

CHAPTER 18 – PART B

SUBDIVISION REGULATIONS

OF THE

CITY OF BEL AIRE, KANSAS

APPROVED BY THE PLANNING COMMISSION

&

ADOPTED BY CITY COUNCIL

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ARTICLE 1**TITLE, PURPOSE, AUTHORITY, JURISDICTION & APPLICABILITY****1.01 TITLE**

These regulations shall be known and may be cited as the "Subdivision Regulations of the City of Bel Aire, Kansas", and shall hereinafter be referred to as "these regulations."

1.02 PURPOSE

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

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

1.03 AUTHORITY.

The requirements and recommendations set forth herein are designed to encourage an orderly municipal growth for Bel Aire through responsible land subdivision and are adopted under authority established by K.S.A., 12-741 et seq., as amended, 12-742, 12-749, 12-751 and 12-752, 12-760 and 12-761, 12-764, 12-766, 12-3009 through 12-3012, and 12-3301 and 12-3302.

1.04 JURISDICTION.

These regulations shall apply to all subdivisions of land within the corporate limits of the City of Bel Aire, as presently exists or are hereafter established, and certain land which is located outside of the City of Bel Aire and in Sedgwick County as shown on the map designated as the subdivision jurisdiction map. The map and all the notations, references and information shown thereon are hereby made as much a part of these regulations as if the same were set forth in full herein.

1.05 APPLICABILITY.

Any owner or owners of land subdividing the same into lots and blocks or tracts or parcels for the purpose of laying out any subdivision, suburban lots, building lots, tracts or parcels or establishing any street, alley or other property intended for public use or for the use of purchaser or owner of lots, tracts, or parcels of land fronting on or adjacent thereto shall cause a subdivision plat to be made in accordance to these regulations unless exempted under specific provisions of these regulations.

ARTICLE 2

INTERPRETATION, CONSTRUCTION & DEFINITIONS

2.01 RULES OF INTERPRETATION.

A. **Overlapping or Contradictory Regulations.** Where the conditions imposed by the provisions of these regulations are either more restrictive or less restrictive than comparable conditions imposed by any other provision of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern. In case of any difference of meaning or implication between the text of this Subdivision Code and any drawing or figure, the text shall control.

B. **Private Agreements.** The provisions of these regulations are not intended to abrogate any lawful and valid easement, deed restriction, covenant or other private agreement of legal relationship; provided, that where the requirements of these regulations are more restrictive or impose higher standards or regulations than such private agreements, the requirements of these regulations shall govern. The City does not have the responsibility to enforce such private agreements.

C. **Cumulative Limitations.** The provisions of these regulations are cumulative and additional limitations upon all other laws and ordinances heretofore passed or which may be passed hereafter governing any subject matter set forth in the provisions of these regulations.

D. **Unlawful Subdivisions.** A subdivision of land which was not lawfully existing at the time of the adoption of these regulations shall not become or be made lawful solely by reason of the adoption of these regulations.

E. **Vesting of Development Rights.** For the purpose of single-family residential developments according to K.S.A. 12-764, as amended, development rights in such land use shall vest upon recording of a final plat of such land after January 1, 1992. If construction of a principle structure is not commenced on such land within five years of recording a final plat, the development rights in such land shall expire and, thus, all revisions to zoning or subdivision regulations becoming effective during the period vested shall thereafter apply to such platted land.

F. **Computation of time.** The time within which an act is to be completed shall be computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday or legal holiday, that day shall be excluded. In the computation of time for public hearing notice, both the first day (day of the advertisement) and the last day (day of the hearing) shall be excluded. Time shall be computed to only include business days for computation of time involving ten (10) days or less.

G. **Delegation of authority.** Whenever a provision appears to require a city officer or employee to do some act or perform some duty, it is to be construed to authorize the city officer

or employee to designate, delegate and authorize subordinates to perform the required act or duty unless the terms of the provision or section specifically states otherwise.

2.02 RULES OF CONSTRUCTION.

A. The language set forth in these regulations shall be interpreted in accordance with the following rules of construction:

1. The singular number includes the plural and the plural the singular.
2. The present tense includes the past and future tenses and the future the present.
3. The word "shall" is mandatory while the word "may" is permissive.
4. The word "City" means the City of Bel Aire, Kansas.
5. The word "County" means Sedgwick County, Kansas.
6. The word "Clerk" means the City Clerk, unless otherwise identified as the County Clerk.
7. The word "County Engineer" means the officially appointed engineer for Sedgwick County.
8. The word "City Engineer" means the officially appointed engineering firm by City Council for day-to-day projects throughout the contract term.
9. The word "Planning Commission" means the Bel Aire City Planning Commission.
10. The word "the Governing Body" means the Mayor and City Council of the City of Bel Aire, Kansas, unless otherwise identified as the Board of County Commissioners of Sedgwick County, Kansas or the applicable township trustees who are cooperating in the installation of improvements.
11. The word "Planning Area" means the City plus a perimeter area outside of and around the city limits within Sedgwick County designated by the City in their comprehensive development plan as the official study area for planning purposes.
12. The word "Comprehensive Plan" means the Comprehensive Development Plan for the Bel Aire Planning Area of Sedgwick County, Kansas, which has been adopted by the Planning Commission, approved by the Governing Body and includes, among other elements, plans for land use, transportation, utilities and community facilities.
13. The word "subdivision jurisdiction" means the area as described in this Code for which the extraterritorial jurisdiction of these regulations is applicable for purposes of subdividing land. Such jurisdiction cannot exceed the boundary of the Planning Area.

B. Any word or phrase which is defined in this Article or elsewhere in these regulations shall have the meaning as so defined whenever used in these regulations, unless such definition is expressly limited in its meaning or scope. Additionally, the definitions provided by the Zoning Regulations of the City of Bel shall also be applicable to these Subdivision Regulations. Any conflicts between definitions provided within the Zoning Regulations and these Subdivision Regulations shall be construed to apply the more strict interpretation.

C. Words or terms not herein defined shall have their ordinary meaning in relation to the context as defined in a dictionary or by statute, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

2.03 DEFINITIONS.

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

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

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

AGRICULTURE: The use of a tract of land under one ownership for growing crops, pasturage, horticulture, nurseries, truck farms, dairying or the raising of poultry or cattle and other livestock, except cattle feedlots, hog lots, poultry and egg production or similarly types of operations and including the structures necessary for carrying out farming operations and the dwelling(s) of those owning and/or operating the premises. The feeding or disposal of community or collected garbage shall not be deemed an agricultural use, nor shall riding academies, livery or boarding stables, dog kennels, or commercial or hydroponic greenhouses; however, forested and non-producing open space land are considered as agricultural.

AIRPORT ZONING: A particular set of controls to reduce the safety and noise hazards associated with aircraft flying within the airport control zone. See K.S.A. 3-703, Authority to Adopt Airport Zoning Regulations.

AIRSPACE: An Area from ground up within the general operation area of an airport.

ALLEY: A dedicated public right-of-way, which provides only a secondary means of access to and from streets and lots which is 20 feet or less.

APPLICANT: The owner or owners of land proposed to be subdivided, or the developer or other duly authorized agent of such owner or owners; provided, that any person claiming to represent such owner or owners shall be required to establish his or her authority to act in such representative capacity by an appropriate written instrument whom submits an application for approval of a preliminary and/or final plat, lot split or other zoning matter.

ARTERIAL STREET: Any street serving major traffic movements that is designed primarily as a traffic carrier between cities or between various sections of the city, which forms part of a network of through streets, and which provides service and access to abutting properties only as a secondary function.

BENCH MARK: Surveying mark made in some object which is permanently fixed in the ground showing the height of that point in relation to sea level.

BLOCK: A series of lots or tract of land bounded by streets, public parks, cemeteries, railway rights-of-ways, waterways, city limits or a combination thereof.

BOND: Any form of security including a cash deposit, surety bond, collateral, property of instrument of credit in an amount and form satisfactory to the Governing Body. All bonds shall be approved by the Governing Body whenever a bond is required in these Subdivision Regulations.

BUILDING: Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, chattels or moveable property of any kind, and which is permanently affixed to the land.

BUILDING OFFICIAL: The City of Bel Aire official assigned the responsibility of issuing building permits and conducting building inspections.

BUILDING SETBACK LINE (Building Line): A line that is the distance that is required by these Regulations between a principal structure or accessory structure and the property line of the lot on which the structure is located, and is usually the same as the setback line, except when the building line predates the current setback Regulations. The building line indicates that area beyond which buildings or structures may not be erected or altered, but shall not include the face of one Story unoccupied gable roofed areas over open Porches, entrances or like appendages. The building line establishes the minimum open space to be provided. Such line may be more, but not less restrictive than any other applicable zoning or other regulations.

CEMETARY: Land used for burial, and dedication for cemetery purposes including crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

CITY: The City of Bel Aire, Kansas, a municipal corporation.

CITY MANAGER: The person appointed by the City Council as the City Manager or person acting in the place of the City Manager.

CITY ATTORNEY: The City Attorney or such licensed attorney designated by the City Attorney, or the City Council to furnish legal assistance for the administration of this regulation.

CITY CLERK: The City Clerk of the City of Bel Aire.

CITY ENGINEER: The City Engineer or such professional engineer authorized by the City Council to provide engineering assistance in administering these and other regulations

governing areas of the normal responsibility assigned to the City Engineer and licensed in the State of Kansas.

CITY LIMITS: The established corporate boundary of the City of Bel Aire, Kansas.

COLLECTOR STREET: Any street designed primarily to gather traffic from local or residential streets and carry it to arterial streets.

COMPREHENSIVE PLAN: The duly adopted Comprehensive Plan for the territory of Bel Aire, Kansas and surrounding planning area.

COUNTY: Sedgwick County, Kansas.

CURB CUT: The opening along a curb line at which point vehicles may enter or leave a roadway.

DEAD-END STREET: A street or road that has no outlet and terminates in a dead-end or cul-de-sac.

DECELERATION LANE: An added roadway lane that permits vehicles to slow down and leave the main vehicular stream of traffic.

DEDICATION: A gift or donation of property by the owner to a governmental unit. The transfer is conveyed by a plat or a written separate instrument. The act of dedicating is completed with a formal acceptance by the governing body.

DESIGN STANDARDS: The basic land planning principles established as guides or requirements for the design and layout of subdivisions as described in these regulations.

DETENTION POND: A storage facility for the temporary storage of storm water runoff. The storm water may be released by gravity or by mechanical means at such time as downstream facilities can handle the flow.

DEVELOPER: The owner, or any other person, firm or corporation, or persons other than the owner that entitles the holder to a specific limited use or right. Ownership of said strip of land shall remain with the property owner.

DEVELOPMENT: A new subdivision; the construction or reconstruction of streets and utilities; the construction, expansion or remodeling of structures, a change in the use of land; or the clearing and grading of land.

EASEMENT: An interest in land that is held by the public, a corporation, or persons other than the owner that entitles the holder to a specific limited use or right. Ownership of said land shall remain with the property owner.

EASEMENT, DRAINAGE: An easement required for the installation of storm water sewers or waterways and/or required for the preservation or maintenance of a natural stream or water course or other drainage facility.

ENGINEER: A professional engineer licensed by the State of Kansas or licensed to practice in the State of Kansas who designs or engineers and inspects public improvements in

connection with the approval of plats and construction of related improvements. (See LAND PLANNER and LAND SURVEYOR.)

FLAG LOT: A lot, tract or parcel of land that provides minimum frontage to a road or street by a narrow strip of land for a driveway and whose main body of land lies to the rear of the property which is adjacent to the road or street. When such lots are permitted, a building setback line must be shown on the recorded plat which is not less than that required by applicable zoning regulations.

FLOODPLAIN: Land which is subject to inundation of water as a result of what is commonly known as the 100-year flood, or land that has at least a 1 percent chance of flooding in any given year. Floodplain boundaries in the City of Bel Aire territory are shown on the Federal Insurance Administration’s “Flood Hazard Boundary Maps”.

FRONTAGE: The property on one side of a street between two intersecting streets (crossing or terminating) measured along the line of the street; or with a dead-end street, all property abutting one side of such street measured from the nearest intersecting street and the end of the dead-end street.

FRONTAGE LOT: That portion of the frontage that lies between the side lot lines of a single lot.

FRONTAGE ROAD: A public or private marginal access roadway generally paralleling and contiguous to a street or highway and designed to promote safety by eliminating unlimited ingress and egress to the street or highway by providing points of ingress and egress at more-or-less uniformly spaced intervals.

GOVERNING BODY: The City Council and Mayor of Bel Aire, Kansas. In the case of unincorporated lands located in Sedgwick County, the term shall refer to the Sedgwick County Board of County Commissioners.

GRADE: The slope of a road, street, or other public way, specified in percent.

GREEN BUILDING: is the practice of increasing the efficiency with which buildings use resources (i.e. energy, water, and materials) while reducing building impacts on human health and the environment, through better design, construction, operation, maintenance, and removal: the complete building life cycle.

HALF STREET: A street bordering one or more property lines of a subdivision tract to which the subdivider has allocated only a portion of the ultimate and intended street width.

HOMEOWNERS’ ASSOCIATION: A community association, other than a condominium association, that is organized in a development where individual owners share common interests in open space, facilities, and structures. The homeowners association usually holds title to reserves, manages and maintains common property, and enforces certain covenants and restriction. Condominium associations differ from homeowners associations in that condominium associations do not have common property.

IMPROVEMENTS: All facilities constructed or erected by a subdivider within a subdivision to permit and facilitate the use of lots or blocks for a principal residential, business or manufacturing purpose.

IMPROVEMENTS, PUBLIC: Any street, roadway, alley, sidewalk, planting strip, cross walkway, off-street parking area, sanitary sewer, gas service, storm sewer, drainage ditch, water main or other facility for which a governing body may ultimately assume the responsibility for maintenance and/or operation.

INFRASTRUCTURE: Facilities and services needed to sustain industry, residential, institutional, and commercial activities.

LAND PLANNER: A professional architect, engineer, landscape architect or surveyor licensed by the State of Kansas or licensed to practice in the State of Kansas who is responsible for the design and preparation of a preliminary plat. (See ENGINEER and LAND SURVEYOR.)

LAND SURVEYOR: A licensed land surveyor registered in the State of Kansas or licensed to practice in the State of Kansas who is responsible for the survey and preparation of the final plat. (See ENGINEER and LAND PLANNER.)

LANDSCAPING: The improvement of a lot, parcel or tract of land with grass and shrubs and/or trees. Landscaping may include pedestrian walks, flower beds, ornamental objects such as fountains, statuary and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.

LOCAL STREET: Any street designed primarily to provide access to abutting property, to include lanes, drives, circles, boulevards, or any other designation that might be given to such streets.

LOT: A portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for development; land occupied or to be occupied by a Building, or Unit Group of Buildings, and Accessory Structures or Accessory Uses, together with such Yards and Lot Area as are required by these regulations, and having its principal frontage upon a Street or approved alternative access per the Subdivision Regulations.

1. **Lot, Double Frontage (a.k.a. Through Lot):** A lot other than a corner lot, two opposite lot lines of which abut upon streets which are more or less parallel. On a Double Frontage or Through Lot, both street lines shall be deemed front lot lines, but in the case of two or more contiguous through lots, there shall be a common front lot line.
2. **Lot, Reverse Frontage:** A lot whose rear lot line also serves as the street line for a limited access highway or street.
3. **Lot, Corner:** A lot situated at the intersection of two streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

4. **Lot, Through:** (See Lot, Reverse Frontage.)
5. **Lot, Interior:** A lot whose side lot lines do not abut upon any street.

TABLE: LOT TYPES

STREET				
CORNER	INTERIOR	THROUGH	INTERIOR	KEY
CORNER	INTERIOR		INTERIOR	INTERIOR
STREET				

LOT AREA. The area of a horizontal plane bounded by the front, side and rear lot lines.

LOT COVERAGE: That percentage of a lot which, when viewed directly from above, would be covered by a structure or structures or any part thereof, including all nonporous asphalt and concrete materials used for recreational activity areas for basketball, racquetball, swimming, tennis in addition to driveways, patios. The list is not all-inclusive.

LOT DEPTH: The distance between the midpoints of the front lot line and the midpoint of the rear lot line.

LOT LINE: The boundary line of a zoning lot.

LOT LINE, FRONT: A street right-of-way line forming the boundary of a lot.

LOT LINE, REAR: The lot line that is most distant from and is or is most nearly, parallel to the front lot line. If a rear lot line is less than 10 feet long or if the lot comes to a point at the rear, the rear lot line shall be a line at least 10 feet long, lying wholly within the lot, parallel to the front line. If a zoning lot has two or more front lot lines, the owner or developer shall designate the yard which is to be the rear yard and/or side yard.

LOT LINE, SIDE: A lot line which is neither a front lot line nor a rear lot line.

LOT OF RECORD: A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder of Deeds or a parcel of land described by metes and bounds of which the deed was recorded prior to adoption of these regulations.

LOT SIZE REQUIREMENTS: Restrictions on the dimensions of lots including (1) minimum lot area, width and depth; and (2) maximum density. Lot area, width and depth

establish the minimum size of the zoning lot on which a structure or use or two or more structures or uses, may be constructed or established. (See Zoning Regulations chapter 26 Height & Area Regulations & Exceptions)

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

LOT WIDTH: The distance on a horizontal plane between the side lot lines measured at right angles to the lot depth at the established front yard setback line.

LOT, ZONING: A parcel of land that is designated by its owner or developer at the time of applying for a zoning permit as a tract all of which is to be used, developed or built upon as a unit under single ownership. As long as it satisfies the above requirements, such lot may consist of: (1) a single lot of record, or (2) a portion of a lot of record, or (3) a combination of complete lots of record, complete lots and portions of lots of record, or portions of lots of record.

MANUFACTURED HOME: A structure consisting of one or more mobile components manufactured to the standards embodied in the Federal Manufactured Home Construction and Safety Standards Act generally known as the HUD Code. Such units shall be connected to all utilities in conformance with applicable regulations. This shall not include a “residential-design manufactured home.” (K.S.A. 12-742)

MASTER PLAN: Any plan or map adopted by the City for guidance of growth and improvement of the City and its environs including modifications or refinements that may be made from time to time, including the comprehensive plan.

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

MOBILE HOME: A detached privately owned residential dwelling unit, manufactured prior to 1976 or not in conformance with HUD Code, that is designed for transportation on streets or highways on its own wheels or on latter or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations on jacks or other temporary foundations, connections to utilities and the like. A recreational vehicle is not to be considered a mobile home.

MODULAR HOME: A prefabricated or panelized housing unit built according to and meeting the National Manufactured Home Construction and Safety Standards, as may be amended, which meets the following criteria:

1. The unit is comparable to site built housing and has a residential rather than recreational appearance, and does not have wheels and towing apparatus;
2. The unit has at least 1,200 square feet of living area;

3. The unit has a minimum width of 24 feet;
4. The roof pitch, siding and roofing materials which are customarily used on site built homes; minimum 12” roof overhang.
5. The unit is permanently attached to a basement, crawl space, slab or similar foundation;

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

NONCONFORMING LOT OF RECORD: A zoning lot which does not comply with the lot size requirements for any permitted use in the district in which it is located, and which is recognized by the City as being a “non-conforming lot”, as defined by the City’s Zoning Regulations.

NONCONFORMING STRUCTURE OR USE: A structure, or lot, lawfully existing at the time this zoning Code became effective, or as amended, which does not conform with the setback, height, lot size or other dimensional or property development standards applicable to the zoning district in which the structure or lot is located.

OCCUPANCY CERTIFICATE: A certificate by which the Zoning Administrator certifies that upon completion of an applicant’s proposed structure and/or use or change in use that it complies with these regulations and, therefore, may be occupied and/or used. When applicable, such a certificate may be combined with the issuance of a certificate of occupancy as required by a building code.

OPEN SPACE: An area of land or water, or combination thereof, planned for passive or active recreation or for protection, conservation or for preservation of natural resources, but does not include areas utilized for streets, alleys, driveways, or private roads, off-street parking or loading areas, or required, front, rear or side yards.

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

PERCOLATION TEST: A test designed to determine the ability of ground to absorb water and used in determining the suitability of a soil for drainage or for the use of a septic system.

PARKING STRIP: That portion of street right-of-way that is unpaved and which is located between the back of a curb and the street right-of-way line. Such strip provides right-of-way for the installation of public utilities (typically gas and water lines), street signs, street lights, sidewalks, driveways, traffic control devices, fire hydrants, street furniture, street trees and other ancillary uses. The parking strip should not be confused with parking lanes that are often provided for as part of street pavement.

PEDESTRIAN WAY (CROSSWALK): A right-of-way across a block or providing access within a block to be used primarily by pedestrians.

PERMITTED USE: A use permitted without the need for special administrative review and approval.

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

PLANNING COMMISSION: The Planning Commission of the City of Bel Aire.

PLANNED UNIT DEVELOPMENT: PUD, a platted parcel, subdivision, or district that contains specific zoning rules as a replacement for the adopted city regulations as approved by the governing body.

PLANNED UNIT DEVELOPMENT PLAT: A plat containing additional language and depictions unique to one or more parcels contained therein, superseding zoning and subdivision regulations as approved by the planning commission and city council.

PLAT: An engineering drawing/map of a tract of land which has been lawfully subdivided meeting the criteria established in the subdivision regulations and duly recorded in the office of the Register of Deeds of Sedgwick County.

1. **Sketch Plan:** A plan as required by a registered land surveyor to describe the precise location and dimension of lots, established easements, dedicate street rights-of-way, and otherwise describe property to be subdivided and requiring approval of the Planning Commission specified in K.S.A. 12-752.
2. **Preliminary Plat:** A map or drawing on which the subdivider's plan of the subdivision is presented and which he submits for approval and intends in final form to record. A preliminary plat for a proposed subdivision of land shows streets, lots and other characters as well as features of the proposed development.
3. **Final Plat:** A formal document prepared by a registered land surveyor to describe the precise location and dimension of lots, established easements, dedicated street rights-of-ways and otherwise described property to be subdivided which are approved by the Bel Aire Planning Commission.
4. **One-Step:** Contains all of the information required for both the preliminary and final plats.
5. **Replat:** A new plat or a revision to a subdivision or portion thereof for which a final plat has previously been recorded. The approval of a replat is processed in the manner as a final plat.

PREMISES: A contiguous lot or tract of land together with all buildings and structures thereon.

PRINCIPAL STRUCTURE: A structure in which the principal use of the lot on which the structure is located is conducted.

PRINCIPAL USE: The main use of land or structures as distinguished from a subordinate or accessory use.

PUBLIC WAY: Any parcel of land unobstructed from the ground to the sky, more than 10 feet in width, appropriated to the free passage of the general public.

REPLAT: The subdivision of a tract of land that has previously been lawfully subdivided and a plat of such subdivision duly recorded.

RESIDENTIAL BUILDING: A building all or part of which contains one or more dwelling units, including, but not limited to, single-family dwellings, two-family dwellings, multiple-family dwellings, earth-sheltered housing, lodging houses, dormitories, sororities and fraternities, as well as modular homes.

RESIDENTIAL CLUSTER: An area to be developed as a single entity according to a plan and containing residential housing units that have a common or public open space area as an appurtenance.

RESERVE: An area of property within a subdivision which is platted for specific uses, e.g., open space, landscaping, entry monuments, recreational facilities, utilities, drainage, floodway, etc. Typically, future ownership and maintenance responsibilities for a reserve are set forth by a restrictive covenant which provides that a homeowners' or lot owners' association will hold title to the reserve and therefore be responsible for the reserve's maintenance. The restrictive covenant may provide for ownership and maintenance to be tied to the ownership of an adjacent lot.

RESTRICTIVE COVENANTS: Contracts entered into between private parties which constitute a restriction on the use of private property within a subdivision for the benefit of property owners and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values. Such restrictions may be set forth in a deed. Restrictions are also placed of record by separate instruments including homeowner association agreements. Restrictive covenants usually run with the land, and are not enforceable by a municipality.

RESIDENTIAL-DESIGN MANUFACTURED HOME: A residential-design manufactured home shall be considered a single-family dwelling. (K.S.A. 12-742). A modular, prefabricated or panelized housing unit built according to and meeting the National Manufactured Home Construction and Safety Standards, as may be amended, which meets the following criteria:

1. The unit is comparable to site built housing and has a residential rather than recreational appearance;
2. The unit has at least 1,200 square feet of living area;
3. The unit has a minimum width of 24 feet;
4. The roof pitch, siding and roofing materials that are customarily used on site built homes; minimum 12" roof overhang.

5. The unit is permanently attached to a basement, crawl space, slab or similar foundation;
6. The unit does not have wheels and towing apparatus.

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

RIGHT-OF-WAY: A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for other special purposes. The usage of the term "right-of-way" when shown on a final plat is to be an area separate and distinct from the lots or parcels adjoining such right-of-way, and not included within the dimensions of areas of such lots or parcels.

ROADWAY: That portion of a street, alley or highway right-of-way which has been graded, surfaced or otherwise improved for use by vehicular traffic, limited to public property.

SCREENING: Fencing, evergreen vegetation, or shrubbery maintained for the purpose of concealing from view the area behind such fencing or vegetation.

SETBACK: The distance that is required by this Code between a Principal Structure or Accessory Structure and the property line of the Lot on which the Structure is located. (Note: The term Setback refers to a required minimum area, while the term Yard refers to the actual open area.)

1. **Setback, Front.** A Setback that is to extend across the full width of a Lot, the required depth of which is measured as the minimum horizontal distance between the Street Right-of-Way Line and a line parallel thereto on the Lot.
2. **Setback, Interior Side.** A Setback that is to extend from the Street Right-of-Way Line to the rear Lot Line along the side of a Lot that is Contiguous to or Abutting another Lot, the required depth of which is measured as the minimum horizontal distance between the side Lot Line and a line parallel thereto on the Lot.
3. **Setback, Rear.** A Setback that is to extend across the full width of a Lot, the required depth of which is measured as the minimum horizontal distance between the rear Lot Line and a line parallel thereto on the Lot.
4. **Setback, Street Side.** A Setback that is to extend from the front Lot Line to the rear Lot Line along the side of a Lot that is Abutting a Street or Street Right-of-Way Line, the required depth of which is measured as the minimum horizontal distance between the side Lot Line and a line parallel thereto on the Lot.

SIDEWALK: That portion of a street or pedestrian way, paved or otherwise surfaced, intended for pedestrian use only, a.k.a. Crosswalk.

SIDEWALK PLAN: A comprehensive pedestrian route designed to connect areas within a development to the city sidewalk system meeting ADAGG standards.

SPECIAL USE: Public or private use which has not been classified as a permitted or conditional use in a particular district or districts, but due to the existence of exceptional circumstances as identified and accepted by the Planning Commission and Governing Body, such “special use” is permitted for a designated period of time. A special use does not run with the land and may not be transferred to any party except in conformance with these regulations, and the specific terms of the special use permit.

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

1. **Alley:** A right-of-way along the side of or in the rear of lots which affords a secondary means of access to and from streets and such lots.
2. **Arterial:** A street of considerable continuity which is primarily a traffic artery for intercommunication among large areas and which provides access to abutting properties only as a secondary function.
3. **Collector:** A street supplementary to the major street system and a means of intercommunication between this system and smaller areas which is used for both through traffic and for access to abutting properties.
4. **Cul-De-Sac:** A short street with one end open to traffic and being permanently terminated by a vehicular turn-around at the other end.
5. **Dead End:** A street having only one outlet for traffic. 6. **EXPRESSWAY:** Any divided street or highway with no access from abutting property and which has either separate or at-grade access from other public streets and highways. Such streets have a minimum of four traffic lanes.
7. **Half-Street:** A portion of the right-of-way of a street, usually along the edge of a subdivision where the remaining portion of the street is intended to be provided in another subdivision.
8. **Local:** A street intended primarily for access to abutting properties and of limited continuity within a neighborhood.
9. **Marginal Access Or Frontage Road:** A local street which is parallel with and adjacent to a limited access highway or arterial street and which provides access to abutting properties and protection from fast through traffic on the parallel streets.
10. **Private:** A right-of-way or easement which affords principal means of vehicular access to property abutting thereon, which right-of-way or easement is owned, controlled and maintained by persons other than the public.
11. **Public:** A right-of-way which affords principal means of vehicular access to property abutting thereon, which right-of-way has been dedicated to the public for such use.

STREET WIDTH: The shortest distance between lines delineating the right-of-way of a street.

SUBDIVIDE LAND: To partition a parcel of land into two or more parcels, tracts, lots or sites for the purpose of transfer of ownership or development, whether immediate or future, when such parcel exists as a unit or contiguous units under a single ownership.

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

SUBDIVIDER'S AGREEMENT: A contractual agreement signed and notarized by the subdivider and the applicable governing body which is conditioned upon acceptance of the final plat for the dedications thereon with primary concern for the design, installation, inspection and financing or guarantees for public improvements.

SUBDIVISION: Except for a “lot split” as defined in these Subdivision Regulations, any land, vacant or improved, which is divided or re-subdivided into two or more lots, parcels, sites, units, plots, or interested for the purpose of sale or development. The creation of a street, alley or other public way by dedication shall be deemed a subdivision.

ZONING ADMINISTRATOR: a.k.a. **Zoning Administrator.** The person appointed by the City Manager to administrate the Subdivision regulations.

TRACT: Parcels of land with boundaries defined by streets, highways, roads, rivers, lakes, streams, railroad lines county boundaries, township boundaries, or section lines or any combination thereof; whether divided by any lot line or not, under single ownership or not, or occupied by one or more structures or land uses plus accessory structures and uses; and which may be made up of one or more lots of record, one or more portions of a lot or lots of record, or any combination.

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

VARIANCE: A variation from a specific requirement of these regulations, as applied to a specific piece of property.

VISION TRIANGLE: A triangular area at the intersection of streets maintained in such a manner as to provide a safe and open line of vision for drivers of vehicles approaching the intersection. Within the vision triangle, no one shall install, construct, plant, park or maintain any sign, fence, hedge, shrubbery, tree, natural growth or other obstruction which would materially impede vision between the heights of 24 inches and eight feet above the street level. Such restrictions shall not apply to official traffic signs, signals and utility poles.

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

WETLAND: A land area that is saturated by surface water or ground water at frequencies and durations sufficient to support a prevalence of plant life typically adapted for life in saturated soil conditions and as defined in Section 404, Federal Water Pollution Control Act of 1972 as amended, and delineated on maps prepared by the U.S. Fish and Wildlife Service and as field verified by on-site inspection.

ZONING ADMINISTRATOR/SUBDIVISION ADMINISTRATOR. The City Manager or person appointed by the City Manager to carry out the provisions of these Regulations. Use of either the term Zoning Administrator or Subdivision Administrator shall refer to the same individual, and such terms shall be interchangeable.

ZONING REGULATIONS or ZONING CODE: The adopted Bel Aire Zoning Regulations or Code.

ARTICLE 3**ADMINISTRATION, PERMITS, ENFORCEMENT,
VIOLATIONS AND FEES****3.01 DIVISION OF ADMINISTRATIVE RESPONSIBILITY.**

The administration of these regulations is vested in the following governmental branches of the City who shall have the responsibilities hereinafter set forth:

- A. The Bel Aire City Council.
- B. The Bel Aire City Manager, and his/her designees, including:
 - 1. Bel Aire City Clerk
 - 2. Bel Aire Zoning Administrator
 - 3. Bel Aire Zoning Administrator
 - 4. Bel Aire Code Enforcement Officer
 - 5. Bel Aire Planning Secretary
- C. The Bel Aire Planning Commission, and associated sub-committees.
- D. The Bel Aire City Engineer.
- E. The Bel Aire City Attorney.

3.02 DUTIES OF THE ZONING ADMINISTRATOR.

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

- A. Serve as an assistant to the Planning Commission on (1) the review of sketch plans, plats and lot splits; and (2) the vacation of plats, rights-of-way, easements and other public reservations.
- B. Inform applicants of procedures required for subdivision approval and vacations, provide application forms and other administrative forms to facilitate the process, and convey to subdividers the decisions of the Planning Commission.
- C. Receive and establish files for all sketch plans, preliminary and final plats, replats, final plats for small tracts, lot splits and vacations together with applications therefore.
- D. After determining the adequacy of the information submitted as suitable for distribution, forward copies of the preliminary plat and final plats for small tracts, when deemed necessary, to other appropriate governmental agencies and public and private utilities providers for their comments and recommendations.

- E. Review and compile a list of comments on all preliminary plats to determine whether such plats comply with these regulations and similarly review and compile a list on all final plats to determine whether they comply with the preliminary plat, if any, and these regulations.
- F. Forward sketch plans, preliminary and final plats and lot splits to the Planning Commission for their consideration, together with the list of comments and recommendations.
- G. Following review recommendation by the Planning Commission on all matters reviewed by the Planning Commission, check and assemble all pertinent data and drawings, then forward such recommendation and associated documentation to the Governing Body for final action.
- H. Make such other determinations and decisions as may be required by these regulations.

3.03 DUTIES OF THE CITY CLERK.

The City Clerk shall:

- A. File at least one copy of these regulations marked by the Clerk as "Official Copy as Incorporated by Ordinance No. _", (i.e., the ordinance adopting these regulations as approved by the Governing Body). Such copies maintained by the Clerk shall be open to inspection and available to the public at all reasonable business hours.
- B. Distribute at cost to the City, official copies of these regulations to the police department, court, City Manager, zoning inspector, building inspector, City Attorney and all administrative departments of the City charged with the enforcement of these regulations.
- C. Process the required fees.
- D. Provide clerical assistance to the Governing Body so as to facilitate and record their actions in the exercise of their duties relating to these regulations.

3.04 DUTIES OF THE PLANNING COMMISSION.

The Planning Commission shall:

- A. Review the sketch plans, when submitted, and forward comments to the potential subdivider whenever this responsibility is not otherwise performed by a Subdivision Committee.
- B. Review and approve, approve conditionally or disapprove preliminary plats and lot splits.
- C. Review and approve, approve conditionally or disapprove final plats and transmit the same to the Governing Body for their acceptance of dedications of streets, alleys and other public ways and sites.
- D. Make recommendations to the Governing Body on vacations of recorded plats, rights-of-way, easements and other public reservations.

E. Make such other determinations and decisions as may be required of the Commission from time to time by these regulations or applicable sections of the Kansas Statutes Annotated.

3.05 DUTIES OF THE GOVERNING BODY.

The Governing Body shall:

A. Accept or not accept dedications of streets, alleys and other public ways and sites shown on final plats and, in cases of disapproval or modification, inform the subdivider in writing of the reasons.

B. Approve or not approve vacations of recorded plats, rights-of-way, easements and other public reservations and, in the unincorporated area, to recommend or protest such vacations to be considered by the Board of County Commissioners.

3.06 BUILDING PERMITS.

No building permit or occupancy certificate except those involving repairs, maintenance, continuation of an existing use or occupancy or accessory structures, shall be issued for a principal building or structure or use on any lot, tract or parcel of any subdivision that is subject to the provisions of these regulations until a copy of the recorded plat is available for examination by the applicable official charged with issuing such permits or certificates.

Furthermore, no such building or zoning occupancy certificates shall be issued for the use of any building or structure within a subdivision approved for platting, replatting or lot splitting until required utility facilities have been installed and made ready to service the property, roadways providing access to the subject lot or lots have been constructed or are in the course of construction, or guarantees have been provided to ensure the installation of such utilities and roadways. If platting is not required, dedications in lieu of platting may be required to obtain easements and access control and to widen rights-of-way as well as to provide necessary public improvements during the process of issuing permits. (See Vesting of Development Rights and Exemptions From Platting.)

3.07 ENFORCEMENT.

It shall be the duty of the building inspector or any inspector working under his or her direction to enforce the provisions of this Code and to refuse to issue any permit for any building or structure for the use of any premises that would violate any of the provisions hereof, and to cause any building, structure, place, or premises to be inspected and examined, and to order in writing the remedying of any condition found to exist therein or threat in violation of any provision of this Code. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Code, the building inspector is hereby authorized and directed to institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation and to prevent the

occupancy of the building, structure, or land, or to prevent any illegal act, conduct, or use in or about such premises in any manner provided for in this Code or in State law.

No plat shall be entitled to be recorded at the County Register of Deeds, or have any validity, until it shall have been approved in the manner prescribed in these regulations. The following actions are specifically prohibited:

- A. The transfer or sales of any lot, tract or parcel of land located in a plat accepted for dedications by the Governing Body which has not been recorded with the Register of Deeds.
- B. The recording of any plats or replats of land laid out with building lots, roads or streets, alleys, utility or other easements and dedications to the public unless the plat or replat bears the signatures required by K.S.A. 12-401, 12-752, and 58-2005.

3.08 VIOLATION ENFORCEMENT PROCEDURES

- A. **Written Notice:** In the case of violations not involving continuing construction or development or any emergency situation, the City shall give written notice of the nature of the violation to the owner, occupant or agent of the property at the last known address in conformance with K.S.A. 12-1617e. The contents of the notice shall give a description of the nature of the violation that would reasonably allow the property owner or other responsible person, representative or tenant to determine the nature of the violation to allow for self-abatement.
- B. **Immediate enforcement:** If an authorized agent of the City makes a reasonable determination that a violation of either these Regulations or the approved plan, license, or permit has occurred, and such violation involves continuing construction or can be minimized by immediate action, or an emergency situation exists involving a violation of these Regulations, the City may immediately use the enforcement powers and remedies available to it pursuant to this code, including, but not limited to: permit revocation, stop work, withdrawal of Certificate of Occupancy, and/or filing a complaint, and/or seeking criminal penalties in Municipal Court.
- C. Any party submitting, applying for, or accepting any plan, license or permit associated with construction within the City acknowledges and accepts the City's authority to take immediate enforcement action 1) to abate emergency situations deemed a hazard to the health, safety, and welfare of the community, or any individual thereof, or 2) to immediately stop, either temporarily or permanently, any action taken in violation of the project approvals which immediate stoppage is very likely to limit or reduce the harm, cost, or violation. No other notification procedures are required as a prerequisite to such immediate enforcement action.

3.09 VIOLATIONS OF PRIOR REGULATIONS

All violations of prior subdivision regulations of the City, or any Sedgwick County or township regulations that have accrued in the corporate area of the City as of the effective date of these Regulations, shall continue to be violations and, additionally, the City may secure civil remedies for violations of any such violations and of these Regulations.

3.10 CIVIL AND ADMINISTRATIVE REMEDIES IN RESPONSE TO VIOLATIONS

The City shall have the following remedies and enforcement powers:

A. Withhold permits or approvals: The City may deny or withhold all permits, certificates, plan or plat approvals or other forms of authorization on any building, structure or land, or improvements thereon, upon which there is an uncorrected violation of any provision of these Regulations or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the City. The City may, instead of withholding or denying an authorization, grant such authorization subject to the condition that the violation be corrected. The provisions of this subsection shall apply regardless of whether the current owner or applicant is responsible for the violation in question.

B. Revoke permits:

1. A permit may be revoked by the Zoning Administrator, or his/her designee at any time, when it appears to such official that one (1) or more of the following conditions are present:

- a. There is departure from the plans, specifications or conditions as required under the terms of the permit.
- b. That the permit was procured by false representation.
- c. That the permit was issued by mistake, or
- d. That any of the provisions of these Regulations are being violated.

2. Written notice of such revocation shall be served upon the owner, the owner's agent or contractor, or upon any person employed in the building or structure for which such permit was issued and/or shall be posted in a prominent location on the property. Where notice of revocation has been served or posted, no further construction or use of the property shall proceed. Failure to abide by a Stop Work Order associated with revocation of a permit is a violation of this Section and may be prosecuted in the City's municipal court.

3. Any revocation of a permit may be appealed in writing to the City Manager within five (5) days of any such revocation. The City Manager shall make a written response to such appeal. Such written response shall be a final decision.

C. Stop work: With or without revoking permits, the City may stop work on any development, building, or structure on any land on which there is an uncorrected violation of a provision of these Regulations or a violation of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the City. Failure to abide by a Stop Work Order is a violation of this Section and may be prosecuted in the City's municipal court.

D. Revoke plan or other means of approval: Where a violation of these Regulations involves a failure to comply with approved plans or conditions to which the approval of such plans was made subject, the City shall, upon notice to the applicant, revoke the plan or approval or condition

and adhere its continuance on strict compliance, including such other conditions as the City may reasonably impose to assure compliance with the terms of the plan or other approval.

E. Civil remedies: The City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of these Regulations and to abate nuisances maintained in violation thereof. In the event that any building or structure is proposed to be erected, constructed, altered, converted, occupied, or maintained in violation of these Regulations, any appropriate authority of the City may institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, occupation, or use or to correct or abate such violation or to prevent the occupancy of such building, structure or land.

F. Cumulative: These remedies shall be cumulative.

G. Flood Plain Violations. Any person, company, corporation, institution, municipality, or agency of the state that violates any provision of the flood plain provisions of these regulations shall be subject to the penalties and remedies as provided in this Article, in accordance with K.S.A. 12-761. Such remedies may also be instituted by the Attorney General and the Chief Engineer of the Division of Water Resources of the Kansas State Board of Agriculture.

H. Other remedies: In addition to the enforcement powers and remedies specified in this title, the City may exercise any and all enforcement powers and remedies granted to it by Kansas state law, as it may be amended from time to time.

3.11 JURISDICTION OF MUNICIPAL COURT

In addition to any other civil or criminal response to violations, violations of any provision of these Regulations, including violation of a Stop Work Order issued by the Zoning/Zoning Administrator, may be prosecuted in the municipal court of the City.

All real and personal property owners, individuals obtaining licenses to complete any plan or project, and contractors/subcontractors performing work within the City in conformance with such plan shall be liable for any violation of these Regulations associated with their property, license, job, project, or work performed. Any violation of the provisions of these regulations shall be a misdemeanor and shall be punishable by a fine of not to exceed \$500 or by imprisonment for not more than six months for each offense or by both such fine and imprisonment. Each day's violation shall constitute a separate offense.

ARTICLE 4**PROCEDURE FOR APPROVAL OF PRELIMINARY AND FINAL PLATS****4.01 APPLICATION PROCESS.**

Any person desiring or required to subdivide land that is subject to the provisions of these regulations shall file with the Zoning/Zoning Administrator an application that states the name and address of the person making the application, identifies the location of land to be subdivided, and describes the proposed subdivision in general terms, including the approximate number of proposed lots and typical lot widths and depths. A proposed sketch plan of the subdivision shall be attached to the application.

4.02 ONE-STEP EXPEDITED PLATTING PROCESS.

A. For any plat required by these regulations meeting the following requirements, an expedited review process may be permitted upon Zoning Administrator approval:

1. The proposed plat of subdivision shall include not more than ten acres if a residential plat, nor more than five acres for any other type of plat.
2. The proposed plat of subdivision shall create not more than five lots, tracts or parcels of land.
3. No public street or easement of access, e.g., a utility or drainage easement, is sought to be dedicated or is contemplated or projected through (as opposed to adjacent to) the lot, tract or parcel proposed to be subdivided or re-subdivided.
4. The proposed plat of subdivision shall be in the form required by Article 5 of these Regulations and shall contain all the data, information, and certificates required on final plats as well as the supplemental information, including topographic information.
5. Submission of the fees as required.

B. A one-step expedited plat shall allow:

1. Waiver of the sketch plan requirements, provided the preliminary plat is submitted at the time of application;
2. Ability to submit a combined preliminary plat and final plat, along with all additional documentations, concurrently;
3. Ability to request simultaneous approval of the preliminary plat and final plat by the Planning Commission, provided that all interested parties have been given the required 15 day response period to review plats.

C. Contents of plans and plats shall include the same information required for non-expedited plats. All other requirements and processes shall remain the same as set out in these regulations.

4.03 SKETCH PLAN.

Upon receiving an application for approval of a subdivision, the Zoning Administrator shall consider the application and shall be available to confer with the subdivider to develop a sketch plan of the subdivision appropriate to be the basis for development of a preliminary plat for submission to the Planning Commission. The sketch plan shall contain the data and information required by these regulations.

The Zoning Administrator shall approve the sketch plan when it contains enough data and information to develop a preliminary plan appropriate for presentation to the Planning Commission. Approval of a sketch plan does not guarantee that the Planning Commission will approve a preliminary or final plat, but it is intended to assist the subdivider with providing a preliminary plat to the Planning Commission that conforms to the terms of these regulations. When a subdivider has received written approval of a sketch plan from the Zoning Administrator, then the subdivider may proceed with the preparation of the preliminary plat.

4.04 FILING OF A PRELIMINARY PLAT.

20 copies of the preliminary plat shall be filed with the office of the Zoning Administrator, or their designee, within six months of the date that the Zoning Administrator has approved the Sketch Plan.

4.05 CONTENTS OF A PRELIMINARY PLAT.

The preliminary plat shall contain information and data set out in Article 5 of these regulations.

4.06 DISTRIBUTION AND REVIEW OF PRELIMINARY PLAT.

Upon receipt of the preliminary plat and supporting data required in this section, the Zoning Administrator shall perform the following tasks:

- A. Certify the application as complete and affix the date of application acceptance on the preliminary plat.
- B. Place the preliminary plat on the agenda for consideration at the next regularly scheduled meeting of the planning commission if the plat has been received 20 days prior to a regularly scheduled Planning Commission meeting.
- C. Distribute a copy of the preliminary plat to appropriate public officials, City Engineer and any affected utility companies for review and comment.
- D. Distribute one or more copies of the preliminary plat to affected and interested governmental and public and private organizations as may be deemed appropriate for the particular proposed subdivision. Organizations receiving copies shall have 15 days to review

the preliminary plat and to make their comments and recommendations to the Planning Commission. A lack of response in 15 days shall, at the discretion of the Planning Commission, signify approval, unless during this period a written request for an extension of time not to exceed 10 days is submitted to the Planning Commission. The zoning administrator shall forward all such comments received along with a staff report to the Planning Commission recommending approval, conditional approval or denial of the preliminary plat.

E. Cause a notice of public hearing to be published in the City's officially designated newspaper giving the name of the subdivision, the appropriate acreage of land and location, and all other pertinent information. The notice shall be published at least 20 days prior to the regularly scheduled Planning Commission meeting at which approval of the plat is sought.

4.07 ACTION BY THE PLANNING COMMISSION ON THE PRELIMINARY PLAT.

The Planning Commission shall review the preliminary plat and consider the report and recommendation of the agencies, departments and persons to whom the preliminary plat has been submitted for review. The Planning Commission shall conduct a public hearing, at which time interested persons may attend and offer evidence in support of or against such preliminary plat. Rules for public hearing procedures may be set forth within the By-laws of the Planning Commission.

A. After the Public Hearing is closed, the Planning Commission shall determine on the basis of all evidence before it, whether the preliminary plat generally meets the design standards and requirements of these regulations, the development plan of the City and the zoning regulations of the City, other applicable provisions of the ordinances of the City, or the applicable zoning regulations of the unincorporated area.

B. If the foregoing considerations are satisfied, the Planning Commission shall approve the preliminary plat.

C. If the Planning Commission determines that the preliminary plat does not satisfy the requirements of these and other applicable Regulations it may suggest modifications so as to satisfy such violations, and if suggested modifications are made;

1. The subdivider may amend the preliminary plat so as to incorporate such modifications and re-submit the preliminary plat to the Planning Commission, which shall then grant its approval if such amendments satisfactorily incorporate the suggested modifications; or
2. The subdivider may reject the suggested modification or within the time allowed by the Planning Commission for such action, may refrain from taking any action thereon. In either event the preliminary plat shall be deemed to have been disapproved and the Planning Commission shall thereupon furnish the subdivider a written statement setting forth the reasons for disapproval of the preliminary plat.

D. If the Planning Commission determines that the preliminary plat does not satisfy the foregoing conditions, it shall disapprove the preliminary plat and immediately notify the

subdivider of its action by furnishing the subdivider a written statement setting forth the reasons for disapproval of the preliminary plat.

E. The foregoing provisions to the contrary notwithstanding, the Planning Commission shall approve or disapprove the preliminary plat within 60 days from the date of filing of the preliminary plat or from the date the subdivider has submitted the last item of the required data, whichever date is later, unless such time is extended by mutual consent. If the preliminary plat is disapproved within 60 days thereafter, the Planning Commission shall furnish the subdivider a statement in writing setting forth the reasons for disapproval and specifying with particularity the aspects in which the proposed preliminary plat fails to conform to the requirements of these regulations.

F. The subdivider may appeal the disapproval of his preliminary plat to the Board of Zoning Appeals. Such appeal shall be made in writing and filed with the City Clerk within 60 days after the date the Planning Commission issues its statement setting forth its reasons for disapproval of the preliminary plat.

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

4.08 ACTION FOLLOWING APPROVAL OF A PRELIMINARY PLAT.

A. Approval of the preliminary plat shall signify the general acceptability of the proposed subdivision and shall be considered permission to prepare the final plat and such other items as are needed or required for submission with the final plat.

B. Such approval be effective for no more than 12 months from the date approval was granted, unless, upon application from the subdivider, the Planning Commission grants an extension of time beyond such period. If a final plat for the entire subdivision or a unit thereof has not been filed with the City Manager within such period, or any extensions granted thereto, the preliminary plat must be resubmitted to the Commission as if such plat had never been approved, except that no additional fee shall be charged for such resubmittal if there are no substantive changes from the previous preliminary plat approval.

4.09 FILING OF FINAL PLAT.

The final plat, together with 30 copies thereof, shall be filed with the Zoning Administrator at least 20 days prior to the regular meeting at which it is to be reviewed by the Planning Commission, and within 12 months after the date that the preliminary plat has been approved.

4.10 STAFF REVIEW AND ACTIONS.

Upon receipt of the final plat and supporting data required in this section, the Zoning Administrator shall perform the following tasks:

- A. Certify the application as complete and affix the date of application acceptance on the final plat.
- B. Place the final plat on the agenda for consideration at the next regularly scheduled meeting of the Planning Commission if the plat has been received 20 days prior to a regularly scheduled Planning Commission meeting.
- C. Distribute a copy of the final plat to appropriate public officials, City Engineer and any affected utility companies for review and comment.
- D. Coordinate a general staff review, and forward all comments received along with a staff report to the Planning Commission recommending approval, conditional approval or denial of the final plat.

4.11 PLANNING COMMISSION ACTION ON THE FINAL PLAT.

The Planning Commission shall, within 60 days after the first meeting of the Commission following the date that the final plat with all required data is filed with the Zoning Administrator, review and approve the final plat by a majority vote of the members present and voting if:

- A. It is substantially the same as the approved preliminary plat;
- B. There has been compliance with all conditions which may have been attached to the approval of the preliminary plat; and
- C. It complies with all of the provisions contained in these regulations and with all other applicable regulations or laws.

If the Planning Commission fails to approve or disapprove the final plat within the 60 days designated by state law for its consideration, it shall be deemed to have been approved and a certificate shall be issued by the Secretary upon demand, unless the subdivider shall have consented in writing to extend or waive such time limitation. (See K.S.A. 12-752[b].)

4.12 SUBMITTAL TO GOVERNING BODY OF FINAL PLAT.

Before a final plat is recorded, it shall be submitted to the City Clerk for inclusion on the agenda of the Governing Body for approval and acceptance of streets and other public ways, service and utility easements, land dedicated for public use, and Developer's Agreement for construction and payment of streets and utilities.

4.13 GOVERNING BODY ACTION ON FINAL PLAT.

The Governing Body shall approve, conditionally approve (stating conditions), or disapprove the dedication of any land for public purposes and the associated Developer's Agreement by a majority vote within 30 days after the first meeting of the Governing Body following the date of the submission of the plat to the Clerk. The Governing Body may defer action for an additional 30 days for the purpose of allowing for modifications of the plat or Developer's Agreement to comply with the requirements established by the Governing Body. If the Governing Body defers action on the plat or declines to accept the dedications thereto, it shall advise the Planning Commission and the subdivider in writing of the reasons therefore. Acceptance of the dedications on the plat shall be shown over the signature of the Mayor and attested to by the Clerk.

4.14 ACCEPTANCE OF DEDICATIONS BY COUNTY.

All final plats of real property located outside the City shall also be submitted by the subdivider to the appropriate County official for presentation to the Board of County Commissioners for their acceptance of dedications for street rights-of-way and other public ways, drainage and utility easements, and any land dedicated for public use and accompanied by guarantees for the installation of required improvements according to K.S.A. 12-752.

4.15 RECORDING OF FINAL PLAT.

- A. The final plat with all required signatures and in the exact form as accepted by the Governing Body shall be recorded by the subdivider with the County Register of Deeds. The subdivider shall pay the recording fee and any outstanding real estate taxes and special assessments.
- B. If the final plat has not been approved and recorded as required by the provisions of this regulation that six month period immediately following the approval of the final plat, or any extensions granted thereto by the Governing Body, the preliminary plat must be re-submitted to the Planning Commission as if no such plat had ever been approved, except that no additional fee shall be charged for such re-submission. This period of time to file the final plat shall be tolled during the pendency of litigation if a legal action is filed by a third party following approval of the final plat by the Governing Body claiming an action of the City was in violation of these Regulations.
- C. The subdivider shall submit to the City Manager such number of copies of the recorded plat as is necessary for record keeping purposes of the City and other affected governmental agencies.

4.16 UNIT DEVELOPMENTS.

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

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

ARTICLE 5
CONTENTS OF PLANS AND PLATS

5.01 FORM OF PLANS AND PLATS.

Plats shall be prepared with the following accuracy:

- A. Sketch plans shall be to scale. They may be submitted in free hand form.
- B. Preliminary plats shall be drawn to scale with such accuracy as to determine the location of a lot, block, property and boundary lines, utility and other facilities, to the nearest foot.
- C. Final plats shall be prepared with the accuracy required for traverse data. The following sheets or drawings shall be submitted with the final plat:
 1. Traverse data, for the plat, including the coordinates of the boundary of the subdivision with the error of closure. The error of closure for a perimeter distances less than ten thousand (10,000) feet in length, the error of closure shall be less than one (1) in ten thousand (10,000).
 2. The computation of all distances, angles and courses that are shown on the final plat.
 3. All stakes, monuments or other evidence found on the ground in use to determine the boundaries of the plat.

5.02 CONTENTS OF SKETCH PLAN.

The sketch plan shall show the location of the proposed subdivision (vicinity map), the proposed layout of streets, lots and other features of the subdivision in relation to existing conditions, proposed use of land, proposed parks, playground and other public areas. The subdivider shall submit with the sketch plan:

- A. A statement describing the proposed or adopted covenants, anticipated and available community features, and utilities on and adjacent to the property to be subdivided;
- B. A statement of the approximate number of lots the subdivision will contain, together with the typical proposed lot width and depth.

5.03 CONTENTS OF PRELIMINARY PLAT.

The preliminary plat shall be drawn at a scale of not less than one inch equals 100 feet; however, areas over 100 acres may be at a scale of one inch equals 200 feet. The appropriate fee shall be paid upon filing and 20 copies of the preliminary plat shall accompany the application. In addition information must be submitted on electronic media compatible with the City's systems.

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

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

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

1. The location, right-of-way, width and names of all existing public or private streets within or adjacent to the tract, together with easements, railroad rights-of-way and other important features such as section lines and corners, city and township boundary lines and monuments.
2. The horizontal location within the subdivision and the adjoining streets and property of existing sanitary and storm water sewers including flow lines, water mains, culverts, catch basins, manholes, fire hydrants, underground wiring, pipe lines and gas lines proposed to serve the subdivision.
3. Contour lines or spot elevations based on Mean Sea Level (MSL) or other datum approved by the Planning Commission having the following intervals:
 - a. Two-foot contour intervals for ground slopes less than 10%.
 - b. Five-foot contour intervals for ground slopes exceeding 10%.
 - c. Spot elevations where the ground is too flat for contours.
 - d. The date of the topographic survey shall be shown including the location, elevation and description of the bench mark controlling the vertical survey.
4. Locations of existing monuments or survey markers used in preparation of the survey.
5. The location and direction of all watercourses and areas subject to flooding as determined by these Regulations and the FIRM.

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

1. A vicinity map showing existing subdivisions, streets and unsubdivided tracts adjacent to the proposed subdivision and showing the manner in which the proposed streets may be extended to connect with existing streets. Such vicinity map shall also include a location map that identifies the area of the municipality in which the tract to be subdivided is to be located.
2. A statement as to the general nature and type of improvements proposed for the subdivision, and in what manner the subdivider intends to finance and provide for their installation, e.g., petition, actual construction, fiscal guarantee, etc. If other than by petition, the approximate time that such improvements will be completed should be indicated. If the latter, the statement shall contain sufficient detail with respect to the proposed improvements to permit a determination to be made with respect to whether such improvements will comply with this regulation and other applicable statutes, ordinances and regulations. If the nature of the improvement is such that it is not practical to prepare and submit all necessary details prior to the approval of the preliminary plat, then the Planning Commission may waive the submission of such details provided that the additional data is submitted at least 30 days prior to the date that approval of the final plat is requested.
3. A drainage concept showing the means by which storm waters shall be accepted from adjacent properties, handled internally and drained from the tract, to include an analysis of adjacent properties, all to be based on standards and policies of the City.
4. Off site improvements may be required for some developments; studies and data submittals may be required by the City Engineer to make that determination.

5.04 CONFORMANCE WITH PRELIMINARY PLAT.

No final plat shall be considered for approval unless all provisions of these subdivision Regulations have been met, including compliance with conditions set forth by the Planning Commission on the preliminary plat, and no final plat shall be considered if it differs materially from the preliminary plat as previously approved by the planning commissioners.

5.05 PRELIMINARY PUD PLAT

Required for all C-2 Commercial Districts, M-1 Manufacturing and Industrial Districts or any combination thereof.

- A. Sheet Size: The site plan should be no larger than 11" x 17" and no smaller than 8 ½" x 11". Site plans for larger projects (greater than 6 acres), may be larger, with the approval of City Staff. All information must be submitted on electronic media compatible with the City's systems.
- B. Title: A brief description of the PUD.

- C. Applicant Name: Name of the applicant and the agent who prepared the drawing, if applicable.
- D. North Arrow: Indicate the north direction with respect to the project, Lot, or structure.
- E. Scale: The scale should be adequate to portray the project, Lot, or structure on the sheet size required. For example, a Lot that is 70 feet by 100 feet can adequately be portrayed at a scale of 1" = 20' (in inch equals 20 feet) on an 11" x 17" sheet of paper. The scale should not be smaller than 1" = 20' and 1" = 50' for larger properties; projects involving 100 acres will use 1"=100' and in excess of 100 acres use 1"=200' for the overall plan, but will utilize ballooned detail pages to expanded information as necessary.
- F. Dimensions: In addition to adequate scale representation, all key features (lot, buildings, driveways, etc.) on the site plan shall have dimensions in feet noted for all sides.
- G. Legal Description: Legal description of Lot(s) or parcels included in the PUD. This description can be in the form of Lots and Blocks.
- H. Existing Conditions: Indicate all structures and features as they exist on the property. These should be drawn to scale, as described above, and shall include, but not be limited to:
- I. All structures and buildings
 - J. Parking Spaces
 - K. Fences
 - L. Significant trees or stands of trees
 - M. Other landscaping
 - N. Floodplains
 - O. Water area or features
 - P. Significant topographical features
 - Q. Utilities, above and below ground
 - R. Drainage patterns
- S. All required zoning setbacks and easements: Using a dashed line, indicate all required zoning setbacks and utility, drainage, or other easements relative to the project, Lot(s), or structure.
- T. All roads/streets adjacent to the property and access points off of those roads: Indicate all roads/streets, including the rights-of-way that surround or intersect the property, including alleys. Indicate all points of access (driveways) from the streets to the project, Lot (s), or structure. Indicate how each road/street is developed, e.g. paved, dirt, undeveloped.
- U. Surrounding structures and uses if appropriate: Indicate surrounding uses and zoning as they apply to the request.

V. PUD content that would require the Planning Commission to review and recommend an outcome to the City Council- such as a new plat map or replat, zoning change, or vacation: Include all drawings and information for plats as if requesting each element separate, but within the PUD.

W. Gross acreage of plat acres

X. Total number of lots

Y. Predominant minimum lot width and area

Z. Access control

AA. If the aforementioned modifications or additions are extensive relating to zoning changes, vacations, or other special use, a second site drawing might be necessary to clarify the changes. These modifications or new features may include, but are not limited to:

1. Buildings
2. Structures
3. Parking areas
4. Vehicular drives
5. Pedestrian walks
6. Location and height of light fixtures
7. Location of trash receptacles and loading areas
8. Landscaped areas
9. Screening

BB. An application shall be accompanied by a current (less than 45 days old) abstractor's certificate containing a legal description of the area in the application as well as the name and address of the owner, and shall include the names and mailing addresses (with zip codes) of all property owners within the prescribed distance measured from the perimeter of the application area.

CC. A Preliminary PUD must contain design and material quality as well as contain harmony and be compatible with the architectural style and principles of the overall character of the neighborhood.

5.05 CONTENTS OF FINAL PLAT.

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

the plat and its relation to other sheets (e.g., Sheet 1 of 3). Linear dimensions shall be given in feet and decimals of a foot. The final plat shall show on the face thereof:

- A. The name of the subdivision followed by a reference to its location by quarter-section, section, township and range.
- B. The date of preparation, scale, north point, legend and controlling physical features, such as highways, railroads, watercourses and areas subject to flooding as determined by the City's FIRM, and all other applicable regulations and information.
- C. Legal description of the tract boundaries.
- D. Reference ties to existing and previous surveys and plats, as follows:
 - 1) Government corners and/or adjoining corners of all adjoining subdivisions, or corners of existing plats, when a replat.
 - 2) Section, township and range.
 - 3) When the city or county has established the centerline of the street adjacent or within the proposed subdivision, the location of such centerline and monuments found or reset shall be shown.
 - 4) All other monuments required to be installed by the provisions of this regulation.
- E. Location and elevation of permanent bench mark.
- F. Tract boundary, block boundary, street and other right-of-way lines with distances and angles (and/or bearings). Where these lines follow a curve (all curves must be circular), the central angle, the radius, points of curvature, length of curve and length of intermediate tangents shall be shown. Error of closure of the perimeter survey shall not exceed one foot for each 10,000 feet.
- G. Lot lines with dimensions. Side lot lines shall be at right angles or radial to street lines unless otherwise shown. Rear lot lines shall be parallel to block or tract lines unless otherwise indicated. Points of deflection of rear lot lines shall be indicated by angles and distances.
- H. Lot numbers beginning with number one and numbered consecutively in each block. The numbers shall be solid and of sufficient size and thickness to stand out, and so placed as not to obliterate any figure.
- I. Block letters or numbers continuing consecutively without omission or duplication throughout the subdivision. Such identification shall be solid, of sufficient size and thickness to stand out, and so placed as not to obliterate any figure.
- J. All easements shall be denoted by fine dashed lines, clearly identified and, if already on record, the recorded reference of such easements. If an easement is not definitely located of record, a statement of such easement shall be included. The width of the easement with sufficient ties to locate it definitely with respect to the subdivision must be shown and its

purpose such as for utilities, drainage, screening, open space, pedestrian ways or alleys. If the easement is being dedicated through the plat, it shall be properly referenced in the owner's certificate and dedication.

K. The width of street rights-of-way and any portion thereof being dedicated by the plat as well as the width of any existing right-of-way and the centerline of any adjacent perimeter streets.

L. If street rights-of-way, building setbacks, access controls, minimum building pad elevations, public easement or other public reservations are being vacated by the plat, proper reference to K.S.A. 12-512b, amended, shall be made in the plat's text.

M. The name of each street shown on the subdivision plat including appropriate prefixes and suffixes.

N. Minimum building setback lines, if any, but not less than applicable zoning regulations. The setback should be measured from the existing or proposed street right-of-way, whichever is a greater distance.

N. Land parcels to be dedicated or reserved for any purpose, public or private, to be distinguished from lots or tracts intended for sale. If the plat proposes the creation of reserves, the text shall state the purposes of the reserve, as well as, who will own and be responsible for the maintenance of reserves. Future ownership and maintenance responsibilities for a reserve may also be documented by a restrictive covenant filed with the register of deeds that provides that a homeowners association, or similar entity, will hold title to the reserve and therefore be responsible for the reserve's maintenance.

O. When deemed necessary, the minimum pad elevation of each lot or parcel of land so that each pad is elevated at least one foot above the 100-year flood elevation.

P. When part of a subdivision lies within or abuts a Floodplain area as shown on the Federal Insurance Administrations "Flood Hazard Boundary Map" for Bel Aire, Kansas. The Floodplain shall be shown within a contour lines and clearly labeled on the plat with the words "Floodplain Area".

Q. Other improvements to be installed by the subdivider on the land to be used for public streets, highways, ways and easements, as are necessary for the general use of the lot, owners' in the subdivision, and local neighborhood traffic and drainage needs.

R. A copy of covenants, if applicable.

S. Language of the PUD agreement placed on the face of the plat if the plat is part of a Planned Unit Development.

T. The name of the owners of the development and the registered land surveyor. The following certificates, which may be combined where appropriate: (Certificates requiring a seal should be located near the edge of the plat to facilitate affixing the seal. All names on the plat must also be typed or clearly printed under the signature.)

U. Marginal lines encircling the sheet. All information shall be within this margin.

STATE OF KANSAS)
) ss
COUNTY OF SEDGWICK)

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

_____, Chairman
(Print Name of authorized Signature)

(SEAL)
ATTEST:

_____, County Clerk
(Print Name)

TRANSFER RECORD

A place to note the transfer record date of the County Clerk and the recording certificate of the County Register of Deeds. Plats are not entitled to record unless all current real estate taxes and special assessments are paid in full on the land being platted. Whenever the subdivider's agreement and any restrictive covenants are recorded prior to or concurrently with the final plat, the book and page numbers where they are recorded shall be noted on the plat for reference purposes.

Entered on transfer record this _____ day of _____ 20__.

_____, County Clerk
(Print Name)

REGISTER OF DEED'S CERTIFICATE

STATE OF KANSAS)
) ss
COUNTY OF SEDGWICK)

This is to certify that this instrument was filed for record in the Register of Deeds Office at ____ (a.m.) (p.m.) on the ____ day of _____ 20__ and is duly recorded.

_____, Register of Deeds
(Print Name)

(SEAL)

_____ Deputy
(Print Name)

Subdivisions which lie outside the city limits for which requests have been made for the extension of one or more City utility services shall agree to a waiver of protest of potential future annexation by a statement reading "Owners of lands within this subdivision do hereby bind themselves to waive any protest to annexation by the City of Bel Aire, Kansas," which shall be shown on the

final plat and included in restrictive covenants of the subdivision. When such an agreement is contained in such restrictive covenants and filed by the City with the County Register of Deeds within 30 days after being executed by all parties, it shall be deemed to be sufficient consent to annexation under K.S.A. 12-520, as amended, to bind the owner(s) of the land to be subdivided and any successors in interest.

Provision for all other certifications, approvals and acceptances which are now, or which may hereafter be, required by any statute, ordinance or regulation. The form of these certifications may be modified as necessary by the City's legal counsel to meet statutory or other requirements.

- V. The following additional information shall be submitted with the final plat:
- 1) A title report by an abstract or a title insurance company, or an attorney's opinion of title, showing the owner of the land and all other persons who have an interest therein and describing any encumbrances on the plat, including such items as rights-of-way, easements, pipelines, leases, mineral rights, mortgages, real estate taxes, special assessments and other encumbrances affecting the ownership.
 - 2) If deemed necessary by the Zoning Administrator, a final drainage plan based on the standards and policies set by the applicable jurisdiction including a four-corner grading plan for each lot plus minimum pad elevations if located in a flood prone area.
 - 3) A copy, if any, of restrictive covenants applicable to the subdivision. As a service to the subdivider, such restrictions may be reviewed by the Planning Commission and other officials to determine if any potential conflicts exist with the City's laws. If the condition exists for provision of utility service by the City to a subdivision located outside the City, then restrictive covenants must be submitted for review of the annexation waiver provisions.

ARTICLE 6
DESIGN STANDARDS

6.01 SCOPE.

The purpose of design standards is to prevent excessive amounts of unusable land, excessive clearing of land, excessive grading, oddly shaped lots, and inefficient and excessive lengths of streets. The standards encourage compatible designs between adjoining properties. They also encourage innovation and variety in subdivision design. All subdivision of land subject to these regulations shall conform to the minimum design standards of this Article according to the classifications of urban and rural type subdivisions as defined within both these Regulations and the City's Zoning Code.

6.02 COMPREHENSIVE DEVELOPMENT PLAN.

Subdivisions shall conform to the intent of the Comprehensive Plan.

6.03 LAND FOR PUBLIC FACILITY SITES.

Public agencies using the Comprehensive Plan as a guide may use the following procedure for acquiring sites for public facilities which does not preclude voluntary dedication and mutual negotiations for land or the use of the condemnation laws of the State:

A. The subdivider offers to sell to the appropriate public body, agency or authority, lands, sites and locations for parks, recreational areas, schools, fire stations or other public facilities. As soon as the preliminary plat has been received and reviewed, the Planning Commission shall give 45 days' notice to the public body, agency or authority that it appears that lands should be considered for public acquisition. If within that 45 days the body receiving notice fails to act or submits a negative report on acquisition, then the subdivision and design thereof shall be treated as if no such request for land had been made.

B. If the organization receiving notice replies in writing that they desire to acquire land within the subdivision, they shall have an additional 45 days after making such reply to make arrangements for such land acquisition.

C. The time allocated for making the above determination may be extended with the mutual consent of the subdivider and the organization involved.

6.04 LAND FOR OPEN SPACE.

The following conditions may be required as part of an approval of any subdivision plat: (See City Regulations associated with RESERVE and WETLAND.)

A. Objective. That the subdivider will provide appropriate dedication of land or easements for the preservation of open space areas within a subdivision. Such open space may be needed to preserve areas containing natural watercourses, drainage ways, areas subject to periodic flooding, wetlands, substantial woodland, rugged topography and wildlife habitat;

to maintain water quality and quantity; and to protect land from soil erosion. In general, such land is not normally considered as buildable land and should not be developed in order to maintain the quality of the environment. Design standards for detention basin design and construction shall comply with the provisions of the following:

1. City of Bel Aire Stormwater Management Ordinance, latest edition
2. Bel Aire Standard Specifications, latest edition
3. Bel Aire Subdivision Regulations, latest edition
4. Clean Water Act (discharges regulated by the United States EPA through NPDES permits)

B. Ownership:

1. Detention basins are owned by the property owner (often a Homeowner's Association).
2. The City may take ownership of and maintain regional detention basins that involve multiple subdivisions, as determined appropriate on a case by case basis.

C. Maintenance and Repair Responsibilities:

1. Detention ponds and associated inflow and outflow systems (to the property line) are maintained by the property owner absent any specific legal agreement, including development agreement, to the contrary.
2. Maintenance agreements may be required at the option of the City Engineer or Zoning Administrator to define parties responsible for the maintenance of commercial detention basins and unique detention basin cases.
3. Absent a specific maintenance agreement to the contrary, the detention basin owner shall be responsible for the following items:
 - a. An annual report on the detention basin condition using the checklist made available by the City Engineer shall be submitted to the City Engineer.
 - b. At 5 year intervals, the basin shall be inspected by a professional engineer registered in the State of Kansas. A report of this inspection shall be submitted to the City Engineer within 60 days of the inspection. The inspection shall include an evaluation of the checklist items in Attachment. An annual report is not required the year the 5 year report is due.
 - c. Detention basin owners shall notify subsequent owners of their maintenance responsibilities and transfer basin maintenance records to the party with active maintenance responsibility.
 - d. These requirements shall be effective for all detention basins existing in the City of Bel Aire on the date of adoption of this code as well as detention basins constructed after the effective date.

D. Design:

1. General:

- a. Drainage Design for Stormwater Quantity Management shall be in accordance with Volume 1, ARTICLE 3.6.1 “Peak Discharge Control Design Standard” of the City of Wichita/Sedgwick County Stormwater Manual.
- b. Emergency overflow routes shall be clearly designated for runoff in excess of the 100-year storm.
- c. Hydrologic Analysis shall be in accordance with Volume 2, Chapter 4 “Hydrologic Analysis” of the City of Wichita/Sedgwick County Stormwater Manual.
 - d. Minimum outlet storm sewer size shall be 12 inches; smaller diameter restrictions (e.g. orifice plate or short pipe length) are acceptable.
 - e. Inlet and outlet pipes shall be provided with end sections and erosion protection.
 - f. Weirs, dams and specialized outflows shall be designed by a professional engineer registered in the State of Kansas.
 - g. Temporary erosion techniques shall be used as required to ensure a full stand of cover vegetation in minimum time.
 - h. Detention basin side slopes above normal pool shall be designed with permanent erosion protection consisting of grass, non-grass vegetation, or other permanent finish. Permanent erosion protection shall be aesthetically suitable to the development or existing surrounding land use.
 - i. Consideration of 1) Downstream Stabilization Standard; 2) Water Quality Treatment; and 3) Integrated Site Design Approach are encouraged, but are not specifically required.

2. Location:

- a. In subdivisions, detention basins and their 100-year design high water shall be contained within reserves dedicated for drainage purposes. In redevelopments, detention basins and their 100-year design high water shall be contained within a drainage easement.
- b. Parking lot and roof top detention are allowed.
- c. Detention basin reserves shall have a minimum of 30 feet frontage on a right-of-way for the purpose of providing unrestricted access for maintenance. Exceptions may be made for infill development.
- d. A 20 feet minimum setback shall be required from all property lines to the normal pool elevation.
- e. Detention basins shall be provided with a minimum of 1 foot of freeboard above the 100-year design water elevation.

- f. Buildings within 100 feet of a detention basin 100-year design high water shall have the lowest water entry point a minimum of 2 feet above the 100-year design water elevation.

6.05 LAND SUBJECT TO FLOODING.

Whenever a subdivision of land, including platting for manufactured home parks and other developments on one-lot plats, is located on flood prone land identified on a Flood Insurance Rate Map(s) (F.I.R.M.) prepared by the Federal Emergency Management Agency (FEMA), the following requirements shall apply: (See City established floodway and floodway fringe regulations)

- A. Show on the preliminary and final plats the boundary lines and elevations for both floodway, if any, and 100-year flood level; and
- B. Assure that (a) all such subdivisions are consistent with the need to minimize flood damage, (b) all public utilities and facilities, such as sewer, water, gas and electrical systems are located, elevated and constructed to minimize or eliminate flood damage, and (c) adequate drainage is provided so as to reduce exposure to flood hazards.
- C. When a building permit is issued that requires minimum low opening, the Certificate of Occupancy shall not be issued until an Elevation Certificate that indicates compliance with the minimum elevation has been recorded. Minimum low opening shall be 1 feet above B.F.E. (Base Flood Elevation) and conform to the most current city floodplain ordinance.

6.06 LAND SUBJECT TO EXCESSIVE EROSION BY WIND OR WATER.

On land subject to excessive soil movement by the forces of wind and/or water and that may cause environmental health hazards, necessary preventive measures shall be a part of the subdivision plat. Conservation standards applicable to subdivisions shall be adhered to which are used by the Sedgwick County Conservation District.

6.07 ACCESS.

All lots located in any subdivision must contain at least 30 feet of frontage for driveways directly connected to an opened public street and not across the land of others. Flag lots are not permitted, unless warranted by an unusual shape of the land or the ownership of property.

All street, alleys, driveway access connections made to arterial streets must be limited and approved by the City Engineer.

6.08 STREETS-LAYOUT AND DESIGN.

- A. The arrangement, character, extent, width, grade and location of all streets shall conform to the intent of the Comprehensive Plan, and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic within the subdivision and adjoining lands; to topographical conditions, to the run-off of stormwater; to public convenience and

safety; and in their appropriate relations to the proposed uses of the land to be served by such streets.

- B. Where such is not shown on a Comprehensive Plan, the arrangement of streets in a subdivision shall either:
1. Provide for the continuation or appropriate projection of existing streets in surrounding areas; or
 2. Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographic or other conditions make continuance or conformance to existing streets impracticable.
- C. Local streets shall be laid out so that their use by through traffic will be discouraged.
- D. If a subdivision abuts or contains an existing or proposed limited access highway, arterial street or railroad right-of-way, the Planning Commission may require marginal access streets, reverse frontage lots with access control provisions along the rear property line and screening, deep lots with rear service alleys or such other design as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- E. Reserve strips controlling access of streets shall be prohibited except where their control is placed with the applicable Governing Body under acceptable conditions.
- F. Street right-of-way requirements for other than arterials shall be determined by the total aggregate needs for the functional components for the particular system being considered. The total aggregates shall be in increments of even feet, even numbers only. The components involved shall be as follows depending upon the urban or rural type of characteristics of the street needed based on land use, traffic and density:
1. Moving or traffic lanes may be variable from 9 to 12 feet depending on function, e.g., low density residential, cul-de-sac residential, collector, industrial, etc., and on design speed of the roadway. A moving lane may utilize a portion of the surface of certain types of curb construction.
 2. Parking lanes for on-street storage of vehicles shall be at least 8 feet in width. For computation purposes, up to two feet for curb or shoulder may be included as part of the parking lane.
 3. Curbs shall be considered to require 2 feet irrespective of construction type.
 4. Shoulders for rural type roadways shall be not less than 3 feet in width.
 5. Parking strips for streets shall be at least 14 ½ feet in width from the back of curb to the right-of-way line. This area shall be used for the installation of utilities, street signs, street lights, traffic control devices, fire hydrants, sidewalks, driveways, street furniture, street trees from an approved City list and to provide a transition area in grades, if necessary, between the roadway and the property

adjacent to the right-of-way. Ditches and border strips for rural type roads shall be variable in width based on drainage, utility installations and other needs.

6. Based on the above general criteria, street right-of-way and roadways shall be calculated from the following guidelines:

URBAN AREA	R-O-W for Street In feet*	Roadway Width In feet
a. Collector including Commercial, Industrial, or Multiple Family Areas.	66-70	37-41**
b. Local Residential including Cul-de-sacs, Single and Two-Family Areas.	58-64	29-35**
c. Local Marginal Access Street (two moving lanes with no parking on one side plus a parking strip between curb and the main road right-of-way).	50	28 **
d. Alleys for Residential, if necessary, and Commercial Areas.	20	20
** Back of curb to back of curb.		
RURAL AREA	R-O-W for Street In feet*	Roadway Width In feet
a. Collector including Industrial or Commercial Areas (Two moving lanes, shoulders, ditches, and borders.)	70-80	30-41***
b. Local Residential (Two moving lanes, shoulders, ditches, and borders.)	60-70	30***
*** Includes 3 feet shoulder on each side.		
* For arterial standards, See Articles 6-107G and H.		

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

- G. Arterial right-of-way widths shall be as shown in the Comprehensive Plan and where not shown thereon shall be 120 feet. At an intersection approach, 150 feet of right-of-way width shall be required within 250 feet of the cross street centerline and taper to 120 feet at a distance of 350 feet.
- H. For streets and roadways on the Functional Classification System of the County, prevailing design standards shall apply.
- I. Wherever possible, there shall be an inside tangent at least 100 feet in length introduced between reverse curves on arterial and collector streets.
- J. Streets shall be laid out so as to provide for horizontal sight distances on all curves depending upon design speed. These distances shall be:

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

*** The sight distance shall be measured in accordance with latest edition of AASHTO “A Policy on the Geometric Design of Highways and Streets”.

- K. Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than 80 degrees.
- L. Street jogs are to be avoided on arterial and collector streets. On local streets, center line offsets of less than 150 feet should be avoided.
- M. Roadway grades, wherever feasible, shall not exceed the following with due allowance for reasonable vertical curves:

Roadway Type	Percent Grade
Arterial	3%
Collector	4%
Local	5%
Marginal Access	5%

- N. No roadway grade shall be less than 0.4 of one percent, unless approved by the engineer. Greater percentages of grade may be required where necessary to provide adequate drainage.

O. Roadway pavement at intersections shall be rounded by the following

Type of Roadway	Intersection Width	Minimum Curb Radii
Local Residential	Local Residential	20 feet
Local Residential	Collector	30 feet

Local Residential	Arterial	30 feet
Commercial/Industrial Collector or Arterial	Commercial/Industrial Collector or Arterial	50 feet

P. Half-streets shall be avoided, except for arterial streets and collector streets where applicable, or where they are essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations; or, when the Planning Commission finds that it will be practicable to require the dedication of the other half of the street when the adjoining property is subdivided. Whenever a half-street, or portion thereof, exists and is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract. No construction of the roadway shall occur until the full right-of-way is provided.

The length of cul-de-sacs and the dimensions of the turn-around shall be determined as follows:

1. Cul-de-sacs in single-family areas should not generally be longer 800 feet, whichever is less.
2. In urban type subdivisions, they shall have a turn-diameter of at least 70 feet and a street property line diameter of at least 100 feet, or shall have an alternate turn-around area such as hammerheads, etc., as providing service equal to the foregoing requirement.
3. For rural type subdivisions, a minimum street property line diameter of 120 feet or more may be required for fire protection and other equipment.

Q. Storm Sewer Systems shall be designed to 1) carry the design storm with the hydraulic grade line a minimum of 6 inches below the curb inlet openings; 2) contain the 100-year storm within the street Right-of-Way; and 3) maintain a minimum of 1 – 8 foot lane open on residential and collector streets and 2 – 8 foot lanes open on arterial streets at the design storm.

Area Type	Design Storm Frequency
Residential	2 year
Commercial	5 year
Industrial	5 year

R. Subdividers are encouraged to consider projects designed to maximize solar access when not in conflict with existing contours or drainage. When the long axis of individual structures is parallel to the street, streets should be oriented as nearly as possible in an east/west direction. If the long axis of structures is perpendicular to the street, north/south street orientation is preferable for solar access purposes.

6.09 ALLEYS.

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

6.10 BLOCKS AND PEDESTRIAN WAYS.

- A. The lengths, widths and shapes of blocks shall be determined with due regard to:
 - 1 Provision of adequate building sites suitable for the special needs of the type of use contemplated.
 - 2 Zoning requirements as to lot sizes and dimensions, off-street parking and loading, etc.
 - 3 Need for convenient access, circulation, control and safety of street traffic.
 - 4 Limitations and opportunities of topography.
- B. A block should not exceed 1,340 feet in length, unless the previous layout or topographic conditions justify a modification. In general, blocks shall not be less than 400 feet unless necessary because of existing street patterns.
- C. All blocks shall be so designed so as to provide two tiers of lots, unless a different arrangement is required in order to comply with or be permitted by other sections of these regulations.
- D. Blocks may be irregular in shape, provided they are harmonious with the overall pattern of blocks in the proposed subdivision.
- E. In extra long blocks, a public pedestrian way may be required to provide access to public or private facilities such as schools or parks.

6.11 LOTS.

A. The lot size, width, depth, shape and orientation, and the minimum building setback lines, if any desired, shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

B. Lot dimensions shall conform to the minimum requirements of applicable zoning regulations and sanitary codes, unless higher standards are established in accordance with this subsection:

1. All subdivisions in the City shall be connected to public water supply and sewage disposal systems as well as subdivisions in the surrounding jurisdiction wherever the latter is deemed feasible by the Governing Body.*

2. If the proposed subdivision is serviced with a public water supply, but intends to use a septic tank and tile field for a sewage disposal system, the minimum lot size requirement shall be three acres (130,680 square feet) in the unincorporated area only.**

3. If the proposed subdivision in the unincorporated area is serviced by neither a public water supply or a public sewage disposal system and intends to use an on-lot well for water supply and a septic tank system for sewage disposal, the minimum lot size requirement shall be three acres (130,680 square feet).**

4. Notwithstanding the provisions of these regulations in Articles 6-110B2 and 3, it is the intent of these regulations to encourage the installation of public water supplies and public sewage disposal systems wherever feasible. In order to determine such feasibility, the Planning Commission may require the subdivider to provide certain basic engineering data and cost estimates on which to base such a decision. Furthermore, if on-lot water supply and sewage disposal installations are used, additional lot area may be required if the area to be subdivided has a high water table, is periodically flooded with water or if the soil conditions prove to be unsuitable based on percolations test which may be required of the subdivider. If a lagoon system is used for sewage disposal, the lot size must be a minimum of five acres, the lagoon fenced and the edge of the lagoon not less than 300 feet from any existing off-premises dwelling or 100 feet from the nearest property line.**

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

** NOTE: In calculating the size of the zoning lot, the land in an adjacent right-of-way may be included if it is part of the legal description of the Lot.

C. In those areas where there may be municipal-type water and/or sanitary sewer facilities anticipated in the foreseeable future, but which are not yet available, the Planning Commission may require that lots be so designed and arranged that they may readily be converted to urban type building sites without replatting. When such a condition prevails, land should be subdivided into lots so that by combining lots, a building site is created

initially with an area of not less than that required for on-lot wells and/or sewage treatment systems. The creation of such a building site through use of multiple groups of lots shall be contingent upon the establishment for record of restrictive covenants satisfactory to the legal counsel of the Planning Commission, providing that no more than one dwelling unit shall be built on such an aggregate group of lots until such time as municipal-type water and sewer service is available.

- D. As a general guideline, the maximum depth of all residential lots shall not exceed two and one-half times the width thereof. For all other types of lots, the depth shall not exceed three times the width.
- E. In the City, the area of the street right-of-way shall not be included and calculated in the size of the lot with respect to minimum lot size requirements of these regulations or of any zoning regulations applicable to the property. The area of the adjacent street right-of-way may be included and calculated for lots in the unincorporated area; however, if it is part of the legal description of the lot. Lots shall be required to have more than the minimum area dimensions provided for in this section where such greater area or dimensions are required to meet the yard requirements of the zoning regulations.
- F. There shall be no double frontage lots for individual dwellings (e.g., single and two-family units), except where the lots abut upon a limited access highway or arterial street or where the topography of the land prevents reasonable subdivision in small units. Double frontage lots shall not have vehicular access between such lots and an abutting limited access highway or arterial street.
- G. Reversed frontage lots shall be avoided except where such are essential to provide a separation of residential development from limited access highways and arterial streets or to overcome specific disadvantages of topography and orientation.
- H. Corner lots for residential use shall have extra width, if necessary, to permit appropriate building setback from and orientation to both streets.
- I. Side lines of lots shall be at right angles or radial to the street line or substantially so.

6.12 EASEMENTS.

A. Utility easements shall be provided where necessary and centered on rear or side lot lines. Such easements shall be at least 20 feet wide along rear lot lines and 10 feet wide along side lot lines, except that easements for street lighting purposes shall not in any event be required to exceed 10 feet. Side lot easements, when needed for other than street lighting purposes such as drainage, may exceed 10 feet.

B. Drainage Easements. If a subdivision is traversed by a watercourse, drainage way or channel or a detention pond is constructed, then a stormwater easement, reserve, or drainage right-of-way shall be provided. Such easement, reserve, or right-of-way shall conform substantially to the lines of such watercourse and location of a detention pond and shall be of such width or construction, or both, as may be necessary to assure adequate stormwater drainage and for access for maintenance thereof. All drainage easements,

reserves, or drainage right-of-way shall be vegetated with perennial grasses or otherwise stabilized to prevent soil erosion and sediment movement by wind or water. Parallel streets or parkways may be required in connection therewith.

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

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

D. Wherever a lot or group of lots side or back on to an existing high pressure oil or gas transmission line, a building setback easement shall be established on each side of such line to the minimum safe standards as provided by the applicable oil or gas company to the subdivider or to such standards as may be adopted by the City, state or federal governments, whichever provides the most setback distance. The easement shall be provided on that part of the lot which abuts the oil or gas line and no principal buildings or structures shall be located or constructed within such an easement.

E. A screening easement may be required to provide for fencing and/or an adequate area for the mature growth of landscaping with appropriate maintenance.

6.13 COMMERCIAL AND INDUSTRIAL SUBDIVISIONS.

A. Streets. Notwithstanding the other provisions of these regulations, the minimum width of streets adjacent to areas designed, proposed or zoned for commercial or industrial use may be increased by the Planning Commission to such extent as may be deemed necessary to assure the free flow of through traffic without interference from parked or parking motor vehicles.

B. Blocks and lots intended for commercial or industrial use shall be designed specifically for such purpose with adequate space set aside for off-street parking and loading.

C. Marginal Access Street. When lots or blocks in a proposed commercial or industrial subdivision front on any limited access highway or arterial street, the subdivider may be required to dedicate and improve a marginal access street to provide ingress and egress to and from such lots or blocks.

6.14 MANUFACTURED HOME PARK.

The purpose of this chapter is to encourage the development of safe, well-planned manufactured home parks for all citizens of Bel Aire.

Manufactured home parks may be located in newly platted multi-family District as a Planned Unit Development only, in accordance with the standards, requirements and procedures:

- A. In considering the development plans for proposed manufactured home parks, the Commission shall insure compliance with the following design standards and requirements:
- B. The minimum area of a manufactured home park shall be five (5) acres.
- C. The manufactured home park shall be located on a well-drained site that is properly graded to insure rapid drainage and that is free from stagnant pools of water. The Commission may, as part of its approval of a development plan, impose drainage/erosion control remediations as recommended by the City Engineer, such as curbs, gutters, catch basins or such other artificial enhancements. The surface drainage remediations that are approved or required by the Commission shall be installed and maintained by the developer or its successors in interest.
- D. A manufactured home park shall be screened continuously along all park boundary lines in accordance with the screening requirements of zoning code. A minimum 75 feet green space shall be provided between a manufactured home park and an adjoining medium intensity use where such a condition occurs.
- E. Each park shall provide a recreational area or areas equal in size to at least eight percent (8%) of the area of the park. Streets, parking areas, drainage facilities and park service facility areas shall not be included in the required recreational area.
- F. Coin-operated laundries, laundry and dry-cleaning pickup stations and other commercial convenience establishments may be permitted in manufactured home parks provided:
 - 1. They are subordinate to the residential character of the park;
 - 2. They are located, designed and intended to serve only the needs of persons living in the park;
 - 3. The establishments and parking areas related to their use shall not occupy more than ten percent of the total park area;
 - 4. The establishments shall present no visible evidence of their commercial nature to areas outside the park.
- G. Each park shall provide either one (1) central storm shelter structure available to all manufactured home site residents or a storm shelter structure for each manufactured home site, suitable for storage of goods and the usual effects of persons occupying the park.

- H. All exterior park lights shall be located and shielded so as to prevent direct illumination of any areas outside of the park exceeding .01 foot candle.
- I. Manufactured home sites shall be a minimum of four thousand (4,000) square feet in area and in no case shall a manufactured home park exceed a density of seven (7) units per gross acre.
- J. Each manufactured home site shall have a minimum width of forty (40) feet
- K. The minimum distance between a manufactured home and another manufactured home or structure shall be twenty (20) feet.
- L. Each manufactured home site shall be provided with structural supports that comply with the manufacturer's installation instructions and City Code.
- M. Manufactured homes may not be located less than forty (40) feet from any manufactured home park boundary line. In the event that a manufactured home park shall abut a public street or highway, the front yard setbacks applicable to conventional housing in the district shall apply.
- N. Foundation skirting shall be required around each manufactured home completely enclosing the undercarriage.
- O. Each manufactured home site shall be provided with two (2) enclosed parking spaces adjacent thereto, which parking spaces shall have unobstructed access to a manufactured home park street.
- P. All manufactured home stands shall be connected to common walks, to paved streets, or to paved driveways or parking spaces connecting to a paved street. Such individual walks shall have a minimum width of three (3) feet.
- Q. Street design and construction within the park shall be in accordance with the current street design and construction standards specified
- R. No individual manufactured home within a manufactured home park shall have direct vehicular access to any public street adjacent to the park. All access shall be from an improved street or driveway within the park.
- S. All entrances to manufactured home parks shall be constructed in an attractive manner. The name of the park and park streets shall be adequately designated in a pleasing manner. The Commission shall approve the name of the park as well as the names of park streets according to the criteria for approving subdivision names.
- T. Common walks at least four (4) feet in width shall be provided around all recreational and service facility areas. No walk required herein shall be used as a drainage way.
- U. Each unit will have separate domestic water and sanitary sewer utilities connected in a manner to meet City standards. No proprietary systems.

ARTICLE 7**INSTALLATION OF REQUIRED IMPROVEMENTS****7.01 SUBDIVISION TYPES.**

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

A. Urban Type Subdivisions.

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

B. Rural Type Subdivisions. All other subdivisions required to be platted by these regulations not otherwise classified as an urban type zoning classification..

7.02 ENGINEERING AND GOVERNMENTAL JURISDICTION.

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

7.03 REQUIRED IMPROVEMENTS.

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

A. All streets, alleys, curbs, gutters and street drainage facilities in urban type subdivisions shall be constructed in accordance with established City standards. All urban type streets shall be constructed of concrete, asphalt or asphaltic concrete and no gravel or sanded roadways shall be constructed. All public street plans and specifications shall be approved by and under the supervision of the Street Superintendent along with the City Engineer. All roadways in rural type subdivisions shall be constructed in accordance with standards established by the County Engineer with gravel or sanded surface and no other materials such as oiled surface, macadam or similar materials shall be used. If other than gravel or sanded surface materials are particularly required, urban construction standards as described above shall apply. To accommodate any future improvements in both urban and rural areas, the entire right-of-way of collector and local streets and roadways shall be graded to match the level of the road surface. All stumps, trees that cannot be saved, boulders and similar items shall be removed from such right-of-way. In the unincorporated area, streets and roadways are subject to final acceptance by the applicable township trustee or the County.

B. A storm drainage system shall be provided, separate and independent of the sanitary sewer system, meeting all of the specifications and requirements of the City in urban type subdivisions or the County Engineer in rural types. Such storm drainage system shall be connected to any existing storm sewer system, where available, or if such connection is not available, other adequate means for the discharge of such stormwater including the use of detention ponds shall be provided by the subdivider into the nearest major water channel. If it is determined that adequate drainage can be accomplished by a natural drainage way across private property, a drainage easement may be required; however, any initial channelization is the responsibility of the subdivider and continued maintenance the responsibility of the adjacent property owner(s). When required by the Kansas Department of Health and Environment, a stormwater permit application under the National Pollution Discharge Elimination System (N.P.D.E.S.) will be filed with their office.

C. Sidewalks shall be constructed in accordance with standards set by the City in urban type subdivisions under the following conditions:

1. Sidewalks may be required on one or both sides of the street when needed to service pedestrian traffic flow leading to schools, parks, shopping areas or places of public assembly and where heavy traffic would warrant sidewalks for safety purposes. Sidewalks may also be required in residential areas where the lot frontage is less than

150 feet. Sidewalks shall be required to extend or complete connecting links in the sidewalk system.

2. In general, sidewalks shall be 5 feet wide and constructed with the inside edge of the sidewalk adjacent to the property line; an approved sidewalk plan can provide for an alternate placement.

3. All sidewalks shall provide handicap access in conformity with K.S.A. 58-1301 et seq. and the federal Americans with Disabilities Act of 1990, 42 USCA 12101, as may be amended.

D. Street signs shall be placed at those locations within the area as determined by the City Engineer. Type and size shall be approved by the City Engineer, giving due regard to the prevailing type, size and pattern of location utilized throughout the area. The cost of which shall be incurred by the developer.

E. Wherever a municipal-type water supply system or its equivalent is required to be constructed by these regulations, such construction shall be in accordance with the standards and requirements set by the City and are further subject to the regulations of the Kansas Department of Health and Environment. In all other areas, a water supply shall be provided which meets the standards of the County Sanitary Code. In those areas where there is a municipal type water supply system, mains shall be of such size as to support the use of fire hydrants as required by the Building Codes adopted by both the City and County.

F. Fire hydrants of the type and quality specified by City standards, but not less than the minimum standards of the National Fire Protection Association (NFPA), shall be provided wherever there shall be constructed a municipal type water supply system. Such hydrants shall be subject to the inspection and approval of the Fire Chief. Hydrants shall be not less than 500 feet from the nearest hydrant. All fire hydrants, manholes and water meters shall be installed in either public rights-of-way or in a location specified by the City engineer. If such location is on private property, an easement, of necessity, across such private property shall be implied for all purposes related to the exercise of the City's rights and obligations pursuant to City ordinances. Each fire hydrant, manholes and water meter pit shall be placed and maintained so that it is readily accessible to the Maintenance Department personnel, maintain a 3feet radius away from trees and bushes and outside of fences. All fire hydrant systems will be dedicated to the City, as no proprietary systems will be allowed.

G. Sanitary Sewer Systems.

1. Wherever sanitary sewers are to be installed as required by these regulations, such sewers are to be constructed in accordance with standards set by the City subject to the regulations of the Kansas Department of Health and Environment.

2. Wherever septic tank systems or wastewater lagoons are to be used for sewage disposal on individual lots, the determination of the suitability of the lot(s)

and the standards for installation and inspection of such facilities shall be governed by the City Code and any other applicable County, State requirements.

H. Underground wiring in residential subdivisions, unless found to be unfeasible, is required for electric power, street lights, cable and telephone service in urban type subdivision, except:

1. For lines rated over 12,000 volts;
2. Appurtenance serving such lines which may be mounted on the ground, such as transformers, transformer pads, telephone service pedestals and street light poles constructed of materials other than wood; or
3. For those proposed subdivisions or replats of existing subdivisions located in areas which presently have an overhead type utility distribution system.

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

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

All utility lines for telephone and electric service, when carried on overhead poles in other than the above urban type subdivision, shall be placed in rear lot line easements or designated side lot line easements.

I. If screening of public or private areas is to be required, a screening plan of landscaping and/or fencing shall be prepared and approved by the Planning Commission and such screening installed.

J. Monuments as shown on the final plat shall be placed at all central points such as block corners, angle points, points of curves in streets and as may be required by the engineer. Monuments shall be made of iron pipes or solid steel rods, e.g., rebars which are not less than one-half inch in outside diameter and not less than 24 inches in length and affixed with a plastic or metal cap which identifies the registration number of the surveyor in responsible charge. All monuments shall be securely placed and set in such a manner that the top of the monument shall be at least 4 inches below grade or ground level. If cultivation of the land for farming purposes is anticipated, monuments may be lowered to 12 inches below grade or ground level. Bench marks may also be required of such material, size and length as may be approved by the engineer.

K. Whenever existing sanitary or stormwater sewers, water lines, drainage channels, culverts, underground or overhead electric and communication lines, gas lines, pipe lines, transmission lines are required to be relocated due to the subdivision or construction of

improvements required as a condition of approval of the subdivision and in the event such was not known at the time of subdivision approval for any reason, the costs of such relocation shall be the sole responsibility of the subdivider.

L. Where required, applicable measures will be taken during construction to minimize soil erosion and sedimentation by wind or water and to mitigate stormwater pollution as required by City Code and further subject to the regulations of Kansas Department of Health and Environment.

M. Where one or more entrances or street structures, such as monuments, pillars, fences, walls, statuary or other decorative features are to be installed in a permanent fashion, the location, size and design shall be included on the street plans submitted to the City Engineer for approval. This submission shall also include a copy of the by-laws, covenants or other documentation of the Association which will have permanent responsibility for maintenance. Such by-laws or other documents shall contain language which will, in the opinion of the City Attorney, assure proper maintenance of such associations.

N. In subdividing an existing plat, due consideration should be given by the subdivider to the dedication or reservation of suitable sites for schools, parks, playgrounds or other public recreational areas of open spaces. As an alternative to such dedication or reservation, the Planning Commission may provide for the payment of a fee in lieu of dedication of land. Any areas so dedicated or reserved shall conform as nearly as possible to the recommendation of the Planning Commission in its Comprehensive Plan. All areas to be reserved for, or dedicated to, public use shall be indicated on the preliminary plat in order that it may be determined when and in what manner such areas will be dedicated to or acquired by the appropriate agency.

7.04 EXCEPTIONS FOR EXISTING IMPROVEMENTS.

A. Where the proposed subdivision is a resubdivision or concerns an area presently having any or all required improvements as required by this Article and where such improvements meet the requirements of said section and are in good condition as determined by the applicable Governing Body, no further provision need be made by the subdivider to duplicate such improvements. Where such existing improvements, however, do not meet the requirements, the subdivider shall provide for the repair, correction or replacement of such improvements so that all improvements will then meet the aforesaid requirements.

B. Where the proposed subdivision is a resubdivision or concerns an area presently abutting or containing any existing public street of less than the minimum required right-of-way width or roadway width, land shall be dedicated in so far as is possible so as to provide for a minimum street right-of-way width and an additional roadway pavement meeting the minimum standards as set by these regulations. The applicable Governing Body shall determine what adjustment to make where the aforesaid widenings merge with existing streets which are of smaller width at the boundary of such proposed subdivision.

The minimum right-of-way and roadway width required by these regulations may be reduced to match an existing roadway system if the extension of such roadway is already improved at each end of the roadway in the subdivision.

7.05 AGREEMENT/GUARANTEES: INSTALLATION OF REQUIRED IMPROVEMENTS.

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

A. Fiscal sureties may be offered and the following shall apply:

1. The subdivider shall enter into a "Developers Agreement" with the applicable jurisdiction under which the subdivider agrees to install such required improvements, and conform to such other development requirements as required by the Zoning Administrator to provide for the greatest degree of incorporation of such subdivision into the City plan as a whole. Such agreement shall be approved by the Governing Body conditioned upon the acceptances of the final plat by the applicable jurisdiction and such Agreement shall be filed with the applicable Clerk, and County Register of Deeds.
2. Simultaneously with the execution of the Developer's Agreement, the subdivider shall furnish a corporate completion bond by a firm authorized to do business in Kansas with good and sufficient sureties thereon or a cashier's check, escrow account or irrevocable letter of credit in favor of the applicable Governing Body, in the amount of the estimated cost as approved by the official responsible for setting and enforcing the applicable design and construction standards of the installation of the required improvements. Such financial guarantee shall be conditioned upon the acceptance of the final plat and further conditioned upon the actual completion and satisfactory installation of such required improvements within two years from the date that the final plat is accepted by the Governing Body.
3. Simultaneously with the execution of the Developers Agreement, if the subdivider furnishes a corporate completion bond, he or she shall also deposit in escrow with the applicable Governing Body cash in the amount determined by the Governing Body policy of the cost of all improvements to be made in accordance with the plans and specifications for required improvements or an equivalent amount in the form of a maintenance bond or other securities that may be deemed sufficient by the applicable Governing Body. If a subdivider furnishes a cashier's check, escrow account or irrevocable letter of credit, determined by the Governing Body policy of the amount of such guarantees shall be returned by, or held as a deposit in escrow after, the final completion of such improvements. The subdivider shall agree that such deposit in

escrow may be held by the applicable Governing Body for a period of 24 months after such improvements are completed for the purpose of:

- a. Guaranteeing and securing the correction of any defect in material or workmanship furnished for such improvements, latent in character, and not discernible at the time of final inspection or acceptance by the applicable Governing Body; and
- b. Guarantee against any damage to such improvements by reason of the settling of the ground, base or foundation thereof.

4. Such escrow agreement shall provide that, as defects within the improvements develop, the deposit may be used to reimburse such jurisdiction any amounts incurred correcting such defects; and that the balance of such deposit, if any, held at the end of such 24-month period shall be returned to the depositor, or paid to the order of the depositor without payment of interest.

B. Petitions to the applicable Governing Body may be submitted as a means of guaranteeing to such Governing Body the authority to install improvements at such time as they deem appropriate. Petitions may be submitted only when the following conditions exist:

1. The petitions must be valid as may be provided for under Kansas law.
2. The petitions must be approved by the Governing Body in close proximity in time to the acceptance of the public reserves provided within final plat.
3. The initiating resolution for such improvement must be adopted concurrently with the petition approval or as soon thereafter as may be provided by law. The cost of the publication of said resolution shall be born by the subdivider.
4. A certificate signed by the petitioner must be recorded with the County Register of Deeds stating that such petitions have been filed and approved by the applicable Governing Body and that certain land within the plat as described will be liable in the future for special assessment for the required improvements authorized.

C. For streets and related drainage only in rural type subdivisions, preconstruction of improvements as an alternative method of guaranteeing their installation may be used if approved by the City Governing Body.

In this event, the subdivider, may request such Governing Body to hold the final plat acceptance until such time as an inspection certifies that the required improvements have been properly constructed. Such a preconstruction procedure shall be temporarily conditioned on subsequent acceptance of the final plat and a time limit for actual construction mutually agreed upon. Maintenance guarantees may also be required if deemed desirable.

D. The subdivider shall, prior to the acceptance of the final plat, submit a letter from the utility provider(s) involved stating that satisfactory arrangements have been made by the subdivider guaranteeing the installation of their respective services.

E. Monuments and bench marks shall be installed and their installation certified by a licensed land surveyor on the final plat before such plat is recorded with the County Register of Deeds.

7.06 OFF-SITE IMPROVEMENTS.

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

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

ARTICLE 8

IMPROVEMENT PROCEDURES

8.01 SUBMITTAL OF PETITIONS.

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

8.02 FINAL IMPROVEMENT PLANS.

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

A. Content. The engineering drawings shall contain the following data plus additional information deemed necessary by the applicable engineer:

1. Plans, details, specifications and cost estimates for roadway, alley and sidewalk construction; including plans, profile indicating existing topography and elevation including curb and sidewalk elevation when required, intersection control elevation and paving geometrics for each street with a typical cross section of the roadway. The profiles of grade lines shall be shown to appropriate scale subject to approval by the applicable engineer. This information shall be shown on standard plan and profile sheets unless otherwise required by the engineer and use topographic information cited in Article 5-100B3.
2. Plans, profiles, details, specifications and cost estimates of proposed storm drainage improvements.
3. Plans, profiles, details, specifications and cost estimates of proposed water distribution system, water supply facilities and fire hydrants.
4. Plans, profiles, details, specifications and cost estimates of proposed sanitary sewage system.
5. Grading plans of all lots, easements, and reserves in the subdivision.

6. All plans for other utilities such as for electric, gas, cable and telephone shall be prepared by or at the direction of the utility providing the service.
 7. All plans shall be based on North American Vertical Datum of 1988 (NAVD88) for vertical control.
- B. Review. The engineer, official or agency responsible for determining specifications and standards shall review all engineering drawings in order to determine whether such drawings are consistent with the approved final plat and comply with the design standards. If such drawings are consistent and so comply, the reviewing official shall forward to the Governing Body a notice to that effect. In the event that the drawings do not so comply, the reviewing official shall notify the subdivider of the specific manner in which such drawings do not comply, and he may then correct such drawings. If such drawings are not corrected, the reviewing official shall forward to such Governing Body a notice as to the items of nonconformity or noncompliance.

8.03 CONSTRUCTION OF IMPROVEMENTS.

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

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

subdivider shall notify the official that the improvements are again ready for final inspection. After the final inspection is made and before acceptance of the improvement by the Governing Body, the subdivider shall file a statement with the engineer or official which is executed by the subdivider, certifying that all obligations incurred in the construction of the improvement involved have been properly paid and settled. All improvements made that had changes to the original approved design must be resubmitted as “as built” drawings in paper and digital format with the new design accepted by the City Engineer and Zoning Administrator.

8.04 ACCEPTANCE OF IMPROVEMENTS.

If a final inspection indicates that all improvements as installed contain no unacceptable defects, deficiencies or deviations, within 15 days from the submission of the subdivider's statement of obligation paid, the engineer or official designated shall certify to the Governing Body and utility provider(s) that all improvements have been installed in conformity with the engineering plans and specifications accompanying the final plat. Upon the receipt by the Governing Body of such notification and in conformity with the requirements of these regulations and all other applicable statutes, ordinances and regulations, such Governing Body shall thereupon by resolution or utility by letter formally accept such improvements. The improvements shall become the property of such Governing Body or utility provider involved. Prior to this final action, however, neither the acceptance of the final plat, any subsequent annexation to the City or irrespective of any act(s) of employees, such actions shall not constitute their formal acceptance of improvements.

ARTICLE 9**PROCEDURE FOR APPROVAL OF LOT SPLITS****9.01 APPLICATION PROCEDURE.**

In order to provide a less time consuming and costly procedure for the division of existing platted lots, resulting in the creation of additional building sites, the Planning Commission hereby delegates to the planning staff, authority for approving or disapproving lot splits in accordance with the following regulations. Lots zoned residential, office, or commercial may be split to create a maximum of two (2) lots; industrially zoned lots may have unlimited lot splits subject to the approval guidelines listed below. A lot split is required before a building permit can be issued for any property that is the remainder of an original lot from which other portions have been split or replatted.

9.02 APPLICATION PROCEDURE

Requests for lot split approval shall be made by the owner of the land to the planning staff. The request for approval shall consist of the following:

- A. A completed lot split application form.
- B. The appropriate filing fee as established by the Governing Body.
- C. Four (4) copies of a drawing to scale shall be submitted of the lot(s) involved if there are no structures present; and if structures exist on any part of the lot(s) being split, four (4) copies of a survey of the lot(s) showing the precise location of structures thereon shall be submitted. The drawing or survey shall depict or provide the following:
 1. The precise nature, location and dimensions of the proposed split;
 2. The legal description(s) for the proposed split;
 3. The amount of square footage contained in each portion of the original lot;
 4. All existing easements and, if any, access control. If the easements or access control were granted by separate instrument, the recording information shall be indicated;
 5. All platted building setbacks;
 6. All platted easements, building setbacks, access control or public rights-of-way that have been previously vacated. The Vacation Ordinance number or recording information for the Vacation Order shall be referenced; and

7. The following certificate of Approval.

CERTIFICATE OF LOT SPLIT APPROVAL

STATE OF KANSAS)

) ss

CITY OF BEL AIRE)

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

Date Signed: _____, 20____.

_____, (Printed Title)
(Print Name)

STATE OF KANSAS)

) ss

CITY OF BEL AIRE)

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

(SEAL)

_____, Notary Public

My appointment expires_____.

D. Two (2) copies of a drawing that indicates the location of existing municipal water mains, water meters and sanitary sewer laterals that serve the lot split site.

9.03 APPROVAL GUIDELINES.

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

A. A lot split shall **not** be approved unless **all** the following requirements have or can be satisfied:

1. A new street or alley is needed or proposed.
2. A vacation of streets, alleys, setback lines, access control or easements is required and has not been satisfied.
3. Such action will result in significant increases in service requirements, e.g., utilities, drainage, schools, traffic control, streets, etc.; or will interfere with maintaining existing services, e.g., additional curb cuts, repaving, etc.
4. There is less street right-of-way than required by these regulations or the Comprehensive Plan unless such dedication can be made by separate instrument.
5. All easement requirements have not been satisfied.
6. Such split will result in a landlocked tract. (Access easements are an appropriate means to provide access to lots without public road frontage.)
7. A substandard sized lot or parcel will be created or an existing structure will not be able to meet all yard requirements according to applicable zoning regulations or sanitary code.
8. The lot is subject to periodic flooding which cannot be feasibly corrected by fill.

B. Review of lot splits by affected and interested governmental and public and private organizations as appropriate may be required for lot splits that may result in significant increases in service requirements (e.g., utilities, schools, traffic controls, etc.), interfere with maintaining existing service levels (e.g., additional curb cuts, repaving, etc.) or propose private easements for access and/or utilities. Such determination shall be made by the Planning Staff. If a review by these organizations is necessary, 15 additional copies of the lot split drawing or survey shall be provided by the applicant along with information regarding the location of existing utilities.

C. The Planning Staff may make such additional requirements as deemed necessary to carry out the intent and purpose of existing land development regulations and Governing Body policy. Requirements may include, but not be limited to, the installation of public facilities, dedication of right-of-way and easements, and submission of covenants for the protection of other land owner (s) in the original subdivision.

The Planning Staff shall, in writing, either approve with or without conditions or disapprove the lot-split within 30 days of application. If approved, and after all conditions have been met, the appropriate Planning Staff shall sign the certificate of approval on the lot split drawing or survey. A certified copy thereof shall be filed with the Register of Deeds, the official designated to issue

building or occupancy permits, the official files of the Planning Commission, and a copy shall be furnished to the applicant.

9.04 EXCEPTION FOR INDUSTRIAL PLATS.

According to K.S.A. 12-752(f), a lot which is zoned for industrial purposes and for which a plat has been officially recorded may be further divided into two or more tracts without further replatting such a lot; provided, that none of the conditions under Article 9-01 is found to exist or has not otherwise been satisfied.

ARTICLE 10**VACATIONS AND CORRECTIONS****10.01 VACATION OF UNRECORDED PLAT.**

A. Upon written request of the subdivider to the Planning Commission, a preliminary or final plat may be withdrawn from consideration either before or after approval by the Commission. Upon approval of the request by a motion of the Commission, the Zoning Administrator is automatically directed to remove the case file from the City records.

B. Upon written request of the subdivider to the Clerk, a final plat for which dedications, if any, have been accepted by the Governing Body may be vacated by motion of the Governing Body; provided, that (1) the plat has not been recorded; (2) no lots have been sold or transferred; and (3) no improvements have been installed. After the plat is vacated, the Manager shall see that all fiscal sureties are returned to the subdivider except for those expenditures which have been incurred by the City or County in administrative, legal or engineering costs prior to the date of the request for vacation. Upon the return of such sureties, the Zoning Administrator is automatically directed to remove the case file including any petitions from the City records.

C. Upon determining from the County Register of Deeds that a final plat has not been recorded within 60 days from its final acceptance by the Governing Body under the preconstruction procedures of Article 7, the Manager shall notify the subdivider that the plat is null and void and that the case file will be removed from the City records within 30 days unless a reapplication for platting is received during that time, unless time is tolled during pendency of litigation filed by a third party in a court of competent jurisdiction challenging any legal action by the City in relation to approval of such plat.

10.02 VACATION OF RECORDED PLAT.

A. Recorded plats may be vacated by either replatting or directly vacated.

1. According to K.S.A. 12-512b, any recorded plat or part thereof or street, alley or other public reservation, including, without limitation, easements, dedicated building setback lines and access control, whether established by instrument, condemnation or earlier plats, shall be vacated both as to use and as to title without any further proceedings upon the filing and recording with the County Register of Deeds in accordance with K.S.A. 12-403, any plat or replat duly executed in accordance with these regulations which embraces the same lands as those heretofore embraced by the earlier plat or part thereof or street, alley or other public reservation. Streets, alleys or other public reservations which may be vacated shall revert, as provided for in K.S.A. 12-506, to abutting property owners according to their frontage thereon; provided, that such land to be reverted was derived directly or indirectly from the owner of the land from which such street, alley or public reservation was originally platted. The proper completion of the Owner's Certificate and Dedication as required by these Regulations

shall constitute appropriate notice to all persons having property rights or interests affected by the above platting or replatting.

10.03 CORRECTION OF PLATTING ERRORS.

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

10.04 VACATION OF STREETS, ALLEYS, EASEMENTS AND PLATS.

A. Pursuant to K.S.A. 12-504 and 12-505, the following procedures are provided to vacate streets, alleys or other public reservations such as, but not limited to public easements, dedicated building setback lines, access control, or a part thereof, and including all or parts of recorded plats:*

1. Petitions for vacations received from the Governing Body, the owner of platted land or the owner of land adjoining on both sides of any street, alley, easement or other public reservation may be filed with the City Clerk and transmitted to the Zoning Administrator for processing. Note: The same statutory procedure may be used to exclude a portion of land from the boundaries of the City, i.e., the Land could also be "deannexed".
2. Application in writing for any proposed vacation of any easement, street, alley, or other public reservation located in the city shall be filed with the zoning administrator and accompanied by such data and information as may be prescribed by the planning commission so as to assure fullest possible presentation of facts for the permanent record. The application for vacation shall be designate by legal description the location of such requested vacation, and shall be accompanied by a certified list, prepared by an abstract company, of all owners of real property within 200 feet of the area proposed to be changed or reclassified, excepting public streets and ways, located within or without the corporate city limits of the city. If the proposed vacation is located adjacent to the city's limits, the area of notification of

the action shall be extended to at least 1,000 feet in the unincorporated area. This area shall be referred to as the notification area.

- a. Written notice. Written notice of such request for hearing before the Planning Commission shall be mailed by regular mail to all property owners who own property within the described notification area.
- b. Published notice. At least 20 days' notice of the time and place of the public hearing shall be published in the official paper of the City of Bel Aire.
- c. All notices shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available.
- d. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission or the Governing Body.

3. Filing Fee. A filing fee and a publication fee shall be paid to the city clerk upon filing of each such application for each vacation of public reservation request included in the application for the purpose of defraying costs of the proceedings prescribed herein. A written receipt shall be issued to the persons making such payment and records thereof shall be kept in such a manner as prescribed by law.

4. Public Hearing Required For All Vacation of Public Reservation requests. No action on a requested vacation shall be taken until it has been submitted to the commission for report and recommendation following a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 20 days' notice of the time and place of such hearing shall be published in the official paper of the city.

B. Criteria for Review.

The Planning Commission shall hold a public hearing to consider a recommendation to the Governing Body as to whether the vacation should be approved or disapproved. At the hearing, the Planning Commission shall hear such testimony as may be presented or as may be required in order to fully understand the true nature of the petition and the propriety of recommending the same. If the Planning Commission determines from the testimony presented that:

1. due and legal notice has been given;
2. no private rights will be injured or endangered;
3. the public will suffer no loss or inconvenience; and
4. in justice to the petitioner(s) the vacation should be granted;

then the Planning Commission shall recommend that such vacation be approved and such decision shall be entered in the minutes, including an explanation of such decision, and a recommendation of approval shall be submitted to the Governing Body. Such

recommendation may provide for the reservation to the City and/or the owners of any lesser property rights for public utilities, rights-of-way and easements for public service facilities originally located in such vacated land or planned for the future. The recommendation may be conditioned upon the petitioner's responsibility to remove or relocate all underground or surface utilities or paving in or on the vacated land.

C. The petition shall not be recommended by the Planning Commission nor granted by the Governing Body if a written objection is filed with the City Clerk, at or before the hearing, by any owner who would be a proper party to the petition, but has not joined therein. Furthermore, when only a portion of a street, alley or public reservation is proposed to be vacated, the petition shall not be recommended by the Planning Commission nor granted by the Governing Body if a written objection is filed with the City Clerk by any owner of lands which adjoin the portion to be vacated, including owners on the opposite side of the street from vacations of setbacks and access control.

D. Action of the Governing Body. If the governing body determines from the proofs and evidence presented that due and legal notice has been given by publication as required in this act, and:

1. that no private rights will be injured or endangered by such vacation or exclusion, and
2. that the public will suffer no loss or inconvenience thereby, and
3. that in justice to the petitioner or petitioners the prayer of the petitioner ought to be granted,

the governing body shall order that such vacation or exclusion, or both, be made. Any order approving a vacation of plat, street, alleys, easements or a public reservation shall provide for the reservation to the city and the owners of any lesser property rights for public utilities, rights-of-ways and easements for public service facilities originally held in such plat, street, alley, easement or public reservation then in existence and use.

E. Following the approval of the vacation by the Governing Body in the form of an order, the Clerk shall certify a copy of the order to the County Register of Deeds, however, such certification shall be withheld until such time as any conditions attached to the order have been satisfied.

F. The procedure for vacation and/or deannexation for areas within the extraterritorial subdivision jurisdiction area are governed by K.S.A. 58-2613 - 58-2615.

ARTICLE 11

APPEALS, WAIVERS AND MODIFICATIONS

11.01 APPEALS GENERAL.

Except where these Regulations provide otherwise, an appeal of a decision by the Zoning Administrator, City Engineer, Building Inspector, or other administrative official shall be appealed to the City Manager. The decision of the City Manager shall be final.

Except where these Regulations provide otherwise, an appeal of a decision by the Planning Commission may be appealed to the Governing Body. The decision of the Governing Body shall be final.

Generally, except where these Regulations provide for an appeal to another quasi-judicial or administrative body, any person, official or agency aggrieved by a final decision of any action provided for in these Regulations desiring to appeal said decision shall file the appeal in the District Court of Sedgwick County in conformance with K.S.A. 12-760 or K.S.A. 60-2101(d) or other applicable State Statute.

11.02 WAIVER OF REQUIRED IMPROVEMENTS OR GUARANTEES FOR INSTALLATION OF SAME.

Any waiver of the required improvements or guarantees for improvements or installation of improvements may be made only by the Governing Body on a showing that such improvements are not technically feasible or necessary.

11.04 MODIFICATIONS.

In cases in which there is unwarranted hardship in carrying out the literal provisions of these regulations as to design criteria, the Planning Commission may grant a modification from such provision according to the following guidelines:

A. A request for a modification shall be made to the City Manager who shall transmit it to the Board of Zoning Appeals. The Board of Zoning Appeals shall give the subdivider and any other interested person an opportunity to be heard with respect to the requested modification in conformance with the provisions of the by-laws of that body.

B. The Board of Zoning Appeals shall not grant a modification unless it shall find that (1) the strict application of these regulations will create an unwarranted hardship; (2) modification is in harmony with the general spirit and intended purpose of these regulations; (3) the rights of adjacent property owners will not adversely be affected; and (4) the public safety, health and general welfare will be protected.

- C. When used in this Section, the term "unwarranted hardship" shall mean the effective deprivation of use as distinguished from a mere inconvenience.
- D. Modifications permitted under the provisions of this Article shall not include modifications from the requirements of improvement standards, required improvements or guaranteeing their installation. All modification of improvements standards shall be heard and determined by the Governing Body in the manner provided for by these Regulations.
- E. The provisions of this Section may not be used to seek a zoning variances.

ARTICLE 12.**AMENDMENTS AND REVIEW****12.01 AMENDMENT PROCEDURE.**

A. These regulations may be amended at any time in conformance with this Section and applicable State statute(s).

A notice of such public hearing shall be published once in the official city newspaper so that at least 20 days shall elapse between the publication date and the date of such hearing. Such notice shall fix the time and place for the hearing and shall describe such proposed amendment(s) in general terms. The hearing may be adjourned from time to time. At its conclusion, the Planning Commission shall prepare its recommendations and by an affirmative vote of a majority of the entire membership of the Commission adopt the proposed amendments to these regulations and submit them, together with the written summary of the hearing thereon, to the Governing Body.

The Governing Body either may: (1) Approve such recommendations by ordinance; (2) override the Planning Commission recommendation by a 2/3 majority vote of the City Council; or (3) return the same to the Commission for further consideration, together with a statement specifying the basis for the Governing Body's failure to approve or disapprove. If the Governing Body returns the Commission's recommendations, the Commission after considering the same, may resubmit their original recommendations giving the reasons therefore or submit new and amended recommendations. Upon the receipt of such recommendations, the Governing Body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendations by an ordinance, or it need take no further action thereon. If the Commission fails to deliver its recommendations to the Governing Body following the Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Commission as a resubmission of the original recommendations and proceed accordingly.

B. The amended regulations shall become effective upon publication of the respective adopting ordinance. A copy of such legal publication shall be added to the Appendix of these regulations.

12.02 ANNUAL REVIEW.

In order to maintain these regulations, the Planning Commission shall annually hold a public review to consider amendments, if any, to these regulations. Notification of such a public review may be distributed to governmental agencies and interested parties. Any amendments to these Regulations shall be adopted in accordance with Section 12.01.

12.03 JUDICIAL REVIEW.

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

ARTICLE 13.

SEVERABILITY AND EFFECTIVE DATE

13.01 SEVERABILITY.

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

13.02 EFFECTIVE DATE.

These regulations shall be in full force and effect from and after their adoption by the Planning Commission, and approval by the Governing Body by an ordinance and publication of a summary of such ordinance in the official city newspaper.

Detention Basin Inspection Checklist

Basin Name/Location

Basin Owner

Basin Maintainer (usually owner)

Basin Type (wet or dry)

Inspection Date

Annual Inspection Items

- A. Debris
- B. Weeds
- C. Bare spots in groundcover
- D. Algae growth
- E. Odor
- F. Sediment
- G. Erosion at normal pool elevation & severity
- H. Erosion of bank slopes & severity
- I. Holes in the ground
- J. Unusual wet areas
- K. Inflow & outflow systems (protective grates, blockages, and structural integrity)
- L. Emergency overflow system
- M. Detention function (normal, impaired)
- N. Other items and comments
- O. Corrective measures

Professional Engineer Inspection (5 year intervals)

Inspection shall include at a minimum the annual inspection items above and the additional items below.

- A. Assessment of pump, pipe, structures present.
 - B. Does the basin function per as-built plans?
 - C. Are critical inflow, outflow, overflow paths and elevations unchanged from the as-built plans?
 - D. Is there evidence of basin changes affecting the storage volume from that shown on the as-built plans? The volume reasonableness check is intended to be a visual check and not a requirement for a survey.
 - E. Other items and comments
 - F. Corrective measures
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