

CHAPTER XXI. SUBDIVISION REGULATIONS

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ARTICLE 1. GENERAL

21-101. PURPOSE.

(a) The purpose of these subdivision and development regulations is to assure that the subdivision of land, which is an initial step in urbanization, will be in the public interest and for the general welfare. Since the allocation, and arrangements of parcels of land for both private uses (agriculture, residential, commercial, industrial) and public uses (utilities, schools, parks, streets, and others) help to influence the health, safety, economy, livability, and amenities of an area, these regulations are intended to:

(1) Provide for the harmonious and orderly development of the City of Lawrence and the unincorporated area of Douglas County by making provisions for adequate open space, traffic, recreation, drainage, utilities, light and air, and other public needs.

(2) Contribute to conditions conducive to health, safety, aesthetics, convenience, prosperity, and efficiency;

(3) Provide for the conservation and protection of human and natural resources.

(b) These regulations are designed, intended and should be administered in a manner to:

(1) Insure that the development of the City of Lawrence and Douglas County shall conform substantially with the comprehensive plans of the City and County, the zoning ordinances enacted in accordance with those plans and any adopted major streets and road plans.

(2) Provide for the conservation of existing neighborhoods, to encourage the concept of neighborhood planning in new developments and to prevent the development of slums and blighted areas.

(3) Coordinate the development of each parcel of land with the existing community, and to facilitate the proper development of adjoining land.

(4) Encourage the best possible use of each parcel of land through the application of urban design principles.

(5) Provide adequate and accurate records of all land subdivision.

(6) Provide that the cost of improvements which benefit primarily the tract of land being developed be borne primarily by the owners or developers of the tract, and that the cost of improvements which benefit primarily the whole community be shared by the developer and the community.

(7) Insure that each subdivision provides that all building sites are safe from damage by the one-hundred year flood where the one-hundred year flood line has been designated by the governing body or from damage by the regulatory flood,

where the regulatory flood elevation has been designated by the Federal Insurance Administrator.

- (8) Provide efficient and orderly location of streets.
- (9) Encourage the reduction of vehicular congestion.
- (10) Provide for the reservation or dedication of lands for open spaces.
- (11) Provide off-site and on-site public improvements.
- (12) Provide for recreational facilities which may include, but are not limited to the dedication of land area for park purposes.
- (13) Establish building lines.
- (14) Insure compatibility of design.
- (15) Provide for any other services, facilities and improvements deemed appropriate. (Ord. 6288)

21-102. AUTHORITY.

Subdivision regulations and minimum standards for land development are adopted by the Lawrence-Douglas County Metropolitan Planning Commission and approved by the City Commission of the city under powers conferred by Article 12, Section 5 of the Kansas Constitution and K.S.A. 1991 Supp. 12-749 thru 12-752, and by the Board of County Commissioners of Douglas County under powers conferred by K.S.A. Supp. 12-744 and 12-745. (Ord. 6288)

21-103. JURISDICTION.

The regulations in this chapter shall apply to all land within the City of Lawrence and to all unincorporated land in Douglas County. They shall also apply to any other incorporated City in Douglas County that has adopted a comprehensive plan, if the governing body of that city, by resolution, makes such request to the Lawrence-Douglas County Planning Commission and subsequently officially adopts or approves these regulations. (Ord. 5257)

21-104. APPLICABILITY.

(a) For property in the unincorporated area of Douglas County, after the effective date of these regulations, any owner (or owners) subdividing land or establishing any alley, street, or other property intended for public use or for the use of purchasers or owners of lots, tracts, or parcels of land fronting on or adjacent thereto, shall cause a subdivision plat to be made in accordance with these regulations unless exempted under Section 21-105 of this article. The Register of Deeds of Douglas County shall not record any plat of a subdivision until such plat bears the endorsement of the Planning Commission. (Ord. 7604)

(b) For property within the incorporated city limits of Lawrence, no building permit shall be issued unless the property is platted. If subdivision is required then the subdividers shall plat all of their contiguously owned lands that are not platted.

The subdivider shall be required to provide the necessary rights-of-way or other property interests for any roads classified as arterials, principal arterials, or collectors as identified in the Transportation 2025 Major Thoroughfares Map that border or pass through the subdivider's property.

This provision shall apply to all property divisions that are not exempt from the subdivision regulations, regardless of their current state of development or lack of development. Plats submitted for review shall cover all contiguously owned lands that are under the subdivider's ownership at the time of plat submittal to the Lawrence/Douglas County Planning Office for review and recommendation. The Register of Deeds of Douglas County shall not record any plat of a subdivision until such plat bears the endorsement of the Planning Commission. (Ord. 7604)

(c) Article 12 of these regulations shall apply to any new building located within the plat approval jurisdiction of the City of Lawrence or Douglas County, Kansas. (Ord. 7604)

21-105. EXEMPTIONS.

Notwithstanding the requirements of section 21-104 of this article, these regulations shall not apply to the following:

- (a) A division of a tract of land for agricultural purposes, when such division does not involve the creation of any new public streets, roads, or easements.
- (b) A division of a tract of land for residential purposes located outside the Urban Growth Area of Lawrence and within the unincorporated area of Douglas County, when such division does not include the creation of any new public streets, roads, or easements; provided, the division of a tract of land into more than three lots, any one of which is less than five acres, shall not be exempt from these regulations.
- (c) Any transfer by testamentary disposition.
- (d) The subdividing of any land used exclusively for cemetery purposes and accessory uses associated therewith.
- (e) The vacation of land impressed with a public use.
- (f) The division of platted property to allow the sale of individual attached or unattached residential dwellings if found consistent with the following conditions:
 - (1) The land has been developed by the construction of a townhouse dwelling and is occupied by such dwellings as defined by 21-901.
 - (2) That land being divided and transferred under this exemption 21-105(f) is covered by a recorded declaration of covenants subjecting the land and improvements thereon to procedures and conditions regulating the manner in which improvements may be expanded, reconstructed and maintained.
 - (3) No declaration of covenants as required by Section 21-105(f)(2) shall provide for the ownership of any common area of land unless there are at least 11 residential units combined under one such declaration. (Ord. 7110/Res. 99-34)

21-106. FEES.

The subdivider shall pay the following fees or costs to the Lawrence-Douglas County Metropolitan Planning Department for which he or she shall be issued a written receipt:

- (a) A subdivision review fee must be paid prior to any consideration by the planning department of a preliminary plat, lot split, final plat, or replat. No fee shall be refunded after publication of the legal notice for the meeting.
- (b) The fee shall be as follows for property outside the corporate limits of the City of Lawrence:
 - (1) A subdivision into five or fewer lots, tracts, or parcels shall be charged a fee of \$50.00;
 - (2) A subdivision into more than five lots, tracts, or parcels shall be charged a fee of \$75.00, plus \$1.00 for each platted lot in the subdivision, except that in no case shall the maximum review fee exceed \$200.00.
 - (3) A lot split shall be charged a fee of \$25.00.
- (c) The fee shall be as follows for property within the corporate limits of the City of Lawrence:
 - (1) A subdivision into four or fewer lots, tracts, or parcels shall be charged a fee of \$100.00;
 - (2) A subdivision into more than four lots, tracts, or parcels shall be charged a fee of \$200.00 plus \$3.00 for each platted lot in the subdivision. There shall be no maximum fee.
 - (3) A lot split shall be charged a fee of \$25.00.
- (d) In addition to the fees established in (b) or (c), a filing fee sufficient to cover the cost of filing the final plat or lot split with the Register of Deeds shall be submitted.
- (e) Any other incidental costs associated with legal publication and recordings of documents and plats shall be submitted. (Ord. 6476; Res. 93-46)

21-107. ADMINISTRATION.

The administration of this article is vested in the Lawrence-Douglas County Metropolitan Planning Department, Lawrence-Douglas County Metropolitan Planning Commission, Board of County Commissioners of Douglas County, and the City Commission of the City of Lawrence. (Code 1990)

21-107.1 The planning department shall:

- (a) Maintain permanent and current records with respect to these regulations, including amendments thereto;
- (b) Receive and file, on behalf of the planning commission, all preapplication plans, preliminary plats, and final plats together with other necessary information;
- (c) Distribute copies of preliminary plats to other appropriate governmental agencies and departments for their review and recommendations;
- (d) Review all pre-application plans and data, preliminary plats and small area subdivisions for compliance with these regulations;
- (e) Review final plats for compliance with the approved preliminary plat and with the final plat provisions of these regulations;
- (f) Present preliminary and final plats together with staff recommendations to the planning commission;
- (g) File approved final plats with the Register of Deeds of Douglas County, Kansas;
- (h) Make such other determinations and decisions as may be required of the department by these regulations or by the planning commission. (Code 1990)

21-107.2 The planning commission shall:

- (a) Review and approve, conditionally approve, or disapprove application plans and data in all cases when the subdivider and the planning department have been unable to reach agreement and either party desires such review;
- (b) Review and approve, conditionally approve, or disapprove preliminary plats;
- (c) Review and approve, conditionally approve, or disapprove final plats, and unless disapproved, transmit the same to the appropriate governing body for acceptance of dedication of streets, alleys, and other public ways and sites;
- (d) Make such other determinations and decisions as may from time to time be required by these regulations, or by applicable sections of the Kansas Statutes Annotated. (Ord. 5257)

21-108. AGENDA.

A plat submitted for preliminary or final approval shall be placed on the agenda of the planning commission if, in the judgment of the planning department, it fulfills the requirements of section 21-301 and 21-302 respectively, of these regulations. However, a plat which, in the judgment of the planning department, does not meet all of such requirements may be submitted directly to the planning commission by the subdivider if he or she presents with the plat a written request and enumerates in detail the reasons therefor. (Ord. 5257)

ARTICLE 2. PLAT APPROVAL PROCEDURE

21-201. PRE-APPLICATION PLANS AND DATA.

Within a reasonable time prior to the filing of a preliminary plat, the subdivider shall present to the planning department the following information:

(a) A general description of the existing conditions of the site and the suitability of the site for the proposed development. This information should include data on existing land and soil characteristics, existing covenants and agreements, availability of utilities and other public facilities, proposed use of each portion of the subdivision, proposed lot sizes and building sizes and other pertinent data as may be needed to supplement the sketches required in subsections (b) and (c) of this section.

(b) A general location map drawn to an appropriate scale showing the proposed subdivision and its relationship to existing utilities, schools, parks, traffic arteries, and other features (such as hospitals, churches, airports, railroad, shopping centers or other business areas) located on land adjacent to the subdivision that might affect and influence the subdivision.

(c) A drawing prepared to an appropriate scale, showing approximate topography, natural features, proposed street layout, lots and other planning features.

(d) The relationship of the proposed subdivision to surrounding developed and undeveloped land when such information is considered relevant by the planning department. (Ord. 5257)

21-202. PRELIMINARY PLAT.

The subdivider shall file a preliminary plat with the planning department in accordance with the following conditions:

(a) The subdivider shall submit a minimum of 25 copies of the preliminary plat of the proposed subdivision, together with any supplementary data specified by these regulations, at least 35 days prior to a regularly scheduled planning commission meeting.

(b) The subdivision fee required by section 21-106 of this article, shall be paid by the subdivider before the preliminary plat is accepted for planning department review and planning commission consideration.

(c) The contents of the preliminary plat shall be as set forth in section 21-301 of these regulations.

(d) The planning department shall cause a notice to be published in an officially designated newspaper qualified to publish legal notices in Douglas County giving the name of the subdivision, the owner, a brief description of the subdivision, and the approximate acreage.

The notice shall first be published at least seven days prior to a regular meeting of the planning commission at which the preliminary plat is to be considered initially. The planning department shall also notify all adjoining property owners by mail according to a certified list of such property owners provided by the subdivider.

(e) The planning commission shall review the preliminary plat and other material submitted with it to determine conformity with the comprehensive plan and these regulations and it shall act upon the plat within 60 days after submission, stating its approval, conditional approval (stating conditions) or disapproval (stating reasons), unless the subdivider shall waive or consent to an extension of the 60 day period. If the subdivider submits the preliminary and final plats concurrently, the time period shall be 60 days.

(f) Approval of the preliminary plat shall not constitute approval of the final plat.

(g) The planning department shall give written notice to the subdivider 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 fails to conform with these regulations.

(h) Approval of a preliminary plat by the planning commission shall be effective for no more than one year from the date approval was granted unless, upon application by the

subdivider, the planning commission grants an extension of the time beyond such period. If a final plat has not been submitted, approved, and filed within such one year period, or within an extension period, a preliminary plat must be resubmitted to the planning commission.

- (I) A final plat may cover only part of the area included in the preliminary plat;
- (II) provided, that the area represented by the final plat of any part of the entire subdivision is of sufficient size to permit the economical installation of public improvements and the proposed improvements are consistent with those proposed in the preliminary plat. (Ord. 6288)

21-203. FINAL PLAT.

Following approval of the preliminary plat, the final plat may be submitted to the planning commission for review; however, no final plat shall be considered for final approval or acceptance unless all provisions of these regulations have been met, including compliance with the comprehensive plan and 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 commission. The following procedure shall be followed:

(a) The subdivider shall submit the original drawing on linen, mylar, vellum, or equivalent, and a minimum of 32 reproductions thereof, together with all supplementary data specified by these regulations, to the planning department at least 35 days prior to a regularly scheduled planning commission meeting.

(b) The planning commission shall act upon the final plat within 60 days of submission of the complete information as required by these regulations, unless the subdivider has consented to an extension or waiver of the time limitation.

(c) The planning department shall give the subdivider written notice of the planning commission's action whether approval, conditional approval (stating conditions), or disapproval (stating reasons). In case of approval, the chairperson of the planning commission shall date and endorse the original final plat.

(d) A final plat that has been approved by the planning commission shall be submitted to the appropriate governing body for its acceptance of the dedication of streets and other public ways, service, and utility easements and any land dedicated for public use. The governing body shall accept or refuse the dedication of land for public purposes within 30 days after the first meeting of the governing body following the date of the submission of the plat to the clerk thereof. The governing body may defer action for an additional 30 days for the purpose of allowing for modifications to comply with the requirements established by the governing body. No additional filing fees shall be assessed during that period. If the governing body defers or refuses such dedication, it shall advise the planning commission for the reasons thereof. When the subdivision is located within both the city and unincorporated area of Douglas County, the plat shall be submitted to both governing bodies for approval. Failure of the governing body of the city or of the county to execute an acceptance of dedication shown on the plat shall be deemed to be a refusal of the proposed dedication.

(e) Upon approval and acceptance of all final plats that create new roads in the unincorporated portions of Douglas County, Kansas, detailed road plans shall be submitted to the county engineer for approval prior to filing of the plat, and shall include the following:

- (1) Plan, profile, ditch grades, and cross-sections of all streets, roads, alleys and other public ways; and,
- (2) Drainage areas and size and length of cross-road drainage structures.

(f) After approval, the original of any final plat shall be filed with the register of deeds by the planning department. Such plat shall bear the endorsement hereinbefore provided including the endorsement by the governing body accepting land dedicated for public purposes.

(g) Prior to the original drawing of the final plat being recorded with the Register of Deeds, a digital version of the plat shall be submitted to the Planning Office in a format approved by the Director of Planning. The digital file shall be registered to the State Plane

coordinate grid used by the city and county. Any final plat not submitted in a digital format will be converted by the City or County and the cost will be paid by the applicant prior to recording the plat.

(h) Approval of a final plat by the planning commission and acceptance of dedication of easements and rights-of-way by the appropriate governing body shall be effective for no more than one year unless all conditions of approval have been completed.

(I) The planning office may provide administrative changes to land elevations designated on a plat. (Ord. 6318)

21-204. CONCURRENT SUBMISSION OF PRELIMINARY AND FINAL PLATS.

Concurrent submissions of preliminary and final plats for the same property shall be permitted if the following descriptions do not apply to the property being platted:

(a) Platting of large lot subdivisions. Plats that result in the creation of individual lots of one (1) acre or greater in area in the incorporated city limits; or 5 acres or greater in the unincorporated areas of the county, shall require preliminary plat approval prior to submission of a final plat.

(b) Dedication of multiple street or road rights-of-way. Preliminary plats which propose dedication of multiple street or road rights-of-way shall require review and approval prior to submittal of a final plat.

(c) Multiple zoning designations. Preliminary plats which include or propose lots for more than one zoning category shall require review and approval prior to submittal of a final plat. (Ord. 6318; 6738)

21-205. SMALL SUBDIVISION PLAT.

Deleted (Ord. 5257; 6738)

ARTICLE 3. PLAT REQUIREMENTS AND CONTENTS

21-301. PRELIMINARY PLAT.

(a) The preliminary plat shall be drawn to a scale of one inch equals 100 feet or less. However, areas over 100 acres may be drawn to a scale of one inch equals 200 feet.

21-301.1

The preliminary plat shall:

- (a) State the name of the proposed subdivision;
- (b) List names and addresses of the subdivider, the land planner or subdivision designer (if any) and the licensed land surveyor;
- (c) Show date of preparation, north arrow and graphic scale;
- (d) Identify the plat as a preliminary plat;
- (e) Give a legal description of the proposed subdivision complete with section, township, range, principal meridian, county, and acreage. Show the location of the nearest section and/or quarter-section corner on the plat, with a description tying it to the point of beginning for the subdivision. A replat shall not be required to be referenced to a section and/or quarter-section corner, provided the original plat for the subject replat is tied to at least one of these corner monuments;
- (f) Show names of adjoining subdivisions or, in the case of unplatted land, the names of the owner or owners of adjoining property;
- (g) Show topography (contour interval not greater than five feet). Where available, contours may be taken from recent aerial photographic maps of the area, or where such map is not available, interpolation from seven and one-half minute quadrangle United States Geological Survey map, if of sufficient accuracy;
- (h) Be accompanied by the general location map and plat as described in sections 21-201(b) and 21-202(c). (Ord. 6381)

21-301.2

Existing Conditions. The preliminary plat shall also show the following existing conditions:

- (a) Location of any area designated as floodplain or regulatory floodplain, location and direction of the flow of existing water courses; and the surface elevation of the regulatory flood, when it has been established by the Federal Insurance Administrator or appropriate governing body.
- (b) Location of any area zoned "floodplain", location and direction of flow of all water courses; and water surface elevation of the 100 year flood (if known) at water course entrances to and exits from the proposed subdivision;
- (c) Location of section lines, private or public streets, alleys, easements, and city boundaries within and immediately adjacent to the proposed subdivision;
- (d) Location of natural features such as rock outcroppings, unique topographic features, lakes, tree masses, isolated preservable trees and insofar as can reasonably be shown, natural features to be removed;
- (e) Existing use of the property, including the location of all existing buildings, indicating those that will be removed and those that will remain on the property after the final plat is recorded;
- (f) Horizontal location and vertical elevation (if available) of existing sanitary sewers, storm water sewers, and culverts within and adjacent to the proposed subdivision, and the location of existing water mains, underground wiring, pipelines, and gas lines;
- (g) Zoning of all land within and adjacent to the tract;
- (h) Location, description and elevation of all bench marks established or source used for vertical control;
- (i) Type of soil, depth to bedrock, and water table information (if available) when requested by the planning commission.

21-301.3

Streets; Sites. The preliminary plat shall further show the following:

(a) Proposed streets (including location, width, names, approximate grades), and their relation to platted streets or roads or to proposed streets or roads as shown on any adopted general development plan of adjacent property.

(b) Easements, showing width and general purpose;

(c) Blocks and lots, showing approximate dimensions and proposed block and lot numbers;

(d) Sites designated for other than single-family use by the adopted comprehensive or appropriately adopted neighborhood plan. (Such plan shall be referenced on the face of the plat);

(e) Sites proposed for dedication as drainageway, park, school, or other public purposes;

(f) Sites proposed by the applicant for land uses not in conformance with adopted comprehensive or neighborhood plans accompanied by a note on the face of the plat stating that approval of the preliminary plat does not certify approval of these proposed land uses.

(g) If requested by planning staff, the building envelope for proposed lots.
(Res. 98-45; Ord. 7010)

21-301.4 Supplemental Data. The following supplementary data and information shall be submitted with the preliminary plat or be included thereon:

(a) A summary of site characteristics as follows: gross acreage of the subdivision; acreage within the various land use districts; acreage dedicated for streets and other public uses; total number of building lots; maximum, minimum, and average lot size dimensions;

(b) A statement as to the general nature and type of public improvements proposed for the subdivision, and the manner by which the subdivider intends to provide for their installation, as for example, by petition, actual construction, escrow deposit, or performance bond. If other than by petition, the approximate time for completion of such improvements should be indicated. (Ord. 5257)

21-301.5 Stormwater Drainage.

(a) Supplemental Data. The preliminary plat shall contain data, information and supplemental maps of surrounding property in sufficient detail regarding stormwater drainage issues, as determined by the staff of the Planning Department or the Planning Commission. The staff of the Planning Department or the Planning Commission may request additional data, information and supplemental maps from the applicant regarding stormwater drainage, as appropriate.

(b) Minimum Floor Elevations. On lots adjacent to all drainage easements and on drainageways that are designated by the Director of Public Works or his or her designee the preliminary plat and final plat shall indicate: the required minimum habitable floor elevations for structures on lots; or, the minimum elevation for a foundation opening(s) which shall be certified by a licensed land surveyor or engineer. [If a basement is built on a lot where a minimum elevation has been established, the building design is encouraged to incorporate a sump pump.] (Joint Ord. 6662/Res. 95-26)

21-302. FINAL PLAT.

The final plat shall be prepared by a licensed professional engineer or licensed land surveyor on tracing cloth, mylar, vellum, or other permanent reproducible material. All drawings and signatures of certification shall be in waterproof ink. The overall sheet size shall be 24 inches by 36 inches. The scale shall be one inch equals 100 feet or less. (Ord. 5257)

21-302.1 Requirements. The final plat shall show:

(a) Name under which the subdivision is to be recorded;

(b) All information required on the preliminary plat as set forth in sections 21-301.1(a), (c), (e) and (f) and 21-301.3(b) and (e). In addition, the following information is required which is similarly required on the preliminary plat:

(1) Location of any area zoned floodplain or within a floodplain overlay district zoning.

(2) Proposed streets (including location and names), and their relation to platted streets or roads or to proposed streets or roads as shown on any adopted general development plan of adjacent property.

(3) Block and lot numbers and dimensions of blocks and lots.

(c) Accurate dimensions for all lines, angles, and curves used to describe boundaries, streets, alleys, easements and areas to be reserved for public use. Boundary survey of the subdivision shall have an error of closure of not greater than one (1) in five thousand (5,000). Data for all curves shall include radius, arc length, chord length, and central angle;

(d) The minimum area and associated minimum elevation for the building on each lot planned as a building site when requested by the planning commission. The planning commission shall request such information for all areas in floodplains;

(e) A letter from the city or county engineer stating his or her opinion or recommendation of the plat;

(f) A certificate signed, sealed and dated by the licensed engineer or licensed land surveyor responsible for the survey and final plat;

(g) Acknowledged certificates as listed below (may be combined where appropriate):

(1) A certificate signed by all parties having any record, title or interest of record in the land subdivided, showing their consent to the preparation and recording of the plat;

(2) A certificate, signed by the owner or owners, dedicating all parcels of land which are intended for public use;

(h) The endorsement of the planning commission as evidenced by the signature of its chairperson;

(i) Acceptance of dedication by the appropriate governing body;

(j) A certificate that all taxes and special assessments due and payable have been paid. In the case of unpaid special assessments, a proposed redistribution of such unpaid special assessments which meets the city's requirements and is acceptable to the City Clerk and Public Works Director. (Ord. 6182)

(k) A note shall be placed on the final plat indicating that additional information concerning drainage and structural elevations are placed on the preliminary plat, if such requirement has been placed on the preliminary plat. (Ord. 6556)

21-302.2

Lot Pinning. A small subdivision plat of one, two, three or four lots shall be pinned before the lot split, final plat or replat is filed and recorded at the register of deeds.

A final plat or replat of five or more lots can be pinned or staked in phases that are coincident with:

(1) the street construction and development phase;

(2) the placement of utilities within the designated utility easements phase; and

(3) the pouring of building foundations for slabs for building construction (issuance of a building permit phase).

Before the filing of a plat or replat with the register of deeds, the developer or owner shall provide certification to the planning office that the subdivision's boundaries are pinned and there is a contract with a licensed engineer or land surveyor to pin the lots after completion of street and public improvements.

At the time the street plans are submitted to the public works department for approval, the center lines of right(s)-of-way shall be identified by establishing the following control points:

- (a) Points of Intersection (PI);
- (b) Points of Tangency (PT); and,
- (c) Points of Curvature (PC).

Prior to the time utility lines are laid, staking or pinning of the subdivision boundary corners and key points along the easement(s) shall be completed to provide the following information:

- (a) The intersection of four or more lots;
- (b) Points of curvature; and
- (c) Points of intersection with other easements.

At the time of application for a building permit, the developer or builder of the lot shall present certification (letter stamped by a licensed engineer or surveyor) to the building inspector to assure lot corners are pinned. (Ord. 5593, Sec. II)

ARTICLE 4. LOT SPLITS

21-401. LOT SPLITS.

An existing lot may be divided by a lot split into not more than two parts which singularly or combined with an adjoining lot results in two lots which meet the minimum size and area requirements of the zoning district in which the lots are located. The new lots cannot, thereafter, be further subdivided without replatting. (Ord. 5593, Sec. 1)

21-401.1 SAME; APPLICATION.

A written application for a lot split shall be made to the planning department. Each application shall be submitted with 18 copies of a plot plan, certified by a licensed land surveyor or engineer, at a scale of one inch equals 30 feet or less and shall contain the following information:

- (a) Location of the existing lot within the subdivision (if any) as related to the nearest existing streets;
- (b) Location of existing easements and utilities;
- (c) Dimensions of the divided portions;
- (d) Location and width of accessways, existing and proposed;
- (e) Dimensions of all existing structures and their locations with respect to the existing lot lines;
- (f) Signature of the owner(s);
- (g) Legal description(s) of the property(ies); and,
- (h) A certificate that all taxes and special assessments due and payable have been paid. In the case of unpaid special assessments, a proposed redistribution of such unpaid special assessments which meets the city's requirements and is acceptable to the City Clerk and Public Works Director. (Ord. 6182)

21-401.2 SAME; PLANNING DEPARTMENT REVIEW.

Upon receipt of the application, the planning department shall review it for compliance with these regulations. If the application and the plot plan comply with all applicable regulations, the lot split shall be approved by the planning department and shall bear the signature of the planning director. The applicant shall file the approved lot split with the Douglas County register of deeds. A copy of the filed request must be returned to the planning department, which will make and distribute additional copies to the building inspector, city clerk and public works director, and to the Douglas County public works director and zoning administrator. (Ord. 5593, Sec. I)

21-401.3 Requirements. The division of lots pursuant to this chapter shall comply with the comprehensive plans, any major street and road plans, applicable zoning laws, these regulations and all other applicable regulations. No lot split shall be approved if:

- (a) A new street or alley is needed or proposed;
- (b) There is less street or road right-of-way than required by this chapter;
- (c) Any easement requirements have not been satisfied;
- (d) The lot split will result in a tract without direct access to a street or road;
- (e) A lot or parcel of substandard size will be created, except where a lot split will result in the substandard-sized portion being recombined with an adjoining standard-sized, platted lot, and where this recombination is duly filed and recorded with the Douglas County register of deeds; or,
- (f) The lot split will result in a substantial increase in service requirements (e.g. utilities, schools, traffic control, street, etc.) and will constitute a significant deviation from the criteria upon which ratification of any original plat was granted. (Ord. 5593, Sec. I)

21-401.4 Building Permit. No building permit shall be issued for any site which contains a division of a platted lot of record, unless such division has been approved in the manner provided by this chapter. (Ord. 5593, Sec. I)

ARTICLE 5. BUILDING AND OCCUPANCY PERMITS

21-501. BUILDING AND OCCUPANCY PERMITS.

Building and occupancy permits in subdivisions shall not be issued by the official charged with issuing such permits until:

(a) A recorded plat of the subdivision or a ratified lot split is made available for the building official's examination;

(b) Required public improvements have been substantially completed to provide for adequate occupancy of the subdivision or for that part of the subdivision being developed;

(c) A certification by a licensed engineer or land surveyor has been presented as proof of pinning of the lot(s) for which a building permit is requested; and,

(d) There has been compliance with these regulations and the conditions of plat approval.

(Ord. 5489)

ARTICLE 6. SUBDIVISION DESIGN STANDARDS

21-601. SCOPE.

All subdivision of land shall conform to the design standards of this article. (Ord. 5257)

21-602. PLAN.

Subdivisions shall be designed so that they comply with the comprehensive plans and any neighborhood development plan adopted by the planning commission for the area in which the subdivisions are located. (Ord. 5257)

21-603. ACCESS.

All lots within a subdivision and part of lot splits shall have at least one boundary adjacent to a public street or road, except that private streets may be permitted as part of a planned unit development. (Ord. 5257)

21-604. PARKS, PLAYGROUNDS, SCHOOLS, OPEN SPACE, PUBLIC FACILITIES.

(a) The Planning Commission shall encourage the donation, reservation, or dedication of sites for parks, playgrounds, schools, open space and other public facilities. (Ord. 5257, Ord. 7732)

(b) Any area on a plat identified for donation, reservation, or dedication of parks, playgrounds, schools, open space, or other similar public facility shall be consistent with the long-range plans of the Lawrence Parks and Recreation Department, Lawrence School District, or other appropriate public agency. As a condition of plat approval, written permission of the responsible public agency is required for land identified as a park, playground, school, open space, or other similar public facility. (Ord. 7732)

(c) Donation, reservation, or dedication of land for park and recreation purposes shall follow the service area standards and locational criteria as identified in the comprehensive and the park and recreation master plans of the City. At a minimum, the following standards and criteria apply: (Ord. 7732)

(1) overall standard for parkland in the City is twelve (12) to fifteen (15) acres per one thousand (1,000) residents;

(2) neighborhood parks should be a minimum of five (5) to ten (10) acres in size, have a service area of one-half ($\frac{1}{2}$) mile, and serve the immediate neighborhood in which they are located;

(3) community parks should be over thirty (30) acres in size, have a service area of two (2) miles, and serve adjacent neighborhoods; and

(4) easements and/or connections to existing parks and open spaces may be required for trails, sidewalks, or other pedestrian ways whenever donation, reservation, or dedication of parkland is deemed inappropriate for the proposed subdivision.

21-605. LAND IN FLOODPLAIN ZONING DISTRICTS AND FLOODPLAIN OVERLAY DISTRICTS.

Land to be subdivided and developed within the floodplain overlay districts shall be required to meet the following standards:

(a) Subdivision proposals shall be consistent with the need to minimize flood damage.

(b) Subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located, designed, and constructed to minimize flood damage.

(c) Subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards. In general, the primary drainage system must have capacity for a 10 year flood, but the structures in a subdivision must be essentially flood-damage-free from a regulatory flood or a flood having a one percent chance of occurring in any one given year.

(d) Regulatory flood elevations shall be provided by the applicant where they are not provided by the Federal Insurance Administration for subdivisions and development proposals.

(Ord. 5257; Ord. 6025, Sec. 1)

21-606. COMMUNITY ASSETS.

Proposed subdivision plans shall give due regard to such natural features as water courses and topography, and to the preservation of natural vegetation, existing structures, historical sites and other community assets that, when preserved, would benefit the environment. (Ord. 5257)

21-607. STREETS; LAYOUT, DESIGN.

(a) The arrangement of arterial and collector streets shall conform to any adopted major streets and road plans of the city or county.

(b) The street layout shall conform to an approved neighborhood development plan or, in the absence of such development plan, to the street layout and design standards of this article.

(c) Any existing or platted street that terminates at the boundary line of a proposed subdivision shall be continued into the subdivision in such a manner as to provide reasonable vehicular movement.

(d) The subdivision shall provide a logical street layout in relation to topographical conditions, public convenience, safety and the proposed use of the land to be served by such streets.

21-607.1 (e) Local streets shall not intersect arterial streets.

(f) The local street layout shall be such that it will discourage use by nonlocal traffic.

(g) Local streets intersecting opposite sides of another local or collector street shall be offset 125 feet or more.

(h) Collector streets intersecting the same side of an arterial street shall be spaced at intervals of 1,000 feet or more.

(i) Streets shall intersect as nearly as possible at right angles.

(j) Streets shall provide for street openings to adjacent undeveloped land as required, in the opinion of the planning commission, to avoid landlocked property.

21-607.2 (k) (1) In subdivisions located within the City of Lawrence, a cul-de-sac shall be not more than 700 feet in length for medium to high density residential uses (more than 7 d.u./acre) or commercial/industrial land uses. A maximum length of 1,000 feet shall be observed for low density residential developments (7 d.u./acre or fewer).

(2) In subdivisions located within the unincorporated areas of Douglas County, the maximum length of a cul-de-sac shall be 1,320 feet.

In subdivisions with cul-de-sacs, easements shall be provided to ensure the water supply system is looped.

A variance from these provisions may be requested by the property owner as provided for in section 21-802 of these regulations. The burden shall be upon the applicant to satisfactorily demonstrate that the street layout and design standards in Article 6 are met by the request.

When a variance is granted, the planning commission shall require:

- (1) Extra street or road width for medium and high density residential uses or commercial/industrial uses;
- (2) Easements or similar means of guaranteeing emergency vehicle access as recommended by the public works director and fire chief; and,
- (3) Such other conditions as may be necessary to protect the public health, safety and general welfare.
- (l) All cul-de-sacs shall have a minimum right-of-way radius of 50 feet.
- (m) Streets longer than one lot which dead end against property boundaries of undeveloped land shall provide an improved temporary turnaround.
- (n) Not more than two streets shall intersect at any one point.

(Ord. 7617)

21-607.3

(o) Wherever the proposed subdivision contains or is adjacent to a limited or partial access road, an arterial street, or a railroad right-of-way, the planning commission may require the following for the protection for the integrity and subsequent safety, efficiency and economy of the access, arterial, or railroad right-of-way;

- (1) A street approximately parallel to and on each side (where applicable) of such limited or partial access road, arterial street, or railroad right-of-way at a distance suitable for the appropriate use of the land between such streets;
- (2) Reverse frontage lots with access control provisions along the rear property line;
- (3) Deep lots with minor collector streets, or any other treatment as may be necessary;
- (4) Adequate distance between such parallel roads and the arterial, limited access road, or railroad so as to provide for proper approach grades and future grade separation.

(p) Street right-of-way shall be dedicated in conformity with any adopted major streets and roads plan element of the comprehensive plan and shall be as follows:

- (1) Urban Area: All subdivisions lying within an incorporated city or within the primary urban growth area thereof:

	<u>Minimum Right-of-Way for Street</u>
Principal or primary arterial with median (includes limited access routes)	120 feet;
Principal or primary arterial without median	100 feet;
Minor arterial or collector	80 feet;
Residential collector or local	60 feet;
Marginal access/cul-de-sacs ..	50 feet.

- (2) Suburban Area: All subdivisions lying outside an incorporated city and beyond the primary urban growth area of an incorporated city:

	<u>Minimum Right-of-Way for Street</u>
Secondary arterial (County)	150 feet;
Collector	80 feet;
Local street or road	70 feet.

21-607.4

- (q) The grades of streets shall not exceed the following:

	<u>Grade</u>
Arterials	5%;

Collector	10%;
Marginal access	10%;
Local	10%;

unless a variance is granted by the planning commission.

(r) The finished grade for all streets and roads designated to provide for ingress, egress and circulation within a subdivision located in the floodplain shall be such that the flood depth for the 100 year flood (if known) will not exceed the following:

	<u>Depth</u>
Arterials	1.0 feet;
Collector	2.0 feet;
Marginal access	2.0 feet;
Local	2.0 feet.

A variance may be granted by the planning commission, subject to review in accordance with K.S.A. Chapter 12, Article 7.

21-607.5 (s) The radius of curvature of the centerline of all street rights-of-way shall be not less than the following, except that in the case of unusual physical conditions the appropriate governing body may approve a variance:

	<u>Radius, Minimum</u>
Principal or primary arterial.....	500 feet;
Minor or secondary arterial	300 feet;
Collector.....	300 feet;
Local, marginal access.....	100 feet.

Any reverse curve on primary arterials shall be joined by a tangent of at least 100 feet in length.

21-607.6 (t) Half-streets are prohibited, except where essential to the reasonable development of the subdivision in conformity with the other provisions of these regulations; Provided, that the planning commission finds that it will be practical to obtain the dedication of the other half of the street right-of-way when the adjoining property is subdivided. Whenever a half street, or portion thereof, is existing and adjacent to a tract to be subdivided, the other half of the street, or portion thereof, shall comply with the right-of-way requirements of these regulations and shall be platted within each tract.

(u) All new construction shall meet the design and construction requirements of the city and/or county as provided in these regulations and as set forth in section 21-708.

(v) No street names shall be used which will duplicate or be confused with the names of existing streets. Existing street names shall be used where the street to be named is, or would be, a logical extension of an existing street even though separated by undeveloped land, natural physical barriers or man-made obstructions. Street names shall be proposed by the subdivider and approved by the appropriate governing body. (Ord. 5257)

21-608. ALLEYS.

(a) Alleys shall be provided in commercial and industrial districts, except that the governing body may waive this requirement where other definite or assured provisions are made for service access, off-street loading and unloading and parking spaces consistent with and adequate for the uses proposed.

(b) Alleys designed to serve commercial and industrial areas shall have a right-of-way width of not less than 30 feet.

(c) Alleys shall comply with the construction standards of the city and/or county, as provided in these regulations.

- (d) Alleys shall not be permitted in residential areas.
- (e) Intersecting alleys should be avoided. Where such intersections are necessary, a turning radius shall be provided to permit safe vehicular movement.
- (f) Dead-end alleys should be avoided. Where such alleys are necessary, they shall be provided with adequate turn-around facilities. (Ord. 5257)

21-609. EASEMENTS.

- (a) Utility easements shall be provided where necessary to serve the subdivision. They shall be centered on rear or side lot lines and shall be at least 15 feet and 10 feet wide respectively, except that easements for street lighting purposes only shall not exceed 10 feet.
- (b) Drainage easements for water courses, drainage channels or streams which traverse a subdivision may be required. When required, drainage easements shall be exclusively for that use and separate from the dedication of other utility easements. Upon the request of the planning commission, the appropriate engineer shall make a study and report his or her recommendation to the planning commission as to the desired width of such easement. Such study and report shall be based on the 100 year flood depth (if known), or the regulatory flood elevation when provided by the Federal Insurance Administrator.
- (c) Pedestrian-way easement for pedestrian use may be required when a block exceeds 800 feet in length. Such easement shall extend entirely across the width of the block at approximately its midpoint. It shall have a minimum width of 10 feet.
(Res. 98-45; Ord. 7010)

21-610. BLOCKS.

- (a) The lengths, widths, and shapes of blocks shall be determined with due regard to:
 - (1) Limitations and opportunities of topography;
 - (2) Provision of building sites adequate for the special needs of the type of use contemplated;
 - (3) Zoning requirements as to lot sizes and dimensions;
 - (4) Need for convenient access, circulation, and control of street traffic for safety.
- (b) A block shall not exceed 1,320 feet in length (centerline to centerline of roads or streets) unless such blocks are adjacent to a limited access highway or arterial street or unless previous adjacent layout or topographical conditions justify a variation from this requirement.
- (c) Blocks planned for residential purposes should be of sufficient width to allow for two tiers of lots of appropriate depth.
- (d) Blocks may be irregular in shape provided their design meets the requirements of lot standards, traffic flow and control considerations and any applicable neighborhood development plan if one has been approved for that area. (Ord. 5257)

21-611. LOTS.

- (a) The size, width, depth, shape, and orientation of each lot in a subdivision should take into consideration location, topography, physical features, type of use contemplated and the appropriate zoning ordinance, as well as effect on adjacent lots.
- (b) Lots for commercial and industrial use should be of appropriate size and arrangement to allow for adequate off-street parking and loading facilities.
- (c) The boundary of a residential lot abutting any street shall be not less than 35 feet and the length of the front building line shall be not less than allowed by the appropriate zoning ordinance or resolution. If requested by planning staff, the building envelope for proposed lots shall be shown on preliminary plats.
- (d) Double frontage and reverse frontage lots should be avoided except where they are needed to provide for the separation of residential development from arterial streets or to overcome specific disadvantages of topography and orientation. A planting screen

easement of at least 10 feet shall be provided along the portion of the lots abutting such an arterial street if required by the planning commission.

(e) Corner lots should be wider than interior lots to allow for appropriate building setbacks and sufficient yard space. If requested by planning staff, the building envelope shall be shown on preliminary plats.

(f) Whenever an area is divided into lots containing one or more acres, and there is a possibility that such lots may eventually be re-subdivided into smaller lots, consideration must be given to the highway, street, and lot arrangement of the original subdivision so that additional minor streets can be opened later to permit a logical arrangement of smaller lots. In the primary urban growth area, provision for easements for the future opening and extension of such streets may, upon recommendation of the planning commission and the approval of the appropriate governing body, be made a requirement of the plat.

(g) Lot numbers shall be assigned by starting in the northeast corner of each block and proceeding in a counterclockwise direction. When a street or road separates a group of lots, a new block shall be identified, and the lots within the new block shall be numbered as herein specified.

(Res. 98-45; Ord. 7010)

21-612. BUSINESS, COMMERCIAL, INDUSTRIAL SUBDIVISIONS.

(a) Streets. Notwithstanding the other provisions of these regulations, the minimum right-of-way width of streets adjacent to an area designed, proposed or zoned for business, commercial, or industrial use may be increased by the planning commission to such extent as the commission may deem necessary to assure the free flow of through traffic without interference from parked or parking vehicles.

(b) Blocks. Blocks intended for business, commercial, or industrial use shall be designed specifically for such purpose, with adequate space set aside for off-street parking and loading.

(c) Marginal Street Access. When blocks or lots in a proposed business, commercial or industrial subdivision front on any limited access highway or arterial street, the subdivider may be required to dedicate a marginal access street to provide ingress and egress to and from such blocks or lots. (Ord. 5257)

21-613. PLANNED UNIT DEVELOPMENT.

A planned unit development may be approved by the planning commission even though the design of the project does not include standard street, lot and subdivision arrangements; Provided, that variation from the standards of these regulations can be accomplished without destroying the purpose and intent of these regulations. (Ord. 5257)

ARTICLE 7. PUBLIC IMPROVEMENTS

21-701. METHOD OF INSURING COMPLETION OF PUBLIC IMPROVEMENTS.

(a) The subdivider shall install or provide for the installation of all or a portion of the following facilities and improvements if required by the development policy of the appropriate governing body or the provisions of this article: curbs and gutters, streets, alleys, water systems, sanitary and storm sewer facilities, pedestrian-ways and sidewalks.

(b) No plat shall be approved for any subdivision prior to the planning commission's endorsement on a plat that such plat conforms to the requirements of these regulations; Provided, that the subdivider has presented evidence that one of the following will be submitted to the appropriate governing body:

(1) A written certification from the appropriate engineer that all required public improvements in that portion of a subdivision authorized for development have been completed in accordance with applicable improvement standards;

(2) A corporate surety performance bond from a corporation qualified to do business in Kansas, in a form satisfactory to the governing body, in an amount

estimated by the appropriate engineer to be sufficient to assure the governing body of the construction and installation of the uncompleted portion of required public improvements in accordance with applicable improvement standards;

(3) A petition for construction and installation of all or a portion of the required public improvements. However, property within the regulatory floodplain is not eligible for this option;

(4) A cash escrow deposit in an amount estimated by the appropriate engineer to be sufficient to assure the governing body of the construction and installation of the uncompleted portion of the required public improvements in accordance with applicable improvement standards;

(5) An irrevocable letter of credit from a financial institution qualified to do business in Kansas, in a form satisfactory to the governing body, in an amount estimated by the appropriate engineer to be sufficient to assure the governing body of the construction and installation of required public improvements in accordance with applicable improvement standards.

(c) The governing body may, at its discretion, determine which of such methods for insuring completion of improvements shall be presented by the subdivider. (Ord. 5515)

21-702. ESCROW DEPOSIT.

(a) The amount of the cash escrow deposit determined in accordance with section 21-701(b)(4) shall be deposited by the appropriate governing body in a special escrow account in the commercial bank in which the funds of such governing body are then deposited. This escrow deposit shall be invested and reinvested by such bank in short term government securities, the interest or discount from which shall be paid to the subdivider upon final release of such escrow deposit as hereinafter provided. Upon written certification from the appropriate engineer that the required improvements have been 30 percent completed, the governing body shall release 30 percent of such escrow deposit to the subdivider. Upon a like certification that the required public improvements have been 50 percent and thereafter, 75 percent completed, the governing body shall release 20 percent and 25 percent respectively, of the original escrow deposit to the subdivider. Upon written certification from the appropriate engineer that the required public improvements have been completed in accordance with applicable improvement standards, the balance of such escrow deposit, together with all earnings accrued thereon, shall be released to the subdivider.

(b) In the event the governing body finds that the completion of the required public improvements would impose an unnecessary hardship upon a subdivider, the governing body may, upon written application from the subdivider, release the cash escrow deposit, in whole or in part, as the governing body may in its discretion determine. (Ord. 5257)

21-703. PERFORMANCE BOND.

(a) In the event a performance bond has been presented for insuring the completion of public improvements in a subdivision, no occupancy permit shall be issued for any building in the subdivision prior to:

(1) The completion of required public improvements in accordance with applicable improvement standards, and

(2) A written certification from the appropriate engineer to the governing body that all required public improvements have been completed, and that they are undamaged.

(b) Upon written certification from the appropriate engineer that all required public improvements have been completed in accordance with applicable improvement standards, the governing body shall release both the principal and surety from the performance bond. Upon written certification from the appropriate engineer that a portion of the required public improvements have been completed in accordance with applicable improvement standards, the governing body shall, if it finds the public improvements have been at least 50 percent completed, reduce the performance bond in the ratio that the public

improvements completed bear to the total improvements required.

(c) In the event the governing body finds that the completion of the required public improvements would impose an unnecessary hardship upon a subdivider, the governing body may, upon written application from the subdivider, release the performance bond, in whole or in part, as the governing body may in its discretion determine. (Ord. 5257)

21-704. IRREVOCABLE LETTER OF CREDIT.

(a) The amount of an irrevocable letter of credit determined in accordance with section 21-701(b)(5) shall be submitted by the subdivider to the city or county engineer or other designated representative. By the 10th of each month, the city or county engineer or other designated representative will certify to an agent of the financial institution estimates of the amount of work completed by the contractor. The financial institution may submit a new letter of credit, which would reflect the balance of work remaining to be completed as determined by the appropriate engineer, to replace the previous letter of credit. Ten percent of the total project cost will be retained until the city or county engineer has accepted all of the public improvements in that phase of the subdivision.

(b) In the event the governing body finds, upon written application from the subdivider, that completion of the required public improvements would impose an unnecessary hardship upon a subdivider, the governing body shall direct staff to check with the clerk of the district court for liens or encumbrances against the public improvements; secure lien releases from all known prime contractors for the public improvements; and then, may direct the agent of the financial institution to release the letter of credit, in whole or in part, as the governing body may in its discretion determine. (Ord. 5907)

21-705. SIDEWALKS AND PEDESTRIAN WAYS.

(a) The installation of sidewalks and pedestrian ways in the city shall be as follows:

(1) Public sidewalks shall be installed on one side of all local residential streets and on both sides of all other streets unless such installation is specifically waived by the governing body, except that no sidewalk shall be required on the outer side (that side nearest arterial or collector street) of any frontage road. If frontage roads are contemplated, sidewalks will not be required on the adjacent paralleling arterial or collector street. Sidewalks will be installed on the side of the frontage road away from the adjacent paralleling arterial or collector street when the frontage road is constructed.

(2) Sidewalks shall be installed according to specifications adopted by the governing body.

(3) Sidewalks constructed along arterial streets shall be a minimum of 6 feet wide, except where 6 feet is determined to be a hardship the City Engineer can vary the width.

(4) Sidewalks along streets other than arterials shall be a minimum of 5 feet wide, except where 5 feet is determined to be a hardship the City Engineer can vary the width, provided it meets the standards adopted in the Americans with Disabilities Act Accessibility Guidelines (ADAAG) of 1990 - Appendix A to 28 CFR Part 36.

(5) In reviewing variance requests from the standard sidewalk width, special consideration shall be given to walks located in historic districts and areas with severe site topography which would make it impractical or difficult to build a sidewalk in accordance with the above standards.

(6) Sidewalks shall be constructed concurrently with the paving of the adjacent streets and such sidewalks are those which would by virtue of paragraph 2 above be required to be constructed within the same right-of-way as the street being paved.

(7) The planning commission may require the installation of an improved pedestrian way not less than four feet wide in easement space dedicated for that purpose within the incorporated city limits.

(8) No petitions for street improvements shall be considered by the governing body unless such petitions are accompanied by valid petitions for the construction of sidewalks or pedestrian ways, except where the governing body has specifically waived the installation as provided in paragraph (1) above. The total cost of all sidewalks or pedestrian way improvements shall be borne by the property benefited in the improvement district.

(b) In the unincorporated area of Douglas County, sidewalks or pedestrian ways may be required, as herein provided, upon the recommendation of the planning commission and approval of the Board of County Commissioners of Douglas County, Kansas. (Ord. 6357)

21-706

SEWAGE DISPOSAL SYSTEMS.

(a) New septic tanks are prohibited on any land which is platted under these regulations and is located in the City or in that part of unincorporated Douglas County, as designated by map in the comprehensive land use plan, in Service Area 1 of the Urban Growth Area (UGA). New septic tanks are also prohibited for unplatted areas located within the City. (Ord. 7732)

(b) Community sewage collection and treatment facilities (including lagoons) shall be provided for any such land identified in (a) above and shall be approved by the Kansas Department of Health and Environment and shall be designed to allow for future connection to a public sewer system. Maintenance of such facilities shall be provided by a corporate homeowner's association, benefit district, or other appropriate entity. Evidence shall be submitted with the final plat showing the establishment of such an entity to be responsible for maintenance and management of the system. (Ord. 7732)

(c) Within the unincorporated portions of Douglas County, outside of Service Area 1 of the UGA, septic tanks are permitted under the following conditions unless exempted per Chapter 2-6.3 of the Douglas County Sanitary Code: (Ord. 7732)

(1) on parcels, tracts, or lots of three acres or more when a public water supply is provided; or

(2) on parcels, tracts, or lots of five acres or more when a non-public water supply is provided.

No part of a septic tank or lateral field is permitted in areas of land located within the floodway. In situations in which septic systems have been proposed, no final plat shall be approved until the subdivider has presented evidence that septic systems, as a method of sewage disposal for the subdivision, have been approved by the Lawrence-Douglas County Health Department. Where septic tanks are allowed under these regulations, they must be approved by the county health officer - or his/her authorized representative. They shall be constructed in accordance with "Standards on Individual Septic Tank - Lateral Fields and Other Sewage Disposal Systems for the Unincorporated Territory of Douglas County, Kansas," Lawrence-Douglas County Health Department, October 1988, or as revised. (Ord. 6160, Ord. 7732)

(d) The approval of any plat requiring connection to the City's wastewater system is contingent upon the availability and adequacy of the City to provide wastewater services to the area being subdivided. It is the subdivider's responsibility to ensure their proposed development takes into consideration the City's long-range plans,

studies, reports, and similar documents for wastewater services. Failure to conform to these provisions warrant denial of the subdivision plat. (Ord. 7732)

21-707

WATER SUPPLY.

(a) Before approval of a final plat, the subdivider shall provide written approval from the Lawrence-Douglas County Health Department that:

(1) a public water supply is provided for all lots, or

(2) an alternate water supply is provided for all lots if a public water supply is not available.

Upon plat approval for land located within the Urban Growth Area (UGA), the subdivider must sign an agreement to connect to a public water system when public water lines are within 1000 feet to planned improvements on the property. When water wells are constructed, they shall be constructed in accordance with the "Manual of Recommended Standards for Locating, Constructing and Equipping Water Wells for Rural Homes," Bulletin 4-1, of the Kansas State Department of Health, March, 1971, as may be amended. Subdividers are required to consult with the appropriate Township Fire Department and Rural Water District to determine if the provision of fire hydrants as part of the public water supply system is feasible. In those cases where the provision of fire hydrants as part of the public water supply system is determined to be feasible, it must be provided. Evidence shall be submitted with the final plat showing compliance with the requirements of this section. (Ord. 6373; Res. 93-6)

(b) The approval of any plat requiring connection to the City's water system is contingent upon the availability and adequacy of the City to provide water services to the area being subdivided. It is the subdivider's responsibility to ensure their proposed development takes into consideration the City's long-range plans, studies, reports, and similar documents for water services. Failure to conform to these provisions warrant denial of the subdivision plat. (Ord. 7732)

21-708. OTHER PUBLIC IMPROVEMENTS.

(a) All other public improvements, including but not limited to curbs, gutters, streets, alleys, storm sewers and storm drainage, shall comply with the standards established by the city engineer for property within the city, and shall comply with standards established by the county engineer for property in the unincorporated area of Douglas County (per Douglas County Res. #72-30) and amendments thereto. Such standards are incorporated herein by reference.

(b) Public roads in a platted subdivision located in the unincorporated areas of the county shall be built to the adopted rock road or paved road standards, according to the following provisions:

(1) Subdivision roads located within the Primary Urban Growth Area shall be constructed to the paved road standards adopted by the Board of County Commissioners.

(2) Subdivision roads located within the Rural Unincorporated Area, at a minimum, shall be constructed to the adopted rock road standard. Paved roads are encouraged in the Rural Unincorporated Areas. Once developed as a rock road, subsequent adjacent property owner requests for improvement to paved road standards shall be completed at the property owner's expense.

(c) In the unincorporated area of Douglas County, sufficient grade and alignment stakes shall be set by a licensed professional engineer or licensed land surveyor, engaged by the subdivider at a time of construction, to assure compliance with plan, profile and drainage of roads and streets and such other public improvements as proposed, and submitted with the final plat and approved by the county engineer. Compliance with the items listed above and use of appropriate construction methods shall be determined by the county engineer. A permit shall be issued by the county engineer for the construction of a future public improvement prior to commencement of any work activity associated with the improvement. A fee in an amount determined by resolution of the Board of County Commissioners shall be charged for the permit.

(d) Telephone cable television and/or electrical lines will be located underground when located in the Primary Urban Growth Area, and this requirement will be noted on the face of the plat. (Ord. 6374; Res. 93-7)

21-708a. STREET TREE REGULATIONS FOR CITY SUBDIVISIONS.

All city subdivisions final platted hereinafter shall be required to provide a street tree plan which meets the following criteria: (Ord. 7440)

21-708a.1 MINIMUM TREE REQUIREMENTS.

Street trees shall consist of canopy shade and/or ornamental trees, as defined below and meeting the following minimum requirements: (Ord. 7440)

(a) Size. Medium or large trees, as defined by Section 18-103(E) of the Code of the City of Lawrence, Kansas, and amendments thereto, which can reach a mature height of 45 feet or greater are required except that ornamental trees planted pursuant to Section 21-708a.2 are not subject to the 45 foot height requirement. The minimum trunk caliper of street trees, at the time of planting, measured six inches above the ground in accordance with the *American Nurseryman Standards* shall be as follows:

<i>Street Tree Type</i>	<i>Minimum Trunk Caliper At Time of Planting:</i>	<i>Mature Height Restrictions</i>
<i>Canopy Shade Tree</i>	2.0" trunk caliper balled and burlapped or equivalent	45' or greater
<i>Ornamental Tree</i>	1.5" trunk caliper balled and burlapped or equivalent	20' or less

- (b) Number. One tree shall be provided for every 40 feet of street frontage. The City may approve a Master Street Tree Plan that varies from this requirement to allow for driveways, utilities, and intersection visibility requirements.
- (c) Minimum Species Diversity. The following minimum requirements shall apply to all master street tree plans. To prevent uniform insect or disease susceptibility, a mix of species shall be provided. The Parks and Recreation Department shall, upon request, provide a list of trees that shall be acceptable to satisfy the requirements for master street tree plans. To promote diversity in the urban forest, the number of trees required to be planted shall be in accordance with the following requirements:

<i>Number of Trees Per Plat</i>	<i>Minimum number of species</i>
1-10	1
11-20	2
21-30	3
31-40	4
41 +	6

21-708a.2 PLANTING LOCATION AND CLUSTERING.

- (a) Location in RS and RM-D Zoning Districts. Street trees shall be located in the front-yard, building setback and/or adjacent to the right-of-way at a distance not greater than ten (10) feet from the boundary line of the right-of-way. Street trees shall not be planted until after planned utilities have been installed. Trees shall be planted no closer than eight (8) feet from existing underground utility lines. On corner lots, no tree shall be planted nearer than fifty (50) feet from the intersecting curb lines of the two streets. No tree shall be planted between the curb and the sidewalk if the clear space is less than 3 feet wide. (Ord. 7440)
- (b) Location in all other zoning districts. Street trees shall be located either within the street right-of-way or within the required front yard building setback, PROVIDED, no tree is located farther than 30 feet from the back of the curb, with the exception of lots on the radius of a cul-de-sac which shall be located not greater than 45 feet from the back of the curb. Street trees shall not be planted until planned utilities have been installed. Trees shall be planted no closer than 8 feet from existing utility lines. On corner lots, no tree shall be planted nearer than 50 feet from the intersecting curb lines of the two streets. No tree shall be planted between the curb and the sidewalk if the clear space is less than 3 feet wide. [RE: Chapter XVIII of the City Code] (Ord. 7440)
- (c) Clustering. Street trees shall be evenly spaced along the street frontage unless one or more of the following conditions exist: a) the lot is on a corner; b) the presence of existing trees, which qualify for credit under section 21-708a.4, interrupt the even spacing of trees; c) topographic conditions (i.e. steep gradient, rock outcroppings), based on staff evaluation, dictate building location and driveway placement which interrupts the even spacing of street trees. (Ord. 7440)

(d) Overhead Lines and Fixtures. If the planting site will prevent the growth of canopy shade trees due to overhead utility lines, ornamental trees shall be permitted as a substitution for the canopy shade trees in accordance with the Location and Clustering requirements of this Section and shall be subject to the following requirements: a) the canopy of the ornamental tree(s) shall be no closer than 10 feet from the overhead lines and its mature height shall not exceed 20 feet; and; b) the ornamental tree(s) shall be planted at least 15 feet away from any streetlight. . (Ord. 7440)

21-708a.3 MASTER STREET TREE PLAN

- (a) A proposed written Master Street Tree Plan shall be submitted at the time a final plat is submitted to the Planning Department for review. (Ord. 7440)
- (b) Prior to recording the final plat with the Register of Deeds, the applicant shall provide a Master Street Tree Plan that is signed and properly acknowledged by the property owner(s). The Master Street Tree Plan shall be written to be binding on present and future property owners. A reference line shall be provided on the final plat indicating the book and page where the Master Street Tree Plan is filed which shall be completed by staff at the time the final plat is filed at the Register of Deeds. (Ord. 7440)
- (c) The Master Street Tree Plan shall be prepared in a format established by the Planning Department and shall include the following information: (a) a list of acceptable street tree types; (b) the number, location and size of existing trees proposed to be saved and applied to the fulfillment of this requirement; (c) the provisions to be taken pursuant to Section 18-107 of the Code of the City of Lawrence, Kansas during construction for the protection of existing trees to be saved (if any); (d) if trees are proposed in street medians, provisions for maintenance (including how water line extensions will be paid); and (e) the identification of power line locations. (Ord. 7440)

21-708a.3.1 PROVISION OF RIGHT OF ENTRY.

- (a) Each final plat filed on and after January 1, 2002, for detached or attached single family residential structures to be built on individual platted lots in a City residential subdivision in RS and RM-D zoning districts shall contain the following note on the face of the final plat: "The City is hereby granted a temporary right of entry to plant the required street trees pursuant to Chapter 21, Article 7, Section 21-708a of the City Subdivision Regulations". (Ord. 7440)

21-708a.4 CREDIT FOR EXISTING TREES

Existing trees may be applied toward the fulfillment of this street tree requirement when: (Ord. 7440)

- (a) All of the following conditions exist:
 - (1) The tree is healthy and of a species the Director of the Parks and Recreation Department or his/her designee determines to be desirable as a street tree;
 - (2) The existing tree is within the street right-of-way or within 30 feet of the back of the curb or proposed curb line;
 - (3) The tree(s) caliper of a canopy shade tree is at least two inches measured six inches from the ground, or in the case of an ornamental tree, the tree

caliper is at least 1.5 inches, measured six inches from the ground, in accordance with the *American Nurseryman Standards*;

- (4) The applicant has submitted a tree protection plan that conforms with the requirements of Section 18-107 of the Code of the City of Lawrence, Kansas, and amendments thereto, and
- (b) The existing or proposed location of overhead utility lines along the street right(s)-of-way will not prevent the full growth of the street tree.

21-708a.5 TIMING OF LANDSCAPE PLACEMENT

- (a) The timing of, and manner in which the street trees shall be planted for detached or attached single family residential structures to be built on individual platted lots in City residential Subdivisions Final Platted in RS and RM-D Zoning Districts filed on and after January 1, 2002 shall be in accordance with City Administrative Policy No. 83. (Ord. 7440)
- (b) The timing of, and manner in which the street trees shall be installed on those undeveloped lots for which the City has not issued a building permit for detached or attached single-family residential structures on individual lots within existing platted subdivisions in the RS and RM-D zoning districts filed before January 1, 2002 shall be in accordance with City Administrative Policy No. 83. (Ord. 7440)
- (c) For all other required street trees not covered by Sections 21-708a.5(a) and 21-708a.5(b) and/or developments requiring a site plan: (Ord. 7440)

(1) Trees shall be installed, after other public improvements, if water is available for their care and maintenance. The property owner or his designee shall be required to guarantee planting of the tree at the time a building permit application is submitted.

(2) Street trees shall be planted prior to final building inspection or the issuance of an occupancy permit. Consideration shall be given to seasons of the year and adverse weather conditions in requiring completion of tree planting PROVIDED, the guarantee for planting is extended to the date of completion of tree planting.

- (3) Guarantee shall be provided in one of the following forms:
(Ord. 7440)

(a) A performance agreement be signed to guarantee planting of the street trees. The performance agreement would make issuance of an occupancy permit subject to completion of the installation of street trees. If season of the year becomes a problem, another form of guarantee can be substituted to permit the issuance of an occupancy permit; or,

(b) A cash escrow deposit in a federally insured commercial bank or savings and loan institution authorized to do business in Kansas in an amount set forth in the City of Lawrence Administrative Policy No. 83. This escrow deposit shall be invested and reinvested by such bank or savings and loan, the interest or discount from which shall be paid to the subdivider upon final release of such escrow deposit as determined by Section 21-702. Money will be withdrawn to pay the developer or a designated nursery after the installation of said trees and prior to the issuance of a final

certificate of inspection; or

(c) The Governing Body may, at its discretion, accept an irrevocable letter of credit from a financial institution or a corporate surety performance bond in lieu of a cash escrow deposit to insure the planting of the required street trees.

21-708a.6 ON-GOING MAINTENANCE

(a) The on-going maintenance of trees planted by the City shall be in accordance with the maintenance provisions set forth in City of Lawrence Administrative Policy No. 83. (Ord. 7440)

(b) For all other required street trees not covered by section 21-708a.6(a) and/or developments requiring a site plan, the on-going maintenance of trees, once planted, shall be the responsibility of the property owner adjacent to the public right-of-way or private street. If a street tree dies or fails to be planted within one calendar year of issuance of an occupancy permit, the City shall notify the property owner of the need to plant or replace the tree(s) as applicable. Should the property owner fail to plant or replace the tree within one-hundred and twenty (120) days of notification, the City shall reserve the right to cause the required trees to be installed and the cost of the tree(s), plus the cost of installation of the tree(s), shall be assessed to the property owner. (Ord. 7440)

21-709. RECOMMENDED IMPROVEMENTS.

Although the following improvements are not required, the subdivider is encouraged to provide them as being valuable to the safety, convenience and attractiveness of any land development:

(a) Street lighting, the developer making necessary arrangement with the appropriate governing body and public service company involved;

(b) Adequate landscaping;

(c) Streets and other public improvements according to city standards when located in the Primary Urban Growth Area;

(d) Dedication of 10 percent of the subdivided area for park and open space purposes. (Ord. 6375; Res. 93-8)

ARTICLE 8. APPEALS AND VARIANCES

21-801. APPEALS.

The subdivider of a proposed subdivision may appeal to the governing body decisions made in the enforcement or interpretation of these regulations by the planning department, planning commission or the appropriate engineer. Any such appeal shall provide a hearing de novo. In the event the governing body sustains such decisions, the prior enforcement or interpretation shall be final, except as otherwise provided by law. If the governing body overrules the planning commission, the governing body shall state its decision, and the reasons therefor, in writing, and submit the decision and plat to the planning commission, seeking concurrence. In case of nonconcurrence, the decision of the appropriate governing body shall be final. (Ord. 5257)

21-802. VARIANCES.

In cases where there is hardship in carrying out the literal provisions of these regulations (such as design criteria pertaining to lot width, lot depth, block depth, etc.), the planning commission may grant a variance from such provisions, except that in cases where there is hardship in carrying out the literal provisions found in section 21-706 (sanitary sewers) the appropriate governing body may grant a variance from such provisions.

(a) An application for a variance shall be made to the planning department. The planning commission shall give the applicant and any other interested persons an opportunity to be heard with respect to the proposed application for a variance from the provisions of the regulations, except that the governing body shall give the applicant and any other interested persons an opportunity to be heard with respect to the proposed application for a variance from the provisions of section 21-705.

(b) A variance shall not be granted unless all of the following apply:

- (1) Strict application of these regulations will create an unnecessary hardship upon the subdivider;
- (2) The proposed variance is in harmony with the intended purpose of these regulations; and,
- (3) The public health, safety and welfare will be protected.

(Ord. 7593)

21-803. VARIANCE; PLANNED UNIT DEVELOPMENT.

When a plat is presented which includes land for which a planned unit development plan has been approved, the planning commission may vary the design standards in these regulations as necessary to conform to such finally approved planned unit development plan. (Ord. 5257)

ARTICLE 9. DEFINITIONS.

21-901. DEFINITIONS.

Any word or phrase which is defined in this section shall have the meaning assigned to it by this section whenever the word or phrase is used in this chapter.

(1) Agricultural Purposes. The growing of crops and the raising of livestock and poultry for profit on a tract of land of 10 acres or more. The feeding or disposal of community or collected garbage shall not be deemed an agricultural use.

(2) Alley. A minor right-of-way dedicated to public use which gives a secondary means of vehicular access to the rear or side of properties otherwise abutting a street and which may be used for public utility purposes.

(3) Appropriate Engineer. The city engineer within the corporate limits of the City of Lawrence and the county engineer in the unincorporated area of Douglas County.

(4) Arterial Street. A street serving major traffic movements, designed primarily as a traffic carrier between, around, and across cities, and between various sections of the county and which forms part of the through-street network. (The designed function is to move traffic safely, efficiently, and quickly; to protect this function direct access is prohibited where practical. Such streets are subject to various and necessary control of entrances, exits, and curb uses.)

21-901.1 (5) Block. A parcel of land used or intended to be used for urban purposes and entirely surrounded by public streets, highways, railroad rights-of-way, public walks, parks or green strips, rural land or drainage channels or a combination thereof.

(6a) Building Envelope. The buildable area of a lot defined by the minimum yard setbacks required by the Zoning Ordinance.

(6b) Building Line or Setback Line (Front). A line nearest the front of and across a lot or parcel of land establishing the minimum open space to be provided between the front line of a building or structure and the line of the fronting street right-of-way.

(7) Collector Street. A street which is designed to serve traffic needs between arterial and local streets and not to provide access to abutting properties.

(8) Comprehensive Plan. The comprehensive development plan for the city or county, officially approved or adopted to provide long-range development policies, and which may include, among other things, the plan for land use, land subdivision, circulation, and community facilities.

(9) Cul-de-sac. A street that has one outlet and is permanently terminated by a vehicle turn-around at the other end.
(Res. 98-45; Ord. 7010)

21-901.2 (10) Design Standards or Design Requirements. All requirements and regulations that relate to design and layout of subdivisions.

(11) Double Frontage Lot. A lot with two opposite lot lines abutting upon streets which are substantially parallel.

(12) Easement. A right or privilege for the use of land granted by the owner for a specific use or purpose to another or to the public, also, the tract of land covered by such authorization of right or privilege.

(13) Engineer. A professional engineer or land surveyor licensed by the State of Kansas or licensed to practice in the State of Kansas.

(14) Final Plat. A map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications, restrictions, and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets, alleys, public areas and other dimensions of land.

(15) Floodplain or Floodplain District. That area designed by the governing body as susceptible to flooding including but not limited to the regulatory floodplain designated by the Federal Insurance Administrator.

(16) Governing Body. The Lawrence City Commission within the corporate limits of the City of Lawrence and the Board of County Commissioners in the unincorporated area of

Douglas County.

21-901.3

(17) 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 required street width.

(18) Local Street. A street or road which provides primarily for direct access to adjoining properties and is designed to serve minor traffic needs.

(19) Lot. The smallest basic portion of a subdivision or other tract of land, normally intended to be developed and transferred individually.

(20) Lot Depth. The mean horizontal distance between the front lot line and the rear lot line.

(21) Lot Width. The mean horizontal distance between the side lot lines.

(22) Marginal Access Street (Frontage Road). A local street which is parallel with and adjacent to a limited access arterial street, road, or highway and is designated to provide direct access to adjacent property.

(23) Minimum Elevation for Building. The finished floor elevation of the lowest floor.

(24) Neighborhood Development Plan. A general design plan for a designated neighborhood or planning area showing proposed collector streets, frontage roads, and concepts of local streets, school and park sties, and general land use areas for the neighborhood.

21-901.4

(25) 100-Year Flood. A flood having a chance occurrence in any one year of one percent. A 10-year flood is a flood having a chance occurrence in any one year of 10 percent.

(26) Owner. Any person or persons, firm or firms, corporation or corporations, or any other legal entity having title to land.

(27) Pedestrian-Way. A strip of land dedicated for public use which is reserved across a block for the purpose of providing pedestrian access to adjacent areas.

(28) Planning Commission. The Lawrence-Douglas County Metropolitan Planning Commission.

(29) Planning Department. The Lawrence-Douglas County Metropolitan Planning Department.

(30) Preliminary Plat. A map of proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate its suitability for the proposed subdivision.

(31) Reserved.

(32) Private Street or Road. A non-dedicated way which forms the principal vehicular access to a property. Private streets or roads are prohibited in the unincorporated area of Douglas County, except for those that were approved prior to adoption of this definition [effective 12/15/98] . A private drive serving one residence is not considered a private street or road. In every case, before Douglas County, or any township thereof, will consider a request to assume maintenance of any existing private road, by dedication or otherwise, the property must be platted and the road must previously have been brought to the current Douglas County road standards for subdivisions. (Res. 98-54/Ord. 7054)

(33) Public Improvements. All public 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 purposes.

(34) Public Water. Water supplied for domestic purposes by a municipality or county and approved by the Kansas State Department of Health.

21-901.5

(35) Regulatory Flood. The flood determined by the Federal Insurance Administration as having a one percent chance of being equaled or exceeded in any given year.

(36) Regulatory Flood Elevation. The elevation at which the regulatory flood is determined to occur.

(37) Regulatory Floodplain. Land included within the regulatory floodway and floodway fringe areas as determined by the Federal Insurance Administration.

(38) Resubdivision. The further subdivision of a tract of land which has previously been lawfully subdivided and for which a plat of such prior subdivision has been duly recorded.

(39) Road or Roadway. The paved or improved area of a street right-of-way, exclusive of sidewalks, driveways, or related uses.

(40) Rural Area. The unincorporated area of Douglas County lying outside the City of Lawrence, the Primary Urban Growth Area and the Suburban Growth Area.

21-901.6

(41) Street. The dedicated right-of-way or easement, whether public or private.

(42) Street Width. The distance measured perpendicular to the centerline of the paved portion of the right-of-way; either to the back of the curb, where a curb exists, or to the edge of the pavement where no curb exists.

(43) Subdivider. A person, firm, corporation, copartnership, or association subdividing land.

(44) Subdivision. The voluntary division of a lot, parcel, or tract of land into two or more parts for the purpose, whether immediate or future, of sale or building development, including resubdivision.

(45) Suburban Growth Area. An area of anticipated suburban density as shown on an official map approved by the governing bodies.

(46) Townhouse. A townhouse is one of a group or cluster of two or more single-family residential dwellings, attached or unattached, which together are designed and developed to form an integral development harmonious with adjacent land uses/development and when present with deliberate awareness of the unique design, history of functional characteristics of the existing housing stock. Prior to development, the lot or tract must meet present lot width, lot depth and lot area requirements and before and after development must front upon a public street or private drive. For the purpose of side yard regulations, the structure(s) if unattached, must meet all applicable building and fire codes and observe a setback of not less than 10 feet between buildings.

(47) Unnecessary Hardship. The condition resulting from application of these regulations when viewing the property in its environment that is so unreasonable as to become an arbitrary and capricious interference with the basic right of private property ownership, or convincing proof exists that it is impossible to use the property for a conforming use, or sufficient factors exist to constitute a hardship that would in effect deprive the owner of their property without compensation. Mere financial loss or the loss of a potential financial advantage does not constitute unnecessary hardship. (Ord. 7593)

(48) Unincorporated Area. That portion of Douglas County lying outside any incorporated municipality. (Ord. 5257)

(49) Urban Growth Area. The area around the City of Lawrence where annexation is encouraged to ensure that the staging of development corresponds with the availability of facilities and services.

Solely for the purpose of interpretation of the exemption section of these regulations, a property shall be considered to be located within the Urban Growth Area of Lawrence (UGA) if 100% of the tract or ownership parcel as shown on the 1998 Property Ownership Map, Douglas County (which was prepared by York Publications in 1998) is within the UGA boundary shown on Figure 9 in HORIZON 2020. An ownership tract or parcel having less than 100% of its land area within the UGA as shown on Figure 9 shall not be construed to be within the Urban Growth Area of Lawrence. (Ord. 7110/Res. 99-34)

ARTICLE 10. INTERPRETATION AND CONSTRUCTION

21-1001. INTERPRETATION AND CONSTRUCTION.

(a) Where the conditions imposed by the provisions of these regulations are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of any other applicable law, ordinance, resolution, rule, or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

(b) The provisions of these regulations are not intended to abrogate any easement, covenant, or other private agreement; provided, that where the requirements of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement, the requirements of these regulations shall govern.

(c) A subdivision of land which was not lawful at the time of the adoption of these regulations shall not become or be made lawful solely by reason of adoption of these regulations.

(d) The provisions of these regulations are cumulative and are additional limitations upon all other laws and ordinances heretofore passed or which may be passed hereafter governing any subject matter in the provisions of these regulations. (Ord. 5257)

ARTICLE 11. AMENDMENTS

21-1101. AMENDMENT PROCEDURE.

These regulations may be amended at any time after the planning commission has held a public hearing on the proposed amendment. Notice of such hearing shall be published at least once in the official city and county newspaper. Such notice shall be published at least 20 days prior to the hearing. Such notice shall fix the time and place for such hearing and shall describe such proposal in general terms. The planning commission shall prepare its recommendations and by an affirmative vote of a majority of the entire commission adopt the same in the form of proposed subdivision regulations and shall submit the same, together with a written summary of the hearing to the governing body. The governing body either may:

- (1) Approve such recommendation by ordinance in the city or resolution in the county;
 - (2) Override the planning commission's recommendation by a 2/3 majority vote;
- or,
- (3) May return the same to the planning 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 planning commission's recommendations, the planning commission, after considering the same, may resubmit its original recommendations giving the reasons therefor or submit new and amended recommendations. Upon the receipt of such recommendations, the governing body, by a simple majority, may adopt or may revise or amend and adopt such recommendations by the respective ordinance or resolution, or it need take no further action. If the planning commission fails to deliver its recommendations to the governing body following the planning 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 planning commission as a resubmission of the original recommendations and proceed accordingly. The proposed subdivision regulations and any amendments shall become effective upon publication of the respective adopting ordinance or resolution. (Ord. 6288)

21-1102. PENALTY.

Any person violating any of the provisions of this joint resolution and ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500 or by imprisonment for a period not to exceed 90 days, or by both such fine and imprisonment. Each transfer, or offer for sale, of a lot or parcel of land in violation of these regulations shall be considered a separate offense. (Ord. 5257)

ARTICLE 12. BUILDING SETBACKS, ENFORCEMENT, EXCEPTIONS

21-1201. BUILDING OR SETBACK LINES ON MAJOR STREETS OR HIGHWAYS.

Building and parking setback lines are hereby established on certain major streets or highways as follows: West Sixth Street from County Route 13 to Monterey Way: setback line of 50 feet. (Ord. 6146)

21-1202. APPEALS-SETBACKS.

Notwithstanding Article 8 of this Chapter, any appeal of the building and parking setback line established for major streets or highways shall be to the Board of Zoning Appeals. The Board of Zoning Appeals shall have the power to modify or vary the building and parking setback line in specific cases in order that unwarranted hardship, which constitutes a complete deprivation of use as distinguished from merely granting a privilege, may be avoided. In the absence of such a hardship, the intended purpose of the building and parking setback line shall be strictly observed. (Ord. 6146)

21-1203. ENFORCEMENT.

No building or occupancy permit shall be issued for any new building within the plat approval jurisdiction of the City of Lawrence, or the unincorporated land in Douglas County, which fails to comply with the requirements of this Article. (Ord. 6146)

21-1204. EXCEPTIONS.

Any non-conforming residential building or structure located within the 50 foot building and parking setback, which is damaged by fire, flood, explosion, wind, earthquake, war, riot, or other calamity or Act of God, may be restored or reconstructed provided; said restoration or reconstruction occurs on the original foundation. The building or structure may not be rebuilt to a greater density than existed before the damage. (Ord. 6146)

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