

# CITY OF CHANUTE, KANSAS

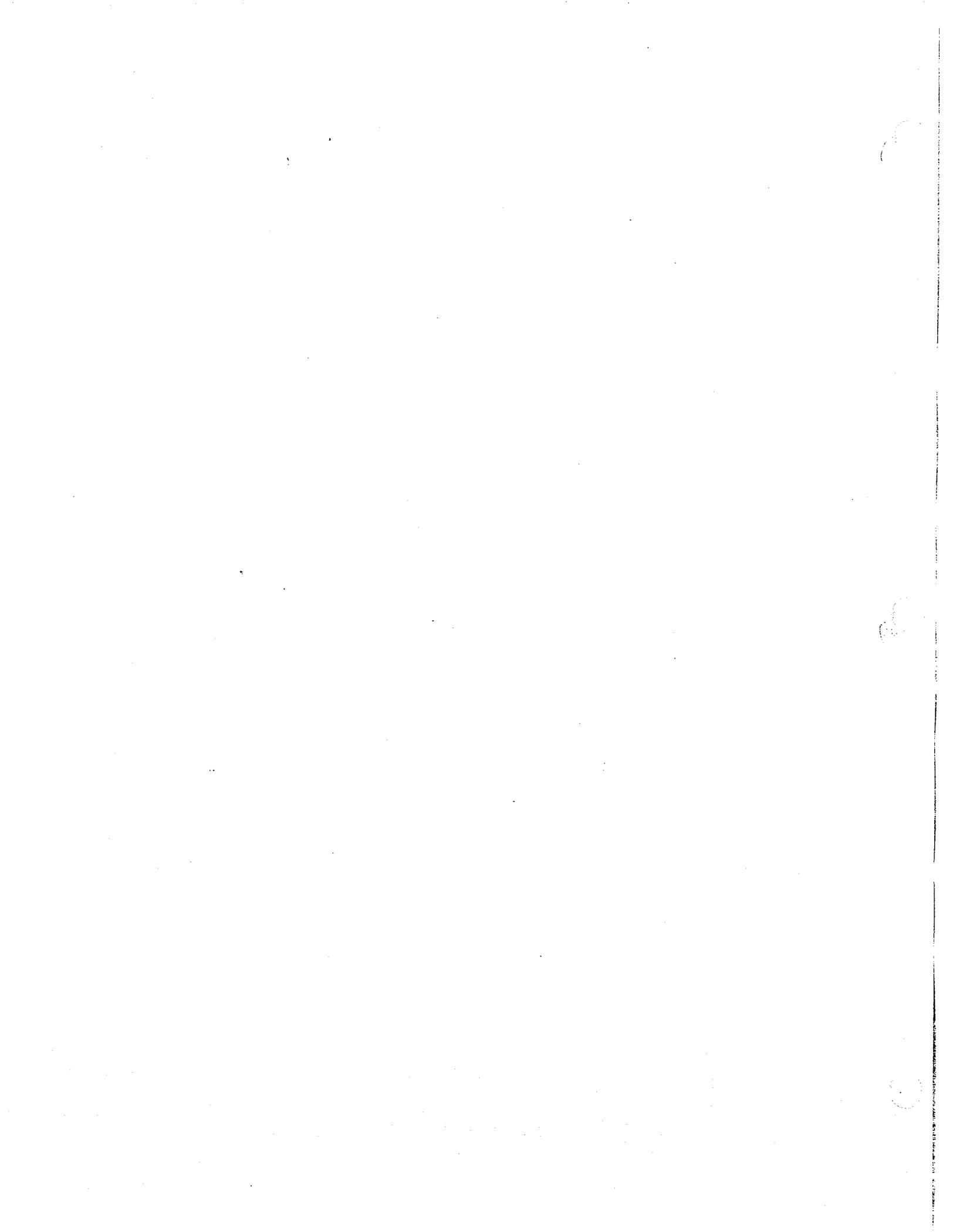
## Subdivision Regulations

*OFFICIALLY ADOPTED*

September 10, 2001

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CORPORATION



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## Article One GENERAL PROVISIONS

### Section 1.01 Title

These regulations, including all appendices made a part hereof, shall be known and may be cited as the "Chanute Subdivision Regulations", and shall hereinafter be referred to as "these regulations".

### Section 1.02 Jurisdiction

These regulations shall apply to all land located within the incorporated area of Chanute, Kansas and unincorporated territory lying outside the City forming the total community of which Chanute is a part;

### Section 1.03 Authority

- A. Planning Commission. The Planning Commission of the City of Chanute, Kansas is vested with the authority to review, approve, conditionally approve and disapprove applications for the subdivision of land per these regulations. The Planning Commission may grant variances from these regulations pursuant to the provisions of Section 1.11.
- B. Governing Body. The Governing Body of the City of Chanute, Kansas is vested with the authority to accept or refuse the dedication of land for public purposes.

### Section 1.04 Enactment

In order that land may be subdivided in accordance with these purposes and policies, these regulations are hereby adopted and made effective as of September 10, 2001. All applications for subdivision approval, including Final Plats, pending on the effective date of these regulations shall be reviewed under these regulations except that these regulations will not apply if Preliminary Plat approval was obtained prior to the effective date of these regulations, unless the Planning Commission determines that application of these regulations is necessary to avoid a substantial risk of injury to public health, safety and general welfare.

### Section 1.05 Reservations and Repeals

Upon the adoption of these regulations according to law, the Subdivision Regulations of the City of Chanute, Kansas, Chanute Municipal Code Title 18, as amended, are hereby repealed, except as to those sections expressly retained in these regulations.

### Section 1.06 Purpose And Intent

The purpose and intent of these regulations is to provide for the harmonious development of the community and the surrounding area; to provide for the proper location and width of streets, building lines, open spaces, safety and recreation facilities, utilities, drainage, and for the avoidance of congestion of population through application of minimum lot width, depth and area and the compatibility of design requirements; to require and fix the extent to which and the manner in which streets shall be graded and improved, and water, sewer, drainage, and other utility mains and piping or connections or other physical improvements shall be installed; and to provide for and secure the actual construction of such physical improvements.

**Section 1.07 Applicability**

The owner or owners of any land located within the jurisdiction of these regulations subdividing said land into two or more lots and blocks or tracts or parcels, for the purpose of laying out any subdivisions, suburban lots, building lots, tracts or parcels or any owner of any land establishing any street, alley, park or other property intended for public use or for the use of purchasers or owners of lots, tracts or parcels of land fronting thereon or adjacent thereto, shall cause a plat to be made in accordance with these regulations, unless exempted under Section 1.08. In addition, these regulations shall apply to the issuance of a building permit.

**Section 1.08 Exemptions**

These regulations shall not apply in the following instances:

- A. A change in the boundary between adjoining lands which does not create an additional or substandard lot.
- B. Land used for street or railroad right-of-way, a drainage easement or other public utilities subject to local, state or federal regulations, where no new street or easement of access is involved.
- C. Any resubdivision of lots, parcels or tracts must be done in accordance with these regulations.
- D. Any transfer by operation of law.
- E. Lots that have been previously platted and zoned for industrial purposes may be divided into two or more tracts without replatting or resubdividing such lots in conformance with these regulations.

**Section 1.09 Interpretation and Conflict**

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

2. Private Provisions. These regulations are not intended to repeal any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such an easement, covenant or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant or private agreement or restriction impose duties or obligations more restrictive or standards that are higher than the requirements of these regulations, or the determinations of the Planning Commission or the Governing Body in approving a subdivision or in enforcing these regulations, and the private provisions are not inconsistent with these regulations, then the private provisions shall be operative and supplemental to these regulations and the determinations made under the regulations.

### Section 1.10 Severability and Savings Clause

- A. Each section and each subsection of these regulations are hereby declared to be independent of every other section or subsection so far as the passage of these regulations are concerned and the invalidity of any section or subsection of these regulations shall not invalidate any other section or subsection thereof.
- B. These regulations shall in no manner affect pending actions either civil or criminal founded on or growing out of any ordinance or part of any ordinance hereby repealed, and these regulations shall in no manner affect rights or causes of action either civil or criminal not in suit that may have already occurred or grown out of any ordinance or part of any ordinance hereby repealed.
- C. If any section, subsection, sentence, clause, phrase, or portion of these regulations are for any reason held to be invalid or unconstitutional by the decision of any Court, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

### Section 1.11 Variances, Exceptions and Waiver of Conditions

- A. General. Whenever the Planning Commission deems that extraordinary hardship or practical difficulties may result from strict compliance with these regulations and/or the purpose of these regulations may be better served by an alternative proposal, it may authorize a variance, exception or waiver of the conditions of these regulations. In authorizing such variance, exception or waiver, the Planning Commission shall consider the following:
  1. The conditions that the request is based upon constitute special circumstances or conditions affecting the property for which the relief is sought and are not generally applicable to other property.
  2. The variance, exception or waiver is necessary for the reasonable and acceptable development of the property in question, and involve a particular hardship to the owner as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.
  3. The granting of the variance, exception or waiver will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.

4. The granting of the variance, exception or waiver will not in any manner vary the provisions of the Zoning Regulations, Comprehensive Plan or Official Map, except that those documents may be amended in the manner specified by law.
- B. Conditions. In approving variances, exception or waiver of conditions, the Planning Commission may require such conditions as will, in its judgement, secure substantially the purpose described in Section 1.06 of these regulations.
- C. Procedure. A petition for a variance, exception, or waiver of conditions shall be submitted in writing by the subdivider at the time when the Preliminary or Final Plat is filed for the consideration of the Planning Commission. The petition shall state fully the condition from which the petitioner is seeking relief, the grounds for the application and all of the facts relied upon by the petitioner, including the ability to meet the conditions of Section 1.11.A above.

### **Section 1.12 Amendments**

For the purpose of protecting the public, health, safety, and general welfare, the Planning Commission may from time to time propose amendments to these regulations. Such proposed amendments shall be heard as part of a public hearing following public notice as require by law. Following recommendation by the Planning Commission, the Governing Body shall make action by approving or disapproving the amendment.

### **Section 1.13 Enforcement, Violations and Penalties**

#### **A. General**

1. It shall be the duty of the City Officers and Officials to enforce these requirements and to bring the attention of the City Commission and City Attorney any violations of these regulations.
2. No owner, or agent of the owner, of any parcel of the land located in a proposed subdivision shall transfer or sell any part of the parcel before a Final Plat of the subdivision has been approved by the Planning Commission in accordance with the provisions of the regulations and filed with the applicable public and quasi-public departments, offices or agencies of the City and County.
3. No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of these regulations, nor shall the municipality have any obligation to issue certificates of occupancy or to extend utility services to any parcel created in violation of these regulations.

- B. **Violations and Penalties.** Any person, firm, association, partnership or corporation violating the provisions of these regulations is guilty of a misdemeanor and upon conviction thereof shall be subject to a fine not to exceed five hundred dollars (\$500.00), plus costs, for each offense and shall stand committed to jail until such fine and costs be paid or otherwise discharged according to law. The City of Chanute, Kansas shall further have the authority to maintain suits or action in any court of competent jurisdiction for the purpose of enforcing any provisions of these regulations and to abate nuisances maintained in violation thereof; and in addition to other remedies, institutions injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, or use, or to correct or abate such violation, or to prevent the occupancy of the building, structure or land. Each day such violation is committed or permitted to continue, shall constitute a separate offense and shall be punishable as a separate offense.

**Section 1.14 Approvals Necessary For Acceptance Of Subdivision Plats**

All plans, plats or replats of land laid out in building lots, and the streets, alleys or other portions of the same intended to be dedicated for public use, or for the use of purchasers or owners of the lots fronting thereon or adjacent thereto, shall be submitted to the Chanute Regional Planning Commission and City Commission for their official review and action as applicable per these regulations. The Register of Deeds shall not record any plat, as required by law, until such plat is approved by the Planning Commission and Governing Body and is signed by the Chairman and Secretary of the Planning Commission, by the Mayor, City Clerk, and City Engineer of the City of Chanute, Kansas, and the Fire Chief or other authorized personnel of the applicable Fire Protection District. .

**Section 1.15 Plat Preparation**

All Final Plats shall be prepared and stamped by a professional surveyor licensed in the State of Kansas.

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**Article Two ADMINISTRATION**

**Section 2.01 Duties of the Zoning Administrator Pertaining to this Ordinance**

- A. Maintain permanent and current records with respect to these regulations including amendments thereto. Keep on file minutes and agendas of all meeting and hearings.
- B. Review all applications for Sketch, Preliminary and Final Plats and notify applicants of acceptability for review.
- C. Process and distribute all Sketch, Preliminary and Final Plats, together with applications and filing fees.
- D. Transmit Sketch, Preliminary and Final Plats to the Planning Commission, along with written comments.
- E. Transmit Planning Commission recommendations regarding acceptance of plats to the Governing Body for its action.
- F. Transmit Final Plats to Register of Deeds for filing.
- G. Review and approve, approve conditionally or disapprove lot splits per Article 5.

**Section 2.02 Duties of the City Engineer Pertaining to this Ordinance**

- A. Determine the need for a detailed Drainage Study or storm water improvements based upon the submittal of the Sketch Plat per Section 4.02.
- B. Review all applications for Sketch, Preliminary and Final Plats and notify applicants of acceptability for review.
- C. Review and approve, approve conditionally, or disapprove Drainage Studies per Section 4.05.
- D. Review and approve, approve conditionally, or disapprove Construction Documents per Section 4.06.
- E. Review and approve, approve conditionally or disapprove lot splits per Article 5.
- F. Review or inspect all required improvements and as-built drawings and recommend acceptance, acceptance conditionally or rejection per Section 7.03.

**Section 2.03 Duties of the Planning Commission Pertaining to this Ordinance**

- A. Review and approve, approve conditionally, or disapprove Preliminary Plats per Section 4.02.F-G within sixty (60) days after the first meeting of the Planning Commission constituting the official submission date as defined in Section 4.01 C.
- B. Review and approve, approve conditionally or disapprove Final Plats within sixty (60) days after the first meeting of the Planning Commission following the submission of the Final Plat per Section 4.04.F-G. Transmit approved Final Plats, together with appropriate recommendations to the Governing Body for its acceptance of dedications of public improvements.
- C. Review and approve, approve conditionally or disapprove Lot Splits where an applicant has appealed Staff's decision per Section 5.01.E.
- D. Review and approve, approve conditionally or disapprove variances, exceptions and waivers of conditions the regulations herein per Section 1.11.
- E. Make other determinations and decisions including making recommendations of amendments to these regulations as may be required of the Planning Commission from time to time per Section 1.12.

**Section 2.04 Duties of the Governing Body Pertaining to this Ordinance**

- A. Consider Planning Commission recommendations on Final Plats and accept or reject dedications of public improvements within thirty (30) days after the first meeting of the Governing Body following action by the Planning Commission per Section 4.04.H.
- B. Accept or reject financial guarantees from subdividers in lieu of immediate completion or installation of improvements required by the regulation per Section 7.01.
- C. Accept, accept conditionally or reject dedication of required improvements following completion and inspection per Section 7.03.
- D. Take other action as required from time to time including the consideration of amendments to these regulations per Section 1.12.

**Article Three DEFINITIONS**

**Section 3.01 Usage**

- A. For the purpose of these regulations, certain numbers, abbreviations, terms and words shall be used, interpreted and defined as set forth in Section 3.02.
- B. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense and words used in the plural include the singular.

**Section 3.02 Definitions**

- A. Alley. A public or private right-of-way designed to serve as primary vehicular access to the side or rear of those properties whose principal frontage is on some other street.
- B. Applicant. The owner of land proposed to be subdivided or its representative who shall have express written authority to act on behalf of the owner. Consent shall be required from the legal owner of the premises. See also Developer, Owner, and Subdivider.
- C. Block. A tract of land entirely surrounded by streets, or by a combination of streets and public rights-of-way, or as otherwise determined by the planning commission or its authorized representative.
- D. Bond. Any form of security including a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the governing body. All bonds shall be approved by the governing body wherever a bond is required by these regulations.
- E. Building. See Structure.
- F. Building Inspector. The person or persons authorized and empowered by the City Commission to administer and enforce the permitting and inspecting process within the City.
- G. Cash in Lieu of Land. Payment of money into fund earmarked by the City of Chanute to provide for acquisition of facilities off-site in place of dedicating land or providing such facility on site.
- H. Certificate of Occupancy. An official certification indicating that a use or building (as built) conforms to the provisions of these regulations and may be used or occupied.
- I. Certify. Whenever these regulations require that an agency or official certify the existence of some fact or circumstance, the City of Chanute by administrative rule may require that such certification be made in any manner, oral or written, which provides reasonable assurance of the accuracy of the certification.
- J. City. The City of Chanute, Kansas.
- K. City Commission. See Governing Body.
- L. City Engineer. The licensed engineer designated by the Governing Body to furnish engineering assistance for the administration these regulations.

- M. Common Ownership. Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockbroker, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.
- N. Construction Documents. The maps or drawings showing the specific location and design of improvements to be installed in a subdivision in accordance with the requirements of the Planning Commission as a condition of the approval of the plat.
- O. Cul-de-Sac. A local street with only one outlet that terminates in a vehicular turnaround and having an appropriate terminal for the safe and convenient reversal of traffic movement.
- P. Dedication. The transfer of private to public or common ownership for a public purpose. The transfer may be in fee simple title or less than fee simple interest including easements. Dedication requires the acceptance of the interest to be complete.
- Q. Developer. The owner of land proposed to be subdivided or its representative who is responsible for any undertaking that requires review and/ or approval under these regulations. See also Owner and Subdivider.
- R. Easement. A permanent or temporary grant of right by a property owner to the public, a corporation or other persons, of the use of a portion of a lot or tract of land for specified purposes where title to said portion of the lot or tract of land remains with the landowner.
- S. Escrow. A deposit of cash with the local government or escrow agent to secure the promise to perform some act.
- T. Escrow Agent. A title company, bank, savings and loan association, trust company, attorney or any other person or agency approved by the City to act as an escrow agent.
- U. Fair Market Value. The fair market value of a designated unit at the time such value is approved by the Governing Body.
- V. Frontage. The length of the property abutting on one side of a street measured along the dividing line between the property and the street.
- W. Governing Body. The duly elected Mayor and City Commission of the City of Chanute.
- X. Homeowners Association. See Property Owners Association.
- Y. Improvement. Any roadway, drainage ditch, sidewalk, pedestrianway, parkway, tree, lawn, off street parking area, lot improvement or other facility for which the City of Chanute may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which the City of Chanute responsibility is established.
- Z. Lot. A tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose whether immediate or future, of transfer of ownership, or possession, or for building development.

- AA. Lot Split. The division of a single lot into not more than two (2) tracts, per these regulations, without having to resubdivide said lot, providing that the resulting lots shall not again be divided without replatting.
- BB. Off-Site. Any premises not located within the area of the property to be subdivided, whether or not in the common ownership of the applicant for subdivision approval.
- CC. Owner. The record owners of the fee or a vendee in possession, including any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under the definition of Same Ownership.
- DD. Person. Any individual or group of individuals, or any corporation, general or limited partnership, joint venture, unincorporated association, or governmental or quasi-governmental entity.
- EE. Plat, Final. A drawing of a permanent nature showing the precise location and dimension of such features as streets, lots, easements and other elements pertinent to transfer of ownership and prepared to be recorded after approval by the Planning Commission and including any accompanying material as described in these regulations.
- FF. Plat, Preliminary. A drawing described in these regulations, showing the proposed general patterns of streets, lots and land uses within a tract to be subdivided, indicating the proposed manner or layout of the subdivision to be submitted to the Planning Commission for approval.
- GG. Plat, Sketch. A sketch preparatory to the preliminary plat (or final plat in the case of minor subdivisions) to enable the subdivider to save time and expense in reaching general agreement with the Zoning Administrator as to the form of the plat and the objectives of these regulations.
- HH. Planning Commission. The Chanute City Planning Commission.
- II. Plot. One or more contiguous parcels of land under single ownership or control, designated by its owner, at the time of filing an application for a building permit, as a tract to be used, developed or built upon as a unit. It may or may not coincide with the deed description thereof or the boundaries of the same as shown on a map thereof filed for record or otherwise, and it may subsequently subdivided into two (2) or more plots, provided all such plots conform to all the regulations of the district. The boundaries of any plot for which a building permit or certificate of occupancy is requested, shall be accurately drawn on the application therefor.
- JJ. Professional Surveyor. A practicing surveyor licensed in the State of Kansas.
- KK. Property Owners Association. An association or organization, whether or not incorporated, which operates under and pursuant to recorded covenants or deed restrictions, through which each owner of a portion of a subdivision-be it a lot, parcel site, unit plot, condominium, or any other interest-is automatically a member as a condition of ownership and each such member is subject to a charge or assessment for a pro-rated share of expense of the association which may become a lien against the lot, parcel, unit, condominium, or other interest of the member.
- LL. Public Utilities. Publicly owned or regulated utilities including, water, sewer, telephone, gas, and electric.

- MM. Resubdivision. The act of amending or changing an approved Final Plat, including any change in any street layout or other public improvement, any lot line, the amount of land reserved for public use or the common use of lot owners, or any easements shown on the approved plat.
- NN. Right-of-way. A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way, are not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.
- OO. Sale or Lease. Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, devise, or other transfer of an interest in a subdivision or part thereof, whether by metes and bounds or lot and block description.
- PP. Sanitary Sewer System. A totally enclosed system consisting of an underground collection system and a treatment system so installed that when the treatment is completed, the affluent discharge meets the standard of the jurisdictional health agency.
- QQ. Setback. The required minimum horizontal distance between the structure line and the related front, side, or rear property line.
- RR. Street. A way set aside for vehicular traffic, regardless of size or designation, but excluding private driveways serving only one (1) parcel of land.
- SS. Street, Arterial. A streets or highways designed or utilized primarily for high vehicular speeds or for heavy volumes of traffic.
- TT. Street, Collector. A street that carries or will carry intermediate volumes of traffic from local streets to arterial streets.
- UU. Street, Dead-End. A street or a portion of a street with only one (1) vehicular-traffic outlet. See also Cul-de-Sac.
- VV. Street, Local. A street that is used or will be used primarily for access to abutting properties and which carry or will carry limited volumes of traffic.
- WW. Street, Marginal Access. A street that is parallel to and adjacent to arterial streets and highways and that serves to reduce the number of access points to the arterial streets and thereby increase traffic safety.
- XX. Structure: Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures, and street signs.

- YY. Subdivider. Any person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who; (2) directly or indirectly, sells, leases or develops or offers to sell, lease or develop, or advertises for sale, lease or development, any interest, lot, parcel, site, unit or plot in a subdivision, or who; (3) engages directly or through an agent in the business of selling, leasing, developing or offering for sale, lease or development a subdivision or any interest, lot, parcel, site, unit or plot in a subdivision, and who (4) is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.
- ZZ. Subdivision. Any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots or interests for the purposed of offer, sale, lease or development either on the installment plan or upon any and all other plans, terms and conditions, including resubdivision. Subdivision includes the division or development of residential and nonresidential zoned land, whether by deed, metes and bound description, map, plat or other recorded instrument.
- AAA. Subdivision Improvement Agreement. A contract entered into by the applicant and the Governing Body by which the applicant promises to complete the required public improvements, as specified within these regulations, within the subdivision within a specified time period following final subdivision plat approval.
- BBB. Subdivision, Major. All subdivisions not classified as minor subdivisions.
- CCC. Subdivision, Minor. Any subdivision containing not more than five (5) lots fronting on an existing street, not involving any new street or road, or the extension of municipal facilities or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Comprehensive Plan, Official Map, Zoning Regulations, or these regulations.
- DDD. Subdivision, Staged. Any subdivision within a drainage sub-basin in which public sewer is projected to be developed in the future, but for which it is not feasible to provide public sewer at the time of development, and meeting the requirements of these regulations.
- EEE. Subdivision Regulations. The term "Subdivision Regulations" or "these regulations" shall mean the requirements stipulated in the regulations herewith attached, and shall mean the lawfully adopted Subdivision Regulations of the City of Chanute.
- FFF. Tract. A lot. The term "tract" is used interchangeably with the term "lot," particularly in the context or subdivision, where a "tract" is subdivided into several lots, parcels, sites, plots, tracts, or interests. See also Lot and Plot.
- GGG. Vested Rights. Right to initiate or continue the establishment of a use which will be contrary to a restriction or regulation coming into effect prior to or following completion of the project associated with the use.
- HHH. Zoning Administrator. The person or persons authorized and empowered by the City Commission to administer the requirements of these zoning regulations.

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**Article Four SUBDIVISION – PROCEDURES, SPECIFICATIONS & APPROVAL PROCESS**

**Section 4.01 General Procedure**

- A. Classification of Subdivisions. Land proposed to be subdivided shall be classified according to one of the following:
1. Minor Subdivision. Any residential subdivision that meets all the following criteria:
    - a. The subdivision will not result in the creation of more than five (5) lots fronting on an existing street built to City standards and will not require the construction of any new street or road;
    - b. The subdivision will not require the extension of municipal facilities or the creation of any public improvements;
    - c. The subdivision is consistent with the applicable provisions and portions of the Comprehensive Plan;
    - d. The City Engineer has determined, following review of the applicant's preliminary drainage information, that no detailed drainage plan or improvements are needed; and
    - e. The proposed subdivision does not have any topography, access, sewage disposal or design concerns that would warrant review and consideration within the requirements of the Major Subdivision classification designation.
  2. Major Subdivision. Any subdivision not classified as a minor or staged subdivision, including but not limited to any sized subdivision requiring any new street, extension of municipal facilities or the creation of public improvements and which will be served with public sewer upon development.
  3. Staged Subdivision. Any subdivision within a drainage sub-basin in which public sewer is projected to be developed in the future, but for which it is not feasible to provide public sewer at the time of development. In addition to the requirements of Article 4, staged subdivisions shall meet all the following criteria:
    - a. No parcel in existence on the effective date of this Ordinance shall be subdivided more than once according to the staged subdivision process regardless of change in ownership. No further subdivision of a lot created by the staged subdivision process shall be permitted unless it meets the requirements of Section 4.07.
    - b. Direct access to collector and arterial streets is prohibited unless meeting the minimum design requirements for access separation.

*Article Four - Subdivision – Procedures, Specifications & Approval Process*

- c. Each lot proposed shall demonstrate the ability to be resubdivided into future lots with areas no greater than 7,500 square feet. Each lot must show the ability to resubdivide without the cooperation of other lot owners in the subdivision by indicating future lot lines.
  - d. Primary structures shall be located on no more than one (1) future lot, unless made necessary by site features and permitted by the Building Official. Prior to permitting a primary structure to span two (2) lots, a written request must be submitted explaining necessity. In no case shall the building pad span more than two (2) lots.
  - e. Accessory structures may be located on more than one future lot, but shall be oriented to the development of such future lots. Individual accessory structures shall not be located on more than one (1) lot.
  - f. The storm water drainage and sanitary sewer system shall be designed to accommodate full development based on the proposed ability to resubdivide. Surface drainage meeting requirements of this Ordinance shall be handled in a development-wide facility located on a separate lot to be maintained by a subdivision association or dedicated to the City so all resubdivided lots need only install on-site drainage improvements. Sanitary sewer improvements meeting requirements of this Ordinance are required.
- B. Procedure by Classification. Before any land is subdivided, the owner of the property proposed to be subdivided, or his authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the following procedures:
- 1. Minor Subdivision.
    - a. Sketch Plat
    - b. Final Plat
  - 2. Major Subdivision.
    - a. Sketch Plat
    - b. Preliminary Plat
    - c. Final Plat
  - 3. Staged Subdivision.
    - a. Sketch Plat
    - b. Preliminary Plat
    - c. Final Plat
- C. Official Submission Dates. For the purpose of these regulations, for major, minor and staged subdivisions, the date of the Planning Commission meeting at which the application is first considered, shall constitute the official submission date of the plat on which the statutory period required for formal approval, conditional approval or disapproval of the Preliminary or Final Plat shall begin.

**Section 4.02 Sketch Plat**

- A. Intent. The Sketch Plat gives general guidance in preparing a Preliminary or Final Plat. This plat is a conceptual representation of the applicant's desire and ability to meet the standards of these regulations. The Sketch Plat is expected to be modified as more detailed planning and engineering is completed. Dimensions, measurements, and calculations shown on the Sketch Plat are assumed to be illustrative. Detailed planning and engineering following Sketch Plat review are expected to result in changes in detail, but not the overall concept.
- B. General. Before preparing and submitting a Preliminary Plat for Major or Staged subdivisions or Final Plat for Minor subdivisions, the applicant shall schedule a meeting with the Zoning Administrator to discuss the proposed subdivision and existing conditions, projected conditions, and the regulations and ordinances that will impact the development, including:
1. The subdivision classification;
  2. the procedure for approval of plats;
  3. the availability of existing services, including sewer, water, emergency services, schools, etc.;
  4. the Comprehensive Plan requirements for major streets, land use, parks, schools and public open spaces;
  5. the zoning requirements for the property in question and adjacent properties;
  6. the required improvements and design criteria; and
  7. the applicable fees.

In addition, staff shall direct the applicant, when appropriate, to discuss the proposed subdivision with those staff or officials who must eventually approve specific aspects of the subdivision plat falling within their jurisdiction or responsibility.

- C. Application Procedure and Requirements. At the time of the Sketch Plat meeting, the land owner or his authorized agent shall submit:
1. A completed application as available in the adopted City of Chanute Procedures Manual or at the Zoning Administrator;
  2. Identification of all contiguous holdings of the owner including land in "common ownership" as defined in these regulations, with an indication of the portion which is proposed to be subdivided, accompanied by an affidavit of ownership, which shall include the dates the respective holdings of land were acquired, together with the book and page where each conveyance to the present owner is recorded in the County Register of Deeds. The affidavit shall identify the legal owner of the property, the contract owner of the property, the date the contract of sale was executed, and, if any corporations are involved, a complete list of all directors, officers, and stockholders of each corporation owning more than five percent of any class of stock; and

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3. Copies of the Sketch Plat in accordance with the City's Application and Review Schedule.
- D. Submittal Requirements. Sketch Plats shall be drawn to a convenient scale of not more than 1" = 100' and shall contain the following information:
1. Proposed or existing name of subdivision;
  2. Graphic scale, north arrow and date;
  3. Existing conditions, including:
    - a. Location of property lines, existing easements, rights-of-way, watercourses, major vegetation and location width and name of all existing or platted streets or other public ways within 200 feet;
    - b. Location and size of existing sewers, water mains, culverts and other utilities within the tract and immediately adjacent to the tract;
    - c. Existing buildings;
    - d. Existing topography (at the same scale as the Sketch Plat);
    - e. Existing floodplain;
    - f. Soil types and general location for all subdivisions proposed to be developed without access to public sanitary sewer; and
    - g. A vicinity map and/or aerial photography showing streets, street names and other general development of the surrounding area.
  4. Proposed layout, including:
    - a. The approximate location of proposed streets;
    - b. Preliminary proposals for connection with existing utilities, or alternative means of providing services;
    - c. Preliminary provisions for collecting and discharging surface water drainage;
    - d. The approximate location, dimensions, and area of all land to be dedicated for public use including rights-of-way and park land.

- E. Classification and Notice to Proceed. Within five (5) working days of the date that the Sketch Plat meeting was held, the Zoning Administrator shall determine whether the Sketch Plat constitutes a minor, major or staged subdivision and notify the applicant of the classification and any issues to be addressed or conditions to be met prior to proceeding. Upon verification that any issues have been addressed and conditions met, staff shall issue a “notice to proceed” with the plat as required for the specified classification.

**Section 4.03 Preliminary Plat**

- A. Intent. The Preliminary Plat contains accurate preliminary planning and engineering. Although not a survey, the accuracy and design is such that only minor changes are to be expected in the Final Plat. Only minor revisions warranted by final engineering, surveying or other required changes are expected following approval of the Preliminary Plat. Unless part of a Planned Development district zoning or otherwise specified, the Preliminary Plat is not recorded. Rather it serves as a benchmark for reviewing and approving the Final Plat. A revised Preliminary Plat may be required for any subdivision that proposes a major deviation from a previously approved Preliminary Plat at the time of Final Plat application.
- B. General.
  - 1. Preliminary plat submittal is required for all Major and Staged Subdivisions.
  - 2. In order to proceed, the applicant shall submit an application for approval of a Preliminary Plat within 180 days of the Notice to Proceed. If the Preliminary Plat application is not filed within the 180-day period, the applicant must resubmit a Sketch Plat and meet with the Zoning Administrator per the requirements of Section 4.02, unless a reasonable extension is granted by staff.
  - 3. The Preliminary Plat shall generally conform to the Sketch Plat that formed the basis for the Notice to Proceed.
- C. Application Procedure and Requirements.
  - 1. Application: Preliminary Plat Application shall be made on forms available at City Hall or in the City of Chanute Procedures Manual. All applications shall be filled out in their entirety. Applications shall be reviewed for completeness within five (5) working days of filing. If the City determines that the application is complete, the application shall then be processed. If the City determines that it is incomplete, the City shall, within such five-day period, notify the applicant of the specific ways in which the application is deficient. Incomplete applications will not be accepted, or placed on an agenda for review and consideration. As such, applicants are encouraged to submit applications earlier than the deadlines specified in the adopted City of Chanute Application and Review Schedule.
  - 2. Fees: A filing fee and deposit shall be charged and collected from the applicant in an amount as established by the Governing Body by ordinance or resolution. A separate filing fee and deposit shall be required for each Preliminary Plat application. The Preliminary Plat shall not be accepted for filing until the filing fee and deposit has been paid by the subdivider.

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3. Submittal Materials: The subdivider shall submit one original and three (3) folded prints or copies of the Preliminary Plat, and a vicinity map (if not on the Preliminary Plat) showing the location of the proposed subdivision. These plans shall be filed with the Zoning Administrator according to the adopted City of Chanute Application and Review Schedule.
4. Notification: The subdivider shall notify all owners of record of all unplatted land within 200 feet of property being proposed for subdividing or resubdividing of the intent to subdivide or resubdivide the subject property. Notification shall be sent via certified mail and a copy of a letter of notification shall be submitted with the Preliminary Plat. The subdivider shall also submit a complete list of the names and mailing addresses of, as prepared by the County Clerk or a title company.

D. Preliminary Plat Features. All Preliminary Plats shall contain:

1. Scale of the plat, 1" = 100' or larger.
2. A vicinity map at a scale of 1" = 1000' or larger, showing streets and street names within 500 feet of the boundaries of the proposed subdivision.
3. The proposed name of the subdivision. The name shall not duplicate or too closely resemble the name or names of an existing subdivision(s).
4. The location of the boundary lines of the subdivision and reference to the section or quarter section lines.
5. The names and addresses of the subdivider, developer, owner, and the engineer or land surveyor who prepared the plat.
6. Date of preparation and north point.
7. Existing conditions:
  - a. Current zoning classification, existing, projected and proposed land use.
  - b. Location, width and name of platted streets or other public ways, railroads and utility rights-of-way, parks and other public open spaces and permanent buildings within or adjacent to the proposed subdivision.
  - c. All existing sewers, water mains, gas mains, culverts, or other underground installations, within or adjacent to the proposed subdivision, with pipe size and manholes, grades and location.
  - d. Names of adjacent subdivisions together with arrangement of streets and lots, and owners of adjacent parcels of unsubdivided land.
  - e. Topography with contour intervals of not more than two feet, referred to City or U.S.G.S. datum; where the ground is too flat for contours, spot elevations shall be provided.

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- f. Location of watercourses, bridges, wooded areas, lakes, ravines, floodplain, and such other features as may be pertinent to the subdivision.
  - g. Soil types and location for all subdivisions proposed to be developed without access to public sanitary sewer.
8. Proposed improvements:
- a. The general arrangements of lots and their approximate size. Staged subdivisions shall indicate lots to be developed initially as well as future lots. Additional sheets may be warranted based upon the size of the proposed development or to show staged development plans.
  - b. Location and width of proposed streets, alleys, and pedestrian ways and easements, including easements required for staged subdivision as applicable.
  - c. The general plan of sewage disposal, water supply and drainage, including a map showing the drainage area of each major drainage way.
  - d. Location and size of proposed parks, playgrounds, churches, school sites or other special uses of land to be considered for reservation or dedication for public use. Including calculations for required open space dedication.
  - e. General street layout of adjacent property within 200 feet to show how streets and other public facilities in the proposed subdivision relate to the adjacent property.
  - f. Approximate gradient of streets.
  - g. Relation to adjacent unsubdivided land.
  - h. A table showing gross acreage of the subdivision; acreage of each applicable zoning district; acreage dedicated to streets and other public uses; total number of buildable lots for each use proposed; maximum, minimum and average lot sizes for each use proposed; and overall density.
- E. Supplemental Data: The following additional information shall be submitted with the Preliminary Plat at the time of application:
- 1. Review by Public Utilities: The subdivider shall have the proposed plat reviewed by all affected utility companies or agencies to ensure that adequate easements are provided and shall submit a letter from each utility or agency regarding their review and comments on the plat.

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2. Preliminary Grading Plan: The subdivider shall submit a preliminary grading plan including, existing and proposed land elevations, contours, and slopes. This plan shall be forwarded to the City Engineer. These plans are not intended to be detailed suitable for construction.
  3. Preliminary Landscaping Plan: The subdivider shall submit a preliminary landscaping plan, showing at a minimum landscaping easements required per the City of Chanutte Zoning Regulation requirements for landscaping and buffering. This plan is not intended to be detailed suitable for construction.
  4. Drainage Study: The subdivider shall submit a drainage study for the proposed site. The content of said drawings is set out in Section 4.05.
- F. Preliminary Plat Action: After the Planning Commission has reviewed the Preliminary Plat, applicable reports submitted, and any additional materials submitted, the Planning Commission shall approve, conditionally approve, or disapprove the Preliminary Plat within sixty (60) days from the Official Submission date. If the Preliminary Plat is approved conditionally or tabled for further consideration, the applicant shall be advised of any required changes and/or additions necessary for approval.
- G. Action by the Planning Commission shall be conveyed to the subdivider in writing within seven (7) working days after the meeting at which the plat was considered. One (1) copy of the Preliminary Plat shall be returned to the developer with the date of approval, conditional approval, or disapproval and the reasons therefore accompanying the plat. The approval of the Preliminary Plat does not constitute an acceptance of the subdivision, but is deemed to be an authorization to proceed with the platting process.
- H. Standards for Approval of a Preliminary Plat: No Preliminary Plat of a proposed subdivision shall be approved by the Planning Commission unless the applicant proves by clear and convincing evidence that:
1. Provisions have been made for adequate public facilities. The water supply system shall be sufficient in terms of quantity, dependability and quality to provide an appropriate supply of water for the type of subdivision proposed. If a public sewage system is proposed, adequate provision has been made for such a system and if other methods of sewage disposal are proposed, that such systems will comply with federal and state laws and regulations in addition the requirements of these regulations;
  2. All areas of the proposed subdivision that may involve soil or topographic conditions presenting hazards or special precautions have been identified by the subdivider and that the proposed uses of these areas are compatible with such conditions;
  3. The proposed subdivision will not result in the scattered subdivision of land that leaves undeveloped parcels of land lacking urban services between developed parcels; and
  4. The subdivider has taken every effort to mitigate the impact of the proposed subdivision on the public health, safety and welfare.

The Planning Commission is authorized to disapprove the Preliminary Plat even though the land proposed for subdivision is zoned for the use to which the proposed subdivision will be put and the proposed use is consistent with the Comprehensive Plan.

- I. **Effective Date:** The approval of a Preliminary Plat shall be effective for a period of twelve (12) months from the date that the Preliminary Plat is approved by the Planning Commission. At the end of this period the applicant must have submitted a Final Plat for approval or the Planning Commission must have granted an extension to the validity of the Preliminary Plat at the request of the property owner.

#### **Section 4.04 Final Plat**

- A. **Intent.** The Final Plat should be in substantial conformance with the Preliminary Plat or Sketch Plat and should reflect a final subdivision layout based upon completed Construction Documents. The Final Plat is the document to be recorded. All construction shall be in accordance with the Final Plat and Construction Documents.
- B. **General.**
  1. Final plat submittal is required for all subdivision classifications.
  2. In order to proceed, the applicant shall submit an application for approval of a Final Plat within 180 days of the Notice to Proceed, or twelve (12) months of the approval of a Preliminary Plat. If the Final Plat application is not filed within the 180-day or twelve (12) month period, the applicant must resubmit a Sketch Plat and/or a Preliminary Plat as required for the subdivision classification, unless an extension is granted by staff.
  3. The Final Plat shall conform substantially to the Sketch Plat or Preliminary Plat as applicable.
  4. The Final Plat may constitute only a portion of the Preliminary Plat that the subdivider proposes to record and develop.
- C. **Application Procedure and Requirements.**
  1. **Application:** Final Plat Application shall be made on forms available at City Hall or in the City of Chanute Procedures Manual. All applications shall be filled out in their entirety. Applications shall be reviewed for completeness within five (5) working days of filing. If the City determines that the application is complete, the application shall then be processed. If the City determines that it is incomplete, the City shall, within such five-day period, notify the applicant of the specific ways in which the application is deficient. Incomplete applications will not be accepted, or placed on an agenda for review and consideration. As such, applicants are encouraged to submit applications earlier than the deadlines specified in the adopted City of Chanute Application and Review Schedule.
  2. **Fees:** A filing fee and deposit shall be charged and collected from the applicant in an amount as established by the Governing Body by ordinance. A separate filing fee and deposit shall be required for each Final Plat application. The Final Plat shall not be accepted for filing until the subdivider has paid all applicable filing fees and deposits.

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3. Submittal Materials: The subdivider shall submit one original on mylar, the required number of folded prints or copies, and an electronic copy of the Final Plat. Electronic copies shall be in a format compatible with the City's designated software. These materials shall be filed with the Zoning Administrator according to the adopted City of Chanute Application/Review Schedule.

D. Final Plat Features. All Final Plats shall contain:

1. Scale of plat, 1" = 100' or larger, on 24" x 36" sheets. If more than one sheet is required to cover the entire development, an index map of the same dimensions shall be filed showing the entire development at a smaller scale. The dimensions indicated are standard for all Final Plats and shall be complied with.
2. The proposed name of the subdivision. The name shall not duplicate or too closely resemble the name or names of any existing subdivision(s).
3. Location of the proposed subdivision in relation to section, township, range, county and state, including the description boundaries of the subdivision based on an accurate traverse, giving angular and linear dimensions that must be mathematically correct. The allowable error of closing on any portion of the plat shall be one foot in five thousand (1': 5,000').
4. The location of existing monuments or bench marks shall be shown and described on the Final Plat. Location of such monuments shall be shown in reference to existing official monuments or the nearest established street lines, including the true angles and distances to such reference points or monuments.
5. The location of lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet with the length of radii on all curves, and other information necessary to reproduce the plat on the ground.
6. Lots shall be numbered clearly. Blocks shall be numbered or lettered clearly in the center of the block.
7. The exact locations, widths and names of all streets and alleys to be dedicated.
8. Boundary lines and description of the boundary lines of any area other than streets and alleys that are to be dedicated or reserved for public use.
9. All Building setback lines with dimensions.
10. The location of any floodplain located within the proposed subdivision and a statement regarding compliance with the City's adopted floodplain regulations.
11. Name, signature and seal of the licensed land surveyor preparing the plat.
12. Scale of the plat (scale to be shown graphically and in feet per plat scale inch), date of preparation and north point.

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13. Statement dedicating all easements, streets, alleys, and all other public areas not previously dedicated.
  14. Additional information required for Preliminary Plats deemed necessary by staff to determine the appropriateness of the proposed subdivision (Minor Plats only).
  15. The following certificates, which may be combined where appropriate (see appendix for specific language):
    - a. Certificate of Ownership, Consent and Dedication
    - b. Certificate of Accuracy
    - c. Certificate of Approval of Fire Protection Measures
    - d. Certificate of the Approval of Public Improvements
    - e. Certificate of the Approval of the Final Plat
- E. Supplemental Data: The following additional information shall be submitted with the Final Plat at the time of application:
1. Restrictive Covenants: A copy of any restrictive covenants applicable to the subdivision.
  2. Proof of Ownership: A title report by an abstract or a title insurance company, or an attorney's opinion of title, showing the name of the owner of the land and all other persons who have an interest in, or an encumbrance on the plat and any easements or other constraints.
  3. Review by the County Surveyor: The subdivider shall submit the Final Plat to the Neosho County Surveyor to ensure the accuracy and acceptance of the survey/legal description of the proposed subdivision.
  4. A certificate showing that all taxes and special assessments due and payable have been paid in full; or if such taxes have been protested as provided by law, monies or other sufficient escrows guaranteeing such payment of taxes in the event the protest is not upheld, may be placed on deposit with such official or governing bodies to meet this requirement.
  5. Owner's Acknowledgment: The names and signatures of the owner or owners of the property duly acknowledged and notarized shall appear on the original and copies or prints submitted.
  6. Final Landscaping Plan: The subdivider shall submit a final landscaping plan, per the City of Chanute Zoning Regulation requirements for landscaping and buffering. This plan is intended to be detailed suitable for construction.

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7. Construction Documents: The subdivider shall submit a letter from the City Engineer that Construction Documents and specifications for all required developer installed improvements have been approved. The content of said drawings is set out in Section 4.06.

F. Final Plat Action by the Planning Commission: After the Planning Commission has reviewed the Preliminary Plat, applicable reports submitted, and any additional materials submitted to determine conformance with the subdivision regulations and Preliminary Plat, the Planning Commission shall approve, conditionally approve, or disapprove the Final Plat within sixty (60) days from the Official Submission date. If such determination is not made within sixty (60) days after the first meeting of the Planning Commission following the date of the submission of the plat to the Zoning Administrator, such plat shall be deemed to have been approved and a certificate of approval shall be issued by the secretary of the Planning Commission upon demand.

If the Planning Commission finds that the plat does not conform to the requirements of the subdivision regulations or the Preliminary Plat and is approved conditionally or tabled for further consideration, the applicant shall be advised of any required changes and/or additions the Zoning Administrator shall notify the owner or owners of such fact in writing within five (5) working days of the meeting in which the plat was considered. If the plat conforms to the requirements of the regulations and the Preliminary Plat, there shall be endorsed thereon the fact that the plat has been submitted to and approved by the Planning Commission. The action of the Planning Commission on final subdivision plats shall be taken by a majority vote of the entire membership of the Planning Commission.

G. Standards for Approval of a Final Plat: The Final Plat of a proposed subdivision shall be approved by the Planning Commission if the applicant proves by clear and convincing evidence that:

1. The plat meets the requirements of these regulations;
2. The construction documents have been approved by the City Engineer; and
3. The plat is in substantial compliance with the approved Preliminary Plat (Major and Staged Subdivisions) or Sketch Plat (Minor Subdivision). The Final Plat shall be deemed to be in substantial compliance with the approved Preliminary Plat provided any modification to the plat does not:
  - a. Vary the proposed gross residential density or intensity of use by more than five percent (5%) or involve a substantial reduction in the area set aside for common open space, nor the substantial relocation of such area, nor;
  - b. Substantially change the design of plat so as to significantly alter, as determined by the Planning Commission:
    - (1) Pedestrian or vehicular traffic flow.
    - (2) The arrangement of the site.

(3) The relation of open space to residential development.

(4) The proposed phasing of construction.

H. The Governing Body shall accept or refuse the dedication of land for public purpose within thirty (30) days after the first meeting of the Governing Body following the date of the submission of the plat to the Zoning Administrator from the Planning Commission. The Governing Body may defer action for an additional thirty (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 of the reasons therefore.

#### **Section 4.05 Drainage Study**

A. General.

1. A Drainage Study shall be submitted for all Major and Staged Subdivisions at the time of Preliminary Plat application.

B. Submittal Procedure and Requirements.

1. Submittal: The Drainage Study is to be submitted with the Preliminary Plat application as specified in Section 4.03.E.4.

2. Submittal Materials: The subdivider shall submit copies of the Drainage Study in accordance with the City's Application and Review Schedule. These documents shall be submitted at the time of Preliminary Plat application.

C. Drainage Study Contents.

1. Existing Conditions: The existing conditions of the site must be evaluated to determine the impact of on and off-site drainage. As such, the following information shall be provided. Additional information may be required by the City Engineer as deemed necessary to provide an accurate assessment of existing conditions.

a. Area of the proposed subdivision.

b. Area of pervious and impervious surfaces within the proposed subdivision.

c. Hydrologic soil types within the proposed subdivision.

d. Map of the proposed subdivision indicating existing drainage areas.

e. Map of the surrounding area indicating drainage areas contributing run-off to the proposed subdivision, with time of concentration, and run-off coefficient or SCS curve numbers and calculations for each area.

f. 2-, 10- and 100-year flow from each on-site drainage area, across the proposed subdivision from off-site areas, and to each discharge point in the proposed subdivision.

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- g. Nature and size of any downstream conveyance system.
  - h. The identification and explanation of any downstream restrictions or limitations.
  - i. Any assumptions used in the examination of existing conditions.
2. Proposed Conditions: The proposed condition of the site must be evaluated to determine the extent and capacity of on-site storm sewer systems. As such, the following information shall be provided. Additional information may be required by the City Engineer as deemed necessary.
- a. Approximated area of the pervious and impervious surfaces within the proposed subdivision upon build out.
  - b. Hydrologic soil types within the proposed subdivision.
  - c. Map of the proposed subdivision indicating proposed drainage areas.
  - d. Map of the surrounding area indicating drainage areas contributing run-off to the proposed subdivision, with time of concentration, and run-off coefficient or SCS curve numbers and calculations for each area.
  - e. 2-, 10- and 100-year flow from each on-site drainage area, across the proposed subdivision from off-site areas, and to each discharge point in the proposed subdivision.
  - f. The size, material, slope and capacity of the proposed storm sewer.
  - g. Location, area, depth and volume of detention area, and a drawing of such, including the discharge structure (required only if proposed).
  - h. Inflow, outflow and elevation curves for the proposed system.
  - i. The ability of the existing elements to convey proposed flows.
  - j. The identification and explanation of any additional improvements proposed.
  - k. Any assumptions used in the examination of existing conditions.
  - l. The comparison of the existing and proposed flows from the site.

**Section 4.06 Construction Documents**

**A. General.**

1. Construction Documents must be submitted for all required improvements.
2. Upon the approval of the Preliminary Plat, the subdivider shall have prepared by a licensed professional engineer, Construction Documents for the required improvements.

**B. Application Procedure and Requirements.**

1. Application: Construction Documents are to be submitted with any Final Plat application as specified in Section 4.04.E.7.
2. Submittal Materials: The subdivider shall submit copies of the construction drawings in accordance with the City's Application and Review Schedule. These documents shall be submitted at the time of Final Plat application.

**C. Construction Documents Contents.**

1. Plans, profiles, details, specifications and cost estimates for roadway and sidewalk construction, including plans and profiles for each street with a typical cross section of the roadway. The profiles of grade lines shall be shown to a scale of 1" = 50' horizontal, and 1" = 5' vertical. The City Engineer may require a larger format as necessary to show adequate detail. This information shall be shown on standard plan and profile sheets unless otherwise required. Where steep slopes exist, cross-sections of all proposed streets at one-hundred-foot stations may be required as follows: On a line at right angles to the center line of the street, and said elevation points shall be at the center line of the street, each property line and points twenty-five (feet) inside each property line.
2. Plans, profiles, details, specifications and cost estimates of proposed storm drainage improvements.
3. Plans, profiles, details, specifications and cost estimates of proposed water distribution systems and proposed water supply facilities and hydrants, if any.
4. Plans, profiles, details, specifications and cost estimates of sewerage systems and of any required sewage treatment facilities.
5. Grading plans for all lots and other sites in the subdivision.
6. Erosion control plan for the subdivision
7. Copies of all State and Federal permits required to begin construction.
8. When unusual site conditions exist, staff may require such additional plans, specifications and drawings as may be necessary for an adequate review of the improvements to be installed.
9. All plans shall be based on City or U.S.G.S. datum for vertical control.

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- D. Review of Plans: The City Engineer shall review all Construction Documents in order to determine that they comply with City design standards. The City Engineer shall notify the subdivider and the planning staff, in the event that the drawings do not so conform or comply, and shall specify the specific manner in which such drawings do not so comply. The subdivider shall then correct any defective drawings and resubmit the corrected drawings.
- E. Approval by Planning Commission: The Planning Commission shall approve a Final Plat only after consideration of the City Engineer's opinion that the drawings are consistent with the approved Sketch Plat and/or Preliminary Plat and comply with their design standards.

**Section 4.07 Resubdivision of Land**

- A. Procedure for Resubdivision. Whenever a developer desires to resubdivide an already approved final subdivision plat, the developer shall first obtain approval for the resubdivision by the same procedures prescribed for the subdivision of land.
- B. Resubdivision. Resubdivision includes:
  - 1. Any change in any street layout or other public improvement;
  - 2. Any change in any lot line;
  - 3. Any change in the amount of land reserved for public use or the common use of lot owners; or
  - 4. Any change in any easements shown on the approved plat.
- C. Procedure When Future Resubdivision is Indicated as Required for Staged Platting. Whenever land proposed for resubdivision includes land for which future resubdivision is indicated as required for staged platting per these regulations, such resubdivision shall conform to the criteria specified in Section 4.01.A.3.
- D. Waiver. Whenever the Planning Commission, in its sole discretion, makes a finding on the record that the purposes of these regulations may be served by permitting resubdivision by the procedure established in this Section, the Planning Commission may waive the requirements of Section 7.06.A.

The Planning Commission, after an express request for waiver, shall approve, approve conditionally or disapprove such request based upon staff recommendation, and other relevant considerations including, but not limited to the following:

- 1. The proposed changes to the Final Plat;
- 2. The extent of development completed within the subdivision and the impact the proposed changes on such development;
- 3. The impact of the proposed changes on surrounding development; and
- 4. Conformance with the regulations herein.

- E. Request for Waiver Content. All requests for waiver shall include the following:
1. The number of copies of the Final Plat in accordance with the City's Application and Review Schedule, illustrating the proposed changes;
  2. A written statement describing the proposed changes, the need for such and how the changes meet the matters to be considered from Section 4.07.C above;
  3. Any additional documents which may further explain the proposed changes; and
  4. Any additional information needed to determine the appropriateness of the proposed changes.

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## Article Five LOT SPLITS

### Section 5.01 General

- A. General. The intent of this section is to provide for the issuance of building permits for lots divided into not more than two (2) tracts without having to replat or resubdivide said lot, providing that the resulting lots shall not again be divided without resubdividing. The Planning Commission may approve or disapprove lot splits in accordance with these regulations.
- B. Application Procedure. Requests for lot split approval shall be made by the owner of the land to the Zoning Administrator. A scale drawing of the lots involved if there are no structures thereon, or if structures are located on any part of the lot being split, a certified survey, signed and sealed by a registered land surveyor, of the lot(s) and the location of the structure(s) thereon together with the precise nature, location and dimensions of the proposed lot split shall accompany the application. Copies shall be submitted in accordance with the City's Application and Review Schedule.
- C. Approval Guidelines. Approval or disapproval of lot splits shall be made based upon the following standards:
1. No lot split shall be approved if:
    - a. A new street or alley is needed or proposed.
    - b. A vacation of streets, alleys, setback lines, access control or easements is required or proposed.
    - c. If such action will result in significant increase in service requirements; i.e. utilities, schools, traffic control, streets, etc.; or will interfere with maintaining existing service levels, e.g., additional curb cuts, repaving, etc.
    - d. There is less street right-of-way than required by these regulations or the Comprehensive Plan unless such dedication can be made by separate instrument.
    - e. All easement requirements have not been satisfied.
    - f. If such split will result in a tract without direct access to a street.
    - g. A substandard-sized lot or parcel will be created.
    - h. If the lot has been previously split in accordance with these regulations.
  2. The Zoning Administrator and City Engineer may require such additional requirements as deemed necessary to carry out the intent and purpose of the existing land development regulations and City policy.

- D. Action. The Zoning Administrator and City Engineer shall, in writing either approve, with or without conditions, or disapprove the lot split within thirty (30) days of application. If approved, and after all conditions have been met, a certificate of approval shall be signed and furnished to the applicant. Such certificate of approval shall be affixed to the lot split survey. The applicant shall file a certified copy of the lot split and approval with the Neosho County Register of Deeds, and the official designated to issue building or occupancy permits.
- E. Appeal. If disapproved by the Zoning Administrator and City Engineer, applicants can appeal the decision to the Planning Commission.
- F. Filing Fee and Costs.
  - 1. A filing fee and deposit shall be charged and collected from the applicant in an amount as established by the Governing Body by ordinance.
  - 2. The costs of recording documents, publications, writs, planning consultant fees, and engineering costs are payable in addition to filing fees.

## Article Six    IMPROVEMENTS, DEDICATIONS & DESIGN

### Section 6.01    General Improvements

- A.    Conformance to Applicable Rules and Regulations. In addition to the requirements established in these regulations, all subdivision plats shall comply with the following laws, rules, and regulations:
1.    All applicable statutory provisions.
  2.    The zoning regulations, building codes, fire safety standards and all other applicable laws of the City of Chanute.
  3.    The Comprehensive Plan, Street Classification Map, and Capital Improvements Program of the City of Chanute, including all streets, utility systems, and parks indicated in the Comprehensive Plan as adopted.
  4.    The special requirements of these regulations and any rules of the Health Department and/ or State of Kansas, Neosho County or other appropriate agencies.
  5.    The rules of the Kansas Department of Transportation if the subdivision or any lot contained therein abuts a state highway or connecting street.
  6.    The standards, regulations and policies adopted by all boards, commissions, agencies, and officials of the City of Chanute.
  7.    All pertinent standards contained within any and all applicable overlay districts or development specific guidelines as adopted.
  8.    Plat approval may be withheld if a subdivision is not in conformity with the above laws, regulations, guidelines, and policies as well as the purposes of these regulations established in Section 1.06 of these regulations.

### Section 6.02    Adequate Public Facilities

- A.    General. In order to ensure: that property is developed only with appropriate urban services and in accordance with the service plans set out in the Comprehensive Plan; that subdivision of land is not scattered or premature involving danger or injury to the public health, safety, welfare or prosperity by reason of lack of adequate water supply, wastewater disposal, stormwater disposal, roads, right-of-way, or other public services; or that would necessitate an excessive expenditure of public funds for the supply of such services (such as undue maintenance costs for inadequate roads or storm water drainage), no Preliminary Plat shall be approved unless the Planning Commission determines that public facilities will be adequate to support and service the area of the proposed subdivision. The applicant shall, at the request of the Planning Commission, submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on and use of public facilities by possible uses of said subdivision.

**B. Standards.**

1. **Water Supply.** There will be an adequate public water supply available for the proposed occupancy. An adequate public water supply shall include potable water for consumption and other inside and outside uses and adequate water pressure for fire flow to meet established standards for fire protection
2. **Sanitary Sewer.** There will be adequate connections to public wastewater disposal systems with adequate capacity to handle the type and volume of flow from the proposed occupancy with evidence that the existing system has capacity availability to accept the additional flows proposed. Limited, residential development may be served by a septic system subject to compliance with the regulations specified herein.
3. **Storm Sewer.** The proposed storm sewer system, both on-site and off-site, will be adequate to carry projected peak flows in a design storm without causing damage to downstream public or private property. The subdivider shall install culverts, storm sewers, rip-rap slopes, stabilized ditches, storm water detention facilities and other improvements necessary to adequately handle storm water. All improvements shall comply with the minimum standards of these regulations.
4. **Stormwater Management.** Drainage improvements shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent increases in downstream flooding. The City Engineer and Planning Commission may require the use of control methods such as retention or detention, and/ or the construction of offsite drainage improvements to mitigate the impacts of the proposed developments.
5. **Roads.** Proposed roads shall provide a safe, convenient, and functional system for vehicular, pedestrian, and bicycle circulation; shall be properly related to the comprehensive plan; and shall be appropriate for the particular traffic characteristics of each proposed development.
6. **Rights-of-Way.** Right-of-way shall be provided as shown in the Comprehensive Plan and as required by these regulations.
7. **Other Public Services.** Other public services such as schools, police and fire protection, and emergency services, affected by the proposed development will be substantially adequate to serve the development at existing levels of service.

**Section 6.03 Lots**

- A. **Lot Orientation.** All lots shall front on a public street. The lot line common to the street right-of-way shall be the front line. All lots shall face the front line and a similar line across the street. On corner lots, the side with the least distance in measurement shall constitute the front side.
- B. **Lot Width.** The width of lots shall conform to those of the Zoning Regulations and shall be measured at the front setback line.

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- C. **Lot Arrangement.** The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the Zoning Regulations and Health Regulations and in providing driveway access to buildings on the lots from an approved street. Lots shall contain a building site completely free from the danger of flooding. Except where unfeasible, side lot lines shall be at right angles to straight street lines and radial to curved street lines. Wherever feasible, lots shall be arranged so that the rear line does not abut the side line of an adjacent lot.
- D. **Lot Dimensions.** Lot dimensions shall comply with the minimum standards of the Zoning Regulations. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum front-yard setback from both streets. Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in the Zoning Regulations.
- E. **Double Frontage Lots and Access to Lots.**
1. **Double Frontage Lots.** Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from arterial streets or to overcome specific disadvantages of topography and orientation.
  2. **Access from Arterial Streets.** Lots shall not, in general, derive access exclusively from an arterial street. Where driveway access from an arterial street may be necessary for several adjoining lots, the Planning Commission may require that such lots be served by a combined access drive in order to limit possible traffic hazards on the street. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on an arterial street.
- F. **Soil Preservation and Final Grading.** No certificate of occupancy shall be issued until final grading has been completed in accordance with the approved final subdivision plat and the lot covered with soil with an average depth of at least six (6) inches which shall contain no particles more than two (2) inches in diameter over the entire area of the lot, except that portion covered by buildings or included in streets, or where the grade has not been changed or natural vegetation has not been seriously damaged. Topsoil shall not be removed from residential lots or used as spoil, but shall be redistributed so as to provide at least six (6) inches of cover on the lots and at least four (4) inches of cover between the sidewalks and curbs, and shall be stabilized by seeding or planting per the Landscaping and Buffering requirements of the Zoning Regulations.
- G. **Lot Drainage.** Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area.
- H. **Debris and Waste.** No cut trees, timber, debris, rocks, stones, junk, rubbish, or other waste materials of any kind, or earth/soil containing such shall be buried in any land, or left or deposited on any lot or street at the time of the issuance of a certificate of occupancy, and removal of those items and materials shall be required prior to issuance of any certificate of occupancy on a subdivision. No items and materials as described in the preceding sentence nor excess earth/soil shall be left or deposited in any area of the subdivision at the time of expiration of any subdivision improvement agreement or dedication of public improvements, whichever is sooner.

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- I. **Waterbodies and Watercourses.** If a tract being subdivided contains a waterbody, watercourse or portion thereof, lot lines shall be so drawn as to distribute the entire ownership of the waterbody or watercourse among the ownership of adjacent lots. The Planning Commission may approve an alternative plan whereby the ownership of and responsibility for safe maintenance of the waterbody or watercourse is so placed that it will not become a local government responsibility. No more than twenty-five percent (25%) of the minimum area of a lot required under the Zoning Regulations may be satisfied by land that is under water or subject to periodic flooding. Such land(s) shall not be computed in determining the number of lots to be utilized for average density procedures. Where a watercourse separates the buildable area of a lot from the street by which it has access, provisions shall be made for installation of a culvert or other structure, of design approved by the City Engineer.
- J. **Subdivision Improvement Agreement and Security to Include Lot Improvement.** The applicant shall enter into a separate subdivision improvement agreement per Section 7.01 to guarantee completion of all lot improvement requirements including, but not limited to, soil preservation, final grading, lot drainage, lawn coverage, removal of debris and waste, fencing, and all other lot improvements required by the Planning Commission. Whether or not a certificate of occupancy has been issued, the City of Chanute may enforce the provisions of the subdivision improvement agreement where the provisions of this section or any other applicable law, ordinance, or regulation have not been met.

**Section 6.04 Blocks**

- A. **Connectivity:** Intersecting streets shall be provided at such intervals as to serve cross traffic adequately and to meet existing streets in the neighborhood.
- B. **Width:** In residential subdivisions, blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to arterial or collector streets, railroads, or waterways. Blocks intended for business or industrial use shall be on such width as may be considered most suitable for the prospective use.
- C. **Length:** In residential subdivisions, the lengths, widths, and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated, but block shall not exceed one thousand two hundred (1,200) feet or twelve (12) times the minimum lot width required in the zoning district, except that a greater length may be permitted where topography or other conditions justify a departure from this maximum. Block length shall not be less than three hundred (300) feet in length. Blocks intended for business or industrial use shall be on such length as may be considered most suitable for the prospective use.
- D. **Easements:** In long blocks, the Planning Commission may require the reservation of an easement through the block to accommodate utilities, drainage facilities, or pedestrian traffic.
- E. **Pedestrian Access:** Pedestrianways or crosswalks, not less than ten (10) feet wide, may be required by the Planning Commission through the center of blocks more than eight hundred (800) feet long or where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation, or other community facilities.

**Section 6.05 Streets**

A. General Requirements.

1. Relationship to Adjoining Street Systems: The arrangement of streets in new subdivisions shall make provisions for the continuation of the principal existing streets in adjoining additions (or their proper projection where adjoining property is not subdivided) insofar as they may be necessary for convenient movement of traffic, effective fire protection, efficient provision of utilities, or where the continuation is in accordance with the City of Chanute Major Thoroughfare Plan of the Comprehensive Plan. The width of such streets in new subdivisions shall be not less than the minimum street widths established herein. Alleys, when required, and street arrangement must cause no hardship to owners of adjoining property when they plat their land and seek to provide for convenient access to it. Whenever there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted and dedicated as a public way.

Where topographical conditions make such street continuance or conformity impracticable, the Planning Commission may approve an alternative layout.

2. Frontage on Improved Roads. No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing street as follows:
  - a. An existing street as shown on the city's current street map; or
  - b. An existing state, county, or township street or highway; or
  - c. A street shown upon a plat approved by the Planning Commission and recorded in the Neosho County Register of Deeds' office. Such street or highway must be suitably improved as required by the highway rules, regulations, specifications, or orders, or be secured by a performance bond required under these subdivision regulations, with the width and right-of-way required by these subdivision regulations. Wherever the area to be subdivided is to utilize existing road frontage, the road shall be suitably improved as provided above.
3. Grading and Improvement Plan. Roads shall be graded and improved and conform to the City of Chanute construction standards and specifications and shall be approved as to design and specifications by the City Engineer, in accordance with the construction plans required to be submitted prior to Final Plat approval.
4. Classification. All roads shall be classified as an arterial, collector or local street. In classifying roads, the Planning Commission shall consider the Major Thoroughfare Plan of the Comprehensive Plan and the projected traffic demands.

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5. Arrangement.
  - a. Streets shall be related appropriately to the topography. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. All streets shall be arranged so as to obtain as many building sites as possible at, or above, the grades of the streets. Specific standards are contained in the design standards of these regulations.
  - b. Arterial and collector streets through subdivisions shall conform to the major thoroughfare plan of the Comprehensive Plan as adopted by the Planning Commission and Governing Body. All arterial and collector streets shall be properly related to special traffic generators such as industries, business districts, schools, churches, and shopping centers; to population densities; and to the pattern of existing and proposed land uses.
  - c. Local streets shall be laid out to conform as much as possible to the topography to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.
  - d. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Planning Commission such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracks.
  - e. In business and industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provision of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.
6. Where the plat submitted covers only a portion of the contiguous land owned by the subdivider, a sketch of the prospective future street system of the entire ownership shall be submitted.
7. Access to Arterial Streets. Where a subdivision borders on or contains an existing or proposed arterial, the Planning Commission may require that access to such streets be limited by one of the following means:
  - a. The subdivision of lots so as to back onto the primary arterial and front onto a parallel local street; no access shall be provided from the arterial, and screening shall be provided in a strip of land along the rear property line of such lots.

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- b. A series of cul-de-sacs, U-shaped streets, or short loops entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the primary arterial.
  - c. A marginal access or service road (separated from the arterial by a planting or grass strip and having access at suitable points).
8. Road Names. All streets that are oriented in an east-west alignment shall be numbered streets. All streets that are oriented in a north-south alignment shall be named. Streets that are in alignment with other already existing and named streets shall bear the names of the existing streets. Names shall be sufficiently different in sound and spelling from other street names in the municipality so as not to cause confusion. The Planning Commission shall approve street names upon recommendation of the Zoning Administrator at the time of preliminary approval. The Zoning Administrator shall consult the local emergency communications department (911) prior to rendering its recommendation to the Planning Commission.
9. Street Signs. The developer shall pay to the City the cost of purchasing and installation of street signs at all intersections within a subdivision. The term "street sign" as used herein shall include all traffic control signs street name signs and any other street signage that is to be owned and maintained by the City after installation. The City of Chanute shall install all street signs before issuance of certificates of occupancy for any residence on the streets approved. Street name signs are to be placed at all intersections within or abutting the subdivision, the type and location of which to be approved by the City.
10. Street Lights. Installation of street lights shall be required in accordance with the Standard Specifications and Design Criteria of the Kansas Department of Transportation (KDOT).
11. Reserve Strips. The creation of reserve strips shall not be permitted adjacent to a proposed street in such a manner as to deny access from adjacent property to the street.
12. Dead-End Roads.
- a. Dead-End Roads (Temporary). If the adjacent property is undeveloped and a street more than one lot deep or on which lots front must temporarily be a dead-end street, the right-of-way and road improvement shall be extended to the property line. A temporary dust-proof turnaround having a radius of at least fifty (50) feet shall be provided on all temporary dead-end streets. When a temporary turnaround is required, a notation shall be added on the subdivision plat indicating that land outside the normal street right-of-way shall revert to abutting property owners whenever the street is continued. The Planning Commission may limit the length of temporary dead-end streets in accordance with the design standards of these regulations.

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- b. **Dead-End Roads (Permanent).** Where a road does not extend beyond the boundary of the subdivision and its continuation is not required by the Planning Commission for access to adjoining property, its terminus shall normally not be nearer to such boundary than fifty (50) feet. However, the Planning Commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street. An adequate turnaround of not less than a sixty (60) foot radius right-of-way shall be provided at the closed end of any dead-end street that is longer than one (1) lot in length and that is designed to permanently remain as a dead-end street. Cul-de-sacs shall provide a paved turnaround having a street radius, at the back of curb, of fifty (50) feet. Such street segment shall not exceed five-hundred (500) feet in length, measured from the centerline of an intersection of a cross street to the center of the cul-de-sac; except that, such streets designed to serve no more than twenty-five (25) residential lots may be permitted to extend up to one-thousand (1,000) feet in length in the "R-S" zoning district. For greater convenience to traffic and more effective police and fire protection, parking shall not be permitted in the bulb of permanent dead-end streets.

- 13. **Private Streets:** No private streets shall be permitted in the City of Chanute, except as approved by the City Commission. Such streets shall meet the minimum standards herein, and maintenance assurances shall be provided.

**B. Street Design Standards.**

**1. General.**

- a. In order to provide for streets of suitable location, width, and improvement to accommodate prospective traffic and afford satisfactory access to police, fire fighting, snow removal, sanitation, and road-maintenance equipment, and to coordinate roads so as to compose a convenient system and avoid undue hardships to adjoining properties, the following design standards for streets are hereby required.
- b. Unless otherwise specified within these regulations, all streets shall be designed and constructed in accordance with the standards specified in the Standard Specifications and Design Criteria of the Kansas Department of Transportation (KDOT).

**2. Street Alignment.**

- a. **Reverse Curves:** On streets with reverse curves, a reasonable tangent shall be provided between curves to permit a smooth flow of traffic.

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- b. Where there is a deflection angle of more than ten degrees (10°) in the alignment of a street, a curve with a radius adequate to insure safe sight distance shall be made.
  - c. Every change in grade shall be connected by a vertical curve constructed so as to afford the minimum required site stopping distance in conformance with KDOT. Said site stopping distance being measured from a driver's eye level that is assumed to be three and one half (3½) feet above the pavement surface, to an object six (6) inches high on the pavement.
3. Street Grades and Elevations.
- a. The minimum and maximum street grades for streets and alleys, dedicated and accepted, shall conform to the adopted requirements and guidelines of KDOT.
4. Excess Right-of-Way. Right-of-way widths in excess of the standards designated in these regulations shall be required whenever, due to topography, additional width is necessary to provide adequate slopes. Such slopes shall not be in excess of three-to-one.
5. Intersections.
- a. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two (2) streets at an angle of less than seventy-five (75) degrees shall not be acceptable. Any street that does not approach an intersecting street at a right angle should be curved approaching an intersection and should be approximately at right angles for at least one hundred (100) feet from such intersection. Not more than two (2) streets shall intersect at anyone point unless specifically approved by the Planning Commission as recommended by the City Engineer.
  - b. Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall not be permitted, except where the intersected street has separated dual drives without median breaks at either intersection. Where streets intersect arterial or collector streets, their alignment shall be continuous unless specifically approved by the Planning Commission as recommended by the City Engineer.
  - c. Minimum curb radius at the intersection of two (2) streets shall be at least twenty-five (25) feet. Alley intersections and abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practices to permit safe vehicular movement. Whenever necessary to permit the construction of a curb having a desirable radius without reducing the sidewalk at a street corner to less than normal width,

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the property line at such street corner shall be rounded or otherwise set back sufficiently to permit such curb construction.

- d. Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a two percent (2%) grade at a distance of sixty (60) feet, measured from the nearest right-of-way line of the intersecting street.
  - e. Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer shall cut such ground and/ or vegetation (including trees) in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance as specified by the Site Triangle standard of the Zoning Regulations.
  - f. No lot or other parcel of land that abuts on and has access to either a local or collector shall have a service drive, curb cut, or other means of access to an arterial street within seventy-five (75) feet of the right-of-way of any street that intersects such arterial street on the side on which such lot or parcel is located.
6. Bridges. Bridges of primary benefit to the applicant, as determined by the Planning Commission, shall be constructed at the full expense of the applicant without reimbursement from the City of Chanute.
7. Road Dedications and Reservations.
- a. New Perimeter Streets.
    - (1) The dedication of right-of-way for new streets measured from lot line to lot line shall be as shown on the City Comprehensive Plan and shall meet the following standards.

<b>Minimum Street Right-of-Way</b>	
<b>Street Type</b>	<b>Minimum R.O.W. Width (Feet)</b>
Marginal Access	50
Local Street	50
Collector	60-80
Arterial	80-120

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(2) Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half-streets. Where an existing half-street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The Planning Commission may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within its own subdivision boundaries.

b. **Widening and Realignment of Existing Streets.** Where a subdivision borders an existing narrow road or when the Comprehensive Plan, Capital Improvement Plan, or zoning setback regulations indicate plans for realignment or widening a road that would require use of some of the land in the subdivision, the applicant shall be required to improve and dedicate at its expense those areas for widening or realignment of those roads in accordance with the minimum requirements of these regulations. Frontage roads and streets as described above shall be improved and dedicated by the applicant at its own expense to the full width as required by these subdivision regulations when the applicant's development activities contribute to the need for the road expansion. Land reserved for any road purposes may not be counted in satisfying yard or area requirements of the Zoning Regulations whether the land is to be dedicated to the municipality in fee simple title or an easement is granted to the City of Chanute.

**C. Street Improvements**

1. **Curbs and Gutters.** The subdivider shall provide curbs and gutters on all streets. Curbs shall not be less than six (6) inches in depth and shall be constructed of Portland cement concrete. A rolled Portland cement concrete curb shall be used except where a vertical curb is specified by the City Engineer. Backfill shall be higher than the curb in order to insure that surface water drains into the storm drainage system.

2. **Street Surfacing.**

a. After sanitary sewer, storm sewer and water utilities have been installed by the developer, the developer shall construct curbs and gutters as required in these regulations and shall surface or cause to be surfaced roadways to the following minimum widths as measured from back of curb to back of curb:

<b>Minimum Street Widths</b>	
<b>Street Type</b>	<b>Minimum Width</b>
Marginal Access	29'
Local Street	31'
Collector	41'
Arterial	51'

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- b. All streets must be hard surfaced with a minimum of 2 inches asphaltic concrete. All paving must be provided with a stabilized sub-base and concrete curb and gutter. Adequate provision shall be made for culverts, drains, and bridges. All road pavement, shoulders, drainage improvements and structures, curbs, turnarounds, and sidewalks shall be incorporated into the construction plans required to be submitted by the developer for plat approval.
3. Grading
- a. All streets, roads, and alleys shall be graded to their full width by the subdivider so that street pavements and sidewalks can be constructed on the same level plane. Deviation from this standard due to special topographical conditions may be allowed by approval of the City Engineer and Planning Commission.
  - b. Preparation of the Subgrade. Before grading is started, the entire right-of-way area shall first be cleared of all trees, stumps, roots, bushes, and other objectionable materials and of all trees not intended for preservation. The subgrade shall be properly shaped, rolled, and uniformly compacted to conform with the accepted cross section and grades.
    - (1) Cuts. In cuts, all tree stumps, boulders, organic materials, soft clay, spongy material, and other objectionable materials shall be removed to a depth of at least two (2) feet below the graded surface. Rock, when encountered, shall be removed to a depth of at least twelve (12) inches below the graded surface.
    - (2) Fill. In fill, all tree stumps, boulders, organic materials, soft clay, spongy material, and other objectionable materials shall be removed to a depth of at least two (2) feet below the natural ground surface.
    - (3) Disposal of Objectionable Matter. The objectionable matter required to be removed from cuts and fills shall be removed from the right-of-way area and be disposed of in such a manner that it will not become incorporated in fills or hinder proper operation of the drainage system.

**Section 6.06 Storm Sewer**

**A. General Requirements.**

- 1. Unless otherwise specified within these regulations an adequate drainage system, including pipes, culverts, intersectional drains, drop inlets, bridges, etc. for proper drainage of all water shall be provided. The design and construction of facilities for the drainage of storm water shall conform to the current standards established in the Design

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Criteria for Storm Sewers and Appurtenances from the Kansas Department of Transportation (KDOT).

2. The Planning Commission shall not recommend for approval any plat of subdivision that does not make adequate provision for storm and flood water runoff channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, where required, shall be designed by the Rational Method, or other methods as required by the City Engineer, and a copy of design computations shall be submitted along with plans. Inlets shall be provided so that surface water is not carried across or around any intersection, nor for a distance of more than 600 feet in the gutter. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each and every lot and block.

**B. Nature of Storm Water Facilities:**

1. **Location.** The applicant may be required by the City Engineer to construct facilities to convey any spring or surface water that may exist either previously to, or as a result of the subdivision. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements.
2. **Accessibility to Public Storm Sewers.**
  - a. If a connection to a public storm sewer will be provided eventually, as determined by the City Engineer and the Planning Commission, the developer shall make arrangements for future storm water disposal by a public utility system at the time the plat receives final approval. Provision for such connection shall be incorporated by inclusion in the subdivision improvement agreement required for the subdivision plat.
3. **Accommodation of Upstream Drainage Areas.** A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The applicant shall determine the necessary size of the facility, assuming conditions of maximum potential watershed development permitted by the Zoning Regulations. This determination shall be verified and approved by the City Engineer.
4. **Effect on Downstream Drainage Areas.** The applicant shall determine the effect of the subdivision on existing downstream drainage facilities outside the area of the subdivision. This determination shall be verified by the City Engineer. Drainage studies together with such other studies as shall be appropriate, shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Planning Commission may withhold approval of the subdivision until provision has been made for the expansion of the existing downstream drainage facility. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

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5. Areas of Poor Drainage. Whenever a plat is submitted for an area that is subject to flooding, the Planning Commission may approve such subdivision provided that the applicant fills the affected area of the subdivision to an elevation sufficient to place the elevation of streets and lots at a minimum of twenty four (24) inches above the elevation of the one hundred (100) year floodplain. A copy of the required floodplain fill permit shall be submitted prior to the issuance of a building permit. The plat of the subdivision shall provide for an overflow zone along the bank of any stream or watercourse, in a width that shall be sufficient in times of high water to contain or move the water, and no fill shall be placed in the overflow zone nor shall any structure be erected or placed in the overflow zone. The boundaries of the overflow zone shall be subject to approval by the City Engineer. The Planning Commission may deny subdivision approval for areas of extremely poor drainage.
  6. Floodplain Areas. The Planning Commission may, when it deems it necessary for the health, safety, or welfare of the present and future population of the area and necessary to the conservation of water, drainage, and sanitary facilities, prohibit the subdivision of any portion of the property that lies within the floodplain of any stream or drainage course. These floodplain areas shall be preserved from any and all destruction or damage resulting from clearing, grading, or dumping of earth, waste material, or stumps, except at the discretion of the Planning Commission.
- C. Dedication of Drainage Easements.
1. General Requirements. When a subdivision is traversed by a watercourse, drainageway, channel, or stream there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction as will be adequate for the purpose.
  2. Drainage Easements.
    - a. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual, unobstructed easements at least fifteen (15) feet in width for drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall extend from the road to a natural watercourse or to other drainage facilities.
    - b. The applicant shall dedicate, either in fee simple title or by a drainage or conservation easement, land on both sides of existing watercourses to a distance to be determined by the City Engineer and the Planning Commission.
    - c. Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways.

**Section 6.07 Sanitary Sewers**

- A. General Requirements. The applicant shall install sanitary sewer facilities. All plans shall be designed, approved and constructed to the current standards established in the Design Criteria for Sanitary Sewers from the Kansas Department of Health and Environment (KDHE) and in accordance with the rules, regulations, and standards of the City Engineer, Kansas Department of Health and Environment, unless otherwise specified within these regulations. Necessary action shall be taken by the applicant to extend or create a sanitary sewer district for the purpose of providing sewerage facilities to the subdivision when no district exists for the land to be subdivided.
- B. High-Density Residential and Nonresidential Districts. Sanitary sewerage facilities shall connect with public sanitary sewerage systems. Sewers shall be installed to serve each lot. No individual disposal system or treatment plants (private or group disposal systems) shall be permitted.
- C. Low- and Medium-Density Residential Districts. Sanitary sewerage systems shall be constructed as follows:
1. When a public sanitary sewerage system is reasonably accessible either by gravity flow or by other constructed means, the applicant shall connect with same and provide sewers accessible to each lot in the subdivision within one-quarter (1/4) mile.
  2. When public sanitary sewerage systems are not reasonably accessible but will become available within a reasonable time (not to exceed fifteen (15) years), the applicant may choose one of the following alternatives:
    - a. Central sewerage system with the maintenance cost to be assessed against each property benefited. Where plans for future public sanitary sewerage systems exist, the applicant shall design connections to the public system and dedicate easements to accommodate such. In addition a covenant of non-opposition to future improvements shall be submitted. Adequate soil conditions must exist to accommodate the system.; or
    - b. Individual disposal systems. Where plans for future public sanitary sewerage systems exist, the applicant shall design connections to the public system and dedicate easements to accommodate such. In addition a covenant of non-opposition to future improvements shall be submitted. Adequate soil conditions must exist to accommodate each individual lot or subdivision as applicable.
  3. When sanitary sewer systems are not reasonably accessible and will not become available for a period in excess of fifteen (15) years, the applicant may install sewerage systems as follows:
    - a. Medium-Density Residential Districts. Only a central sewerage system may be constructed. No individual disposal system will be permitted. Where plans for future public sanitary sewerage systems exist, the applicant shall design connections to the public system and dedicate easements to accommodate such. In addition a covenant of non-

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opposition to future improvements shall be submitted. Adequate soil conditions must exist to accommodate the system.

- b. Low-Density Residential District. Individual disposal systems or central sewerage systems may be used. Where plans for future public sanitary sewerage systems exist, the applicant shall design connections to the public system and dedicate easements to accommodate such. In addition a covenant of non-opposition to future improvements shall be submitted. Adequate soil conditions must exist to accommodate each individual lot or subdivision as applicable.

- D. Individual disposal system requirements. If public sewer facilities are not available and individual disposal systems are proposed, minimum lot areas shall conform to the requirements of the Zoning Regulations unless additional area is required to assure adequate soil conditions to serve each individual lot or subdivision as applicable. Percolation tests and test holes shall be made as directed by the City Inspector. The individual disposal system, including the size of the septic tanks and size of the tile fields or other secondary treatment devise shall be approved by the Health Department.

**Section 6.08 Water Supply**

- A. The subdivider shall construct a complete water distribution system that shall adequately serve all lots. The system shall include fire hydrants spaced no more than five-hundred (500) feet apart and at high points in the line, or as otherwise necessary to ensure that all lots are within two hundred-fifty (250) feet of a hydrant, unless otherwise approved by the City Engineer and Fire Chief. This system shall be properly connected with the public water supply. The Planning Commission may deny subdivision approval for areas that can not be served by adequate water supply and pressure.
- B. To eliminate future street openings, all underground utilities for water distribution system and fire hydrants, together with the fire hydrants themselves, and all other supply improvements shall be installed before any final paving of a street shown on a plat.

**Section 6.09 Utilities**

- A. Location. All utility facilities, including but not limited to gas, electric power, telephone, and CATV cables, shall be located underground throughout the subdivision. Whenever existing utility facilities are located above ground, except when existing on public roads and rights-of-way, they shall be removed and placed underground. All utility facilities existing and proposed throughout the subdivision shall be shown on the Preliminary Plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the Planning Commission, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.
- B. Easements.

1. Easements centered on rear lot lines shall be provided for utilities (private and municipal) and such easements shall be at least twenty (20) feet wide (10 feet each side). Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements established in adjoining properties.
2. When topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least fifteen (15) feet wide (7.5 feet each side) shall be provided along side lot lines with satisfactory access to the road or rear lot lines as needed. Easements shall be indicated on the plat.

### **Section 6.10 Sidewalks**

#### **A. Required Improvements.**

1. Sidewalks shall be included within the dedicated non-pavement right-of-way of all roads as follows (see also cross sections 1-3 in Appendix A):
  - a. Arterial Streets. Eight (8) foot sidewalks on both sides of the street.
  - b. Collector Streets. Five (5) foot sidewalks shall be required on both sides of all collector streets.
  - c. Local and Marginal Access Streets. Five (5) foot sidewalks shall be required on one side of the street. Sidewalks on local and marginal access streets shall generally be located on the north and east sides of the streets.
2. Sidewalks shall be improved as required by these regulations. Sidewalks shall be located one foot inside the street right-of-way.
3. Crosswalks shall be required to provide safe and convenient access across streets along existing and future sidewalk network. Curb cuts meeting the minimum standards of the Americans with Disabilities Act shall be provided where sidewalks meet street curbs or connection to another sidewalk across a street is required. Crosswalks across collector or arterial streets shall be clearly marked with approved paint or other more permanent means such as use of unique paving patterns as approved by the City Engineer.

- B. Pedestrian Accesses.** The Planning Commission may require, in order to facilitate pedestrian access from the roads to schools, parks, playgrounds, or other nearby roads, perpetual unobstructed easements at least ten (10) feet in width with a paved walkway of five (5) to eight (8) feet. To minimize the impact of the impact on adjacent property, the walkway shall be adequately landscaped and screened as required by the Planning Commission. Pedestrian easements shall be indicated on the plat.

### **Section 6.11 Open Space**

- A. Common Open Space.** Common open space provided in a residential subdivision and conveyed to a property owners association (private open space) or to the City (public open space) shall remain permanently open for recreational and conservational purposes.

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Open space, whether such areas are or will be public or private, in any residential subdivision shall be laid out, to the maximum feasible extent, so as to connect with other open space, existing or proposed, in the vicinity. In the case of two or more adjacent subdivisions, developers may cooperatively allocate open space areas, if such areas are coordinated in design and location to an extent acceptable to the Planning Commission and City Commission.

- B. Private Open Space. Private open space that is held in common shall be set aside for the benefit, use, and enjoyment of the subdivision lot owners, present and future. All private, common open space, including recreation areas, tree cover areas, scenic vistas, wildlife or plant preserves, nature study areas, and private walkways, whose acreage is used in determining the size and extent of common open space shall be included in restrictive covenants, easements, or other legal devices designated to assure that such space will remain permanently open.
- C. In order to meet the recreational needs of the residents of Chanute, all subdivision developments are required to contribute either park land or fees in lieu of park land. Where a school, neighborhood park, recreation area, or public access to water frontage which is shown on the Future Land Use Plan of Comprehensive Plan, in whole or in part in the applicant's proposed subdivision, the City Commission may require the dedication or reservation of such open space within the proposed subdivision for school, park, recreation, or other public purpose. Private open space shall not be credited as public open space.

Park land/fee dedications shall be calculated during the preliminary plat process as specified in these regulations; and dedicated with the final plat. The City Commission shall determine whether the park land offer should be accepted, accepted with conditions, or if the offer should be declined and a payment of funds in lieu of park land dedication. Dedication of land for park use must be reflected and dedicated as such on the final plat.

- D. Quality of Parkland Required to be Dedicated. A park land dedication area shall useable land suitable for park development and shall not be located in any of the following areas within a development.
1. Deep ravines.
  2. Densely wooded areas.
  3. Areas where the average slope of the entire park/recreational area exceeds five (5) percent.
  4. Wetlands as determined by the U.S. Corps of Engineers.
  5. Floodways as determined by the regulations and guidelines of F.E.M.A.
  6. Other areas that are not conducive to park/recreational areas as determined by the Planning Commission.
  7. The total amount for park/recreational area, however, shall not be less than one-half (½) acre in size.

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- E. Amount Of Park/Recreational Area Required. A minimum of four percent (4%) of the gross area of any subdivision shall be reserved for parks and playground sites.
- F. Fee In Lieu Of Park Land Dedication. In order to determine the contribution amount to be paid by the developer in lieu of park land dedication the amount of land required to be dedicated shall first be determined. Based upon the amount of park land required to be dedicated, the developer shall hire and pay for a licensed real estate appraiser to determine the fair market value of the land area that would otherwise be required to be dedicated. The value established by the real estate appraiser shall then be verified and upon approval of the City Commission paid to the City in lieu of the park land dedication. The fee in lieu of park land dedication shall be placed in an escrow account established by the City and shall only be used for park and recreational purposes.

Park fee contribution in lieu of land dedication is due and payable at time of issuance of a building permit. Park fees on multiple buildings may be paid in advance or at time of individual building permit issuance.

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## Article Seven IMPROVEMENT PROCEDURES

### Section 7.01 Improvement Completion and Improvement Agreement

- A. Completion of Improvements. Before the final subdivision plat is signed by the City, all applicants shall be required to complete, in accordance with the approved construction drawings and to the satisfaction of the City Engineer, all the street, sanitary and other public improvements, including lot improvements on the individual lots of the subdivision, as required in these regulations, specified in the Final Plat and as approved by the Planning Commission, and to dedicate those public improvements to the City of Chanute, free and clear of all liens and encumbrances on the dedicated property and public improvements.
- B. Subdivision Improvement Agreement and Guarantee.
1. Agreement. The Governing Body in its sole discretion may waive the requirement that the applicant complete and dedicate all public improvements prior to the signing of the Final Plat and, as an alternative, permit the applicant to enter into a subdivision improvement agreement by which the subdivider covenants to complete all required public improvements no later than two (2) years following the date of the approval of the improvement agreement. The applicant shall covenant to maintain each required public improvement for a period of one (1) year following the acceptance by the Governing Body of the dedication of that completed public improvement. In addition, the covenant shall warrant that all required public improvements will be free from defect for a period of two (2) years following the acceptance by the Governing Body of the last completed public improvement. The subdivision improvement agreement shall contain such other terms and conditions agreed to by the applicant and the Governing Body.
  2. Covenants to Run. The subdivision improvement agreement shall provide that the covenants contained in the agreement shall run with the land and bind all successors, heirs, and assignees of the subdivider. The subdivision improvement agreement will be adopted by the Governing Body and shall be recorded in the Office of the Neosho County Register of Deeds.
  3. Security. Whenever the Governing Body permits an applicant to enter into a subdivision improvement agreement, it shall require the applicant to provide a cash escrow as security for the promises contained in the subdivision improvement agreement. The security shall be in an amount equal to one hundred fifty percent (150%) of the estimated cost of completion of the required public improvements, including lot improvements. The escrow agent shall be acceptable to the Governing Body.
    - a. Cash Escrow. The escrow instructions shall provide: (1) that the subdivider will have no right to a return of any of the funds except as provided in Section 6.03.E.2; and (2) that the escrow agent shall have a legal duty to deliver the funds to the city whenever the City Attorney presents an affidavit to the agent attesting to the city's right to receive funds whether or not the subdivider protests that right.

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If and when the Governing Body accepts the offer of dedication for the last completed required public improvement, the Governing Body shall execute a waiver of its right to receive all but twenty-five percent (25%) of the funds represented by the cash escrow if the subdivider is not in breach of the subdivision improvement agreement. The residual funds shall be security for the subdivider's covenant to maintain the required public improvements and its warranty that the improvements are free from defect.

- C. **Temporary Improvement.** The applicant shall build and pay for all costs of temporary improvements required by the Planning Commission and shall maintain those temporary improvements for the period specified by these regulations. Prior to construction of any temporary facility or improvement, the developer shall file with the Governing Body a separate subdivision improvement agreement and cash escrow in an appropriate amount for temporary facilities, which agreement and escrow shall ensure that the temporary facilities will be properly constructed, maintained, and removed.
- D. **Costs of Improvements.** All required improvements shall be made by the developer, at its expense, without reimbursement by the local government or any improvement district except that, as is allowed under state law, the developer may form or cause to be formed a benefit district or districts to construct and finance the construction of required public improvements excluding lot improvements on individual lots. If the subdivider does form or cause to be formed a benefit district for the purposes identified in this section, the Governing Body shall not release the subdivider from its obligations under any improvement agreement nor shall the Governing Body release any security, in whole or in part, until the benefit district has sold bonds or otherwise certifies to the Governing Body that it has an absolute right to raise revenues sufficient to construct, maintain, and warrant the quality of the required public improvements.
- E. **Governmental Agencies.** Governmental agencies to which these contract and security provisions apply may file, in lieu of the contract and security, a certified resolution or ordinance from officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this Article.
- F. **Failure to Complete Improvement.** For subdivisions for which no subdivision improvement agreement has been executed and no security has been posted, if the improvements are not completed within one year of the date of approval of the Final Plat, the Final Plat approval shall be deemed to have expired. In those cases where a improvement agreement has been executed and security has been posted and required public improvements have not been installed within the terms of the agreement, the Governing Body may then: (1) declare the agreement to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the agreement is declared to be in default; (2) suspend Final Plat approval until the improvements are completed and record a document to that effect for the purpose of public notice; (3) obtain funds under the security and complete improvements itself or through a third party; (4) assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision for which improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete improvements in the subdivision; (5) exercise any other rights available under the law.

- G. Acceptance of Dedication Offers. Acceptance of formal offers of dedication of streets, public areas, easements, and parks shall be by ordinance of the Governing Body. The approval of a subdivision plat by the Planning Commission, whether Preliminary or Final, shall not be deemed to constitute or imply the acceptance by the municipality of any street, easement, or park shown on plat.

### **Section 7.02 Deferral of Required Improvements**

- A. The Governing Body may defer public improvements, subject to appropriate conditions, when in its judgment, such improvements are not requisite in the interests of the public health, safety, and general welfare, or that are inappropriate because of the inadequacy or in existence of connecting facilities. Any determination to defer the provision of any public improvement must be made on the record and the reasons for the deferral or waiver also shall be expressly made on the record.
- B. Whenever it is deemed necessary by the Governing Body to defer the construction of any improvement required under these regulations because of incompatible grades, future planning, inadequate or nonexistent connecting facilities, or for other reasons, the subdivider shall pay his share of the costs of the future improvements to the City prior to signing of the final subdivision plat by the Mayor. As an alternative the Governing Body may accept a separate improvement agreement secured by a letter of credit guaranteeing completion of the deferred improvements as specified by the Governing Body.
- C. In addition to the providing financial assurance for the future completion of deferred improvements, the subdivider shall submit a covenant of non-opposition to the future construction of the deferred improvements. Such covenant shall run with the land and bind all successors, heirs, and assignees of the subdivider.

### **Section 7.03 Inspection and Acceptance of Improvements**

- A. General Procedure and Fees. All improvements constructed or erected shall be subject to inspection by the City Engineer or the Office of the Building Inspector. The cost attributable to all inspections shall be charged to and paid by the subdivider. Fees shall be due and payable upon demand of the City and no building permits or certificates of occupancy shall be issued until all fees are paid. The subdivider shall give at least forty-eight (48) hours written notification to the inspector prior to the performance of any work.
- B. Inspection Procedure. After proper notice is received, the City Inspector shall conduct an on-site inspection to determine that the work complies with the approved construction drawings and specifications. If the said inspector determines that such work does not comply with the approved construction drawings and specifications, said inspector shall so notify the subdivider, and may require the subdivider to terminate all further work until necessary steps are taken to correct any defect, deficiency, or deviation to the satisfaction of said inspector. Upon the correction of such defect, deficiency, or deviation, the subdivider shall notify the inspector for a re-inspection.
- C. Final Inspection. Upon completion of all improvements within the area covered by the Final Plat, the subdivider shall notify the City Inspector who shall thereupon conduct a final inspection of all improvements installed.

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- D. **As-Built Drawings.** Before acceptance of any public improvement project, the applicant shall provide the City Inspector with one original set on mylar, one copy of the original set, and an electronic copy of the as-built drawings. Electronic copies shall be in a format compatible with the City's designated software.

The drawings must include results of a post-construction survey. The post-construction survey shall include, but shall not be limited to, the following:

1. Elevation of all structures, including sanitary sewer manholes, storm sewer inlets, pipe inverts, and structure top elevations;
2. Final adjusted stationing of all structures, including but not limited to valves, hydrants, and blow-off assemblies; and
3. Final adjusted contours as featured in the grading and drainage plans.

The as-built drawings must include a signed Engineer's Certification stating that the drawings are as-built and conform to construction records and post-construction survey information.

- E. **Formal Acceptance and Release or Reduction of Security.**

1. **Certificate of Satisfactory Completion.** The Governing Body will not accept dedication of required improvements, nor release nor reduce the amount of any security posted by the subdivider until the City Engineer has submitted a certificate stating that all required improvements have been satisfactorily completed and until (1) the applicant's engineer or surveyor has certified to the City Engineer, through submission of a detailed "as-built" drawing as required by Section 6.03.D, that the layout of the line and grade of all public improvements is in accordance with construction drawings for the subdivision, and (2) a title insurance policy has been furnished to and approved by City Attorney indicating that the improvements have been completed, are ready for dedication to the local government, and are free and clear of any and all liens and encumbrances.

Upon such approval and recommendation by the City Engineer and City Attorney, the Governing Body shall thereafter accept the improvements for dedication. The Governing Body shall so notify the subdivider in writing, the Final Plat shall be signed by the Mayor, and after payment of all fees required, the subdivider may file the subdivision with the Neosho County Register of Deeds.

2. **Reduction of Escrowed Funds and Security.** The amount of the escrow shall be reduced upon actual acceptance of the dedication of public improvements and then only to the ratio that the cost of the public improvement for which dedication was accepted bears to the total cost of public improvements for the subdivision. In no event shall a cash escrow be reduced below twenty-five per cent (25%) of the principal amount. Funds held in the escrow account shall not be released to the subdivider, in whole or in part, except upon express written instructions of the Governing Body. At the end of the maintenance and warranty periods, all escrowed funds, if any, shall be released to the subdivider.

**Section 7.04 Maintenance of Improvements**

The developer shall be required to maintain all required public improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks until acceptance of the improvements by the Governing Body. If there are any certificates of occupancy on a street not dedicated to the City, the City may on twelve (12) hours notice plow the street or effect emergency repairs and charge those costs to the developer. Following the acceptance of the dedication of any public improvement, the Governing Body may, in its sole discretion require the subdivider to maintain the improvement for a period of one (1) year from the date of acceptance.

**Section 7.05 Issuance of Building Permits and Certificates of Occupancy**

- A. Building Permits. Unless the required improvements have been installed and accepted by the Governing Body or guaranteed according to Section 6.01 for a lot or tract, no building permits shall be issued for that lot or tract.
- B. Occupancy Permits. No occupancy permit shall be issued until all improvements have been installed and accepted by the Governing Body.

**Section 7.06 Temporary Occupancy / Escrow Deposits for Improvements**

- A. Acceptance of Escrow Funds. Whenever, by reason of a period of inclement weather or the season of the year, any improvements required by the subdivision regulations cannot be performed, the Building Inspector may issue a certificate of occupancy, provided there is no danger to health, safety, or general welfare upon accepting a cash escrow deposit in an amount equal to one hundred fifty percent (150%) of the estimated cost of completion of the lot improvements. The subdivision improvement agreement and security covering the lot improvements shall remain in full force and effect.
- B. Procedures on Escrow Fund. All required improvements for which escrow monies have been accepted by the Building Inspector at the time of issuance of a certificate of occupancy shall be installed by the subdivider as soon as weather permits and in no case more than a period of nine (9) months from the date of deposit and issuance of the certificate of occupancy. If the improvements have not been properly installed at the end of the time period, the Building Inspector shall give two (2) weeks written notice to the developer requiring it to install the improvements, and if they are not then installed properly, the Building Inspector may request the Governing Body to proceed to contract out the work for the installation of the necessary improvements in a sum not to exceed the amount of the escrow deposit. At the time of the issuance of the certificate of occupancy for which escrow monies are being deposited with the Building Inspector, the developer shall obtain and file with the Building Inspector prior to obtaining the certificate of occupancy a notarized statement from the purchaser or purchasers of the premises authorizing the Building Inspector to install the improvements at the end of the nine (9) month period if the improvements have not been duly installed by the subdivider.

