and liens, pursuant to the regulations and requirements of the local government; and

WHEREAS, the developer, simultaneously herewith shall post a performance bond with Finney County for the construction, maintenance, and dedication of said improvements; and

WHEREAS, the developer is desirous of offering for dedication the said improvements and land to the local government more particularly described in Schedule attached hereto; and

WHEREAS, the developer has delivered deeds of conveyance to Finney County for the said land and improvements as described herein;

NOW, THEREFORE, in consideration of the sum of \$1.00 lawful money of the United States paid by Finney County to the developer and other good and valuable consideration, it is mutually AGREED as follows:

1. The developer herewith delivers to Finney County deeds of conveyance for the premises described in Schedule attached hereto, said delivery being a formal offer of dedication to Finney County to be held by Finney County until the acceptance or rejection of such offer of dedication by the Governing Body.
2. The developer agrees that said formal offer of dedication is irrevocable and can be accepted by Finney County at any time.
3. The developer agrees to complete the construction and maintenance of the land and improvements pursuant to the performance bond and the requirements of the Planning Commission of the local government and any regulations, requirements, covenants, and agreements that may be imposed by the local government with respect thereto and upon acceptance by the local government of the offer of dedication shall within thirty (30) days after written notice from the local government of the said acceptance of the offer of dedication, shall furnish to the local government a title insurance policy issued by a licensed title insurance company authorized to do business in the State of Kansas in a minimum amount of \$ _____, certifying that the premises are free and clear of all liens and encumbrances and shall furnish to Finney County a check for all necessary fees and taxes to record the deeds heretofore delivered.
4. That this irrevocable offer of dedication shall run with the land and shall be binding on all assigns, grantees, successors, or heirs of the developer.

(SEAL)

ATTEST:

FINNEY COUNTY

THIS MAY NOT BE THE MOST RECENT VERSION OF THIS FORM. PLEASE CHECK THE WEBSITE OF THE PLANNING AND DEVELOPMENT SERVICES DEPARTMENT AT 620-276-1170 WITH ANY QUESTIONS.

COUNTY CLERK

By _____

STATE OF KANSAS)
) SS
COUNTY OF FINNEY)

On the ____ day of _____, 200____, before me personally came _____, to me known, who being by me duly executed the foregoing instrument, and he duly acknowledged to be that he executed the same.

STATE OF KANSAS)
) SS
COUNTY OF FINNEY)

On the ____ day of _____, 200____, before me personally came _____, to me known, who being by me duly sworn, did depose and say that he resides at _____, that he is the _____ of _____, the corporation/limited liability company (L.L.C.) described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is the seal of said corporation/L.L.C. and was affixed thereto by order of the Board of Directors/Members of said corporation/L.L.C. and that he signed his name thereto by like order.

STATE OF KANSAS)
) SS
COUNTY OF FINNEY)

On the ____ day of _____, 200____, before me personally came _____, to me known, who being by me duly sworn, did depose and say that he resides at _____, that he is the _____ of _____, the corporation/limited liability company (L.L.C.) described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is the seal of said corporation/L.L.C. and was affixed thereto by order of the Board of Directors/Members of said corporation/L.L.C. and that he signed his name thereto by like order.

THIS MAY NOT BE THE MOST RECENT COPY OF THE ADOPTED SUPPLEMENTAL PROVISIONS OF FINNEY COUNTY, KS. PLEASE CONTACT THE ECONOMIC DEVELOPMENT SERVICES DEPARTMENT AT 620-276-1170 WITH ANY QUESTIONS.

FORM 9. PERFORMANCE BOND
(To be required in this form only)

KNOW ALL MEN BY THESE PRESENTS, That We, _____

_____, as Principals, _____ and the

_____ INSURANCE COMPANY, a Corporation authorized to do

business in the State of Kansas, having an office and place of business at _____, as
Surety, are held and firmly bound unto the municipality, as

Obligee, in the sum of DOLLARS (\$ _____) lawful money of the United States, for the payment whereof
to the Obligee, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors, and
assigns, jointly and severally, firmly to these presents:

SIGNED, SEALED AND DATED, this ____ day of _____, 200 ____.

WHEREAS, application was made to the Obligee for approval of a subdivision shown on plat entitled:

“ _____

_____”

filed with the Secretary to the Planning Commission of Finney County on _____, 200 ____, said final plat
was approved upon certain conditions, one of which is that a performance bond in the amount of (\$ _____), to be
filed with the Clerk to guarantee certain improvements in said subdivision;

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the above named
Principal shall within two (2) years from the date hereof (time may be extended for one year only by the Governing
Body with the consent of the parties) will and truly make and perform the required improvements and construction
of public improvements in said subdivision in accordance with the county's specifications and the Resolution of
_____, 200 ____, then this obligation to be void; otherwise to remain in full force and effect.

It is hereby understood and agreed that in the event that any required improvements have not been installed
as provided by said Resolution, within the term of this Performance Bond, the Governing Body may thereupon
declare this bond to be in default and collect the sum remaining payable thereunder and upon receipt of the proceeds
thereof, Finney County shall install such improvements as are covered by this bond and commensurate with the
extent of building development that has taken place in the subdivision but not exceeding the amount of such
proceeds.

PRINCIPAL

PRINCIPAL

INSURANCE COMPANY

By _____
Attorney-In-Fact

BOND NO. _____

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FORM 10. ACKNOWLEDGMENTS

COPARTNERSHIP/LIMITED LIABILITY COMPANY

STATE OF KANSAS)
) SS
COUNTY OF FINNEY)

On the ____ day of _____, 200____, before me personally came _____ to me known and known to me to be one of the firm of _____, described in and which executed the foregoing instrument; and he thereupon acknowledged to me that he executed the same as and for the act and deed of said firm.

CORPORATE

STATE OF KANSAS)
) SS
COUNTY OF FINNEY)

On the ____ day of _____, 200____, before me personally came _____, to me known, who being by me duly sworn, did depose and say that he resides at _____, that he is the _____ of _____, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is the seal of said corporation and was affixed thereto by order of the Board of Directors of said corporation and that he signed his name thereto by like order and authority.

INDIVIDUAL

STATE OF KANSAS)
) SS
COUNTY OF FINNEY)

On the ____ day of _____, 200____, before me personally came _____, to me known and known to me to be the individual described in and who executed the foregoing instrument and _____ acknowledged to me that _____ executed the same.

THIS MAY NOT BE THE MOST RECENT COPY OF THE PROPOSED SUBDIVISION REGULATIONS OF FINNEY COUNTY, KS. PLEASE CONTACT THE NEIGHBORHOOD & DEVELOPMENT SERVICES DEPARTMENT AT 620-276-1170 WITH ANY QUESTIONS.