

## ORDINANCE #591

**All ordinances and other regulations established by the City Governing Body and Planning and Zoning Board which conflict with the requirements of these regulations are hereby repealed.**

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

### SECTION 1 – PURPOSE, AUTHORITY AND JURISDICTION

1. These regulations constitute and may be referred to as "The City of Westmoreland Subdivision Regulations."
2. It is the purpose of these regulations to set forth minimum standards and requirements for the division of real property in the City of Westmoreland so that each subdivision shall be coordinated with the overall community street, utility and development plan. These regulations shall be considered to be the **minimum** requirement for efficient and adequate public services, safe streets and highways, a sound and balanced development of the area and a wholesome community environment.
3. These regulations are made and adopted in accordance with Kansas Statutes Annotated, Sections 12-749 and 12-750 and provide that the owner or owners of any land located within the jurisdiction of these regulations:
  - a. When subdividing that land into lots and blocks or tracts or parcels for the purpose of laying out any subdivision, suburban lots, building lots, tracts or parcels; or
  - b. When establishing any street, alley, park or other property intended for public use or for the use of purchasers or owners of lots, tracts or parcels of land fronting thereon or adjacent thereto; shall cause a plat to be made which shall accurately describe the subdivision, lots, tracts or parcels of land giving the location and dimensions thereof or the location and dimensions of all streets, alleys, parks or other property intended to be dedicated to public use or for the use of purchasers or owners of lots, tracts or parcels of land fronting thereon or adjacent thereto; and every such plat shall be duly acknowledged by the owner or owners thereof. Such plat shall be submitted to the Planning and Zoning Board and other regulatory agencies and governing bodies as prescribed in these regulations which shall determine if the same conforms to the provisions of the subdivision regulations.
4. No plat shall be filed by the County Register of Deeds unless such plat has been approved and bears the endorsement of the regulatory agencies and governing bodies as specified in these regulations.
5. No building permit shall be issued for the construction of any structure upon any lot, tract or parcel of land within the City of Westmoreland that has been subdivided, re-subdivided or re-platted unless such subdividing, re-subdividing and re-platting conforms to the requirements herein, has received the required approvals and has been filed in the office of the County Register of Deeds; except that one previously platted lot may be divided into no more than two tracts without re-platting when the two resulting tracts meet all requirements of the zoning district in which they are located and the requirements for necessary rights of way and easements can be satisfied.

6. These regulations administered by the Planning and Zoning Board and the City Governing Body shall govern the subdividing of land within the City of Westmoreland in accordance with the specific requirements contained herein and shall apply to:
  - a. The dividing of any lot or tract of land into two or more lots or tracts either of which contains 5 acres or less, for any purpose except "Agriculture Uses" as defined in Section 2 herein; and as specifically exempted in paragraph 5 above.
  - b. The dedication, relocation or vacating of any street, alley or public way.
  - c. The dedication or vacating of a park or other property intended for public use.
  - d. The dedication, vacating or reserving of any easement for the use of any private or public utility company.
7. Lands owned by the United States Government are exempt from the provisions of these regulations as prescribed by federal law.
8. Should any section, subsection, sentence, clause or provision of these regulations be determined to be unconstitutional or invalid by a court of competent jurisdiction, the same shall not affect the validity of the regulations as a whole or any part thereof other than the part so determined to be unconstitutional or invalid.
9. Any person having an interest in property affected by these regulations may have their reasonableness determined by bringing the topic to the city or action in the District Court of the County against the City Governing Body

## SECTION 2 - DEFINITIONS

Reference Section 2 of the City of Westmoreland Planning and Zoning Regulations for additional definitions.

For the purpose of these regulations, the following words and terms as used herein are defined to mean the following:

Agriculture Uses: The use of a tract of land as a principal business enterprise for growing farm crops in the open, the raising of such stock and poultry as are incidental to the farming operation, dairying, pasturage, horticulture, floriculture, and necessary accessory uses, including the structures for carrying out farming operations and the residences of the persons and their families who own or operate the farm. The term "Agriculture Use" shall not include the following:

- a. Commercial greenhouses, nurseries and hydroponic farms.
- b. The operation of a feed lot as defined by the Statutes of the State of Kansas.
- c. Those lands which are used for recreational purposes.

Alley: A public way which affords only a secondary means of access to abutting property.

Block: A place or parcel of land entirely surrounded by public highways or streets, other than alleys.

Building Setback line: A line on a plat which designates a limit beyond which no portion of a building or garage shall extend in the direction of the adjacent street.

Central Sanitary Sewer: A facility which provides underground pipes for the collecting of wastes from a number of individual sources and the transporting of them to an off-site location for treatment and disposal.

Easement: A grant by a property owner for the specific use of a strip of land by others.

Land Use Plan: A comprehensive plan developed to indicate the general physical development of the City of Westmoreland.

Lot (Zoning Lot): A parcel of land platted or described by metes and bounds all of which is to be used, developed or built upon as a unit under single ownership.

Lot of Record: A lot which is a part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of these regulations.

Lot, Corner: A lot abutting upon two or more streets at their intersection. A corner lot shall be deemed to front on that street on which it has its least dimension, unless otherwise specified by Planning and Zoning Board.

Lot, Depth: The main horizontal distance from the front street to the rear line measured from their mid-points.

Lot Interior: A lot whose side lines do not abut upon any street.

Lot Through: An interior lot having frontage on two streets.

Lot Lines: The lines bounding a lot as defined herein.

Lot Width: The main horizontal distance between side lines measured at right angles to the depth at the building setback line.

Major Trafficway: A through street used primarily for the movement of traffic from one part of a large area to another and named as such on the Land Use Plan.

Minor Trafficway: Similar to Major Trafficway, except more local in nature (i.e., generally collects traffic from a particular area and connects to a Major Trafficway).

On-Site Sanitary Sewer: A facility which provides underground pipes, tanks and appurtenances for the collection and disposal of wastes from a single source, such facility being located on the same lot as the source.

Pedestrian Walkway: A right of way across a block which provides access to streets on opposite sides of the block, provided exclusively for use by pedestrian traffic.

Planning and Zoning Board: The agency lawfully created and appointed by the Governing Body of the City of Westmoreland, charged with the duties of administering these regulations in accordance with the requirements herein and in conformance with the provisions of the Kansas Statutes.

Plat: A detailed map of a subdivision.

Plat, Tentative: A sketch map of a subdivision, of sufficient accuracy to be used for the purpose of discussion and classification.

Plat, Preliminary: A map or chart of a proposed land subdivision showing the character and general details of the proposed development.

Plat, Final: A map or chart of a proposed subdivision, giving in a form suitable for filing in the Office of the County Register of Deeds, necessary affidavits, dedications and acceptances, and containing a complete engineering description (including references to field markers) sufficient to locate on the ground all streets, alleys, blocks, lots and other divisions of the subdivision.

Reverse Frontage Lot: A corner lot of such size and shape that a building erected thereon might logically be designed to face on either adjoining street, thus causing it to rear on the side yard of an abutting lot.

Street: A public thoroughfare which affords principle means of access to property abutting thereon, whether named or designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane or place, or however otherwise designated.

Street Line: The dividing line between the street and the abutting property.

Subdividing: The dividing or redividing of land into tracts, lots, sites or parcels, or the providing or vacating of public and private easements whether shown on a map or chart or described by metes and bounds.

Subdivision: The dividing of any land into two or more lots or tracts either of which contains 5 acres or less.

### SECTION 3 - GENERAL REQUIREMENTS

1. Applications for subdividing, as defined herein, shall be filed with the City Clerk in the manner and at the times prescribed herein. Such fees for subdividing, as may be established by the City Governing Body, shall be paid by the owner at the time of submission of the preliminary plat.
2. A prerequisite for the approval of any Final Plat shall be the placing of the subdivision into the zoning district appropriate to the intended use in accordance with the requirements and procedures of the Zoning Regulations. The subdivision shall comply with the lot size, width and all other characteristics set forth in those Zoning Regulations.
3. A prerequisite for the approval of a Final Plat shall be the submission of a copy of a certificate of title and a statement showing that all due taxes have been paid in full for all parts of the proposed subdivision.
4. A prerequisite for the approval of a Final Plat shall be the submission of statements from utility companies and the U.S. Postal Service indicating approval of utility easements, street rights of ways and street names shown on the proposed plat.
5. The City Governing Body may refuse to approve a plat of subdivision unless it is evident that proper water and sewer facilities can be supplied within a reasonable time. Permission shall not be granted for the connection of utilities to the various city systems nor shall any city-owned utility system be extended to serve a subdivision until the final plat of the subdivision has been approved by the City Governing Body.
6. When the construction or installation of street improvements, public water supply, central sanitary sewer system, storm sewer system, or other drainage improvements are required to serve the proposed development within a subdivision, a prerequisite for the consideration of the Final Plat shall be the submission of a plan specifically setting forth the extent, time schedule and method of financing such construction or installation as proposed by the owner or developer. The plan shall show the quantity, quality, and geometric details of the proposed construction or installation which shall meet or exceed the standards set forth in the Subdivision Regulations herein. A phased construction time schedule may be approved by the City Governing Body which is based on the owners estimate of the pace at which development will proceed within the subdivision; however, the initial phase of such construction shall be not less than that required to serve development that can reasonably be expected to occur within two years following the approval of the Final Plat.

The initial construction phase, as approved by the City Governing Body, shall be constructed by the owner prior to the approval and acceptance of the Final Plat; except that in lieu of such actual construction, the owner may submit a corporate surety bond, cashier's check, escrow account, or other like security in an amount approved by the City Governing Body conditioned upon the actual construction of the initial phase construction within a time specified by the owner and approved by the City Governing Body. Such security shall also be submitted by the owner and accepted by the City Governing Body for the future phases of construction as contained in the phased construction plan approved by the City Governing Body, prior to the approval and acceptance of the Final Plat.

7. When on-site sewer and/or water systems are proposed to be used in a subdivision, a prerequisite for the approval of a Final Plat shall be a plan of such systems bearing the signed approval of the city engineer and a representative from Kansas Department of Health and Environment. Such approved plan shall be presented to the City Clerk along with the submission of the Final Plat.
8. All costs connected with rezoning, preparation of engineering studies and plans, surveying, preparation of "petitions," etc. required as a part of these regulations shall be paid for by the owner and in no case shall any part or requirement of these regulations imply any obligation of the City of Westmoreland to expend any funds.

#### SECTION 4- STANDARDS OF DESIGN

1. The location and width of all streets and roads shall conform to the Land Use Plan or other standards adopted by the Planning and Zoning Board and the City Governing Body. Unless otherwise approved by the City Governing Body, provisions must be made for the extension of main thoroughfares and secondary streets to provide free circulation within the subdivision. Streets must be surfaced with 4" of asphalt or 6" of concrete. Subgrade for street surfacing should be sufficient to support the load of the street surfacing based on current industry design standards.
2. The arrangement of streets in new subdivisions shall make provisions for the continuation of the principal existing streets in adjoining areas (or their proper projection where adjoining land is not subdivided), insofar as they may be deemed necessary by the City Governing Body for public requirements. The width of such streets in new subdivisions shall not be less than the minimum street widths established herein. The street and alley (if included) arrangement must also be such as to cause no hardships to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. Proposed streets which are obviously in alignment with others already existing and named, shall bear the names of those existing streets. In no case shall the name of proposed streets duplicate existing street names, irrespective of the use of the suffix street, avenue, boulevard, drive, place or court. The owner shall contact the U.S. Postal Service for advice and approval concerning the naming of proposed streets.
3. Streets, alleys and easements within the subdivision shall be arranged for the most advantageous development of the tract and in harmony with existing or potential development of adjoining tracts. Streets should be laid out so as to intersect as nearly as possible at right angles, and no street should intersect any other street at less than sixty (60) degrees. Street jogs with centerline offsets of less than one hundred fifty (150') feet should be avoided.

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4. Except in unusual cases, no dead-end streets, other than cul-de-sac treatments, will be approved unless such dead-end streets are provided to connect with future streets in adjacent land. There shall be no private streets platted in any subdivision. Every subdivision shall be served from a publicly dedicated street. There shall be no reserve strips controlling access to streets.
5. A cul-de-sac, court or similar type street may be permitted where size, locations, or topography of the tract do not permit a normal street pattern. A cul-de-sac should be as level as possible and not more than five hundred feet (500') in length. It shall be provided with a turnaround having a diameter of one hundred feet (100') right-of-way, except in rough terrain where a minimum diameter of seventy feet (70') may be allowed.
6. Rights-of-way for streets shall be dedicated not less than 80 feet.
7. Subdivisions that adjoin or contain existing roads and streets shall dedicate additional right-of-way to meet the above listed minimum street width requirements.
  - a. The entire right-of-way shall be provided where any part of the subdivision is on both sides of an existing road or street.
  - b. When the subdivision is located on only one side of an existing street, one-half of the required right-of-way, measured from the center line of the existing roadway, shall be provided.
8. Half-streets shall be prohibited, except where essential to the reasonable development of a subdivision in conformity with the other requirements of these regulations, and where the City Governing Body finds it will be desirable to require dedication of the other half when adjoining property is subdivided. However, the owner shall show to the City Governing Body evidence that he has made reasonable effort to obtain agreement and permission from the owner of the adjacent tract to plat the full required right-of-way as a part of his subdivision.
9. Service streets and/or entrances serving any use except "Agriculture Uses" shall not intersect major trafficways or minor trafficways at intervals less than 1,000 feet except when the owner can show that such restriction denies reasonable access to a part or parts of the subdivision. When a subdivision abuts on or contains an existing or proposed major or minor trafficway, the City Governing Body may require marginal access streets, reverse frontage with screen planting contained in non-access reservation along the rear property line, deep lots with rear service alley, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local street traffic.
10. Where any street deflects an angle of ten (10) degrees or more, a horizontal curve having a minimum radius of three hundred feet (300') for major streets and one hundred fifty feet (150') for minor streets shall be required.
11. Service access should be provided at the rear of all business lots and shall be at least thirty feet (30') in width. Alleys are not recommended in residential areas but when provided shall not be less than twenty feet (20') in width. At the intersection of two (2) alleys, the corners of the abutting property shall be provided with a property line in return having a radius of ten feet (10'). Dead end alleys should be avoided wherever possible, but if unavoidable, shall be provided with adequate turn around facilities at the dead end.

12. When alleys are not provided, easements of not less than eight feet (8') in width shall be provided along each rear lot line, and alongside lot lines where necessary, for use by public and private utilities. Easements of greater widths may be required along or across lots where necessary for the extension of main storm and sanitary sewers and other utilities and where water and sewer lines are located on the same easements. Where necessary, aerial easements may be required for use by surface utilities. Easements shall connect with existing easements in adjoining property. Local utility companies shall be contacted by the owner for advice and approval of proposed utility easements.
13. Intersecting streets, determining block lengths, shall be provided at such intervals as to serve cross traffic adequately and to meet existing street or customary subdivision practice in the neighborhood. Where no existing plats control, the blocks should not exceed 1,000 feet in length, except that in outlying subdivisions a greater length may be permitted where topography or other conditions, in the opinion of the City Governing Body, justify such lengths.
14. Blocks shall be wide enough to allow two tiers of lots of minimum depth, except where prevented by topographical conditions or size of the property, in which case the City Governing Body may approve a single tier of lot of minimum depth.
  - a. For division into business lots, block depth shall be adjusted to allow for off street parking as required in the zoning regulations.
  - b. Proper access shall be provided for all lots abutting all platted streets. Where grade separation structures or similar traffic regulators are, or may later be needed, the blocks shall be arranged to provide adequately for such structures or improvements.
15. All lots shall have the side lines as nearly as practicable at right angles to the street on which the lots face. Lots with double frontage are undesirable and should be avoided whenever possible. The size and orientation of the lots shall be appropriate for the proposed use and in no case shall they be smaller or otherwise conflict with the requirements of the zoning regulations.
16. Building lines or "setback" for lots shall conform to the requirements set forth in the Zoning Regulations.
17. Suitable sites for parks, schools, playgrounds, recreational areas, or other public requirements should be carefully considered and indicated on the preliminary plat, so it can be determined which of such sites should be indicated on the final plat and where and in what manner such areas may be acquired for such use. Attention is called to the advantages, on a large tract, of dedicating a reasonable percent of the property for such use.
18. In all subdivisions, due regard shall be shown for all natural features such as large trees, water courses, historical areas and similar community assets which, if preserved, will add attractiveness and value to the property.
19. Whenever any stream or important surface drainage course is located in an area that is being subdivided, the subdivider shall dedicate an adequate easement along each side of the stream for the purpose of future widening, deepening, sloping, improving or protecting the stream; or for drainage, parkway or recreational use.

20. The city zoning regulations provide for the establishment of Planned Unit Development Districts in which some deviation from a strict application of lot size requirement, street location, etc. is allowed. However, the requirements and procedures stated within the Zoning Regulations must be strictly adhered to and the City Governing Body is not authorized to grant deviations from the provisions therein.
21. The City Zoning Regulations provide for some deviation from a strict application of some requirements of those regulations.
22. The City Governing Body shall not approve the subdivision of land, if from adequate investigations conducted by all public agencies concerned, it has been determined that the best interests of the public are not being served, and that the site, as presented, is subject to flooding or is otherwise not suitable for platting and development purposes of the kind proposed.
23. When the owner can show that a provision of these Standards of Design would cause unnecessary hardship if strictly adhere to, and where, because of topographical or other conditions peculiar to the site or the subdivision design, in the opinion of the Planning and Zoning Board, a departure maybe made without destroying the intent of such provisions, the Planning and Zoning Board may authorize a variance. Any variance thus authorized shall be stated in writing in the minutes of the Planning and Zoning Board along with the reasons for the variance.

#### SECTION 5 – PROCEDURE FOR PLAT APPROVAL

1. A tentative plan showing only the information necessary for discussion and classification may be presented to the City Clerk and/or the City Governing Body for advice and comment prior to the preparation and submission of a preliminary plat.
2. PRELIMINARY PLAT:
  - a. At least thirty (30) days prior to the meeting at which it is to be considered, the subdivider shall submit to the City Clerk for review and transmittal to the City Governing Body, two (2) copies of the preliminary plat plan of the proposed subdivision drawn to a scale of not less than one inch equals one hundred feet (1" = 100') on an appropriately sized sheet. If a tract contains 160 acres or more, the drawing may be made to the scale of one-inch equals two hundred feet (1" = 200') on an appropriately sized sheet.
  - b. The preliminary plat plan shall meet the minimum standards of design and the general requirements as set forth herein and shall be prepared to include the following:
    - An accurate topographic map with a maximum of five-foot (5') contour intervals referenced to sea level datum showing the location of existing property lines, streets, buildings, water courses, floodwater depth and other physical features within the area to be subdivided, as well as similar facts regarding existing conditions in property immediately adjacent, unless waived by the Planning and Zoning Board.
    - The location of proposed lots, streets, alleys and building lines with their approximated dimensions.
    - The location of boundary lines and their relation to established section lines and corners and fractional section lines and corners.
    - Any proposed restrictions and/or covenants.
    - The name under which the proposed subdivision is to be recorded.



- The name and address of the subdivider or subdividers and the professional engineer or land surveyor platting the tract.
  - The true north point, scale and date.
  - A small-scale location map showing highways, major streets, subdivision, etc. for a minimum of one mile from the proposed subdivision.
  - The approximate grades and gradients of streets
  - A designation of the proposed uses of land within the subdivision; that is the type of residential use, location of business, or industrial sites, and sites for churches, schools, parks or other special uses, subject to the provisions of the Zoning Regulations.
  - The location and type of proposed storm sewers, drainage structures, street construction, power and gas facilities and all other structures and improvements.
- c. The Planning and Zoning Board and the City Governing Body shall approve, approve conditionally or disapprove the plat within sixty (60) days of its submission by the applicant. If the preliminary plat is disapproved or approved conditionally, the reason for such action shall be stated in writing, a copy of which, signed by the Secretary of Planning and Zoning Board, shall be attached to one (1) copy of the preliminary plats and transmitted to the applicant. If no action is taken by the Planning and Zoning Board and the City Governing Body at the end of sixty (60) days after submission, the plat shall be deemed to have been approved.
- d. One (1) copy of the preliminary plat plan will remain in the City Clerk's office and the other will be returned to the subdivider with any notations specified at the time of approval or disapproval and any specified changes required.
- e. The approval of the preliminary plat by the Planning and Zoning Board does not constitute acceptance of the subdivision, but is merely an authorization to proceed with the preparation of the final plat.
- f. The approval of the preliminary plat plan shall lapse unless a final plat plan based thereon is submitted within one (1) year from the date of such approval unless an extension of time is applied for and granted by the Planning and Zoning Board.

### 3. FINAL PLAT:

- a. After the preliminary plat has been approved by the Planning and Zoning Board, a final plat in the form of a record plat shall be prepared and submitted to the City Clerk for review and submitted to the Planning and Zoning Board for recommendations of that body and for consideration of the City Governing Body. This final plat shall conform substantially to the preliminary plat as approved.
- b. The boundary lines, streets, blocks and lots shall be accurately surveyed and marked by a professional engineer or land surveyor licensed to practice in the State of Kansas. Sufficient permanent monuments shall be placed along the boundaries of the tract so that the lines may be re-established in the future with accuracy. Iron pins not less than two feet in length and at least one-half inch in diameter shall be placed at all lot corners, street intersections, points of deflection and curvature and other important control points.

At least one permanent benchmark referenced to sea level datum shall be set within the subdivision limits and shall be adequately described on the plat.

- c. At least five (5) days prior to the meeting of the Planning and Zoning Board at which it is to be considered, the subdivider shall submit to the City Clerk, the original drawing and three (3) copies (prints) together with any other plans or reports that are required by the Planning and Zoning Board.
- d. The final plat shall be drawn to a scale of not less than one-inch equals one hundred feet (1" = 100') on an appropriately sized sheet. If the tract contains 160 acres or more, the drawing may be made to a scale of one-inch equals two hundred feet (1" = 200 ') on an appropriately sized sheet. On the first sheet of every plat there shall be a key map showing the location of the subdivision referenced to government survey section lines and corners as well as major streets. If more than two sheets are required for the plat, the key map shall show the number of the sheet for each area.
- e. The Final Plat shall show:
  - The name of the subdivision and adjacent subdivisions, the names of streets and numbers of lots and blocks, in accordance with a systematic arrangement. In the case of branching streets, the lines of departure shall be indicated.
  - A written legal description of the tract.
  - An accurate boundary survey of the property, with bearings and distances, referenced to section corners, and showing (in dotted lines) the lines of all adjacent lands and the lines of adjacent streets and alleys, with their widths and names.
  - The location of lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet, with the length of radii and of arcs for all curves, and with all other information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points and points of curve to lot lines.
  - The location of building lines on front and side streets and the location of utility easements, easements for possible future construction, and easements for drainage purposes.
  - Duly acknowledged certificates of dedication of all streets, public highways, alleys, parks and other land intended for public use, together with restrictions which are to apply to any lot or lots.
  - Owner's certificate and dedication, signed.
  - Certificate of Survey showing signature and Kansas seal of registration of the Professional Engineer or Land Surveyor who prepared the plat.
  - Certificate of Planning and Zoning Board approval.
  - Certificate of City Governing Body approval; including approval by City Attorney and attest by City Clerk.
  - True North point, graphic scale and date.
  - All figures and letters plain and distinct, of a sufficient size to be easily read, and of sufficient density to make a lasting and permanent record.
- f. The City Governing Body and the Planning and Zoning Board shall act upon the final plat within ninety (90) days after it has been submitted for final approval, and this approval shall be shown on the plat with the date of such approval and over the signature of the Planning and Zoning Board Chairman and a majority of the members of the City Governing Body. Unless stipulation for additional time is agreed to by the applicant and if no action is taken by the City Governing Body and the Planning and Zoning Board at the end of sixty days after submission, the plat shall be deemed to have been approved.

A certificate by the City Governing Body and Planning and Zoning Board as to date of submission of the plat for final approval and failure of the City Governing Body and Planning and Zoning Board to act within such specified time shall be sufficient in lieu of the written approval specified above.

- g. After final approval of the plat and the affixing of all required signatures on the original tracing, the subdivider shall provide the City Governing Body with one (1) dark line print thereof to be filed with the City Clerk to be retained in the permanent file of the City Governing Body. The applicant shall file the original tracing with the County Register of Deeds of Pottawatomie County, Kansas and shall also file a copy of the plat with the County Clerk of Pottawatomie County, Kansas. Failure to file the plat, as specified, within 2 years after final approval shall be cause for all approvals to be null and void

## SECTION 6 - LOT SPLITS AND BOUNDARY LINE ADJUSTMENTS

### LOT SPLITS

A request seeking to divide a lot (or lots) into additional lots may be approved if both new lots conform to the requirements of the zoning regulations of the City of Westmoreland and all ordinances of the City of Westmoreland, Kansas. If in the opinion of the Planning and Zoning Board, a split is requested that seeks to make more than two lots out of one lot, then the Planning and Zoning Board may, at its discretion, approve such lot split, if in the Planning and Zoning Board's opinion, the proposed split does not create lots that are out of character with the original subdivision, and the new lots conform to all requirements of the City of Westmoreland.

**No** lot split shall be approved if:

- a. A vacation, modification, or addition, or streets, alleys, setback lines, access control of easement is required or proposed;
- b. An installation of public facility is required or proposed;
- c. The lot split will result in a lot without access to a street or to adequate services or which cannot meet the floodplain requirements;
- d. A substandard sized lot will be created according to applicable zoning regulations or sanitary code;
- e. A newly created lot will not comply with these regulations;
- f. Any newly created lot will be in violation of any applicable restrictive covenants filed of record. (The Planning and Zoning Board shall be entitled to rely upon the information provided by the applicant regarding the existence or nonexistence of such covenants); or
- g. Any other factor which, in the opinion of the Planning and Zoning Board, fails to comply with the intent and purpose of existing land development regulations and the policies of the Governing Body or the City of Westmoreland, Kansas
- h. Upon approval of a Lot Split by the Planning and Zoning Board, the applicant shall prepare a Lot Split Survey and pay the applicable fee as set by the City. The Lot Split Survey shall be prepared in accordance with the approval of the application. The Lot Split Survey shall indicate, as a title, that it is a Lot Split of Lot \_\_\_ of \_\_\_ Subdivision. The Lot Split Survey shall be prepared in the same manner with all of the same information, where applicable, as a Final Plat.

In addition, all documents required to be submitted with a Final Plat shall also be submitted with a Lot Split Survey. The Lot Split Survey shall contain the following.

- A surveyor's certification indicating that such person is duly licensed by the applicable authority and that the property was surveyed by such person in accordance with all applicable rules and laws, duly acknowledged by a notary public, and in a form approved by the Planning and Zoning Board.
- A certification by the Chairman, or designee, of the Planning and Zoning Board indicating that it has been submitted to, and approved by, such Planning and Zoning Board pursuant to these regulations, in a form approved by the Planning and Zoning Board.

The applicant shall then be responsible for submitting the final package, including all of the above, as well as the certificate of the Planning and Zoning Board, to the Pottawatomie County Register of Deeds, who shall then cause the appropriate records to be filed in the Office of the Register of Deeds. The application shall then be required to submit copies of the duly filed documents to the City Clerk of the City of Westmoreland, to confirm that said lot split has been officially recognized by the Register of Deeds. Until such duly filed documents have been received by the City Clerk, the process will not be deemed completed. If such requirements have not been met within one (1) year of the approval of the Lot Split, the approval shall have been deemed to have been withdrawn and the Lot Split Survey shall not be filed without a reapproval by the Planning and Zoning Board.

No building permit shall be sought or issued for a lot created by a lot split until the lot split has been approved by the Planning and Zoning Board and filed in the Office of the Register of Deeds.

#### BOUNDARY LINE ADJUSTMENTS

Boundary line adjustments have to meet the same requirements as described above for lot splits.

Upon approval of a Boundary Line Adjustment by the Planning and Zoning Board, the applicant shall prepare a Boundary Line Adjustment Survey and pay the applicable fee as set by the City. The Boundary Line Adjustment Survey shall be prepared in accordance with the approval of the application. The Boundary Line Adjustment Survey shall indicate, as a title, that it is a Boundary Line Adjustment of Lot subdivision. The Boundary Line Adjustment Survey shall be prepared in the same manner, with all of the same information, where applicable, as a Final Plat. In addition, all documents required to be submitted with a Final Plat shall also be submitted with a Boundary Line Adjustment Survey. The Boundary Line Adjustment Survey shall contain the following:

- A surveyor's certification indicating that such person is duly licensed by the applicable authority and that the property was surveyed by such person in accordance with all applicable rules and laws, duly acknowledged by a notary public, and in a form approved by the Planning and Zoning Board.
- A certification by the Chairman, or designee, of the Planning and Zoning Board indicating that it has been submitted to, and approved by, such Planning and Zoning Board pursuant to these regulations, in a form approved by the Planning and Zoning Board.

The applicant shall then be responsible for submitting the final package, including all of the above, as well as the certificate of the Planning and Zoning Board, to the Westmoreland County Register of Deeds, who shall then cause the appropriate records to be filed in the Office of the Register of Deeds. The applicant shall then be required to submit copies of the duly filed documents to the City Clerk of the City of Westmoreland, to confirm that said Boundary Line Adjustment has been officially recognized by the Register of Deeds. Until such duly filed documents have been received by the City Clerk, the process will not be deemed completed. If such requirements have not been met within one (1) year of the approval of the Boundary Line Adjustment, the approval shall have been deemed to have been withdrawn and the Boundary Line Adjustment survey shall not be filed without a reapproval by the Planning and Zoning Board.

SECTION 7 - REPEAL AND  
EFFECTIVE DATE

1. All ordinances and other regulations established by the City Governing Body and Planning and Zoning Board which conflict with the requirements of these regulations are hereby repealed.
2. These regulations shall take effect and be in full force upon their adoption by the Governing Body of the City of Westmoreland, Kansas.
3. These regulations approved by ordinance of the Governing Body of the City of Westmoreland, Kansas, dated July 14, 2022 (Ordinance No. 591).

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Mark S Jack, Mayor

ATTEST:

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Julie Wren, City Clerk