

ABILENE CITY COMMISSION - STUDY SESSION AGENDA
DWIGHT D. EISENHOWER MEMORIAL BUILDING - 419 N. BROADWAY AVENUE
August 16, 2016 - 4:00 pm

1. **PUBLIC COMMENTS.** Persons who wish to address the City Commission may do so when called upon by the Mayor. Comments on personnel matters and matters pending before court are not permitted. Speakers are limited to three minutes. Any presentation is for informational purposes only. No action will be taken.

2. **STRATEGIC DISCUSSION**
 - a. None

3. **ITEMS FOR PRESENTATION AND DISCUSSION**
 - a. Development Policy Manual

 - b. Comprehensive Fee Schedule Proposal

 - c. Public Facilities Architectural Scope of Services

4. **ITEMS PROPOSED FOR THE CONSENT AGENDA**
 - a. Meeting Minutes: August 8, 2016 regular meeting

 - b. An Ordinance amending Section 5-304 of the City Code of the City of Abilene, Kansas, concerning the possession of marijuana

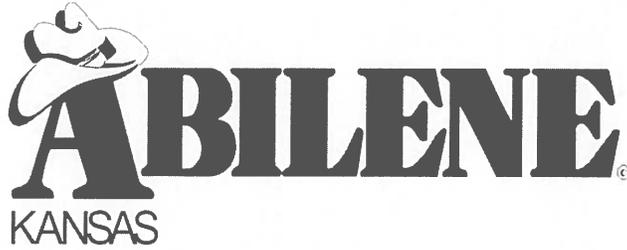
5. **ITEMS TO BE PLACED ON THE REGULAR AGENDA**
 - a. An Ordinance approving the 2017 Budget of the City of Abilene, Kansas, and attesting to an increase in tax revenues for said Budget (*Note: The Budget Hearing is also scheduled for the August 22nd regular meeting.*)

6. **REPORTS**
 - a. City Manager's Report

7. **LAND BANK ITEMS** (*These items will be included on the Land Bank Board of Trustees meeting scheduled to follow the City Commission's regular meeting.*)
 - a. A Resolution terminating the declaration of covenants, conditions, and restrictions affecting the East and West Highlands Additions to the City of Abilene, Kansas

 - b. A Resolution terminating a Land Exchange Agreement with Abilene Highlands I, LLC

8. **ANNOUNCEMENTS** (*Meetings at Abilene Public Library unless otherwise provided*)
 - Heritage Commission, August 18 at 4:00 pm
 - City Commission Meeting, August 22 at 4:00 pm
 - Convention and Visitors Bureau, August 23 at 2:00 pm (Civic Center)
 - Airport Advisory Committee, September 1 at 5:00 pm
 - Commission Study Session, September 6 at 4:00 pm (City Hall)
 - City Commission Meeting, September 22 at 4:00 pm
 - Planning Commission, September 13 at 4:30 pm



DEVELOPMENT PROCEDURES POLICY MANUAL

ADOPTED BY RESOLUTION _____

_____, 2016

Final Draft

{insert adopting resolution}

DEVELOPMENT PROCEDURES POLICY MANUAL

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SECTION 1 – GENERAL

1. INTRODUCTION

The purpose of this document is to summarize policies established by the City Commission with respect to land development inside the corporate limits of the City of Abilene. This is a summary of requirements and does not include all regulations. This policy manual is intended to apply to residential, commercial, and industrial developments, either individual lots or in large developments. Users of this manual are responsible to insure they are using current editions of this document, source documents and any supplementary information. The sources for information found in this summary include:

- Kansas Statutes;
- ^{City} Municipal Code; ~~of the City of Abilene~~
- Comprehensive Plan;
- Zoning ~~Code~~; *Regulations*
- Subdivision Regulations;
- Guidelines for Special Benefit Districts;
- City infrastructure technical specifications and standard details;
- Adopted ^{building and construction} ~~construction~~ codes; and ^{applicable}
- Other ~~like and appropriate~~ documents, such as KDOT policies, Railroad Utility Right-of-Way Policy, MUTCD and highway access management plans.

Services shall only be made available by the City of Abilene when standards and/or specifications listed in these and other pertinent documents are adhered to. The policies contained herein are established by the City Commission to protect the interests of the City at-large, and are to be carried out by the appointed officers of the City of Abilene, Kansas.

Improvements in residential subdivisions, commercial and industrial developments shall be approved with a written Development Agreement between the City of Abilene and the Developer prior to commencement of construction. The Agreement, prepared by the City, shall include specifics related to approve engineering plans, financing, utilities, scheduling and other pertinent details.

2. DEVELOPMENT PROCEDURE SUMMARY

The development process depends on many variables. Attached as **Appendix A** are several flowcharts summarizing the development process. These flowcharts are intended to represent City of Abilene policies. Should a developer wish to accelerate the process by combining elements or proceeding out of sequence, the developer shall be responsible for any resulting expense.

first coordinate with city staff to determine feasibility and procedures for acceleration. The

3. DEVELOPMENT SCHEDULE

The development schedule depends on the timing of developer submissions. Developers should contact the Community Development Director to determine the appropriate submission schedule.

Preliminary and final plats are reviewed by staff and forwarded to the Planning Commission and then the City Commission for action. Plats must be submitted sixty (60) days prior to the scheduled Planning Commission meeting a developer wishes to address.

Generally, City staff (~~Department Heads~~) will review and comment on plans or drawings within fourteen (14) business days of the submission date, and forward such comments to the Community Development Director. The Community Development Director will summarize the comments and forward them to the developer for review.

4. **CITY COMMISSION MEETINGS**

The City Commission normally meets ~~the first and third Tuesday of each month for a study session and on the second and fourth Monday each month for regular meetings.~~ Agendas for meetings are set four business days prior to each meeting. Items for the agenda must be submitted at least one week before the agenda is set, and include any necessary approval from the Development Review Committee and/or the Planning Commission.

Regular meetings are preceded by a study session to informally review agenda items on the Tuesdays prior to the regular meetings.

The Planning Commission normally meets on the second Tuesday of each month for a regular meeting, at which time public hearings may be held. A Developer may request a special meeting of the Planning Commission by contacting the Community Development Director ~~two weeks prior to~~ the date of the proposed special Planning Commission meeting.

to coord.

5. **DEVELOPER RESPONSIBILITY FOR DESIGN ^{AND} CONSTRUCTION EXPENSE**

The Developer is typically responsible for all design and construction expenses associated with the development, including those elements of the development that will become the property and/or maintenance responsibility of the City of Abilene. These improvements include, but are not limited to, streets, streetlights, sidewalks and appurtenances, storm drainage systems, water distribution systems, and sanitary sewer collection systems.

Timeline for review by state/federal agencies

Plans/designs for all public infrastructure improvements must be prepared under the supervision of a Professional Engineer (P.E.) or Architect (AIA) licensed to practice in the State of Kansas. Engineering plans are subject to review and approval by the Public Works Director and/or City ~~designated~~ Engineer. Some engineering designs may also be subject to review and approval by the Kansas Department of Health and Environment (KDHE), the Kansas Department of Transportation (KDOT), the Kansas Department of Water Resources and/or any other state or federal agency that may require review/approval.

All plans and drawings shall be submitted to the attention of the Community Development Director at City Hall. Appropriate distribution of those documents will be made by the Community Development Department. The number of copies required for submission is shown in the table at **Appendix B**. Developers should ensure there has been no change to that table prior to submitting drawings.

Final civil engineering designs submitted must include an engineer's estimate of probable construction costs for all public infrastructure improvements in order to provide for appropriate performance bonds. The City recommends construction of public infrastructure improvements be performed by a contractor qualified by experience with construction similar to the project/development.

City

The developer/builder shall, in accordance with current building codes and other regulations, install (or pay for installation of) all private utility service lines, valves, appurtenances and other improvements that solely benefit individual users of a proposed development. Connections of these private utilities lines to public services shall be in accordance with provisions of the ~~Abilene Municipal~~ Code, including necessary fees. Developers may contact the Community Development Director to ~~determine what these fees may be~~. If the public infrastructure improvements are constructed entirely at developer expense, normal utility fees, as established by ordinance or resolution, may be waived by the City Commission.

obtain an estimate of these fees

6. **PERFORMANCE AND WARRANTY BONDS**

In lieu of the actual construction of the physical improvements required, the City Commission may accept one of the methods of guarantee. Another alternative available is ~~an improvement district~~, according to K.S.A. 12-6a and approved by the City Commission. *a special benefit district*

7. **OFF-SITE AND/OR INCREASED CAPACITY IMPROVEMENTS**

The City Commission may require the developer to install or upgrade off-site improvements located outside the perimeter of a ~~subdivision~~. Such off-site improvements shall be within dedicated rights-of-way or easements and serve a public purpose. The financing and guaranteeing of such improvements shall be administered as if they were the same as on-site improvements. *proposed development*

Should a utility line of any sort be appropriate for extension beyond a new development, the City of Abilene may require an increased size/capacity for that utility line (e.g. an 8" water line is sufficient for the new development, but the City requires a 10" line for future extension beyond the current development). The City may pay the difference in the cost of materials for an upgrade.

8. **DEVELOPMENT AGREEMENTS**

Development agreements may be required for any situation such as off-site improvements, City participation in improvements or ~~delay~~ in a portion of infrastructure installation. *postponement*

The City of Abilene may elect to participate in the expense of development. However, the City reserves the right to refuse such financial assistance. Should there be any development agreement with respect to cost sharing or fee waivers, such agreements will be in writing and signed prior to any construction. *Activity completed prior to executed Development Agreement. The Developer assumes all risk of any*

9. **CONSTRUCTION STANDARDS AND INSPECTION**

Developers must ensure that construction standards established by the City of Abilene are adhered to, so that the improvements will be acceptable to the City. All elements of the improvement must be completed according to approved engineering designs. Construction standards for public infrastructure improvements under separate cover from this document may periodically change as industry standards change. These standards must be upheld by developers and contractors related to all public infrastructure improvements.

Inspection shall be completed by the City of Abilene, either by "Inspection Staff" personnel or by an inspector retained by the City. Developers shall be responsible to reimburse the City of Abilene for costs/fees associated with the inspection. Developers may contact the Community Development Director (CDD) to ~~determine what these fees may be.~~ *obtain an estimate of these fees.*

Developers are responsible to inform the City no later than twenty-four hours in advance of a necessary inspection. Inspections will not normally be scheduled for weekends and holidays; *but an additional fee will be required for such*

Construction that will ultimately be concealed (e.g. covered by earth, asphalt or concrete) must be inspected by the City prior to concealment. Developers are responsible to provide reasonable substantiation of materials quantities (e.g. weigh tickets, etc.) upon request by the City. *inspections.*

10. ACCEPTANCE OF PUBLIC IMPROVEMENTS BY CITY FOR PERPETUAL MAINTENANCE

Upon completion of construction of public infrastructure improvements according to appropriate technical specifications, standards and/or approved engineering plans, the developer shall make a written request to dedicate the public infrastructure improvements and that the City accept the improvements for perpetual maintenance. This request shall state that all improvements to be accepted by the City were subjected to appropriate inspection by the City and are within appropriate rights-of-way and/or easements which have been accepted by the City of Abilene. The warranty bond (Section 1.6, above) shall be submitted with this request.

A written response will be provided to the developer accepting the dedicated improvements or specifying what modifications are required prior to acceptance by the City of Abilene. Upon acceptance, the City shall retain complete ownership and control of said improvements. The City shall have the right to add users, extend, or authorize others to extend, the improvements for public benefit without consent of any party contributing to the original expense of the public infrastructure improvements

11. IMPROVEMENT (BENEFIT) DISTRICTS

Property owners who would benefit may petition the City Commission to make public infrastructure improvements according to the Improvement District Procedures outlined in Kansas Statutes (K.S.A. 12-6a et seq.) and the City's Improvement Policy Manual adopted July 12, 1993. Should the City Commission choose to accept such a petition, the City of Abilene will assume design and construction responsibilities, allocating expenses according to the petition. Staff will assist developers/property owners with this process.

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12. IMPACT DISTRICTS

When improvements benefit properties other than those being developed, an impact district may be considered. A written request for such consideration should be submitted by the developer and addressed to the appropriate department (Appendix D). The request will be forwarded for consideration with a staff recommendation. Should the Impact District be approved, a contract detailing the requirements and payment responsibilities of each party will be prepared by the city.

Community Development Department

13. EROSION CONTROL / SITE AND AREA CLEANLINESS-Review

All engineering plans must comply with erosion control provisions for construction related activities established in National Pollutant Discharge Elimination System (NPDES). Further, developers and builders shall be responsible to routinely remove mud and other debris tracked onto streets from these sites during the development/construction process. Should a developer/contractor not maintain the cleanliness of streets, the City's Inspector may require that construction activities cease until satisfactory clean-up is accomplished.

14. EXCAVATIONS IN PUBLIC RIGHTS-OF-WAY

All excavations in the public right-of-way including, but not limited to streets and alleys, regardless of who completes the project, require a review from the Public Works Department and get the permit from the Community Development Department. Regulations governing this process are included in the Abilene Municipal Code.

permit and inspection by the City.

Permits may be obtained from the

Community Development Department.

15. OBSTRUCTIONS IN EASEMENTS

No permanent landscaping, buildings, or other obstructions shall be built, erected or installed within or across any permanent storm drainage or utility easement. A note to this effect shall be included on the recorded final plat. Should a property owner install such a barrier, and access becomes necessary for public maintenance purposes, the property owner shall be liable for any expense necessary to remove the obstruction. Said property owner shall also be responsible for damages to any such obstruction, including any expense to reinstall or reconstruct.

A fence may be installed within a dedicated utility or drainage easement at the property owner's risk of having to bear the expense of removal (or of having the fence removed by the City) and/or repair such fence due to the lawful activities of persons or entities under the easement. Fences in these areas shall be identified in the building permit process and be reviewed by the Building Inspector. All such fences shall have gates or openings or be constructed of removal panels, no less than ten (10) feet in width, to provide proper access to utility meters and/or easements. The City shall not be liable for replacement of any fence and the waiver of liability shall be noted on the face of the permit issued.

16. APPEALS

The ~~five members~~ Board of Zoning Appeals meet on-call to address issues of interpretation and variance from the Zoning Regulations. The Building Standards Board (~~five members~~) meets on-call to address compliance appeals related to buildings electrical, plumbing and mechanical code issues. The Boards are convened by the Community Development Director.

17. VARIANCES

A proposal to vary from accepted established design or construction standards may be considered if a developer has explored all other remedies. Any request for variance must be submitted in writing to the Community Development Director by the developer. Such request will be reviewed with City staff and will be considered based on a hardship associated with unique or unusual circumstances. A written response will be provided to any request for a variance.

AND

SECTION 2 - ANNEXATION, PLATTING, SITE PLANS and ENGINEERING DESIGN

AND

1. ANNEXATION and ZONING

City services will not normally be provided outside the corporate city limits unless specifically authorized by the City Commission. Therefore, property owners desiring City services should request annexation into the City of Abilene, Kansas.

Land annexed into the City of Abilene may be required to undergo a rezoning process. A zoning change may be required if the proposed use does not meet the existing zoning of the site. Zoning/re-zoning procedures are incorporated into the flowcharts in **Appendix A**.

2. PLATTING

Plats, preliminary and final, will include street rights-of-way and/or easements to be dedicated in compliance with the provisions of this policy document, and in compliance with other appropriate policies/regulations. All permanent easements including, but not limited to, storm drainage, utilities, and access shall also be shown. The maintenance of privately held common areas shall also be addressed during platting of property. Platting procedures are incorporated into the flowcharts in **Appendix A**.

Any plans to defer construction of public infrastructure improvements shall be listed and summarized in the development agreement. Such agreements must be in writing, signed by all parties and recorded with the Dickinson County Register of Deeds.

Developers should consider their desired schedule for completion of the development, and should address that schedule with Community Development Director early in the platting process. Staff will provide feedback to the developer related to whether the proposed schedule is realistic.

The developer shall be required to place a note on the final plat indicating that building obstructions in permanently dedicated utility and storm drainage easements is prohibited.

Upon completion of the pre-application procedure, and with written approval by the Community Development Director, the developer may submit both the preliminary and final plat, provided the developer signs an indefinite time waiver.

Upon completion of the pre-application procedure, the developer shall submit a preliminary plat, together with such supplementary information as will be of assistance in reviewing the plat. The developer shall submit ^{sixty} ~~10~~ copies of the preliminary plat with mentioned site plan drawing. The preliminary plat shall be filed with the ~~secretary of the Community Development Department~~ ^{ten} at least ~~60~~ ^{ten} days prior to the date of the public hearing where the planning commission ^{Director} will consider the plat.

3. FILING / RECORDING

Upon approval by the City Commission, final plats must be recorded with the Dickinson County Register of Deeds. The Community Development Department will record the original copy of the final plat with the Dickinson County Register of Deeds. One copy will be provided to the developer and one copy filed with City records.

4. SITE PLANS

All new commercial, industrial and multi-family developments shall submit a Site Plan for review by appropriate city officials, including the Planning Commission. Details related to this requirement are found in the current Site Plan regulations of the Zoning Code. A checklist of requirements detailed in the Zoning Code is attached as **Appendix C**. Site Plan procedures are

Need to check →

incorporated into the flowcharts in **Appendix A**.

5. GREEN SPACE / TREES

provide Installation of landscaping for both aesthetic and screening purposes, could be recommended by the Planning Commission or staff. The City of Abilene actively pursues improvement of the urban forest. Plans could include "green space" elements. Appropriate planning by developers to ~~put some~~ green space while providing for safe vehicular and pedestrian travel is necessary. Depending on drainage and utilities requirements, the space in easements and between curbs and sidewalks may not be appropriate for planting, including trees.

6. ENGINEERING DESIGN / TRAFFIC STUDY / STORM DRAINAGE STUDY

Civil engineering plans/designs for all public infrastructure improvements must be prepared under the supervision of a Professional Engineer (P.E.) licensed to practice in the State of Kansas. Designs for new developments shall extend that infrastructure through/across the proposed development to the next adjacent property line.

In addition to civil engineering design specified above, a Traffic Study and a Storm Drainage Study may both be required of a developer, as the impact of any new development on the surrounding environs of any development is an important consideration.

7. CITY ENGINEER REVIEW / APPROVAL OF DEVELOPER'S ENGINEERING DESIGN

staff ~~The City Engineer or Public Works Director~~ will review plans/drawings submitted by developers, and will ~~often~~ contact the developers' representative(s) to address specific questions related to civil engineering design and related issues. Once approved, the City ~~Engineer/PWD~~ will issue a letter approving the design, specifying which editions and changes are accepted. The design engineer shall place his stamp on each sheet, or indicate in some other approved manner, the sheets that are accepted as final plans.

8. PLAN / DRAWING SUBMISSIONS

Plats, site plans, engineering plans, and all other drawings are to be submitted to the attention of the Community Development Director (~~CDD~~) at City Hall. Appropriate distribution of those documents will be made by the CDD. The number of copies required for submission is shown in the table at **Appendix B**. Developers should ensure there has been no change to that table prior to submitting drawings.

write out.

*The Community Development Director, or other staff member,
may contact*

SECTION 3 - CONSTRUCTION / EXTENSION OF STORM DRAINAGE SYSTEMS

1. GENERAL

Storm drainage improvements are required for all new or expanded development within the City. The developer shall finance all drainage improvements and may use benefit district financing for storm drainage improvements, provided this method is approved by the City.

A storm drainage plan, including all calculations, shall be prepared by a professional engineer or architect licensed to practice in the State of Kansas for all new subdivisions or multi-lot developments. The City shall also require a storm drainage plan for all new commercial and industrial developments or any expansions. The storm drainage plan shall be submitted simultaneously with the preliminary plat or site plan.

Surface drainage of stormwater will obey the law of gravity, flowing from higher to lower ground. Citizens, property owners and developers are expected to design, construct and maintain drainage courses within development areas that provide for this natural drainage in such a manner that other properties are, as much as possible, not adversely affected. No citizen, property owner or developer shall impede or block the natural flow of storm water, or alter the designed flow of storm water in such a manner that damage to other property, public or private, may occur.

Sump pumps shall not be discharged into the public right-of-way. Any such discharge must occur on private property, or be connected directly into a public underground storm drainage system in accordance with approved construction procedures that will protect the integrity of the public underground system. Sump pumps or gutter downspouts shall not be connected to the public sanitary sewer collection system.

2. EASEMENTS

Storm drainage easements are required where public storm drainage crosses private property (i.e. not in public rights-of-way). These easements are to provide adequate space for performance of various maintenance activities that may become necessary over time.

Drainage should generally be considered "public" if storm water in significant quantities from locations upstream passes through a particular development/parcel. Such drainage may be through underground systems or in streams/ditches/swales.

The minimum width of a storm drainage easement shall be twenty feet (20'). Larger easements may be required for larger drainage structures. Required dimensions will be dependent on the development and characteristics of the drainage basin and will be approved by the City Engineer.

3. TECHNICAL SPECIFICATIONS

Storm drainage systems shall be designed to protect citizens and property to the maximum feasible extent from damage due to storm water run-off. The lay of the land and the expense to install drainage systems is such that property cannot be protected from ALL storm water run-off events. Every effort will be made to install systems capable of conducting appropriate storm events.

In order to accomplish this objective, all open and enclosed storm drainage improvements shall be constructed in accordance with plans and specifications prepared or approved based on design standards approved by the City Engineer. Plans and specifications shall be prepared based on the design standards approved by the City Commission.

Storm drainage structures under streets classified as "local/residential" or "collector" shall be designed to convey the ten-year storm event within the conduit. Storm drainage structures under streets classified as "arterial" shall be designed to convey the fifty-year storm event within the conduit. The combined capacity of the overflow channel and in-system conveyance under streets shall be sufficient to convey the 100-year storm event at all locations; except that an overflow depth not exceeding seven inches (7") at the lowest point of the traveled way will be permitted where culverts cross streets.

? Is this correct

The primary document specifying storm drainage construction standards shall be the American Public Works Association, Kansas City Metropolitan Chapter, Division III Standard Drawings.

As these details are subject to periodic change, developers and their design professionals shall be responsible to ensure they are working with details that are current at the time of development. Those publications listed below may also establish applicable design and construction standards for storm water systems:

- City of Abilene Comprehensive Plan
- City of Abilene Subdivision Regulations
- Standard Specifications for State Road and Bridge Construction (a Kansas Department of Transportation publication), and
- Standard Specifications and Design Criteria, Section 5600 (a publication of the Kansas City Metropolitan Chapter of the American Public Works Association)
- City of Abilene Administrative Policy for Storm Water Management.

There may be conflicts between these various standards, particularly as industry changes occur. It is the developer's responsibility to be familiar with, and adhere to current standards for design and construction of all storm drainage systems including bridges, box culverts, head walls, underground pipes/conduits, junction boxes, gutters, catch basins, curb inlets, area inlets, manholes, retention/detention facilities, and any other components of storm drainage systems. Should a developer or their design professional believe there is a conflict, it is incumbent upon the developer to bring that issue to the City of Abilene for resolution.

4. **BASIS OF DETERMINING CONSTRUCTION COSTS**

Construction costs shall include the cost of preparing engineering plans and specifications, acquisition of easements and rights-of-way, project inspection, actual construction costs, and any administrative costs the City might incur as a result of the project.

5. **STRUCTURES**

Box culverts shall be designed to comply with Kansas Department of Transportation minimum structural standards with hydraulic capacity to be determined by the designing engineer. Curb inlets and junction boxes shall be constructed of steel reinforced concrete in compliance with City of Abilene specifications.

The inside diameter of pipes in public systems shall measure no less than twelve inches (12"). Reinforced Concrete Pipe (RCP) is preferred. High Density Polyethylene (HDPE) double-wall, smooth plastic pipe may be considered for other than crossroad applications. Installation specifications for each installation must be approved by the City prior to construction. Only reinforced concrete end sections are permitted. When HDPE pipe is specified, a detail for mating the pipe to a concrete end section is required. Steel pipes of any type are not approved.

Specific design criteria will be dependent upon soils analysis, designed loads, and other civil engineering considerations. The developer's civil engineer shall submit site-specific designs for review by the Public Works Director or Engineering Consultant ~~to the city commission.~~

6. DETENTION

Post-development run-off in any development project shall not exceed pre-development run-off in a 100-year storm event. Design engineers and developers shall provide for this detention capacity.

Should a future storm water study completed by the City of Abilene and approved by the City Commission result in different detention requirements, those revisions shall apply. Should a study such as this provide for community detention facilities, appropriate space is available for construction of such facilities, and the City Commission is committed to constructing community detention facilities, a request to pay a fee in lieu of constructing on-site detention may be considered.

7. MAINTENANCE OF STORM DRAINAGE IMPROVEMENTS

The City shall maintain underground storm drainage systems in the right-of-way or in dedicated permanent storm drainage easements which are designed, constructed, inspected and accepted according to the provisions of this document. Open ditch drainage systems in the right-of-way or in dedicated permanent storm drainage easements may be graded as necessary to maintain adequate flow of storm water run-off. Mowing and other routine grounds maintenance functions in the right-of-way or in dedicated permanent storm drainage easements shall be the responsibility of the adjacent private property owner.

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SECTION 4 - CONSTRUCTION OF STREETS and APPURTENANCES

4.1 OPEN STREET REQUIRED FOR BUILDING PERMIT

Right-of-Way for public streets is typically dedicated to the City by private owners and/or developers. Building permits are only issued for properties which have direct access to an "open" street. Existence of a "dedicated" right-of-way DOES NOT constitute an open street. An open street exists when:

- a. there is sufficient right-of-way for the intended use of the street, and the street has been improved permanently as described in the "Pavement Sections" portion of this document (below); or
- b. a driveway permit has been issued within the block since March 2013 (driveway design standards); or
- c. a (non-agricultural) residential, commercial or industrial driveway accessing an operating residence, business, or industry existed in that block prior to March 2013; or
- d. a passable road surface exists which the City has consistently maintained for vehicle travel.

4.2 TECHNICAL SPECIFICATIONS

The primary document specifying street construction standards is the City of Abilene City Standard Technical Specs. As this manual is published, those details are included on plan sheets. They are:

what goes here? → As these details are subject to periodic change with industry ^{ensure}/~~insure~~ standards and materials, developers and their design professionals shall be responsible to ~~insure~~ they are working with details that are current at the time of development. Those publications listed below MAY also establish design and construction standards for street construction:

- City of Abilene Comprehensive Plan
- City of Abilene Subdivision Regulations
- Standard Specifications for State Road and Bridge Construction (a Kansas Department of Transportation publication), and
- Standard Specifications and Design Criteria, Section 5600 (a publication of the Kansas City Metropolitan Chapter of the American Public Works Association)
- City of Abilene's policy for Storm Water Management.

Standards established by current editions of the above listed documents/publications shall govern the design and construction of all streets, including pavement sections, street markings, street lighting, sidewalks and/or associated improvements.

There may be conflicts between these various standards. Particularly as industry changes occur. It is the developer's responsibility to be familiar with, and adhere to current standards for construction of public infrastructure improvements. Should a developer or their design professional(s) believe there is a conflict, it is incumbent upon the developer to bring that issue to the City of Abilene for resolution.

SECTION 4 - CONSTRUCTION OF STREETS and APPURTENANCES (continued)

4.3 PAVEMENT SECTIONS-Review by PWD

Minimums are established in the City of Abilene Street & Storm Drainage Construction Specifications. The following general standards are established:

- a. Minimum Right-of-Way Minimum right-of-way width requirements are as follows:

City Standard Technical Specifications

	WIDTH
Rural Arterial	120 feet
Urban Arterial/Rural Collector	100 feet
Urban Collector	80 feet
Local Commercial/Industrial	80 feet
Local Residential	60 feet

- b. Minimum Lane Width: Residential streets shall be designed with driving lanes no less than eleven and one-half feet (11.5') wide. Local commercial/industrial streets shall be designed with driving lanes no less than twelve and one-half feet (12.5') wide. 2-lane collector and arterial streets be designed with driving lanes no less than fourteen feet (14') wide. Streets having 3 or more lanes may be constructed with 12' wide lanes. These lane widths do not include curb and gutter sections. Minimum turning radii at intersections is dependent on street classification.

- c. On-Street Parking: On-street parking shall not be permitted on arterial and collector streets. *except as allowed in the Zoning Regulations.* On-street parking on other streets will be restricted to one side of the street when the street width (including curb and gutter) is less than thirty feet (30') wide.

- d. Base requirements: Base shall be not less than six inches (6") of compacted soil covered by crushed rock not less than six inches (6") thick. These materials shall be installed according to City of Abilene Street & Storm Drainage Standard Details.

- e. Surface/Pavement: Pavement thickness shall be determined by engineering design, but shall be no less than:

CLASSIFICATION	ASPHALT	CONCRETE
Local/Residential	8"	6"
Collector or Commercial	10"	8"
Arterial or Industrial	12"	10"

- f. Curb and Gutter: All streets shall have concrete curbs and gutters measuring no less than twenty-four inches (24") from back to toe. Either an "upright" or a "layback" curb and gutter conforming to City of Abilene Street & Storm Drainage Standard Details are acceptable. Curb type will affect storm drainage calculations.

SECTION 4 - CONSTRUCTION OF STREETS and APPURTENANCES (continued)

4.4 TRAFFIC CONTROL and STREET NAME SIGNAGE

Traffic control signs and street name signs are to be placed by the developer according to plans approved by the Public Works Director or City Engineer ~~consultant~~ per the Manual on Uniform Traffic Control Devices (MUTCD).

4.5 PEDESTRIAN / DISABLED ACCESS

Sidewalks will be included in all developments. Sidewalks are required on both sides of arterial and collector streets. While sidewalks on both sides of residential streets are desirable, they are only required on one side of residential streets. Sidewalk construction may not be deferred unless a performance bond or other arrangements have been made. Developers and builders are responsible to protect sidewalks during construction, and will be required to repair damaged sidewalks prior to issuance of any certificate of occupancy.

Sidewalks shall be no less than five feet (5') wide, and shall typically be located such that the sidewalk is within the right-of-way. This provides for maximum possible space for installation and maintenance of public utilities between the sidewalks and the curbs.

Each developer shall provide for adequate crosswalk locations with ramps. The location of ramps and sidewalks shall provide for efficient access for pedestrians to the existing sidewalk system. Ramps and other elements within the pedestrian access system shall comply with all appropriate regulations, including, but not limited to, the Americans with Disabilities Act.

4.6 STREET LIGHTING

Westar Energy? →
Developers are required to install (or finance installation of) street illumination lighting at intersections, and may be required to install street lighting at other locations when intersections are a significant distance apart. Illumination is generally required at intervals not exceeding 300 feet. Specifications for street lighting are maintained under separate cover.

4.7 DRIVEWAYS and ACCESS

The driveway ordinance requires a separate permit to be issued, and regulates the number and width of access points. Consideration should also be given to the access points relative to street intersections and other private access points. Access points along state highways also require a permit from the Kansas Department of Transportation (KDOT).

To the maximum extent possible, access to a parcel of land shall occur from local/residential streets, as this will provide a more safe traffic control plan. Direct access onto arterial and collector streets from individual building lots shall not be permitted unless the area is developed for other than residential use.

SECTION 4 - CONSTRUCTION OF STREETS and APPURTENANCES (continued)

Parcels developed for other than low-density residential purposes may be permitted direct access to arterial and collector streets. However, direct access to arterial streets should be avoided in the interest of traffic safety. Where possible, site plans and plats should provide for frontage roads or driveway access from the lowest classified street.

Commercial/industrial use parcels should be developed in such a manner that vehicular circulation is managed entirely within the parcel, with minimum points of access to the street system. Access control standards are maintained in Chapter 4 of the City's comprehensive plan.

→ Need to check this item

Final Draft

SECTION 6 - WATER SUPPLY LINES

6.1 EXTENSION OF WATER SUPPLY LINES

Water distribution extensions are limited to only those tracts of land lying within the corporate boundaries of the City of Abilene. However, the City Commission may decide to serve rural customers, provided they are located within the City's water service area. The City Council may also authorize other similar exceptions to this policy, but will impose a surcharge upon these non-City customers. *Commission*

It is the policy of the City of Abilene not to provide utility service to development outside the city limits. The City may serve non-City users where approved in writing by the City Commission. The user will be responsible for all costs of any extension. The point of connection will be determined by the City.

Where contractual or estimated revenues justify extension to institutional or industrial users, the City may make or permit extensions provided such extensions will not create excessive future demands.

The City reserves the right to limit or refuse request for water service. Refusal of service will be stated in writing where necessary.

6.2 CITY-AT-LARGE PARTICIPATION IN DEVELOPERS' EXPENSE

The City-at-large may finance the construction of all public potable water supply and treatment facilities, storage reservoirs, elevated storage facilities and main water lines up to 100%. Where development creates the need for additional capacity, the City may require the developer to participate in the financing of these improvements. This sharing of cost will be accomplished through written agreement. (e.g. should a new industrial customer have need for higher pressure than provided by the existing gravity system, a new pump system might be required that would also benefit other area customers).

Development requiring special or abnormal service shall provide the additional equipment required on the project site at the developer's expense. Additional expense to the City to meet this additional need will be the cost of the developer. Such service will not interfere with normal service of the system.

6.3 DEVELOPERS' RESPONSIBILITIES

Water lines shall normally be located in the street rights-of-way on opposite sides of the street from sanitary sewers, or in approved easements. Fire hydrant location is subject to review and approval by the Fire Chief of Abilene. Technical specifications are maintained under separate cover.

80' requirement
The City of Abilene may extend water distribution lines to residential, commercial and industrial customers subject to the conditions contained herein. Typically, the developer shall be responsible for extension of water distribution lines that are a component of any development. The developer shall be required to extend distribution lines to the far property line. This requirement may be waived by the City Administrator under certain circumstances. This request shall be made in writing. The City shall maintain up-to-date construction specifications for use by developers when selecting a consulting engineer.

Manager

SECTION 7 - SANITARY SEWER SERVICE LINES

7.1 EXTENSION OF SANITARY SEWER COLLECTION LINES

Sanitary sewer service is limited to only those tracts of land lying within the corporate boundaries of the City of Abilene. The City Council may authorize exceptions to this policy, but will impose a surcharge upon these non-City customers. *Commission*

The City of Abilene may serve non-City users where approved in writing by the Council. The user will be responsible for all costs of any extension. The point of connection will be determined by the City. A tap fee surcharge is not required if within the City limits but a \$1,500 tap fee is required outside the city limits where sewer lines are located, shall be paid for prior to connection. A tap fee surcharge could be added within the city limits to the appropriate rate schedule in the near future. *otherwise*

^x Where contractual or estimated revenues justify extension to institutional or industrial users, the City may make or permit extensions provided such extensions will not create excessive future demands. The City reserves the right to limit or refuse request for sanitary sewer service. Refusal of service will be stated in writing where necessary.

7.2 DEVELOPER'S RESPONSIBILITIES

Sanitary sewer and water lines shall normally be located in the street rights-of-way on opposite sides of the street or in approved easements. Technical specifications are maintained under separate cover.

Sanitary sewer engineering designs are subject to review and approval by the Kansas Department of Health and Environment (KDHE). This process adds to the time a developer should expect for project approval. The Developer shall be responsible to obtain appropriate KDHE permits, and shall provide the approved (original) permit and a copy of KDHE approved plans to the City of Abilene. Should the Developer submit plans to KDHE that do not technically meet with the City's approval, additional submissions to KDHE meeting City technical specifications shall be required at Developer expense.

The City of Abilene may extend sanitary sewer lines to residential, commercial and industrial customers subject to the conditions contained herein. Typically, the developer shall be responsible for extension of sanitary sewer collection lines that are a component of any development. The developer shall be required to extend sanitary sewer collection lines to the far property line. This requirement may be waived by the City Administrator under certain circumstances. This request shall be made in writing. The City shall maintain up-to-date construction specifications for use by developers when selecting a consulting engineer. *Manager*

The City of Abilene may finance construction of all sewage treatment facilities, appurtenances, interceptor mains, and trunk mains up to 100%. Where a developer creates the need for additional capacity of treatment facilities, the City may require the developer to participate in the financing of these improvements. This sharing of cost will be accomplished through written agreement. Where the quality of sewage is such that additional treatment is required the City may elect to charge the customer for these improvements.

Development requiring special or abnormal service shall provide the additional equipment required on the project site at the developer's expense. Additional expense to the City to meet this additional need will be the cost of the developer. Such service will not interfere with normal service of the system.

SECTION 8 - OTHER THAN CITY OF ABILENE UTILITIES

8.1 UTILITY LOCATION

Certain utilities necessary to developments must come from private sources. Private utilities shall be located within the public right-of-way or in utility easements, except at those specific locations where only an individual parcel is served. All utilities located in dedicated rights-of-way or utility easements controlled by the City of Abilene shall comply with the requirements of this policy and appropriate design/construction specifications.

Developers shall consult with private utilities during the preliminary stages to determine what preferences the utilities have with respect to location in the development. These "horizontal" locations and whether the utility is overhead or underground shall be represented on preliminary plats in a manner that aids in determining how crowded a particular utility easement may be. Utility companies shall be required to submit site-specific details related to their installation for review and approval by the City of Abilene.

Depending on space availability in City drainage and utilities easements, the City may dictate specific locations for the various utilities, or require that they acquire private easements. City of Abilene Street, Storm Drainage, Water Line, and Sanitary Sewer Standards/Specifications may dictate specific (horizontal and vertical) locations within the rights-of-way or easements for placement of various utilities.

Underground utilities are required to be installed no less than three feet (3') below the top of the curb. Where there is no curb, utilities shall be no less than two feet (2') below the final grade of the turf. This turf depth is governed by the lowest point of any ground involved, such as the flow line of a drainage ditch.

8.2 SANITARY SEWER / SEPTIC SYSTEMS

check city requirement

Should any development be within ~~200~~ (400) feet of an existing City of Abilene sanitary sewer, the development shall be required to connect to the public system in accordance with appropriate standards. Land requirements specified in Kansas Statutes generally make septic systems infeasible within the corporate limits. However, a septic system may be installed when a public system is unavailable subject to statutes and approval by the Public Works Director. Such installations shall be made by licensed, qualified contractors, and shall be subject to inspection.

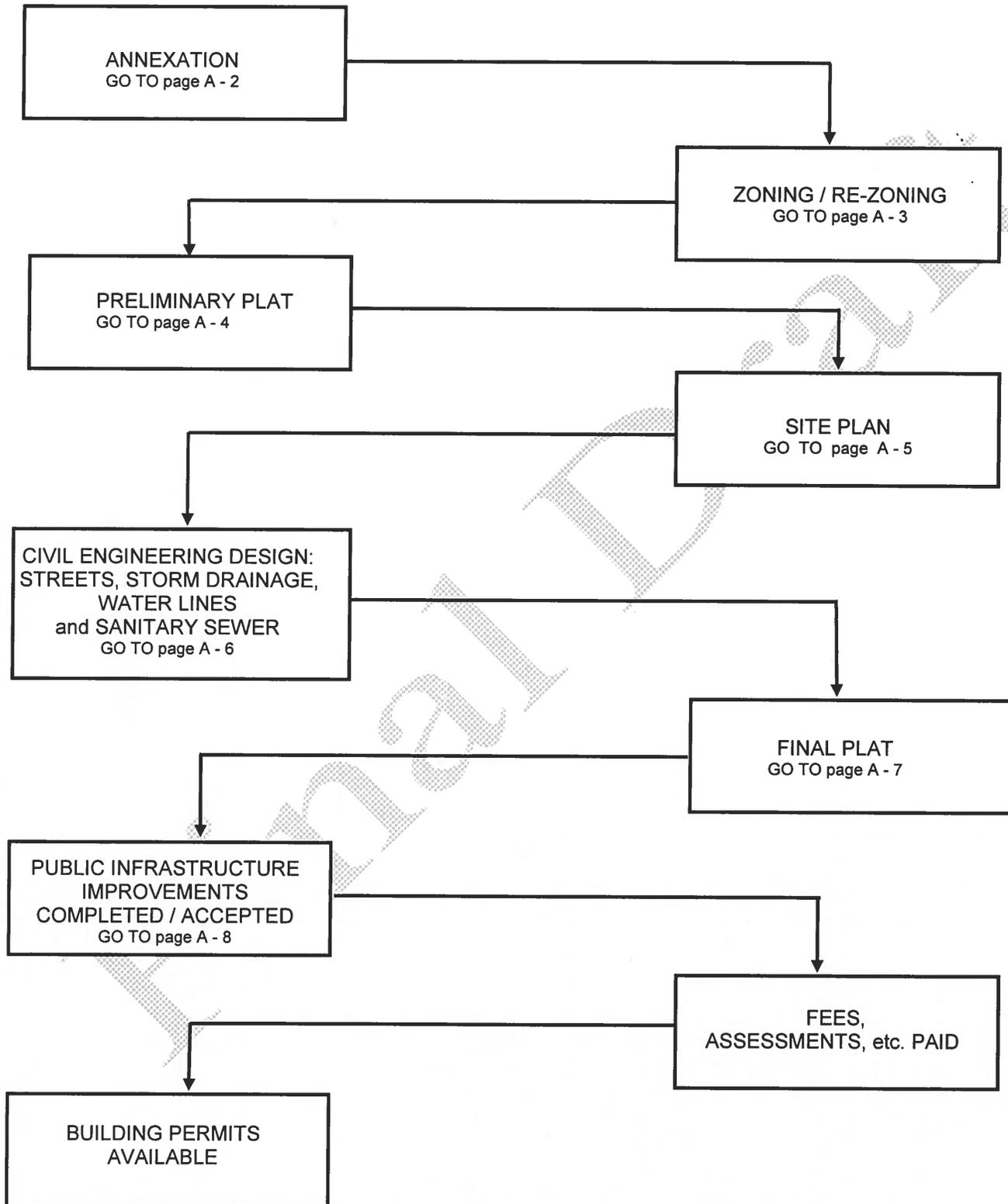
*check
septic
requirement*

8.3 NATURAL GAS / PROPANE

Natural gas service is available from private companies. Above ground propane tanks for home heating or other major consumption uses are prohibited unless specifically approved by the Fire Chief of Abilene and the City Inspector.

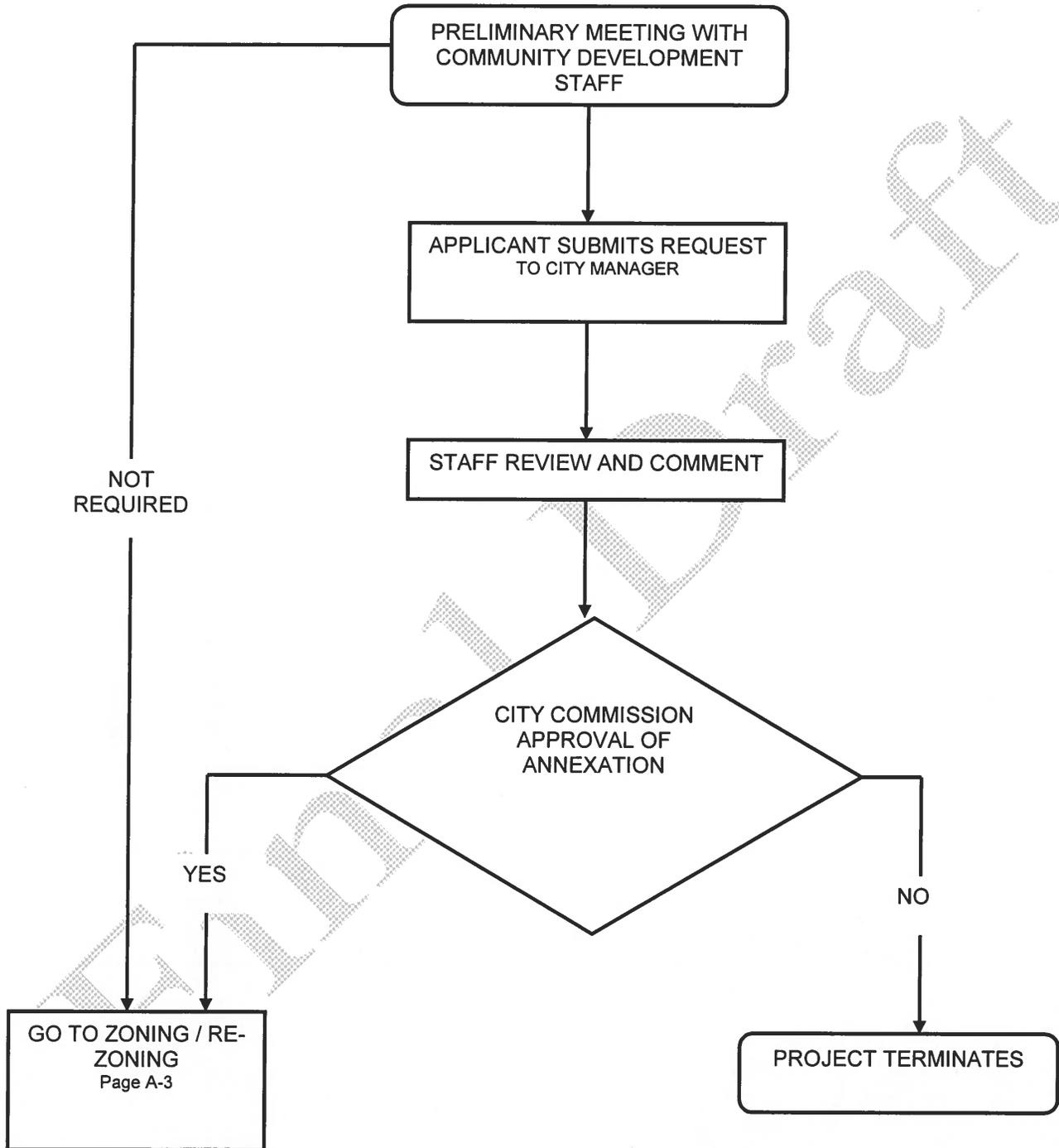
APPENDIX A - DEVELOPMENT PROCEDURE FLOWCHART

OVERVIEW



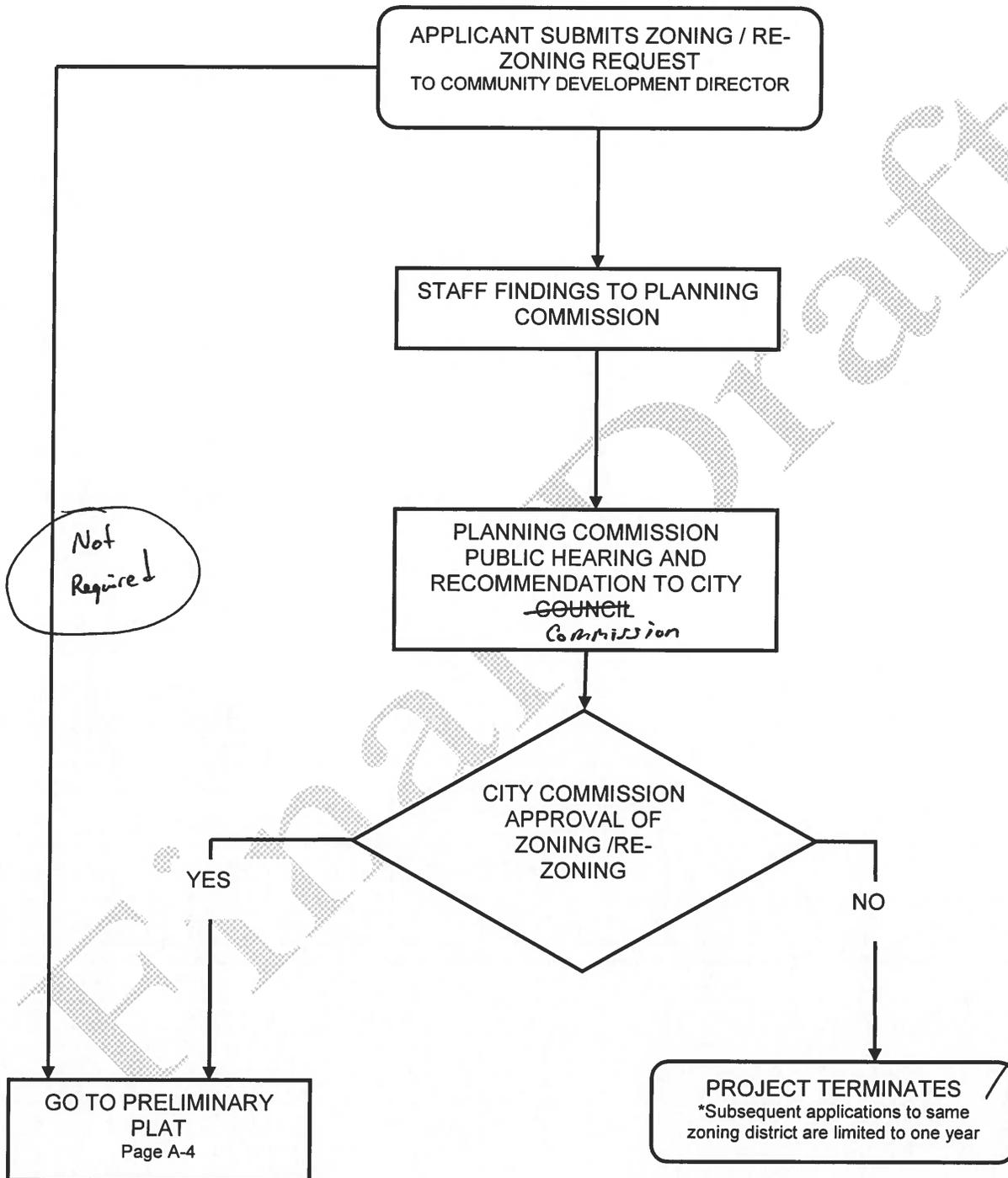
APPENDIX A - DEVELOPMENT PROCEDURE FLOWCHART

ANNEXATION



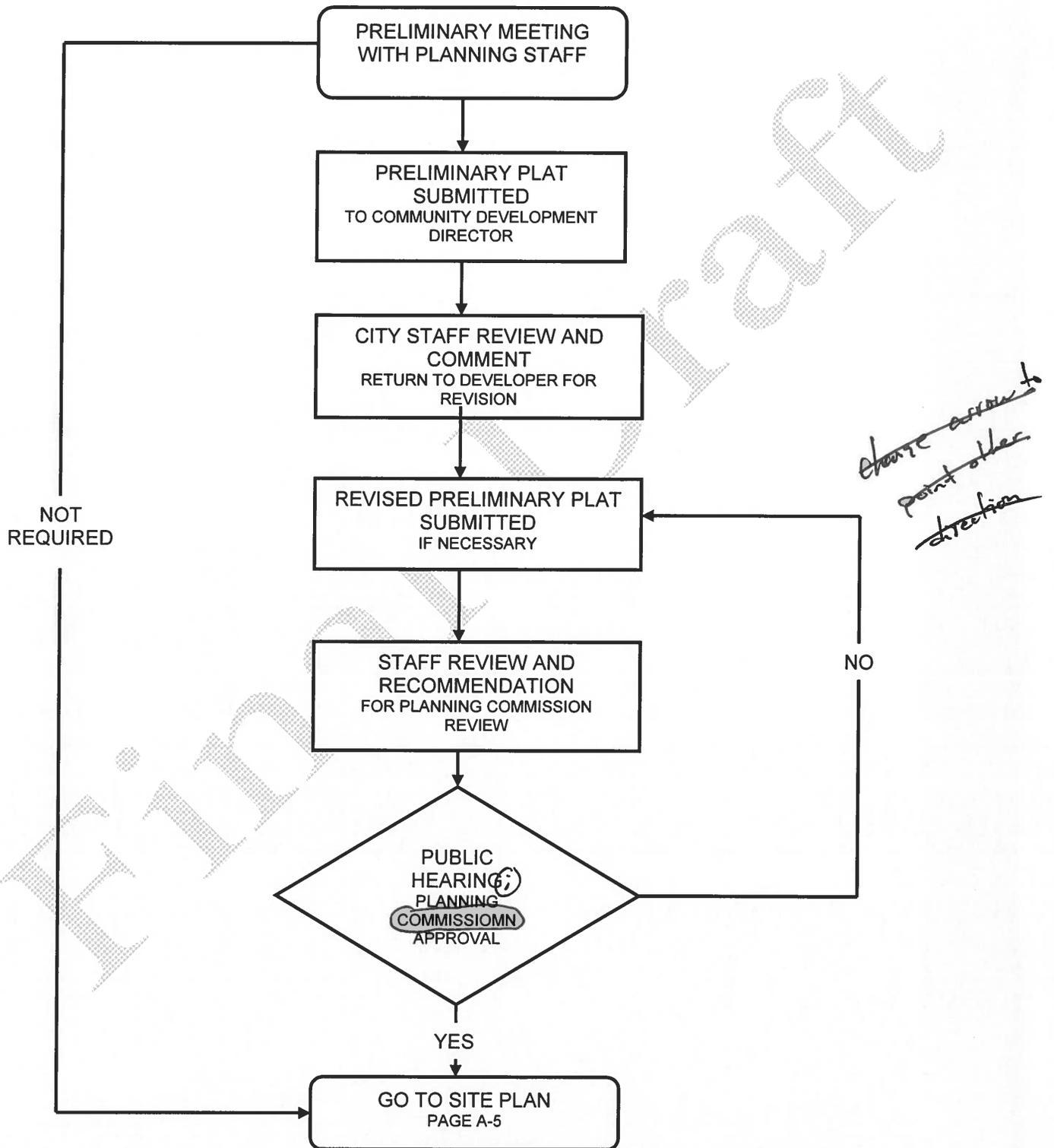
APPENDIX A - DEVELOPMENT PROCEDURE FLOWCHART

ZONING / RE-ZONING



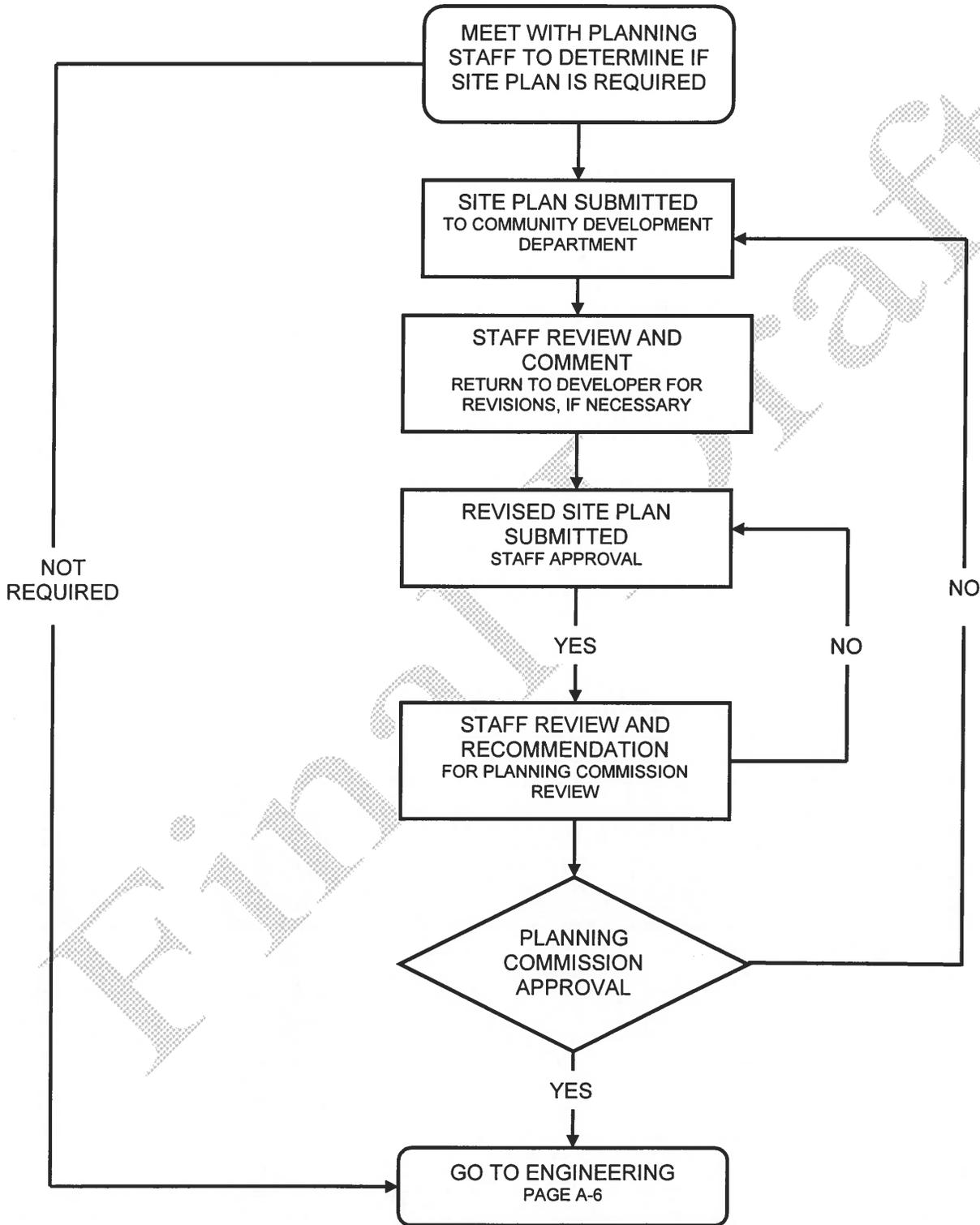
APPENDIX A - DEVELOPMENT PROCEDURE FLOWCHART

PRELIMINARY PLAT



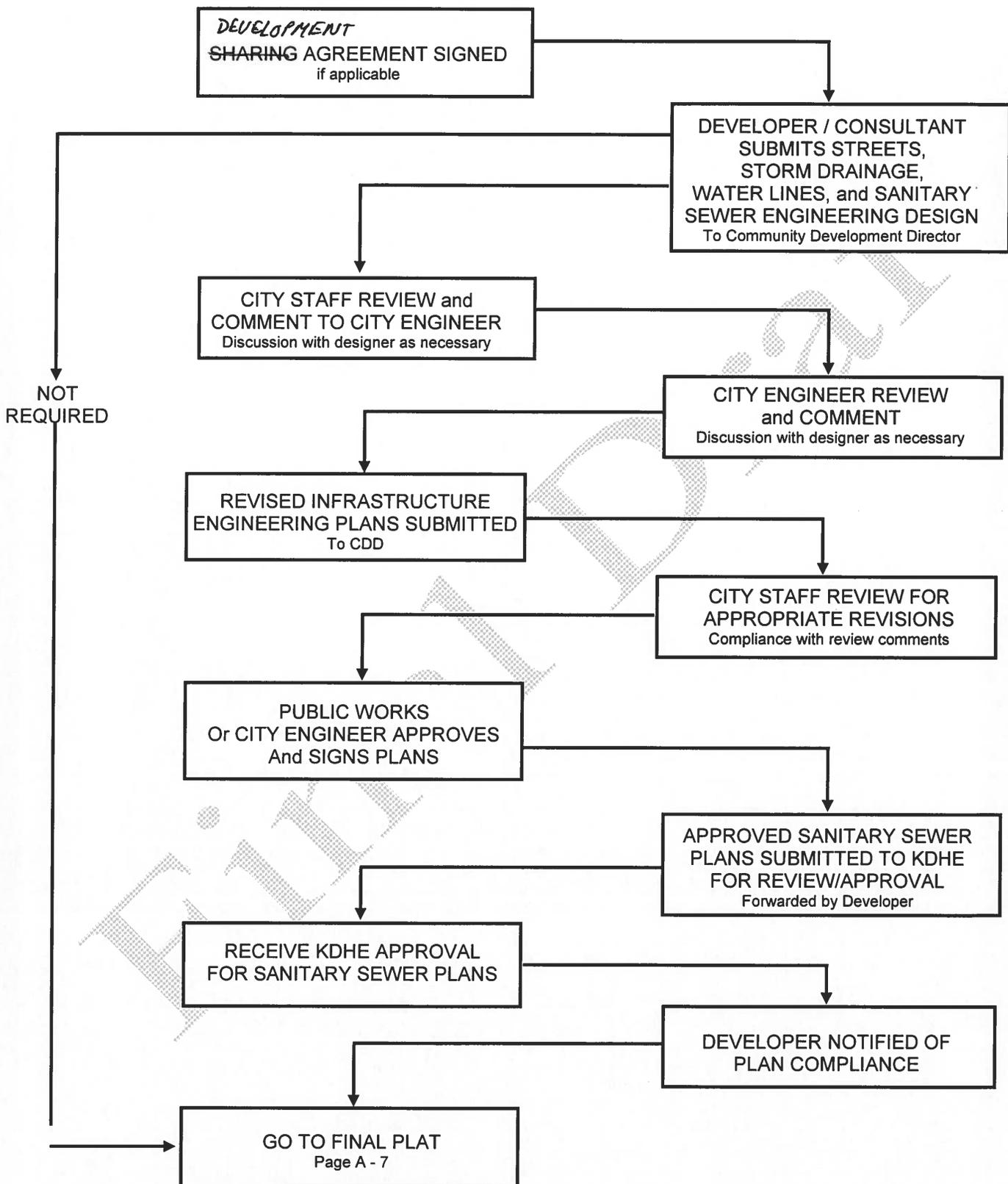
APPENDIX A - DEVELOPMENT PROCEDURE FLOWCHART

SITE PLAN



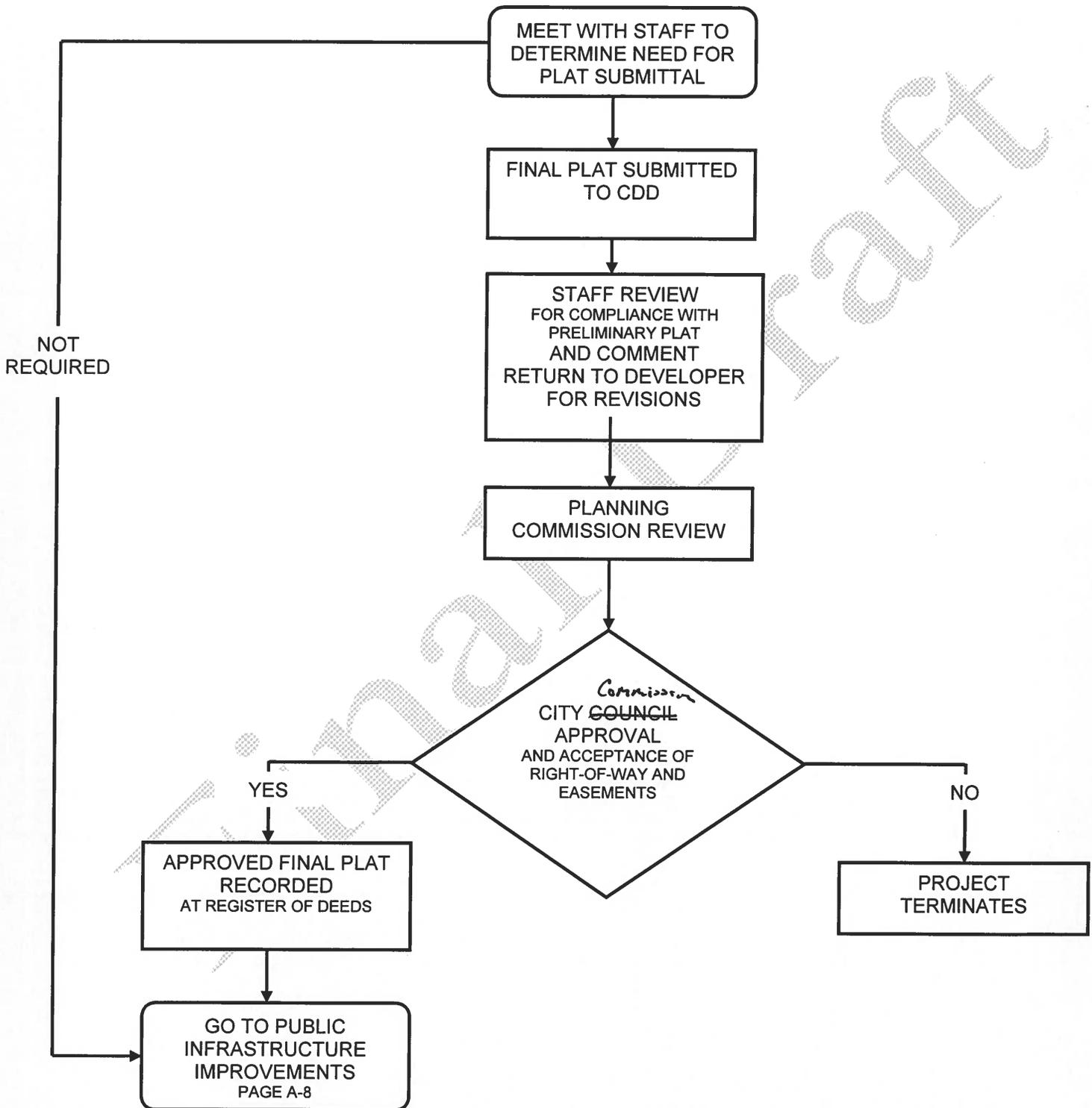
APPENDIX A - DEVELOPMENT PROCEDURE FLOWCHART

PUBLIC INFRASTRUCTURE ENGINEERING DESIGN



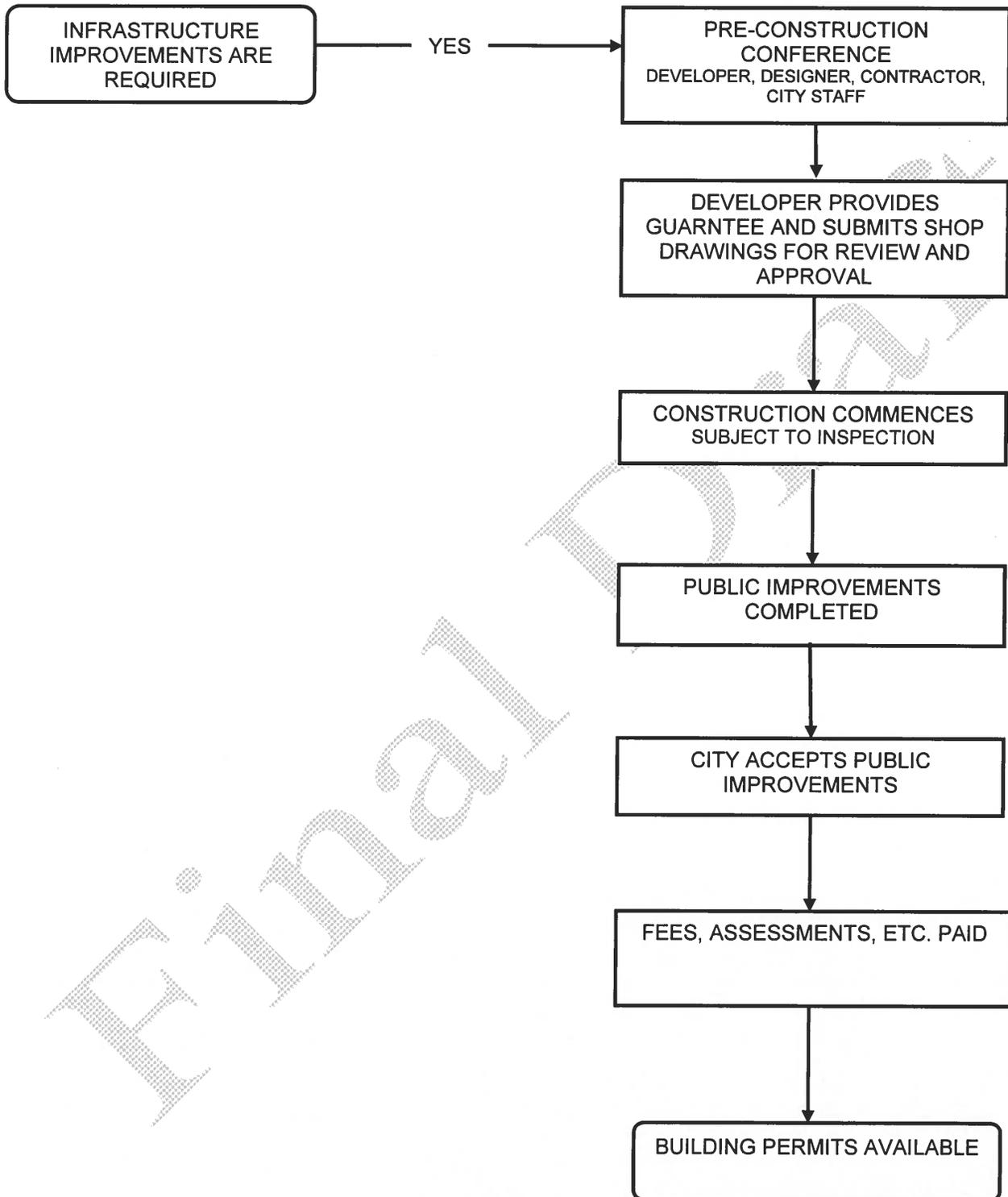
APPENDIX A - DEVELOPMENT PROCEDURE FLOWCHART

FINAL PLAT



APPENDIX A - DEVELOPMENT PROCEDURE FLOWCHART

PUBLIC INFRASTRUCTURE IMPROVEMENTS



CITY OF ABILENE, KANSAS
 APPENDIX B - PLAN / DRAWING SUBMISSION SCHEDULE

DEVELOPMENT PROCEDURES POLICY MANUAL

	Preliminary Plat			Final Plat			Site Plans			Other							
	1st submittal 24 x 36	2nd submittal if minor 24 x 36 otherwise need 21 copies	Final submittal 24 x 36	1st submittal 24 x 36	2nd submittal 24 x 36	Final submittal 24x36	Filed with Dickinson County Courthouse	1st Submittal 24 x 36	2nd Submittal 24 x 36	Final Submittal	Preliminary INFRA- STRUCTURE Engineering Plans	Storm Drainage Calculations/ TRAFFIC Study	Approved Engineering Plans (Street, Storm Drainage, Water)	Approved Engineering Plans (Sanitary Sewer)	As-Built INFRA- STRUCTURE Engineering Plans	Building Plans & Revisions	Civil Engineering Plans
Planning Commission			16-11x17			16-11x17			16-11x17								
City Council			1-11x17			5-11x17			1-11x17								
City Administrator	R			R				R	1-11x17								
City Engineer	1	1	1-24x36	1	1	1-24x36	1	1	1-24x36	1	1	1	1				1
Planning & Codes	3	2	1-24x36 2-11x17	2	2	1-24x36 2-11x17	3	2	1-24x36 2-11x17	R	R	R	R				
Public Works Dept	1	1	1-24x36	1	1	1-24x36	1	1	1-24x36	2	1	1-24x36 2-11x17	1-24x36	R	R	R	R
Fire Department	1	1		1	1			1				R	R		1		
KDHE																	
Other Utilities	6																
Addressing Copies			4-24x36 4-11x17	7	7	5-24x36 5-11x17	12	9	3-24x36 5-11x17	6	2	6	6				
Total Plans Required	12	7		7	7		2	7		6	2	6	6	1	4	2	

R = notification of receipt with ability to review in Planning Department
 Other Utilities: Kansas Gas Service, Westar, Eagle Communication, AT&T, Union Pacific Railroad Co, BNSF Railway
 Addressing copies to Police, Post Office, County Mapper, Developer, Planning Dept.
 Digital copies of all infrastructure to include roads, sidewalks, water and sewer designs will be submitted during both preliminary and final plats

APPENDIX C - SITE PLAN CHECKLIST

?
 where is
 this
 referenced

The Site Plan Regulations, which are incorporated into the Zoning Ordinance, is subject to change. The list below is a summary of requirements listed in Subdivision Regulations. More detailed information related to each of these elements may be found in regulations, which shall be used for preparing, submitting, reviewing and approving site plans.

- a. Name of Project, address, boundaries, date, north arrow and scale.
- b. Name and address of the owner of record, developer, and seal of the engineer, architect or landscape architect.
- c. All existing lot lines, easements and rights-of-way. Include area in acres or square feet, abutting land uses and structures
- d. The location and use of all existing and proposed structures within the development with height, floor area, exterior entrances and elevation renderings.
- e. The location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, fences, and waste disposal screens.
- f. The Community Development Director may require location, height, intensity and bulb type (e.g. fluorescent, sodium incandescent) of all external lighting fixtures along with methods to eliminate glare.
- g. Grading information consistent with Site Plan, ^{and} Zoning regulations.
- h. The location, height, size, materials, and design of all proposed signage.
- i. The location of all present and proposed utility and drainage systems
- j. Stormwater and erosion control management plan.
- k. Existing and proposed topography shown at not more than two-foot contour intervals.
 Zoning district boundaries adjacent to the site's perimeter shall be drawn and identified on the plan.
- l. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within 100 feet of the site. The City designated staff may require a detailed traffic study for mixed use and multi-tenant developments.
- m. Other information as required by Community Development Director, ^{and applicable} Zoning regulations.

APPENDIX C-2 PRELIMINARY PLAT- REQUIRED—PURPOSE.

- A. Every proposed subdivision shall be submitted to the planning commission for tentative or conditional approval in the form of a preliminary plat prior to the submission of a final record plat. The preliminary plat is not intended to be a final record plat and must be prepared in such form as not to be confused with a final record plat. Its purpose is to show graphically all facts needed to enable the planning commission and other public bodies to determine whether the proposed layout of the land in question is satisfactory from the standpoint of the public interest. The preliminary plat shall be prepared by a qualified professional, trained and experienced in the layout of subdivisions.
- B. The graphic and descriptive items set forth in Subdivision Regulations Section 2-2 are normally required to be shown on the preliminary plat and the accompanying application for approval. The lack of information under any item specified herein, or improper information supplied by the applicant shall be cause for disapproval of a preliminary plat.

Application for approval.

Written application by the owner, or his agent, for approval, on forms furnished by the planning commission shall accompany each preliminary plat and contain the following information:

- A. Name for file identification.
1. Name of subdivision if property is within an existing subdivision.
 2. Proposed name if not within a previously platted subdivision. The proposed name shall not duplicate the name of any plat previously recorded in Dickinson County.
 3. Name of property if no subdivision name has been chosen (This is commonly the name by which the property is locally known.).
- B. Location and description of property.
- C. Basic facts and proposals pertaining to the property.
1. Size of tract in acres or of existing lots, if any, in square feet.
 2. Existing zoning classification of property and any rezoning proposed to be requested.
 3. Number of lots proposed in subdivision.
 4. Area of lots proposed, minimum, average and maximum.
 5. Proposed type of water and sewer facilities.
 6. Any other proposals, such as parcels of land intended to be dedicated, conveyed, or reserved for public use, and the conditions proposed for such disposal and use.
- D. Information as to ownership, preparation of plat, and submission thereof.
1. Name and address, including telephone number, of the legal owner or agent of property and citation of last instrument conveying title to each parcel of property involved in the proposed subdivision, giving grantor, grantee, date and land records reference.
 2. Citation of any existing legal rights-of-way or easements affecting the property.
 3. Existing covenants on the property, if any.
 4. Name and address, including telephone number, of the professional responsible for the subdivision design shall be shown on the preliminary plat as submitted, registered professional engineer or architect of Kansas, responsible for the design of public improvements, and registered Kansas land surveyor, responsible for surveys.

APPENDIX C-3 PRELIMINARY PLAT DRAWING SPECIFICATIONS:

The preliminary plat shall be drawn with paper of good quality at a scale of not more than one hundred feet to the inch, and shall show correctly on its face the following information:

- A. Date, scale and north point;
- B. The proposed subdivision name (must be the same as that specified in the application);
- C. The name and address of the owner, the subdivider, and the surveyor preparing the plat;
- D. Location of the subdivision by government lot, quarter section, section, township, range and county;
- E. A vicinity sketch or small-scale drawing of the section or area within which the subdivision lies, with the location of the subdivision indicated thereon;
- F. The exact length and bearing of the exterior boundaries of the subdivision. Dimensions shall be expressed in feet and decimals of a foot;
- G. Location and names of adjacent subdivisions and the owners of adjoining parcels of unsubdivided land;
- H. Zoning on and adjacent to the subdivision;
- I. Location, width, and names of all existing and platted streets, alleys, and other public ways and easements, railroad and utility rights-of-way, parks, cemeteries, watercourses, drainage ditches, permanent buildings, bridges, and other pertinent data as determined by the planning commission;
- J. The water elevations of adjoining lakes or streams at the date of the survey and the approximate high and low water elevations of such lakes or streams. All elevations shall be referred to the city datum plane;
- K. If the subdivision borders a lake, river, or stream, the distances and bearings of a meander line established not less than twenty feet back from the ordinary high water mark of such waterways;
- L. Layout, width, and grades of all new streets and rights-of-way, including alleys, highways, easements for sewers and water mains, and other public utilities;
- M. Existing sewers, water mains, culverts, and other underground structures within the tract or immediately adjacent thereto. The location and size of the nearest water main and sanitary and storm sewers are to be indicated in a general way upon the preliminary plat;
- N. Plans of proposed utility layouts (water, sewers and storm drains) showing connections to any existing or proposed utility system;
- O. Approximate dimensions and areas of lots;
- P. Approximate radii of all curves, length of tangents, and central angles on all streets;
- Q. Approximate location and area of all property proposed to be dedicated or reserved for public use or to be reserved by deed covenant for use of all property owners in the subdivision, with the conditions, if any, of such dedication or reservation;
- R. Contours at vertical intervals of not more than two feet or at more frequent intervals if required by the planning commission for land with unusual topography;
- S. Street profile plans for all existing and proposed streets, containing information specified by the planning commission.

APPENDIX C-4 FINAL PLAT

This is a basic checklist on what MUST be included on the original plat in order to be recorded, per KSA 12-40, KSA 12-402, KSA 12-403.

All plats must be on Mylar. Blueline paper is not acceptable. The Community Development Department will submit the Final Plat with all signatures to the Dickinson County Register of Deeds.

Legal description of platted area

1. Final Plat Approved by City Commission
2. Owner's Certificate and signature(s). (Owners listed must be same as deed)
3. Notary certificate or acknowledgement. (All owners signatures must be acknowledged)
4. Surveyor's Certificate, with signature and seal
5. Review certificate by second surveyor with signature and seal
6. Dedication of public streets, alleys and easements, etc. (found in Owner's Certificate)
7. City Attorney's Certificate and signature
8. Certificate of the City Commission (Signature of City Mayor & City Clerk's Certificate, attesting with signature and seal)
9. ~~City~~ Planning Commissioner Chairperson signatures
10. Certificate of County Treasurer signature
11. Secretary Signature
12. Copy of paid tax receipt

Final

APPENDIX D - CONTACTS FOR DEVELOPER QUESTIONS

All plans related to construction and development should be sent to:

Community Development Department
 City of Abilene
 PO Box 519
 419 North Broadway
 Abilene, Kansas 67410

It is the developer's responsibility to ensure that the correct number of copies, along with the required application or review fee submitted. The City reserves the right to reject any plans or applications that are submitted incomplete.

The following telephone numbers are current as of January 28, 2016.

<u>Official</u>	<u>Telephone</u>	<u>Areas of Responsibility</u>
<i>Manager</i> City Administrator City Hall	(785) 263-2550	Annexation Assessment Procedures Bond Payments City Council Procedures/ Agenda <i>Commission</i>
Community Development City Hall	(785) 263-2355	Zoning and Re-zoning Planning Commission Procedures / Agenda Platting Site/Nuisance Inspection Streets & Storm Drainage Designs Economic Development Incentives
Public Works Water, Sewer, Stormwater, Streets	(785) 263-3510	Streets Design, Construction & Inspection Storm Drainage Design, Construction & Inspection Water Distribution Design, Construction & Inspection Sanitary Sewer Design, Construction & Inspection
Fire Chief Abilene Fire District No. 1 <i>Department</i>	(785) 263-4424	Blasting Permits Building/Site Inspections Burning Permits Utilities Inspection / Connection
City Engineer, Olsson Associates	(785) 4-877-831-6389 <i>559-6900</i>	Civil Engineering, Storm Water Design
→ Kansas City District → US Army Corps of Engineers	(816) 7369-3238 <i>Work</i>	Levee Safety Program Manager

* *Westar Energy & Kansas Gas Service*

*The City strives to provide a streamlined development process. All questions
 show concerning development should be directed to the Community Development
 Director. Department. The Department will take the lead on finding answers to
 development questions. Developers may D-1 contact the City Manager at (785)
 263-2550 if they are not satisfied with the responsiveness of the Community
 Development Department.*

TO: City Commission
FROM: David Dillner, City Manager
SUBJ: Comprehensive Fee Schedule Proposal
DATE: August 12, 2016

Fees to Continue to Require Governing Body Review and Approval

- Water Rates (minimum and volume)
- Sewer Rates (minimum and volume)
- Stormwater Rate
- Recycling Fee
- Building Permits
- Trade Licensing Fees

Fees Proposed to be Calculated Based on Reimbursement Methodology

These fees would be calculated based on the average time it takes for the City to process a request. The purpose of this fee structure is for the City to be reimbursed its cost for various processes that are requested by specific users which do not directly benefit the general public. Using this method allows the City to be reimbursed for the user-specific service without subsidizing the service from general government revenues.

- Utility Application Fee
- Utility Service Transfer Fee
- Utility Service Reconnection Fee
- Sewer Permit Fee
- Extraterritorial Sewer Permit Fee
- Private Sewer System Permit Fee
- Water Connection Fee
- Meter Reading Testing Fee
- Building Inspections such as re-inspections or after-hours inspections
- Trade Work Permit Fees
- Sign Permit Fees
- Development Processing Fees (Administrative Appeal, Annexation, Certificate of Appropriateness, Comprehensive Plan Amendment, Conditional Use Permit, Development Code Amendment, Final Plat, Landmark Designation, Lot Split, Nonconforming Use Certificate, Preliminary Plat, Planned Development, Replat, Rezoning, Zoning Map Amendment, Site Plan, Vacations, and Variances)
- Miscellaneous Permit Fees (Curb cuts and driveway permits, fence permits, demolition and relocation permits, and roof permits)
- Various police processing requests (fingerprinting, driving record checks, accident and offense reports, etc.)
- Other miscellaneous licenses and permits

Recreation and civic center fees would be set by the respective department. Municipal courts fines would be established by City Code or the Uniform Public Offense Code, Standard Traffic Ordinance, or other applicable state law and would be administered at the discretion of the Municipal Judge.



Abilene City Commission Minutes
Abilene Public Library
July 25, 2016 @ 4:00 p.m.
Abilene, Kansas

1. Call to Order

2. Roll Call – City Commission Present: Vice-Mayor Shafer, Commissioners Dale, Payne and Weishaar.
Absent: Mayor Marshall.

Staff Present: City Manager Dillner, Human Resources Director/City Clerk Soukup, City Attorney Martin, Finance Director Rothchild, Parks & Recreation Director Foltz and Community Development Director Shea.

Others Present: Mike Heronemus, Wendy Moulton and Bob Morando.

3. Pledge of Allegiance – Vice-Mayor Shafer led the Pledge of Allegiance.

Consent Agenda

4. Agenda Approval for the July 25, 2016 City Commission Meeting

5. Meeting Minutes: July 11, 2016, Regular Meeting

6. Acceptance of unaudited 2Q, 2016 Financial Report of the City of Abilene, Kansas

7. Appointment of Amanda Cormack to the Library Board of the City of Abilene, Kansas to fill an unexpired term ending April 2019.

Motion by Commissioner Weishaar, seconded by Commissioner Dale to approve the Consent Agenda as presented. Motion carried unanimously 4-0.

Public Comments and Communications

8. Public Comments. Persons who wish to address the City Commission regarding items not on the agenda and that are under the jurisdiction of the City Commission may do so when called upon by the Mayor. Comments on personnel matters and matters pending before court are not permitted. Speakers are limited to three (3) minutes. Any presentation is for informational purposes only. No action will be taken.

Vice-Mayor Shafer asked for any comments or communications from the public that are not on the agenda.

There were no public comments or communications.

9. Declaration. At this time City Commissioners may declare any conflict or communication they have had that might influence their ability to impartially consider today's issues.

There were no declarations.

Proclamations and Recognition

10. Introduction of Bob Morando as the Executive Director of the Dickinson County Economic Development Corporation.

City Manager Dillner introduced Bob Morando as the new Executive Director of the Dickinson County Economic Development Corporation.

Bob Morando gave a background on himself.

Public Hearings

11. There were no public hearings.

Old Business

12. There was no old business.

New Business

13. Consideration of an Ordinance amending Article 12 of the City Code of the City of Abilene, Kansas, concerning Insurance Proceeds Funds.

City Manager Dillner explained the current policy regarding the placement of a lien on the payment of insurance proceeds for properties damaged by fire, wind or explosion. The proposed ordinance would amend the code to include additional means of damage to property, including damage by earthquakes. The adoption of this ordinance will put the City Code in alignment with what the State Legislature already has in place.

Motion by Commissioner Payne seconded by Commissioner Weishaar to adopt Ordinance No. 3301 **AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 12 OF THE CITY CODE OF THE CITY OF ABILENE, KANSAS, CONCERNING PAYMENT OF INSURANCE PROCEEDS AND REPEALING ORDINANCE NO. 3106.** Motion carried unanimously 4-0.

14. Consideration of a motion approving a Letter of Support for the Domestic Violence Association of Central Kansas Teen Dating Violence Prevention Program.

City Manager Dillner explained a letter of support from the City of Abilene has been requested by Sheila Beeson from the Domestic Violence Association of Central Kansas for the Teen Dating Violence Prevention Program.

Motion by Commissioner Payne, seconded by Commissioner Dale to approve a letter of support for the Domestic Violence Association of Central Kansas for the Teen Dating Violence Prevention Program. Motion carried unanimously 4-0.

Reports

15. City Manager's Report

Staff has received a draft for the hotel/conference center study. It will be presented at the August 2nd study session.

Staff has received a draft of the 2015 City Audit which will be discussed at the August 2nd study session as well.

All paperwork had been received and approved for the beer garden for the events at the Central Kansas Free Fair.

At the August 8th meeting we will discuss the land bank and consider a resolution to terminate the Highlands covenants and restrictions.

16. Consideration of a motion to adjourn the July 25, 2016 City Commission meeting.

Motion by Commissioner Weishaar, seconded by Commissioner Payne to adjourn at 4:17 p.m. Motion carried unanimously 4-0.

(Seal)

Tim Shafer, Vice-Mayor

ATTEST:

Penny L. Soukup, CMC
City Clerk

ORDINANCE NO. 3307

AN ORDINANCE AMENDING SECTION 5-304 OF THE CITY CODE OF THE CITY OF ABILENE, KANSAS, CONCERNING THE POSSESSION OF MARIJUANA.

WHEREAS, Section 5-304 of the City Code of the City of Abilene, Kansas makes it unlawful to possess marijuana or any substance containing any quantity of the hallucinogenic substances known as tetrahydrocannabinols, and classifies such offense as a Class A Misdemeanor;

WHEREAS, the Kansas Legislature, with the adoption of HB 2462, amended K.S.A. 2015 Supp. 21-5706 to reduce the penalties for possession of marijuana so that a first offense is now classified as a class B nonperson misdemeanor, a second offense is now classified as a class A nonperson misdemeanor, and a subsequent offense is now classified as a drug severity level 5 felony; and

WHEREAS, the Governing Body desires to amend Section 5-304 so that the penalties for first and second offenses for marijuana possession are consistent with state law.

THEREFORE, BE IT ORDAINED, BY THE GOVERNING BODY OF THE CITY OF ABILENE, KANSAS:

SECTION ONE. That Section 5-304 of the City Code of the City of Abilene, Kansas, be amended as follows:

5-304 POSSESSION OF MARIJUANA. It shall be unlawful for any person to possess or have under such person's control the substance commonly known as marijuana or any substance containing any quantity of the hallucinogenic substances known as tetrahydrocannabinols. Upon a first conviction for violation of this section, the convicted person shall be punished by a fine not less than \$200 or greater than \$1,000. In addition to such fine, the convicted person may be sentenced to serve a jail term of not more than 180 days. Upon a second conviction of this section, or if the convicted person has a previous conviction of a substantially similar offense under Kansas law or other jurisdiction, the convicted person shall be punished by a fine not less than \$200 or greater than \$2,500. In addition to such fine, the convicted person may be sentenced to serve a jail term of not more than one year. Violation of this section is a misdemeanor, and may be prosecuted in municipal court unless such person has two or more prior convictions for violation of this section, or for a substantially similar offense under Kansas law or other jurisdiction.

SECTION TWO. This Ordinance rescinds Ordinance No. 3305 and all previous ordinances in conflict therewith.

SECTION THREE. This Ordinance shall become effective and in full force from and after its passage, adoption and publication in the official City newspaper.

PASSED AND APPROVED by the governing body of the City of Abilene, Kansas, this 8th day of August, 2016.

CITY OF ABILENE, KANSAS

By: _____
Dee Marshall, Mayor

ATTEST:

Penny Soukup, City Clerk

APPROVED AS TO FORM:

Aaron O. Martin, City Attorney

ORDINANCE NO. 3309

AN ORDINANCE APPROVING THE 2017 BUDGET FOR THE CITY OF ABILENE, KANSAS, AND ATTESTING TO AN INCREASE IN TAX REVENUES FOR SAID BUDGET

WHEREAS, the City of Abilene must continue to provide services to protect the health, safety, and welfare of the citizens of this community;

WHEREAS, the cost of providing essential services to the citizens of Abilene continues to increase;

WHEREAS, the City requires an increase to the mill levy, in part, to fulfill its legal obligations associated with debt service issued to finance public improvements for the Highlands development; and

WHEREAS, in accordance with Kansas law, the City conducted a public hearing at its August 22, 2016 regular meeting to provide interested citizens with an opportunity to be heard concerning the proposed budget;

WHEREAS, after careful deliberation, the Governing Body has determined that in order to maintain the public services that are essential for the citizens of this City, it will be necessary to budget property tax revenues in an amount exceeding the mill levy from the 2017 budget; and

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ABILENE, KANSAS:

SECTION ONE. Municipal Budget; Approved. That the Governing Body hereby approves the 2017 Budget for the City of Abilene, as prepared on forms prescribed by the State of Kansas and attached hereto as **Exhibit A**. Such budget pertaining to calendar year 2017 as of and beginning January 1, 2017.

SECTION TWO. Transfers. That all interfund transactions identified in the Schedule of Transfers as contained in said 2017 Budget filing with the State of Kansas are adopted by reference.

SECTION THREE. Implementation. That the City Manager is authorized and directed to implement and to administer, within the budgetary funding limits and within adopted City policy and relevant State and City laws and regulations, said approved 2017 Budget.

SECTION FOUR. Appropriation of Funds. That the 2017 Budget of the City of Abilene shall constitute an appropriation of the money so budgeted, and the City Manager shall be authorized to adjust all salaries, including exempt positions, to pay payrolls and claims, and to make interfund transfers as provided in said Budget of the City of Abilene; provided that all such payments and transfers made shall be deducted from the accounts so appropriated, and that total of payments made by Fund shall not exceed the amount appropriated by Fund.

SECTION FIVE. Accounts Payable. That the Administration Department shall establish regulations as to the manner of payment of the periodic dates on which payrolls and claims shall be paid, provided, that all employees of the City of Abilene shall be paid bi-weekly and no payroll or claim shall be paid until it has been approved by the City Manager, or his designee, and by the Finance Director.

SECTION SIX. Records. The Finance Director shall cause a record to be maintained of all payments of any nature to be maintained.

SECTION SEVEN. Certified Budget to County Clerk. The Finance Director shall be directed to submit a certified copy of the 2017 Budget for the City to the County Clerk in order for the tax rates to be certified on the tax rolls for the 2017 calendar year.

SECTION EIGHT. Effective Date. This Ordinance shall become effective and in full force from and after its passage, adoption and publication in the official City newspaper.

PASSED AND ADOPTED by the governing body of the City of Abilene, Kansas this 22nd day of August, 2016.

CITY OF ABILENE, KANSAS

By: _____
Dee Marshall, Mayor

ATTEST:

Penny Soukup, CMC
City Clerk

EXHIBIT A

2017 Budget

for the

City of Abilene, Kansas

August 22, 2016

Abilene

2017

Computation to Determine Limit for 2017

	Amount of Levy
1. Total tax levy amount in 2016 budget	+ \$ <u>2,437,194</u>
2. Debt service levy in 2016 budget	- \$ <u>499,948</u>
3. Tax levy excluding debt service	\$ <u>1,937,246</u>

2016 Valuation Information for Valuation Adjustments

4. New improvements for 2016:	+ <u>546,181</u>	
5. Increase in personal property for 2016:		
5a. Personal property 2016	+ <u>2,468,411</u>	
5b. Personal property 2015	- <u>2,789,053</u>	
5c. Increase in personal property (5a minus 5b)	+ <u>0</u>	
		(Use Only if > 0)
6. Valuation of annexed territory for 2016		
6a. Real estate	+ <u>0</u>	
6b. State assessed	+ <u>0</u>	
6c. New improvements	- <u>0</u>	
6d. Total adjustment (sum of 6a, 6b, and 6c)	+ <u>0</u>	
7. Valuation of property that has changed in use during 2016	<u>29,971</u>	
8. Total valuation adjustment (sum of 4, 5c, 6d & 7)	<u>576,152</u>	
9. Total estimated valuation July 1, 2016	<u>53,243,426</u>	
10. Total valuation less valuation adjustment (9 minus 8)	<u>52,667,274</u>	
11. Factor for increase (8 divided by 10)	<u>0.01094</u>	
12. Amount of increase (11 times 3)	+ \$ <u>21,192</u>	
13. 2017 budget tax levy, excluding debt service, prior to CPI adjustment (3 plus 12)	\$ <u>1,958,438</u>	
14. Debt service in this 2017 budget	<u>551,615</u>	
15. 2017 budget tax levy, including debt service, prior to CPI adjustment (13 plus 14)	<u>2,510,053</u>	
16. Consumer Price Index for all urban consumers for calendar year 2015	<u>0.125%</u>	
17. Consumer Price Index adjustment (3 times 16)	\$ <u>2,422</u>	
18. Maximum levy for budget year 2017 including debt service, not requiring 'notice of vote publication' or adoption of a resolution prior to adoption of the budget (15 plus 17)	\$ <u>2,512,475</u>	

If the 2017 adopted budget includes a total property tax levy exceeding the dollar amount in line 18 you must, prior to adoption of such budget, adopt a resolution authorizing such levy and, subsequent to adoption of such budget, publish notice of vote by the governing body to adopt such budget in the official county newspaper and attach a copy of the published notice to this budget.

In no event will such resolution or published notice of the vote be required if the total budget year tax levy is \$1,000 or less.

**WORKSHEET FOR STATE GRANT-IN-AID TO PUBLIC LIBRARIES AND
REGIONAL LIBRARY SYSTEMS**

Budgeted Year: 2017

Library found in: Abilene
Dickinson

Two tests are used to determine eligibility for State Library Grant. If the grant is approved, then the municipality's library will be paid the grant on February 15 of each year.

First test:

	Current Year	Proposed Year
	<u>2016</u>	<u>2017</u>
Ad Valorem Tax	\$352,434	\$374,515
Delinquent Tax	\$0	\$0
Motor Vehicle Tax	\$41,131	\$38,531
Recreational Vehicle Tax	\$0	\$575
16/20M Vehicle Tax	\$0	\$214
LAVTR	\$0	\$0
	<u>\$0</u>	<u>\$0</u>
TOTAL TAXES	\$393,565	\$413,835
Difference in Total Taxes:	\$20,270	
Qualify for grant:	Qualify	

Second test:

Assessed Valuation	\$52,722,439	\$53,243,426
Did Assessed Valuation Decrease?	No	
Levy Rate	6.685	7.034
Difference in Levy Rate:	0.349	
Qualify for grant:	Qualify	

Overall does the municipality qualify for a grant? **Qualify**

If the municipality would not have qualified for a grant, please see the below narrative for assistance from the State Library.

Abilene

2017

Adopted Budget General Fund - Detail Page 1	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Expenditures:			
General Government			
Salaries	189,406	193,763	199,733
Contractual	37,834	44,960	45,000
Commodities	209,920	116,075	120,000
Capital Outlay	4,560	42,000	0
Transfer to CVB	25,000	25,000	25,000
Total	466,720	421,798	389,733
Police			
Salaries	1,048,415	1,068,817	1,120,573
Contractual	0	0	0
Commodities	127,822	140,890	141,100
Capital Outlay	6,404	6,500	22,000
Transfer	51,192	50,000	32,500
Total	1,233,833	1,266,207	1,316,173
Fire			
Salaries	640,725	703,000	743,769
Contractual	0	0	0
Commodities	74,722	79,313	85,725
Capital Outlay	14,766	43,134	70,634
Total	730,213	825,447	900,128
Streets			
Salaries	307,022	284,822	293,286
Contractual	0	51,922	82,200
Commodities	297,882	297,029	313,650
Capital Outlay	25,412	60,000	0
Total	630,316	693,773	689,136
Flood Control			
Salaries	72,241	98,192	101,512
Contractual	0	0	0
Commodities	35,786	41,727	41,100
Capital Outlay	0		
Total	108,027	139,919	142,612
Parks			
Salaries	180,116	195,398	205,769
Contractual	0	0	0
Commodities	73,067	75,000	88,800
Capital Outlay	2,900	9,762	9,760
Total	256,083	280,160	304,329
Swimming Pool			
Salaries	0	0	0
Contractual	0	0	0
Commodities	21,545	21,500	18,500
Capital Outlay	0	0	0
Total	21,545	21,500	18,500
Community Development			
Salaries	139,057	159,591	162,195
Contractual	0	0	0
Commodities	14,006	19,453	10,650
Capital Outlay	105,111	39,000	25,000
Total	258,174	218,044	197,845
Page 1 - Total	3,704,911	3,866,848	3,958,456

Abilene

2017

Adopted Budget	Prior Year	Current Year	Proposed Budget
General Fund - Detail Page 2	Actual for 2015	Estimate for 2016	Year for 2017
Expenditures:			
Inspection			
Salaries	45,939	2,085	0
Contractual	260	5,000	10,000
Commodities	7,424	5,000	10,410
Capital Outlay	0	0	0
Total	53,623	12,085	20,410
Municipal Court			
Salaries	86,494	86,415	89,311
Contractual	30,740	31,000	31,000
Commodities	47,715	42,000	60,325
Capital Outlay	0	0	
Total	164,949	159,415	180,636
Senior Center			
Salaries	4,004	5,245	5,500
Contractual	7,200	7,200	7,200
Commodities	17,730	17,000	18,650
Capital Outlay	0	0	0
Total	28,934	29,445	31,350
Public Transportation			
Salaries	62,455	68,055	70,706
Contractual	0	0	0
Commodities	17,260	18,000	19,200
Capital Outlay	10,792	0	0
Total	90,507	86,055	89,906
Civic Center			
Salaries	0	0	
Contractual	0	27,760	35,000
Commodities	30,508	0	0
Capital Outlay	1,921	2,333	3,500
Total	32,429	30,093	38,500
General Fund Balance Reserve			
Salaries			
Contractual			
Commodities			
Capital Outlay			
Balance Reserve			1,390,000
Total	0	0	1,390,000
Salaries			
Contractual			
Commodities			
Capital Outlay			
Total	0	0	0
Salaries			
Contractual			
Commodities			
Capital Outlay			
Total	0	0	0
Page 2 -Total	370,442	317,093	1,750,802
Page 1 -Total	3,704,911	3,866,848	3,958,456
Grand Total	4,075,353	4,183,941	5,709,258

(Note: Should agree with general sub-totals.)

Abilene

2017

FUND PAGE FOR FUNDS WITH A TAX LEVY

Adopted Budget Library	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Unencumbered Cash Balance Jan 1	0	9,474	9,474
Receipts:			
Ad Valorem Tax	320,507	352,434	xxxxxxxxxxxxxxxxxxxx
Delinquent Tax			
Motor Vehicle Tax	43,159	41,131	38,531
Recreational Vehicle Tax			575
16/20M Vehicle Tax			214
Commercial Vehicle Tax			1,245
Watercraft Tax			263
Non Tax Revenue	6,093	4,210	4,110
Grants	9,722	8,000	8,521
Interest on Idle Funds			
Neighborhood Revitalization Rebate			0
Miscellaneous			
Does miscellaneous exceed 10% Total Rec			
Total Receipts	379,481	405,775	53,459
Resources Available:	379,481	415,249	62,932
Expenditures:			
Tax Distributions	370,007	405,775	437,447
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	370,007	405,775	437,447
Unencumbered Cash Balance Dec 31	9,474	9,474	xxxxxxxxxxxxxxxxxxxx
2015/2016/2017 Budget Authority Amount	370,007	405,775	437,447
		Non-Appropriated Balance	
		Total Expenditure/Non-Appr Balance	437,447
		Tax Required	374,515
		Delinquent Comp Rate: 0.0%	0
		Amount of -1 Ad Valorem Tax	374,515

Adopted Budget Recreation	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Unencumbered Cash Balance Jan 1		0	0
Receipts:			
Ad Valorem Tax		0	xxxxxxxxxxxxxxxxxxxx
Delinquent Tax			
Motor Vehicle Tax			
Recreational Vehicle Tax			
16/20M Vehicle Tax			
Commercial Vehicle Tax			
Watercraft Tax			
Interest on Idle Funds			
Neighborhood Revitalization Rebate			0
Miscellaneous			
Does miscellaneous exceed 10% Total Rec			
Total Receipts	0	0	0
Resources Available:	0	0	0
Expenditures:			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	0	0	0
Unencumbered Cash Balance Dec 31	0	0	xxxxxxxxxxxxxxxxxxxx
2015/2016/2017 Budget Authority Amount	0	0	0
		Non-Appropriated Balance	
		Total Expenditure/Non-Appr Balance	0
		Tax Required	0
		Delinquent Comp Rate: 0.0%	0
		Amount of 2016 Ad Valorem Tax	0

Abilene

2017

FUND PAGE FOR FUNDS WITH A TAX LEVY

Adopted Budget	Prior Year	Current Year	Proposed Budget
Airport	Actual for 2015	Estimate for 2016	Year for 2017
Unencumbered Cash Balance Jan 1	210,319	35,785	35,785
Receipts:			
Ad Valorem Tax	61,354	70,076	xxxxxxxxxxxxxxxxxxxx
Delinquent Tax	1,648	0	0
Motor Vehicle Tax	5,864	7,034	7,661
Recreational Vehicle Tax		110	114
16/20M Vehicle Tax		40	43
Commercial Vehicle Tax		240	247
Watercraft Tax		50	52
FAA Funding	2,249,441	0	0
Rentals	17,750	15,000	12,800
Land Lease			5,000
Interest on Idle Funds	42	30	30
Neighborhood Revitalization Rebate			0
Miscellaneous	284	100	100
Does miscellaneous exceed 10% Total Rev			
Total Receipts	2,336,383	92,680	26,047
Resources Available:	2,546,702	128,465	61,832
Expenditures:			
Contractual Services	0	1,500	1,500
Services and Supplies	17,761	33,000	33,000
Capital Outlay	2,493,156	37,150	23,000
Airport Balance Reserve		21,030	65,000
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	2,510,917	92,680	122,500
Unencumbered Cash Balance Dec 31	35,785	35,785	xxxxxxxxxxxxxxxxxxxx
2015/2016/2017 Budget Authority Amount	2,769,850	344,450	122,500
Non-Appropriated Balance			
Total Expenditure/Non-Appr Balance			122,500
Tax Required			60,668
Delinquent Comp Rate: 0.0%			0
Amount of 2016 Ad Valorem Tax			60,668

Adopted Budget	Prior Year	Current Year	Proposed Budget
Fire Apparatus	Actual for 2015	Estimate for 2016	Year for 2017
Unencumbered Cash Balance Jan 1	50,521	56,274	36,838
Receipts:			
Ad Valorem Tax	48,269	51,241	xxxxxxxxxxxxxxxxxxxx
Delinquent Tax	888	500	500
Motor Vehicle Tax	6,130	5,993	5,602
Recreational Vehicle Tax			84
16/20M Vehicle Tax			31
Commercial Vehicle Tax			181
Watercraft Tax			38
Interest on Idle Funds	14	14	14
Neighborhood Revitalization Rebate			0
Miscellaneous			
Does miscellaneous exceed 10% Total Rev			
Total Receipts	55,301	57,748	6,450
Resources Available:	105,822	114,022	43,288
Expenditures:			
Principal Payments	45,000	73,500	113,778
Bond & Interest	4,548	3,584	5,693
Commission & Postage	0	100	100
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	49,548	77,184	119,571
Unencumbered Cash Balance Dec 31	56,274	36,838	xxxxxxxxxxxxxxxxxxxx
2015/2016/2017 Budget Authority Amount	74,223	112,473	119,571
Non-Appropriated Balance			
Total Expenditure/Non-Appr Balance			119,571
Tax Required			76,284
Delinquent Comp Rate: 0.0%			0
Amount of 2016 Ad Valorem Tax			76,284

Abilene

2017

FUND PAGE FOR FUNDS WITH NO TAX LEVY

Adopted Budget Special Highway	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Unencumbered Cash Balance Jan 1	-31,537	96	45,836
Receipts:			
State of Kansas Gas Tax	174,073	171,040	171,040
County Transfers Gas	0	0	0
KDOT Funds	116,892	200,000	0
Reimbursed Expenses	2,677	0	0
Interest on Idle Funds	820	1,200	800
Miscellaneous			
Does miscellaneous exceed 10% Total Rec			
Total Receipts	294,462	372,240	171,840
Resources Available:	262,925	372,336	217,676
Expenditures:			
Service & Supplies	24,191	26,500	26,500
Capital Outlay	238,638	300,000	190,000
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	262,829	326,500	216,500
Unencumbered Cash Balance Dec 31	96	45,836	1,176
2015/2016/2017 Budget Authority Amount	413,500	413,500	216,500

Adopted Budget Recycle	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Unencumbered Cash Balance Jan 1	249,469	201,181	171,493
Receipts:			
Service Charges	56,437	59,160	41,625
Refunds Received	266	0	0
Sale of Merchandise	22,715	25,000	15,000
Interest on Idle Funds	51	80	80
Miscellaneous			0
Does miscellaneous exceed 10% Total Rec			
Total Receipts	79,469	84,240	56,705
Resources Available:	328,938	285,421	228,198
Expenditures:			
Salaries & Benefits	23,095	0	0
Contractual	67,833	74,000	74,000
Service & Supplies	22,938	27,470	27,720
Capital Outlay	13,891	12,458	12,458
Fund Balance Reserve			100,000
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	127,757	113,928	214,178
Unencumbered Cash Balance Dec 31	201,181	171,493	14,020
2015/2016/2017 Budget Authority Amount	160,928	115,570	214,178

Abilene

2017

FUND PAGE FOR FUNDS WITH NO TAX LEVY

Adopted Budget	Prior Year	Current Year	Proposed Budget
Special Parks & Recreation	Actual for 2015	Estimate for 2016	Year for 2017
Unencumbered Cash Balance Jan 1	50,521	53,208	29,920
Receipts:			
Alcohol Tax	26,167	16,712	16,712
Gifts/Donations	10,744	0	0
Interest on Idle Funds	9	0	0
Miscellaneous			
Does miscellaneous exceed 10% Total Rec			
Total Receipts	36,920	16,712	16,712
Resources Available:	87,441	69,920	46,632
Expenditures:			
Capital Outlay	34,233	40,000	40,000
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	34,233	40,000	40,000
Unencumbered Cash Balance Dec 31	53,208	29,920	6,632
2015/2016/2017 Budget Authority Amount	35,000	40,000	40,000

Adopted Budget	Prior Year	Current Year	Proposed Budget
Special Alcohol & Drug	Actual for 2015	Estimate for 2016	Year for 2017
Unencumbered Cash Balance Jan 1	55,267	74,195	77,705
Receipts:			
Liquor Control Tax	25,413	16,000	16,000
Interest on Idle Funds	15	10	10
Miscellaneous			
Does miscellaneous exceed 10% Total Rec			
Total Receipts	25,428	16,010	16,010
Resources Available:	80,695	90,205	93,715
Expenditures:			
Awards & Contributions	6,500	7,500	17,000
Capital Outlay	0	5,000	
Special Alcohol & Drug Reserve Balance			70,000
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	6,500	12,500	87,000
Unencumbered Cash Balance Dec 31	74,195	77,705	6,715
2015/2016/2017 Budget Authority Amount	13,000	12,500	87,000

Abilene

2017

FUND PAGE FOR FUNDS WITH NO TAX LEVY

Adopted Budget	Prior Year	Current Year	Proposed Budget
Special Revenue - Streets	Actual for 2015	Estimate for 2016	Year for 2017
Unencumbered Cash Balance Jan 1	146,701	193,147	193,217
Receipts:			
Sales Tax	343,019	325,000	325,000
Interest in Idle Funds	63	70	70
Miscellaneous			
Does miscellaneous exceed 10% Total Rec			
Total Receipts	343,082	325,070	325,070
Resources Available:	489,783	518,217	518,287
Expenditures:			
Capital Outlay	296,636	325,000	325,000
Fund Balance Reserve			150,000
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	296,636	325,000	475,000
Unencumbered Cash Balance Dec 31	193,147	193,217	43,287
2015/2016/2017 Budget Authority Amount	300,000	325,000	475,000

Adopted Budget	Prior Year	Current Year	Proposed Budget
Storm Water	Actual for 2015	Estimate for 2016	Year for 2017
Unencumbered Cash Balance Jan 1	360,839	423,449	288,149
Receipts:			
User Charges	67,717	68,000	68,000
Reimbursed Expenses	1,583	0	0
Interest on Idle Funds	86	100	100
Miscellaneous			
Does miscellaneous exceed 10% Total Rec			
Total Receipts	69,386	68,100	68,100
Resources Available:	430,225	491,549	356,249
Expenditures:			
Contractual	0		
Capital Outlay	401	200,000	200,000
Transfer to General Fund	6,375	3,400	3,400
Storm Water Balance Reserve			150,000
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	6,776	203,400	353,400
Unencumbered Cash Balance Dec 31	423,449	288,149	2,849
2015/2016/2017 Budget Authority Amount	281,375	203,400	353,400

Abilene

2017

FUND PAGE FOR FUNDS WITH NO TAX LEVY

Adopted Budget Special Revenue - Com Ctr	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Unencumbered Cash Balance Jan 1	153,891	153,924	153,974
Receipts:			
Interest on Idle Funds	33	50	50
Miscellaneous			
Does miscellaneous exceed 10% Total Rec			
Total Receipts	33	50	50
Resources Available:	153,924	153,974	154,024
Expenditures:			
Capital Outlay	0	0	30,000
Community Center Balance Reserve			100,000
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	0	0	130,000
Unencumbered Cash Balance Dec 31	153,924	153,974	24,024
2015/2016/2017 Budget Authority Amount	0	0	130,000

Adopted Budget Special Revenue - Lib/Pool	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Unencumbered Cash Balance Jan 1	297,803	347,718	349,978
Receipts:			
Sales Tax Distribution	480,197	473,310	475,000
Bond Issuance	19,432	0	0
Interest on Idle Funds	49	100	50
Miscellaneous			
Does miscellaneous exceed 10% Total Rec			
Total Receipts	499,678	473,410	475,050
Resources Available:	797,481	821,128	825,028
Expenditures:			
Principal Payments	395,000	460,000	445,000
Bond Interest	36,921	11,150	27,478
Bond Issuance	17,842	0	0
Fund Balance Reserve			350,000
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	449,763	471,150	822,478
Unencumbered Cash Balance Dec 31	347,718	349,978	2,550
2015/2016/2017 Budget Authority Amount	454,325	454,325	822,478

See Tab C

Abilene

2017

2017 Neighborhood Revitalization Rebate

Budgeted Funds for 2017	2016 Ad Valorem before	2016 Mil Rate before Rebate	Estimate 2017 NR Rebate
General			0
Debt Service			0
Library			0
Airport			0
Fire Apparatus			0
Capital Improvement			0
0			0
0			0
0			0
0			0
0			0
0			0
0			0
0			0
Recreation			0
TOTAL	0	0.000	0

2016 July 1 Valuation: 53,243,426

Valuation Factor: 53,243.426

Neighborhood Revitalization Subj to Rebate: 879,418

Neighborhood Revitalization factor: 879.418

**This information comes from the 2017 Budget Summary page. See instructions tab #13 for completing the Neighborhood Revitalization Rebate table.

TO: City Commission
CC: Planning Commission
FROM: David Dillner, City Manager
SUBJ: Proposed Signage Regulation Process
DATE: August 12, 2016

Article 27 of the Zoning Regulations governing signage needs to be amended to reflect the U.S. Supreme Court's decision in *Reed v. Town of Gilbert*. This court case ruled that content-based signage regulations are unconstitutional. Content-based regulations apply to such sign types as real estate signs, political signs, development signs, and other signs that must be read in order to determine if a specific regulation applies. *Reed v. Town of Gilbert* requires signage regulations adopted by a municipality to be content-neutral so as not to infringe on protected speech.

The purpose of this memorandum is to provide an overview of the proposed process to update the City's signage regulations to a content-neutral framework. It should be stated that for the most part, the City's current signage regulations fit within the context of the *Reed* decision and will not require amendment. There are, however, several sections that will require revision. The City Manager proposes the following process for revising Article 27 of the Zoning Regulations:

1. Staff will complete an inventory on Article 27 of the Zoning Regulations pertaining to signage. The purpose of the inventory will be to identify the various sections of the Zoning Regulations that will require amendment to conform to the *Reed v. Town of Gilbert* Supreme Court decision. Estimated time: 1-2 weeks
2. Staff will conduct research on content-neutral signage regulations to provide several options for presentation to the general public. This may be done simultaneously with the previous item. Estimated time: 3-4 weeks
3. Staff will conduct several public input sessions to present options for content-neutral signage regulations to the general public. The sessions will provide the public with opportunities to provide feedback on the options presented so the City may understand the public's desire for any amendments to the regulations. Estimated time: 2-3 weeks
4. The Planning Commission will review the content-neutral options and public input received and make a recommendation to the City Commission for consideration. As part of this process, the Planning Commission will also conduct a formal public hearing on the proposed signage regulations after the public has had an opportunity to learn about and provide input on several options. Estimated time: 1-2 weeks
5. The City Commission will review the recommendation from the Planning Commission and vote to either adopt the recommendations of the Planning Commission, send the item back to the Planning Commission for additional review, or override the Planning Commission's recommendation. Estimated time: 1-2 weeks
6. The amended signage regulations become effective and staff begins process of implementation and enforcement.

LAND BANK RESOLUTION NO. 080816-1

A RESOLUTION TERMINATING A LAND EXCHANGE AGREEMENT WITH ABILENE HIGHLANDS I, LLC

WHEREAS, the Land Bank Board of Trustees (“Board”) entered into a Land Exchange Agreement (“Agreement”) with Abilene Highlands I, LLC for the exchange of certain real property with the adoption of Land Bank Resolution No. 012516-1;

WHEREAS, certain terms and conditions provided in the Agreement were not fulfilled as required for the Agreement to be closed upon;

WHEREAS, the Board desires to terminate said Agreement so as to maintain flexibility for the defined real property.

THEREFORE, BE IT RESOLVED, BY THE BOARD OF TRUSTEES OF THE LAND BANK OF THE CITY OF ABILENE, KANSAS:

SECTION ONE. Land Bank Interest: Terminated. That the Land Exchange Agreement with Abilene Highlands I, LLC, as adopted by Land Bank Resolution No. 012516-1, is hereby expressly terminated, and shall be considered null and void.

SECTION TWO. Effective Date. This Resolution shall become effective and in full force from and after its passage and adoption.

PASSED AND APPROVED by the Board of Trustees of the Land Bank of the City of Abilene, Kansas this 8th day of August, 2016.

**LAND BANK OF THE
CITY OF ABILENE, KANSAS**

By: _____
Dee Marshall, Chair

ATTEST:

Penny Soukup, CMC
City Clerk

LAND BANK RESOLUTION NO. 080816-2

A RESOLUTION TERMINATING THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AFFECTING THE EAST AND WEST HIGHLANDS ADDITIONS TO THE CITY OF ABILENE, KANSAS

WHEREAS, on December 28, 2015, the City of Abilene Land Bank (“Land Bank”) acquired ownership of the following described real estate located in the City of Abilene (“Land Bank Property”):

Lots 1-12, Block 1, East Highlands; Lots 3-8, Block 3, East Highlands; Lots 4-11, Block 4, East Highlands; Lots 4-10, Block 5, East Highlands; Lots 8-13, Block 11, East Highlands; Tracts A & B, East Highlands; and

Lots 1-28, Block 1, West Highlands; Lots 1-32, West Highlands; Lots 1-16, West Highlands; Lots 1-2, West Highlands; Lot 1, Block 8, West Highlands; Tracts A, B, C, West Highlands.

All tracts located in the City of Abilene, Dickinson County, Kansas.

WHEREAS, the Land Bank Property constitutes a majority of the real estate included within the larger real estate developments known as the East Highlands and the West Highlands subdivisions, which subdivisions are legally described in Exhibit A attached and incorporated hereto (“Development”);

WHEREAS, the Development, including the Land Bank Property, are subject to certain covenants, conditions, restrictions, and easements within that certain Declaration of Covenants, Conditions, Restrictions and Dedication of Easements (“Declarations”), dated October 13, 2008, executed by Abilene Highlands, LP, a Nevada limited partnership, and recorded at Misc. Book 270, Page 628 in the office of the Dickinson County Kansas Register of Deeds.

WHEREAS, the Declarations were originally intended to protect the value, desirability, and attractiveness of the Development, in connection with the original developer’s planned development of residential housing, but the original developer determined that the planned development was not feasible, abandoned the proposed development, and conveyed the Land Bank Property to the Land Bank.

WHEREAS, the Land Bank has determined that the Declarations are no longer required, and termination of the Declarations will facilitate the future development and sale of the lots within the Development.

WHEREAS, pursuant to Article 10, Section 1 of the Declarations, the Declarations may be terminated upon approval of the collective owners of seventy percent (70%) of all the lots within the Development; by virtue of the Land’s Bank’s ownership of the Land Bank Property, the Land Bank owns more than seventy percent (70%) of all the lots within the Development;

THEREFORE, BE IT RESOLVED, BY THE BOARD OF TRUSTEES OF THE LAND BANK OF THE CITY OF ABILENE, KANSAS:

SECTION ONE. Declarations Terminated. Pursuant to Article 10, Section 1 of the Declarations, the Governing Body hereby terminates the Declarations.

SECTION TWO. Register of Deeds; Authorization to File. The City Manager is hereby authorized, empowered, and directed to record a copy of this Resolution with the Office of the Dickinson County Register of Deeds, to be indexed to the Development real property legally described in Exhibit A attached hereto; and the City Manager is further authorized, empowered, and directed to take such further action on behalf of the Land Bank as deemed necessary to effectuate the foregoing resolution and the termination of the Declarations.

SECTION THREE. Effective Date. This Resolution shall become effective and in full force from and after its passage.

PASSED AND APPROVED by the Board of Trustees of the Land Bank of the City of Abilene, Kansas this 8th day of August, 2016

**LAND BANK OF THE
CITY OF ABILENE, KANSAS**

By: _____
Dee Marshall, Chair

ATTEST:

Penny Soukup, CMC
City Clerk

EXHIBIT A

**Declaration of Covenants, Conditions, Restrictions,
and Dedication of Easements**

Abilene Highlands, LP

**DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND DEDICATION
OF EASEMENTS**

THIS DECLARATION AND DEDICATION (the "**Declaration**") is made this 13th day of October, 2008, by Abilene Highlands, LP, a Nevada limited partnership, or its assigns (referred to as "**Declarant**").

RECITALS

1. Declarant is the legal and/or equitable owner of real estate located in Abilene, Dickinson County, Kansas, and described on Exhibit A, attached to and by reference made a part of this Declaration (referred to as the "**Real Estate**").
2. Declarant desires to place certain covenants, conditions, restrictions, easements, charges and liens upon the Real Estate for the benefit of Declarant and Declarant's successors, grantees and assigns, and to protect the value and desirability of the Real Estate.
3. Declarant hereby agrees that the Real Estate shall be subject to the protective covenants, conditions, restrictions, reservations, liens and charges set forth in this Declaration.

DECLARATION

NOW, THEREFORE, Declarant declares that the Real Estate is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens described in this Declaration, for the purposes of (i) enhancing and protecting the value, desirability and attractiveness of the Real Estate, (ii) encouraging and assisting the orderly economic development of the Real Estate, (iii) increasing the public benefit to be derived from the Real Estate, (iv) preserving the amenities and for the maintenance of the same located on the Real Estate, (v) promoting the efficient development of the Real Estate, and (vi) protecting the owners, lessees and sublessees of property against incompatible uses of surrounding property, and (vii) promoting safety to life, health and property in the area. These easements, covenants, restrictions and conditions shall run with the Real Estate and shall be binding upon all parties having or acquiring any right, title or interest in the Real Estate, or any part thereof, and shall inure to the benefit of each Owner thereof.

ARTICLE ONE

DEFINITIONS

1. "**Association**" shall mean and refer to the Abilene Highlands Homeowners' Association, a not-for-profit corporation, formed or to be formed pursuant to the laws of the State of Kansas.

2. "**Common Area**" shall mean that part of the Real Estate and all improvements located thereon owned, operated, and/or maintained by the Association for the common use and enjoyment of the residents of the Real Estate, and shall include the following:

(a) All real estate owned in fee simple by the Association, if any, evidenced by a deed or deeds to the Association, recorded in the office of the Register of Deeds of Dickinson County, Kansas.

(b) Any structures, trees, landscaping, lighting equipment, decorative equipment, area marker or markers, or other improvements owned, operated, and/or maintained by the Association and located upon the Common Areas.

(c) All easements, rights, and appurtenances belonging thereto necessary to the existence, maintenance, and safety of the Lots and the Common Area.

(d) All personal property owned by the Association, if any, intended for use by the Association in the exercise of its powers as set forth in this Declaration.

(e) All that portion of the Real Estate owned and/or operated by the Association as common area, open space, park land, stormwater drainage, and/or stormwater detention areas, if any.

3. "**Common Expenses**" shall mean and include the following:

(a) Expenses of administration; insurance expenses; and expenses incurred in the maintenance, operation, repair, and replacement of the Common Areas and the portions of the Real Estate to be maintained by the Association, if any; and

(b) Expenses declared Common Expenses by the Association and assessed against the Owners.

4. "**Declarant**" shall mean and refer to Abilene Highlands, LLC, a Kansas limited liability company, or its assigns.

5. "**Design Guidelines**" shall mean and refer to the design guidelines that shall be promulgated by the Architectural Control Committee, as may be amended from time to time, all of which Design Guidelines shall be made a part of this Declaration by reference thereto.

6. "**Lot**" shall mean a subdivided lot within the Real Estate as shown on the Plats.

7. "**Member**" shall mean and refer to each Owner as provided herein.

8. "**Mortgagee**" shall mean and refer to any person, persons, or entities holding a first mortgage secured by a Lot and improvements thereon.

9. "**Owner**" shall mean and refer to the record owner, whether one or more Persons of the fee simple title to a Lot, including a contract purchaser of a Lot. The term "Owner" shall not mean any Mortgagee unless and until such Mortgagee has acquired fee simple title to a Lot pursuant to foreclosure or any proceeding in lieu of foreclosure.

10. "**Person**" shall mean a natural individual, corporation, partnership, limited liability company, trustee, or other legal entity capable of holding title to real property.

11. "**Plats**" means the final plats of West Highlands and East Highlands, subdivisions in the City of Abilene, Dickinson County, Kansas, as recorded in the Office of the Register of Deeds of Dickinson County, Kansas, and from time to time amended or supplemented.

12. "**Real Estate**" shall mean and refer to the submitted land described in Exhibit A, attached to and by reference made a part of this Declaration.

13. "**Residence**" shall mean and refer to the dwelling structure to be constructed on each Lot.

14. Other terms may be defined in specific provisions contained in this Declaration and shall have the meaning assigned in such definition.

ARTICLE TWO

PROPERTY SUBJECT TO DECLARATION AND THE ASSOCIATION

1. **Property.** The Real Estate described on Exhibit A, attached to and made a part of this Declaration, shall be held, transferred, sold, conveyed, and occupied subject to this Declaration.

2. **Membership.** Every person or entity who is an Owner of the fee simple interest in one or more Lots shall be a Member of the Association. Ownership of a Lot shall be the sole qualification for membership.

3. **Voting in the Association.** Voting in the Association shall be as follows:

(a) **Voting.** Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 2 of this Article. When more than one person holds an interest in any Lot, all such persons shall be Members and the vote for such Lot shall be exercised as they among themselves, determine; but in no event shall more than one vote be cast with respect to any Lot.

(b) **Declarant's Control of the Association.** Notwithstanding anything in this Article or elsewhere in this Declaration to the contrary, Declarant shall maintain absolute and exclusive control over the Association and the Architectural Control Committee, including appointment and removal of the President and all other officers of the Association, all directors of the Association board of directors and all members of the Architectural Control Committee, during Declarant's Marketing Phase as defined in this Declaration. Until such time, Declarant, in Declarant's sole and absolute discretion, will be entitled to amend this Declaration, amend the Bylaws and Articles of Incorporation of the Association, and cast all votes with respect to the election and removal of Association officers and/or directors and members of the Architectural Control Committee, or any other matter requiring the vote or approval of Association members. Declarant may (but shall not be required to), at any time, voluntarily relinquish all or any part of Declarant's control and rights under this Article.

4. **Quorum Proxies, Voting.**

(a) The quorum requirements for meetings of the Association's Members shall be as described in the Association's Bylaws.

(b) At all meetings of the Association, a Member may vote in person or by proxy executed in writing by such Member. Such proxies shall be filed with the Secretary of the Association before or at the time of a meeting. No proxy shall be valid after twelve (12) months from the date of its execution. Every proxy shall be revocable and shall automatically cease upon conveyance by a member of his Lot.

5. **Articles of Incorporation and Bylaws.** Except as specifically set forth in this Declaration, all provisions applicable to notice, voting and quorum requirements for all actions to be taken by the Association shall be as set forth in its Articles of Incorporation and/or Bylaws. In any event, if any provision set forth in this Declaration applicable to notice, voting, and quorum requirements are in conflict with any provisions of Kansas law applicable to not-for-profit

corporations on the date of this Declaration, or at any time after such date, the applicable provisions of Kansas law shall control.

6. **Change of Membership in Association.** Change of membership in the Association shall be established by recording a deed or other instrument in the Office of the Register of Deeds of Dickinson County, Kansas, establishing a record title to a Lot and the delivery to the Association of a copy of such instrument. The Owner designated by such instrument shall thereby become a member of the Association, and the membership of the prior Owner shall thereby be terminated. In the event a Lot shall be sold pursuant to a contract by the terms of which the record title to the Lot shall not pass until full payment of the purchase price has been made by the contract purchaser, an Affidavit of Equitable Interest setting forth the name of the contract purchaser and a description of the Lot sold shall be made by both the contract seller and the contract purchaser, and recorded in the Office of the Register of Deeds of Dickinson County, Kansas. A copy of such Affidavit of Equitable Interest shall be provided to the Association, together with the address of the contract seller to which notices required by this Declaration or the Bylaws shall be mailed. The contract purchaser as named in such Affidavit of Equitable Interest shall thereupon be considered the Owner of the Lot described therein for all purposes of this Declaration, the Bylaws, Design Guidelines and rules and regulations of the Association, and, by entering into such purchase contract, agrees to assume all obligations imposed upon the Owner of such Lot as are imposed by this Declaration, the Bylaws, Design Guidelines and rules and regulations of the Association. In no event, however, shall the contract seller be released from any obligation as the Owner of the Lot described in such Affidavit until a deed conveying fee simple title to the Lot to the contract purchaser shall have been recorded in the Office of the Register of Deeds of Dickinson County, Kansas, and a copy of such deed delivered to the Association. In lieu of recording a deed with the Register of Deeds, a final order entered by a court of competent jurisdiction transferring ownership of a Lot shall transfer such title, provided a certified copy of such final order is delivered to the Association. If title to a Lot shall be transferred by a transfer-on-death deed, the death of the Owner shall transfer such title as set forth in such deed, provided a certified copy of the death certificate, or other evidence of death as may be required by the Association, shall be delivered to the Association.

ARTICLE THREE

COVENANT FOR MAINTENANCE FEES OR CHARGES

1. **Regular and Special Fees and Charges.** Each Owner, by accepting a deed, whether expressed in the deed, hereby agrees to pay to the Association or its nominee:

- (a) Regular fees or charges; and
- (b) Special fees or charges to be fixed, established, and collected from time to time as provided in this Declaration

2. **Purpose of Regular Fees or Charges.** The regular fees or charges levied by the Association shall be used for the following purposes:

- (a) Maintenance and care of the Common Areas, if any.
- (b) Construction and maintenance of an area marker (or markers) for the Real Estate, if any.
- (c) Managing the Association, including necessary legal and accounting expenses.
- (d) Establishing contingency reserves as determined to be necessary or desirable from time to time by the board of directors of the Association.
- (e) Paying insurance premiums for all insurance secured by the board of directors pursuant to this Declaration. Such insurance premiums may include, without limitation, premiums for public liability, property damage, and directors and officers' liability insurance to the extent deemed necessary by the board of directors.
- (f) Paying such other charges and Common Expenses as may be elsewhere required or authorized by this Declaration, or that the board of directors of the Association may from time to time determine necessary or desirable to meet the purposes of the Association as stated in its Articles of Incorporation, Bylaws, and in this Declaration.

3. **Regular Fees or Charges; Limits Thereon.** Prior to December 31 of each calendar year, the board of directors of the Association shall prepare a budget for the following calendar year which shall cover the estimated costs of maintaining the Common Areas and performing the obligations and exercising the powers established under this Declaration. On the basis of this budget, the monthly assessments for each Owner for the following year shall be established by the Association. On or before the first day of each calendar year, a copy of the annual budget for such calendar year, together with the proposed regular fees or charges allocable to each Lot, if any, shall be delivered to each Owner. If an annual budget is not made as required, a monthly payment in the amount required by the last prior budget shall be due from each Lot Owner upon each payment date until changed by new regular fees and charges established by a new budget. Within sixty (60) days following the end of each calendar year, the board of directors shall send to each Owner an annual report of assets and liabilities of the Association determined as of the last day of such calendar year. All computations and reports relating to obligations to be performed by the Association under this article shall be accomplished in accordance with accepted accounting practices. Upon reasonable notice, mortgagees and Owners shall have the right to examine the books and records of the Association at the Association's office. At the end of each calendar year, the Association shall determine, as soon as is reasonably possible, all of the costs incurred in that year, and if the costs have exceeded the

budget, the deficiency shall be taken into account and defrayed as part of the budget for the following calendar year. If there is an excess of regular fees or charges collected for such calendar year, such excess shall also be taken into account preparing the budget.

4. **Special Fees for Noncompliance with Declaration.** The Association may levy special fees or charges against any Owner to reimburse the Association for costs incurred for the purpose of bringing an Owner, his Residence, or such Owner's Lot, into compliance with the provisions of the Declaration, the Articles, the Bylaws, the Design Guidelines, and any rules and regulations, which special fees or charges may be assessed upon the vote of the board of directors after notice to the Owner and a reasonable opportunity for such Owner to be heard by the board of directors.

5. **Uniform Rate of Fees or Charges.** Both regular and special fees or charges, other than those imposed in accordance with Section 4 of this Article, must be fixed by the board of directors of the Association at a uniform rate for all Lots.

6. **Date of Commencement of Regular Fees or Charges: Due Date.** Regular fees or charges shall be due and payable either monthly on the first day of each month, or quarterly on the first day of January, April, July, and October (as determined by the board of directors) in equal installments, and shall be delinquent if not paid within five (5) days after becoming due and payable. The board of directors may, in its discretion, permit an Owner to pay regular fees or charges in one annual payment, on or before March 1, and if so paid to give to the Owner making such an advance payment a reasonable discount for such prepayment; provided, however, that no discount in excess of ten percent (10%) shall be given without the affirmative vote of eighty percent (80%) of all the Owners at an annual or special meeting of such Owners. An Owner shall become obligated to pay assessments upon acceptance of title to or taking of possession of such Lot and/or Residence. The board of directors may, in its sole discretion, reduce the regular fees or charges assessed against the Owner of a Lot (or Lots) until a Residence is constructed on such Lot (or Lots). Assessments may also be paid by, for and on behalf of Owners by their mortgagees under such terms and agreements as the Association may from time to time deem appropriate by action of its board of directors.

7. **Duties of the Board of Directors with Respect to Fees or Charges.**

(a) At least thirty (30) days prior to December 31 of each year, the board of directors shall, by resolution, determine the amount of the regular fee or charge. Written notice of such regular fee or charge shall be given to each Owner. Failure of the Association to give written notice of any regular fee or charge prior to December 31 of any year shall not invalidate any such fee or charge levied thereafter, nor shall failure to levy any regular fee or charge for any one year affect the right of the Association's board of directors to do so for any subsequent year. Any Owner who becomes subject to any fee or charge subsequent to December 31 of any year shall commence payment of such

fee or charge on a pro rata basis commencing on the date such Owner accepts title to or takes possession of the Lot.

(b) The board of directors shall upon demand at any time furnish to any Owner liable for fees or charges hereunder a certificate in writing signed by the president or secretary of the Association setting forth whether all fees or charges have been paid to date. A reasonable charge may be made by the board of directors for the issuance of such certificate. Such certificate may be recorded in the office of the Register of Deeds for Dickinson County, Kansas, and upon recording shall constitute conclusive evidence of payment of any fee or charge for the period stated in the certificate.

(c) The Association, acting by its board of directors shall enforce payment of the fees or charges in accordance with this Declaration.

8. **Effect of Non-payment of Fees or Charges.**

(a) If any fee or charge or any part thereof is not paid on the date when due, the unpaid amount of such fee or charge shall become delinquent and shall thereupon be a continuing lien on the Lot and/or individual Residence, if any, of the non-paying Owner, and the Association may, but shall not be required to, file a statement (a "**Lien Statement**") in the office of the Register of Deeds of Dickinson County, Kansas, setting forth the amount due and the lien in favor of the Association, which Lien Statement may state that it covers unpaid statements occurring after the date of the Lien Statement. All such unpaid fees or charges, together with interest and any cost of collection, shall also be the personal obligation of the person who was the Owner of such Lot at the time such fee or charge became due, and shall also bind such Owner's heirs, executors, administrators, successors, and assigns. No Owner may waive or otherwise escape liability for the fees or charges provided herein by non-use of any Lot or Residence, or by abandonment of such Owner's Lot or Residence.

(b) If any fee or charge is not paid within thirty (30) days after becoming delinquent, the same may bear interest at a rate equal to the maximum rate on notes and bonds then allowable in the State of Kansas, or fifteen percent (15%), whichever shall be the lesser, on such fee or charge from the date it was due, if the board of directors by resolution, elects to assess interest on any such nonpaid fee or charge, together with all expenses, including attorney's fees (if and to the extent allowed by law) incurred by the board of directors in attempting to collect such fee or charge.

(c) The Association may by resolution elect to commence an action in a court of competent jurisdiction against the Owner personally obligated to pay any fee or charge, and the Owner of record of any Lot in the event it has been transferred, to enforce payment of delinquent fees or charges and to foreclose the lien against the Lot. The lien against any Lot shall continue for a period of five (5) years from the date a Lien

Statement is recorded in the Office of the Register of Deeds of Dickinson County, Kansas, or if a Lien Statement is not so recorded, then the date of delinquency and no longer unless a foreclosure action shall have been filed. In the event such action is filed within five (5) years from the date the Lien Statement is recorded, or if not recorded within five (5) years from the date of delinquency, the lien shall continue until termination of the action and until sale of the Lot under the execution of judgment establishing the same.

9. **Subordination of the Lien to Mortgages; Notice of Nonpayment to Mortgagee.** The lien of the fees or charges, regular and special, shall be subordinate and inferior to the lien of any first mortgage now or hereafter placed upon any Lot subject to fees or charges; provided, however, that such subordination shall apply only to the fee or charge which becomes due and payable prior to the sale, whether public or private, of such Lot pursuant to a decree of foreclosure of any such mortgage or a deed in lieu of foreclosure. Such sale or deed in lieu of foreclosure shall not relieve a Lot from liability for the amount of any fees or charges thereafter becoming due, nor from the lien of any subsequent fee or charge. Any holder of a first mortgage on a Lot who acquires title to such Lot pursuant to foreclosure or deed in lieu of foreclosure shall take title free of any claims for unpaid fees or charges against the Lot which accrued prior to the date title is acquired by such holder. The board of directors, whenever so requested in writing by any mortgagee or contract seller of a Lot, shall promptly, in writing, notify the mortgagee or contract seller of any default in the performance by the individual Owner or contract purchaser of any obligation under this Declaration and any then unpaid charges or fees assessed against the Lot.

10. **Exempt Property.** Notwithstanding any provision of this Declaration to the contrary, the following property subject to this Declaration shall be exempted from the fees, charges, and liens created herein: All property dedicated to and accepted by the City of Abilene, Kansas, or any public utility for public use and purposes, and all Lots owned by Declarant.

ARTICLE FOUR

MANAGEMENT, MAINTENANCE, AND REPAIRS AND ASSOCIATION DUTIES AND POWERS

1. **Manager or Managing Agent.** The board of directors may employ for the Association a management company or a manager, at a compensation established by the board of directors, to perform such duties and services as the board of directors shall authorize. No management contract or agreement shall, however, be for a period longer than three (3) years from the date of execution, and all such management contracts or agreements shall contain a provision allowing termination thereof by the board of directors at any time, with or without cause, on ninety (90) days (or less) prior written notice to the manager or management company.

2. **Maintenance, Repair, Alteration and Improvements.**

(a) **By the Association:**

The responsibility of the Association shall be as follows:

- (i) Provide routine maintenance and care of all Common Areas, if any.
- (ii) Maintain an area marker (or markers), if any, for the Real Estate.

The frequency and the materials to be used in the performance of all such routine repair, maintenance, and care shall be in the sole discretion of the board of directors of the Association and shall not be subject to the control of any Owner. In the event that the need for non-routine maintenance, repair or care, or for extraordinary services to any Lot, shall be caused by or through the willful act or negligence of an Owner, his family, guests, or invitees, the cost of such maintenance, repair or care, shall be added to and become an additional fee or charge, in addition to the fee or charge to which such Owner is subject, if any, and shall be paid by or on behalf of such Owner within thirty (30) days after written demand therefor from the board of directors of the Association, shall be enforceable and secured by a lien as in the case of all other fees or charges.

(b) **By Individual Owner:** The responsibility of each Owner shall be to maintain his Lot and/or Residence and all structures, parking areas, and other improvements located thereon in a state of good condition and repair and in the manner consistent with these Declarations, the Bylaws, the Design Guidelines, and the rules and regulations.

3. **Duties.** The Association shall have the following duties:

- (a) To maintain the Common Area, if any.
- (b) If determined desirable by the board of directors in their sole discretion, to construct an area marker (or markers) and if so constructed, to maintain such area marker (or markers) for the Real Estate.
- (c) To obtain and provide public liability, casualty, and other such insurance deemed necessary by the Association.
- (d) To do and perform such other things as may from time to time be necessary to maintain the quality and appearance of the Real Estate.

4. **Powers.** The Association shall have the following powers:

(a) To fix, levy, and collect fees and charges, whether regular or special, for the purpose of performing its duties under this Declaration.

(b) To make and enforce reasonable rules and regulations governing the use of the Real Estate and the Common Areas, if any, and the maintenance of the Lots and Residences in the Real Estate, which rules and regulations shall be consistent with the rights and duties established by this Declaration.

(c) To take any action or perform any act authorized in this Declaration.

(d) To perform, carry out, and exercise any and all other powers, functions, measures, and tasks deemed necessary by the Association for the convenience, benefit, and enjoyment of the Owners, and to fix, levy, and collect any fees and charges necessary to pay the cost of any of the foregoing.

5. **Implementation of Powers and Duties.** The Association shall carry out its duties and exercise its powers pursuant to the following provisions:

(a) **Limitation Upon Liability of Association.** Notwithstanding the duty of the Association to maintain and repair parts of the properties, the Association shall not be liable to any Owner, his family, invitees, guests, or tenants, for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association.

(b) **Restraint Upon Assignment of Shares in Assets.** The share of an Owner in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to his Lot.

(c) **Approval or Disapproval of Matters.** Whenever the decision of an Owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such Owner if in an Association meeting, unless the joinder of record Owners is specifically required by this Declaration.

(d) **Voting Rights.** Members of the Association shall be entitled to voting rights as set forth in this Declaration.

(e) **Books of Receipts and Expenditures.** The board of directors shall keep detailed accurate records, in chronological order, of receipts and expenditures affecting the Real Estate and the operations under this Declaration, and such record shall specify and itemize the maintenance and repair expenses of the Association and any other expenses incurred. Such records and any vouchers authorizing payments shall be available for examination by Owners at convenient weekday hours.

(f) **Legal Action.** The Association shall have the right and authority, but not the obligation, for and on behalf of the Owners to initiate or defend any legal action or claim arising out of their ownership of Lots, and to negotiate any settlement thereof, including, without limitation, the payment of all or any part of a claim and to levy as a special assessment upon the Owner or Owners against whom such legal action or claim shall have been asserted.

(g) **Borrow Money.** The board of directors shall have the right to borrow money to meet requirements from time to time for working capital, Common Expenses, and emergencies; however, no single loan shall exceed \$20,000.00, loans at any time outstanding shall not exceed \$100,000.00 in the aggregate, and no loan shall be entered into having a maturity date in excess of five (5) years. Any loan or loans in excess of such limits or for a longer maturity shall be made only with the affirmative vote in person or by proxy of at least 80% of the members at an annual or special meeting of the members.

ARTICLE FIVE

NEW CONSTRUCTION, IMPROVEMENTS, AND ALTERATIONS

1. **Architectural Control Committee.** There is hereby established an Architectural Control Committee, which shall consist of three (3) persons appointed by Declarant. A majority of the Architectural Control Committee may designate a representative to act for it. In the event of death or resignation of any member of the Architectural Control Committee, the remaining members shall have full authority to designate a successor. In the event that there shall be no remaining members of the Architectural Control Committee who can name a successor or successors, whether by death or by resignation and Declarant's Marketing Phase shall have expired, and in only of such events, a majority of the Owners shall be entitled to name the persons who shall serve on the Architectural Control Committee. The affirmative vote of a majority of the members of the Architectural Control Committee shall be required in order to adopt or promulgate any rule or regulation or to make any finding, determination, ruling, or order, or to issue any permit, consent, authorization, or approval pursuant to the authority contained in this Declaration.

2. **Enforcement.** The Architectural Control Committee and/or the Association shall have the authority and standing to enforce in courts of competent jurisdiction, the provisions of this Article and the decisions of the Architectural Control Committee established in this Article. Enforcement shall be by proceedings at law or in equity, against any Person or Persons violating or attempting to violate any covenant contained in this Article or decision of the Architectural Control Committee either to restrain violation or recover damages, or both.

3. **New Construction.** No building or construction of any kind shall be erected, placed, or performed on any Lot until construction plans and specifications, including, but not limited to, specifications on exterior materials and colors, a plan showing the location of the

structure, and a landscape plan, have been approved by the Architectural Control Committee as to type of materials, exterior colors, harmony of external design with existing structures, location of the building on the Lot, finished grade elevation, front and side yard planting, landscaping and sprinkling plan. The term "construction," as used in this Article, shall include within its definition staking, clearing, excavating, and other similar site work. The Architectural Control Committee shall have complete discretion as to the extent of detail required in plans and specifications to be submitted to it, and may waive any submission requirement called for by this Article.

4. **Improvements and Alterations.** No Owner may paint or otherwise decorate or change the appearance of any exterior portion of the Owner's Residence or the grade or topography of the Owner's Lot without the prior written consent of the Architectural Control Committee. No permission or approval shall be required (i) to repaint in accordance with an originally approved color scheme, (ii) to rebuild in accordance with originally approved plans and specifications, or (iii) to decorate any Residence or other improvement or Lot with temporary seasonal decorations that do not constitute a nuisance or annoyance to the neighborhood or which detracts from the attractiveness of the Real Estate. Nothing herein shall be construed to limit the right of an Owner to remodel the interior of the Owner's Residence or to paint the interior of the Owner's Residence any color he desires.

5. **Approval or Disapproval of Plans.** The Architectural Control Committee shall have twenty (20) days following submission in writing by the owner of required plans, specifications, and other information, in which to approve or disapprove such plans and specifications, or to request additional information reasonably required by the Architectural Control Committee. If the Architectural Control Committee shall fail to approve or disapprove such plans, or to request additional information within such twenty (20) day period, the plans shall be deemed to be approved and the requirements of this Article shall be deemed to have been fully complied with. Upon approval by the Architectural Control Committee of any plans and specifications submitted pursuant to the provisions of this Declaration and upon approval by the applicable governmental agency authorized to issue building permits, a copy of such plans and specifications and a copy of all building permits as approved shall be deposited among the permanent records of the Architectural Control Committee and a copy of such plans and specifications and building permits bearing such approval in writing, shall be returned to the applicant submitting the same.

6. **Limitations.** Construction or alterations in accordance with plans and specifications approved by the Architectural Control Committee shall be commenced within six (6) months following the date upon which such plans and specifications are approved, and shall be substantially complete within twelve (12) months following the date of commencement or within such longer period as the Committee shall specify in its approval. In the event construction is not commenced within such period, then approval of the plans and specifications by the Committee shall be conclusively deemed to have lapsed and compliance with the provisions of this Article shall again be required. There shall be no deviation from plans and specifications ap-

proved by the Committee without the prior consent in writing of the Committee. Approval for use on any Lot of any particular plans and specifications or design shall not be construed as a waiver of the right of the Committee to disapprove such plans and specifications or any elements or features thereof in the event such plans and specifications are subsequently submitted for use upon any other Lot or Lots.

7. **Certification of Compliance.** Upon the completion of the construction or alteration of any Residence or other improvements or structure in accordance with plans and specifications approved by the Architectural Control Committee, the Committee shall, at the request of the Owner, issue a certificate of compliance which shall be prima facie evidence that the Residence, building, or other improvements or structures referred to in the certificate have been approved by the Committee and constructed or installed in full compliance with the provisions of this Article and the Design Guidelines, and with such other provisions and requirements of this Declaration as may be applicable. If such completed or altered Residence or improvement or structure shall fail to comply with the plans and specifications approved by the Architectural Control Committee or otherwise fails to comply with the provisions of the Declaration or the Design Guidelines promulgated by the Committee, the Committee shall have the right, in addition to other rights provided in this Declaration, to record a certificate of non-compliance in the Office of the Register of Deeds of Dickinson County, Kansas, setting forth the reasons or basis of the determination by the Committee that the Residence, improvement or structure fails to comply and any subsequent Owner shall be bound by the certificate of non-compliance and the remedies available to the Committee under this Declaration. Nothing in this paragraph 7 shall require the Committee to record a certificate of non-compliance and the Committee's failure to record a certificate of non-compliance shall not be deemed to be a waiver of the Committee's rights to enforce the provisions of this Declaration. If an Owner or proposed purchaser of an Owner's interest in a Residence shall desire affirmative evidence of compliance, then the Owner or proposed purchaser may seek to obtain a certificate of compliance in accordance with this paragraph.

8. **Design Guidelines.** The Architectural Control Committee may from time to time adopt and promulgate the Design Guidelines which may include, without limitation, design and construction requirements for each Residence or improvement, and the form and content of plans and specifications to be submitted for approval and may publish the Design Guidelines and/or establish such criteria relative to architectural styles or details, or other matters, as it may consider necessary or appropriate. The Design Guidelines shall not be construed as a waiver of the provisions of this Article or any other provision or requirement of this Declaration. The Architectural Control Committee may charge and collect a reasonable fee for the examination of any plans and specifications submitted for approval pursuant to the provisions of this Article. The Design Guidelines may be amended by a majority vote of the Architectural Control Committee, without the approval of the Owners, Board of Directors or any other Person; provided, however, that any change to the Design Guidelines shall only apply to construction that shall occur after the promulgation of the amendment to such Design Guidelines. The Design

Guidelines may have different standards for different areas of the Real Estate covered by this Declaration to address different situations and locations of various Lots within the Real Estate.

9. **Right to Remove or Correct Violations.** In the event any Residence, building, or other improvements or structure shall be commenced, erected, placed, moved or maintained upon any Lot, otherwise than in accordance with the provisions and requirements of this Article and the Design Guidelines, then the same shall be considered to have been undertaken in violation of this Article and without the required approval of the Architectural Control Committee, and, upon written notice from the Architectural Control Committee, such Residence, building, or other structure or improvements shall be promptly removed. In the event it is not removed, or the violation is not otherwise terminated within fifteen (15) days after notice of such violation is delivered to the Owner of the Lot upon which such violation exists, then the Architectural Control Committee and the Association shall have the right, through its agents and employees (but only after a resolution of the Architectural Control Committee or the board of directors of the Association, as the case may be) to enter upon such Lot and to take such steps as may be necessary to remove or otherwise terminate such violation. The costs (including legal and court costs) incurred by the Architectural Control Committee or the Association to enforce the provisions hereof may be assessed against the Lot upon which such violation occurred and the Owner of such Lot. When the costs are so assessed, a statement of such costs shall be delivered to the Owner of said Lot at which time the assessment shall become due and payable and a continuing lien upon such Lot, and a binding personal obligation of the Owner of such Lot, in all respects and in accordance with the provisions relating to liens provided elsewhere in this Declaration. The Architectural Control Committee and the Association shall have the further right, through its agents, employees or committees, to enter upon and inspect any Lot at any reasonable time for the purpose of ascertaining whether any violation of the provisions of this Article, or any other provisions or requirements of this Declaration, exist on such Lot; and neither the Association, the Architectural Control Committee nor any such agent or employee shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

ARTICLE SIX

EASEMENTS

In addition to easements hereinbefore or hereinafter specifically created or reserved, the following easements are hereby created or reserved:

1. **Easement to Architectural Control Committee.** An easement is hereby created in favor of the Association and its agents, permitting it to enter into or upon any Lot for the purpose of performing its powers and duties as described herein. The right established in this paragraph shall be exercised in a reasonable manner.

2. **Easement for Utilities.** For the purpose of supplying utilities and various services to the Residences, the Declarant shall have and hereby reserves easements to locate, construct, maintain, and use, or authorize the location, construction, maintenance and use of such portions of the Real Estate as Declarant may designate for drains, storm water detention, sanitary and storm sewers, gas and water mains and lines, electrical and telephone lines, cable television conduits and lines, community television antenna lines, fire warning and security systems and other utility lines and conduits for any and all purposes. Public utilities furnishing services (e.g., water, electricity, gas, sewage, telephone, and cable television) to the Residences shall have access to the Lots and Residences, as may be necessary for the installation, repair, or maintenance of such services. Nothing in this paragraph shall be construed or interpreted as implying or placing any obligation on Declarant to supply any utilities or the services described in this paragraph.

3. **Drainage Easement.** An easement is hereby created in favor of The Association, permitting it to enter on, over and under the Real Estate, for the purpose of maintaining and correcting drainage of surface water to comply with all ordinances and regulations, as amended from time to time, of the City of Abilene, Dickinson County, Kansas and to insure reasonable standards of health, safety and appearance. Such easement expressly includes the right to trim, cut and remove any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary for such purposes, following which the Association shall restore the affected property to its original condition to the extent reasonably practicable. The Association shall give reasonable notice of its intent to take any such action provided under this paragraph to all affected owners unless in the sole discretion of the Association an emergency exists which must be remedied before such notice could reasonably be given. The reservation of an easement and right under this paragraph shall in no way be construed or interpreted to place or imply an obligation on the Association to maintain and correct the drainage and detention of surface water within the Real Estate.

4. **Easement for Area Marker.** An easement is hereby created in favor of the Association, permitting it to enter on, over and under the Real Estate for the purpose of constructing, maintaining, landscaping, repairing, and replacing an area marker (or markers), together with the right to construct and maintain electrical utility service to the area marker (or markers) for lighting; provided, however, that the foregoing shall not be construed or interpreted as placing or implying any obligation on The Association to install or maintain an area marker or markers on the Real Estate.

5. **Easements Run with the Land.** All easements and rights herein established shall run with the land, and unless in gross, shall inure to the benefit of and be binding upon the Owners of all Lots located within the Real Estate, and their successors, heirs, and assigns, whether or not such easements are mentioned or described in any deed of conveyance.

ARTICLE SEVEN

USE RESTRICTIONS

1. **Use of Land as Single Family Residence.** Each Residence shall consist of a single-family residence and be constructed upon an individual Lot as described in the Plats recorded in the Office of the Register of Deeds for Dickinson County, Kansas. Each Lot conveyed shall be designated by a separate legal description and shall constitute a fee simple estate subject to the terms, conditions, and provisions of this Declaration.
2. **Residences.** The Residences are to be used only for providing living accommodations and for related uses and enjoyment. No Lot or Residence shall be used for any commercial purpose; provided, however, that nothing in this paragraph shall preclude the use of a Residence for an incidental commercial use such as for the providing of piano lessons or in-home day-care services so long as such use does not constitute a nuisance or annoyance to the neighborhood or which detracts from the attractiveness of the Real Estate.
3. **Leasing.** No Residence shall be rented for transient purposes, or to more than four (4) persons who are not related by blood or marriage; provided, however, that the restrictions on the number of tenants shall be interpreted in a manner consistent with the Fair Housing Act, 42 U.S.C. §3602, et seq., as amended, or the State act against discrimination, K.S.A. 44-1015, et seq., as amended, or any local regulation prohibiting housing discrimination. No Owner shall be entitled to rent the Owner's Residence if he is delinquent in the payment of any assessment required by this Declaration. All leases or rental agreements shall contain a provision to the effect that the rights of the tenant to use and occupy the Residence shall be subject and subordinate in all respects to the provisions of this Declaration. The provisions of this paragraph shall not apply to any institutional mortgagee of any Residence who obtains possession of a Residence as a result of any remedies provided by law or in the mortgage, as a result of a foreclosure sale or other judicial sale, or as a result of any proceedings, arrangement, or deed in lieu of foreclosure.

ARTICLE EIGHT

GENERAL RESTRICTIONS

1. **Lot Frontage.** Any Residence constructed on any portion of any Lot shall present an appropriate elevation and frontal appearance to be designated by the Architectural Control Committee and if not so designated, then consistent with the regulations, ordinances and resolutions of the City of Abilene, Kansas.

2. **Lot Setback.** The Residences built on each Lot shall be set back from any public street a distance no less than the minimum setback required by ordinance of the City of Abilene, Kansas. No fence or wall shall be erected, placed, or altered on any Lot nearer to any street than the minimum building setback line required by ordinances of the City of Abilene, Kansas.

3. **Permitted Height of Residences.** The maximum height allowable for any building to be set on a Lot shall be the maximum allowed by the ordinances of the City of Abilene, Kansas, or such lesser size as provided in the Design Guidelines.

4. **Construction Requirements.** The Construction requirements shall be addressed in the Design Guidelines promulgated by the Architectural Control Committee. If the Design Guidelines shall not be promulgated or until the Design Guidelines are promulgated, then the following requirements shall be the constructions requirements for the Residences, which requirements can be superceded, amended, revised or added to by the Design Guidelines:

(a) Exterior walls of all Residences, structures, and appurtenances thereto shall be of brick, stone, dryvit, stucco, wood shingles, composition siding, wood paneling, wood siding, glass, glass blocks, or any combination thereof. Roofs shall be covered with 3-tab, composition "Timberline" type shingles or such other material acceptable to the Architectural Control Committee and that is comparable in appearance, flame resistant or retardant and meets or exceeds any fire prevention standards established by any building code which has been adopted and which is applicable to the Residence. All brick and stone applications shall be consistent with the architectural design of the Residence, and approval of the design application by the Architectural Control Committee shall be based on the creativity of the design and the coverage of the square footage to which the brick and stone shall be applied. The landscaping plan and all landscaping on a Lot must be laid out in such a manner as to preserve viewing lines and shall not obstruct unreasonably any views of a neighboring Lot or to any streets and intersections. Each Residence shall include at least a two-car enclosed garage.

(b) No Residence or appurtenant structure shall be permitted to stand with its exterior in an unfinished or damaged condition for longer than six (6) months, and for each month thereafter that the exterior of a Residence shall stand in an unfinished condition, a fine of Fifty Dollars (\$50.00) per day shall be assessed against the Owner as a special charge for which the Architectural Control Committee shall have all enforcement, collection, and lien rights it has with respect to other charges and fees under this Declaration.

(c) Any construction changes or alterations to the design of the original exterior building structure or landscaping plan must have prior written approval of the Architectural Control Committee.

5. **Temporary Structures and Outbuildings.** No structure of a temporary character or other outbuilding shall be placed or used on any Lot at any time as a residence, either temporarily or permanently. No outbuilding or other detached structure appurtenant to a Residence shall be erected on any Lot without the written approval of the Architectural Control Committee. No dog pen or dog run shall be constructed without the prior written approval of the Architectural Control Committee, following submission of the Lot Owner of design plans and elevation drawings showing site location.

6. **Signs.** No sign of any kind shall be displayed to the public view on any Lot, except one sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period. No professional or commercial signs of any type or form shall be allowed. Except as specifically permitted in this paragraph, no signs, advertisements, billboards, or advertising structures of any kind may be erected or maintained on any said Lots without the written approval of the Architectural Control Committee.

7. **Oil and Mining Operation and Oil Tanks.** No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any Lot. No tank for storage of fuel may be maintained above the surface of the ground on any said Lot without the written approval of the Architectural Control Committee.

8. **Livestock and Poultry.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purposes; subject, however, to prior approval of any dog pens or dog runs, in accordance herewith. All pets shall be leashed and under the direct supervision and control of its owner when they are outside of a Residence; provided, however, that a pet shall not be required to be leashed if such pet is within a functioning, underground or wireless fence.

9. **Overhead Wires Prohibited.** No power or telephone service connection lines may be erected or maintained above the surface of the ground on any of the Lots.

10. **Pergolas Prohibited.** No pergola, or any detached structure intended primarily for ornamental purposes, may be erected on any part of a Lot without the written approval of the Architectural Control Committee.

11. **Antennas and Clotheslines.** Except to the extent prohibited by law, external radio antennas, television antennas, satellite dishes and other antenna systems (collectively referred to as an "Antenna") greater than one (1) meter in diameter shall not be permitted outside the structure without the written approval of the Architectural Control Committee. To the extent

allowed by law, all Antennas regardless of size shall be installed in the rear of the Residence or such other location to ensure that such Antenna is located and screened to the greatest extent possible from the view of neighboring properties so long as such location does not increase the price or impair installation, maintenance or use of the Antenna. No external clotheslines, clothes racks, or clothes hangers shall be constructed or used on or about any Lot or Residence.

12. **Parking.** No part of the Real Estate, including driveways and parking areas (other than private, enclosed garages), shall be used for the parking of trailers, mobile homes, boats, boat trailers, recreational vehicles, equipment, machinery, or trucks.

13. **No Noxious or Offensive Activities Permitted.** No noxious or offensive activity shall be carried on within the Real Estate, nor shall any trash, ashes, or other refuse be thrown, placed, or dumped upon any exposed area nor shall anything ever be done which may be or become an annoyance or nuisance to the Owners. Each Owner shall refrain from making or permitting any disturbing noise by himself, the Owner's family, employees, agents, visitors, licensees, lessees, and pets, and to refrain from permitting anything by such persons or pets that will interfere with the rights, comforts, or convenience of the other Owners. All trash or refuse shall be stored by each Owner within the Owner's Residence or appurtenant garage. All trash and refuse shall be placed in closed containers, securely covered, and delivered at such times, and to such locations, as may be determined by the Architectural Control Committee, for trash pickup by the City of Abilene, Kansas.

14. **Fences and Enclosures.** No fences or enclosures of any type of nature whatsoever shall be constructed, erected, placed, or maintained on any Lot, except such fences or enclosures as may be authorized by the Architectural Control Committee. No chain link fencing shall be permitted.

15. **Drainage.** Each Owner shall refrain from interference with the established drainage pattern over the Owner's Lot or from adjoining or other Lots, and shall make adequate provision for proper drainage from any such other Lot in the event the established drainage over the Owner's Lot is changed or altered.

16. **Storage.** No storage of any type shall be allowed at any time on a Lot, except within the private enclosed Residence or appurtenant garage, and any such storage shall not be stored in such manner as to be exposed to public view. Storage within a garage shall not be so great as to cause an Owner not to use the Owner's garage for the purpose of parking the Owner's car(s). No boat, camper, trailer, truck, mobile home, or recreational vehicle of any type whatsoever may be parked, stored, or otherwise located at any location within the Real Estate, except for a period of time reasonably necessary for loading or unloading of personal property into or from the same by an Owner.

17. **Repairs of Vehicles on Real Estate.** No major repair, rebuilding, or maintenance of any vehicle shall be permitted except within the private enclosed garage, if any, of an Owner.

No major repair, rebuilding, or maintenance of any vehicle shall be permitted in open parking areas. This restriction shall include, but is not limited to, automobiles, trucks, campers, trailers and boats.

18. **Basketball Goals.** Basketball goals shall be permitted, however, the basketball goals may only be attached to a Residence over the garage door.

19. **Mailboxes.** Mailboxes shall be arranged and located by the United State Post Office in a "cluster" arrangement. The Architectural Control Committee shall have no responsibility with respect to mailboxes or their location, all of which shall be the responsibility of the individual Owners and the United States Postal Service.

20. **Limitation of Restrictions.** Notwithstanding anything herein to the contrary, the Declarant, its agents and assigns, may, while constructing and selling Residences, maintain such facilities upon the Real Estate as, in its sole discretion, may be necessary or convenient, including but without limitation, offices, storage areas, model units, and signs.

21. **Easements.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded Plats. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements.

ARTICLE NINE

LOTS SUBJECT TO DECLARATION, THE BYLAWS, DESIGN GUIDELINES, AND RULES AND REGULATIONS

All present and future owners of Residences and tenants and occupants of the Residences shall be subject to and shall comply with the provisions of this Declaration, the Bylaws, Design Guidelines and rules and regulations, as amended, modified, revised, supplemented or superseded from time to time. The acceptance of deed or conveyance or the entering into of a lease or the entering into occupancy of any Lot or Residence shall constitute an agreement that the provisions of this Declaration, the Bylaws, Design Guidelines and rules and regulations, as amended, modified, revised, supplemented or superseded from time to time, are accepted and ratified by such Owner, tenant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Lot and Residence situated thereon, as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease thereof. Failure of an Owner to comply with this Declaration, the Bylaws, Design Guidelines and rules and regulations, as amended, modified, revised, supplemented or superseded from time to time, shall entitle the other Owners to the following relief, in addition to the remedies that may be provided by law:

(a) **Enforcement.** Any Owner and the Association shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by any Owner or the Association to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

(b) **Negligence.** An Owner shall be liable for the expense of any maintenance, repair, or replacement to or of any Lot or Residence, including the Owner's own, rendered necessary by the Owner's act, neglect or carelessness, or by that of any member of the Owner's household, or the Owner's or their guests, employees, agents or lessees.

(c) **Costs and Attorneys' Fees.** In any proceeding arising because of an alleged failure of an Owner to comply with the terms of the Declaration, as amended, modified, revised, supplemented or superseded from time to time, the prevailing party in such proceeding shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the court.

(d) **Abating and Enjoining Violations by Residence Owners.** The breach of any provision of this Declaration, shall give the Declarant and/or the Association the right, in addition to any other rights set forth herein: (a) to enter on or in the Lot on or in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and they shall not thereby be deemed guilty in any manner of trespass; and/or (b) to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

(e) **Remedies Cumulative.** All rights, remedies and privileges granted to the Declarant, the Architectural Control Committee, or any Owner, pursuant to the terms, provisions, covenants, or conditions of this Declaration, shall be deemed to be cumulative, and the exercise of any one or more of them shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies or privileges as may be available to such party at law or in equity.

ARTICLE TEN

GENERAL PROVISIONS

1. **Amendments.** This Declaration may be amended, modified, revised, supplemented, superseded or terminated in whole or in part, (collectively, "to amend" or an "Amendment") from time to time. Except as elsewhere provided, any Amendment of this

Declaration shall require the approval of the Owners of seventy percent (70%) of all the Lots within the Real Estate. In all events, the Amendment when adopted shall either (i) be executed by all the Owners who approved of such Amendment, or (ii) bear the signature of the President of the Association and shall be attested by the secretary, who shall state whether the Amendment was properly adopted, and shall be acknowledged by them as officers of the Association. Amendments once properly adopted shall be effective upon recording of the Amendment to Declaration in the appropriate governmental offices.

2. **Rights of Declarant.**

(a) **Required Approvals.** Notwithstanding any provision of paragraph 1 of this Article to the contrary, until the expiration of the Marketing Phase, this Declaration may not be amended by the Owners pursuant to paragraph 1 of this Article without the written consent of Declarant, which may be withheld for any reason.

(b) **Declarant's Right to Amend.** Notwithstanding any other provision of this Article, until the expiration of the Marketing Phase, Declarant reserves the right to amend this Declaration without the approval of any Owner or other Person; provided, however, that no such Amendment shall have the effect of changing the Plats of an Owner's Lot without the consent of the Owner.

(c) **Marketing Phase Defined.** The Marketing Phase of the Real Estate, for purposes of this Declaration, shall be conclusively deemed to be the period between the recording of this Declaration and the earlier of (i) the date that seventy percent (70%) of the Lots within the Real Estate have been sold by Declarant to third parties, or (ii) the date that is seven (7) years from the date this Declaration is recorded.

(d) **Assignment or Relinquishment.** Notwithstanding any provision in this Declaration to the contrary, during the Marketing Phase, Declarant may unilaterally assign, transfer or convey, without the approval or joinder of any of the Owners or any Person, any or all of Declarant's rights created or reserved to the Declarant under this Declaration. Such assignment, transfer or conveyance may be to (i) any Person who is acquiring one or more Lots owned by Declarant at the time of or immediately before or after the transfer of Declarant's rights, or (ii) any lender holding a mortgage on all the Lots owned by Declarant at the time of, or immediately prior to or following, the transfer of Declarant's rights under this paragraph. Any such assignment, transfer or conveyance shall be effective only when such assignment, transfer or conveyance has been signed by the transferor and the transferee and has been recorded in the Office of the Register of Deeds of Dickinson County, Kansas. Declarant may (but shall not be required to), at any time, voluntarily relinquish all or any part of Declarant's control and rights under this Declaration by executing and recording a document setting forth such relinquishment and recording such document.

3. **Disclosure of Soil Condition:** It is recommended that each Owner obtain any tests pertaining to subsurface conditions of its or their Lot prior to construction and prior to

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purchasing a Lot or Residence. By accepting a deed to a Lot or Lots, the Owners hereby waive any and all objections to or complaints about physical characteristics and existing conditions of the Lot, including, without limitation, type of soil, subsurface conditions, suitability of the subsurface conditions for the construction of any improvements, and each Owner hereby forever releases and discharges Declarant, its successors and assigns from all claims, demands and liability related in any way thereto. If inspections are not performed regarding all or part of the Lot or Residence owned by such Owner, such Owner is bound by whatever information an inspection would have revealed, and waives any claim, right or cause of action relating to or arising from any condition of the Lot or Residence that would have been apparent had inspections been performed.

4. **Severability.** The invalidity in whole or in part of covenants or restrictions, or any paragraph, subparagraph, sentence, clause, phrase or word, or other provision of this Declaration shall not affect the validity of the remaining portions thereof.

4. **Captions.** The captions are inserted only as a matter of convenience and for reference, and in no way define, limit, modify, or supplement this Declaration or the intent of any provision thereof.

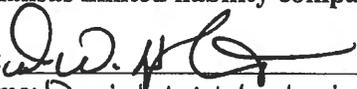
5. **Construction.** Whenever the context so permits, the use of plural shall include the singular, the singular the plural, and the use of any gender shall be deemed to include all genders.

IN WITNESS WHEREOF, this Declaration has been executed the day and year first above written.

DECLARANT: ABILENE HIGHLANDS, LP
a Nevada limited partnership

By its General Partner:

ABILENE HIGHLANDS, LLC,
a Kansas limited liability company

By: 
Name: Daniel W Hopkins
Title: Manager

STATE OF TEXAS, COUNTY OF DALLAS) ss:

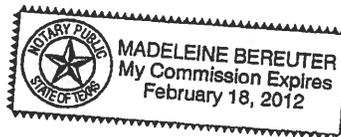
BE IT REMEMBERED, that on this 13th day of October, 2008, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Daniel W Hopkins (name), Manager (title) of Abilene Highlands, LLC, a Kansas limited liability company, the General Partner of Abilene Highlands, LP, a Nevada limited partnership, who is personally known to me to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same on behalf of said company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last above written.

Maureen Buehler
Notary Public

My Appointment Expires: 2/18/12

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EXHIBIT A

Legal Description of Submitted Real Estate

Lots 1-12, Block 1, East Highlands
Lots 3-8, Block 3, East Highlands
Lots 4-11, Block 4, East Highlands
Lots 4-10, Block 5, East Highlands
Lots 8-13, Block 11, East Highlands
Tracts A & B, East Highlands

Lots 1-28, Block 1, West Highlands
Lots 1-32, Block 2, West Highlands
Lots 1-16, Block 3, West Highlands
Lots 1-2, Block 4, West Highlands
Lot 1, Block 8, West Highlands
Tracts A, B, C, West Highlands

All located in the City of Abilene, Dickinson County, Kansas



STATE OF KANSAS 03350
DICKINSON COUNTY

This instrument was filed for
record on 10/20/2008 at 11:57 AM
& duly recorded in
Book 270 at Page 628

Kenneth J. Zeeman Register of Deeds

Deputy

AVVKS