CHAPTER XVI. ZONING AND PLANNING

Article 1. City Planning Commission/
   Board of Zoning Appeals
Article 2. Zoning Regulations
Article 3. Subdivision Regulations
Article 4. Floodplain Zoning Regulations

ARTICLE 1. CITY PLANNING COMMISSION/
BOARD OF ZONING APPEALS

16-101. COMMISSION RE-ESTABLISHMENT. There is hereby re-established the
Cheney City Planning Commission which is composed of twelve members of
which ten members shall be residents of the city and two members shall reside
outside the city, but within the designated planning area of the city which is within
at least three miles of the corporate limits of the city. The planning commission
was originally created by Ordinance No. 457 which was passed and approved on
August 7, 1975. (Code 2016)

16-102. MEMBERSHIP, TERMS, INTEREST AND COMPENSATION. The members
of the planning commission shall be appointed by the mayor with the consent of
the governing body at the first regular meeting of the governing body in May of
each year and take office at the next regular meeting of the commission. All
members shall be appointed for staggered terms of three years each. The
appointments shall be so made that the terms of office of the members residing
outside of the corporate limits of the city do not expire within the same year. By the
re-establishment of the commission, all current members continue to serve their
present terms of office. In case of death, incapacity, resignation or disqualification
of any member, appointment to such a vacancy on the commission shall be made
of the unexpired term of the member leaving the membership. Should any member
have a conflict of interest, either directly or indirectly, in any matter coming before
the commission, he or she shall be disqualified to discuss or vote on the matter.
The governing body may adopt rules and regulations providing for removal of
members of the commission. Members of the commission shall serve without
compensation, but may be reimbursed for expenses actually incurred in the
performance of their duties as deemed desirable by the governing body.
(Code 2005)

16-103. MEETINGS, OFFICERS AND RECORDS. The members of the planning
commission shall meet at such time and place as may be fixed in the commission's
bylaws. The commission shall elect one member as chairperson and one member
as vice-chairperson who shall serve one year and until their successors have been
elected. A secretary shall also be elected who may or may not be a member of the
commission. Special meetings may be called at any time by the chairperson or in
the chairperson's absence by the vice-chairperson. The commission shall adopt
bylaws for the transaction of business and hearing procedures. All actions by the

16-1
commission shall be taken by a majority vote of the entire membership of the commission; except that, a majority of the members present and voting at the hearing shall be required to recommend approval or denial of an amendment to the zoning regulations, a rezoning amendment or a special use permit. A proper record of all the proceedings of the commission shall be kept. The commission, from time to time, may establish subcommittees, advisory committees or technical committees to advise or assist in the activities of the commission. (Code 2005)

16-104.

POWERS AND DUTIES. The governing body and planning commission shall have all the rights, powers and duties as authorized in K.S.A. 12-741 et seq., and amendments thereto, which are hereby incorporated by reference as part of this section and shall be given full force and effect as if the same had been fully set forth. The commission is hereby authorized to make or cause to be made, adopted and maintained a comprehensive plan for the city and any unincorporated territory lying outside of the city but within Sedgwick County in which the city is located, which in the opinion of the commission forms the total community of which the city is a part. The commission shall also cause to be prepared, adopted and maintained zoning and subdivision regulations on all land within the jurisdiction designated by the governing body. The comprehensive plan and zoning and subdivision regulations are subject to final approval of the governing body by ordinance. Periodically, the governing body may request the commission to undertake other assignments related to planning and land use regulations. (Code 2005)

16-105.

BOARD OF ZONING APPEALS. The planning commission is hereby designated to also serve as the city's board of zoning appeals with all the powers and duties as provided for in K.S.A. 12-759. The board shall adopt rules in the form of bylaws for its operation which shall include hearing procedures. Such bylaws shall be subject to the approval of the governing body. Public records shall be kept of all official actions of the board which shall be maintained separately from those of the commission. The board shall keep minutes of its proceedings showing evidence presented, findings of fact, decisions and the vote upon each question or appeal. A majority of the members of the board present and voting at the hearing shall be required to decide any appeal. Subject to subsequent approval of the governing body, the board shall establish a scale of reasonable fees to be paid in advance by the appealing party. The present membership of the board of zoning appeals shall be disbanded effective May 1, 2005. (Code 2005)

16-106.

BUDGET. The governing body shall approve a budget for the planning commission and make such allowances to the commission as it deems proper, including funds for the employment of such employees or consultants as the governing body may authorize and provide, and shall add the same to the general budget. Prior to the time that moneys are available under the budget, the governing body may appropriate moneys for such purposes from the general fund. The governing body may enter into such contracts as it deems necessary and may receive and expend funds and moneys from the state or federal government or from any other resource for such purposes. (Code 2005)
ARTICLE 2. ZONING REGULATIONS

16-201. ADOPTION. Zoning regulations are hereby approved and adopted by the Governing Body of the City of Cheney, Kansas, as prepared and published in book form, adopted by the Cheney City Planning Commission and entitled "City of Cheney Zoning Ordinance 2006". The "City of Cheney Zoning Ordinance 2006" is hereby incorporated by reference as fully as if set out herein. (Ord. 811; Code 2016)

16-202. OFFICIAL MAP. Within Chapter 6 of the "City of Cheney Zoning Ordinance 2006" is incorporated by reference and adopted an Official Zoning Map designated as the Zoning District Map and delineating the boundaries of zoning districts and the classification of such districts. Said Zoning District Map shall be marked "Official copy of zoning district map incorporated into zoning regulations by adoption of Ordinance No. 801 by the Governing Body of the City of Cheney on the 14th day of January, 2006" and shall be filed with the City Clerk, to be open for inspection and available to the public at all reasonable business hours. (Ord. 811; Code 2016)

16-203. JURISDICTION. From the effective date of Ordinance No. 801, the Zoning Regulations and Official Zoning Map herein incorporated by reference shall govern all use of the land and the location of buildings and other structures placed within the corporate limits of the City of Cheney, Kansas. (Ord. 811; Code 2016)

16-204. OFFICIAL COPY. One of the "City of Cheney Zoning Ordinance 2006" shall be marked "Official Copy as incorporated by Ordinance No. 801", attached to a copy of Ordinance No. 801 and filed with the City Clerk to be open for inspection and available to the public at all reasonable business hours. (Ord. 811; Code 2016)

16-205. INVALIDITY OF A PART. Any provisions of the "City of Cheney Zoning Ordinance 2006" which shall be declared by a competent court to be unconstitutional or invalid shall not affect the validity and authority of any other sections of the "City of Cheney Zoning Ordinance 2006". (Ord. 811; Code 2016)
ARTICLE 3. SUBDIVISION REGULATIONS

16-301. REGULATIONS INCORPORATED. There are hereby incorporated by reference, as if set out fully herein, certain regulations governing the subdivision of land located within the City of Cheney, Kansas and certain surrounding area as described therein, as adopted by the governing body of the City of Cheney, Kansas and prepared by __________________________. One copy of the subdivision regulations marked "Official Copy as incorporated by the Code of the City of Cheney" and to which there shall be a published copy of this section attached, shall be filed with the city clerk to be open for inspection and available to the public at all reasonable hours. (Code 2016)
ARTICLE 3. SUBDIVISION REGULATIONS

16-301. SHORT TITLE. This title shall be known and may be referred to as the Subdivision Regulations of the City of Cheney, Kansas. (Code 1976, 16.04.010)

16-302. INTENT AND PURPOSE. The subdivision regulations in this title are designed and intended to serve the following purposes: to provide for the harmonious development of the city; to provide for the proper location and width of streets, for building lines, open spaces, drainage, safety and recreational facilities, and for the avoidance of congestion of population; to provide for the minimum width, depth and area of lots; to specify the extent to which, or the manner in which, roadways shall be graded and improved, and water, were, gas, and other utility mains and piping or connections or other physical improvements shall be installed; and to provide for and secure to the property governing body the actual construction of such physical improvements; and to exercise the powers conferred by K.S.A. 12-705)

16-303. JURISDICTION. This title shall apply to all land located within the city. (Code 1976, 16.04.030)

16-304. PLAT REQUIRED; WHEN. Any owner or owners of land subdividing the same into lots and blocks or tracts or parcels for the purpose of laying out any subdivision, suburban lots, building lots, tracts or parcels or establishing any street, alley or other property intended for public use or for use of purchaser or owner of lots, tracts or parcels of land facing on or adjacent thereto shall cause subdivision plat to be made in accordance with this title. (Code 1976, 16.06.040)

16-305. COMPLIANCE REQUIRED. No plat or subdivision shall be approved which does not comply with the provisions of this title. (Code 1976, 16.04.050)

16-306. RULES OF CONSTRUCTION. (a) Where the conditions imposed by the provisions of this title are either more restrictive or less restrictive than comparable conditions imposed by any other provision of any other applicable law, ordinance, resolution, rule or regulations of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

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

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

(d) The provisions of this title are cumulative and additional limitations upon all other laws and ordinances heretofore passed or which maybe passed hereafter governing any subject matter set forth in the provisions of this title.

(Code 1976, 16.04.060)
16-307. PLANNING COMMISSION DUTIES. The planning commission shall administer the provisions of this title, and, in furtherance of such authority, the commission shall:
   (a) Maintain permanent and current records with respect to this title, including amendments thereto;
   (b) Receive and file all preliminary plats and final plats, together with applications therefor;
   (c) Forward copies of the preliminary plat to other appropriate governmental agencies and departments and public utilities for their report and recommendations, when such report and recommendations are necessary or desirable;
   (d) Forward final plats to the governing body, together with the recommendations of the planning commission;
   (e) Review and approve, approve conditionally, or disapprove preliminary plats;
   (f) Review and approve or disapprove final plats and transmit the same to the governing body for acceptance of dedications of streets, alleys and other public ways and sites;
   (g) Make such other determinations and decisions as may be required of the planning commission from time to time by this title or the applicable sections of the Kansas Statutes Annotated.
   (Code 1976, 16.04.070)

16-308. FEES AND COSTS; RECEIPT REQUIRED. (a) The filing fee shall be $50 plus $3 for each lot over one, based on the number of lots shown on the preliminary plat.
   (b) The filing fees for lot split shall be $20.
   (c) Cost of recording documents, publications, writs and engineering costs are payable in addition to filing fees. This cost will be billed to the applicant.
   (d) A written receipt shall be issued to the person(s) making such payment. No fee shall be required when such proposed plat, subdivision, or lot split is owned by any department, agency, political subdivision, board or commission of any city or the county or federal government. No fee shall be refunded in the event any preliminary or final plat is disapproved.
   (Code 1976, 16.04.080)

16-309. AMENDMENTS. This title may be amended at any time after the planning commission shall have held a public hearing on the proposed amendment. A notice of such public hearing shall be published in the official city newspaper as provided by law. At such public hearing or after such public hearing is held, the planning commission may adopt such amendments, but such amendments shall not become effective until approval by the city council. (Code 1976, 16.04.090)

16-310. DEFINITIONS

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

   (a) Alley means a strip of land along the side of or in the rear of lots intended to provide a secondary means of access to and from streets and such lots.
   (b) Arterial Street means any street serving major traffic movements which is designed primarily as a traffic carrier between cities or between various sections of the
city, which forms part of a network of through streets, and which provides service and access to abutting properties only as a secondary function.

(c) **Block** means a tract of land bounded by streets, or by a combination of streets, railway rights-of-way or waterways.

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

(e) **Collector Street** means any street designed primarily to gather traffic from local or residential streets and carry it to the arterial system.

(f) **Commission** means the city planning commission.

(g) **Comprehensive Development Plan** means an official map or street plan, the future use map or plan, or any other plan or map of the city for the guidance of municipal growth and improvement.

(h) **Crosswalk** means a strip of land dedicated for public use which is reserved across a block for the purpose of providing pedestrian access to adjacent areas.

(i) **Cul-de-sac** means a street having only one outlet and being permanently terminated by a vehicle turnaround at the other end.

(j) **Dead-End Street** means a street having only one outlet.

(k) **Design Standards or Design Requirements** means all requirements and regulations relating to design and layout of subdivisions contained in sections 16-411 through 16-443.

(l) **Engineer.** When used in the sense as a designing or surveying the plat or subdivision, **engineer** means a professional engineer or a surveyor licensed by the state or licensed to practice in the estate. When used in connection with designing or engineering any improvements either on site or off site, **engineer** means a professional engineer licensed by the state or licensed to practice in the state.

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

(n) **Frontage Lot** means that portion of the frontage which lies between the side lot lines of a single lot.

(o) **Frontage Road** means a public or private marginal-access roadway generally paralleling and contiguous to a street or highway and designed to promote safety by eliminating unlimited ingress and egress to such street or highway by providing points of ingress and egress at more or less uniformly spaced intervals.

(p) **Governing Body** means the elected governing body of the city.

(q) **Half Street** means a street bordering one or more property lines of a subdivision tract to which the subdivider has allocated only a portion of the ultimate and intended street width.

(r) **Improvements** means all facilities constructed or erected by a subdivider within a subdivision to permit and facilitate the use of lots or blocks for a principal residential, business or manufacturing purpose. **Improvements** includes all facilities listed in sections 16-411 through 16-443.

(s) **Local Street** means any street designed primarily to provide access to abutting property.
(l) Lot means a portion or basic parcel of a subdivision or other tract of land intended to be the parcel by which such land would be individually developed and transferred.

(u) Lot Depth means the distance between the midpoint of the front lot line and the midpoint of the rear lot line.

(v) Lot Double Frontage means a lot two opposite lot lines of which abut upon streets which are more or less parallel.

(w) Lot Line means the boundary line of a lot.

(x) Lot Split means the dividing or redividing of a lot or lots in a recorded plat of a subdivision into not more than two tracts which meet the criteria established within this title.

(y) Lot Width means the distance on a horizontal plane between the side lot lines of a lot measured at right angles to the line establishing the lot depth at the established building setback line.

(z) Marginal-Access Street means a local street which is parallel with and adjacent to a limited-access highway or arterial street and which provides access to abutting properties and protection from through traffic on the limited-access highway or arterial street.

(aa) Owner means any person or persons, firm or firms, corporation or corporations, or any other legal entity having legal title to land sought to be subdivided under this title.

(bb) Plat means a subdivision as it is represented as a formal document by drawing and writing.

(cc) Resubdivision means the subdivision of a tract of land which has previously been lawfully subdivided and had a plat of such prior subdivision duly recorded.

(dd) Road or Roadway means the paved or improved area existing on the street right-of-way, exclusive of sidewalks, driveways or related uses.

(ee) Screening means decorative fencing or evergreen vegetation maintained for the purpose of concealing from view the area behind such fencing or evergreen vegetation. When fencing is used for screening, it shall be not less than six nor more than eight feet in height.

(ff) Street means the street right-of-way, whether public or private; not the area of the paving or other improvements on the street right-of-way unless such paving or improvements coincide with boundaries of such right-of-way. Street includes, but is not limited to, that which is named or commonly referred to as street, avenue, road, lane, boulevard, way, etc.

(gg) Street Width means the shortest distance between the property lines abutting both sides of a street right-of-way.

(hh) Subdivider means the owner, or any other person, firm or corporation, authorized by the owner, undertaking proceedings under the provisions of this title for the purpose of subdividing land.

(ii) Subdivision means any division or redivision of land by means of mapping, platting, conveying, changing or rearranging of boundaries or otherwise, and also relates to the process of subdividing or other land subdivided where appropriate to the context.

(jj) Turnaround means an area at the enclosed end of a dead-end street or cul-de-sac within which vehicles may reverse their direction without any backing up.
(kk) Vision Triangle means a triangular area at the intersection of streets maintained in such a manner as to provide a safe and open line of vision for drivers of vehicles approaching the intersection. Within the vision triangle, no one shall install, set out or maintain, or allow the installation, setting out or maintenance of, any sign, fence, hedge, shrubbery, natural growth or other obstruction to view; however, such restriction shall not apply to public utility poles; hedges trimmed to a height of less than 33 inches above gutter grade for urban roadways or above the midpoint of the adjacent travel lane for rural roadways; trees, the limbs of which are at all times kept trimmed of limbs and sucker growth on the trunk to a height of at least eight feet above the ground level or the limbs of which overhang the public street and are at all times kept trimmed of sucker growth to a height of at least 13 feet six inches above the street level, or plant species not planned in the form of a hedge which are so planted and trimmed as to leave at all times a clear and unobstructed cross view; ornamental fence not exceeding four feet in height, provided the ratio of the solid portion of the fence to the open does not exceed one to four; official warning signs or signals to places where the contour of the ground is such that there can be no cross-visibility at the intersection or to signs mounted 10 feet or more above the ground whose supports do not constitute an obstruction.

(Code 1976, 16.08.010:16.08.290)

**PLATS**

16-311 ACCURACY. Plats shall be prepared with the following accuracy:

(a) Sketch plats shall be to a scale. The may be submitted in free hand form.

(b) Preliminary plats shall be drawn to scales with such accuracy as to determine the location of lot, block, property and boundary lines and utility and other facilities.

(c) Final plats shall be prepared with the accuracy required for traverse data.

The following sheets or drawings shall be submitted with the final plat:

(1) Traverse data for the plat, including the coordinates of the boundary of the subdivision with the error of closure. The error of closure for a perimeter distance having a length of 10,000 feet or more shall not be more than one in 20,000. For perimeter distances less than 10,000 feet in length, the error of closure shall not be more than one in 10,000;

(2) The computation of all distances, angles and courses that are shown on the final plat unless measured in the field;

(3) All stakes, monuments or other evidence found on the ground in use to determine the boundaries of the plat.

(Code 1976, 16.12.010)

16-312 PRELIMINARY PLAT; FILING. Such number of copies of the preliminary plat as may be determined necessary by the planning commission for proper review shall be filed with the planning commission. (Code 1976, 16.12.020)

16-313 PRELIMINARY PLAT; FILING FEE PAYMENT. The preliminary plat shall not be accepted for filing until the filing fee therefore has been paid by the subdivider. (Code 1976, 16.12.030)
16-314. PRELIMINARY PLAT; CONTENTS; GENERALLY. The preliminary plat shall contain the information and date set out in sections 16-415 through 16-419. (Code 1976, 16.12.040)

16-315. PRELIMINARY PLAT; SCALE. The preliminary plat shall be drawn at a scale of not less than one inch equals 100 feet; however, areas over 100 acres may be at a scale of one inch equals 200 feet. (Code 1976, 16.12.050)

16-316. PRELIMINARY PLAT; CONTENTS; GENERAL INFORMATION. The following general information shall be shown on the preliminary plat:
   (a) The proposed name of the subdivision; this name shall not duplicate or resemble the name of any existing subdivision within the area subject to these regulations;
   (b) Date, north point, and scale of drawing;
   (c) An identification clearly stating that the map is a preliminary plat;
   (d) Location of the subdivision to define the location and boundaries of the tract which will be subdivided;
   (e) Names of adjacent subdivisions or, in the case of unplatted land, the name of the owner or owners of adjacent property;
   (f) The name and address of the owner, the subdivider, and the licensed professional engineer or surveyor who prepared the plat. (Code 1976, 16.12.060)

16-317. PRELIMINARY PLAT; CONTENTS; EXISTING CONDITIONS. The following existing conditions shall be shown on the preliminary plat:
   (a) The location, width and names of all existing public or private streets within or adjacent to the tract, together with easements, railroad rights-of-way, and other important features such as section lines and corners, city boundary lines and monuments;
   (b) Contour lines or spot elevations based on city datum or mean sea level (MSL) having the following intervals;
      (1) Two-foot contour intervals for ground slopes less than 10 percent,
      (2) Five-foot contour intervals for ground slopes exceeding 10 percent;
      (3) Spot elevators where the ground is too flat for contours.
   The date of the topographic surveys shall be shown.
   (c) The location and direction of all watercourses and areas subject to flooding;
   (d) Natural features such as rock outcroppings, marshes, lakes, wooded areas, and isolated preserving trees;
   (e) Existing use of the property, including the location of all existing structures, showing those that will be removed and those that will remain in the property after the final plat is recorded;
   (f) The horizontal location and elevation within the subdivision and the horizontal location in the adjoining streets and property of existing sanitary and stormwater sewers, including flow lines, water mains, culverts, underground wiring, pipelines and gas lines proposed to serve the property to be subdivided;
      (g) Zoning on and adjacent to the tract, if any;
      (h) Location, elevation and description of the bench mark controlling the vertical survey.
PRELIMINARY PLAT; CONTENTS; LAYOUT. The following information with respect to the manner in which the tract is to be subdivided and developed shall be included on the preliminary plat:

(a) Streets, showing the location, width, names and approximate grades thereof. The preliminary plat shall show the relationship of all streets to any projected streets shown, or any development plan adopted by the planning commission or governing body; or, if no such development plan has been completed, then as suggested by the planning commission;

(b) Easements showing width and purpose;

(c) Lots showing approximate dimensions, minimum lot sizes and proposed lot and block numbers;

(d) Sites, if any, to be allocated for development with other than single-family dwellings;

(e) Location and type of utilities to be installed;

(f) Sites, if any, to be dedicated or reserved for park, playground or other public purposes;

(g) Proposed building setback lines, if any.

PRELIMINARY PLAT; CONTENTS; SEPARATE ADDITIONAL DATA. The following data and information shall be submitted in separate statements and/or maps accompanying the preliminary plat, or, if practical, such data and information may be shown on the preliminary plat:

(a) A vicinity map showing existing subdivisions, streets and unsubdivided tracts adjacent to the proposed subdivision and showing the manner in which the proposed streets may be extended to connect with existing streets;

(b) Proposed deed restrictions, if any, in outline form;

(c) A statement of the manner in which it is proposed to finance improvements;

(d) A statement as to the general nature and type of improvements proposed for the subdivision and in what manner the subdivider intends to provide for their installation, e.g., petition, actual construction, monetary guarantee, etc. If other than by petition, the approximate time that such improvements will be completed should be indicated.

PRELIMINARY PLAT; PLANNING COMMISSION APPROVAL OR DISAPPROVAL. (a) The planning commission shall review the preliminary plat and may conduct a public hearing, at which time interested persons may attend and offer evidence in support of or against such preliminary plat.

(b) The planning commission shall thereupon determine, on the basis of all evidence before it, whether the preliminary plat generally meets the design standards and requirements of this title, any comprehensive plans of the area, the zoning regulations in force in the area, and other applicable provisions of ordinances or regulations of the local government.

(c) If the considerations in subsections (a) and (b) of this section are satisfied, the planning commission shall approve, in writing, the preliminary plat.
(d) If the planning commission determines that the preliminary plat does not satisfy the conditions in subsections (a) and (b) of this section it may suggest modifications so as to satisfy such conditions, and in such event:

(1) The subdivider may amend the preliminary plat so as to incorporate such modifications and resubmit the preliminary plat to the planning commission, which shall then grant its approval if such amendments satisfactorily incorporate the suggested modifications; or

(2) The subdivider may reject the suggested modifications, or, within the time allowed for planning commission action, may refrain from taking any action thereon. In either event, the preliminary plat shall be deemed to have been disapproved and the planning commission shall thereupon furnish the subdivider with a written statement setting forth the reasons for disapproval of the preliminary plat.

(e) If the planning commission determines that the preliminary plat does not satisfy the foregoing conditions and that modifications would be too extensive or impractical, it shall disapprove the preliminary plat and immediately notify the subdivider of its action and the reasons therefor.

(f) The provisions of subsections (a) through (e) of this section to the contrary notwithstanding, the planning commission shall approve or disapprove the preliminary plat within 60 days from the date of the filing of such plat or from the date that the subdivider has submitted the last item of required data (when such requirement has been made within 60 days), whichever date is later, unless such time is extended by mutual consent. If the preliminary plat is disapproved, then within 10 days thereof the planning commission shall furnish the subdivider with a statement in writing setting forth the reason for such disapproval and specifying with particularity the aspects in which the proposed preliminary plat fails to conform to the requirements of this title, any comprehensive plans, zoning regulations in force in the area and other applicable provisions of the ordinances of the city.

(Code 1976, 16.12.100)

16-321. PRELIMINARY PLAT; APPROVAL TIME LIMIT. If the planning commission fails to approve or disapprove a preliminary plat within 60 days after the date such plat is submitted to it or from the date the subdivider has submitted the last item of required data, whichever date is later, then such preliminary plat shall be deemed to have been approved, unless the subdivider shall have consented in writing to extend or waive such time limitation. (Code 1976, 16.12.110)

16-322. PRELIMINARY PLAT; APPROVAL; EFFECT. (a) Approval of the preliminary plat shall not constitute approval of the final plat by the planning commission but shall signify merely the general acceptability of the proposed subdivision.

(b) Such approval shall be considered permission to prepare the final plat, detailed plans and specifications for the proposed subdivision and for all public improvements to be constructed therein by the subdivider.

(c) Such approval shall be effective for no more than 12 months from the date approval was granted, unless, upon application from the subdivider, the planning commission grants an extension of time beyond such period. If a final plat has not been approved and recorded as required by the provisions of this title within such 12 month period, or any extensions granted thereto, the preliminary plat must be
resubmitted to the planning commission as if such plat had never been approved, except that no additional fee shall be charged for such resubmission. (Code 1976, 16.12.120)

16-323. FINAL PLAT; FILING. The final plat, on tracing cloth or on other such material as may be authorized by this title, together with the same number of copies as are required for submission as a preliminary plat, shall be filed with the planning commission within 12 months after the date that the preliminary plat is approved. (Code 1976, 16.12.130)

16-324. FINAL PLAT; PLANNING COMMISSION APPROVAL OF DISAPPROVAL. The planning commission shall, within 60 days after the plat has been submitted to it, either approve or disapprove the plant. If the planning commission disapproves the final plat, it shall advise the subdivider in writing of the reason for such disapproval within 10 days after disapproval. (Code 1976, 16.12.140)

16-325. FINAL PLAT; FORM. The final plat shall be prepared by a licensed professional engineer or surveyor, as defined in section 16-410(l), and drawn in waterproof black ink on Imperial tracing cloth or its equivalent. Alternatively, a final plat may be prepared with a photographic process provided it is submitted on 0.004 inch mylar chronoflex engineering photographic film or its equivalent. The permitted page sizes shall be 22 inches by 34 inches, or smaller. Larger sizes will not be accepted. The scale shall be not less than 100 feet to one inch, except that a variation in scale may be allowed where the planning commission determines it is necessary for a proper exhibit of the subdivision. When more than one sheet is used for any plat, each such sheet shall be numbered consecutively, and each such sheet shall contain a notation showing the whole number of sheets in the plat and its relation to other sheets (e.g., sheet one of three sheets). Linear dimensions shall be given in feet and decimals of a foot. (Code 1976, 16.12.150)

16-326. FINAL PLAT; CONTENTS. The final plat shall show on the face thereof:
   (a) The name of the subdivision;
   (b) The date, scale, North point, legend and controlling physical features, such as watercourses, highways and railroads;
   (c) A legal description of the tract boundaries;
   (d) Reference ties to government corners or previous surveys or plats as follows:
      (1) Distance and direction to the monuments used to locate the land described in the certificate of survey;
      (2) The location of all other monuments required to be installed by the provisions of these regulations.
   (e) Tract boundary, block boundary, street and other right-of-way lines with distances and angles (and/or bearings). Where these lines follow a curve (all curves must be circular), the central angle, the radius, points of curvature, length of curve and length of intermediate tangents shall be shown;
   (f) Lot lines with dimensions. Side lot lines shall be at right angles or radial to street lines unless otherwise shown. Rear lot lines shall be parallel to block or tract
lines unless otherwise indicated. Points of deflection of rear lot lines shall be indicated by angles and distances;

(g) The width of the portion of the streets being dedicated and the width of any existing right-of-way;

(h) All easements shall be denoted by fine dashed lines, clearly identified and, if already on record, the recorded reference of such easements. If an easement is not definitely located of record, a statement of such easement shall be included. The width of the easement, with sufficient ties to locate it definitely with respect to the subdivision, must be shown. If the easement is being dedicated through the plat map, it shall be properly referenced in the owner's certificate of dedication and identification;

(i) Lot numbers beginning with the number one and numbered consecutively in each block;

(j) Block numbers or letters continuing consecutively without omission or duplication throughout the subdivision; such identification shall be solid, if sufficient size and thickness to stand out, and so placed as not to obliterate any figure;

(k) Land parcels to be dedicated for any purpose, public or private, to be distinguished from lots or tracts intended for sale;

(l) Building setback lines, if any;

(m) The name of each street shown on the subdivision plat;

(n) Location and elevation of permanent bench mark, if required;

(o) The following certificates, which may be combined where appropriate:

1. A certificate signed and acknowledged by all parties having any record, title, or interest in the land subdivided, and consenting to the preparation and recording of the subdivision map;

2. A certificate signed and acknowledged as in subdivision (1) of this subsection, dedicating all parcels of land shown on the final plat and intended for any public use, except those parcels which are intended for the exclusive use of the lot owners of the subdivision and their licensees, visitors, tenants, and servants;

3. A certificate signed by the licensed professional engineer or surveyor responsible for the survey and final map. The certificate shall contain a statement certifying that the iron(s) indicated on the plat have been set. The engineer or surveyor shall not sign the plat until he or she has had all monuments, iron(s), or benchmarks set required by these regulations. The signature shall be accompanied by the engineer's or surveyor's seal and shall state the month and year such survey was made;

4. The acknowledgment of a notary in the following form:

"State of Kansas, County of Sedgwick, SS.

Be it remembered that on this _____ day of ____________, 19__,
before me, a notary public in and for Sedgwick County, Kansas, do hereby certify that ______________________________________, personally known to be the same person(s) who executed the foregoing instrument of writing and duly acknowledged the execution of same. In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.

(SEAL)

__________________________, Notary Public

My Commission expires:__________________________

(5) The certificate of the planning commission in the following form:
This plat of _____________ has been submitted to and approved by the Cheney Planning Commission, Cheney, Kansas.

Dated this ___ day of ________________, 19____.

Cheney Planning Commission

By ______________________, Chairman

(SEAL)

_________________________, Secretary"

(6) The plat approval and acceptance of dedications by the municipal governing body, when required, in the following form:

"This plat approved and all dedications shown hereon, if any, accepted by the _____ (name of the governing body) of the City of Cheney, Kansas, this ___ day of ________________, 19____.

_________________________, Mayor

(SEAL)

_________________________, City Clerk"

(7) The plat approval and acceptance of dedicating by the board of county commissioners, when required, in the following form:

"This plat approved and all dedications shown hereon, if any, accepted by the Board of County Commissioners of Sedgwick County, Kansas, this ___ day of ________________, 19____.

ATTEST:

__________________________

County Clerk

(SEAL)

__________________________

County Commissioners

(8) A blank space for noting entry on the transfer record in the following form:

"Entered on transfer record this ___ day of ________________, 19____.

________________________, County Clerk"

(9) The certificate of the register of deeds in the following form:
"State of Kansas, County Sedgwick, SS.

This is to certify that this instrument was filed for record in the Register of Deeds office, at _____ a.m. - p.m., on the ___ day of ________________, 19____.

16-11
(10) Provision for all other certifications, approvals, and acceptances which are now, or which may hereafter be required by any statute, ordinance or regulations;

(11) The form of the certification may be modified as necessary with the approval of the planning commission legal counsel to meet statutory or other requirements.

The typewritten or printed names of all persons required by this section shall appear below the signature of that person.

(Code 1976, 16.12.160)

16-327. FINAL PLAT; ADDITIONAL DATA. The following additional data shall be submitted with the final plat:

(a) 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; the consent of all such persons shall be shown on the plat;

(b) 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 bylaw, moneys or other sufficient escrows guaranteeing such payment of taxes in the event the protest is not upheld may be placed on deposit with such officials or governing bodies to meet this requirement;

(c) A copy of any deed restrictions applicable to the subdivision.

(Code 1976, 16.12.170)

LOT SPLITS

16-328. APPROVAL; GENERALLY. The planning commission may approve or disapprove lot splits in accordance with this article. (Code 1976, 16.15.010)

16-329. APPLICATION; CONTENTS. Requests for lot split approval shall be made by the owner of the land to the city planning commission. Four copies of a drawing to scale of the lots involved if there are not structures thereon or, if structures are located on any part of the lot being split, four copies of a survey of the lot(s) and the location of the structure(s) thereon, together with the precise nature, location and dimensions of the split, shall accompany the application. (Code 1976, 16.16.020)

16-330. APPROVAL; GUIDELINES. Approval or disapproval of lot splits shall be made based on the following guidelines:

(a) No lot split shall be approved if:

(1) A new street or alley is needed or proposed;

(2) A vacation of streets, alleys, setback lines, access control or easements is required or proposed;

(3) Such action will result in significant increases in service requirements, e.g., utilities, schools, traffic control, streets, etc.; or will interfere with maintaining existing service levels, e.g., repaving, etc.;
(4) There is less street right-of-way than required by this title or any city comprehensive plan, unless such dedication can be made by separate instrument;
(5) All easement requirements have not been satisfied;
(6) Such split will result in a tract without direct access to a street;
(7) A substandard-sized lot or parcel will be created;
(8) If such action will result in a lot being split into more than two tracts, except for industrial zoned which maybe split into two or more tracts.

(b) The planning commission may make such additional requirements as deemed necessary to carry out the intent and purpose of existing land development regulations and governing body policy. Requirements may include, but not be limited to, installation of public facilities, dedication of right-of-way and easements, and submission of covenants for the protection of other landowners in the original subdivision.

(c) The planning commission shall, in writing, either approve, with or without conditions, or disapprove the lot split within 30 days of application. If approved, and after all conditions have been met, they shall sign and furnish a certificate of approval to be affixed to the lot split survey, and a certified copy thereof shall be filed with the register of deeds, the official designated to issue building or occupancy permits, and the office of the city clerk, and a copy shall be furnished to the applicant. (Code 1976, 16.16.030)

DESIGN STANDARDS

16-331. CONFORMANCE REQUIRED. All subdivision of land subject to these regulations shall conform to the design standards of this article. (Code 1976, 16.20.010)

16-332. CONFLICT WITH COMPREHENSIVE PLAN PROHIBITED. No subdivision shall conflict with any comprehensive plan of the city. (Code 1976, 16.20.020)

16-333. LAND SUBJECT TO FLOODING. (a) No land subject to periodic flooding, or the 100 year flood, where delineated, shall be subdivided for residential use or any other use which would be incompatible with such flooding.
(b) If improvements meeting the standards and requirements of Wichita-Valley Center Flood Control Office, or available published standards and requirements, designed so as to render such land safe for residential or other intended occupancy, are made on land which is subject to periodic flooding or which has inadequate drainage, then and only in that event, the provision of subsection (a) of this section shall not bar the approval of such subdivision. The cost of such improvements shall be at no expense to local units of government; provided, that participation in the costs by state and federal agencies may be accepted. (Code 1976, 16.20.030)

16-334. LAND SUBJECT TO SOIL MOVEMENT. On land subject to excessive soil movement by the forces of wind and/or water and that may cause environmental health hazards, necessary preventive measures shall be a part of the subdivision plan. Conservation standards adopted by the Sedgwick County Soil Conservation District shall be adhered to. (Code 1976, 16.20.040)
16-335. STREET ACCESS. All lots located in any subdivision shall be served directly by a public street, except that private streets may be permitted as a part of a planned unit development or equivalent thereto. (Code 1976, 16.20.050)

16-336. SPACE FOR PUBLIC FACILITIES. The planning commission may require as a condition precedent to approval of any subdivision plat:

(a) That the subdivider offer to sell to the appropriate public body, agency or authority lands, sites, and locations for parks, playgrounds, open space, schools or other public facilities. If such public body, agency or authority purchases any such offered lands, sites or locations prior to the date on which the subdivider's plat of subdivision is recorded with the register of deeds, the market price for such lands, sites or locations shall be computed as the appropriate proportion of the fair market value of the entire subdivision area as undivided land as of the date on which the subdivider submits his or her preliminary plat or subdivision for approval or, if no preliminary plat is required to be submitted, as of the date on which the subdivider submits his or her plat of subdivision for approval, plus that percentage of the costs of improvements required as a part of the plat allocable to that portion being purchased.

(b) That the subdivider reserve for sale to the appropriate public body, agency or authority lands sites, and locations for parks, playgrounds, open space, schools or other public facilities; provided, however, that a subdivider shall not be required to reserve such lands, sites and locations for a period longer than two years after the date of recording the subdivision plat with the register of deeds, or 60 days after actual construction shall have been commenced on 75 percent of the residential units in the subdivision, whichever shall result in a longer period of time. The market price for such lands, sites, and locations shall be their fair market value as of the date that such public body, agency, or authority notifies the subdivider, in writing, of its intention to purchase such lands, sites or locations or portions thereof, plus that percentage of the costs of improvements required as a part of the plat allocable to that portion being reserved, plus all taxes and assessments which have been paid from the time such reservation of land was required until such lands are purchased.

(c) The provisions of this section shall apply only to subdivisions or the parts thereof designed or intended for residential development or occupancy. (Code 1976, 16.20.060)

16-337. STREETS. (a) The arrangement, character, extent, width, grade and location of all streets shall conform to the requirements of the planning commission and shall be considered in their relation to existing and planned streets, topographical conditions, to public convenience and safety, and their appropriate relations to the proposed uses of the land to be served by such streets.

(b) Where such is not shown on the development plan, the arrangement of streets in a subdivision shall either:

(1) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or

(2) Conform to a plan for the neighborhood approved or adopted by the planning commission to meet a particular situation where topographic or other conditions made continuance or conformance to existing streets impracticable.
(c) Local streets shall be laid out so that their use by through traffic will be discouraged.

(d) If a subdivision abuts or contains an existing or proposed limited access highway or arterial street, the planning commission may require marginal-access streets, reverse frontage lots with access control provisions along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

(e) If a subdivision borders on or contains a railroad right-of-way or a limited-access highway, the planning commission may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

(f) Reserve strips controlling access to streets shall be prohibited except where their control is placed with the governing body under conditions approved by the planning commission.

(g) (1) Street right-of-way requirements for other than arterial shall be determined by the total aggregate needs for the functional components for the particular system being considered. The total aggregates shall be in increments of two feet, even numbers only. The components involved shall be:

   (A) Moving or Traffic Lanes. Variable from nine to 12 feet, depending on function, e.g., low density residential, cul-de-sac residential, collector, industrial, etc. and on design speed of the roadway. A moving land may utilize a portion of the surface of certain types of curb construction; however, for purposes of determining rights-of-way, such components shall be computed without curb areas.

   (B) Parking Lanes for On-Street Storage of Vehicles. Parking lanes shall be at least eight feet in width. For computation purposes, up to two feet for curb or shoulder may be included as part of the parking lane.

   (C) Curb or Shoulder. Curbs shall be considered to require two feet irrespective of construction type. Shoulders (for suburban or rural roadways) shall be not less than three feet in width.

   (D) Border Area. For streets (sometimes referred to as the parking) the border area shall be in accordance with the right-of-way in that area. This area may be issued for installation of utilities, street lighting, traffic control devices, fire hydrants and sidewalk and to provide a transition area in grades (if necessary) between the roadway and the property adjacent to the right-of-way.

   (2) Based on the above general criteria, street rights-of-way and roadway shall be as follows:

<table>
<thead>
<tr>
<th>Right-of-way for Street (in feet)</th>
<th>Roadway Width (in feet)</th>
</tr>
</thead>
</table>

   (a) Collector or local business, office, commercial and industrial area; or local-residential rowhouses, garden apartments, multifamily, high rise or other similar type of dwelling units: two moving
(b) Local residential, single and two-family dwellings: two moving lanes (nine feet and two parking lanes
70  60  36
(c) Alleys  20  18
(d) Sidewalk  N/A  4
*Face of curb to face of curb.

(3) These widths may be modified by the governing body on a showing that special conditions exist, such as parallel drainage and roadway systems, utility requirements, considerations for safe and efficient traffic and pedestrian movement, grade problems, intersection design, etc. In applying these standards, workable street systems must be established. Once a pattern of widths based on function for a given area has been established, the pattern shall be followed throughout the street system until another system can be established or ties into a collector or arterial system.

(h) Wherever possible, there shall be an inside tangent at least 50 feet in length introduced between reverse curves on arterial and collector streets.

(i) Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than 70 degrees.

(j) Half streets shall be avoided. Whenever a half street or portion thereof is existing and adjacent to a tract to be subdivided, the other half of the street, based on standards in subsection (g) of this section shall be platted within such tract.

(k) Dead-end streets, designed to be so permanently, shall not be longer than seven times the average lot width or 600 feet, whichever is less, and shall have a turn diameter of at least 90 feet, as measured back of curb to back of curb, and a street property line diameter of at least 110 feet, or shall have an alternate turnaround area such as hammerheads, etc., as may be approved by the planning commission as providing service equal to the foregoing requirement.

(l) No street names shall be used which will duplicate or be confused with the names of existing streets. Existing street names shall be used where they are or would be logical extensions of existing streets, even though separated by undeveloped land after streets. Street names shall be subject to the approval of the planning commission.

(Code 1976, 16.20.070)

16-338. ALLEYS. (a) Alleys shall be provided in commercial and industrial districts, except that the planning commission may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking spaces consistent and adequate for the uses proposed.

(b) When provided, the minimum width of an alley shall be 20 feet.

(c) Alley intersections and sharp changes in alignment shall be avoided, but where necessary, a turning radius shall be provided to permit safe vehicular movement.

(d) Dead-end alleys shall be avoided where possible, but if unavoidable, such alleys shall be provided with adequate and approved turnaround facilities at the dead-end.

(Code 1976, 16.20.080)
16-339. BLOCKS. (a) The lengths, widths and shapes of blocks shall be determined with due regard to:

(1) Provision of adequate building sites suitable for the special needs of the type of use contemplated;

(2) Zoning requirements as to lot sizes and dimensions;

(3) Need for convenient access, circulation, control and safety of street traffic;

(4) Limitations and opportunities of topography.

(b) A block should not exceed 1,300 feet in length, unless such block is adjacent to a limited-access highway or arterial street or unless the previous adjacent layout or topographical conditions justify a variation of this requirement.

(c) All blocks shall be designed so as to provide two tiers of lots, unless a different arrangement is required in order to comply with subsections (g) and (k) or section 16-437 or is permitted by subsection (g) of section 16-440.

(d) Blocks may be irregular in shape provided they are harmonious with the overall pattern of blocks in the proposed subdivision and provided their design meets the requirements of lot standards, traffic flow and control considerations, and any development plan requirements.

(e) In blocks of 800 feet or more in length, a public crosswalk for pedestrian travel may be required to provide access to public or private facilities such as schools or parks. Such crosswalk shall have a right-of-way not less than 10 feet and extend entirely across such block at approximately the midpoint of the length of such block. A sidewalk shall be placed along the length of such right-of-way and constructed in accordance with the requirement for sidewalk improvements.

(Code 1976, 16.20.090)

16-340. LOTS. (a) The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision for the type of development and use contemplated.

(b) Lot dimensions shall conform to the requirement of the zoning regulations unless established in accordance with this section.

(c) The maximum depth of all residential lots shall not exceed 2 1/2 times the width thereof. For all other lots, the depth shall not exceed three times the width.

(d) The minimum widths of residential lots measured at the setback lines thereof shall not be less than 60 feet and the minimum lot area shall not be less than 7,200 square feet.

(e) Where lots front upon a cul-de-sac or curved street having a radius of 200 feet or less, the minimum lot width shall be measured at the building setback line along an arc parallel to the right-of-way of such cul-de-sac or curved street. Such lots shall also be laid out so that their lot frontage, as measured on the arc of such right-of-way line, is not less than 50 percent of the required lot width measured at the building setback line.

(f) The area of the street right-of-way shall not be included and calculated in the area of the lot with respect to minimum lot area requirements of this title or of any zoning ordinance applicable to the property. Lots shall be required to have more than the minimum area dimensions provided for in this section where such greater area or dimensions are required to meet the yard requirements of the zoning ordinance.

(g) There shall be no double frontage lots for individual dwellings (e.g., single and two-family units), except where the lots abut upon a limited-access highway or
arterial street or where the topography of the land prevents reasonable subdivision in small units. Double frontage lots shall not have vehicular access between such lots and an abutting limited-access highway or arterial street.

(h) The depth and width of properties reserved or laid out for commercial and industrial purpose shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

(i) Corner lots for residential use shall have extra width to permit appropriate building setback from an orientation to both streets.

(j) Reversed frontage lots shall be avoided except where such are essential to provide a separation of residential development from limited-access highways and arterial streets or to overcome specific disadvantages of topography and orientation.

(k) Lots on residential street intersections and all acute angle intersections which, in the opinion of the planning commission, are likely to be dangerous to traffic movement shall have a minimum radius of 20 feet at the intersection of street rights-of-way. On business, commercial and industrial lots, a chord may be substituted for a circular arc.

(Code 1976, 16.20.100)

16-341. EASEMENTS. (a) Utility easements shall be provided where necessary, and centered on rear or side lot lines, and shall be at least a total of 20 feet wide along rear lot lines and minimum of 10 feet wide along side lot lines, except that easements for street lighting purposes shall not in any event be required to exceed 10 feet. Side lot easements, when needed for other than street lighting purpose, may exceed 10 feet.

(b) Drainage Easements.

(1) If a subdivision is traversed by a watercourse, drainage way, channel or street, then a stormwater easement or drainage right-of-way shall be provided. Such easement or right-of-way shall conform substantially to the lines of such watercourse and shall be of such width or construction, or both, as may be necessary to provide adequate stormwater drainage and for access for maintenance thereof. Parallel streets or parkways may be required in connection therewith.

(2) Drainage easement shall be vegetated with adapted perennial grasses or otherwise stabilized to prevent soil erosion and sediment movement by wind or water. Conservation standards adopted by the Sedgwick County Soil Conservation District shall be adhered to.

(c) Vision triangle easements may be required on any corner lot to provide an open and usable vision path for drivers of vehicles approaching the intersection. The extent of vision triangle easements shall be based on the type of intersection (three-way, four-way, protected, unprotected, etc.), the type of street (local, collector, arterial commercial or industrial), topography, proposed street grades (if any), and the design speeds contemplated for such roadways. In all cases the vision triangle must be maintained as per the sight obstruction article.

(Code 1976, 16.20.110)

16-342. BUSINESS, COMMERCIAL AND INDUSTRIAL SUBDIVISIONS. (a) Streets. Notwithstanding the other provisions of this title, the minimum width of streets adjacent to areas designed, proposed or zoned for business, commercial or industrial use may be increased by the planning commission to such extent as the commission may

16-18
deem necessary to assure the free flow of through traffic without interference from parked or parking motor vehicles.

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

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

(Code 1976, 16.20.120)

16-343.

PLANNED UNIT DEVELOPMENTS. (a) A comprehensive group development, including the townhouses, garden apartment complexes and condominiums, together with necessary drives and ways of access, may be approved by the planning commission although the design of the project does not include standard street, lot and subdivision arrangements, provided that departure from the standards of the regulations can be made without destroying their intent.

(b) For all condominium plats, the following shall apply:

1. The plat must be in three dimensions, relating vertical control to city or U.S.G.S. datum.

2. A bench mark must be set on or near the building at ground level for future reference in locating units in the plat.

3. Each floor plan of the permanent structure must be shown as well as basement and roof levels and area of plot plan. The dimensions and ties shown for each parcel must be definite enough with respect to both vertical and horizontal control so that the boundaries of each apartment may be accurately by the use of standard survey methods.

4. All unit or apartment property lines shall be the interior surfaces of the perimeter walls, floor, ceiling, windows, and doors thereof.

5. A condominium plat must contain all of the certifications and approvals required for any plat. There must also be an approval by the official authorized to issue building, zoning or occupancy permits indicating that the building plans have been approved by his or her office and a certification by the architect that the plat is in agreement with the building plan.

(Code 1976, 16.20.130)

REQUIRED IMPROVEMENTS

16-344.

FACILITIES REQUIRED. The subdivider of a proposed subdivision shall install, or provide for the installation of, the following facilities and improvements:

(a) All streets, alleys, curbs, gutters and street drainage facilities in accordance with the standards set by the engineer for the city and approved by the governing body. The minimum construction of all streets shall consist of concrete curb and gutter or each side with asphaltic or concrete street surfacing;

(b)(1) Sidewalks shall be required in accordance with all applicable city ordinances pertaining to sidewalks on both sides of the street wherever streets are required except along streets with residential lots of 200 feet or more frontage or residential lots one acre or larger in average size.
(2) The sidewalk shall be guaranteed from curb to curb of intersecting streets rather than to property lines.

(3) Sidewalks shall be constructed in accordance with all applicable city ordinances pertaining to sidewalks;

(c) Sanitary Sewer. Within the city:

(1) Laterals in accordance with the standards of the engineer for the city; on a temporary basis where permanent facilities are in the construction stage only with the approval of the governing body;

(2) Mains and sub mains, if necessary, shall be installed at the direction of the governing body. The cost of such installation may be assessed to properties benefited.

(d) Water Distribution Systems. A public water distribution system in accordance with the standards of the engineer for the city and governing body shall be provided;

(e) Fire hydrants, in accordance with the standards of the engineer and governing body, shall be provided wherever there shall be required a public water distribution system;

(f) A storm sewer system, separate and independent of the sanitary sewer system, meeting all of the specifications and requirements of the engineer for the city;

(g) Street signs of such location, type, and size as shall be approved by the engineer and the governing body giving due regard to the prevailing type, size, and pattern of location utilized throughout the area;

(h)(1) Underground wiring in all subdivisions including both electric power and telephone service, except:

(A) For lines rated over 12,000 volts;

(B) Appurtenance serving such lines which may be mounted on the ground, such as transformers, transformer pads, and telephone service pedestals;

(C) For those proposed subdivisions or replats of existing subdivisions located in developed areas which presently have an overhead type of distribution system.

(2) All such construction and installation shall be under contract with the respective utility company. Construction or installation shall occur after sanitary sewer lines, water lines or gas lines, if any, are in place. CATV, if installed, shall be placed underground in accordance with the above requirements.

(3) Nothing in this subsection shall be construed as to requiring underground installation of lines beyond the boundaries of the area contained in the final plat.

(i) Monuments shall be placed at all lot corners, angle points, points of curve in streets, and at intermediate points as shall be required by the engineer for the city. Monuments shall be of such material, diameter and length as required by the engineer for the city. All monuments shall be securely placed and set in such a manner that the top of the monument shall be at least 12 inches below grade or ground level. The engineer for the city may add additional specifications as determined necessary. Bench marks may also be required as determined by the engineer for the city. Bench marks shall be of such material, size, and length as may be approved by the engineer for the city.

(j) Relocation of Existing Facilities. Whenever existing sanitary or stormwater sewers, water lines, drainage channels, culverts, underground or overhead electric and communication lines, gas lines, pipelines and transmission lines are required to be relocated due to the subdivision or construction of improvements required as a
condition of approval of the subdivision, and in the event such was not known at the
time of subdivision approval for any reason, the cost of such relocation shall be the
sole responsibility of the subdivider. All removal and/or relocation of such utilities shall
conform to city requirements or the requirement of the respective utility companies.

(k) Where required, applicable measures will be taken during construction to
minimize soil erosion and sedimentation by wind or water. Conservation standards
adopted by the Sedgwick County Soil Conservation District shall be adhered to.

(l) Gas Supply Systems. In those areas desiring gas service, the owners shall
make application for the service to the governing body. The installation of lines shall
be with the direction of the governing body.
(Code 1976, 16.24.010)

16-345. EXCEPTIONS FOR EXISTING IMPROVEMENTS. (a) Where the proposed
subdivision is a resubdivision or concerns an area presently having any or all required
improvements set out in section 16-444, and where such improvements meet the
requirements of the section and are in good condition as determined by the engineer
for the city, no further provision need be made by the subdivider to duplicate such
improvements. However, where such existing improvements do not meet the
requirements of section 16-444, the subdivider shall provide for the repair, correction,
or replacement of such improvements so that all improvements will then meet the
aforesaid requirements of section 16-444.

(b) Where the proposed subdivision is a resubdivision or concerns an area
presently abutting or containing any existing public street of less than the minimum
required right-of-way width, land shall be dedicated so as to provide a minimum street
right-of-way width established by these regulations and/or city governing body policy,
and the subdivider of such proposed subdivision shall provide an additional roadway
pavement meeting the minimum standards set by this title and the engineer for the
city. The engineer shall determine what adjustment to make where the aforesaid
widens merge with existing streets which are of smaller width at the boundary of
such proposed subdivision. The engineer may reduce the minimum roadway required
by this title to match an existing roadway system if the extension of such roadway is
already improved at each end of the roadway in the subdivision and the roadway in the
subdivision to be reduced is two blocks or less in length. The engineer may also
require lanes to be painted on such widened streets designating driving and parking
areas. The foregoing provisions requiring the widening of pavement may be waived
by the city council when the length of such pavement is less than 135 feet.
(Code 1976, 16.24.020)

16-346. METHODS OF GUARANTEE. Except for monuments and underground wiring,
one of the following methods shall be used by the subdivider to guarantee that
improvements required by this title can or will be installed in accordance with approved
plans and specifications:

(a) Fiscal sureties may be offered, and the following shall apply:

(1) Upon final approval of plans or specifications for required improvements,
the owners and/or the subdivider of the land proposed to be subdivided shall enter into
an agreement with the city, under which the owners and/or subdivider agree to install
such required improvements at their own expense in accordance with the theretofore
approved plans and specifications within the time prescribed by the provisions of this
Such agreement shall be conditioned upon the approval of the final plat or subdivision.

(2) Simultaneously with the execution of the agreement provided for in subdivision (1) of this subsection, the owner and/or the subdivider of the land proposed to be subdivided shall furnish a corporate completion bond by a firm authorized to do business in Kansas with good and sufficient sureties thereon, or a cashier's check, escrow account, or revocable letter of credit in favor of the governing body, in the amount of the estimated cost as approved by the official responsible for setting and enforcing the applicable design and construction standards of the installation of the required improvements as set forth in this article. Such financial guarantee shall be conditioned upon the approval of the final plat and further conditioned upon the actual completion and installation of such required improvements within two years from the date that the final plat is approved by the planning commission.

(3)(A) Simultaneously with the execution of the agreement provided for in subdivision (1) of this subsection, if the subdivider furnishes a corporate completion bond, he or she shall also deposit in escrow with the governing body who is to accept such improvements, cash in the amount of 15 percent of the cost of all improvements to be made in accordance with the plans and specifications for required improvements therefor approved by the planning commission. If a subdivider furnishes a cashier's check, escrow account or irrevocable letter of credit in favor of the governing body, 15 percent of the amount of such cashier's check, escrow account, or letter of credit of the governing body shall be held as a deposit in escrow after the final completion of such improvements. The subdivider shall agree that such deposit in escrow may be held by the governing body for a period of 18 months after the final completion and approval of such improvements for the purpose of:

(i) Guaranteeing and securing the correction of any defect in material or workmanship furnished for such improvements, latent in character and not discernible at the time of final inspection or acceptance by the governing body; and

(ii) Guarantee against any damage to such improvements by reason of the settling of the ground, base or foundation thereof.

(B) Such escrow agreement shall also provide that, as such defects have so developed, that the deposit may be applied by the governing body for any amounts incurred correcting such defects; and that the balance of such deposit, if any, held at the end of such 18 month period shall be returned by the governing body to the depositor or paid to the order of the depositor, without payment of interest by the governing body.

(4) Prior to offering any improvement to the governing body, the subdivider shall furnish good and sufficient guarantee that all indebtedness incurred for supplies, material, labor furnished, or engineering and professional services in the construction of improvements shall have been paid in full and that there are no claims for damage or suits against such contractor involving the improvement.

(b) Petitions to the governing body of any city or of the county may be submitted as a means of guaranteeing to the governing bodies the authority to install improvements at such time as they deem appropriate. Petitions may be submitted only when the following conditions exist:

(1) The petitions must be valid petitions as may be provided for under Kansas law;
(2) The petitions must be concurred in by the engineer and accepted and approved by the governing body concurrently with the approval of the subdivision;

(3) The initiating resolution for such improvement must be adopted by the governing body concurrently with the petition approval or as soon thereafter as may be provided by law. The cost of the publication of the resolution shall be borne by the subdivider;

(4) Recording with the register of deeds either the petitions or a certificate signed by the petitioners stating that such petitions have been filed and approved by the governing body and that certain lands as described will be liable in the future for special assessments for the required improvements which are to be listed on the certificate.

(c) Monuments and bench marks shall be installed by the subdivider before the final plat is released for recording with the register of deeds.

(d) The subdivider shall prior to the release of the final plat submit a letter from the utility(ies) involved stating that satisfactory arrangements have been made by the subdivider guaranteeing the installation of underground wiring.

(Code 1976, 16.24.030)

16-447. PLAT VACATION. When no lots on a plat of subdivision have been sold, the subdivider may request the vacation of the plat prior to the time that the improvements covered by the bond are installed, and when such plat is vacated, all fiscal sureties shall be returned to the subdivider. (Code 1976, 16.24.040)

16-348. PETITION SUBMISSION. If petitions are to be submitted to meet the requirements of section 16-444 through 16-447, the subdivider shall so indicate that the time of submission of the preliminary plat. If the petition method is authorized by the planning commission, petitions shall accompany the final plat and shall be acceptable for submission to the governing body. (Code 1976, 16.24.050)

16-349. ENGINEERING DRAWINGS; SUBMITTAL. In all other instances when petitions have not been authorized for submission, upon the approval of the preliminary plat, the subdivider shall have prepared by a licensed professional engineer (which may be contracted for, with any governmental agency or utility), engineering drawings for proposed required improvements containing the data and information specified in section 16-450. Such drawings shall be certified by a licensed professional engineer and shall be submitted in duplicate to the engineer for the city at least 30 days prior to the date that approval of the final plat is requested. Failure to do so will be considered automatic consent to an extension of or a waiver by the subdivider of any time limitation for plat approval. (Code 1976, 16.24.060)

16-350. ENGINEERING DRAWINGS; CONTENTS. Engineering drawings for required improvements shall contain the following data and information:

(a) Plans, details, specifications and cost estimates for roadway and sidewalk construction, including plans, profile indicating existing topography and elevation, including curb and sidewalk elevation, intersection control elevation and paving geometrics for each street with a typical cross-section of the roadway. The profiles of grade lines shall be shown to a scale of one inch equals 100 feet horizontal, and one inch equals 10 feet vertical, or to a scale approved by the engineer for the city. This
information shall be shown on standard plan and profile sheets unless otherwise required by the appropriate engineer;
   (b) Plans, profiles, details, specifications and cost estimates of proposed storm drainage improvements;
   (c) Plans, profiles, details, specifications and cost estimates of proposed water distribution systems and proposed water supply facilities and water hydrants, if any;
   (d) Plans, profiles, details, specifications and cost estimates of sewage systems and of sewerage treatment plants, if any;
   (e) Grading plans for all lots and other sites in the subdivision;
   (f) When unusual site conditions exist, the planning commission may require such additional plans, specifications, and drawings as may be necessary for an adequate review of the improvements to be installed;
   (g) All plans shall be based on city datum or MSL (mean sea level), as published by the U.S.G.S., for vertical control;
   (h) All plans for underground wiring shall be prepared by or at the direction of the utility involved;

16-351. PLAT REVIEW. The city engineer, official or agency responsible for determining specifications and standards referred to in section 16-444 shall review all engineering drawings in order to determine whether such drawings are consistent with the approved preliminary plat and comply with their design standards. If such drawings are consistent and some comply, the reviewing official shall forward to the planning commission a notice that they so conform and comply. In the event that the drawings do not so conform or comply, the reviewing official shall notify the subdivider of the specific manner in which such drawings do not so conform or comply, and he or she may then correct such drawings. If such drawings are not corrected, the reviewing official shall forward to the planning commission a notice as to the items of nonconformity or noncompliance. (Code 1976, 16.24.080)

16-352. PLAT APPROVAL. The planning commission shall approve a final plat only when the approval of the engineer for the city has been received that the plans and engineering drawings have been approved or that the appropriate petitions, if authorized, have been filed with the planning commission. Sanitary sewers require State Board of Health approval. (Code 1976, 16.24.090)

16-353. IMPROVEMENT CONSTRUCTION; APPROVAL REQUIRED. No improvements shall be constructed nor shall any work preliminary thereto be done until such time as a final plat and the engineering drawings accompanying it shall have been approved and there shall have been compliance with all of the requirements relating to an agreement, bond and deposit specified in section 16-446. (Code 1976, 16.24.100)

16-354. INSPECTION; REQUIRED WHEN. All improvements constructed or erected shall be subject to inspection by the engineer or official responsible for setting and enforcing the applicable design and construction standards of the required improvement. The cost attributable to all inspections required by this section shall be charged to and paid by the subdivider. Before any required inspections take place,
the subdivider may be required to post a deposit with such official or such agency entrusted to keep such security for the official, to cover the cost of such inspections. The subdivider shall give at least 48 hours' written notification to such official prior to the performance of any of the following work:

(a) All phases of street and sidewalk construction;
(b) All phases of construction including, but not limited to, water lines, gas lines, sanitary sewer lines, storm sewer, underground wiring and other required improvements.
(Code 1976, 16.24.110)

16-355. INSPECTION; DEFICIENCY CORRECTION. After notice is received a specified in section 16-454, the official designated in section 16-451 may conduct an on site inspection to determine that the work complies with the approved engineering plans and specifications. If, in the opinion of such official, such work does not comply with such final drawings, he or she shall have authority to order that all such work shall be terminated until such time as necessary steps are taken to correct any defects or deficiencies, the subdivider shall again notify the official as provided in section 16-454.
(Code 1976, 16.24.120)

16-356. FINAL INSPECTION. Upon completion of all improvements within the area covered by the final plat, the subdivider shall notify the official designated in section 16-454, who shall thereupon conduct a final inspection of all improvements installed. If such final inspection indicates that there are any defects or deficiencies in such improvements as installed, or if there are any deviations in such improvements, as installed, from the approved engineering plans and specifications, he or she shall notify the subdivider in writing of such defects, deficiencies or deviations, and the subdivider shall, at his or her sole cost and expense, correct such defects or deviations within six months of the date of notification. When such defects, deficiencies or deviations have been corrected, the subdivider shall notify the official that the improvements are again ready for final inspection. After the final inspection is made and before acceptance of the improvement by the governing body, the subdivider shall file an affidavit with the governing body which is executed by the subdivider certifying that all obligations incurred in the construction of the improvement involved have been properly paid and settled. (Code 1976, 16.24.130)

16-357. INSTALLATION CERTIFICATION; NOTIFICATION. If a final inspection indicates that all improvements as installed contain no defects, deficiencies or deviations, within 10 days from the submission of the subdivider's certificate of liens as required in this article, the official shall certify to the planning commission, the governing body and utility that all improvements have been installed in conformity with the engineering plans and specifications accompanying the final plat. The receipt of such notification by the governing body or utility shall constitute the date on which the 18 month period specified in subsection (a)(3) of section 16-446 shall commence.
(Code 1976, 16.24.140)

16-358. ACCEPTANCE. Upon the receipt by the governing body of the certificate of the official that all improvements have been installed in accordance with the engineering drawings, as approved, and in conformity with the requirements of this title and all
other applicable statutes, ordinances and regulations, the governing body shall thereupon by resolution or by letter formally accept such improvements. The improvements shall become the property of the governing body or utility company involved. (Code 1976, 16.24.150)

16-359. SUBDIVIDER TO PAY ENGINEERS' COSTS. The owner and/or subdivider shall pay all costs incurred by the engineer for the city for the review of plans, specifications and estimates of costs submitted by other engineers along with all costs of engineer's inspection. (Code 1976, 16.24.160)

APEALS, WAIVERS AND VARIANCES

16-360. APPEALS; GENERAL PROCEDURE. (a) The subdivider of a proposed subdivision may appeal decisions made in the enforcement of this title by the planning commission to the governing body by filing with the governing body a written notice of his or her intent to appeal, and the specific decision from which the appeal is made, within 10 days after the decision has been made by the planning commission.

(b) Any such appeal shall provide a hearing de novo. In the event the governing body sustains the planning commission, the action of the planning commission shall be final, except as otherwise provided by law.

(c) If the governing body overrules the planning commission, the reason therefor shall be reflected in writing or in the minutes of the meeting. (Code 1976, 16.28.010)

16-361. APPEALS; DRAWINGS AND SPECIFICATIONS. Any appeal relating to the approval or rejection as to standards or plans in engineering drawings or other specifications in connection with required improvements shall be delivered in writing to the governing body within 10 days after the approval or rejection has been made, specifying with particularity the item or items appealed from. The decision of the governing body shall be final, except as otherwise provided by law. (Code 1976, 16.28.020)

16-362. WAIVERS. Any waiver of the required improvements may be made only by the governing body on a showing that such improvement is technically not feasible. (Code 1976, 16.28.030)

16-363. VARIANCES; APPLICATION; STANDARDS; GRANTING. (a) In cases in which there is unwarranted hardship in carrying out the literal provisions of this title as to design criteria, e.g., lot width, lot depth, block length, etc., the planning commission may grant a variance from such provision.

(b) An application for a variance shall be made to the planning commission. The planning commission shall give the applicant and any other interested person an opportunity to be heard with respect to the proposed application for a variance.

(c) The planning commission shall not grant a variance unless it shall find that the strict application of this title will create an unwarranted hardship, and unless the proposed variance is in harmony with the intended purpose of this title, and the public safety and welfare will be protected.
(d) Variance permitted under the provisions of this article shall not include variances from the requirements of making improvements required in sections 16-403 through 16-408, unless approved as provided for in section 16-462; the standards of specifications thereof, nor from the provisions of the zoning ordinance of a city, except as to variances for minimum lot width and/or area requirements. Consideration of an application for a variance pursuant to this article does not relieve the applicant from the necessity of proceeding under the applicable provisions of any other regulations (including zoning regulations) of the city or county relating to variances.

(e) When used in this article, the term unwarranted hardship means the complete deprivation of use as distinguished from a mere inconvenience.
(Code 1976, 16.28.040)

16-364. VARIANCES; PLANNED UNIT DEVELOPMENTS. When a plat or subdivision is prepared in connection with a planned unit development authorized by any legally adopted zoning regulation regulating the same area, then the planning commission may vary the design standards contained in this title to such extent as may be necessary to permit the preparation of a planned development land in accordance with the standards, conditions and restrictions of such zoning regulations. (Code 1976, 16.28.050)

PENALTIES

16-365. VIOLATION; PENALTY. Any violations of this title shall be considered violations for each day on which they exist and shall be punishable by a fine of not to exceed $100 per each day of violation. The city shall have further remedies of seeking injunctions to prevent further violations or to seek correction of any violations under this title. (Code 1976, 16.32.010)
ARTICLE 4. FLOODPLAIN ZONING REGULATIONS

16-401. INCORPORATING MODEL FLOODPLAIN MANAGEMENT ORDINANCE. There is hereby incorporated by reference, for the purpose of regulating and managing floodplains within the corporate limits of the City of Cheney, Kansas, a "Model Floodplain Management Ordinance." One copy of said Model Floodplain Management Ordinance shall be marked "Official copy as adopted by Ordinance No. 802", and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. (Ord. 802, Sec. 1; Code 2008)