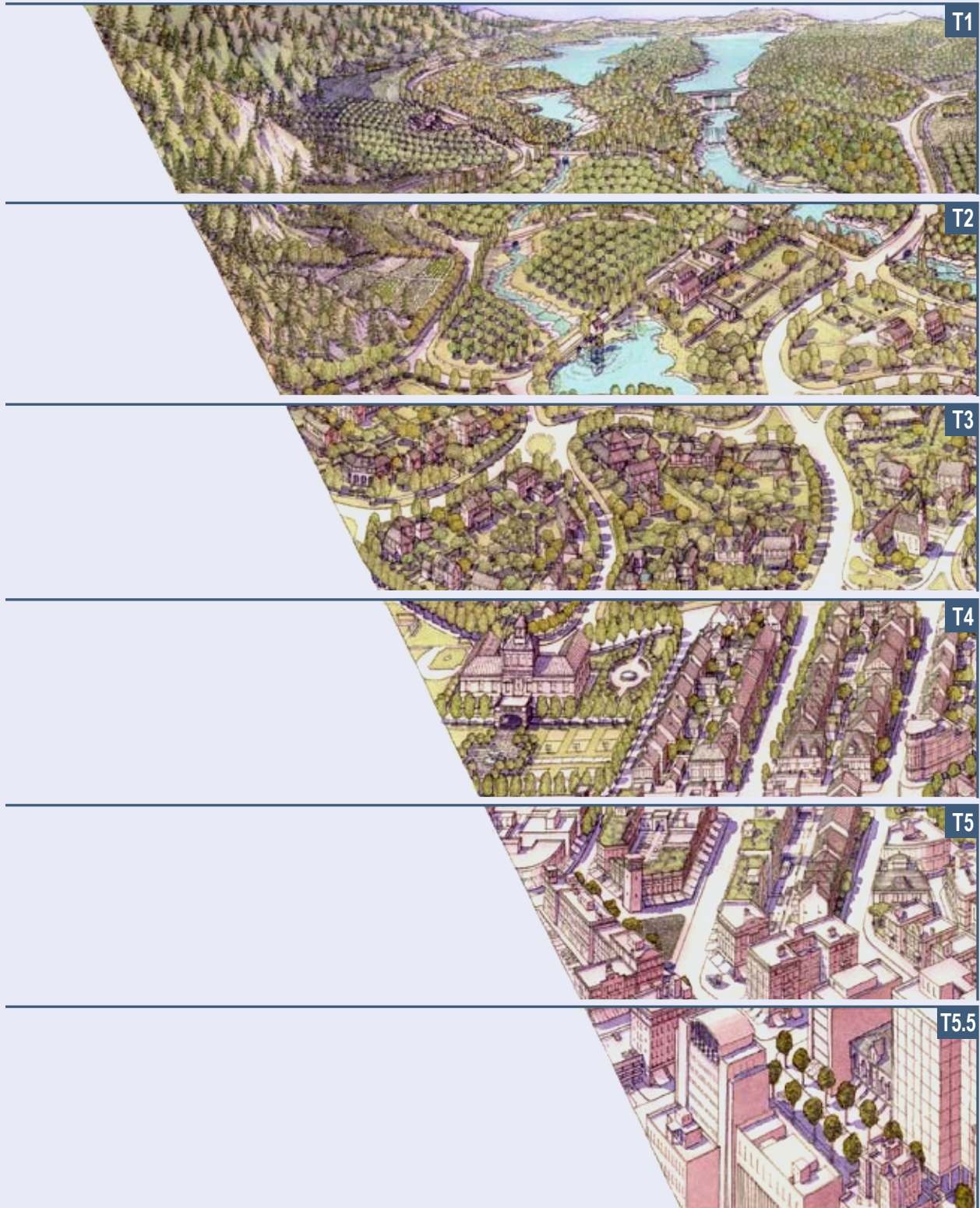


SMARTCODE



Lawrence, Kansas

December 9, 2008

- interpreting and enforcing the provision of this Code.
- 1.3.5 Terms used throughout this Code shall be defined in the Article 7 Definitions of Terms. Those terms not defined in Article 7 shall be accorded their commonly accepted meanings. In the event of conflicts between these definitions and those of any other laws or ordinances of Lawrence, Kansas, those of this Code shall take precedence related to the use and application of this Code.
- 1.3.6 The Article 7 Definitions of Terms contains regulatory language that is part of this Code.
- 1.3.7 If any provision or provisions of this Code shall be held to be invalid, illegal, unenforceable or in conflict with existing laws, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.
- 1.3.8 All SmartCode applications shall comply with the following sections of Article 11, General Development Standards, of the Land Development Code.
20-1104 Performance Agreements; Guarantees
20-1106 Agreement Not to Protest Formation of a Benefit District
- 1.3.9 **Retail Market Impact Analysis**
a. **Applicability**
An independent market analysis shall be required for all SmartCode applications, including rezonings, that could result in 100,000 square feet or more of additional floor area for retail businesses in the City. Developments that would create less than 100,000 square feet of added retail space in the City or those that would reoccupy retail space that is already part of the City's retail database, whether currently occupied or currently vacant, shall be exempt from the independent market impact analysis.
See 20-1107 (b) through (e) of the Land Development Code for Market Analysis criteria and process.
- 1.3.10 **Traffic Impact Study**
A traffic impact study is required when necessary for Article 3, Article 4 and Article 5a applications. See 20-916 of the Land Development Code for details if required.
- 1.4 **PROCESS**
- 1.4.1 Sectors (defined in Article 2) are comprised of Open Spaces and Communities (defined in Articles 3 and 4) which are comprised of Transect Zones (defined by the elements appropriate to them in Article 5 and in Article 6 Standards & Tables).
- 1.4.2 The City hereby creates a Consolidated Review Committee (CRC) comprised of a representative from: Planning and Development Services, Fire, Parks, Public Works, and Utilities. The CRC shall be the administrative approval body for SmartCode applications except for rezoning and platting.
- 1.4.3 Should a violation of an approved plan occur during construction, the CRC has the right to require the Developer to stop, remove, and/or mitigate the violation as set forth in 1.7.6 of this Code.
- 1.4.4 In order to utilize this Code, a developer must petition for the land at issue to be rezoned to a SmartCode District pursuant to the rezoning requirements set forth in Section 20-1303 of the Land Development Code.
- 1.4.5 Land for which a Transect Map has previously been adopted by the City shall

This should be required at the same level as in our Land Development Code: at 50,000 square feet. See 20-1107(a), Land Development Code.

be rezoned to the Transect Zone identified for that land on the adopted Transect Map

- 1.4.6 For Greenfield land for which a Transect Map has not been previously adopted by the City and which meets the minimum contiguous acreage requirements in Article 3, the developer may petition to have an entire parcel rezoned to a SmartCode District. The City shall not be required to approve the proposed rezoning; however, if it does not, it shall explain in writing to the developer the specific reasons that it did not approve the requested rezoning. If the City approves the rezoning request, then that land shall immediately be designated as a SmartCode District. In order to obtain this rezoning, the developer does not have to submit a proposed Transect Map with the rezoning application. However, before any development within the SmartCode District may commence, the developer shall comply with the requirements set forth in Section 1.4.8.

This requires the City Commission to approve rezoning for a smart code plan strictly on faith without knowing anything about the plan.

- 1.4.7 For an Infill project meeting the minimum contiguous acreage requirement, the developer shall submit an Article 4 application, including a Transect Map in compliance with these sections, concurrently with a rezoning application. The Article 4 application shall be submitted for review to the CRC with final approval by the City Commission.

- 1.4.8 Upon rezoning approval by the City, the developer shall submit SmartCode applications to the CRC for approval. For a lot-scale project, the developer shall submit Article 5a (Sec. 5.1.5.a) and Article 5b (Sec. 5.1.5.b) applications to the CRC. For a Greenfield project meeting the minimum contiguous acreage requirement, the developer shall submit an Article 3 application, including a Transect Map in compliance with these sections to the CRC for approval, followed by Article 5a, and 5b applications. Following an approved Article 4 plan, the developer shall submit Article 5a, and 5b applications to the CRC.

- 1.4.9 Notice

a. Notice of a proposed Article 3, 5a or 5b application shall be posted on the property covered by the application, in accordance with Sec. 20-1301(q)(4) of the Development Code. In addition, written notice of the application shall be mailed to the Owner of record of all property within 200 feet of the subject property, and to all Registered Neighborhood Associations whose boundaries include the subject property or are adjacent to the neighborhood the subject property is located in. The notice shall be sent by the applicant by regular mail, postage pre-paid. The applicant shall submit a Certificate of Mailing at the time of submission of the application. An application for Article 3, 5a or 5b review will not be considered complete without an executed Certificate of Mailing. The notice shall provide:

1. a brief description of the proposed development activity;
2. the projected date of construction of the proposed use;
3. the person, with contact telephone number and address, designated by the applicant to respond to questions concerning the proposed application;
4. the date the application will be submitted to the CRC for review; and a statement with substantially the following information:
 - i. Notice of Lawrence SmartCode Application pending before the Consolidated Review Committee (CRC).

- adjacent to; or 4) Owner of any property within 200 feet of subject property.
- 1.4.15 Action on Appeal
- The City Commission shall consider the appealed Article 3, 5a or 5b decision as a new matter, inviting public comment before acting on the original application. Mailed notice of the City Commission's meeting shall be provided a minimum of 14 days prior to the Commission's meeting.
 - After considering the matter, the City Commission shall act on the original application, applying the criteria of Sec. 1.4.12, taking action as provided in Sec. 1.4.10 and giving notice of its decision as provided in Sec. 1.4.11.
- 1.4.16 Modifications to Approved Plans
- An applicant who wishes to alter or revise an approved Article 3, 5a or 5b plan shall contact the CRC.
 - The CRC is authorized to approve, without public notice, any modification that complies with the approval criteria of Sec. 1.4.12 as long as the CRC determines that the proposed modification does not represent a material change that would create a substantial adverse impact on surrounding Landowners.
 - Any other modification may be approved only after re-notification in accordance with Sec. 1.4.9. The CRC's approval of modifications shall be appealable in accordance with the appeal procedures of Sections 1.4.13, 1.4.14 and 1.4.15.
- 1.4.17 A Preliminary Plat shall be submitted that demonstrates compliance with the platting procedures in Section 1.4.18 and 1.4.19.
- 1.4.18
- A Developer shall apply for Preliminary Plat approval by submitting an application to the Director of Planning and Development Services.
 - The application shall contain the materials required by this Section, as well as any additional materials required as part of the application form provided by the Director of Planning and Development Services.
 - Each application shall be accompanied by:
 - The applicable filing fee;
 - A completed application form;
 - The required number of copies for a complete submission of a Preliminary Plat, and,
 - A drainage plan that complies with Chapter IX, Article 9 of the Code of the City of Lawrence, Kansas and amendments thereto.
 - The Planning Commission shall conduct the review of the application at the meeting at which it is scheduled by the Planning Director, unless the Developer shall request deferral to a future meeting. The Planning Commission shall take final action on the Preliminary Plat at a meeting occurring not later than 60 days after the date of receipt of a complete application as determined by the Planning Director.
 - If the Planning Commission finds that the proposed Plat conforms to all of the criteria set forth in this Code the Planning Commission shall approve the Preliminary Plat.
 - If the Planning Commission finds that the proposed Plan fails in any way to conform to the standards set forth in this Code, the Planning Commission shall, by motion, deny approval of the proposed Preliminary Plat and shall state in the motion the reason(s) for that denial.

The application "materials" involve the form of the plat and not the substance. If the Director is the determinant of the substance, how will a developer know what is expected and "required" outside of a drainage plan? Somewhere the "criteria set forth in this Code" needs to be clearly itemized. For example, each lot is required to be platted and only one principal building is allowed on each lot. Very good! However, are streets and other accessways required to be public, and improved to city standards? If not who maintains them and to what standards must they be built? Do all lots (with specific exceptions) have to front on public streets? The language is not clear.

Please see annotations on Page 86.

- e. The Planning Director shall give written notice to the Developer of the action of the Planning Commission. If the Preliminary Plat has been disapproved, or conditionally approved, the notice shall specifically state the ways in which the Preliminary Plat submission fails to conform to this Code.
- f. If the deficiency or other reason for denial can be cured through action of the Developer, the Developer may submit a revised application and Preliminary Plat within 60 days after receipt of the written notice and shall not be required to pay a further fee. In case of a resubmission, the Planning Commission shall consider the resubmitted application at the next meeting occurring at least 21 days after receipt of the complete resubmission by the Developer.
- g. If the Planning Commission fails to act on the Preliminary Plat within 60 days of the date of their first meeting occurring after the receipt of a Preliminary Plat, determined to be a complete application by the Planning Director, the Developer may, by letter, apply to the Planning Director for a "Certificate of Deemed Approval". If the Planning Director finds that a complete application was received at least 60 days before the date of the letter and that no action has been taken by the Planning Commission, the Planning Director shall issue a "Certificate of Deemed Approval" indicating that "this Preliminary Plat shall be deemed approved due to a failure of the Planning Commission to take timely action in accordance with K.S.A. 12-752(b)."
- h. A Preliminary Plat may, at the option of the developer, contain a proposed schedule for submitting Final Plat applications in phases. The Planning Commission may approve the proposed phasing plan if it finds that:
 - 1. The area represented by each proposed phase is of sufficient size to permit the economical installation of Public Improvements;
 - 2. All parts of the necessary public and private improvements plans to serve the development will be provided concurrently with the phase which will first be served by those improvements or part thereof, or with an earlier phase; and
 - 3. That the application for the last phase of the Final Plat will be due no later than the end of the fifth year after approval is given for the Preliminary Plat.
- i. Approval of the Preliminary Plat by the Planning Commission shall constitute approval of "the Plat" for purposes K.S.A. 12-752(b), subject only to the following:
 - 1. Submission of a Final Plat, in the form and containing all of the information required by this Code. The Final Plat shall be consistent with the Planning Commission's approval of the Preliminary Plat, including satisfying any conditions imposed on that approval;
 - 2. Completion of Street/Roads and Public Improvements required by the terms of the approval of the Preliminary Plat, or provision of satisfactory Guarantees of Completion of Improvements, in accordance with this Code;
 - 3. Development of Building Envelopes and drainage plans consistent with these Building Envelopes; and
 - 4. Acceptance (or rejection) of all proposed Dedications by the Governing Body.
- j. A Preliminary Plat that has been approved by the Planning Commission shall

Opened and paved streets and roads should be considered public improvements. Don't you mean Street/Roads and OTHER Public Improvements?

be submitted to the City Commission, as applicable, for its consideration of acceptance of the Dedication of Street/Roads and other public ways, service, and utility Easements and any land dedicated for public purposes.

1. The City Commission shall accept or refuse the Dedication of land for public purposes within 30 days after the first meeting of the City Commission following the date of the Preliminary Plat's submission to the City Clerk. The City Commission may defer action for an additional 30 days for the purpose of allowing for modifications to comply with the requirements established by the City Commission. No additional review and recording fees shall be assessed during that period.
 2. If the City Commission defers or refuses these Dedications, it shall advise the Planning Commission of the reasons thereof.
 3. Failure of the City Commission to accept affirmatively a Dedication shown on the Preliminary Plat shall be deemed to be a refusal of the proposed Dedication.
 4. The City Commission maintains full legislative discretion to reject any proposed Dedication, regardless of the approval of the Preliminary Plat. If the City Commission rejects part or all of a proposed Dedication, the Developer may amend the Preliminary Plat and resubmit it for consideration by the Planning Commission without the rejected Dedication; if the Developer takes no action within 60 days of the rejection of any proposed Dedication, it shall constitute failure of a material condition of the approval of the Preliminary Plat and the Preliminary Plat shall be deemed to have been rejected.
- k. Approval of a Preliminary Plat by the Planning Commission shall expire on the later of the following:
1. Eighteen months from the date approval was granted, unless a complete application for Final Plat is submitted by that approval date; or
 2. Any application due date as shown on an approved phasing schedule, unless a complete application for Final Plat is submitted by that due date.
 3. Upon application by the Developer, the Planning Commission may, if the cause of failure of the Developer to submit a Final Plat is beyond the Developer's control, grant an extension of the time beyond this period, for a period not to exceed one additional year.
 4. If a Preliminary Plat expires under this sub-section after one or more Final Plats for a SmartCode application have been approved, then only that portion of the Preliminary Plat that relates to the phases with respect to which no Final Plat has been approved shall expire. If a Final Plat has not been submitted, approved, and filed within this 18-month period, or within an extension period, a Preliminary Plat must be resubmitted to the Planning Commission, reviewed and considered by the Planning Commission in accordance with the procedures set forth herein.
- l. The Developer may initiate review of the Final Plat at any time after approval of the Preliminary Plat by the Planning Commission including satisfaction of all conditions of Preliminary Plat approval. The Final Plat shall be processed in accordance with the provisions of this Code:

You should make clear that except for specific allowable situations all lots must front or have direct access to a public street or way that is maintained by the city. Otherwise, the alternative here is for the developer to make the streets private if the City Commission rejects dedication of streets and easements. Private streets should not be allowed.

the Planning Director's approval as to form and consistency with the approved Preliminary Plat shall constitute Planning Commission approval of the Final Plat. No further action by the Planning Commission shall be necessary or required.

- n. If the Planning Director has approved and certified the Final Plat in accordance with this Code, the Planning Director within 10 working days of receipt of the recordable copies of the Final Plat, shall submit the Final Plat to the Chair of the Planning Commission and to the Mayor for signatures. Each of these persons shall, if he or she accepts the certification of the Planning Director, sign the Final Plat, including the "Acceptance of Dedications" certificate; if any of these persons refuse to sign the Final Plat, he or she shall refer the Final Plat to the Planning Commission for consideration at its next meeting in accordance with the requirements of this Code, together with a memorandum explaining the reasons why such person refused to sign it.
- o. After all signatures have been obtained, the Planning Director shall forward the recordable copy of the Final Plat to the Register of Deeds for recording. The recorded version of the Plat shall bear the endorsements herein provided, including the endorsement by the City Commission accepting the Dedications.
 - 1. Upon approval and acceptance of all Final Plats that create new Street/Roads, detailed Street/Road plans shall be submitted to the City Engineer for approval prior to filing of the Plat, and these plans shall include the following:
 - i. Plan, profile, ditch grades, and cross-sections of all Street/Roads, Alleys and other public ways; and,
 - ii. Drainage areas and size and length of cross-road drainage Structures.
 - 2. Prior to the Final Plat being recorded with the Register of Deeds, a digital version of the Plat shall be submitted to the Planning Director in a format approved by the Planning Director. The digital file shall be registered to the State Plane Coordinate Grid System used by the city and county. Any Final Plat not submitted in a digital format will be converted by the City, and the cost for conversion will be paid by the Developer before the Plat can be recorded at the Register of Deeds.
 - 3. Errors found in closure shall be corrected prior to filing the Final Plat.
 - 4. Approval of a Final Plat by the Planning Director and acceptance of Dedications by the City Commission shall be effective for no more than 18 months from the date of acceptance unless all conditions of approval have been completed.

- 1.4.19 All Subdivisions shall comply with the following sections of Article 8, Subdivision Design and Improvements, of the Development Code.
- 20-810 (e) (1) (2) (3) (Thoroughfare Names and Lot and Block Numbering)
 - 20-810 (f) (1) (2) (3) (Easements)
 - 20-810 (h) (Land in Floodplain Overlay Districts)
 - 20-810 (i) (1) (2) (Resource Preservation—City of Lawrence)
 - 20-810 (k) (Soils and Soil Testing—City of Lawrence)
 - 20-811 (a) (1) (2) (3) (Public Improvement (Construction) Standards)

You need to be specific and add the specific section requirements for Frontage and Access: 810(b)(1) and (4). This is absolutely critical because otherwise if the CC refuses dedication of streets, the developer can go for private streets. Also see paper on why streets should be public: maintenance, construction standards, free passage, etc.

- rants and Variances. Whether a deviation requires a Warrant or Variance shall be determined by the CRC pursuant to guidelines developed by the CRC.
- 1.5.2 A Warrant is a minor, technical deviation that would permit a practice that is not consistent with a specific provision of this Code, but is justified by its Purpose (Section 1.2). The CRC shall have the authority to approve or disapprove a request for a Warrant.
- 1.5.3 A Variance is any ruling on a deviation other than a Warrant. Variances shall be granted only in accordance with the procedures established by the Board of Zoning Appeals.
- 1.5.4 The request for a Variance shall not subject the entire application to public hearing, but only that portion necessary to rule on the issue requiring a Variance.
- 1.5.5 The following standards and requirements shall not be available for Warrants or Variances:
- The allocation ratios of each Transect Zone. (See Table 14A)
 - The maximum dimensions of traffic lanes. (See Table 3)
 - The required provision of Rear Alleys and Rear Lanes.
 - The minimum Base Residential Densities. (See Table 14B)
 - The permission to build Outbuildings. The provision to build residential units in Outbuildings is contingent upon both the principle building and outbuilding shall be owned by persons who are the record owner of the lot. Either the principle building or outbuilding shall be occupied by persons who are the owner of record of the lot.
 - The requirements for parking. (See Table 12)
- 1.5.6 Approval of a warrant or variance does not grant any vesting rights pursuant to K.S.A. 12-764 and amendments thereto.
- 1.6 **INCENTIVES**
- 1.6.1 To encourage the use of this Code, the City Commission grants the following incentives, to the extent authorized by state law:
- Development Bonuses
- A development bonus is an incentive-based tool that permits an increase in the allowable development potential of a property in exchange for helping the community achieve goals as stated in the Lawrence/Douglas County Comprehensive Land Use Plan. Developments utilizing the Lawrence SmartCode, which contain features it identified as public goals in the table below, may be eligible to increase development potential based upon the number of points earned. The applicant shall make a request for development bonus(es) in writing with the Article 5a application. The request shall state the goal(s) provided, points earned and development bonus redeemed for the points earned. Such information shall also be stated on the approved Article 5a plan.

Most of the conditions resulting in bonuses are conditions that should be provisions of these developments anyway. For example, many communities require that developments have a percentage of moderately priced housing, be located within walking distance of transit stops, be located accessible to fire stations, police stations, be within 1/4 mile of a park, etc. All neighborhoods should include children's daycare and pre-kindergarten centers and all-age recreation centers.

The whole point of the SmartCode is to provide neighborhoods that have non-residential necessities and amenities and easy access to public transit so that residents are not so dependent on private automobile transportation for everyday living.

1. Redemption of Development Bonus
 - i. Increase in Building Height
In a designated T4 or T5 Transect Zone, building height may be increased above the permitted maximum height as stated in Sections 5.4.11 and 5.5.11 at the rate of 1 story for every 100 points earned. Points earned in any development zone may be transferred to the T4 or T5 Transect Zone for redemption.
 - ii. Increase in Lot Coverage above Maximum
In a designated T4 or T5 Transect Zone, lot coverage may be increased above the maximum permitted as per Sections 5.4.11 and 5.5.11 up to 100% coverage for 75 points earned. Only those points earned through provision of features of Goal IV may be redeemed for an increase in lot coverage.
 - iii. Reduction in Minimum Parking Requirement
The minimum number of parking spaces required may be reduced at a rate of 1 parking space for every 5 points earned. Only those points earned through provision of features of Goal II may be redeemed for a reduction in the minimum parking requirement.

1.7 VIOLATIONS, PENALTIES AND ENFORCEMENT

1.7.1 Responsibility for Enforcement

The Director of Planning and Development Services is responsible for enforcing this Code, except as otherwise expressly stated.

1.7.2 Violations

a. Compliance Required

All Buildings and land used and all Buildings and Structures erected, converted, enlarged, reconstructed, moved or structurally altered shall comply with all applicable provisions of this Code.

b. Types of Violations

Unless otherwise expressly stated by this Code or State law, any violation of this Code, including but not limited to the following, will be subject to the remedies and penalties provided for in this article

1. to use land or Buildings in any way not consistent with the requirements of this Code;
2. to engage in development activity in any way not consistent with the requirements of this Code;
3. to transfer title to any Lots or parts of a development unless the subdivision has received all approvals required under this Code and an approved plan or plat, if required, has been filed in the appropriate office;
4. to submit for recording, any subdivision plat, land division or other development plan that has not been approved in accordance with the procedures of this Code or that does not qualify for an exemption under the Subdivision regulations of this Code;
5. to engage in the use of a Building or land, the use, or development activity requiring one or more permits or approvals under this Code without obtaining all such required permits or approvals;
6. to engage in the use of a Building or land, the use, or development activity

One of the enforcement problems that you are going to encounter is that the approving authority is the same as the enforcement authority and there isn't any oversight agency. This is the basic problem that the public has consistently seen will become a major problem with this SmartCode process.

- a. Prior to the City Commission making a finding for a particular property or properties, the City Commission will provide written notice of an opportunity for a hearing to the Landowner of record.
- b. After written notice to the Landowner, the City Commission may determine, at a public hearing, that the failure to construct or install a required improvement located in the public right-of-way requires that the City Commission construct or install the improvement, or contract for the construction or installation of the improvement.
- c. The construction or installation shall be performed pursuant to all lawfully required procedures.
- d. The cost of the construction or installation shall be assessed pursuant to K.S.A. 12-6a17, provided that the City Commission may only use the authority of this section for the following improvements: installation of sidewalks or bicycle or pedestrian paths or trails on public right-of-way; installation or removal, or both, of curbing and pavement adjacent to a public Street and within the public right-of-way; and installation of required Landscaping improvements in the public right-of-way.

1.7.11 Appeals of Administrative Decisions

a. Authority and Applicability

Unless specifically provided for otherwise in this Code, the Board of Zoning Appeals is authorized to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the administration or enforcement of the provisions of this Code. The City Commission, Planning Commission and the CRC are not an "administrative officials" for purposes of this Code and the Board of Zoning Appeals shall have no jurisdiction to consider an appeal from any action, determination or failure to act by the City Commission, Planning Commission, or CRC.

b. Application Filing

Appeals of administrative decisions shall be filed with the Planning Director. The appeal shall be filed within 10 Working Days after the administrative official's decision. Appeals may be filed by any person aggrieved, or by any officer of the City, or any governmental agency or body affected by any decision of an administrative official.

c. Effect of Filing

The filing of a complete application for an appeal of administrative decision stays all proceedings in furtherance of the action appealed, unless the official whose decision is being appealed certifies to the Board of Zoning Appeals, after the appeal is filed, that, because of facts stated in the certification that

1. a stay would cause immediate peril to life or property or
2. the situation appealed from is transitory in nature, and therefore, an appeal would seriously interfere with enforcement of this Code.

In each instance, the official whose decision is being appealed shall place in the certificate facts to support the conclusion. In such case, proceedings will not be stayed other than by a restraining order, which may be granted by the Board of Zoning Appeals or by a court of record.

d. Record of Administrative Decision

There are so many administrative decisions that have to be made with this development system that it's difficult from the Code to know how those affected would be constantly notified. Please make this more specific and clear.

2.1 INSTRUCTIONS

This Article governs the permissible uses of land within the city that has not been previously transect-mapped.

2.2 (O-1) PRESERVED OPEN SECTOR

2.2.1 The Preserved Open Sector shall be assigned to open space that is protected from development in perpetuity. The Preserved Open Sector includes areas under environmental protection by law or regulation, as well as land acquired for conservation through purchase, by easement, or by past transfer of development rights.

2.2.2 The Preserved Open Sector shall consist of the aggregate of the following categories:

- a. Surface Waterbodies
- b. Protected Wetlands
- c. Protected Habitat
- d. Riparian Corridors
- e. Purchased Open Space
- f. Conservation Easements
- g. Transportation Corridors
- h. Residual to Clustered Land Developments (CLD)

2.2.3 Development and construction within the Preserved Open Sector and the specifications required to do so shall be determined on an individual project basis in public hearing of the City Commission.

2.3 (O-2) RESERVED OPEN SECTOR

2.3.1 The Reserved Open Sector shall be assigned to open space that should be, but is not yet, protected from development.

2.3.2 The Reserved Open Sector shall consist of the aggregate of the following categories:

- a. Flood Way and Flood Fringe
- b. Steep Slopes
- c. Open Space to be Acquired
- d. Corridors to be Acquired
- e. Buffers to be Acquired
- f. Legacy Woodland
- g. Legacy Farmland
- h. Legacy Viewsheds

2.4 (G-1) RESTRICTED GROWTH SECTOR

2.4.1 The Restricted Growth Sector shall be assigned to areas that have value as open space but nevertheless are subject to development, either because the zoning has already been granted or because there is no legally defensible reason, in the long term, to deny it.

2.4.2 Within the Restricted Growth Sector, Clustered Land Developments (CLD) shall be permitted By Right. CLDs shall consist of no more than one Standard Pedestrian Shed with that portion of its site assigned to the T1 Natural or T2 Rural Zones as specified in Section 3.3.1.

2.5 (G-2) CONTROLLED GROWTH SECTOR

2.5.1 The Controlled Growth Sector shall be assigned to those locations where development is encouraged, as it can support mixed-use by virtue of proximity to a Thoroughfare or Fixed Transit Route.

2.5.2 Within the Controlled Growth Sector, Traditional Neighborhood Developments (TND)

We continue to object to allowing any undefined development and construction within the Preserved Open Sector. Any buildings or other construction should support the open space use. Examples would be information centers for nature parks. What is allowed to be built should be made clear and not subject to political decisions.

4.1 INSTRUCTIONS

- 4.1.1 Subject to Section 4.1.2 and 4.1.3, a Developer may prepare a proposed Infill Community Plan. In order to obtain approval of the proposed Infill Community Plan, the Developer shall submit the Infill Community Plan for the required rezoning approvals per 1.4.4 and 1.4.7 and for approval of the actual Infill Community Plan to the City Commission. The CRC will review the Article 4 applications and provide a report on the rezoning request to the Planning Commission and a provide report on the Infill Community Plan request to the City Commission.
- 4.1.2 Preparation of an Infill Community Plan shall require the entity preparing the Plan to meet with and involve the neighborhoods surrounding the Infill project at least once prior to submitting the Infill Community Plan to the CRC. A report showing how neighborhood comments were addressed in the Infill Community Plan shall also be submitted to the CRC along with the Infill Community Plan.
- 4.1.3 For any Infill sites comprising at least 30 contiguous acres, the Developer or the Planning and Development Services may prepare an Infill Community Plan. For sites comprising less than 30 contiguous acres, only Planning and Development Services or its designee shall prepare an Infill Community Plan, except that upon petition by a landowner the Planning Director may allow a landowner to prepare an Infill Community Plan when doing so would be in accordance with the Purpose section of this Code. The Plan area should connect and blend with surrounding urbanism.
- 4.1.4 An Infill Community Plan shall demonstrate compliance with the requirements of the Community Types described in Section 4.3 and with the Streetscape requirements set forth in Section 4.4.
- 4.1.5 An Infill Community Plan shall demonstrate compliance with the requirements governing Civic Functions within each Community Type as described in Section 4.5.

4.2 TRANSECT ZONES

- 4.2.1 Infill Community Plans shall consist of Infill TNDs. An Infill TND is composed of the same Transect Zones as a TND. When calculating the allocation of Transect Zones according to Table 14, the allocation shall apply only to the Net Site Area.

4.3 COMMUNITY TYPES

Infill Community Plans shall be based on conserving, completing or creating Transect-based urban structure.

4.3.1 Infill TND

Infill TNDs shall be urbanized areas of at least 30 contiguous acres. An Infill TND shall be based upon a partial or entire Standard Pedestrian Shed. The physical center of the Infill TND should be located at an important traffic intersection associated with a Civic or Commercial institution. The edges of the Infill TND should blend into an adjacent development without buffer. An Infill TND shall meet the requirements for a TND as set forth in Table 14.

4.3.2 [RESERVED]**4.3.3 Special Districts (SD)**

Special Districts shall be areas dedicated for certain Functions that by virtue of size or incompatibility with other surrounding Building Functions cannot meet the requirements for any Transect Zone or combination of Transect Zones.

One of the requirements for infill developments should be that immediately accessible open space shall be located in safe and sufficiently large sites to be usable by the residents. The location of the park on the wrong side of a busy and dangerous street in the Haskell/19th Infill development is a transgression of good urban planning.

Streetscreen: sometimes called Streetwall. A freestanding wall built along the Frontage Line, or coplanar with the Facade, often for the purpose of masking a parking lot from the Thoroughfare. Streetscreens shall be between 3.5 and 8 feet in height and constructed of a material matching the adjacent building Facade. The Streetscreen may be a hedge or fence by Warrant. Streetscreens shall have openings no larger than is necessary to allow automobile and pedestrian access. In addition, all streetscreens over 4 feet high should be 30% permeable or articulated to avoid blank walls.

Subdivision: The division of a Lot, tract or parcel of land into two or more parts for the purpose, whether immediate or future, of sale or building development.

Please add: ...as the process of platting or replatting of property.

Substantial Modification: alterations to a building that are valued at more than 50% of the replacement cost of the entire building, if new.

Terminated Vista: a location at the axial conclusion of a Thoroughfare. A building located at a Terminated Vista designated on a New or Infill Community Plan is required to be designed in response to the axis.

Third Place: a private building that includes a space conducive to unstructured social gathering. Examples of Third Places include bars, cafés, and corner stores.

Thoroughfare: a vehicular way incorporating moving lanes and parking lanes within a public right-of-way (see Tables 3 and 16).

Add the term "publicly owned or dedicated"

Transect: a system of ordering human habitats in a range from the most natural to the most urban. The SmartCode is based upon six Transect Zones which describe the physical character of place at any scale, according to the density and intensity of land use and urbanism.

"and improved to required public improvement standards."

Transect Zone (T-Zone): Transect Zones are administratively similar to the land-use zones in conventional codes, except that in addition to the usual building use, density, height, and Setback requirements, other elements of the intended habitat are integrated, including those of the private lot and building and the enfronting public streetscape. The elements are determined by their location on the Transect scale. The T-Zones are: T1 Natural, T2 Rural, T3 Sub-Urban, T4 General Urban, T5 Urban Center, and T5.5 Urban Core (see Table 1).

Transition Line: a horizontal line spanning the full width of a Facade, expressed by a material change or by a continuous horizontal articulation such as a cornice or a balcony.

Type: a category determined by Building Function, Building Disposition, and Building Configuration, including size or extent. Examples include community types, street types, civic space types.

Variance: a ruling that would permit a practice that is not consistent with either a provision or the Purpose of this Code (Section 1.2). Variances are granted by the Board of Zoning Appeals in a public hearing. (See Section 1.5).

Warrant: a ruling that would permit a practice that is not consistent with a specific provision of this Code, but is justified by the Purpose of this Code (See Section 1.5).

Work-Live: a mixed-use unit consisting of a Commercial and Residential Function.

Zoning Map: the official zoning map or maps which are a part of the zoning ordinance and delineates the boundaries of the zoning districts including the SmartCode Districts.