

Chapter 28 - SUBDIVISIONS AND SITE DEVELOPMENT

Footnotes:

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State Law reference— *Regulation of subdivision and property development, V.T.C.A., Local Government Code, ch. 212.*

ARTICLE 28.02 - SUBDIVISION ORDINANCE

Footnotes:

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State Law reference— *Regulation of subdivision and property development, V.T.C.A., Local Government Code, ch. 212; extraterritorial jurisdiction of municipalities in counties that regulate subdivisions, V.T.C.A., Local Government Code, § 242.001; extension of subdivision rules to extraterritorial jurisdiction, V.T.C.A., Local Government Code, § 212.003; recording of plats, V.T.C.A., Property Code, § 12.002.*

Sec. 28.02.001. - Adopted.

The subdivision ordinance, Ordinance No. 2019-29, adopted by the city on September 10, 2019, as amended, is included at the end of this chapter as exhibit A. Due to the nature of the subdivision ordinance and the technicalities involved in adopting or amending it, such ordinance is printed herein as enacted, with only nonsubstantive formatting and style changes. Capitalization, punctuation and numbering of articles, sections and subsections have been retained as enacted. Subsequent amendments will be inserted in their proper place and denoted by a history note following the amended provisions. The absence of a history note indicates the material is unchanged from the original. Obviously misspelled words have been corrected without notation. Any other material added for purposes of clarification is enclosed in brackets. (Editorially supplied)

ARTICLE 28.03 - PARKLAND DEDICATION AND PARK DEVELOPMENT

Footnotes:

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Editor's note— *Ord. No. 2021-04, § 2, adopted January 12, 2021, repealed the former article 28.03, §§ 28.03.001—28.03.010, and enacted a new article 28.03 as set out herein. The former article 28.03 pertained to parkland dedication and derived from Ord. No. 1512.3, adopted January 10, 2007.*

Sec. 28.03.001. - Title.

This article shall be known and cited as the parkland dedication and park development ordinance.

(Ord. No. 2021-04, § 2, 1-12-2021)

Sec. 28.03.002. - Purpose.

The purpose of this section is to provide parks, open spaces, and trails that implement the parks, recreation, and open space master plan. The City of Dripping Springs City Council has determined that parks, open spaces, and trails are necessary for public welfare, and that the adequate procedure to provide these community amenities is by integrating standards into the procedures for planning and developing property.

This article is enacted to enable the city to gain and maintain the following attributes of parkland:

- (1) Enhancement of the community's quality of life, which embraces its livability, aesthetic integrity, and sense of community;
 - (2) Ecological and environmental preservation, biodiversity, improving water quality, air cleansing, aquifer recharge, and flood control;
- (3) Scenic vistas unique to the Texas Hill Country that engage the park user in leisure recreation;
- (4) Facilities for active recreation and sporting events;
- (5) Places for engaging in passive recreation;
- (6) Economic contribution of parks and open spaces to the vitality of the city;
- (7) Promotes cultural, artistic and sporting endeavors;
- (8) Meets the goals of the comprehensive plan and the parks, recreation, and open space master plan;
- (9) Provision of a fair and equitable park system, utilizing park amenities that are sustainable, durable and of high quality; and
- (10) Provision or enhancement of park connectivity throughout the city via linear parkland and greenways that create unimpeded wildlife corridors as well as house multimodal pedestrian access trails.

(Ord. No. 2021-04, § 2, 1-12-2021)

Sec. 28.03.003. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Active recreation. Public recreational areas that accommodate youth and adult level team sports (baseball, football, soccer, lacrosse, etc.) and provide practice/game fields for organized recreational leagues.

Applicant. A person or entity who submits to the City of Dripping Springs an application for an approval required by this article. To be qualified as an applicant under this article, the person or entity must have sufficient legal authority or proprietary interests in the land to commence and maintain proceedings under this article. The term shall be restricted to include only the property owner(s), or a duly authorized agent and representative of the property owner. In other jurisdictions, the term is sometimes referred to as the "developer", "subdivider", "builder", or other similar title.

City. The City of Dripping Springs, an incorporated municipality located in Hays County, Texas. Unless otherwise stated, the term includes both the city limits and the extra-territorial jurisdiction (ETJ).

Concept plan. A drawing of the overall conceptual layout of a proposed development, superimposed upon a topographic map which generally shows the anticipated plan of development, and which serves as a working base for noting and incorporating suggestions of the city's administrative officers, the PRC, the P&Z, the city council, and others who are consulted prior to preparation of the preliminary plat. In other jurisdictions, the term is sometimes referred to as a "preliminary site plan" or a "land study."

Development. The construction, reconstruction, conversion, structural alteration, relocation, renovation, or enlargement of any structure on land. The term also includes any mining, excavation, landfill, or land disturbance.

Dwelling unit (DU or DUs). Any building, structure, or portion of a structure, which is designed, used, or intended to be used, for human occupancy as primary living quarters.

ETJ. The extraterritorial jurisdiction of the city.

Fee-in-lieu. A developer may request, and the city may approve, an option whereupon, developers may be required to contribute cash instead of parkland dedication and parkland development and is commonly referred to as "fee-in-lieu". In such instances, the fee-in-lieu amount required is equal to the fair market value of the required parkland acreage for dedication and the cost for park development as designated in the Methodology section of this article.

General parks plan. Statement of the suitability of the parkland in meeting the criteria for parks as outlined in this article and a detailed description of any proposed improvements shall be in accordance with recommendations as outlined in the city's Code of Ordinances, as well as the parks, recreation, and open space master plan.

Open space. Within parkland, open space is parkland that is to be kept essentially unimproved and dedicated for the public or private use. The primary functions of this type of parkland are the protection of hill country scenic vistas, protection of quiet rural lifestyle, and conservation of native wildlife. Open space may feature, but is not limited to, minimal improvements such as walking trails, picnic sites, and/or benches. Open space may include, but is not necessarily required to include, land restricted by conservation easements.

Park fund. The fund in which fee-in-lieu and other park funds are deposited and which can only be used for the development, maintenance, or acquisition of parks, trails, and related facilities.

Parkland. Platted tract of land designated and used for recreation or open space.

Parks and recreation commission (PRC). Citizens' advisory body appointed by the city council which acts generally in an advisory capacity to the city council in the acquisition, development, utilization, operation, improvement, equipment and maintenance of all park playgrounds and recreational areas owned or controlled by the city. Described more fully in article 2.04, Boards, Commissions and Committees, division 3, Parks and Recreation Commission.

Parks, recreation, and open space master plan. Guiding document for establishing the framework of a long-term, successful park system for the City of Dripping Springs. The document is updated every five years to ensure that the park system remains viable for the citizens of the city and its ETJ.

Park service area. In accordance with the parks, recreation, and open space master plan, the City of Dripping Springs and ETJ are sectioned off into service areas. These service areas provide guidance for development of the park system.

Park trail. Multiple-purpose trails located within parks. The focus of the trail is on recreational values and harmony with the surrounding natural environment. Trails shall accommodate a variety of activities, including pedestrians and/or bicyclists.

Private park/recreation facility. Private park areas and recreational facilities are privately owned yet make a contribution to the overall public park and recreation system because they contribute to the leisure activities of the neighborhood or park service area in which they are located.

Rule of interpretation. Words and phrases used in this article shall have the meanings set forth in this section. Terms that are not defined below but are defined elsewhere in the Code of Ordinances or other documents as adopted by the city, shall be given the meanings set forth in the code. Words and phrases not defined in the Code of Ordinances shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense, words in the plural number shall include the singular number (and vice versa). The word "shall" is always mandatory, while "may" is merely directory. Headings and captions are for reference purposes only. Any reference to the city parks plan, city open space plan, or general parks plan in this or any other ordinance or document is synonymous with the parks, recreation, and open space master plan.

Sec. 28.03.004. - Applicability and parks, recreation, and open space master plan.

This article applies to all property within the city limits and the extraterritorial jurisdiction (ETJ). This article applies to applications for which city approval is sought under the city's subdivision ordinance and site development ordinance, as may be amended. The costs associated with development and maintenance of neighborhood and community parks should be borne by the landowners of residential property, who, by reason of the proximity of their property to such parks, shall be the primary beneficiaries of such facilities. The requirements within the ordinance are adopted to affect the purposes stated above.

- (1) The guiding document for all park and recreation development will be the most current parks, recreation, and open space master plan and any updates to the plan which occur from time to time, based on input from the community and approval by the City Council of Dripping Springs. Determination of acceptability of a proposed neighborhood park dedication and development and/or for a proposed community park dedication and development or cash-in-lieu is based upon the City of Dripping Springs Parks, Recreation, and Open Space Master Plan, as may be amended from time to time.
- (2) Neighborhood parks are the cornerstone of the park system and serve as the recreational and social focus of the neighborhood. Focus is on informal active and passive recreation. These parks are typically one-quarter- to one-half-mile distance from all areas it serves and uninterrupted by non-residential roads and other difficult barriers.
- (3) Community parks are designed to serve both active and passive leisure needs of residents. Most users come from surrounding areas larger than what a neighborhood park typically serves. Community parks are located within park service areas established by the city.
- (4) Existing parks in Dripping Springs currently serve the needs of several neighborhoods located within the city limits and in the ETJ and are located within a one-half- to five-mile radius (approximate) of Dripping Springs residents and ETJ users. Founders Memorial Park and Sports and Recreation Park provide amenities that are typical in community parks, providing services to users in the city and ETJ alike due to the absence of community park facilities within the ETJ. Together, neighborhood parks and community parks can meet more of the recreational needs of residents.
- (5) The methodology is the formula that is used to determine the requirement for acreage to be dedicated per dwelling unit, fees required in lieu of the dedication of parkland, number of acres required per dwelling unit to meet the criteria of parkland dedication, as well as the park development fee.

(Ord. No. 2021-04, § 2, 1-12-2021)

Sec. 28.03.005. - Exemptions for certain projects.

- (a) Statutory exemptions. Properties that are subdivided for residential use where the lots are greater than five acres, and no other public improvements are required, are not subject to the required dedication of parkland or open space, but are still required to pay the park development fee unless otherwise exempted.
- (b) Small projects. Subdivisions and site developments generating five dwelling units or fewer are exempt from the dedication requirements in this article. Applicants may not attempt to utilize this exemption by separating the project into a series of smaller projects. The exemption authorized by this section may only be utilized once and may not apply to subsequent divisions of the property. This exception applies to replats that do not increase the dwelling units for the subdivision by five or more. Such projects are still required to pay the park development fee unless otherwise exempted.
- (c) Historic district. Properties located within the historic district are exempt from parkland dedication requirement,

unless more than 25 dwelling units are proposed, but are still required to pay the park development fee unless otherwise exempted.

(Ord. No. 2021-04, § 2, 1-12-2021)

Sec. 28.03.006. - Parkland dedication and development methodology.

- (a) Parkland dedication and parkland development calculations.
- (1) For the purpose of this section, parkland dedication and parkland development calculations reflect the maximum possible land dedication, parkland development, and fee-in-lieu of land dedication allowable. The city, at its option, may reduce the required land dedication and fee-in-lieu of payment if other opportunities are deemed worthwhile and suitable for parks or trails in accordance with the parks, recreation, and open space master plan and allow the applicant to contribute to its proportional share of park and recreational facilities.
- (b) Basis for current level of service.
- (1) Parkland dedication and park development fees are based on the current level of park service for the Greater Dripping Springs Area. This park service area is defined as the same geographic service area for the Dripping Springs Independent School District (DSISD). The dedication and fee requirements are subject to change whenever the parks, recreation, and open space master plan is updated, whenever the U.S. Census Persons Per Household or other population estimates are revised and/or in conjunction with annual changes in land values or costs for park development.
- (2) According to the Dripping Springs Independent School District Demographic Update, which was completed in Spring 2019, and prepared by population and survey analysts, the number of households in the DSISD/City of Dripping Springs park service area is 13,701 ^A. According to the 2019 U.S. Census Bureau ^B, the average number of persons per owner occupied household in the Greater Dripping Springs Area is 3.03 persons per household (PPH) and is referred to as the dwelling unit or DU (Sec. 28.03.003 Definitions). The estimated population 2019 projection for the Drippings Springs Park Service Area is 41,514 ^C.
- (3) References for data.
- (A) The DSISD student projection for the 2020-2021 school year is 7,810 students per the Dripping Springs Independent School District Demographic Update Spring 2019. That same publication estimates that there is a weighted average of 0.57 students per single-family home. This projects to 13,701 homes in the Dripping Springs park service area.
- (B) <https://www.census.gov/quickfacts/fact/table/drippingspringscitytexas,US/PST045219>
- (C) 13,701 homes multiplied by 3.03 persons per household = 41,514 population.
- (D) Source: City of Dripping Springs Parks, Recreation, and Open Space Master Plan 2014-2024.
- (c) Rationale for parkland dedication and park development fees.
- (1)

Current Level of Service	
Population (City and ETJ)	41,514 (based on DSISD Service area)
Total Existing Parkland	590.99 acres

Total Persons Per Acre	70 People
Land Dedication Requirements	
Persons per DU	3.03 (2019 Census)
Calculation	$41,514/590.99 = 70$ people per acre of parkland; $70 \text{ people}/3.03 \text{ PPH} = 23.10$ or 23 DU
Dedication Criteria	1 acre of parkland/23 Dwelling Units
Fee-in-Lieu of Land Requirements	
Average Cost per Acre	Market Rate, determined by an appraisal performed at the time of the request
Dwelling Unit	Market Value Per Acre for each required acre of dedication (1 acre/23 DUs)
Park Development Fee	
Cost of 50 Acre Park	\$6,739,129.00
Number of persons per active recreation community parks	20,757
Calculation	$\$6,739,129.00/20,757.00 = \$324.00/\text{person}$; $\$324.00 \times 3.03 \text{ PPH}$ (City Council voted to lower the fee per dwelling unit by calculating 2 PPH as shown below)
Fee Per Dwelling Unit	\$648.00

- (2) The fee model for an active recreation park in Dripping Springs is based on a 50-acre park comparable to a community park as designed in the Dripping Springs, Parks, Recreation, and Open Space Master Plan.
- (3) The model estimates a development cost of \$6,739,129.00.
- (4) The park development budget is required to be equal to or greater than the park development fee required and must be approved by the parks and recreation commission and city council. The park development costs greater than the parkland development fee is not transferable to other development projects.
- (5) If the applicant's proposed development is in a park service area that identifies a future community or active

use park, the city may request that the applicant dedicate land for the park. In that case, an offset may be considered against the required fee-in-lieu of land required.

(Ord. No. 2021-04, § 2, 1-12-2021)

Sec. 28.03.007. - Dedication of public parkland required.

(a) Residential dedication requirements.

- (1) For projects where the use includes residential dwelling units, an applicant who subdivides or plats land under the city's subdivision ordinance, excluding replats, amending plats, and minor plats that do not increase the subdivision's density by more than five dwelling units, shall provide for the dedication or designation of land suitable for parkland and recreation purposes. If parkland is not dedicated at the time of platting, but would be required for a project as presented at site development, then parkland shall be dedicated as required in this article at the time of site development.
- (2) Land dedicated as a requirement of this article shall be suitable for parkland and recreation purposes.
- (3) The minimum acreage of public parkland required shall be as follows:
 - (A) One acre for each 23 dwelling units, or fraction thereof.
 - (B) Residential subdivisions with fewer than 23 dwelling units shall dedicate five percent of overall acreage of the property to be subdivided as public parkland.

(b) The land to be dedicated shall form a single lot with a minimum of one acre required.

(c) Exemptions.

- (1) When the developer/subdivider is proposing to dedicate the required acreage to satisfy the public parkland dedication requirements, but not as a single lot, the parks and recreation commission may make a recommendation to city council to approve the parkland dedication if they find that it meets the intent of the code, and the proposed parkland lots have access from a public right-of-way.
- (2) A developer shall make a financial contribution in accordance with section 28.03.006, and the city's adopted fee schedule, in lieu of dedication of public parkland when:
 - (A) No portion of the tract of land is located within the city limits; or
 - (B) The developer does not dedicate at least an acre of parkland and less than one acre of land would be required to satisfy the parkland dedication requirements.

(d) The rate required for the financial contribution shall be in accordance with the adopted fee schedule in accordance with the methodology in section 28.03.006, provided herein. The fee shall be reviewed on annual basis to ensure accuracy and value.

(Ord. No. 2021-04, § 2, 1-12-2021)

Sec. 28.03.008. - Criteria for dedication.

(a) Any land to be dedicated to meet the requirements of this section shall be suitable for public parks and recreational activities as determined by the city administrator or their designee, and comply with the following standards and requirements:

- (1) The parkland lot shall be centrally located within the development, when practical.
- (2) Where residential subdivision is proposed to be developed in phases, the parkland lot shall be located within the first phase of the development. If the required public parkland is proposed to be outside of the first phase, the first phase may be approved provided that fee-in-lieu of dedication is paid for the number of

dwelling units within that first phase. In this event, the fee paid may be credited toward the required parkland dedication fee for the subsequent phase(s) of the development.

- (3) The parkland lot shall have a minimum lot width and street frontage of 30 feet. When practicable, the parkland lot shall be a multi-frontage lot.
 - (4) The parkland lot shall provide on-site parking or be located along a street where on-street parking may be accommodated on both sides of the street.
 - (5) A minimum of 50 percent of the parkland lot shall not exceed a 20 percent grade. A slope analysis exhibit shall be provided to the city engineer.
 - (6) Areas within the FEMA or calculated 100-year floodplain may be dedicated in partial fulfillment of the dedication requirement not to exceed 50 percent. When area within the floodplain is proposed to be dedicated, a minimum of two acres of land, and the frontage of the property where it is accessed from public right-of-way shall not be located within the FEMA or calculated 100-year floodplain.
 - (7) Parkland lots with the following conditions shall not be accepted unless recommended by the parks and recreation commission, and approved by city council:
 - (A) The lot is primarily accessed by a cul-de-sac.
 - (B) The lot is hindered by utility easements or similar encumbrances that make development of the land unfeasible. This limitation does not apply to land encumbered solely by public utility easements required by the subdivision ordinance.
 - (C) The lot is encumbered by sensitive environmental species or habitat areas.
 - (D) The lot contains stormwater facilities. Where stormwater facilities are proposed, stormwater facilities must be designed as a park amenity, to include trails, benches, and opportunity for recreation.
 - (8) A minimum of two-inch water service line and six-inch gravity wastewater service line shall be provided at one of the property lines in a location approved by the city engineer. This provision can be waived if water/wastewater is not within a reasonable distance from the property, as determined by the city engineer.
 - (9) Sidewalks and trails shall be provided along all street frontages, and trails shall be provided in accordance with the master trails plan, as well as all criteria found in the city's subdivision ordinance or other city ordinances. Sidewalks required by other city ordinance such as at the time of platting or site development, will not be counted towards the required parkland dedication. Trails may be considered as part of required parkland dedication.
- (b) Alternative site and development standards.
- (1) Alternative design standards for public parkland may be proposed and submitted to the planning and development department, provided the intent of the requirements of this section are met.
 - (2) Prior to submitting an application for development where alternative site and development standards are requested, the applicant shall complete the following:
 - (A) Provide a letter to the planning and development department that details the alternative design for parkland dedication and why it is equal to or better than the minimum standards; and
 - (B) Conduct a site visit with the planning and development department or their designee to review the proposal.
 - (3) The planning and development department shall review the alternative design based on section 28.03.007, Dedication of public parkland requirement, and section 28.03.008, Criteria for dedication, and present the alternative design to the parks and recreation commission for recommendation to city council for final

approval.

(A) The parks and recreation commission shall recommend approval, approval with conditions, or disapproval of the request.

(B) The city council shall approve, approve with conditions, or disapprove of such requests.

(Ord. No. 2021-04, § 2, 1-12-2021)

Sec. 28.03.009. - Amendments.

Any increase in density or modification to an approved parkland dedication plan and/or subdivision, or a modification that would have otherwise required more parkland to be dedication, shall be required to dedicate additional parkland in accordance with this article, pay fee-in-lieu, or apply for alternative site and development standards as if it were a new application. If a property owner is requesting to modify an approved parkland dedication plan, they shall submit a new application with the requested changes, an explanation regarding the reason for the change, and the proposed new plan, subject to review and decision by the appropriate board, depending on whether the amendment is considered minor or major, as defined in this section.

- (1) Minor amendment. A minor amendment is any change that would increase/decrease the approved parkland acreage by five percent of the overall required parkland acreage. Minor amendments are subject to review and final decision by the parks and recreation commission.
- (2) Major amendment. A major amendment is any change that would increase/decrease the approved parkland acreage by more than five percent of the overall required parkland acreage. Major amendments are subject to review and decision by the parks and recreation commission, and approval by city council.

(Ord. No. 2021-04, § 2, 1-12-2021)

Sec. 28.03.010. - Park development fee.

- (a) In addition to the dedication of public parkland or fee-in-lieu, a developer shall pay a park development fee to meet the need for the active recreation parks. According to the city's parks, recreation, and open space master plan, the city has two community parks, which are servicing the entire population as described in section 28.03.006. The park development fee is meant to provide active recreation parks and sports field options, and/or provide trails that connect park users to the existing community parks.
- (b) The amount for the park development fee shall be in accordance with the adopted fee schedule and based on the analysis as explained in the methodology in section 28.03.006.

(Ord. No. 2021-04, § 2, 1-12-2021)

Sec. 28.03.011. - Fee-in-lieu of dedication.

- (a) When the city deems existing parkland to be of an insufficient quantity (in the park service area in which the development is located), or unacceptable, unavailable, or unsuitable based on the standards established by this article for park purposes, and subject to review by the city council, fee-in-lieu of land shall be paid into the "park fund" established by the city. Such money shall be paid in accordance with the methodology in section 28.03.006, as well as the criteria of this article.
- (b) The value of the parkland shall be calculated as the average estimated fair market value per acre of the land being subdivided within 24 months of application for plat or site development at the time of preliminary plat approval. The appraisal shall be performed by a State of Texas certified real estate appraiser, mutually agreed

upon by the city and the applicant and paid for by the applicant.

- (1) If the city deems it acceptable based on the circumstances, the applicant may dedicate, or designate parkland acreage combined with cash. The cash contributions shall be paid at or prior to the final plat or site plan approval, whichever is most applicable to the project.
- (2) Whether the city approves parkland dedication or elects to require fee-in-lieu thereof when the parkland dedication does not meet the requirements of this article, or a combination of both acceptance of parkland dedication and fee-in-lieu, shall be determined by consideration of the following:
 - (A) The natural features, access, and location of land in the subdivision available for dedication;
 - (B) The size and shape of the subdivision and land available for dedication;
 - (C) The compatibility of the parkland dedication with the city's parks recreation, and open space master park plan; and
 - (D) The location of existing and proposed park sites, trails and greenways.
- (3) If the applicant pays fee-in-lieu for parkland dedication and complies with this article with no dedication of parkland, the fee-in-lieu can be reviewed and approved by the city administrator without review of the parks and recreation commission. If any parkland is dedicated or the fee-in-lieu proposed is less than what is required, then the application shall be reviewed in accordance with this article.

(Ord. No. 2021-04, § 2, 1-12-2021)

Sec. 28.03.012. - Credit for private parks.

- (a) Where privately-owned and maintained parks or other recreation facilities with non-exclusive private amenities are proposed, the city administrator, after recommendation from the parks and recreation commission, and approval from city council, may grant a credit up to 25 percent of the required public parkland dedication amount and/or fee-in-lieu. The credit is not applicable to the park development fee.
- (b) Privately-owned and maintained parks or other recreational facilities shall meet the following minimum standards:
 - (1) The park or recreational facility shall have a minimum lot area of two acres.
 - (2) The park or recreational facility shall include the minimum number and type of facilities outlined in section 28.03.010.
 - (3) The park or recreational facility shall comply with the parks, recreation, and open space master plan, and other applicable city regulations.
- (c) Privately-owned and maintained parks or other recreational facilities for a single-family, two-family, townhome, or detached multi-family shall be identified on the subdivision plat as a private open space lot.
- (d) Privately-owned and maintained parks or other recreational facilities shall be owned and managed by a mandatory homeowners association (HOA) or property owners association (POA), or similar permanent entity, and subject to restrictive covenants that state the following:
 - (1) The land shall be utilized for parkland or open space in perpetuity.
 - (2) Each property owner within the subdivision encumbered by the restrictive covenants shall be required to pay dues and/or special assessments for the maintenance of the private park or recreation facility.
 - (3) If the responsible agency dissolves, cannot fulfill its obligations or elects to sell, transfer, or otherwise divest itself of the land, the city shall have the right of first refusal on acquiring the property. If the city elects to acquire the land, said land shall be transferred at no cost to the city and in accordance with the city's

regulations on dedicating parkland.

- (4) The cessation of the privately-owned and maintained park or other recreational facility shall be prohibited until such time as the declarant cedes control of the responsible agency to purchasers of properties within the subdivision, and then only upon amendment to the restrictive covenants approved by three-fourths of the members of the responsible agency.

(Ord. No. 2021-04, § 2, 1-12-2021)

Sec. 28.03.013. - Method of dedicating parkland.

- (a) Land to be dedicated for public parkland shall be identified on the preliminary plat; final plat; subdivision construction plans; and site plan, when applicable. When construction of park improvements and/or private parks is proposed, all amenities shall be identified on the subdivision construction plans or site plan, as applicable. Fiscal surety is the amount equal to the park improvement fee shall be provided prior to approval of subdivision construction plans or site development plan, as applicable, for the park improvements on public parkland.
- (b) Prior to acceptance of the public parkland, the following conditions shall be met:
 - (1) Land shall be in good condition, including the removal of all debris and dead plant materials, and utility services, sidewalks, and other public improvements installed. Any land disturbed by activities not related to park development shall be restored and the soil stabilized in a method approved by the city engineer in accordance with the requirements of this code.
 - (2) Park development fee shall be paid.
- (c) Prior to recordation of the final plat, the following conditions shall be met:
 - (1) Land accepted for dedication under the requirements of this section shall be conveyed by warranty deed, transferring the property in fee simple to the City of Dripping Springs, Texas, and shall be free and clear of any mortgages or liens at the time of such conveyance.
 - (2) A copy of the warranty deed and other parkland dedication documents, as outlined in the city's Code of Ordinances, shall be provided to the planning and development department prior to plat submittal.
 - (3) If property is accepted, the warranty deed shall be provided to the city council for acceptance.

(Ord. No. 2021-04, § 2, 1-12-2021)

Sec. 28.03.014. - Park funds.

- (a) Parkland dedication fund. For funds received for fee-in-lieu of parkland dedication, a separate fund entitled "park fund" has been created to hold in trust money paid to be used solely and exclusively for the purpose of acquiring and/or improving public parks, trails, and recreational lands, and shall not be used for maintaining or operating park facilities or for any other purpose.
- (b) Park development fee fund. The funds received as park development fees, the funds shall be expended on park maintenance, operation, acquisition, or improvements to park facilities.
- (c) The city council, based upon recommendation of the parks and recreation commission, shall determine whether there are sufficient funds to acquire public parkland and/or construct improvements. In making a determination for the acquisition of land, the conditions outlined in section 28.03.007 shall be taken into consideration.

(Ord. No. 2021-04, § 2, 1-12-2021)

Sec. 28.03.015. - Land dedication for park trails.

Land dedication of park trail corridors within parks shall be a high priority, in accordance with the most recently adopted parks, recreation, and open space master plan, the city's adopted trails plan, and the transportation master plan, as may be amended. Applicants are responsible for preserving the natural character of the trail corridors and dedicating the required right-of-way. Right-of-way dedication or easement size may vary due to the site's physical characteristics.

A partial reduction or complete fee waiver in the amount of the park development fee may be considered by city council, if the applicant proposes a plan to construct public park trails that will connect to the city-wide trails system in order to unite neighborhoods to all parks within the city and the ETJ to facilitate options for park access. If the park trail or any portion of the park trail is within areas shown on the city-wide trails plan, the applicant may be required to construct park trails or other park amenities and may choose to waive a portion of the required fee at the city's sole discretion. Information specific to the city-wide trails plan can be found in the adopted City of Dripping Springs City-wide Trails Plan. Prior to city council considering this proposal, the applicant shall provide a cost estimate, subject to approval by the city engineer, prior to being placed on a parks and recreation commission agenda for recommendation, and city council for final action.

(Ord. No. 2021-04, § 2, 1-12-2021)

Sec. 28.03.016. - Agricultural facility fee.

(a) Use of fee.

- (1) The ag facility fee imposed pursuant to the provisions of this article is limited to funding the acquisition, development, improvement and/or maintenance of community agricultural facilities as identified in the city's general plan as adopted by the city council and as may be amended from time to time. The city is authorized to make appropriations to one or more city funds to pay for agricultural facilities owned and operated by the city or a designated entity pursuant to an interlocal agreement.

(b) Payment of fee or land dedication required.

- (1) An applicant who subdivides or plats land under the city's subdivision ordinance (excluding replats that do not increase the subdivision's dwelling units by five or more, or plat amendments), as may be amended, shall provide for community agricultural facilities by one or a combination of more than one of the following means:

- (A) Payment to the city of an Ag facility fee in accordance with the schedule of fees adopted by city council.
- (B) Dedication of real property (in fee simple or through a perpetual public surface easement) to the city or an entity designated by the city for Ag facility related purposes.

(c) Dedication and/or improvement in lieu of fee. In lieu of payment of all or a portion of the Ag facility fee or land dedication described in this section, the following may be accepted by the city council:

- (1) Dedication of improvements. In lieu of payment of all or a portion of the Ag facility fee, improvements to an existing agricultural facility may be dedicated to the city for recreational purposes. Whenever a developer determines to dedicate improvements in lieu of payment of the Ag facility fee, a written application shall be made to the city administrator describing the improvements to be made to receive credit for the local Ag facility fee. The city administrator shall prepare a report to the city council regarding the proposed dedication of improvements.
- (2) Report to city council. The report to the city council from the city administrator shall indicate whether the following requirements have been met and shall make a recommendation regarding the proposed dedication

of improvements:

- (A) The improvements to be dedicated are for a community agriculture facility identified in the city's general plan.
- (B) The improvements to be dedicated are valued at the same or more than the Ag facility fee or portion thereof which would otherwise be imposed on the development.
- (d) Time of payment. Fees required by this section shall be paid prior to approval of the final plat.
- (e) Exemptions. The following are exempt from the application of this section:
 - (1) Applicants developing subdivisions that allow residents to keep livestock and farm animals on individually owned, single-family residential lots in the subdivision.
 - (2) Applicants developing subdivisions that include agricultural facilities located in the subdivision that shall be available to residents of the subdivision.
 - (3) Applicants developing subdivisions that are for solely nonresidential uses.
 - (4) Applicants that are city, county, state or federal government agencies.
- (f) Appeals. Any person aggrieved by the computation of fees pursuant to this section shall have the right to appeal to the city council. The appeal shall be taken not later than 30 days from the date the person is informed of the computation of the fees under this section. Failure to appeal within the 30-day period shall be deemed a waiver of all rights of appeal under this section.

(Ord. No. 2021-04, § 2, 1-12-2021)

ARTICLE 28.04 - SITE DEVELOPMENT

Sec. 28.04.001. - Title.

This article shall be commonly cited as the site development ordinance.

Sec. 28.04.002. - Purpose.

This article establishes a site plan review process for all proposed nonresidential and certain residential developments. Generally, this article applies to horizontal improvements necessary to develop a site, rather than the vertical improvements involved with erecting buildings. The purpose of the review is to ensure efficient and safe land development, harmonious use of land, compliance with the comprehensive plan, appropriate design standards, safe and efficient vehicular and pedestrian circulation, parking and loading, and adequate water supply, drainage and stormwater management, sanitary facilities, coverage, and other utilities and services.

Sec. 28.04.003. - Scope.

This article applies to all property within the incorporated municipal boundaries (i.e., city limits and the extraterritorial jurisdiction (ETJ)).

Sec. 28.04.004. - Site development permit required.

No development shall be undertaken on any land, tract, parcel, or lot within the corporate limits or ETJ of the city until a site development permit for said development has been obtained from the city. Exceptions to this prohibition are enumerated in section 28.04.008(b).

Sec. 28.04.005. - Exception.

This article does not apply to development authorized by the city pursuant to subdivision final plat and approved construction plan.

Sec. 28.04.006. - Definitions.

- (a) Rules of interpretation. Words and phrases used in this article shall have the meanings set forth in this section. Terms that are not defined below, but are defined elsewhere in the Code of Ordinances ("Code"), shall be given the meanings set forth in the code. Words and phrases not defined in the Code of Ordinances shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense, words in the plural number shall include the singular number (and vice versa), and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only.

- (b) Specific definitions.

Applicant. A person or entity who submits to the city an application for an approval required by this article. To be qualified as an applicant under this article, the person or entity must have sufficiently documented legal authority or proprietary interests in the land to commence and maintain proceedings under this article. The term shall be restricted to include only the property owner(s), or a duly authorized agent and representative of the property owner.

Application. A submission for a plan, plat, or permit under this article that includes all required documents and has been deemed administratively complete by the city.

Board of adjustment. The body appointed by the city council to grant variances, waivers, or special exceptions, as allowed by ordinance. In the event that such a body has not been appointed, the city council shall serve as the board of adjustment.

City administrator. The city's chief administrative officer, as appointed by the city council. For purposes of this chapter, the term also includes the deputy city administrator, or the city administrator's designee.

City limits. The incorporated municipal boundary of the city.

Construction plan. Detailed engineered drawings and accompanying text clearly describing public infrastructure improvements.

Development. The erection of buildings, roads, utilities, drainage improvements, or other structures. The term includes construction, excavation, dredging, grading, filling, and clearing or removing vegetation. Pruning, or other forms of general or regular maintenance of vegetation on developed property, shall not be considered development for purposes of this article.

Engineer. A person duly authorized under the provisions of the Texas Engineering Practice Act, as heretofore or hereafter amended, to practice the profession of engineering.

ETJ. The extraterritorial jurisdiction of the city, being that land not within the city limits, but land over which the city has jurisdiction by virtue of chapter 42 of the Local Government Code, as amended, and other applicable law.

Filing. The date on which an administratively complete application for a plan, plat, or permit is submitted to the city on a day or date on which it is accepting filing of such plans, plats, and permits.

Impervious cover. Includes all roads, driveways, parking areas, buildings, decking, rooftop landscapes and other impermeable construction covering the natural land surface. Swimming pool surface water area for pools which discharge to the storm drainage system shall also be included. Water quality and detention basins, swales, and other conveyances for drainage purposes only shall not be calculated as impervious cover.

Lot. An undivided tract or parcel of land having frontage on a street and which is, or in the future may be, sold, conveyed, transferred, or improved, which is designated as a distinct and separate tract or parcel, and which is identified by a tract or lot number or symbol, or by metes and bounds.

Owner. Any person or firm, association, syndicate, general or limited partnership, corporation, trust or other legal entity, or any agent thereof, that has sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this article. In any event, the term "property owner" shall be restricted to include only the owner(s) or authorized agent(s) of such owner(s), such as a developer, of land sought to be subdivided.

P&Z. The planning and zoning commission of the city.

Person. Includes corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and other legal entity.

Plan. For purposes of compliance with this article, the term refers to a site plan, as may be applicable.

Planned development districts (PDDS). A customizable zoning district, represented through an adopted development plan, per the regulations of this Code, which may provide for one or more main uses or structures on a single parcel or contiguous parcels of land controlled by a single landowner or development group, and which permits flexibility from specific Code provisions related to land uses, dimensional requirements, landscaping, design, and other similar regulations in return for assurances of a comprehensive plan for overall innovation and/or quality of development.

Right-of-way. Land occupied or intended to be occupied by street, crosswalk, railroad, road, electric transmission line or oil or gas pipe line, water main, sanitary or storm sewer main, or for other special use. Right-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use.

Site. An area of ground occupied or to be occupied by a structure.

Site development review committee. A group consisting of the city administrator or designee, the city engineer, building official, and the city planner.

Site plan. Detailed engineered drawings and accompanying text clearly describing the site development improvements.

Site development permit. The record of the approval of a site plan issued to an applicant with an approved site plan.

Small project. Those being 3,500 square feet in total cumulative area or less, or as determined by the city engineer or city administrator.

Soil tests. Percolation tests, soil boring profiles, geotechnical and geological tests and profiles, groundwater table tests, and any other tests which may be required by the county environmental health department, state agency, or the city.

Street. An improved surface within a right-of-way or easement, public or private, other than an alley, which has been dedicated, deeded, or granted an easement for public use and which affords primary vehicular access to abutting property. Includes the term "road" and "roadway."

Structure. Anything constructed or erected, the use of which requires location on or in the ground or attachment to something having location on the ground.

Subdivider. Any person or any agent thereof dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term "subdivider" shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner, of land sought to be subdivided.

Subdivision. Shall be defined as is set forth in the city subdivision ordinance, as may be amended.

Surveyor. A registered state land surveyor or a registered professional land surveyor, as authorized by the state statutes to practice the profession of surveying.

Tract. A defined area of land.

Unit. A physical portion of the condominium designated for separate ownership or occupancy, the boundaries of which are described by the condominium declaration.

Utility easement. An interest in land granted to the city, to the county, to the public generally, and/or to a private utility corporation, which authorizes the installation or maintenance of a utility across, over, or under land, and which authorizes ingress and egress thereon with machinery and vehicles necessary for the maintenance of said utilities.

Sec. 28.04.007. - Enforcement; penalties.

(a) Criminal penalty.

- (1) A person who violates, causes, allows or permits a violation of a section of this chapter designated as an offense in subsection (c) of this section commits a misdemeanor offense. Each violation shall be punished by a fine not to exceed \$2,000.00 per violation if the violation is of a provision of this article that governs public health or sanitation. A violation shall be punished by a fine not to exceed \$500.00 per violation if the violation is of a provision of this article that does not govern public health or sanitation.
- (2) Each day a violation of this chapter designated as an offense constitutes a distinct and separate offense.
- (3) Violation of any of these sections is considered an offense:
 - (A) Section 28.04.004, site development permit required.
 - (B) Section 28.04.013, site plan requirements, city limits.
 - (C) Section 28.04.016, erosion control.
 - (D) Section 28.04.017, clearing and rough-cutting.
 - (E) Section 28.04.018, cuts and fills.
 - (F) Section 28.04.020, post-construction restoration plan.

(b) Civil remedies.

- (1) If any building, structure, or land is used, constructed, maintained, repaired, or altered, or any development is commenced or continued, in violation of this article, the city and its officers may institute any appropriate action to prevent, restrain, correct, or abate the violation, including all remedies available pursuant to state law.
- (2) The city is authorized to seek civil penalties not to exceed \$100.00 per violation, with each day a violation of this article continues constituting a distinct and separate offense.
- (3) The imposition of any penalty shall not preclude the city and its officers from instituting any other appropriate action to require compliance with this land development code and with administrative orders and determinations made pursuant to this article.

(c) Administrative actions.

- (1) Stop work orders. When an appropriate authorized official of the city determines that there has been noncompliance with any material term, condition, requirement or agreement under this article, the person obtaining such approved permit shall be ordered by the city in writing to cease and desist from further development or construction that is in alleged noncompliance until corrected by compliance.
- (2) Withholding of other authorizations. The city may refuse to grant development, construction, or occupancy approvals for improvements for a property that does not fully and completely comply with all terms and conditions of this article. Without limiting the type or number of approvals the city may withhold, the city is specifically authorized to refuse to grant site development permits, building permits, utility connections, and certificates of occupancy.
- (3) Appeals. Said person may appeal an administrative order to the city administrator by giving written notice. The city administrator shall hear the appeal within five business days of receiving such notice. Said person may appeal in writing a negative ruling by the city administrator to the city council, which shall hear the appeal at the next regular meeting following receipt of the notice so long as the appeal is received at least five business days before the next regular meeting. If an appeal is received within five business days of the next regular meeting, the appeal will be heard at the council meeting after the next regular council meeting.

Sec. 28.04.008. - Applicability.

(a) Approval requirements.

- (1) Site plan review and approval shall be required for all nonresidential and specified residential projects and any planned development district (PDD) or conditional use permit (CUP) public hearings may also be required, as set forth in these regulations.
- (2) Building permits shall be required in the ETJ only in accordance with any applicable development agreements or other authorizations approved by the council that mandate building permits.
- (3) No building permit shall be issued for any of the above developments until a site plan and all other required engineering or construction plans are first approved by the city. No certificate of occupancy shall be issued until all construction and development conforms to the site plan and engineering/construction plans, as approved by the city. The site plan review process shall include three steps:
 - (A) Pre-application conference;
 - (B) Site plan review; and
 - (C) Construction of the project after city approval of the required site plan and other associated plans, including engineering plans.

(b) Exemptions. Site plan review shall not be required for the following:

- (1) The cultivation of land for agricultural purposes, fence building or rebuilding.
- (2) Street construction and maintenance projects that do not increase the impervious cover beyond that of the original street.
- (3) Construction or reconstruction of duplex residential housing and associated buildings, drives, and other appurtenances provided:
 - (A) No more than one structure is constructed per legal lot;
 - (B) No proposed improvement is located in the 100-year floodplain;
 - (C) The city engineer has determined that the proposed improvement would not have an effect on the waterway; and

- (D) City erosion and sedimentation control regulations are complied with.
- (4) Structural repairs or replacements to existing structures.
 - (5) Construction or reconstruction of barns, silos, livestock pens, sheds, and other agriculturally related structures.
 - (6) Selective clearing of vegetation performed in conjunction with subdivision development, and in compliance with the permitting and platting requirements of the subdivision ordinance of the city.
 - (7) Any site fully developed prior to the effective date of this article.
 - (8) Any site for which a permit was issued under a previous version of this article.
 - (9) Construction of a new public primary or secondary educational facility, or expansion thereof, located within the city's municipal boundaries (city limits and ETJ). This exemption shall apply only if the Dripping Springs Independent School District submits plans and specifications to the city for a courtesy review. DSISD is hereby requested to voluntarily comply with all site development rules and regulations promulgated by the city, to the extent reasonably possible. For purposes of city records, DSISD shall submit a letter notifying the city that they are proceeding with any such improvements described in the submitted plans.
 - (10) Above-ground utility installations that are not located within critical water quality zones, buffer zones or the Edwards Aquifer recharge zone.
 - (11) Single-family detached residential developments, unless the proposed subdivision will include a private amenity or facility comprised of one or more buildings, such as a private recreation or swimming facility or clubhouse or a golf course. Also, this exemption shall not apply if the proposed subdivision will have private (not public) streets. In these instances, site plan submission and approval is required for the private amenity or facility, the golf course clubhouse/hospitality area, and the gated entrances.
 - (12) Construction projects by other political subdivisions, unless otherwise addressed above, including the state, county, and federal agencies are exempt from the site development ordinance. For city record purposes, such political subdivisions are required to submit engineering/construction plans to the city for a courtesy review.

Sec. 28.04.009. - Site plan submission; notices.

- (a) Required submissions. Plan submission shall be comprised of the items set forth below:
- (1) An application form, in the format provided by the city, with notarized signatures of the owner.
 - (2) Filing fee.
 - (3) Verification that all taxes and assessments on the subject property have been paid.
 - (4) Digital copies of the application and site plan set shall be submitted in PDF format and be provided to the city via email, on a USB stick, on a CD or another method acceptable to staff.
 - (5) The plans shall include general layout for the required improvements, including water, wastewater, grading and storm drainage, streets, water quality, alleys, fire lanes and hydrants.
 - (6) One-half-sized copy to scale (11 inches by 17 inches) of the site plan or as requested by the city engineer.
 - (7) Landscaping and irrigation plans, the quantity of which shall be determined by the city administrator, and requests for any variances from the city's landscaping ordinance as applicable. For site development permit applications within the city limits, landscaping plans shall be submitted with the site development plan

application. For site development permit applications in the ETJ voluntarily complying with the city's landscaping ordinance, the applicant shall submit landscaping plans with the site development plan application.

- (8) Any additional information/materials, such as plans, maps, exhibits, legal description of property, zoning information (if in city limits), planned development district ordinance (if applicable), development agreement (if applicable) and information about proposed uses, as deemed necessary by the city administrator, in order to ensure that the written request is understood.
 - (9) Lighting (illumination) plan and requests for any variances from the city's lighting ordinance as applicable. For site development permit applications in the ETJ complying voluntarily with the city's outdoor lighting ordinance, lighting plans shall be submitted with the site development plan application. If any site development permit applications for projects in the ETJ are seeking any variances to the site development ordinance, compliance with the city's outdoor lighting ordinance may be mandatory and lighting plans shall be submitted with site development permit application if required by the city.
 - (10) A statement listing the utilities that will service the project and letters of service availability from all utility providers, including the city if applicable.
 - (11) Record of approved variances needed for the development.
 - (12) Any approved permits that are applicable to the site development application (i.e. driveway permit, TCEQ permit, utility provider permit, etc.).
 - (13) A written narrative describing the project and how all portions of the site development application meet all requirements of this code.
- (b) Incomplete submissions. All required items and information must be received by the city administrator in order for a site plan submission to be considered an application that can be filed. Incomplete submissions will not be reviewed or filed until all deficient items or information has been received.
- (c) Waivers. Upon request by the applicant, the city administrator may waive requirements for certain information or tests if submittal of such information or test results is not necessary for the city's determination that the issuance of the site development permit for the intended purpose of the applicant would meet the standards and objectives of this article. Prior to making this determination the city administrator may consult with the city engineer.
- (d) Official filing date.
- (1) For the purpose of these regulations, the "official filing date" shall be the date upon which a submission for approval for a site plan, that contains all required elements mandated by city ordinance, is deemed complete by the city administrator. To be considered complete, the application must contain all elements and information required by this article, including all related fees. It is only after the official filing date that any statutory period required for approval or disapproval of the plat shall commence to run. No application shall be deemed officially filed until the city administrator determines that the submission is complete and a certificate of completeness is issued by the city administrator. Failure by the city administrator to make a determination of incompleteness within ten calendar days following the date on which the submission was first received by the city, shall result in the submission being deemed complete, the submission becoming an application, and the "official filing date" shall become the 16th calendar day following initial receipt of the application by the city.
 - (2) Submission timing. A submission for completeness review of any plan shall only be accepted on Wednesdays from 9:00 a.m. to 12:00 p.m. If a submission occurs on a different day or time then it shall be considered

submitted for purposes of this section on the next Wednesday on which the city is open.

- (3) Site plan submissions that do not include all required information and materials designated under this article will be considered incomplete. Such incomplete plans shall not be accepted for official filing by the city, and shall not be scheduled for any action by the city until the proper information is provided to city staff.
- (e) Notice of submittal. Notification shall be provided in accordance with this subsection. Notice must be distributed no less than 15 days after an application has been filed with the city as described above. This notice shall be distributed as follows:
 - (1) Erection of weather-resistant signs on the property under application for the purposes of advertising said permit.
 - (A) The signs shall be provided by the city.
 - (B) Signs placed on the property involved must be within ten feet of any property line paralleling any established or proposed street, and must be visible from that street.
 - (C) All required signs shall remain on the property until final disposition of the permit request is determined.
 - (2) Notice of application shall be placed on the city website.
- (f) Notice to P&Z and city council. Notice of all filed site development permit applications shall be provided in writing by the city to all members of the city council and P&Z.
- (g) Additional information. The city's staff may require information and data other than that set out in this section for specific site plans. This information and data may include but is not limited to geologic information, water yields, flood data and hydrological studies, environmental information, traffic impact analysis, road capacities, market information, historic structure(s) and/or land, economic data for the proposed development, hours of operation, elevations and perspective drawings, lighting, and similar information. Approval of a site plan may establish conditions for construction based upon such information.

Sec. 28.04.010. - Evaluation standards.

- (a) The following criteria have been set forth as a guide for evaluating the adequacy of proposed development within the city or extraterritorial jurisdiction (ETJ), and to ensure that all developments are, to the best extent possible, constructed according to the city's codes and ordinances as applicable.
- (b) The city administrator shall review the concept plan or site plan for compliance with all applicable city ordinances and with the comprehensive plan; for harmony with surrounding uses and with long-range plans for the future development of the city; for the promotion of the health, safety, order, efficiency, and economy of the city; and for the maintenance of property values and the general welfare.
- (c) Site plan review and evaluation by the city administrator for projects located in the city limits shall be performed with respect to the following:
 - (1) The plan's compliance with all provisions of the zoning ordinance, planned development district ordinance, and development agreement when applicable, and other ordinances of the city.
 - (2) The impact of the development relating to the preservation of existing natural resources on the site and the impact on the natural resources of the surrounding properties and neighborhood.
 - (3) The relationship of the development to adjacent uses in terms of harmonious design, setbacks, maintenance of property values, and any possible negative impacts.
 - (4) The provision of a safe and efficient vehicular and pedestrian circulation system.
 - (5) The design and location of off-street parking and loading facilities to ensure that all such spaces are usable

and are safely and conveniently arranged.

- (6) The sufficient width and suitable grade and location of streets designed to accommodate prospective traffic and to provide access for firefighting and emergency equipment to buildings.
 - (7) The coordination of streets so as to arrange a convenient system consistent with the transportation plan of the city.
 - (8) When applicable, the use of landscaping and screening to provide adequate buffers to shield lights, noise, movement, or activities from adjacent properties when necessary, and to complement and integrate the design and location of buildings into the overall site design. See section 28.04.009(a)(7) for applicability.
 - (9) When applicable, exterior lighting to ensure safe movement and for security purposes, which shall be arranged so as to minimize glare and reflection upon adjacent properties. See section 28.04.009(a)(9) for applicability.
 - (10) The location, size, accessibility, and configuration of open space areas to ensure that such areas are suitable for intended recreation and conservation uses.
 - (11) Protection and conservation of soils from erosion by wind or water or from excavation or grading.
 - (12) Protection and conservation of watercourses and areas subject to flooding.
 - (13) The adequacy of water, drainage, sewer facilities, solid waste disposal, and other utilities necessary for essential services to residents and occupants.
 - (14) Consistency with the comprehensive plan.
- (d) Site plan review and evaluation by the city administrator for projects located in the extraterritorial jurisdiction shall be performed with respect to the following:
- (1) The impact of the development relating to the preservation of existing natural resources on the site and the impact on the natural resources of the surrounding properties and neighborhood.
 - (2) When applicable through voluntary agreement, exterior lighting to ensure safe movement and for security purposes, which shall be arranged so as to minimize glare and reflection upon adjacent properties.
 - (3) Protection and conservation of soils from erosion by wind or water or from excavation or grading as it relates to water quality.
 - (4) Protection and conservation of watercourses and areas subject to flooding.
 - (5) When applicable through voluntary agreement or due to services requested of the city, the adequacy of water, drainage, sewer facilities, solid waste disposal, and other utilities necessary for essential services to residents and occupants.
 - (6) Any items agreed to by voluntary agreement with the property owner through a development or other [sic]

Sec. 28.04.011. - Approval process; modifications.

- (a) Pre-application conference. Prior to formal application for approval of any site plan, the applicant(s) shall request and attend a pre-application conference with the city administrator, the city engineer, and any other pertinent city official(s) in order to become familiar with the city's development regulations and the development process. At the pre-application conference, the developer may be represented by its land planner, engineer, and surveyor. The applicant shall inform the city if the developer plans to be represented by its legal counsel at any meeting at least five business days prior to the meeting.
- (b) After a pre-application conference. After a pre-application conference, the city shall issue an application authorization form of the pre-application conference that is valid for a period of 90 days. If a submission is not

deemed a complete application within that time period, an additional pre-application conference will be required unless waived by the city administrator.

- (c) City staff review. Upon official filing of an administratively complete application for site plan approval, the city shall commence technical review of the development proposal by forwarding a copy of the application to site development review committee members, such as the city administrator, city engineer, city planner, building official, and any other pertinent city official(s). Development review committee members shall review the application and shall ascertain its compliance with these and other applicable city regulations. Following city staff review of the plan and supporting documents, and following discussions with the applicant on any revisions deemed advisable and the kind and extent of improvements to be installed, the city administrator shall take action on the administratively complete application within 30 days of filing.
- (d) Action by city administrator.
- (1) The city administrator may:
 - (A) Deem the site plan approved;
 - (B) Deem the site plan approved with conditions;
 - (C) Deem the site plan denied.
 - (2) Any site plan that includes property that is within the historic district shall also be reviewed for compliance with any applicable historical regulations. Plans that include variance requests, or CUPs will not be filed until a written approval of any variance or CUP is received by the applicant and submitted to the city.
 - (3) The city engineer may waive a submittal requirement that the city engineer determines is not essential to demonstrate compliance with this code. A record of submittal requirements that are waived under this subsection shall be maintained.
 - (4) All plan applications that were disapproved by the city administrator or the site development review committee, shall be provided to the applicant with a written statement of the reasons for disapproval that clearly articulated the reason for disapproval including citation to the law, including a statute or city ordinance, that is the basis for the disapproval.
 - (5) If the applicant amends its filed plan application in response to the city's initial disapproval, the applicant may file its amended application at the city on a date or day on which the city is accepting amended filings. The city will then have up to 15 days to approve or disapprove the amended application. The city administrator may either: (A) approve plan if the response adequately addresses each reason for the disapproval; or (B) disapprove plan if the response does not adequately address each reason for disapproval or creates new reasons for a violation of a statute or city ordinance. Any disapproval shall include a written statement of the reasons for disapproval that clearly articulates the reason for disapproval including citation to the law, including a statute or city ordinance, that is the basis for the disapproval. Any plan that is disapproved after the city has reviewed the response in the form of an amended application may be refiled at any time as a new site plan application.
- (e) Revisions to approved plan. Revisions to an approved site plan shall be processed in accordance with the above. Any revisions shall be treated as a new site plan application or site development permit and be reviewed as described above. The only difference between revisions to a site development permit or an approved site plan and a new site plan application shall be the fee if the revisions are determined to be minor deviations or design modifications as listed below. If any work is done in nonconformance with an approved site plan or site development permit, the new site plan fee shall apply to any application for revision.
- (f) Revisions to site development permit. The city administrator may waive the new site development fee in lieu of

the amended site development fee when modifications to the approved site plan are minor deviations or design modifications as determined by the city administrator in consultation with the city engineer and city planner as appropriate. The city administrator shall make this determination based on the:

- (1) The impact of the revisions on neighboring properties, the public, or persons who will occupy or use the proposed development;
- (2) Extent of the revisions on the approved site plan;
- (3) The probable length of review needed by the city engineer and city staff; and
- (4) Any other factors directly related to the regulations applicable to the project. Any changes approved by the city administrator shall be in writing as an amended site plan as described above.

Sec. 28.04.012. - Plan duration.

- (a) Generally. The approval of a r site plan shall be effective for two years. If construction has not commenced within the effective period, then the approved plan shall be deemed to have expired and shall become null and void.
- (b) "Year" defined. A year shall mean a period of 365 calendar days. A year ceases on 12:01 a.m. on the 365th day following city approval of the plan.
- (c) Extensions.
 - (1) Authorized. Prior to the lapse of approval for a plan, the applicant may petition the city administrator, in writing, to extend the plan approval. Such petition shall be considered by the city administrator for administrative approval. One extension of one year in length may be granted, unless otherwise specified by ordinance or agreement. If no petition for extension of plan approval is submitted, then the plan shall be deemed to have expired and shall become null and void. A request for extension will only be considered if filed by the city prior to the expiration of the plan.
 - (2) Determination. In determining whether to grant a request for extension, the city administrator shall take into account the reasons for the lapse, the ability of the property owner to comply with any conditions attached to the original approval, and the extent to which development regulations would apply to the plan at that point in time. The city administrator shall either extend the site plan or deny the request, in which instance the originally approved plan shall be deemed null and void. The property owner must thereafter submit a new plan application for approval, and shall conform to the regulations then in effect.

Sec. 28.04.013. - Site plan requirements—City limits.

- (a) Applicability and purpose. Submission of a site plan and city approval of a site development permit is required as stated above. The purpose of the site plan approval is to ensure that a development project is in compliance with all applicable city ordinances and guidelines prior to commencement of construction. Approval of the site plan, landscape plan (if applicable), and engineering plans is required prior to site construction and release of any building permits.
- (b) Area in site plan. When the overall development project is to be developed in phases, the site plan area shall include only the portion of the overall property that is to be developed or constructed. Any application for a phased site plan shall include an overall plan for the entire property, and each phase shall be required to site plan individually as they develop. The overall plan shall show how the site will work, including driveways, internal streets and fire lanes, including traffic circulation, utility locations, etc.
- (c) Submission requirements. Submission of an application for a site development permit approval shall be done in

accordance with this article. The site plan shall be prepared at a scale no smaller than one inch equals 100 feet and on sheets 22 inches by 34 inches, and it shall clearly show in detail how the site will be constructed such as paving, buildings, landscaped areas, and utilities. The site plan shall include but not be limited to the following:

- (1) A title block within the lower right-hand corner of the site plan with the proposed name of the project or subdivision, the name and address of the owner and the land planner, engineer, architect or surveyor responsible for the plan, the scale of the drawing, both written and graphic scale, the date the drawing was prepared, total site acreage, and the location of the property according to the abstract and survey records of the county;
 - (2) A vicinity or location map that shows the location of the proposed development within the city and in relationship to existing roadways;
 - (3) The most current property plat or boundary survey limits of the tract and each proposed lot or unit, and scale distances with north clearly indicated;
 - (4) The names of adjacent additions or subdivisions, or the name of the owners of record and recording information for adjacent parcels of unplatted land, including parcels on the other sides of roads and creeks;
 - (5) The existing zoning and existing and proposed uses on adjacent land; the location, width and names of all existing or platted streets or other public ways within or adjacent to the tract; driveway locations; any existing easements, with recording information; existing buildings; railroad rights-of-way; topography with contours at two-foot intervals with existing drainage channels or creeks, including the 100-year floodplain, if applicable; any other important natural features such as rock outcroppings, caves and wildlife habitats; and all substantial natural vegetation;
 - (6) Proposed strategies for tree preservation, showing individual trees or tree masses that will be preserved, and the techniques that will be used to protect them during construction;
 - (7) The layout and width, including right-of-way lines and curblines, of existing and proposed thoroughfares, collector streets and intersections, and specific configuration of proposed streets, lots and blocks, proposed driveways, showing driveway widths and distances between driveways, and proposed median openings and left turn lanes on future divided roadways. Existing and planned driveways on the opposite side of divided roadways must also be shown for coordination and sharing of future median openings;
 - (8) Specific locations and footprints of buildings, including but not limited to proposed nonresidential and residential densities; building heights; square footages, which for multi-tenant or multi-purpose buildings must show square footage for each intended use; massing, orientation, loading and service areas, including proposed screening, recycling containers, compactors and dumpster enclosures, including proposed screening, pedestrian walkways, and parking areas including parking ratio calculations; any proposed sites for parks, schools, public facilities, public or private open space; floodplains and drainageways; all proposed and existing utilities and easements; drainage structures; retention/detention ponds with proposed aesthetic treatments; screening walls; fences; signage, if applicable; fire lanes and fire hydrants; lighting, if applicable; visibility easements; and other pertinent development-related features;
 - (9) If required by staff, a landscape plan showing turf areas, tree types and sizes, screening walls, ornamental plantings, planting schedule, including species, planted height, spacing, container and caliper size, numbers of each plant material, any existing wooded areas, trees to be planted, and irrigation plans, if required;
 - (10) Complete erosion and sedimentation control plan as required by section 28.04.016.
 - (11) Any provisions related to a development agreement or planned development district ordinance.
- (d) Conformance to requirements. Provision of the above items shall conform to the principles and standards of

this article and the comprehensive plan. To ensure the submission of adequate information, the city is hereby empowered to maintain and distribute a separate list of specific requirements for site plan review applications. Upon periodic review, the city administrator shall have the authority to update such requirements for site plan and development review application forms. It is the applicant's responsibility to be familiar with, and to comply with, these requirements.

- (e) Effect of review. Approval of the site plan shall result in the issuance of a site development permit. The permit shall be considered authorization to proceed with construction of the site provided all other required city approvals are obtained, such as engineering plans, landscape plan, building facade plans, and building permits.
- (f) Validity. The approved site plan shall be valid for a period of two years from the date of approval.

Sec. 28.04.014. - Site plan requirements—ETJ.

- (a) Applicability and purpose. Submission of a site plan and city approval of a site development permit for a project located in the ETJ is required as stated above. The purpose of the site plan approval is to ensure that a development project is in compliance with all applicable city ordinances and guidelines prior to commencement of construction. Approval of the site plan and engineering plans is required prior to site construction. Landscape and lighting plans shall be submitted if applicable through voluntary agreement to comply by the property owner.
- (b) Area in site plan. When the overall development project is to be developed in phases, the site plan area shall include only the portion of the overall property that is to be developed or constructed. Any application for a phase site plan shall include an overall plan for the entire property.
- (c) Submission requirements. Submission of an application for a site development permit approval shall be done in accordance with this article. The site plan shall be prepared at a scale no smaller than one inch equals 100 feet and on sheets 22 inches by 34 inches, and it shall clearly show in detail how the site will be constructed such as paving, buildings, landscaped areas, and utilities. The site plan shall include but not be limited to the following:
 - (1) A title block within the lower right-hand corner of the site plan with the proposed name of the project or subdivision, the name and address of the owner and the land planner, engineer, architect or surveyor responsible for the plan, the scale of the drawing, both written and graphic scale, the date the drawing was prepared, total site acreage, and the location of the property according to the abstract and survey records of the county;
 - (2) A vicinity or location map that shows the location of the proposed development within the ETJ and in relationship to existing roadways;
 - (3) The most current plat or boundary survey limits of the tract and each proposed lot, and scale distances with north clearly indicated;
 - (4) The names of adjacent additions or subdivisions, or the name of the owners of record and recording information for adjacent parcels of unplatted land, including parcels on the other sides of roads and creeks;
 - (5) The location, width and names of all existing or platted streets or other public ways within or adjacent to the tract; any existing easements, with recording information; existing buildings; railroad rights-of-way; topography with contours at two-foot intervals with existing drainage channels or creeks, including the 100-year floodplain, if applicable; any other important natural features such as rock outcroppings, caves and wildlife habitats; and all substantial natural vegetation;
 - (6) The layout and width, including right-of-way lines and curblines, of existing and proposed thoroughfares, collector streets and intersections, and specific configuration of proposed streets, lots and blocks, proposed

driveways, showing driveway widths and distances between driveways, and proposed median openings and left turn lanes on future divided roadways. Existing and planned driveways on the opposite side of divided roadways must also be shown for coordination and sharing of future median openings;

- (7) Specific locations and footprints of buildings, including but not limited to proposed nonresidential and residential densities; square footages, orientation, loading and service areas, including pedestrian walkways, and parking areas; floodplains and drainageways; all proposed and existing utilities and easements; drainage structures; retention/detention ponds with proposed aesthetic treatments; fences; signage, if applicable; fire lanes and fire hydrants; lighting, if applicable; visibility easements; and other pertinent development-related features.
- (8) Complete erosion and sedimentation control plan as required by section 28.04.016.
- (d) Conformance to requirements. Provision of the above items shall conform to the principles and standards of this article. To ensure the submission of adequate information, the city is hereby empowered to maintain and distribute a separate list of specific requirements for site plan review applications. Upon periodic review, the city administrator shall have the authority to update such requirements for site plan and development review application forms. It is the applicant's responsibility to be familiar with, and to comply with, these requirements.
- (e) Effect of review. Approval of the site plan shall result in the issuance of a site development permit. The permit shall be considered authorization to proceed with construction of the site provided all other required city approvals are obtained, such as engineering plans, landscape plan, building facade plans, and building permits.
- (f) Validity. The approved site plan shall be valid for a period of two years from the date of approval.

Sec. 28.04.015. - Variances.

- (a) Presumption. There shall be a presumption against variances. However, if the applicant requests a variance in writing, the site development review committee may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. For any variance to apply to a site plan, the variance must be approved prior to submitting for a site plan.
- (b) Identification. All variances requested for a project must be identified during the site plan approval process. Any requested variance shall be submitted for approval and complete the approval process prior to submission for site plan approval.
- (c) Conditions. In granting a variance, the site development review committee shall prescribe upon the applicant only conditions that it deems necessary to or desirable in the public interest.
- (d) General criteria. In making the findings required below, the site development review committee shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, when applicable, the number of persons who will reside or work in the proposed development, and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.
- (e) Required findings. No variance shall be granted unless the site development review committee finds that all of the following provisions are met, and the burden shall be on the developer to show that the following provisions are met:
 - (1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of this land;
 - (2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
 - (3) That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to

other property in the area; and

- (4) That the granting of the variance will not have the effect of preventing the orderly development of other land in the area in accordance with the provisions of this article.
- (f) Pecuniary hardship. Pecuniary hardship to the applicant, property owner or developer, standing alone, shall not be deemed sufficient to constitute undue hardship.
- (g) Restrictions. When the site development review committee determines that a variance is warranted, the variance permitted shall be the minimum departure from the terms of this article necessary to avoid such deprivation of privileges enjoyed by such other property to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences.
- (h) Adequate basis for variance. It shall be an adequate basis for granting a variance that doing so will enable the applicant to create additional open space, reduce impervious cover, preserve trees, maintain critical environmental features, ensure more wildlife preservation, or bring nonconforming structures (including signs) into compliance with current regulations. This section is designed to achieve a more favorable outcome for the general public than would be possible complying with the strict mandates of this article.
- (i) Variances for projects in ETJ. Should an applicant apply for any variances for site development applications for projects located in the ETJ, compliance with the city's outdoor lighting ordinance may be a condition of an approved variance.
- (j) Recommendation by site development review committee. The site development review committee shall take action on a proposed variance. At the recommendation of the site development review committee, variances may be referred to the planning and zoning commission for their consideration and recommendation. Recommendations of the planning and zoning commission on each item shall be made and provided to the city council for final approval.
- (k) Appeals. The applicant may appeal the site development review committee's decision to the planning and zoning commission. The planning and zoning commission shall hold a public hearing for consideration of the appeal after completion of public notice procedures described in this article.
- (l) Record. Such findings of the site development review committee shall be kept on file at city hall in accordance with the city's record retention policies. Shall a decision be appealed to the P&Z, the finding shall be incorporated into the official minutes of the P&Z meeting at which the variance is considered. Variances may be granted only when in harmony with the general purpose and intent of this article so that the public health, safety, and welfare may be secured and substantial justice is done.

Sec. 28.04.016. - Erosion control.

- (a) The purposes of controlling erosion and sedimentation during the construction stages in a site development are to minimize nuisances on adjacent properties, avoid siltation and water quality degradation of streams, and preserve the natural and traditional character of watercourses running through the area.
- (b) The developer shall submit as a part of the final site development plans a complete erosion and sedimentation control plan specifying the type, physical details, installation procedures, and location of controls to be used, the timing in relation to each stage of the construction sequence, maintenance of controls, and plans and techniques to be used for revegetation and slope stabilization, as specified in this article.
- (c) The accepted guides for preparing control plans are the City of Austin Erosion and Sedimentation Control Manual, and TCEQ TPDES TXR150000. Other generally accepted or innovative and effective engineering procedures may be used in conjunction with, or instead of, those prescribed in this section if approved by the

city engineer.

Sec. 28.04.017. - Clearing and rough-cutting.

- (a) Prohibition. No right-of-way clearing or rough-cutting shall be permitted prior to the issuance of a site development permit by the city. Limited clearing for soil testing and surveying shall be allowed.
- (b) Inclusion in plan. Clearing for the temporary storage of spoil or construction equipment, or for permanent disposal of fill material or spoils, shall be so designated on the submitted site plan. The developer must provide erosion and sedimentation controls and the continuing maintenance thereof acceptable to the city engineer.
- (c) Initial brush removal.
 - (1) Applicants may mechanically remove brush without material soil surface disruption prior to receiving approval of plats in order to determine the location of roads, lots, utilities and drainage areas with regard to preservation of environmental features. Applicants may exercise this option only by utilizing rubber-tired equipment for brush removal.
 - (2) Prior to site plan approval, owners may neither remove any tree (other than cedar trees) with a trunk having a diameter greater than six inches measured four and one-half feet above the base (ground elevation) of the tree, nor materially alter the existing drainage patterns, prior to receiving city approval for site plans. Owners shall ensure that as much area as possible is left undisturbed for as long as reasonably possible.
 - (3) Agricultural and farming operations on land subject to the Ag exemption for tax purposes are exempt from the restrictions of this section.
- (d) Time period before final surfacing. The length of time between rough-cutting and final surfacing shall not exceed 12 months.
- (e) Vegetation in water quality buffer zone. Vegetation within the water quality buffer zone shall not be disturbed except for purposes consistent with development activity permitted by this article.

Sec. 28.04.018. - Cuts and fills.

- (a) No fill shall exceed a maximum of six feet of depth, except as approved by the city engineer, in the areas designated as permanent on-site spoils disposal sites; provided, however, that fill placed under foundations with sides perpendicular to the ground, or with pier and beam construction, need not comply with this requirement.
- (b) No cut on any site shall be greater than six feet, unless approved by the site development review committee, except for structural excavation.
- (c) All new drainage channels on the site shall be designed to minimize potential erosion. All constructed and altered drainage channels shall be stabilized and vegetated immediately after final grading. All new drainage channels shall be constructed in accordance with approved site plan.

Sec. 28.04.019. - Sidewalks.

- (a) Purpose and development review committee.
 - (1) Pedestrian concrete walkways (sidewalks) shall be required for all residential and nonresidential developments within the city limits and ETJ. Sidewalk width and location shall be in accordance with the transportation master plan (TMP).
 - (2) When not defined by the TMP the following shall apply:
 - (A) For commercial site developments: A minimum five-foot sidewalk shall be provided within adjacent street right-of-way (ROW) along the entire frontage of the property.

(B) For residential subdivisions: A minimum five-foot sidewalk shall be required within ROW on both sides of all the development.

(3) Development review committee. A group consisting of the city administrator or designee, the city engineer, building official, and the city planner. Also known as the site development review committee.

(4) Sidewalk compliance is required prior to a Site Plan being approved whether sidewalks were approved and constructed at the time of platting or upon site plan application.

(b) Requirements.

(1) Sidewalks shall be constructed in compliance with the Dripping Springs Technical Criteria Manual (DSTC).

(2) Sidewalk plan. A sidewalk plan shall be required on all construction plans and site development plans. Plans shall show the location of all proposed sidewalks and shall state at what stage of the project they will be constructed. If compliant sidewalks have already been constructed, the constructed sidewalks shall appear on all construction plans and site development plans.

(3) Sidewalk alignment. Sidewalk alignment shall comply with that set forth in the TMP with the following exceptions:

(A) A sidewalk shall be allowed to meander within the ROW or an easement upon approval by the site development review committee.

(B) Routing to clear poles, trees, or other obstacles shall be subject to approval by the site development review committee.

(C) When not defined by the TMP, sidewalks shall be constructed within the ROW, a minimum one foot away from the ROW line, and at least five feet away from the street curb.

(D) In certain instances, the development review committee may approve placement of sidewalks adjacent or closer than five feet to the curb or located on private property and in a public access easement, provided that such placement benefits the general public by allowing more space for pedestrian safety, drainage facilities, landscaping or tree preservation.

(E) Where no raised curb is installed, the sidewalk shall be at least ten feet from the edge of pavement (EOP) unless otherwise approved by the development review committee.

(4) Root barriers shall be required, as determined by the city engineer, in locations where trees are (or will be) in close proximity to the sidewalk.

(5) ADA requirement. All sidewalks shall be designed and constructed to meet the Texas Accessibility Standards administered by the Texas Department of Licensing and Regulation and the Americans with Disabilities Act, as amended. Barrier-free ramps shall be constructed at all street intersections and at any other locations deemed appropriate by the city due to anticipated pedestrian travel patterns.

(6) Finish. All sidewalks shall have a light broom-swept finish to provide a non-slip surface.

(c) City acceptance and certificate of occupancy.

(1) Sidewalks along streets or in public sidewalk easements are considered part of the overall development's required public improvements and shall be installed prior to acceptance of the public improvements by the city and prior to final plat approval, unless fiscal surety is provided.

(a) Exception: To prevent damage to newly constructed sidewalks. Construction of sidewalks fronting residential or commercial lots may occur after city acceptance of public infrastructure and final plat approval if fiscal surety is provided.

(b) Exception: For site developments with no public improvements other than sidewalks, sidewalks shall be

installed prior to the city's final inspection of the development.

- (2) Certificate of occupancy will not be issued for any lot or unit within the development until the required sidewalks are in place.

(d) Fee in lieu of construction.

- (1) Fee-in-lieu of construction of sidewalks may be accepted when approved by the development review committee.
- (2) The development review committee shall consider the following criteria when evaluating a request for fee-in-lieu of construction for sidewalks:
 - (A) Proximity to the nearest existing sidewalk.
 - (B) Proximity to public facilities, such as public or private schools, libraries, and other government buildings;
 - (C) Whether any public sidewalk improvements are planned or contemplated in the area; and
 - (D) Any other information deemed appropriate by the Development Review Committee.
- (3) Fee-in-Lieu payments shall be placed in the City of Dripping Springs Sidewalk Fund. Payments will be calculated based on the square feet of sidewalk construction waived as set out in the fee schedule. Funds shall be used for the sole purpose of sidewalk improvements and pedestrian amenities in public right-of-way, parks, and sidewalk easements within the city. The fee in lieu of sidewalks shall be paid in full to the city prior to approval of the construction plans or site development plans.

(Ord. No. 2020-38, § 2, 9-21-2020)

Sec. 28.04.020. - Post-construction restoration plan.

The plan and report must describe the developer's proposed measures for post-construction restoration, including restoring cuts and fills, spoil disposal and equipment storage sites and other land disturbances.

Sec. 28.04.021. - Inspections.

- (a) Consent. Any person or successor and assigns who has filed a site development plan for approval pursuant to this article agrees to allow entry on the tract or premises which are the subject of such applications for the purpose of inspection of conditions during the approval stage and during development and construction by duly authorized inspectors of the city.
- (b) Costs. Inspections mandated under this section shall be at the applicant's expense, or at the expense of the owner, at the time the inspection is performed, in accordance with the fee schedule adopted by the city council.
- (c) Construction phase. The city shall cause such inspection to be made of the land or premises during development and construction so as to assure full compliance with all terms, conditions, requirements, and agreements to which the person obtaining approval of a site development plan under this article is bound.
- (d) Notices. The applicant shall designate one person or legal entity, with a current address, to which any notice of noncompliance shall be given pursuant to this section.

Sec. 28.04.022. - Construction performance.

(a) Review by city engineer.

- (1) All plans and actual construction of improvements required under this article shall be reviewed by the city engineer or a designated city representative.
- (2) No plans or completed construction will be considered for approval or acceptance by the city without

certification from the applicant, including an engineer's concurrence letter from the engineer of record, that such plans and calculations and such construction are complete, and that they are in accordance with specifications and standards contained or referenced herein, and/or with plans previously approved for the subject site development permit.

- (3) The city engineer or a designated city representative may make field inspections during the construction period. If requested by the city engineer, the design engineer of record shall provide all records of materials testing in accordance with standard civil engineering practice.
- (4) If the city engineer rejects such construction, the city attorney shall, on direction of the council, proceed to enforce the guarantees provided in this article.
- (5) If requested by the city engineer, the design engineer of record shall submit written progress reports during construction periods.
- (6) The final responsibility for adequacy and acceptability of all construction shall rest with the developer and his design engineer of record.

(b) Right of entry.

- (1) Whenever necessary for the purpose of investigating or enforcing the provisions of this article, or whenever any enforcement officer has reasonable cause to believe that there exists in any structure or upon any premises any condition which constitutes a violation of this article, the officer may enter such structure or premises at all reasonable times to inspect the same, or to perform any duty imposed upon any said officer by law.
- (2) Any permit holder shall agree to allow entry on the land or premises which are the subject of the permit for the purpose of inspection by city officials.

Sec. 28.04.023. - Required signature blocks.

- (a) Projects located in the city limits shall include the following language on the cover sheet:

Reviewed by:

_____ City of Dripping Springs City Administrator	_____ Date	
_____ City Engineer	_____ Date	
_____ Emergency Services District #6	_____ Date	

- (b) Projects located in the ETJ shall include the following language on the cover sheet:

Reviewed by:

_____ City of Dripping Springs City Administrator	_____ Date	
_____ City Engineer	_____ Date	
_____ Hays County Fire Marshal (if applicable)	_____ Date	

Sec. 28.04.024. - Approval process of pool encroachment waiver.

- (a) City staff review. Upon official submission of a complete application that requests a pool encroachment waiver, the city shall commence review of the request by forwarding a copy of the application to the city building official and city engineer. The city building official and city engineer shall review the application and shall ascertain its compliance with these regulations. Following city staff review of the plan and supporting documents, and following discussions with the applicant on any revisions deemed advisable and the kind and extent of the pool improvements to be installed, the applicant shall resubmit additional copies of the corrected plan to the city building official within 60 calendar days following the date on which the applicant received official notification of the completion of the review by the city building official and city engineer.
- (b) Action by city building official.
- (1) The city building official may:
 - (A) Deem the pool encroachment approved;
 - (B) Deem the pool encroachment denied; or
 - (C) Make an initial determination and refer the matter to the P&Z and council.
 - (2) If the city building official approves the pool encroachment waiver, no approval by the P&Z or city council is required. Pool encroachment waiver requests must meet the requirements of chapter 28, exhibit A, section 1.6 and this section in order to be reviewed and approved by the city building official.
 - (3) The city building official may approve applications for the installation of pools within setback area on a property so long as the pool does not encroach within five feet of a neighboring property. The city building official shall not administratively approve an encroachment by a pool pump or other pool equipment, other than the pool itself, into the setback. Any application for a pool encroachment requires notification as outlined in section 1.6.2 of exhibit A: chapter 28 of the subdivision ordinance. At the city building official's discretion a request for a pool encroachment waiver may be referred to the P&Z and council for approval or denial. In making the decision to refer a request for a pool encroachment waiver to the P&Z and council, the building official may consider the following factors:
 - (A) Amount of impervious cover proposed;
 - (B) Proximity to nearby developed properties; and
 - (C) Anticipated impact of project or encroachment on neighbors.
- (c) Denial by the city building official. The city building official's denial of a pool encroachment may be reviewed by

the P&Z and city council through the review process outlined herein. If the applicant desires to appeal the city building official's denial then the applicant shall submit the denial and application to the city administrator no later than seven calendar days prior to the P&Z meeting. Copies of the denied application resubmitted to the city less than seven days prior to the meeting date shall not be accepted or forwarded to the P&Z.

(d) Action by P&Z and city council.

- (1) Without regard to the final action by the city building official, the P&Z shall review an application for a pool encroachment waiver upon receipt of written request from:
 - (A) The mayor;
 - (B) Two city councilmembers;
 - (C) The P&Z chairman; and/or
 - (D) Three P&Z members.
- (2) All applications reviewed by the P&Z under this subsection shall then be referred to the city council for approval or denial.
- (3) The city council shall consider an application for a pool encroachment when required by this section or chapter 28, exhibit A, subdivision ordinance, section 1.6.
- (4) Once the appeal is received, the city building official shall schedule consideration of the pool encroachment waiver on the regular agenda of the P&Z, within 30 days after the submission is received, or, in the case of an incomplete submission, after the submission is deemed complete. The P&Z shall review the appeal and shall recommend approval, approval subject to certain conditions, or disapproval of the pool encroachment. If the P&Z recommends approval, with or without conditions, of the plan, then it will be forwarded to the city council for consideration. If the P&Z recommends disapproval of a plan application, the P&Z shall state such disapproval and the reasons therefor.
- (5) The applicant or property owner may appeal such decision of the P&Z to the city council by filing a written notice of appeal in the office of the city administrator no later than ten calendar days after the date upon which the P&Z denied the application. The notice of appeal shall set forth in clear and concise fashion the basis for the appeal. The city council shall consider the appeal at a public meeting no later than 30 calendar days after the date upon which the notice of appeal was filed. The city council may override the decision of the P&Z by vote of the majority of the councilmembers present. The city council may also, where appropriate, remand the plan application back to the P&Z for reconsideration if it believes that there is a compelling reason to do so, such as the introduction of significant new facts or testimony. The city council shall determine final approval or disapproval of all plan appeals.

(Ordinance 2019-30, adopted 9/10/19)

Sec. 28.04.025. - License to encroach.

- (a) Purpose. The purpose of a license to encroach is to determine the potential impacts of proposed improvements, structures, facilities, and encroachments into a public street, roadway, sidewalk, right-of-way, or easement in order to maintain their safety, mobility, and operational functionality.
- (b) Applicability. A license to encroach, in the procedures provided for in this section, is required for the following:
 - (1) Encroachments of new improvements including air conditioning pads, fences, roof overhangs, sheds, and other small improvements that do not include dwellings or other buildings into a public street, roadway, sidewalk, or right-of-way within the city limits and easements located within the city limits or the extra-territorial jurisdiction.

- (2) If a property owner applies for a change to a property on which an encroachment currently exists where no license has been issued, and the change would increase the encroachment or create a new encroachment, an application for a license to encroach shall be submitted and the change only granted if a license to encroach is granted.
- (c) Those improvements, as defined above, that encroach into a public street, roadway, or sidewalk shall obtain approval from the city council, in addition to this license, other than applications for driveways and utility cut permits which shall continue to be processed as detailed in chapter 28 of the Code of Ordinances.
- (d) Review of a license to encroach shall be done by the development review committee. The decision of the development review committee shall be final.
- (e) Criteria for approval. No license to encroach will be denied unless it is determined by the development review committee that the proposed location or type of improvement will negatively impact the function of the public street, roadway, sidewalk, right-of-way, or easement or have an adverse effect upon the health, safety, or welfare of the general public or an easement holder denies encroachment. In making this determination, the following will be evaluated:
- (1) The proposed encroachment into a public street, roadway, sidewalk, right-of-way, or easement by any person shall not interfere with the lawful use thereof.
 - (2) Any proposed construction within a public street, roadway, sidewalk, right-of-way, or easement shall be in accordance with this code, the city's adopted construction standards, and any other applicable ordinances and regulations.
 - (3) At any time during the construction of any structure within a public street, roadway, sidewalk right-of-way, or easement:
 - (A) The applicable public street, roadway, or sidewalk shall be kept open for vehicular and pedestrian traffic in a reasonable manner and sidewalks shall not be obstructed as to prevent the use thereof by pedestrians;
 - (B) Dirt and other material removed from the construction of any structure within a public street, roadway, sidewalk, right-of-way or easement shall not be allowed to remain on the street or sidewalk and shall be removed immediately at the sole cost, risk, liability, and expense of the licensee;
 - (C) All excavations and obstructions of any kind that take place during the period of the licensee's construction shall be properly barricaded and well-illuminated during the night, subject to the approval of the building official.
- (f) Submission requirements.
- (1) Any request for a license to encroach shall be accompanied by an application approved by the city, any required signatures, and the fee as set by city council plus reimbursement of consultant fees, if any. The application shall be accompanied with a letter of consent or signature for the water, electric, and wastewater utility (if any) when an encroachment will extend or expand into an area used or which could be used in the future by the utility.
 - (2) The development review committee may determine further studies will be required. Such studies may include, but are not limited to, an engineering study, which may be required at the determination of the city engineer. Only the elements of an engineering study that are necessary to answer specific questions that arise during the review process will be required for submittal.
- (g) Responsibility for final action. The development review committee is responsible for final action on licenses to encroach into an easement. For those requests that encroach into a public street, roadway, sidewalk, or right-of-

way, final approval shall be obtained from the city council, other than applications for driveways and utility cut permits which shall continue to be processed as detailed in chapter 28 of the Code of Ordinances.

- (h) Expiration. The city shall provide written notice at least 90 days in advance to the licensee, its representatives, successors, or assigns, to take possession of and use all or any part of the licensed area in the event that such use be reasonably desired or needed by the city for street, sewer, transportation, or any other public or municipal use or purpose. During such time, it is the responsibility of the licensee, its representatives, successors or assigns to remove the encroachment(s). In such an event, the city shall have the right to cancel the revocable license as to that portion of the licensed area so designated and required by the city.

(Ord. No. 2020-55, § 2, 11-10-2020)

ARTICLE 28.05 - CONSERVATION DESIGN

Sec. 28.05.001. - Title.

This article shall be commonly cited as the conservation design ordinance.

(Ordinance 1245.1, ex. A, § 1.1, adopted 4/19/05)

Sec. 28.05.002. - Intent.

The purpose of the conservation development option is to preserve rural landscape character, natural resource areas, farmland, and other large areas of open land, while permitting development in an open space setting, located and designed to reduce the perceived intensity of development and provide privacy for dwellings. Specific objectives are as follows:

- (1) To maintain and protect the region's rural character by preserving important landscape elements, including those areas containing unique and environmentally sensitive natural features such as woodlands, hedgerows, stream corridors, wetlands, floodplains, prairies, woodlots, ridge tops, steep slopes, critical species habitat, and natural areas, by setting them aside from development. Such areas contained in the city limits and the extraterritorial jurisdiction of the city, as identified by the 2004 Existing Land Use Inventory maps, are of particular significance for conservation of the natural Central Texas Hill Country landscape.
- (2) To preserve scenic views and to minimize views of new development from existing streets and roadways.
- (3) To provide for the unified and planned development of parcels 50 acres or larger in size for clustered, single-family, residential uses, incorporating large areas of permanently protected common open space.
- (4) To provide for greater design flexibility in the siting of dwellings and other development features than would be permitted by the application of standard subdivision regulations in order to minimize the disturbance of rural landscape elements, scenic quality, and overall aesthetic value of the landscape.
- (5) To increase flexibility and efficiency in the siting of services and infrastructure, by reducing street length, utility requirements, drainage requirements, and the amount of paving required for residential development, where possible.
- (6) To create groups of dwellings with direct visual and physical access to common open space.
- (7) To permit active and passive recreational use of common open space by residents of a cluster development or by the public.
- (8) To reduce erosion and sedimentation by retaining existing vegetation and minimizing development on steep slopes.

- (9) To allow for the continuation of agricultural uses in those areas best suited for such activities and when such activities are compatible with adjoining residential uses.
- (10) To permit various means for owning common open space and for protecting it from development in perpetuity.
- (11) To create an attitude of stewardship, or caring, for the land within common open space by requiring a land management, or stewardship, plan for the common open space.
- (12) To implement the objectives of the city's comprehensive plan.

(Ordinance 1245.1, ex. A, § 1.2, adopted 4/19/05)

Sec. 28.05.003. - Scope.

This article applies to all property within the city limits and the ETJ.

(Ordinance 1245.1, ex. A, § 1.3, adopted 4/19/05)

Sec. 28.05.004. - Definitions.

- (a) Additional provisions. This list of definitions includes only those terms or phrases that are particular to cluster zoning ordinances and may not already be included in typical current local zoning ordinances. These terms or phrases should be added to any existing list of definitions contained in zoning ordinances to which these model cluster development provisions might be added. It should be noted that these definitions are particular to this model. If provisions of this article are changed, some definitions will also need to be changed. For example, the maximum number of units in a "cluster group" may be reduced or increased; similarly, the amount of required open space may be reduced or increased.

- (b) Cluster zoning definitions.

Cluster development. A form of residential development that concentrates buildings or lots on a part of the site to allow the remaining land to be used for common open space, recreation, and preservation of environmentally sensitive features. The concentration of lots is facilitated by a reduction in lot size. A cluster development will consist of one or more cluster groups surrounded by common open space.

Cluster group. A group of single-family detached dwellings within a cluster development, surrounded by common open space that comprises at least 60 percent of the gross parcel area. The outer boundary of a cluster group shall be defined by the rear lot lines of the lots within the group.

Common element. The common facilities in a condominium.

Common facilities. All the real property and improvements set aside for the common use and enjoyment of the residents of a cluster development, including, but not limited to, buildings, open space, private streets, parking areas, walkways, recreation areas, drainage easements, and any utilities that service more than one unit, such as sewer and water supply facilities.

Common open space. Undeveloped land within a cluster development that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development. Common open space shall not be part of individual residential lots, and shall be substantially free of structures, but may contain such recreational facilities for residents as are shown on the approved development plan.

Community association. A condominium or homeowners' association.

Conceptual plan. A plan furnished by the applicant and submitted to the city, which provides a generalized view of the proposed development, site conditions and limitations, open space areas, housing cluster locations and groupings, and critical environment features of the parcel.

Condominium. A form of ownership combining individual unit ownership with shared use and ownership of common property or facilities, established in accordance with the requirements of the Texas Statutes. Common areas and facilities are owned by all members of the condominium association on a proportional, undivided basis. A condominium is a legal form of ownership and not a specific building type or style.

Condominium association. An association, whose members consist of owners of units in a condominium, which administers and maintains the common property and common elements of a condominium.

Conservation easement. The grant of a property right or interest from the property owner to another person, agency, unit of government, or organization stipulating that the described land shall remain in its natural, scenic, open, or wooded state, precluding future or additional development.

Deed restriction. A restriction on the use of a property set forth in the deed.

Density bonus. An increase in the number of dwelling units permitted within the net buildable area, in exchange for the preservation of a larger percentage of common open space in the development.

Development rights. A broad range of less than fee-simple ownership interests. An owner may keep fee-simple rights to his land and sell the development rights to another. The owner retains the title, but agrees to keep the land natural and undeveloped, with the right to develop resting with the holder of the development rights.

Environmental corridor. An area of contiguous or near-contiguous undeveloped rural land which constitutes a historic habitation or migration route for native fauna and/or flora.

Floodplains. Those lands, including the floodplain, flood fringe, floodway, and channel, subject to inundation by the 100-year recurrence interval flood or, where such data is not available, the maximum flood of record.

Hedgerow. A row of shrubs or trees planted for enclosure or separation of fields.

Height of building. The vertical distance measured from the average elevation of the existing grade of the building to the highest point of a flat or multi-level roof or, for gable or hip roofs, to the mean height between the eaves and the ridge. Chimneys, spires, towers, mechanical penthouses, tanks, and similar projections not intended for human occupancy shall be excluded.

Homeowners' association. An association combining individual home ownership with shared use, ownership, maintenance, and responsibility for common property or facilities, including private open space, within a land division or cluster development.

Net buildable acreage or net buildable area (NBA). A calculated area upon which the density for cluster development is computed. Net buildable acreage is the area of a site remaining after subtracting all or a percentage of the following areas from the site's gross area: existing street rights-of-way, floodplains, wetlands, woodlands, ponds and lakes, steep slopes, and utility and railway rights-of-way.

Nonprofit conservation organization. A nonprofit corporation, charitable trust, or other nonprofit organization described in section 501(c)(3) of the Internal Revenue Code, which includes the "acquisition of property or rights in property for conservation purposes" as part of its mission, as reflected in the bylaws, charter, or incorporation papers of the organization.

Primary conservation areas. This category consists of wetlands, lands which are generally inundated (within ponds, lakes, creeks, etc.), and land within the 100-year floodplain or on slopes exceeding 25 percent. These sensitive lands are deducted from the total parcel acreage to produce the net buildable acreage on which density shall be based.

Restrictive covenant. See "Deed restriction."

Secondary conservation area. Areas totaling not less than 40 percent of the remaining tract acreage, after the removal of primary conservation area acreage.

Separation distance. The required dimensional distance between the outer boundary of a cluster group and another specified feature of the development.

Street tree. A tree planted within the right-of-way of an arterial, collector, or neighborhood street and maintained by the property owners' association or condominium association.

Woodland. An area of land characterized by dense or moderately dense tree covering. Overgrowths of non-native, invasive species of trees are not included in this definition.

(Ordinance 1245.1, ex. A, § 10, adopted 4/19/05)

Sec. 28.05.005. - Uses.

(a) Principal permitted uses.

(1) Single-family residential uses as follows:

- (A) Clustered single-family detached or attached residential dwellings, with at least 40 percent of the gross development parcel in common open space.
- (B) Single-family farmstead dwellings with or without associated agricultural structures such as barns, silos, storage sheds, and stables.

(2) Agricultural/horticultural activities including:

- (A) The small-scale cultivation, harvesting, and sale of crops and related products.
- (B) Orchards, nurseries, greenhouses, and related horticultural enterprises.
- (C) Growing and sale of Christmas trees.

(3) Open space uses, primarily passive in nature, including wildlife sanctuaries, forest preserves, nature centers, trails, picnic areas, and similar uses.

(4) Improved recreational or athletic facilities, comprising no more than ten percent of the total common open space.

(5) Conservation of natural features in their existing state.

(6) Stormwater management facilities for the proposed development, including detention and retention basins.

(7) Essential services such as neighborhood-oriented retail and office facilities, when the total acreage of the development site is 500 acres or more.

(8) The following uses are permitted in common open space in cluster development:

- (A) Uses listed above.
- (B) Water supply and sewer facilities for individual lots, groups of lots, or the entire development.
- (C) Utility and street rights-of-way, except that their land areas shall not count toward the 50 percent minimum open space requirement.
- (D) Parking areas where necessary to serve active recreation facilities.

(b) Accessory uses.

(1) Attached and detached private garages and storage structures, provided that:

- (A) One detached garage, equal in area to not more than 800 square feet or 20 percent of the square footage of the primary dwelling, shall be permitted.
- (B) One detached storage structure, not exceeding 500 square feet, shall be permitted on a lot, in addition to any attached or detached garage.

(2) Home occupations which are clearly incidental to the principal residential use, provided that the requirements of the city Code of Ordinances are met.

(c) Conditional uses. The following conditional uses may be permitted by the city, provided the proposed use shall not adversely impact the rural character of the development and shall be consistent with the overall objectives of the subdivision ordinance of the city:

- (1) Community gardening uses for storage of equipment and/or supplies requiring the installation of new buildings or other structures in the common open space of a cluster development. The total building coverage of such new buildings or structures shall not exceed 3,000 square feet.
- (2) Camping or picnic facilities for private organizations such as civic, professional or community groups, provided such facilities are compatible with adjacent uses.
- (3) Recreational uses requiring the installation of new buildings or other structures in the common open space of a cluster development. The total building coverage of such new buildings or structures shall not exceed 6,000 square feet.

(d) Prohibited uses and activities.

- (1) The use of non-recreational motor vehicles except on public streets and parking areas. Maintenance, law enforcement, emergency, and farm vehicles are exempt from this limitation.
- (2) The cutting of healthy, mature or protected trees, re-grading, topsoil removal, altering, diverting, or modifying water courses or bodies, or encroachment on any critical environment feature, such as sinkholes, karst formations, steep slopes, caves, or wetlands in the common open space areas. (This requirement shall not apply to the removal of noxious or invasive species of trees for the purpose of woodlands or landscape management or for the protection of public safety and health, or to such activities on a homeowner's property, in keeping with the city landscaping ordinance.)
- (3) Commercial animal feedlots or poultry operations.

(Ordinance 1245.1, ex. A, § 2, adopted 4/19/05)

Sec. 28.05.006. - Site analysis; density and dimensional standards.

- (a) Site analysis required. To aid the city in determining whether the applicant has accomplished the intent and objectives as described in this article, and the design standards for cluster groups and common open space as described in this article, the initial application for any development shall include a site analysis of the parcel and a conceptual plan for the development.
- (b) Review of site analysis. The applicant or his/her official representative shall submit these documents to the city administrator for staff review, who will then submit the application with staff comments to the planning and zoning commission for the purpose of obtaining early agreement on the apparent suitability of the parcel to conservation development and the completeness of the applicant's conceptual plan.
- (c) Specifications for site analysis. The specific requirements for the site analysis and conceptual plan shall include,

at minimum:

- (1) A topographical map with elevation contours to scale and showing ten-foot intervals.
 - (2) The location of severely constraining elements such as steep slopes (over 25 percent), wetlands, watercourses, intermittent streams, the 100-year floodplain, all rights-of-way and easements, karsts, caves, sinkholes and other critical environment features.
 - (3) The location of significant features such as woodlands, tree lines, open fields or meadows, scenic views, watersheds divides, existing fences or stone walls, rock outcroppings, cliffs, and existing roads or trails.
 - (4) Locations of any existing structures or ruins.
 - (5) The approximate location(s) and dimensions of proposed open space areas.
 - (6) Configuration and location(s) of proposed housing clusters groups.
 - (7) Locations of areas of low and moderate septic tank tolerant soils.
 - (8) Clear identification of primary and secondary conservation zones.
- (d) Site inspection. After the site analysis has been prepared, city staff shall schedule a mutually convenient date to walk the property with the applicant and his/her designer. Elected or appointed officials may be invited to this inspection. The purpose of this visit is to familiarize local officials with the property's special features, and to provide them an informal opportunity to offer guidance or, at minimum, a response to the applicant's conceptual plan for the development, including areas identified for preservation and areas identified for the location of housing clusters, community amenities, and infrastructure.
- (e) Density and dimensional standards. The following density and dimensional standards shall apply to residential cluster development:

	Lots or Parcels Served by Private On-Site Waste Treatment Systems	Lots or Parcels Served by Centralized Sewer Facilities
Maximum density ^a	1 dwelling unit per 1 net buildable acre	1 dwelling unit per 0.75 net buildable acre
Minimum lot area ^a	35,000 square feet	5,000 square feet
Minimum lot width, measured at front lot line	50 feet	40 feet
Minimum front yard	25 feet	25 feet
Minimum rear yard	15 feet	15 feet
Minimum side yard	5 feet	NA
Accessory building setback ^b		
From side lot lines	5 feet	5 feet

From rear lot line	10 feet	10 feet
Minimum usable common open space (percentage of gross acres)	40%	40%
Maximum height	35 feet	35 feet
Principal structure	35 feet	35 feet
Non-agricultural accessory structures	25 feet	25 feet
Agricultural accessory structures	25 feet	25 feet
Maximum building coverage per lot	20 percent	Detached: 50 percent Attached: 70 percent

^a Existing dwellings that will remain on the site shall be included in the calculation of maximum density.

^b Accessory buildings shall not be permitted within the front yard.

(f) Separation distances for cluster groups.

(1) The outer boundaries of all cluster groups shall conform to the following separation distances:

- (A) From existing or proposed arterial street rights-of-way, such as highways, entrance boulevards, and other major non-internal streets: 200 feet.
- (B) From existing scenic highways or rustic roads: 100 feet.
- (C) From all perimeter subdivision boundaries: 100 feet.
- (D) From cropland or pasture land: 25 feet.
- (E) From other cluster groups: 100 feet.
- (F) From wetlands, floodplains, or watercourses: 150 feet.
- (G) From active recreation areas, such as courts or playing fields: 100 feet.

(2) All separation areas for cluster groups along existing streets shall be landscaped in accordance with this article, in order to block views of new residential development, preserve scenic views, and protect rural landscape character.

(3) The dimensional standards specified in this article may be reduced under the following circumstances:

- (A) The separation distances from existing arterial streets and the perimeter of the subdivision may be reduced, by no more than 50 percent, if the applicant can demonstrate that existing vegetation or topography or a combination of these form an effective visual screen.
- (B) All other separation distances may be reduced by up to 50 percent if the applicant can demonstrate to the satisfaction of the planning commission and city council that such reduced setbacks improve the plan's compliance with the cluster group design standards in this article, the intent of this article, and the

objectives of the city's comprehensive plan.

(g) Calculation of site capacity.

- (1) For cluster development, the calculation of site capacity, or the number of dwelling units permitted on a site, shall be based on net buildable acreage. The applicant shall determine the net buildable acreage (NBA) using the following method, substantiated by sufficient plans and data to verify the calculations:

Gross acreage of site:	___ acres
From the gross acreage of the site, subtract the following:	
All lands located within existing street rights-of-way:	___ acres
All lands located within existing utility and railway rights-of-way:	___ acres
All lands located within a floodplain:	___ acres
All lands located within a wetland:	___ acres
All of the area located within a pond or lake:	___ acres
All of the land area having a slope of 25 percent or greater:	___ acres
Twenty-five percent of the area located within a woodland:	___ acres
The result is the net buildable acreage (NBA):	_____

- (2) In the calculation above, the following shall apply:

- (A) The elevation of the 100-year recurrence interval floodplain determined through floodplain studies shall be used where available. Where such flood stage data is not available, the regulatory flood elevation shall be determined by a registered professional engineer and the sealed report of the engineer setting forth the regulatory flood stage and the method of its determination shall be approved by the city engineer.
- (B) Where two or more categories overlap, the overlapping acreage shall be counted only once, using the most restrictive classification.

(Ordinance 1245.1, ex. A, § 3, adopted 4/19/05)

Sec. 28.05.007. - Design standards for cluster groups.

- (a) The following standards shall apply to all cluster groups:

- (1) All dwelling units shall be grouped into cluster groups, each of which shall be surrounded by common open space.
- (2) The maximum number of lots in a cluster group may be increased, and cluster groups may be assembled into larger groupings, with the approval of the city and provided that the applicant can demonstrate that

such an alternative plan is more appropriate for the development parcel and will meet both the general intent and design standards of this article.

- (3) A plat may contain one or more cluster groups.
 - (4) Cluster groups shall be defined by the outer perimeter of contiguous lotted areas or abutting streets, and may contain lots, streets, and cluster group open space. When the development does not include individual lots, as in a condominium, the outer perimeter shall be defined as an area encompassed by a line drawn around the units, no point of which is less than 100 feet from any unit.
 - (5) The outer boundaries of each cluster group shall meet the separation distance requirements specified in this article.
 - (6) Cluster groups shall be defined and separated by common open space in order to provide direct access to common open space and privacy to individual lot or yard areas. Cluster groups may be separated by streets if the street right-of-way is designed as a boulevard.
- (b) Internal open space provided within cluster groups shall meet the following standards:
- (1) Common open space located within cluster groups shall be counted toward meeting the overall 40 percent open space requirement.
 - (2) The open space shall be configured as a cul-de-sac island, an island within a larger loop or an "eyebrow" (a semi-circular loop), an island in a boulevard street, or a common green area. Common green areas surrounded by lots on up to three sides shall be designed as a space for common use by all residents within the cluster group.
 - (3) The open space shall have a minimum street frontage of 125 feet.
 - (4) Internal open space may contain parking areas, but parking areas shall not be counted toward meeting the overall 40 percent open space requirement.
- (c) All lots in a cluster group shall abut and have access to common open space to the front or rear. Common open space across a street shall qualify for this requirement.
- (d) In locating cluster groups, disturbance to woodlands, hedgerows, and individual mature trees shall be minimized. However, when the objective is to preserve prime soils and large areas of contiguous land suitable for common open space or community uses, dwellings may be located within woodlands, provided that no more than 20 percent of a single wooded lot is cleared for the construction of a dwelling, driveway, garage, storage building, well, and private on-site waste treatment system.

(Ordinance 1245.1, ex. A, § 4, adopted 4/19/05)

Sec. 28.05.008. - Design standards for common open space.

- (a) On all parcels developed under the cluster development regulations, a minimum of 40 percent of the gross land area shall be set aside as protected common open space.
 - (1) This open space shall meet the following standards.
 - (2) For the purposes of this subsection, gross land area includes all lands within the parcel, except existing street, railway, and utility rights-of-way.
 - (3) Common open space shall comply with the following design standards:
 - (A) The location of common open space shall be consistent with the objectives of the city's comprehensive plan.
 - (B) All open space areas shall be part of a larger continuous and integrated open space system within the

parcel being developed. At least 75 percent of the common open space areas shall be contiguous to another common open space area. For the purposes of this subsection, areas shall be considered contiguous if they are within 100 feet of each other and there are no impediments to access between the areas.

- (C) Common open space shall, to the greatest extent possible, protect site features identified in the site inventory and analysis as having particular value in the context of preserving rural character, in compliance with the intent of this article. Environmental corridors and isolated natural resource areas are of particular significance for protection.
- (D) Natural features shall generally be maintained in their natural condition, but may be managed to improve their appearance, or restore their overall condition and natural processes, as recommended by natural resource professionals and in compliance with an approved land stewardship plan, as described in this article. Permitted management activities may include:
 - (i) Woodland management.
 - (ii) Reforestation.
 - (iii) Meadow management.
 - (iv) Wetlands management.
 - (v) Stream bank protection.
 - (vi) Buffer area landscaping.
 - (vii) Wildlife management.
- (E) All wetlands, floodplains, wildlife habitat areas, slopes over 12 25 [sic] percent, 100 percent of lowland environmental corridor, and a minimum of 80 percent of primary conservation area corridors shall be contained in common open space.
- (F) The common open space shall maximize common boundaries with existing or future open space on adjacent lands, as shown in the city's comprehensive plan.
- (G) To preserve scenic views, ridge tops and hilltops should be contained within common open space wherever possible. Trees shall not be removed from ridge tops or hill tops.
- (H) A minimum of 50 percent of the area of existing woodlands shall be contained within common open space. Up to 20 percent of the area of existing woodlands may be located within lots or used for residential development. This limitation may be exceeded under the following conditions:
 - (i) The site is primarily wooded and development at the permitted density would not be possible without encroaching further into the woodlands.
 - (ii) Any encroachment on woodlands beyond 20 percent shall be the minimum needed to achieve the maximum permitted density, as determined by the city.
- (I) No area of common open space shall be less than 30 feet in its smallest dimension or less than 10,000 square feet in area, with the exception of landscape islands and landscaped areas separating existing house lots. Open space not meeting this standard shall not be counted toward the total required 40 percent common open space.
- (J) The boundaries of common open space shall be marked, insofar as possible, by natural features wherever possible, such as hedgerows, edges of woodlands, streams, or individual large trees.
- (K) Trails in common open space that are located within 50 feet of homes in cluster groups shall be identified by plantings, fences, or other landscape features.

- (L) Under no circumstances shall all common open space be isolated in one area of the development. Common shall be distributed appropriately throughout the development to properly serve and enhance all dwelling u groups, and other common facilities.
- (M) Common open space shall include lands located along existing public streets in order to preserve existing rural landscape character as seen from these streets, and shall, in no case, contain less than the required buffer, setback area, or separation distance.
- (b) Safe and convenient pedestrian access and access for maintenance purposes shall be provided to common open space areas in accordance with the following:
 - (1) At least one access point per cluster group shall be provided, having a width equal to or greater than the minimum width of a lot within the cluster group. This width may be reduced to no less than 50 percent if the applicant can demonstrate that, due to natural site constraints, meeting the lot width requirement would run counter to the objectives of this section.
 - (2) Access to common open space used for agriculture may be restricted for public safety and to prevent interference with agricultural operations.
- (c) The following areas shall not be included in the calculation of common open space areas:
 - (1) Private lot areas.
 - (2) Street and highway rights-of-way, public or private.
 - (3) Railway and utility rights-of-way.
 - (4) Parking areas.
 - (5) Areas not meeting the requirements of this article.

(Ordinance 1245.1, ex. A, § 5, adopted 4/19/05)

Sec. 28.05.009. - Preservation of existing vegetation; landscaping generally.

- (a) For the purpose of conserving the natural landscape and in recognition of the time value of existing vegetation, the preservation of existing vegetation shall always be preferred to the installation of new plant material.
- (b) Existing woodlands and hedgerows shall be retained to the maximum extent possible. Where possible, existing woodlands and hedgerows shall be incorporated into the required separation areas between cluster groups and external streets and site boundaries.
- (c) Suitable existing vegetation shall be credited toward the landscaping requirements of this section when, in the opinion of the city council, it would equal or exceed the visual impact of the new required plant material after two years of growth.
- (d) All new landscaping to be installed and existing vegetation to be preserved shall be protected in accordance with the guidelines found in the City of Austin's Grow Green booklet and the LCRA Hill Country Landscape Program. New plantings shall be of drought-tolerant and native Central Texas plant varieties, installed in a manner which preserves moisture and controls invasive weeds, using only natural and organic fertilizers.

(Ordinance 1245.1, ex. A, § 6.1, adopted 4/19/05)

Sec. 28.05.010. - Street trees.

- (a) Street trees shall be planted along internal streets within cluster groups.
- (b) Street trees may be planted, but are not required, along internal streets passing through common open space.

- (c) Informal arrangements are encouraged for street trees, to avoid the urban appearance that regular spacing may in
- (d) Street trees shall be located so as not to interfere with the installation and maintenance of utilities and paths, trails, or sidewalks that may parallel the street.
- (e) The species of street trees shall be selected from the "List of Recommended Species for Landscaping" adopted by the city council.
- (f) Street tree plantings shall comply with all applicable regulations in the city Code of Ordinances.

(Ordinance 1245.1, ex. A, § 6.2, adopted 4/19/05)

Sec. 28.05.011. - Buffers.

- (a) A buffer area at least 50 feet in width shall be established within all required separation areas between external streets and cluster groups.
- (b) Planted buffers within separation areas between cluster groups are encouraged to enhance privacy and a rural appearance between lots.
- (c) Buffers consisting of an informal arrangement of native plant species combined with infrequent mowing are strongly encouraged, to create a low-maintenance, natural landscape.
- (d) Increasing the edge condition between wooded areas and adjacent fields is encouraged as an aid in increasing wildlife habitat.

(Ordinance 1245.1, ex. A, § 6.3, adopted 4/19/05)

Sec. 28.05.012. - Ownership of common facilities.

- (a) To ensure adequate planning for ownership, operation, and maintenance of common open space, recreation facilities, stormwater management facilities, common parking areas and driveways, private streets, and other common or community facilities (hereinafter referred to as "common facilities"), the following regulations shall apply.
- (b) The following methods may be used, either alone or in combination, to own common facilities. Common facilities shall not be transferred to another entity except for transfer to another method of ownership permitted under this subsection, and then only when there is no change in the common facilities. Ownership methods shall conform to one or more of the following:
 - (1) Homeowners' association. Common facilities shall be held in common ownership as undivided proportionate interests by the members of a homeowners' association, subject to the provisions set forth herein:
 - (A) The applicant shall provide to the city a description of the organization, including its bylaws, and all documents governing maintenance requirements and use restrictions for common facilities. Such documents shall be approved as to form by the city attorney.
 - (B) The organization shall be established by the owner or applicant and shall be operating, with financial subsidy by the applicant, if necessary, prior to the sale of any dwelling units in the development.
 - (C) Membership in the organization shall be mandatory for all purchasers of dwelling units therein and their successors and assigns.
 - (D) The organization shall be responsible for maintenance and insurance of common facilities.
 - (E) The members of the organization shall share equitably the costs of maintaining, insuring, and operating common facilities.
 - (F) The organization shall have or hire adequate staff to administer, maintain, and operate common facilities.

- (G) The applicant for any cluster subdivision or development proposed to contain common facilities shall arrange with the county tax assessor a method of assessment of the common facilities which will allocate to each tax parcel in the development a share of the total assessment for such common facilities.
 - (H) Written notice of any proposed transfer of common facilities by the homeowners' association or the assumption of maintenance of common facilities must be given to all members of the organization and to the city at least 30 days prior to such event.
- (2) Condominium agreements. Common facilities shall be controlled through the use of condominium agreements. Such agreements shall be approved as to form by the city attorney and shall comply with the requirements of the Texas Statutes. All common open space and other common facilities shall be held as "common elements" by the unit owners in the form of undivided percentage interests in accordance with the condominium documents. An association of unit owners shall be formed to govern the affairs of the condominium and membership shall be mandatory.
- (3) Fee simple dedication to a public agency. The city or other public agency acceptable to the city may, but shall not be required to, accept any portion of the common facilities, provided that:
- (A) There shall be no cost of acquisition, other than costs incidental to the transfer of ownership, such as title insurance.
 - (B) Any facilities so dedicated shall be accessible to the residents of the city, if the city so chooses.
 - (C) The city or other public agency shall maintain such facilities.
 - (D) The residents of the development shall hold a conservation easement on the land and facilities so dedicated, protecting the common open space from development in perpetuity.
- (4) Dedication of conservation easements to a public agency. The city or other public agency acceptable to the city may, but shall not be required to, accept easements for public use of any portion of the common facilities, title of which is to remain in private ownership, provided that:
- (A) There is no cost of easement acquisition, other than costs incidental to the transfer of ownership, such as title insurance.
 - (B) A satisfactory maintenance agreement shall be reached between the owner and the city.
 - (C) Lands under a city easement may or may not be accessible to residents of the city.
- (5) Fee simple dedication to a nonprofit conservation organization. With the approval of the city council, an owner may dedicate any portion of the common facilities to a nonprofit conservation organization, provided that:
- (A) The organization is acceptable to the city.
 - (B) The conveyance contains appropriate provisions for proper reverter or re-transfer in the event that the organization becomes unwilling or unable to continue carrying out its responsibilities.
 - (C) A maintenance agreement acceptable to the city is established between the owner and the organization.
- (6) Dedication of conservation easements to a nonprofit conservation organization. With the approval of the city, an owner may dedicate conservation easements on any portion of the common facilities to a nonprofit conservation organization, provided that:
- (A) The organization is acceptable to city.
 - (B) The conveyance contains appropriate provisions for proper reverter or re-transfer in the event that the organization becomes unwilling or unable to continue carrying out its responsibilities.
 - (C) A maintenance agreement acceptable to the city is established between the owner and the organization.

(7) Ownership retained by the original landowner. Ownership of common open space and facilities may be retained by the original landowner provided that:

- (A) The city and residents of the development shall hold conservation easements on the land protecting it from any further development.
- (B) Resident access to the land is limited only by agreement of the residents of the development, as indicated by documents signed at the time of purchase of individual dwelling units.

(8) Other methods acceptable to the city, upon recommendation by the city attorney.

(Ordinance 1245.1, ex. A, § 6.4, adopted 4/19/05)

Sec. 28.05.013. - Maintenance and operation of common facilities; land stewardship plan.

- (a) A plan and narrative for the use, maintenance, and insurance of all common facilities, including provisions for funding, shall be provided to and approved by the city prior to preliminary plat approval. Such plan shall:
 - (1) Define ownership.
 - (2) Establish necessary regular and periodic operation and maintenance responsibilities.
 - (3) Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an ongoing basis.
 - (4) Include a land stewardship plan specifically focusing on the long-term management of open space lands. A draft land stewardship plan shall be submitted with a preliminary plat, and a final plan shall be submitted with the final plat. The land stewardship plan shall comply with the requirements of this article.
 - (5) At the discretion of the city, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of common facilities for up to one year.
- (b) In the event that the association established to own and maintain common areas and facilities, or any successor organization thereto, fails to properly maintain all or any portion of the aforesaid common areas or facilities, the city may serve written notice upon such association setting forth the manner in which the association has failed to maintain the aforesaid common areas and facilities. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the association, or any successor organization, shall be considered in violation of this article, in which case the city shall have the right to enter the premises and take the needed corrective actions. The costs of corrective actions by the city shall be assessed against the properties that have the right of enjoyment of the common areas and facilities.
- (c) The land stewardship plan shall include a narrative describing:
 - (1) Existing conditions, including all natural, cultural, historic, and scenic elements in the landscape.
 - (2) Objectives for each common open space area, including:
 - (A) The proposed end state for the area and the measures proposed for achieving the end state.
 - (B) Proposed restoration measures, including:
 - (i) Measures for correcting increasingly destructive conditions, such as erosion.
 - (ii) Measures for restoring historic features.
 - (iii) A maintenance and operations plan identifying activities needed to maintain the stability of the resources, including mowing schedules, weed control measures, planting schedules, and clearing and cleanup measures and schedules.

(Ordinance 1245.1, ex. A, § 6.5, adopted 4/19/05)

Sec. 28.05.014. - Leasing of common open space lands.

Common open space lands may be leased to another person or other entity for use, operation, and maintenance, provided that:

- (1) The residents of the development shall at all times have access to such leased lands, except in the case of lease for agricultural purposes, in which case the residents, with their agreement, may be restricted from accessing the lands.
- (2) The common open space lands to be leased shall be maintained for the purposes set forth in this section.
- (3) The operation of such leased open space lands may be for the benefit of the residents of the development only, or may be open to the public, if so determined by the residents.
- (4) The lease, and any transfer or assignment thereof, shall be subject to the approval of the city.
- (5) Lease agreements shall be recorded in the office of the county register of deeds within 30 days of their execution, and a copy of the recorded lease shall be filed with the city.

(Ordinance 1245.1, ex. A, § 6.6, adopted 4/19/05)

Sec. 28.05.015. - Conservation of common open space.

Common open space shall be restricted in perpetuity from further subdivision and/or land development by deed restriction, conservation easement, or other agreement in a form acceptable to the city upon recommendation of the city attorney and duly recorded in the office of the county register of deeds.

(Ordinance 1245.1, ex. A, § 6.7, adopted 4/19/05)

Sec. 28.05.016. - Sewer and water supply facilities.

(a) Sewer facilities.

- (1) Sewer facilities for cluster development may consist of any system meeting the requirements of the county, the city, and the state commission on environmental quality.
- (2) If approved by the city council, sewer facilities or portions thereof may be located within common open space areas.
- (3) All public community sewer facilities shall be owned, operated, and maintained by a general or special purpose unit of government.

(b) Water supply facilities.

- (1) Water supply facilities may consist of any of following systems, provided they meet the requirements of the county, the city, and the state commission on environmental quality:
 - (A) Private community wells.
 - (B) Rainwater harvesting systems.
 - (C) Public water supply system.
 - (D) Private individual wells, only where neither [subsection] (A) nor (C) is available.
- (2) All public water supply facilities shall be owned, operated, and maintained by a general or special purpose unit of government.

(Ordinance 1245.1, ex. A, § 7, adopted 4/19/05)

Sec. 28.05.017. - Evaluation criteria.

- (a) The planning for a subdivision development under this section should be accomplished utilizing a four-step approach: Step 1 consists of identifying the land to be permanently protected. Step 2 involves locating the sites of housing clusters within the net buildable area. Step 3 involves "connecting the dots" with streets, utilities and informal trails. Step 4 is the drawing of individual lot lines.
- (b) The planning and zoning commission and city council shall evaluate proposals for conservation developments to determine whether the proposed development:
 - (1) Protects and preserves all floodplains, wetlands and steep slopes from clearing, grading, filling or construction (except as may be approved by the governing body for essential infrastructure or active or passive recreation amenities).
 - (2) Preserves and maintains rural land features such as woodlands, existing fields, meadows or orchards, and preserves the natural topographical profile.
 - (3) Maintains or creates an upland buffer of natural native species vegetation of not less than 100 feet in depth adjacent to wetlands and surface waters, including creeks, streams, springs, lakes and ponds.
 - (4) Minimizes impact on large woodlands (greater than five acres), especially those containing many mature trees or significant wildlife habitat.
 - (5) Leaves scenic views or vistas unblocked and uninterrupted, particularly as seen from public thoroughfares.
 - (6) Avoids siting new construction on prominent hilltops or ridges.
 - (7) Protects wildlife habitat, especially areas of species which are endangered, threatened, or of special concern.
 - (8) Designs around and preserves sites of historic, archeological or cultural value.
 - (9) Protects rural roadside character and promotes public safety by not locating development with direct access to existing public roads or highways.
 - (10) Landscapes common areas, cul-de-sacs, community greens and roadway edges using native species trees and shrubs with high drought resistance and wildlife conservation value.
 - (11) Provides active recreational areas in suitable locations that offer convenient access by residents and adequate screening from adjacent house lots.
 - (12) Includes a pedestrian circulation system that provides safety for residents walking, jogging or bicycling within the development.
 - (13) Provides open space which is reasonably contiguous.

(Ordinance 1245.1, ex. A, § 8, adopted 4/19/05)

Sec. 28.05.018. - Development options.

- (a) Density bonus option.
 - (1) On all parcels developed under this conservation development option, a minimum of 40 percent of the gross land shall be set aside as protected common open space. At the developer's option, additional housing density on the remaining parts of the land may be approved in return for additional protected open space land as follows:
 - (A) In exchange for preserving 45 to 50 percent of the gross land as protected common open space, the developer shall be entitled to a density bonus within the net buildable area of ten percent.
 - (B) In exchange for preserving more than 50 percent of the gross land as protected common open space, the

developer shall be entitled to a density bonus within the net buildable area of 20 percent.

(2) Buildings added by density bonus exchanges may be:

- (A) Distributed as evenly as feasible throughout all housing cluster groups as single-family residences; or
- (B) Concentrated in one or more housing cluster groupings, to provide for garden homes, town homes, or very low intensity multifamily housing.

(b) Lot averaging.. For the purpose of providing additional design flexibility beyond that already gained by the use of cluster development, lot averaging shall be permitted as follows:

(1) The area of a lot may be reduced below the minimum provided that the area by which it is reduced is added to another lot, and further provided that, in all cases, proper water supply and sewer facilities shall be provided.

(2) Lot areas, widths, and setbacks shall not be reduced below the following minimums:

(A) Lots served by centralized sanitary sewer systems:

- (i) Minimum lot area: 5,000 square feet.
- (ii) Minimum lot width: 50 feet.
- (iii) Minimum front yard: 25 feet.
- (iv) Minimum side yard: Zero feet.
- (v) Minimum rear yard: 25 feet.

(B) Lots served by private on-site waste treatment systems:

- (i) Minimum lot area: 20,000 square feet.
- (ii) Minimum lot width: 70 feet.
- (iii) Minimum front yard: 25 feet.
- (iv) Minimum side yard: 15 feet.
- (v) Minimum rear yard: 25 feet.

(3) All other density and dimensional standards of this article shall apply to lots whose areas are averaged.

(4) All lots that are large enough to be further subdivided shall be deed restricted against further subdivision designating the owner, his heirs, successors, and assigns as the grantee of the easement. The city shall hold a conservation easement on such lots. The restrictions of the easement shall be enforceable either by the grantee, his heirs, successors, and assigns, or by the city.

(Ordinance 1245.1, ex. A, § 9, adopted 4/19/05)

ARTICLE 28.06 - LANDSCAPING AND TREE PRESERVATION

DIVISION 1. - GENERALLY

Sec. 28.06.001. - Title.

This article shall be commonly cited as the landscape ordinance.

(Ordinance 6300.10, ex. A, § 1.1, adopted 2/12/08)

Sec. 28.06.002. - Purpose.

- (a) Generally. The purpose of this article is to provide for the preservation of native trees, prevent the clear-cutting of land, and provide for minimum landscaping and screening requirements, in recognition that trees, landscaping, screening, and buffering protect the health and welfare of the community, while addressing the water conservation and drainage issues particular to the Hill Country region. The purpose of this article is also to enhance the community's ecological, environmental, and aesthetic qualities.
- (b) Health, welfare, and general well-being. Preserving and improving the natural environment, and maintaining a working ecological balance, are of increasing concern to the city. The fact that the proper use of landscape elements can contribute to the processes of air purification, oxygen regeneration, water absorption, water purification, and noise, glare, and heat abatement as well as the preservation of the community's aesthetic qualities indicates that the use of landscape elements is of benefit to the health, welfare, and general well-being of the community, and therefore it is proper that the appropriate use of such elements be required.
- (c) Water conservation and drainage. The city experiences frequent droughts and is characterized by thin-soiled rock formations; therefore, it is the purpose of this article to encourage the use of drought-resistant vegetation and landscaping that minimizes runoff and erosion.

(Ordinance 6300.10, ex. A, § 1.2, adopted 2/12/08)

Sec. 28.06.003. - Scope.

This article applies to all commercial property within the incorporated municipal boundaries (i.e., city limits) for which site plan approval by the city is required under the city's Code of Ordinances. This article applies to actions taken after the date of enactment.

(Ordinance 6300.10, ex. A, § 1.3, adopted 2/12/08)

Sec. 28.06.004. - Definitions.

- (a) Rules of interpretation. Words and phrases used in this article shall have the meanings set forth in this section. Terms that are not defined below, but are defined elsewhere in the Code of Ordinances, shall be given the meanings set forth in the code. Words and phrases not defined in the Code of Ordinances shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense, words in the plural number shall include the singular number (and vice versa), and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only.
- (b) Specific definitions.

City administrator. The chief administrative officer of the city. The term shall also include the deputy city administrator.

City council. The governing body of the city.

City of Austin Environmental Criteria Manual. The document promulgated by the City of Austin, which is commonly used throughout the region and is widely regarded as the standard in the development community, as may be amended.

City of Austin Grow Green Guide. The document promulgated in part by the City of Austin, entitled "Native and Adapted Landscape Plants: An Earthwise Guide for Central Texas," as may be amended.

City permit. A city license, certificate, approval, registration, consent, permit, or other form of authorization required by a city ordinance, regulation, or rule in order to develop, construct, and operate the improvements on the property.

Code. The Code of Ordinances enacted by the city, as may be amended from time to time.

DBH (diameter at breast height). The tree trunk diameter of an existing tree measured in inches at a height of 4.5 feet above the ground. If a tree splits into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point beneath the split.

Designated tree. Any of the following:

- (1) A hardwood tree having a trunk of eight inches in caliper or greater measured at DBH;
- (2) A multi-trunked hardwood tree having a total trunk DBH of 30 inches or more (not counting trunks less than eight inches in diameter); or
- (3) A cluster of hardwood trees within a ten-foot radius circle having a total trunk DBH of 40 inches or more (not counting trunks less than eight inches in diameter).

Escrow. A deposit of a cash bond with the city in accordance with this article.

Extreme drought classification. A D3 classification of drought intensity provided by the National Drought Mitigation Center, with D1 being the least intense and D4 being the most intense. D3 classification, extreme drought areas, result in major crop/pasture losses and widespread water shortages or restrictions. The National Drought Mitigation Center must be consulted to determine the classification for the region.

Impervious cover. Buildings, parking areas, roads, and other impermeable man-made improvements covering the natural land surface that prevent infiltration. For further clarification on what is considered impervious cover, refer to the city's water quality protection ordinance (article 10.03).

Landscape architect. One whose profession is the decorative and functional alteration and planting of grounds, especially at or around a building site.

Landscaping. Consists of introduced vegetation, as well as related improvements to a lot, including, but not limited to, forming and berming, irrigation systems, landscape subsurface drainage systems, site furnishings, and nonstructural retaining walls.

Natural area. An area where the naturally grown landscaping is left primarily undisturbed, except for the removal of poison ivy, greenbrier, and similar vegetation, oak wilt removal and/or prevention measures, and allowing for maintenance of the trees to maintain vigorous growth.

Owner. A person with legal control over property in question.

Person. A human individual, corporation, agency, unincorporated association, partnership, or sole proprietorship, or other legal entity.

TCEQ. The state commission on environmental quality, or its successor agency.

(Ordinance 6300.10, ex. A, § 2, adopted 2/12/08; Ordinance 6300.12, adopted 11/11/14)

Sec. 28.06.005. - Applicability.

This article applies to all new commercial development requiring site plan approval subject to zoning requirements. All properties going through redevelopment through extension, reconstruction, resurfacing, or structural alteration must come into compliance. Site plan approval shall be conditioned on compliance with this article.

(Ordinance 6300.10, ex. A, § 3.1, adopted 2/12/08)

Sec. 28.06.006. - Landscaping fund.

A fund is hereby created in which any cash-in-lieu paid to the city pursuant to the mandates of this article shall be deposited. The fund may be drawn upon by the city to implement landscaping improvements on city land and city controlled rights-of-way.

(Ordinance 6300.10, ex. A, § 3.2, adopted 2/12/08)

Sec. 28.06.007. - Damaging or removing trees.

No person shall damage or remove trees in violation of this article.

(Ordinance 6300.10, ex. A, § 3.3, adopted 2/12/08)

Sec. 28.06.008. - Violations.

It shall be unlawful for any person to violate this article.

(Ordinance 6300.10, ex. A, § 5, adopted 2/12/08)

Sec. 28.06.009. - Enforcement; penalties.

- (a) Compliance. Violators of this article will be required to come into compliance within 60 days, unless a variance has been approved by the city. Compliance with this article may be grounds for withholding of other related pending permits for the project by the city.
- (b) Enforcement. The city shall have the power to administer and enforce the provisions of this article as may be required by governing law. Any person violating any provision of this article is subject to a stop work order, suit for injunctive relief, and/or prosecution for criminal violations. Any violation of this article is hereby declared to be a nuisance. Any violation of this article may serve as grounds to withhold or delay issuance of other permits and revocation of a certificate of occupancy.
- (c) Criminal penalty. Any person violating any provision of this article shall, upon conviction, be fined a sum not exceeding \$2,000.00 to be deposited in the landscaping fund. Each day that a provision of this article is violated shall constitute a separate offense. An offense under this article is a misdemeanor.
- (d) Civil remedies. Nothing in this article shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this article and to seek remedies as allowed by law, including but not limited to the following:
 - (1) Injunctive relief. Injunctive relief to prevent specific conduct that violates this article or to require specific conduct that is necessary for compliance with this article;
 - (2) Civil penalty. A civil penalty up to \$500.00 a day to be deposited in the landscaping fund, when it is shown that the defendant was actually notified of the provisions of this article and after receiving notice committed acts in violation of this article or failed to take action necessary for compliance with this article, and other available relief; and
 - (3) Stop work order. In the event work is not being performed in accordance with this article, the city shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.

(Ordinance 6300.10, ex. A, § 6, adopted 2/12/08)

Secs. 28.06.010—28.06.050. - Reserved.

DIVISION 2. - STANDARDS

Sec. 28.06.051. - Street trees.

- (a) Residential street tree requirements. The list below sets forth the minimum number of trees, per lot, that must be planted prior to the issuance of a certificate of occupancy permit for the dwelling. Trees shall be in the front of a residential lot, including at least one required tree planted in the front yard. Three small trees/large shrubs may be substituted for one required tree. The following minimum standards apply:

Zoning	No. of Required Trees
SF-1	0
SF-2	2
SF-4	2
SF-5	1 per unit
MF	1 per unit
MH	1

- (b) Nonresidential street tree requirements. At least one required tree, shall be planted adjacent to or near the street right-of-way for each 25 feet, or fraction thereof, of linear street frontage. Trees shall be planted between the street right-of-way and any horizontal and vertical improvements. The required number of trees need not be placed uniformly, but may be clustered in groups.
- (c) Trees planted shall be a minimum four inch DBH, staked, and wrapped. Small trees/large shrubs trees shall be a minimum two inch DBH, staked, and wrapped.
- (d) Trees with deep roots may be planted in the area between the sidewalk and road if approved by the city administrator. Trees of species whose roots are known to cause damage to public roadways or other public works are prohibited.

Sec. 28.06.052. - Landscape buffers.

- (a) Landscape buffer planting requirements.

- (1) All plant material shall be of native or adapted species.
- (2) All new proposed shade trees shall be a minimum of four inches in diameter.
- (3) All proposed ornamental trees shall be a minimum of two inches in diameter.
- (4) All large shrubs shall be a minimum of five-gallon container size and small shrubs/groundcovers a minimum

of one-gallon container size.

- (b) Landscape buffer spacing requirements. The following landscape buffer spacing requirements shall apply to all designated landscape buffers:
- (1) Shade trees (such as Live Oak or Cedar Elm). One per 50 feet of buffer frontage.
 - (2) Ornamental trees (such as Crape Myrtle or Desert Willow). One per 25 feet of buffer frontage.
 - (3) Large shrubs, five-gallon (such as Wax Myrtle, DW Yaupon, or Agarita). One per six feet of buffer frontage.
 - (4) Small shrubs/groundcovers, one-gallon (such as Lantana or Liriope). One per three feet of buffer frontage.
- (c) Landscape buffer widths. The following landscape buffer width requirements shall apply to all designated landscape buffers and shall be measured from the edge of the right-of-way:

	At Arterial Roadways	At Collector Roadways
AG	0	0
SF-1	0	0
SF-2	35 feet	25 feet
SF-4	50 feet	40 feet
SF-5	40 feet	30 feet
MF	50 feet	40 feet
MH	35 feet	25 feet
O	25 feet	25 feet
LR	25 feet	25 feet
GR	25 feet	25 feet
CS	25 feet	25 feet
I	50 feet	50 feet
H	25 feet	25 feet
GUI	25 feet	25 feet
PR	25 feet	25 feet
PP	25 feet	25 feet

PD	Varies	Varies
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- (d) Landscape buffer vegetation. The following landscape buffer vegetation requirements shall apply to all designated landscape buffers:

This buffer area shall contain either native vegetation in the form of trees and bushes left in their natural, undisturbed condition, or, if no such native vegetation exists, shall consist of landscaping in conformance with this article. If the area consists of landscaped plantings, maintenance of such plantings shall be the sole responsibility of the developer or the homeowners' or property owners' association.

Sec. 28.06.053. - Landscape material.

All trees, plants, and vegetation shall comply with the City of Austin "Grow Green" recommended plant guide. Invasive plants in this guide are specifically prohibited.

Sec. 28.06.054. - Landscape plan and tree survey submittal.

A landscape plan and tree survey shall be submitted to the city with the proposed site plan. The landscape plan shall comply with the landscape requirements. The landscape plan shall be signed and sealed by a landscape architect licensed by the state. The existing tree survey should be signed and sealed by a surveyor licensed by the state.

Sec. 28.06.055. - Parking area landscaping.

- (a) Parking lots and all vehicular parking and maneuvering areas, excluding driveways behind buildings, shall contain areas constructed, planted, and maintained as landscaped islands, peninsulas, or medians.
- (b) The minimum total area in landscaped islands, peninsulas, or medians in the parking lots in front of buildings shall be 90 square feet for each 12 parking spaces.
- (c) One tree is required for every six parking spaces. Tree preservation is encouraged, thus one existing tree that is at four inches DBH shall count for two new trees.
- (d) No parking space shall be located further than 50 feet from a landscaped island, peninsula, median, or tree. They shall be located evenly through the parking areas; however, the location of landscaped islands, peninsulas, and medians may be adjusted to accommodate existing trees or other natural features.
- (e) Landscape terminal islands (end islands) shall be located at the end of all parking modules in a configuration to allow for turning radii of intersecting aisles to protect parked vehicles, provide for visibility, confine moving traffic to aisles and driveways, and provide space for landscaping. Medium and tall shrubs are prohibited on internal islands to maintain visibility.
- (f) All landscaped islands shall have curbs except when utilizing low impact development techniques to capture and utilize runoff for irrigation purposes.
- (g) Paving over the critical root zone is discouraged and must be approved by the city administrator. All approved paving shall be porous pavement to allow water and air exchange.

Sec. 28.06.056. - Screening of dumpsters and building service equipment.

- (a) For outdoor condensers, utility huts, and other building service equipment (other than a rooftop), such

equipment shall be reasonably screened from view on all sides using a masonry wall and vegetative screen using at least two varieties of plant material from the "grow green" plant guide, that, at maturity, are at least the height of the equipment to be screened.

- (b) All refuse and/or recycling containers shall be reasonably screened with landscaping from public view and the view of adjoining properties.
- (c) The opening for removal of the dumpster for collection shall be a minimum of 12 feet to allow proper service access. An additional ten feet in width is required for every additional dumpster.
- (d) All durable materials used in constructing the dumpster screening masonry wall system shall be consistent with and complement the primary structure.
- (e) The orientation of the dumpster opening shall not face the street or public sidewalk unless approved by the city administrator.

Sec. 28.06.057. - Maintenance requirements.

The owner shall be responsible for (unless otherwise specified herein):

- (1) Regular maintenance of all required landscaped areas and plant materials in a vigorous and healthy condition, free from diseases, pests, weeds, and litter. This maintenance shall include weeding, watering, fertilization, pruning, mowing, edging, mulching, or other necessary maintenance in accordance with generally accepted horticultural practice;
- (2) The repair or replacement of required landscape structures (walls, fences, etc.) to a structurally sound condition;
- (3) The regular maintenance, repair, or replacement, where necessary, of any screening or buffering;
- (4) Replacing planted trees if they die or become diseased beyond repair within five years after planting; and
- (5) Repairing damage to landscaped areas, structures, screening, buffering, or trees as a result of ingress or egress from site easements by authorized or unauthorized parties.

Sec. 28.06.058. - Integrated pest management.

Air integrated pest management plan (IPM) shall be submitted with the site plan. The IPM shall include the fertilizer ratios, brands, and types of fertilization application methods to be used. Fertilizers must be phosphate-free.

Sec. 28.06.059. - Tree preservation.

- (a) A grading and tree survey shall be submitted with the site plan.
- (b) The tree survey shall include all existing, live, healthy trees with an eight-inch DBH in diameter and larger. The survey shall indicate the size (DBH) and species of tree. Trees observed to be distressed will be indicated with an asterisk on the tree list. Trees shall be represented by circles using the formula of one foot of radius for every one inch of trunk diameter. Unbroken circles indicate trees that are to remain. Dashed circles indicate trees that are to be removed (including trees identified to be distressed).
- (c) Healthy designated class I and II trees (as defined by the City of Austin Environmental Criteria Manual) that require removal to accommodate the development shall be replaced at a ratio of 1:1, or cash-in-lieu may be paid to the city, the amount equal to the cost of nursery stock required to replace the caliper amounts lost and the

cost of installation on a per-unit basis, not to exceed \$100.00 per caliper inch or \$6,000.00 per acre (prorated for sites of more or less than one acre) for the entire site. Trees identified as distressed shall not be included in tree preservation requirements evaluation.

- (d) Pre- and post-construction fertilization is required for existing trees that will be or have been disturbed by construction activities, including disturbance of the critical root zone. Fertilizers must be phosphate-free.
- (e) The planting, preserving, and maintaining of trees which are contagiously diseased trees, or the storage of cut oak unless first determined by a certified arborist to be devoid of oak wilt or properly treated, shall be deemed a public nuisance and is prohibited.
- (f) During construction, take measures to protect trees, including rigid fencing, shielding, and signage, as necessary. Rigid fencing shall be placed with a radius of at least ten feet from the trunk or at the critical root zone, whichever is greater, unless property lines or other features prohibit a complete radius. Rigid fencing shall consist of wood, chainlink, or other solid material approved by the city administrator. Stakes shall be no more than six feet apart and at least one and one-half deep into the ground. Rigid fencing shall be at least three feet in height.
- (g) The city administrator or designee shall inspect and approve installed tree protection before issuance of any permit to commence with any construction activity.
- (h) Tree protection shall remain in place until final landscaping installation as approved by the city administrator or designee.
- (i) Parking or storing of vehicles, equipment or materials allowed within the critical root zone is prohibited.

Sec. 28.06.060. - Irrigation requirements.

- (a) An irrigation plan is required as part of the site plan and will be prepared by a licensed irrigator (i.e., licensed landscape architect or engineer). The plan should include rain/freeze sensors on all controllers. The irrigation plan should provide drip irrigation in shrub beds where appropriate and bubblers on all trees.
- (b) Turf grass plantings may be Buffalo, Zoysia, or Bermuda. St. Augustine is expressly prohibited.
- (c) Landscaped areas must be mulched to reduce evaporation and preserve water.

(Ordinance 6300.11, adopted 4/8/14)

Sec. 28.06.061. - Drought conditions.

- (a) During extreme drought classifications for this region as determined by the National Drought Mitigation Center, the city administrator, or designee, may accept a fiscal deposit of the amount equal to the cost of purchasing and installing the trees and other required landscaping into the city's drought tree fund in lieu of the installation of trees and other landscaping required by this chapter for the issuance of a certificate of occupancy permit, or the city administrator may accept an escrow equal to the cost of purchasing and installing the trees and other required landscaping. The city shall only accept the fiscal deposit or escrow if an erosion control plan consistent with section 28.04.016 of this code has been reviewed and accepted by the city administrator. Failure to maintain and adhere to an approved erosion control plan during periods of extreme drought classification shall be deemed a violation and the fines and penalties under section 28.06.009 of this article shall apply.
- (b) Persons requesting that the city accept a fiscal deposit in lieu shall provide the city with written documentation from an entity that sells trees and landscaping the cost of purchasing and installing the trees and other landscaping required by this chapter.
- (c) If no cost for the installation of trees and landscaping required by this chapter is provided to the city, the city

shall require 66 percent of the cost of the trees and landscaping to be paid as the installation cost in addition to the cost to purchase the trees and landscaping.

- (d) Any fiscal deposits for trees and landscaping paid to the city pursuant to this section shall be held in escrow. The escrow may be drawn upon by the city to implement tree and landscaping requirements for the depositing property owner, or the funds shall be released to the depositing property owner to implement tree and landscaping requirements within 30 days when the drought mitigation center determines that this region is no longer in an extreme drought condition or higher classification. Failure to implement the tree and landscaping requirements within 30 days of release of the fiscal deposit to the depositing property owner shall be deemed a violation and the fines and penalties under section 28.06.009 of this article shall apply.
- (e) Whenever necessary to enforce any provision of this article or implement tree and landscaping requirements on the depositing property owner's property, city staff, or the city's contractor, may enter upon depositing property owner's property at any reasonable time to inspect or perform any duty imposed by this article during an extreme drought classification for this region. If entry is refused, the city shall have recourse to every remedy provided by law and equity to gain entry.
- (f) The city is the custodian of any cash funds or bonds on deposit in the property owner's escrow account. The city has a fiduciary duty to the depositing property owner and may dispose of the escrowed funds only in accordance with this section.

(Ordinance 6300.12, adopted 11/11/14)

ARTICLE 28.07 - DRIPPING SPRINGS TECHNICAL CRITERIA

Sec. 28.07.001. - Adopted and references to the technical criteria standard specifications (TCSS).

The Dripping Springs Technical Criteria (DSTC), Ordinance No. 2019-39, adopted by the city on October 15, 2019, is included at the end of this chapter as exhibit B. Any reference to the technical criteria standard specifications or TCSS in the Code of Ordinances shall henceforth be a reference to the document attached as exhibit B.

Sec. 28.07.002. - Title.

This article shall be commonly known as the Dripping Springs Technical Criteria (DSTC).

Sec. 28.07.003. - Purpose.

The DSTC establishes uniform design practices; it neither replaces the need for engineering judgment nor precludes the use of any information relevant to the accomplishment of the purposes of this article. Other generally accepted or innovative and effective engineering procedures may be used in conjunction with, or instead of, those prescribed by the DSTC if approved by the city engineer.

Sec. 28.07.003. - Applicability.

The DSTC shall govern construction activities within the incorporated limits and the ETJ of the city.

Sec. 28.07.004. - Technical criteria.

The DSTC shall include the following technical design criteria, standard specifications, and details for:

- (1) Transportation facilities.
- (2) Water and wastewater facilities.
- (3) Drainage facilities.
- (4) Environmental management facilities.
- (5) Buildings.

Sec. 28.07.005. - Amendment of technical criteria.

The DSTC can be amended by the city administrator. Any amendment shall require immediate update to the DSTC and shall be made available to the public. Any amendment to the DSTC in conflict with current ordinance shall be presented to city council.

(Ordinance 2019-39, adopted 10/15/19)

EXHIBIT A. - SUBDIVISION ORDINANCE

SECTION 1. - GENERAL PROVISIONS

1.1. - Popular name.

This chapter shall be cited as the "Subdivision Ordinance."

1.2. - Plat required.

No subdivision plat shall be recorded until a final plat, accurately describing the property, has been approved in accordance with this chapter, and with other applicable city regulations. No certificate of acceptance for required public improvements shall be issued by the city for any parcel of land or plat until a final plat has been approved in accordance with this chapter; and either:

- (a) All improvements required by this chapter have been constructed and accepted by the city; or
- (b) Assurances for completion of improvements have been provided in accordance with this chapter.

1.3. - Applicability.

1.3.1. The city council hereby extends the application of this chapter to the extraterritorial jurisdiction (ETJ) of the City of Dripping Springs, as that area may exist from time to time in accordance with chapter 42 of the Texas Local Government Code. This chapter shall be applicable to the filing of plats and the subdivision of land, as that term is defined herein and in chapter 212 of the Local Government Code, within the city limits of the city and its ETJ, as they may from time to time be adjusted by annexation, disannexation, ETJ expansion, or ETJ reduction. Adoption of this chapter shall in no way limit or curtail the remedies and rights provided to the City by Texas Local Government Code chapter 212 with regard to the control and approval of subdivisions and plats both within the city and within its ETJ.

1.3.2. The provisions of this chapter shall apply to the following forms of land subdivision and development activity within the city and its ETJ:

- (a) The creation of a one legal lot through platting or a division of a tract in two or more parts to lay out a subdivision of the tract, including an addition to a city, to lay out suburban, building, other lots or units, or to

lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts must have a plat of the subdivision prepared. A division of a tract under this ordinance includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method; or

- (b) All subdivisions of land whether by metes and bounds division, condominium declaration or by plat, which were outside the jurisdiction of the city's subdivision regulations in Hays County, Texas and which subsequently came within the jurisdiction of the city's subdivision regulations through:
 - (1) Annexation; or
 - (2) Extension of the city's ETJ; or
- (c) The combining of two or more contiguous tracts, lots, sites or parcels for the purpose of creating one or more legal lots in order to achieve a more developable site, except as otherwise provided herein; or
- (d) For tracts where any public improvements are proposed; or
- (e) The development of a manufactured home subdivision or RV park.

1.4. - Exemptions.

1.4.1. The provisions of this chapter shall not apply to:

- (a) Development of land legally platted and approved prior to the effective date of this chapter, and for which no resubdivision, or site development permit is required by city ordinance; or
- (b) Sale, inheritance, or gift of land by metes and bounds of tracts upon which no improvements, development, subdivision or alteration is occurring; or
- (c) Existing cemeteries complying with all state and local laws and regulations; or
- (d) A lot or lots created or changed by an acquisition by an entity with the power of eminent domain or dedication or by contract and conveyance in lieu of condemnation; or
- (e) When a building permit is requested for unplatted or already platted parcels for one or more of the following activities:
 - (1) Replacement or reconstruction of an existing primary single-family or duplex structure, but not to exceed the square footage, nor deviate from the original location, of the original structure;
 - (2) Building additions, such as increasing the square footage of an existing residence or other structure, of not over 100 percent of the existing structure's value, and of not over 50 percent of the gross floor area of the structure;
 - (3) Accessory buildings (as defined in the zoning ordinance);
 - (4) Remodeling or repair which involves no expansion of square footage; or
 - (5) Moving a structure off a lot or parcel, or for demolition permits.
- (f) A division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated.
- (g) Minor plat or amending plat.

1.4.2. All applications for plat approval, including final plats, that are pending on the effective date of this chapter and which have not lapsed shall be reviewed under the regulations in effect immediately preceding the effective date of this chapter. If a lot or property becomes nonconforming due to condemnation by a governmental entity, it

may, but is not required to, bring itself into conformance with this ordinance. However, if the owner of such a lot or property desires to subdivide the lot or property, conformance with this ordinance is required.

1.5. - Minimum standards.

The principles, standards and requirements provided for herein shall be minimum requirements for the platting and developing of subdivisions for the promotion of the public health, safety and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.

1.6. - Waivers.

1.6.1. Presumption. There shall be a presumption against waivers.

1.6.2. General. Where the city administrator finds that undue hardships will result from strict compliance with a certain provision(s) of this chapter, or where the purposes of these regulations may be served to a greater extent by an alternative proposal, the city may approve a waiver from certain regulations as listed within this section so that substantial justice may be done and the public interest is secured, provided that the waiver shall not have the effect of nullifying the intent and purpose of these regulations, and further provided that the city administrator shall not approve a waiver unless it shall make findings based upon the evidence presented to it in each specific case that:

- (a) Granting the waiver will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of other property, and the waiver will not prevent the orderly subdivision of other property in the vicinity; and
- (b) The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought, and are not applicable generally to other property;
- (c) Because of the particular physical surroundings, shape and/or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;
- (d) The waiver will not in any manner vary the provisions of the zoning ordinance, planned development district ordinance, or comprehensive plan, or any other adopted plan(s) or ordinance(s) of the city;
- (e) An alternate design will generally achieve the same result or intent as the standards and regulations prescribed herein; and
- (f) The waiver will enable the applicant to preserve more native trees, provide more open space, or ensure more wildlife preservation than would be possible complying with the strict mandates of this chapter.

Such findings of the city administrator, together with the specific facts upon which such findings are based, shall be documented in writing. A waiver from any provision of this chapter may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the applicant, property owner or developer, standing alone, shall not be deemed sufficient to constitute undue hardship.

1.6.3. Criteria. Where the city administrator finds that the imposition of any development exaction pursuant to these regulations exceeds reasonable benefit to the property owner, or is so excessive as to constitute confiscation of the tract to be platted, it may approve a full or partial, at its discretion, waiver to such requirements, so as to prevent such excess.

1.6.4. Conditions. In approving a waiver, the city administrator may require such conditions as will, in its judgment, secure substantially the purposes described herein. The applicant's willingness to have the tract annexed into the

city limits may be contemplated as a condition, when possible and appropriate, as determined by the city council.

1.6.5. Procedures.

- (a) An application for a waiver shall be submitted concurrently with the submission for a plat.
- (b) The application shall state fully the grounds for the application, and all of the facts relied upon by the applicant.
- (c) Where a hardship is identified during review pursuant to the zoning ordinance or during subdivision plat review pursuant to this chapter which requires issuance of a waiver from a provision in this chapter, the city administrator may approve a conditional (or temporary) waiver from that provision in this chapter in conjunction with plat approval by the planning and zoning commission.

1.6.6. Waivers. Deviations from this ordinance that can be an administratively approved waiver include:

- (a) Block length as defined by section 11.21.
- (b) Cul-de-sac requirements +as defined by section 11.22.
- (c) Dead end as defined by section 11.23.
- (d) Construction of new streets as defined by section 11.25.
- (e) Construction standards as defined by section 11.26 [sic].
- (f) Alley length deviations as defined by section 12.1.
- (g) Easements as defined by section 12.2.
- (h) Water quality buffer zones as defined by section 12.2.3.
- (i) Sidewalks if the reason is for avoiding obstacles, trees, and natural features. Provided they meet ADA requirements.
- (j) Collector streets (section 11.3) intersecting streets intersections with major thoroughfares.
- (k) Blocks as defined by section 13.
- (l) Joint access easements for commercial properties as required by section 14.2.
- (m) Irregular-shaped lots as defined by section 14.3.
- (n) Side lots or units as defined by section 14.4.

Any deviation not listed in this subsection shall only be requested through the variance process listed below.

1.6.7. Payment of indebtedness. No person who owes delinquent taxes, delinquent paving assessments, delinquent fees, or any other delinquent debts or obligations to the City of Dripping Springs, and which are directly attributable to a piece of property, shall be allowed to receive approval for any plat or replat until the taxes, assessments, debts or obligations directly attributable to said property and owed by the property owner or a previous owner, shall have been first fully discharged by payment, or until an arrangement satisfactory to the city administrator has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that all taxes, assessments, debts or obligations have been paid at the time of submission for any application for approval under this chapter.

1.7 - Variances.

1.7.1. Presumption. There shall be a presumption against variances.

1.7.2. General. Where the city's planning and zoning commission (P&Z) finds, that undue hardships will result from strict compliance with a certain provision(s) of this chapter, or where the purposes of these regulations may be served to a greater extent by an alternative proposal, the city may approve a variance from any portion of these

regulations so that substantial justice may be done and the public interest is secured, provided that the waiver variance shall not have the effect of nullifying the intent and purpose of these regulations, and further provided that the city council shall not approve a variance unless it shall make findings based upon the evidence presented to it in each specific case that:

- (a) Granting the variance will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of other property, and the waiver will not prevent the orderly subdivision of other property in the vicinity;
- (b) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought, and are not applicable generally to other property;
- (c) Because of the particular physical surroundings, shape and/or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;
- (d) The variance will not in any manner vary the provisions of the zoning ordinance, planned development district ordinance, or comprehensive plan, or any other adopted plan(s) or ordinance(s) of the city;
- (e) An alternate design will generally achieve the same result or intent as the standards and regulations prescribed herein; and
- (f) The waiver variance will enable the applicant to preserve more native trees, provide more open space, or ensure more wildlife preservation than would be possible complying with the strict mandates of this chapter.

Such findings of the planning and zoning commission, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the planning and zoning commission meeting at which a variance is considered. A variance from any provision of this chapter may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the applicant, property owner or developer, standing alone, shall not be deemed sufficient to constitute undue hardship.

1.7.3. Criteria. Where the planning and zoning commission finds that the imposition of any development exaction pursuant to these regulations exceeds reasonable benefit to the property owner, or is so excessive as to constitute confiscation of the tract to be platted, it may approve a full or partial, at its discretion, waiver to such requirements, so as to prevent such excess.

1.7.4. Conditions. In approving a variance the planning and zoning commission may require such conditions as will, in its judgment, secure substantially the purposes described herein. The applicant's willingness to have the tract annexed into the city limits may be contemplated as a condition, when possible and appropriate, as determined by the planning and zoning commission.

1.7.5. Procedures.

- (a) An application for a variance shall be submitted in writing by the property owner before the plat is submitted for the consideration of the P&Z or other approving authority. The application for variance must be submitted not less than 30 days prior to the P&Z meeting at which the request will be considered.
- (b) The application shall state fully the grounds for the application, and all of the facts relied upon by the applicant.
- (c) Where a hardship is identified during review pursuant to the zoning ordinance or during subdivision plat review pursuant to this chapter which requires issuance of a variance from a provision in this chapter, the P&Z may recommend a conditional (or temporary) variance from that provision in this chapter in conjunction with plat approval. Before a preliminary plat can be approved with a conditional or temporary variance from

this chapter, the conditional or temporary waiver shall receive final approval before filing an application for a preliminary plat that no new information or reasonable alternative plan exists which, at the determination of the P&Z, voids the need for a waiver/suspension. All waivers variances shall have final approval or disapproval by the P&Z.

1.7.6. Criteria for variances for street exactions. Where the city council finds that the imposition of any dedication or construction requirement for streets pursuant to these regulations exceeds reasonable benefit to the property to be platted, it may approve a variance for such requirements so as to prevent such excess. In order to qualify for a variance under this section, the property owner shall demonstrate that the costs of right-of-way dedication and construction of non-local streets imposed pursuant to these regulations substantially exceeds the incremental costs of providing land and transportation improvements necessary to offset the additional traffic impacts generated by, or attributable to, the development upon the transportation network serving the property, including that which may be generated by or attributed to other phases to be platted in the future.

1.7.7. Variances. Any deviation requested not listed as a waiver in this ordinance may only be approved through the variance process discussed within this section 1.7. These variances may include but are not limited to:

- (a) Access easement in lieu of frontage in city limits or for property for which some part is in the city limits.
- (b) Lot size.
- (c) Building lines and setbacks.
- (d) Sidewalk requirements.
- (e) Private Streets, section 11.9.6.

1.8. - Right to deny filing, hearing, and plat.

The city may deny a filing, hearing, and any approval pursuant to this chapter if the applicant does not submit the information and fees required by this chapter.

1.9. - Misrepresentation of facts.

It shall be a violation of this chapter for any person to knowingly or willfully misrepresent, or fail to include, any information required by this chapter in any plat application, during any conference with a city official, during any public hearing or meeting of the P&Z, or city council. Such a violation shall constitute grounds for denial of the plat.

1.10. - Title.

The title shall identify the document as a "Final Plat" of the _____ Subdivision, Block _____, Lot(s) _____, Being a Replat of Block _____, Lot(s) _____ of the _____ Subdivision within the City of Dripping Springs, Texas (or within the extraterritorial jurisdiction of the City of Dripping Springs, Texas).

1.11 - Uniform submittal schedule.

Each submission for a plat shall be governed by the uniform submittal schedule adopted annually by ordinance.

SECTION 2. - DEFINITIONS

2.1. - General.

Words, phrases and their derivations used in this chapter shall have the meanings set forth in this section. Words and phrases that are not defined below, but are defined elsewhere in the Dripping Springs Code of Ordinances, shall be given the meanings set forth in those other ordinances. Definitions not expressly prescribed therein are to be determined in accordance with customary usage in municipal planning, surveying, and engineering practices. Other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only.

2.2. - Specific.

Access: A way or means of approach (public or private) to provide vehicular or pedestrian physical entrance to a property which shall include public or private right-of-way dedicated to this use.

Administrative officers: Any officer of the city referred to in this chapter by title, including but not limited to the city administrator, deputy city administrator, city secretary, or city engineer, shall be the person retained in that position by the city. This definition shall also include planning, legal, financial, traffic engineering and other consultants retained by the city to supplement or support existing city staff, as deemed appropriate by the city.

Amenity: An improvement to be dedicated to the public or to the common ownership of the lot owners of the subdivision and providing an aesthetic, recreational or other benefit, other than those prescribed by this chapter.

Applicant: A person or entity who submits to the city an application for an approval required by this chapter. To be qualified as an applicant under this chapter, the person or entity must have sufficient legal authority or proprietary interests in the land to commence and maintain proceedings under this chapter. The term shall be restricted to include only the property owner(s), or a duly authorized agent and representative of the property owner. In other jurisdictions, the term is sometimes referred to as the "developer", "subdivider", "builder," or other similar title.

Application: A written request to the city for an approval required by this chapter that contains all information required by this chapter and that has been deemed administratively complete by the city.

Base flood: The flood having a one percent chance of being equaled or exceeded in any given year. This type of flood is also commonly referred to as the 100-year flood.

Block length or street length: For a residential subdivision, that distance measured along the centerline of the street from the intersection centerpoint of one through street to the intersecting centerpoint of another street, or to the midpoint of a cul-de-sac. The through street referred to above shall not be a cul-de-sac, a dead-end street, or a looped street, but shall be a street which clearly has two points of ingress from two different directions.

Bond: Any form of a surety bond in an amount and form deemed satisfactory by the city.

Building setback line: The line within a property defining the minimum horizontal distance between a building or other structure and the adjacent street right-of-way line, property line, a creek, or some other specific feature.

Capital improvements program (CIP): The official proposed schedule, if any, of all future public projects listed together with cost estimates and the anticipated means of financing each project, as adopted by city council.

Cedar: The tree also known as the Ash Juniper.

City: The City of Dripping Springs, an incorporated municipality located in Hays County, Texas.

City administrator: The city's chief administrative officer, as appointed by the city council. The term also includes the deputy city administrator, or the city administrator's designee.

City attorney: The lawyer or firm of attorney who has been specifically employed by the city to assist in legal matters. This term shall also apply if the city retains a person to perform the functions of city attorney as an official city employee.

City council: The governing body of the City of Dripping Springs, Texas.

City engineer: The licensed professional engineer, or firm of licensed professional consulting engineers, that has been specifically employed by the city to assist in engineering-related matters. This term shall also apply if the city retains a person to perform the functions of city engineer as an official city employee.

City hall: The City of Dripping Springs' primary administrative office.

City limits: The incorporated, municipal boundaries of the City of Dripping Springs.

City planner: The practicing, professional land planner or planners, firm of professional land planners, of a consulting city planner that has been specifically employed or contracted by the city to assist in planning- and zoning-related matters. This term shall also apply if the city retains a person to perform the functions of city planner as an official city employee.

Commission: The planning and zoning commission (P&Z) of the City of Dripping Springs, Texas.

Common element: All portions of a condominium other than the units and includes both general and limited common elements.

Comprehensive plan: This document setting forth the guiding land use principles and goals of the city. The document, or collection of documents, delineates the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks, water and wastewater facilities, and other public and private developments and improvements. The phrase "comprehensive plan" shall mean the comprehensive plan of the city and adjoining areas as adopted by the city council, including all its revisions and plan elements (including, but not limited to, the future land use plan, transportation plan, parks and open space plan, etc.).

Concept plan: A drawing of the overall conceptual layout of a proposed development, superimposed upon a topographic map which generally shows the anticipated plan of development, and which serves as a working base for noting and incorporating suggestions of the city's administrative officers, the P&Z, and others who are consulted prior to preparation of the preliminary plat. In other jurisdictions, the term is sometimes referred to as a "preliminary site plan" or a "land study."

Condominium: A form of real property with portions of the real property designated for separate ownership or occupancy, and the remainder of the real property designated for common ownership or occupancy solely by the owners of those portions. Real property is a condominium only if one or more of the common elements are directly owned in undivided interests by the unit owners. Real property is not a condominium if all of the common elements are owned by a legal entity separate from the unit owners, such as a corporation, even if the separate legal entity is owned by the unit owners. Condominiums are established in accordance with the requirements of the Texas Uniform Condominium Act codified in chapter 82 of the Texas Property Code. A condominium is a form of ownership and not a specific building type or style.

Condominium association: An association, organized pursuant to section 82.101 of the Texas Property Code, whose members consist of owners of units in a condominium, which administers and maintains the common property and common elements of a condominium.

Construction plan: A drawing with specifications of the location, character, dimensions, and details, including all rights-of-way which may be required, of the work to be conducted in accordance with the City of Dripping Springs Technical Construction Standards and Specifications available for inspection at city hall.

Construction plans or drawings: The maps or drawings accompanying a final plat and showing the specific location and design of public improvements to be installed in the subdivision in accordance with the requirements of the city as a condition of approval of the plat. The term includes construction documents, plans and specifications.

Contiguous: Lots are contiguous when at least one boundary line or point of one lot touches a boundary line, or lines, or point of another lot.

Development: The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure on land. The term also includes any mining, excavation, landfill, or land disturbance.

Development agreement: A contract entered into by the applicant and the city, by which the applicant promises to complete the required public improvements within the subdivision within a specified time period. The agreement may also include provisions documenting a mutual understanding regarding annexation, land use, applicable regulations, funding, open space, and other arrangements as allowed by state law.

Easement: The word "easement" shall mean an area for restricted use on private property upon which the city or public utility shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs, and other improvements or growths which in any way endanger or interfere with the construction, maintenance, or efficiency of its respective systems within said easements. The city, public utilities, and utilities which have agreements with the city regarding the right-of-way, shall, at all times, have the right of ingress and egress to and from and upon easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or part of their respective systems without the necessity at any time of procuring the permission of anyone.

Engineer: A person duly authorized and licensed under the provisions of the Texas Engineering Registration Act to practice the profession of engineering.

Escrow: A deposit of cash with the city in accordance with this chapter.

ETJ: The extraterritorial jurisdiction of the City of Dripping Springs.

FEMA: The Federal Emergency Management Agency of the U.S. government.

Filing: The uniform submittal date on which an administratively complete application for a plan, plat, or permit is submitted to the city on a day or date on which it is accepting filing of such plans, plats, and permits pursuant to the uniform submittal schedule.

Impervious cover: Any material that prevents absorption of stormwater into the ground.

Land planner: Persons, including surveyors or engineers, who possess and can demonstrate a valid proficiency in the planning of residential, nonresidential and other related developments, such proficiency often having been acquired by education in the field of landscape architecture or other specialized planning curriculum, or by actual experience and practice in the field of land planning, and who may be certified as a member of the American Institute of Certified Planners (AICP).

Landscape architect: A design professional licensed by the State of Texas, who deals primarily, but not necessarily exclusively, with site work, such as plant selection and irrigation systems as well as the design of ground works considering the need for drainage, utilities installations, buildings, [and] grading while creating a pleasing appearance.

LCRA: The Lower Colorado River Authority, or a successor agency.

Lot: A divided or undivided tract or parcel of land having frontage on a public street, and which is, or which may in the future be, offered for sale, conveyance, transfer or improvement; which is designated as a distinct and separate tract; and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record at the county. Also known as parcel, tract, or plot.

Lot area: The area of a lot contained within its boundaries, exclusive of any portion within a public or private street or street right-of-way.

Lot, corner: A lot located at the junction of two or more streets.

Lot coverage: The ratio of gross floor area of all buildings, structures, and all areas associated with driveways and parking lots on a lot, to the total lot area, expressed as a percentage.

Lot depth: The distance between the front lot line and rear lot line, measured at the mid-points of the front and rear lines.

Lot, flag: A lot located behind another lot connected to the street by an area narrower than the full lot width. Also known as a panhandle lot.

Lot frontage: The distance between the side lot lines, measured at the point where the side lot lines intersect the street right-of-way. All sides of a lot that abuts a street shall be considered frontage.

Lot, interior: A lot other than a corner lot.

Lot line: A line or series of lines bounding a lot as defined herein.

Lot line, front: A lot line abutting a public or private street, or access easement. On a corner lot, the shorter lot line abutting public or private street or access easement shall be considered the front lot line. On a through lot, the lot line abutting the public or private street providing the primary access to the lot shall be considered the front lot line.

Lot line, rear: A lot line defined as other than front or side lot line. In the case of an irregularly shaped lot or a lot bounded by only three lot lines, a line within the lot having a length of ten feet, parallel to and most distant from the front lot line shall be interpreted as the rear lot line for the purpose of determining required yards, setbacks and other provisions of these regulations.

Lot line, side: A lot line that is not a front lot line or a rear lot line.

Lot line, street: Any lot line abutting an existing or dedicated street or right-of-way.

Lot width: The distance between the side lot lines, measured at the front setback line.

Major subdivision: This is the same as a "major plat."

Manufactured home subdivision: A parcel of land that is designed, improved and intended for the long-term or short-term placement of individually owned mobile home units or HUD-Code manufactured homes on lots or units that can be leased or purchased outright by the owners of the mobile home units. Facility may include a residence for the owner or manager of the premises, utility hookups, accessory structures, playgrounds and open space areas, fenced yard areas for pets, and other similar amenities. The term may be defined in other jurisdictions as a "mobile home park."

Minor subdivision: This is the same as a "minor plat."

Off-site facilities or improvements: "Off-site" facilities shall mean those facilities or improvements that are required to serve the site but that are not located within the boundaries of the plat, and are not required to be constructed or improved immediately adjacent to the property to serve the development. These [include] new or oversized improvements

for streets, sewer lines, water lines and storm drainage facilities, as well as the excess capacity of facilities such as water storage tanks and wastewater treatment plants available for new development.

On-site facilities or improvements: These are the existing or proposed facilities or improvements constructed within the property boundaries of the plat, and the existing or proposed facilities required to be constructed or improved immediately adjacent to the property that are needed to serve the development. Facilities and improvements include, but are not limited to, streets, alleys, water lines, sewer lines, storm drainage facilities, sidewalks, screening devices, and curbs and gutters.

Owner: Any person or firm, association, syndicate, general or limited partnership, corporation, trust or other legal entity, or any agent thereof, that has sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this chapter. In any event, the term "property owner" shall be restricted to include only the owner(s) or authorized agent(s) of such owner(s), such as a developer, of land sought to be subdivided.

Pavement width: The portion of a street that is available for vehicular traffic. Where curbs are used, it is the portion from the back of one curb to the back of the opposite curb.

Perimeter street: Any existing or planned street which abuts the subdivision or addition to be platted.

Periphery: For purposes of compliance with the notice requirements of this chapter, the perimeter of the tract proposed for subdivision.

Permit: A license, certificate, approval, registration, consent, permit, or other form of authorization required by law, rule, regulation, order, or ordinance that a person must obtain from the city to perform an action or initiate, continue, or complete a project for which the permit is sought. A preliminary plat, final plat, replat, and amending plat are examples of permits addressed under this chapter.

Person: Any individual, association, firm, corporation, governmental agency, political subdivision, or legal entity of any kind.

P&Z: The planning and zoning commission of the City of Dripping Springs, Texas.

Plat: This means a preliminary plat, final plat, amending plat, minor plat or replat, as determined by the context.

Amending plat: A revised plat correcting minor errors or making limited changes to the original final plat or as otherwise defined by chapter 212 of the Texas Local Government Code.

Final plat: The one official and authentic map of any given subdivision of land prepared from actual field measurement and staking of all identifiable points by a surveyor or engineer, with the subdivision location referenced to a survey corner, and with all boundaries, corners and curves of the land division sufficiently described so that they can be reproduced without additional references. The final plat of any lot, tract or parcel of land shall be recorded in the land records of Hays County, Texas. An amending plat and replats are also final plats.

Major plat: All plats not classified as minor plats, including but not limited to subdivisions of more than four lots, or any plat that requires the construction of a new street (or portion thereof), on-site drainage facilities, or the extension of a municipal facility as required by this or any other city ordinance.

Minor plat: A subdivision resulting in four or fewer lots or units, provided that the plat is for conveyance purposes only with no development or construction of roads or public improvements proposed, and provided that the plat does not create any new easements for public facilities, nor the extension of any municipal utility facilities to serve any lot within the subdivision.

Preliminary plat: The graphic expression of the proposed overall plan for subdividing, improving and developing a tract, showing in plan view the proposed street and lot layout, easements, dedications and other pertinent features, with such notations as are sufficient to substantially identify the general scope and detail of the proposed development.

Replatting or replat: This is the resubdivision of any part or all of a block or blocks of a previously platted subdivision, addition, lot or tract. Replats eliminate the prior plats as to the area replatted.

Project: An endeavor over which the city exerts its legal jurisdiction, and for which one or more permits from the city are required to initiate, continue, or complete the endeavor.

Public improvements: Facilities, infrastructure and other appurtenances, typically owned and maintained by the city, which serve a public purpose in providing a needed service or commodity, such as wastewater collection and treatment and water storage and distribution, and which protect the general health, safety, welfare and convenience of the city's citizens, including efficiency in traffic circulation and access for emergency services. Required public improvements may include, but shall not be limited to, street and alley paving, including any necessary median openings and left turn lanes on major thoroughfares; water lines and pumping stations; sanitary sewer lines and lift stations; storm drainage structures and stormwater management devices; water quality and erosion controls; screening and retaining walls; fire lane paving and fire hydrants; landscaping, where such is used for required screening or other required landscaped area, and associated irrigation system; and any required public sidewalks, streetlights and street name signs. The term "public improvements" shall not include facilities or infrastructure of private providers of utility services other than water and wastewater, but shall be deemed to include facilities and infrastructure that the city would normally require of a development, but which will be owned and maintained by an entity such as a homeowners' association, as in the case of private streets.

Review: Shall be construed to mean "to read, analyze, assess and act upon" a development application.

RV park: A parcel of land that is designed, improved, or intended to be used for short- or long-term occupancy by mobile homes/trailers or recreational vehicles, including travel trailers, in designated spaces. The facility may include a residence for the owner or manager of the premises, utility hookups, accessory structures, playgrounds and open space areas, fenced yard areas for pets, and other similar amenities. This term may be defined in other jurisdictions as a "trailer park."

Street: An improved surface within a right-of-way or easement, public or private, other than an alley, which has been dedicated, deeded, or granted an easement for public use and which affords primary vehicular access to abutting property. Includes the term "road" and "roadway":

- (a) Major thoroughfares, also known as arterial streets or primary thoroughfares, which provide vehicular movement from one neighborhood to another or to distant points within the city, and including freeways or highways leading to other communities.
- (b) Collector streets, also known as feeder streets or secondary thoroughfares, which provide vehicular circulation within neighborhoods, and from local streets to major thoroughfares.
- (c) Local residential streets, also known as minor thoroughfares or streets, which primarily provide direct vehicular access to abutting residential property.
- (d) Private streets are streets which are owned and maintained by a homeowners' association or property owners' association, and which are not dedicated to the public.

Alley: A minor right-of-way, private or public, not intended to provide the primary means of access to abutting lots or units which is used primarily for vehicular service access to the back or sides of properties that derive primary access from a street. The length of an alley segment is to be measured from the right-of-way lines of the streets from which the alley is provided access, including any alley turnouts onto a street, or from the centerpoint of an intersection with another alley which connects to a street.

Cul-de-sac: A street having only one outlet to another street, and terminated on the opposite end by a vehicular turnaround or "bulb". The length of a cul-de-sac is to be measured from the intersection centerpoint of the adjoining through street to the midpoint of the cul-de-sac bulb.

Dead-end street: A street, other than a cul-de-sac, with only one outlet.

Overlength street (or alley): A street segment, or a cul-de-sac or alley segment, which exceeds the maximum length allowed by this chapter, as measured along the centerline of the street from the intersection centerpoint of one through street, which shall not be a cul-de-sac or dead-end or looped street, to the intersecting centerpoint of another through street or, in the case of a cul-de-sac, to the midpoint of the cul-de-sac. For an alley segment, the measurement shall be to the right-of-way lines of the streets from which the alley is provided access, including any alley turnouts, or from the centerpoint of an intersection with another alley which connects to a street.

Perimeter street: Any existing or planned street which abuts the subdivision or addition to be platted.

Right-of-way: Land occupied or intended to be occupied by street, crosswalk, alley railroad, road, electric transmission line or oil or gas pipe line, water main, sanitary or storm sewer main, or for other special use. Right-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use.

Standard street: A standard street is a street or road that meets or exceeds the minimum specifications in the city's standard street specifications, and which is constructed to the ultimate configuration for the type of roadway it is designated for on the city's transportation plan.

Substandard street: An existing street or road that does not meet the minimum specifications in the city's standard street specifications, and which is not constructed to the ultimate configuration for the type of roadway it is designated for on the city's transportation plan.

Street improvements: This means any street or thoroughfare, together with all appurtenances required by city regulations to be provided with such street or thoroughfare, and including but not limited to curbs and gutters, walkways (sidewalks), parks pedestrian trails, drainage facilities to be situated in the right-of-way for such street or thoroughfare, traffic-control devices, streetlights and street signs, for which facilities the city will ultimately assume the responsibility for maintenance and operation.

Street length: This means the same as "block length".

Subdivision: A division or redivision of any tract of land situated within the city's city limits or its ETJ into two or more parts, lots, units, or sites, for the purpose, whether immediate or future, of sale, division of ownership, or building development. The term includes resubdivisions of land, lots, or units which are part of a previously recorded subdivision. A condominium development can be a subdivision. In other jurisdictions, the term may be referred to as an "addition."

Submission date: The submission date is when all necessary forms, fees, plans, information and copies have been submitted to the city, previewed for completeness, and deemed as "complete" by action of issuance of a certificate of completeness by the city.

Substantial compliance: An application is determined by the city administrator to be consistent with the preliminary plans or plat submitted to the city and approved by the city council when the application does not materially differ in, for example, the number of lots, the amount of impervious cover, the amount of parkland or open space, the number of streets, vehicular access, or water quality.

Surveyor: A licensed land surveyor or a registered public land surveyor, as authorized by state statutes to practice the profession of surveying.

SWPPP: A storm water pollution prevention plan (contained within the engineering construction plans).

TCEQ: Texas Commission on Environmental Quality, or a successor agency.

Temporary improvements: Improvements built and maintained by the property owner that are needed to remedy a circumstance that is temporary in nature, such as a temporary drainage easement or erosion control device, that will be removed upon completion of the subdivision or shortly thereafter.

Uniform submittal date: A date on the uniform submittal schedule adopted by the city on which administratively complete submissions for a plat become filed plat applications.

Unit: A physical portion of the condominium or apartment designated for separate ownership or occupancy, the boundaries of which are described by the condominium declaration or apartment plans.

U.S. Army Corps of Engineers: The civil engineering branch of the U.S. Government, or a successor agency.

USFWS: The United States Fish and Wildlife Service, or a successor agency.

Yard: The open area between building setback lines and lot lines.

SECTION 3. - PROCEDURES

3.1. - Pre-application procedures.

- 3.1.1. Applicants shall avail themselves of the advice and assistance of the city's administrative officers, including its retained planning and engineering consultants (as applicable), and are required to participate in a pre-application conference before submitting a request for any type of plat as described below. Applicants are encouraged to consult early and informally with those officers and consultants before preparing any plat in order to save time and money, and to avoid potential unnecessary delays.
- 3.1.2. All applicants shall schedule and attend a mandatory pre-application conference with the appropriate city official(s) in order to become familiar with the city's development regulations and the subdivision process. At the pre-application conference, the applicant may be represented by owner's land planner, engineer and/or surveyor. No development right (if any) shall vest upon participation in any pre-application conferences. Applicant shall inform the city at least five business days prior to any pre-application conference or other meeting if the applicant intends to bring a legal representative to a meeting.
- 3.1.3. Prior to the pre-application conference, the applicant must provide a check payable to the city in the amount of the pre-application conference fee, as may be established by the city council.
- 3.1.4. After a pre-application conference, the city shall issue a certification of completion of the pre-application conference that is valid for a period of 90 days. If a submission is not deemed a complete application within that time period, an additional pre-application conference will be required.
- 3.1.5. An applicant or other interested individual may request a planning meeting that is an informal meeting related to land use questions. A planning meeting is a meeting with city staff that does not meet the pre-application conference requirement. No documentation or approvals may be given during a planning meeting.

3.2. - Compliance with comprehensive plan, zoning, PDD, and development agreement.

Any plat submitted for approval by the city shall be in accordance with the city's zoning ordinance and comprehensive plan, as may apply, including all adopted water, sewer, storm drainage, future land use, park, recreation, open space and transportation plans. All plats shall be prepared by a licensed civil engineer or a registered professional land surveyor. Any plat submitted for approval by the city shall be in accordance with any planned development district ordinance or development agreement.

3.3. - Classification of subdivisions.

Before any plat is filed for recordation with the county clerk, the property owner shall apply for and secure P&Z approval of the required subdivision plat, in accordance with the following procedures, unless otherwise provided within this chapter.

- 3.3.1. Minor subdivisions may be approved for residential or nonresidential properties. Minor plat approval by the city administrator requires a pre-application conference and the submission of a final plat drawing and other submission materials required by this chapter. Lots or units may be conveyed or sold only when the plat has been approved by the city administrator and the plat has been filed at Hays County.
- 3.3.2. Major subdivisions may be approved for residential or nonresidential properties. The procedure for approval of a major subdivision typically involves three steps: a pre-application conference, preliminary plat and final plat. Major plat approval shall be in accordance with this chapter. Upon completion and final acceptance of the required public improvements, or upon submission and city approval of the appropriate surety for public improvements, the property owner may submit the final plat for approval. All major subdivision plats must be reviewed and approved by the P&Z. Lots or units may be sold only when the final plat has been approved by the planning and zoning commission and the plat has been filed at Hays County. If the land is required to be platted, no conveyance or sale of any portion of the property, lot, or unit may occur until after the final plat is approved by the planning and zoning commission and filed at Hays County.

3.4. - Official filing date.

- 3.4.1. For the purpose of these regulations, the "official filing date" shall be the date upon which a submission for approval of any type of plat, that contains all required elements mandated by the Local Government Code, section 212.004(b) and by this chapter, is deemed complete by the city administrator. To be considered complete, the submission must be accompanied by a check payable to the city in the amount of all applicable fees. It is only after the official filing date that any statutory period required for approval or disapproval of the plat shall commence to run. No application shall be deemed officially filed until the city administrator determines that the submission is complete and a certificate of completeness is issued by the city administrator. Failure by the city administrator to make a determination of incompleteness within ten business days following the date on which the submission was first received by the city, shall result in the submission being deemed complete, the submission becoming an application on the next uniform submittal date.
- 3.4.2. Plat submissions which do not include all required information and materials, as outlined below and per other city ordinances that may change from time to time, will be considered incomplete, shall not be accepted for official filing by the city, and shall not be scheduled on a P&Z agenda until the proper information is provided to city officials including the city's retained planning and engineering consultants, if applicable.

3.5. - Submission timing.

A submission for completeness review of any plat shall be accepted at any time. Submissions that are deemed to be administratively complete shall be considered a filed application on the next uniform submittal date following the determination of administrative completeness.

3.6. - Notification.

- 3.6.1. Signage.** Within two business days after the city administrator issues a certificate of completeness for a plat application, the applicant shall place weather-resistant signs on the property under application for the purposes of public notification. The applicant shall submit a photo of the sign within two business days to the city administrator. The signs shall be provided by the city. Signs placed on the property involved must be within ten feet of any property line paralleling any established or proposed street, and must be visible from that street. All required signs shall remain on the property until final disposition of the plat application is determined. The applicant is responsible for removal of the signs within three business days after final disposition of the application.
- 3.6.2. Website notice.** Within two business days after the uniform submittal date after which the city administrator has issued a certificate of completeness for any plat application, the city shall place a notice of proposed plat on its website. The notice shall include the property description or address and the type of plat being considered.

3.7. - Submission materials.

3.7.1. The submission shall include the following:

- (a) A complete application form that bears the original notarized signature(s) of the property owner(s) of the subject property;
- (b) The prescribed submission fee;
- (c) One half-sized 11-inch by 17-inch black-and-white reductions of the plat;
- (d) One copy of any applicable development agreement pertaining to the subject property (if any);
- (e) Copy of soil test turned into county;
- (f) Digital copies of all submittal items including GIS data;
- (g) A certificate or other satisfactory evidence from the Hays County Central Appraisal District showing that all taxes have been paid on the subject property, and that no delinquent taxes exist against the property. Documentation shall also be included that shows no delinquent assessments, fees, or other debts or obligations to the city and which are directly attributable to the subject property. One copy of the tax status certificate shall be submitted to the city in order for the application to be deemed complete;
- (h) A preliminary drainage study;
- (i) If any amount of surface water is to be used by the subject property, for final plat approval the applicant must certify to the city that the applicant has obtained all necessary authorizations from the Lower Colorado River Authority (LCRA) and the United States Fish and Wildlife Service (USFWS). The applicant must also provide proof of compliance with the memorandum of understanding (MOU) between LCRA and USFWS, or the regional water quality protection plan, as may be applicable;
- (j) Record of approved variance needed for the project;
- (k) Any waivers needed for the project;
- (l) Any approved permits that are applicable to the plat application (i.e. driveway permit, TCEQ permit, utility provider permit, etc.);

- (m) A written narrative describing how all portions of the site development application meets all requirements of the other codes including landscaping, lighting, parkland dedication, site development, water quality protection and may be relevant;
- (n) All documents in the correct form listed in section 4.8 of this ordinance; and
- (o) Any other reasonable and applicable information and materials deemed appropriate by the city engineer or city administrator.

3.7.2. An engineer's summary report electronically and on paper that describes, in as much detail as necessary, the following:

- (a) The overall nature and scope of the proposed development, including zoning (if applicable);
- (b) The proposed use(s) and acreage of each proposed use (if applicable);
- (c) Minimum lot or unit sizes, widths and depths, number of lots or units to be created;
- (d) Special amenities or facilities that will be included in the development;
- (e) How the property will be served with required utilities and services reflective of all letters of service availability;
- (f) How stormwater drainage will be handled; and
- (g) An itemization and description of any waivers from provisions of this chapter that will be sought.

3.7.3. If the proposed development will have access points onto a major thoroughfare, the application shall also include a letter from the appropriate entity, such as TxDOT or Hays County, acknowledging and approving proposed driveway locations and corresponding median openings and left turn lanes, if applicable.

3.7.4. Letters shall also be provided from each of the applicable utility service providers, including the city if applicable, including water, wastewater, gas, electricity, telephone, cable TV and solid waste, verifying their ability and willingness to provide an adequate level of service for the proposed development.

3.7.5. The Dripping Springs Independent School District shall be notified (in writing, copy to city) so that the district has the opportunity to document any concerns regarding transportation issues or raise matters regarding efforts to obtain a future school site within any portion of the subject property.

3.7.6. All plat drawings and other corresponding plans and drawings, including construction plans and landscape and screening plans, shall be on sheets equal to 24 inches by 36 inches in size, and shall be drawn to a known engineering scale of not smaller than 100 feet to the inch or a larger scale. In cases of large developments which would exceed the dimensions of the sheet at 100 foot scale, plats may be on multiple sheets or to another known engineering scale, as approved by the city administrator, and in a format that will be acceptable for eventual filing at Hays County.

3.8. - City staff review prior to the planning and zoning commission meeting.

Upon official filing of a complete application for plat approval, as deemed complete by the city administrator, the city shall commence technical review of the development application by forwarding a copy of the application and plat to development review team members that may include, but shall not be limited to, the city administrator, city engineer, city attorney, city planner, and building official. City development review team members shall review the plat and shall ascertain its compliance with these and other applicable city regulations. For plats whose final reviewing authority is the planning and zoning commission, complete applications for the plat shall be placed on the agenda within 30 days of the date the city administrator determines that the plat submission is an administratively complete application and the application is filed on a uniform submittal date. The plat application the city has on file seven calendar days before the planning and zoning

commission meeting, shall be the application that is submitted to the planning and zoning commission for review and approval or disapproval. Amending and minor plats shall be reviewed and approved or disapproved administratively as described below.

3.9. - Extension request by applicant for planning and zoning commission.

Before or at the time of the planning and zoning commission meeting, if the final approval authority is the planning and zoning commission, the planning and zoning commission will accept and review a written request for an extension by the applicant. The planning and zoning commission may approve an extension on the request of the applicant for up to 30 days. If extended, the application will be placed on the next planning and zoning agenda within the extension period.

3.10. - Action by the P&Z.

3.10.1. All subdivision plat applications (except minor plats and amended plats) shall be reviewed by the P&Z. If the application is in complete conformance with the provisions of this chapter, and with all other applicable regulations of the city, then the P&Z shall approve the application. The P&Z shall review each plat application and shall take action within 30 days (or during an approved extension period) of receipt of a completed application for a plat to:

- (a) Approve the plat application;
- (b) Approve the application subject to certain conditions; or
- (c) Vote to disapprove the plat application.

3.10.2. All plat applications that were disapproved by the Planning and Zoning Commission, shall be provided to the applicant with a written statement of the reasons for disapproval that clearly articulates the reason for disapproval including citation to the law, a statute or city ordinance, that is the basis for the disapproval.

3.10.3. If the applicant amends its filed plat application in response to the planning and zoning commission's initial disapproval, the applicant may file its amended application at the city on a date or day on which the city is accepting amended filings. The city will then have up to 15 days to approve or disapprove the amending plat application. The Planning and zoning commission may either: (1) approve plat if the response adequately addresses each reason for the disapproval; or (2) disapprove plat if the response does not adequately address each reason for disapproval or creates new reasons for a violation of a statute or city ordinance. Any disapproval shall include a written statement of the reasons for disapproval that clearly articulates the reason for disapproval including citation to the law, a statute or city ordinance, that is the basis for the disapproval. Any plat that is disapproved after the city has reviewed the response in the form of an amended application may be refiled at any time as a new plat application.

3.11. - Variances for plat applications.

For a plat application to be deemed complete, any variances needed for plat approval shall first be submitted through the variance process. If it is determined that a variance is needed after a plat application is filed, the plat may be: (1) approved without the variance if it is in complete compliance with all city regulations at the time of submittal; or (2) disapproved if a variance is needed in order for the plat application to comply with all city regulations.

3.12. - Proof of land ownership.

3.12.1. The city requires proof of land ownership prior to filing of any development application involving real property. Along with the submission, the applicant shall provide written verification, such as a notarized statement or a

power of attorney or other evidence satisfactory to the city administrator, that the applicant is the owner of record of the subject land parcel or parcels, or is the property owner's authorized agent. The city administrator shall have the authority to determine what document(s) the city will require to prove ownership, such as one of the following:

- (a) General warranty deed;
- (b) Special warranty deed;
- (c) Title policy; or
- (d) Other documentation that is acceptable to the city administrator.

3.12.2. If ownership cannot be conclusively established then the submission cannot be deemed administratively complete and cannot be filed as a land development application.

3.12.3. One copy of the proof of land ownership document(s) shall be simultaneously submitted to the city in order for the application to be deemed complete.

3.13. - Lapse of plat approval.

The approval of any type of plat shall be effective for a period of 365 calendar days beyond the date that the plat was approved by the planning and zoning commission, except as otherwise provided herein. By 12:01 a.m. on the 366th day following planning and zoning commission approval of the plat, the applicant must have completed a city-required "progress benchmark" as set forth below. If this is not accomplished, then the approved plat shall be deemed to have expired and shall become null and void and a new plat application (along with all other required paperwork, plans, fees, etc.) must be submitted, reviewed and approved by the city in order to proceed with development of the property. The series of "progress benchmarks" for a project, pursuant to the provisions of this section, are as follows:

Approved Plat or Plan	Next "Progress Benchmark"
Preliminary Plat	All of the following shall occur within the 183 calendar days following preliminary plat approval: 1) city engineer's approval of construction plans for all proposed public improvements; and 2) payment of all applicable fees that are traditionally collected prior to release for site construction. In addition to the above, an application for approval of the final plat shall be submitted to the city within 365 calendar days following approval of the preliminary plat in order to avoid lapse of the approved preliminary plat (unless such is extended or reinstated pursuant to provisions in this chapter).

Final Plat	<p><i>Final plat approved by the planning and zoning commission but not yet filed with Hays County</i> — All materials necessary to file the plat at the county, including plat documents, filing fees, etc., shall be submitted to the city within 30 calendar days of the date of final plat approval (the 30-day period shall commence upon county approval of final plat if the property is in the ETJ).</p> <p><i>Final plat that has been filed at Hays County</i> — The final filed plat is valid in perpetuity, unless the filed plat is properly amended or vacated pursuant to the provisions of this chapter, or has not been filed with Hays County within one year of final approval by the city.</p>
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Extension and reinstatement procedure. Prior to the lapse of approval for a plat, the property owner may make application to the city to extend the plat approval. Such application shall be submitted at least ten business days prior to the expiration of the plat. The application for extension shall be considered by the city administrator, who shall approve or deny the application. If no application for extension of plat approval is submitted by the property owner in a timely fashion prior to the expiration date, then the plat shall be deemed to have expired and shall become null and void.

In considering whether to grant a request for extension, the city administrator shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval, and the extent to which newly adopted subdivision regulations would apply to the plat at that point in time. The city administrator shall either extend the plat (either with or without conditions) or shall deny the request, in which instance the originally approved plat shall be deemed to be null and void. The property owner must thereafter submit a new plat application for approval, and shall conform to the subdivision regulations then in effect.

The city administrator may extend the plat approval subject to additional conditions based upon newly enacted city regulations or state legislation, or such as are necessary to ensure compliance with the original conditions of approval or to protect the public health, safety and welfare. The city administrator may also specify a shorter time for extension of the plat than the original 365-day approval period.

3.14. - Lapse of construction plan approval.

The approved construction plans shall be valid for a period of 365 calendar days following approval by the city engineer. The city administrator may, upon written request by the applicant, grant an extension of up to an additional 365 calendar days, after which the construction plans shall be subject to reapproval by the city administrator in consultation with the city engineer if no substantial construction has been completed.

3.15. - Concept plan.

Submission of a concept plan is voluntary. Submission of a concept plan may be done at the pre-application conference. City review of a concept plan has many benefits for both the city and the applicant. The applicant benefits by obtaining preliminary review and scrutiny, as well as input and suggestions, on the overall conceptual layout of the proposed development from the city's development review team. The city benefits in that it is allowed to become familiar with and involved in the project early in the development process, which is particularly important for large-scale developments and

subdivisions. This allows the city to plan for and closely coordinate the provision of public facilities and services, thereby potentially avoiding future problems such as undersized utility lines, inadequate roadway capacities, unanticipated shortfalls in public services, and fiscal inefficiencies resulting from lack of planning and coordination.

- 3.15.1. Extent of area in a concept plan.** When the overall development project is to be developed in phases, the concept plan area should include the entire property from which the phases are being subdivided and an approximate development schedule. Where significant natural or man-made features, such as thoroughfares or creeks, make inclusion of the entire property in the concept plan unnecessary to adequately review the items listed in the preceding paragraph, the concept plan may include a smaller study area. Boundaries such as major thoroughfares, whether existing or proposed, creeks and major drainageways, political subdivisions, or other such natural or man-made features may be used to delineate the smaller study area.

SECTION 4. - PRELIMINARY PLAT PROCEDURES

4.1. - Pre-application conference.

Following the pre-application conference regarding the overall general development strategy for the property, the applicant may submit a preliminary plat and other supplementary materials, as required by this chapter or by the city. The preliminary plat submission shall not be considered a filed application until the uniform submittal date after it has been deemed to be administratively complete by the city administrator.

4.2. - Portion.

The preliminary plat shall only be effective over that portion of the property or subdivision which the applicant proposes to construct and record provided such portion conforms to all the requirements of this chapter and with any other applicable regulations and codes of the city.

[4.3. - Reserved.]

4.4. - Approval of a preliminary plat.

Approval of a preliminary plat by the planning and zoning commission shall be deemed general approval of the street and lot or unit layout shown on the preliminary plat (approval for construction of the necessary streets, water lines, sewer lines, and other required improvements and utilities shall be authorized only through the city engineer's approval of the construction plans), and to the preparation of the final or record plat when construction of all required public improvements is nearing completion (or when appropriate surety for completion is provided to the city).

4.5. - Standards for approval.

No preliminary plat shall be approved by the P&Z unless the following standards have been met:

- 4.5.1.** The layouts for required public improvements and city utilities have been submitted by the applicant for approval by the city engineer (whether specifically stated or not, preliminary plat approval shall always be subject to any additions or alterations to the construction plans, if submitted as deemed necessary by the city engineer, as needed, to ensure the safe, efficient and proper construction of public improvements within the subdivision); and
- 4.5.2.** The plat conforms to applicable zoning and other city regulations.

4.6. - Non-permitted construction work.

- 4.6.1. No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the preliminary plat and construction plans by the planning and zoning commission or appropriate approval authority, nor prior to issuance of all appropriate construction permits by the city and other appropriate entities or agencies.
- 4.6.2. This prohibition does not apply to the clearing of cedar trees with the use of rubber-tired equipment.
- 4.6.3. Any clear-cutting or tree removal must be performed in compliance with the city's landscape regulations, as may be applicable.
- 4.6.4. No excavation, grading, tree removal or site clearing activities shall occur prior to approval of the preliminary plat and the construction plans. However, preliminary grading or site preparation activities, such as limited excavation, filling, and removal or clearing of brush, undergrowth or man-induced debris, may be authorized by the city administrator, at the administrator's discretion, if such request is submitted in writing by the property owner or developer, if such activities are in conformance with all applicable city ordinances and codes, and if such activities will not be detrimental to the public health, safety or general welfare.

4.7. - Information required.

The proposed preliminary plat and associated preliminary construction plans shall show the following information:

- (a) A vicinity, or location, map that shows the location of the proposed preliminary plat within the city (or within its ETJ) and in relationship to existing roadways;
- (b) Boundary lines, abstract/survey lines, corporate and other jurisdictional boundaries, existing or proposed highways and streets (including right-of-way widths), bearings and distances sufficient to locate the exact area proposed for the subdivision, and all survey monuments including any required concrete monuments (per the city engineer); the length and bearing of all straight lines, radii, arc lengths, tangent lengths and central angles of all curves shall be indicated along the lines of each lot or unit (curve and line data may be placed in a table format); accurate reference ties via courses and distances to at least one recognized abstract or survey corner or existing subdivision corner shall be shown;
- (c) The name, location and recording information of all adjacent subdivisions (or property owners of adjacent unplatted property), including those located on the other sides of roads or creeks, shall be drawn to the same scale and shown in dotted lines adjacent to the tract proposed for subdivision in sufficient detail to show accurately the existing streets, alleys, building setbacks, lot and block numbering, easements, and other features that may influence the layout of development of the proposed subdivision; adjacent unplatted land shall show property lines, the names of owners of record, and the recording information;
- (d) The location, widths and names of all streets, alleys and easements (it shall be the applicant's responsibility to coordinate with appropriate utility entities for placement of necessary utility easements and for location of all streets and median openings on highways or arterial roadways), existing or proposed, within the subdivision limits and adjacent to the subdivision; a list of proposed street names shall be submitted (in the form of a letter or memo along with the application form) for all new street names (street name approval is required at the time the preliminary plat is approved);
- (e) The location of all existing property lines, existing lot and block numbers and date recorded, easements of record (with recording information), buildings, existing sewer or water mains (can be shown on a separate sheet, if preferred), gas mains or other underground structures, or other existing features within the area proposed for subdivision;

- (f) Proposed arrangement and square footage of lots or units (including lot, unit numbers, or block numbers) proposed use for nonresidential uses, the location and size of buildings, existing and proposed. This information may be provided on a separate sheet, such as on a concept plan or the final site plan; refer to the city's zoning ordinance);
- (g) A title block within the plat (and construction plans) which shows the title or name under which the proposed subdivision is to be recorded; the name, address and phone number of the property owner(s); the name, address and phone number of the licensed engineer or registered professional land surveyor who prepared the plat/plans; the scale of the plat/plans; the date the plat/plan was prepared; and the location of the property according to the abstract or survey records of Hays County, Texas; the subdivision name shall not duplicate (or too closely phonetically replicate) the name of any other platted subdivision in Dripping Springs, its ETJ, or other surrounding communities in Hays County, but phasing identification is allowed to be similar to previous phases of that particular development (it is the property owner's responsibility to check the plat records of Hays County to ensure that the proposed subdivision name will not duplicate or sound too much like a subdivision name already in existence — the city may, at its discretion, require a different subdivision name if there is potential for confusion by public safety officials or the general public);
- (h) Sites, if any, to be reserved or dedicated for parks, schools, playgrounds, other public uses or for private facilities or amenities;
- (i) Scale (including a graphic scale), date, north arrow oriented to the top or left side of the sheet, and other pertinent informational data;
- (j) Contours with intervals of two feet or less shown for the area, with all elevations on the contour map referenced to sea level datum; and the limits of any portion of the 100-year floodplain (pursuant to the flood study, if required by the city engineer) that may be within or adjacent to (i.e., within 100 feet of) the property (final monumentation of the floodplain shall occur, and shall be shown, on the final plat prior to approval and filing at the county) — if no floodplain is present, then a note stating this shall be shown on the plat;
- (k) Areas contributing drainage to the proposed subdivision shall be shown in the construction plans; locations proposed for drainage discharge from the site shall be shown by directional arrows;
- (l) All physical features of the property to be subdivided shall be shown, including:
 - (1) The location and size of all watercourses;
 - (2) 100-year floodplain according to Federal Emergency Management Agency (FEMA) information;
 - (3) U.S. Army Corps of Engineers flowage easement requirements;
 - (4) All critical environmental features (CEFs) such as karsts, springs, sinkholes, caves, etc., to be located and documentation to be signed and certified by a geologist. All CEF to have a minimum setback of 150 feet. All designated wetlands to be certified as such by an accredited wetland biologist relying on the presence of wetlands plant species. Applicant to include a slope map identifying the breakdown of all lands in categories from zero percent to 15 slope, 15 to 30 slope, and over 30 percent slope;
 - (5) Ravines;
 - (6) Bridges;
 - (7) Culverts;
 - (8) Existing structures;
 - (9) Drainage area in acres or area draining into subdivisions (only in the construction plans); and
 - (10) Outline of major wooded areas or the location of major or important individual trees (excluding cedar

trees) with trunk diameters exceeding 12 inches measured four feet above the ground, and other features pertinent to subdivision; is defined in the city's technical construction standards and specifications, and the city's landscape ordinance;

- (m) Schematic engineering plans of water and sewer lines and other infrastructure (including sizes) to be constructed in the subdivision; the proposed connections to distribution mains shall be indicated;
- (n) Proposed phasing of the development: Where a subdivision is proposed to occur in phases, the applicant, in conjunction with submission of the preliminary plat, shall provide a schedule of development, the dedication of rights-of-way for streets and street improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision. The city engineer shall determine whether the proposed streets and street improvements are adequate pursuant to standards herein established, and may require that a traffic impact analysis be submitted for the entire project or for such phases as the city engineer determines to be necessary to adjudge whether the subdivision will be served by adequate streets and thoroughfares;
- (o) All preliminary plats shall be submitted in a legible format that complies with Hays County requirements for the filing of plats;
- (p) Existing zoning of the subject property and all adjacent properties if within the city limits;
- (q) Construction traffic plan showing proposed routes for construction vehicle traffic and points of ingress and egress of such vehicles during construction; temporary construction easement approvals if needed, this shall be sealed by a registered engineer;
- (r) Certificates and other language shall be included on the plat, pursuant to the following subsections:
 - (1) A statement signed by the property owner(s) and acknowledged before a notary public that the subdivided area is legally owned by the applicant;
 - (2) An accurate legal, such as by metes and bounds, description by bearings and distances (including necessary curve and line data), accurate to the nearest 100th of a foot, for all boundary, block and lot lines, with descriptions correlated to a permanent survey monument;
 - (3) The registered professional land surveyor's certificate, with a place for his or her signature and notarization of his or her signature;
 - (4) A place for plat approval signature of the chair (or vice chair, in the chair's absence) of the planning and zoning commission, a place for the city secretary to attest such signature, and the approval dates by the planning and zoning commission;
 - (5) Appendices to this chapter contain certificates and languages to be used on the plat to accommodate the above requirements;
- (s) Target consumer groups for the project;
- (t) If any amount of surface water is to be used by the subject property, the applicant must provide documentation to the city establishing that the applicant has notified the following entities of the applicant's plans for the project: Lower Colorado River Authority (LCRA), and the United States Fish and Wildlife Service (USFWS); and
- (u) If any amount of groundwater is to be used by the subject property, the applicant must provide documentation to the city establishing that the applicant has notified the following entities of the applicant's plans for the project: Barton Springs Edwards Aquifer Conservation District, and the Hays-Trinity Groundwater Conservation District.

4.8. - Construction plans.

After approval of a preliminary plat, the applicant shall submit the required number of sets of the complete construction plans for all streets, alleys (if any), storm sewers and drainage structures, water and sanitary sewer facilities, screening and retaining walls, landscaping and irrigation, and any other required public improvements for the area covered by the approved preliminary plat. The construction plans shall also contain any plans deemed necessary to show or document compliance with the city's ordinances pertaining to nonpoint source pollution control, and any other applicable codes and ordinances of the city that are related to development of a land parcel. Cost estimates for the completion of all public improvements shall also be submitted with the construction plans for review (and approval, if necessary) by the city engineer.

4.8.1. For the purposes of this chapter, complete sets of construction plans shall include the following plans or sheets (generally in this order), as well as any additional plans or sheets deemed necessary and requested by the city engineer:

- (a) Cover or title sheet (with list of all plans).
- (b) Preliminary plat.
- (c) Existing conditions plan (unless these items are shown on the Preliminary Plat itself), which shows existing topography, vegetation, tree inventory of those trees with a diameter of eight inches or greater (when measured four feet above the natural grade) located within 20 feet of intended rights-of-way (streets and utilities), existing natural and man-made physical features, etc.
- (d) Existing tree and vegetation protection plan.
- (e) Grading, erosion control, and water quality control plans (including a SWPPP).
- (f) Paving and storm drainage plans.
- (g) Utility plans for water, sanitary sewer, etc.
- (h) Traffic-control plans (if necessary).
- (i) Screening and retaining wall plans.
- (j) Landscaping and irrigation plans.

4.8.2. The applicant shall have these plans prepared by their own professional engineer(s), subject to approval of the plans by the city engineer. The city engineer shall review, or cause to be reviewed, the plans and specifications and if approved, shall mark them "approved" and shall return one set to the applicant, and at least two sets shall be retained in the city's files. If not approved, then one set shall be marked with the objections noted (on the plans themselves and/or in memo format, a copy of which shall also be sent to the city) and returned to the applicant for correction, whereupon the applicant's engineer shall correct the plans as requested and shall resubmit them back to the city engineer for re-review. Once the construction plans are approved by the city engineer (as documented by an approval letter addressed to the applicant and copied to the city), the property owner shall provide additional sets of the approved plans to the city, as specified by the city engineer, for use during construction. A full set of the city-approved and stamped construction plans must be available for inspection on the job site at all times.

4.8.3. After approval of the preliminary plat by the planning and zoning commission, approval of the construction plans and specifications by the city engineer, and following procurement of all applicable permits from other appropriate agencies (such as TxDOT, TCEQ, U.S. Army Corps of Engineers, FEMA, and/or Hays County), USFWS, the applicant shall cause a contractor(s) to install or construct the public improvements in accordance with the approved plans and the city's standard specifications, and at the applicant's expense. The applicant shall employ engineers, surveyors or other professionals as necessary to design, stake,

supervise, perform and complete the construction of such improvements, and shall cause his or her contractor to construct the said improvements in accordance with this chapter and with the city's, and any other applicable agencies, design standards. If the project will require a FEMA map revision, then the proposed plans shall also be reviewed for compliance with the city's flood damage prevention ordinance, as amended, prior to approval of the preliminary plat and prior to any construction activities (including but not limited to grading, clearing, grubbing, brush removal, etc.) on the site.

- 4.8.4. Construction plans shall be prepared by or under the direct supervision of a professional engineer licensed in the State of Texas, as required by state law governing such professions and in accordance with this chapter and the city's ordinances. All construction plans submitted for city review shall be dated and shall bear the responsible engineer's registration number, and the designation of "professional engineer" or "P.E.," and the engineer's seal. Construction plans shall be approved by the city engineer only when such plans meet all of the requirements of this chapter and the ordinances.
- 4.8.5. Construction plans shall be in conformance with the ordinances and with the requirements set forth herein. Construction plans (in complete sets, as described above) showing paving and design details of streets, alleys, culverts, bridges, storm sewers, water mains, sanitary sewers, sidewalks, screening and retaining walls, landscape and irrigation plans (if appropriate), and other engineering details of the proposed subdivision at a scale of one inch equals 20 or 40 feet horizontally and one inch equals two, five, or ten feet vertically shall be submitted to the city engineer along with a copy of the preliminary plat of the subdivision. The number of copies as specified by the city shall be submitted along with the preliminary plat submittal.
- 4.8.6. A landscape architect may prepare the landscaping and irrigation plans.
- 4.8.7. As part of the construction plans, a drainage plan showing how the drainage of each lot relates to the overall drainage plan for the plat under consideration shall be submitted. The drainage plan shall be made available to each builder within the proposed subdivision and all builders shall comply with the drainage plan.

4.9. - Effect of approval.

Approval of a preliminary plat authorizes the property owner, upon fulfillment of all requirements and conditions of approval and upon construction of all required improvements (or submission of the proper assurances for construction of same), to submit for final plat approval. All public improvements required by this ordinance shall be completed or supported by complete fiscal security in accordance with approved construction plans prior to submission for final plat approval. A final plat shall not be filed until all improvements and/or fiscal security has been accepted.

4.10. - Revisions to approved preliminary plat.

It is generally recognized that revisions to the preliminary plat may be needed before the final plat application can be filed with the city.

- (a) Preliminary plat revision procedure. To request a revision to an approved preliminary plat, the applicant must file an application with the City.
 - (1) Minor revisions. An application shall include the signatures of all lot owners directly affected by the revision. Applications for minor revisions shall be reviewed by the development review committee.
 - (2) Major revisions. A new application for a preliminary plat is required including signatures of all lot owners affected by the revision, compliance with amendments to this chapter which occurred since original preliminary plat approval, and other requirements. Major revisions shall require notification to all lot

owners within the approved preliminary plat by mail at least 15 days prior to the planning and zoning commission meeting at which the revision will be considered.

- (b) Minor revisions. Minor revisions are slight enlargement or shifting of easements or lot lines, unit lines, addition of private or franchise utility easements, correction of bearings or distances, correction of minor labeling errors, addition of erroneously omitted informational items and labels, etc. Minor revisions also can include an increase in density by no more than ten percent so long as the increase is allowed under all city ordinances and agreements with the city. Minor revisions also cannot negatively impact the provision of public facilities. Determination of whether or not revisions are "minor" in nature is subject to the judgment of the city administrator in consultation with the development review committee.
- (c) Major revisions. Major revisions include obvious reconfiguration of easements, relocation of interior road connections to exterior roadways or access easements or fire lanes, any modification to the perimeter or boundary of the property, increase in density not considered a minor revision, decrease in parkland or open space, and relocation or addition or deletion of any public improvement (including corresponding easement) or any other change to a preliminary plat that is not a minor revision.

(Ord. No. 2021-02, § 2, 1-12-2021)

SECTION 5. - FINAL PLAT APPROVAL PROCEDURES

5.1. - Substantial compliance with preliminary plat.

The final plat shall be in accordance with the preliminary plat or revised preliminary plat, as approved, and shall incorporate all applicable conditions, changes, directions and additions imposed by the P&Z upon the preliminary plat. The final plat shall not be submitted prior to approval of the preliminary plat except as otherwise specifically allowed by this ordinance. The final plat shall be approved by the P&Z in accordance with this subdivision ordinance if it is in compliance with the preliminary plat and all city and other regulations.

5.2. - Incomplete.

Final plat applications which do not include the required data, completed application form, submission fee, number of copies of the plat, record drawings, "letter of satisfactory completion" (of the public improvements) from the city, and other required information, including documentation that all required public improvements have been constructed and installed in accordance with city standards, letters from utility companies verifying their easements, and submission of the proper assurances or escrow funds for the completion of the improvements will be considered incomplete, shall not be accepted for filing by the city, and shall not be considered by the P&Z agenda until the proper information is provided to city staff.

5.3. - Information for final plat.

- 5.3.1. All information that is required for a preliminary plat; and except that physical features of or on the land (such as topography, buildings, utility structures, water bodies and tree cover) shall be shown on the final plat. In addition to these items, the final plat shall also provide a place for the county clerk of Hays County to stamp the date and location where the plat will be filed ("Volume or Cabinet __, Page or Slide __") in the lower right-hand corner of all sheets of the plat drawing near the title block.
- 5.3.2. All aspects of the final plat shall conform to the standards of Hays County for plats with respect to clarity, sheet size, lettering size and reproducibility, and the county's formatting requirements for same shall control if

different from this chapter. It is the applicant's responsibility to be familiar with the county's standards for filing plats and to comply with same.

5.4. - Standards for approval.

No final plat shall be approved by the city administrator or the P&Z and the city council unless the following standards have been met:

- 5.4.1. Notice for the final plat was provided in accordance with the notice requirements in section 3.6 of this ordinance;
- 5.4.2. The plat substantially complies with the approved preliminary plat and other studies and plans, as applicable;
- 5.4.3. The construction and installation of required public improvements and city utilities has been completed and the improvements have been accepted by the city as conforming to the city's regulations and design standards (or the proper assurances for construction of the improvements have been submitted and approved by the city); and
- 5.4.4. The plat conforms to applicable zoning, subdivision and any other applicable codes or ordinances of the city that are related to development of a land parcel.

5.5. - Letter of compliance.

When all of the improvements are found to be constructed and completed in accordance with the approved plans and specifications and with the city's standards, and upon receipt by the City of Dripping Springs of a maintenance bond or certificate of deposit from each contractor (for those subdivisions in the city limits), one sealed set of "as-built" or "record drawing" plans and a digital copy of all plans (in a format as determined by the city engineer) shall be submitted with a letter stating the contractors' compliance with this chapter, and bearing sealed certification by the design engineer that all public improvements have been constructed in compliance with all city construction standards set forth in the ordinances and other applicable city design documents. After such letter and certification is received, the city council shall receive and accept for the City of Dripping Springs the title, use and maintenance of the improvements. The final plat shall not be approved or filed at the county prior to receipt of the above letter and certification and any other required items, nor prior to acceptance of the improvements by the city.

5.6. - Effect of approval.

Approval of a final plat authorizes the property owner, upon fulfillment of all requirements and conditions of approval and upon completion of construction of all required improvements (or submission of the proper assurances for construction of same), to submit the final copies of the plat for filing at Hays County. Lots or units may be sold only when the final plat has been approved by the planning and zoning commission and the plat has been filed at Hays County. No conveyance or sale of any portion or lot of the property may occur until after the final plat is approved by the planning and zoning commission and filed at Hays County.

5.7. - Revisions to final plat prior to filing.

Occasionally, minor revisions are needed before the final plat can be filed at the county. Such minor revisions as correction of bearings or distances, correction of minor labeling errors, addition of erroneously omitted informational items and labels, etc. may occur on the record plat prior to filing it without the planning and zoning having to reapprove the final plat. Determination of whether or not revisions are "minor" in nature is subject to the judgment of the city. Major revisions, such as obvious corrections or reconfiguration of lot lines, unit boundaries or easements, relocation of driveways or access

easements or fire lanes, any modification to the perimeter or boundary of the property, and relocation or addition or deletion of any public improvement (including corresponding easement), shall necessitate resubmission and reapproval of the plat as a "revised final plat" unless otherwise approved by the city. The procedures for such reapproval shall be the same as for a final plat, and such reapproval may constitute a new project thus necessitating submission of a new application form, payment of new fees, compliance with amendments to this chapter which occurred since original final plat approval, and other requirements.

5.8. - Returns to city.

After approval of the final plat, the applicant shall return copies of the final plat, as approved and recorded, along with any other required documents and necessary fees, to the city administrator within 30 calendar days following approval, in accordance with requirements established by the city. Applicant can apply to the city administrator for an extension for the time of recording the final plat. If the plat is not recorded within the time required in this section or as provided by an extension, the final plat shall expire.

SECTION 6. - CONSTRUCTION PLAN APPROVAL PROCEDURES

6.1. - Substantial compliance with preliminary plat.

The construction plan shall be in accordance with the preliminary plat as approved, and shall incorporate all applicable conditions, changes, directions and additions imposed by the P&Z upon the preliminary plat. The construction plan shall not be submitted prior to approval of the preliminary plat. The construction plan shall be approved:

- 6.1.1. By the city administrator if the city administrator finds the construction plan substantially complies with the preliminary plat approved by the planning and zoning commission; or
- 6.1.2. By the P&Z in accordance with this subdivision ordinance if the city administrator finds the construction plan does not substantially comply with the preliminary plat.

6.2. - Incomplete.

Construction plan applications submissions which do not include the required data, completed application form, submission fee, number of copies, record drawings, "letter of satisfactory completion" (of the public improvements) from the city, and other required information, including documentation that all required public improvements have been constructed and installed in accordance with city standards, letters from utility companies verifying their easements, and submission of the proper assurances or escrow funds for the completion of the improvements will be considered incomplete, shall not be accepted for submission by the city, and shall not be considered filed by the city for review by the city administrator or for scheduling on a P&Z agenda until the proper information is provided to city staff.

6.3. - Standards for approval.

No construction plan shall be approved by the city administrator or the P&Z unless the following standards have been met:

- 6.3.1. The plan substantially complies with the approved preliminary plat and other studies and plans, as applicable;
- 6.3.2. The plan conforms to applicable zoning, subdivision and any other applicable codes or ordinances of the city that are related to development of a land parcel.

SECTION 7. - REPLATTING

*Footnotes:**--- (4) ---*

State Law reference— *Replatting without vacating preceding plat, V.T.C.A., Local Government Code, § 212.014; additional requirements for certain replats, V.T.C.A., Local Government Code, § 212.015.*

7.1. - Replat required.

Unless otherwise expressly provided for herein, a property owner who proposes to replat any portion of an already approved and filed final plat, other than to amend or vacate the plat, must first obtain approval for the replat under the same standards and by the same procedures prescribed for the final platting of land by this chapter. All improvements shall be constructed in accordance with the same requirements as for a final plat, as provided herein. The city administrator may waive or modify requirements for a replat under certain circumstances where the proposed replat does not involve a large land parcel or an existing structure or business on the subject property, and where the proposed plat revisions are relatively simple in nature. The administrative completeness of a submission for a replat shall be done pursuant to the process in section 3.4.1.

7.2. - Replatting without vacating.

A replat of a final plat or portion of a final plat may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

- 7.2.1. Is signed and acknowledged by only the owners of the property being replatted.
- 7.2.2. Is approved, after a public hearing on the matter at which parties of interest and citizens have an opportunity to be heard, by the P&Z.
- 7.2.3. Does not attempt to amend or remove any covenants or restrictions previously incorporated in the final plat. For purposes of this section, a plat note shall be construed as a covenant or restriction.
- 7.2.4. When evaluating the size of lots requested by an applicant seeking to replat all or a portion of a single-family residential subdivision without vacation, the city's determination shall include consideration of:
 - (a) The minimum lot area required for the particular zoning district;
 - (b) Minimum lot sizes established by deed restrictions (aka, "restrictive covenants") in effect for the subdivision;
 - (c) The average size of existing platted lots or units in the subdivision; and
 - (d) The size of the smallest developable (i.e., "buildable") lot or unit in the subdivision.
- 7.2.5. If a replat requires a variance then the variance must be approved by the planning and zoning commission prior to submission of the filing of the application for the replat. Any waiver requests may be considered concurrently with the replat application.
- 7.2.6.
 - (a) In addition to compliance with the other requirements of this section, a replat without vacation of the preceding plat must conform to the requirements of this subsection if:
 - (1) During the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot; or

- (2) Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.
 - (b) If a replat under subsection (a) requires a variance a notice of the hearing shall be given before the 15th day before the date of the hearing by:
 - (1) Publication in an official newspaper or a newspaper of general circulation in the county in which the municipality is located; and
 - (2) By written notice, with a copy of subsection (c) attached, forwarded by the city to the owners of lots that are in the original subdivision and that are within 200 feet of the lots to be replatted, as indicated on the most recently approved county tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the municipality.
 - (3) The notice of a replat approval required by this subsection must include: (A) the zoning designation of the property after the replat; and (B) a telephone number and e-mail address an owner of a lot may use to contact the city about the replat.
- 7.2.8.** If a proposed replat described under this section does not require a variance, the city shall, not later than the 15th day before the date the replat is to be considered by the planning and zoning commission, provide written notice by mail of the consideration of the replat to each owner of a lot in the original subdivision to be replatted according to the most recent county tax roll.

Notice of the public hearing required under subsection 7.2.6(b) above shall be given no earlier than the 30th day nor less than the 15th calendar day before the date of the hearing by publication in the city's official newspaper. Notice of the public hearing shall also be given by written notice no earlier than the 30th day nor less than the 15th calendar day before the date of the hearing, with a copy or description of any requested waivers, sent to the property owners, as documented on the most recently approved ad valorem tax roll of the city, of lots that are in the original subdivision and that are within 300 feet of the lot(s) to be replatted. In the case of a subdivision in the ETJ, the most recently approved county tax roll shall be used. The written notice may be delivered by depositing the notice, properly addressed with appropriate postage paid, in a post office or postal depository within the boundaries of the city.

7.3. - Reference to previous subdivision.

Any replat which adds or deletes lots or units must include the original subdivision and lot boundaries. If a replat is submitted for only a portion of a previously platted subdivision, the replat must reference the previous subdivision name and recording information, and must state on the replat the specific lots which have changed along with a detailed "purpose for replat" statement.

7.4. - Vacated plat.

If the previous plat is vacated as prescribed in section 212.013 of the Texas Local Government Code, as amended, a public hearing is not required for a replat of the area vacated. It would, instead, be submitted as a "final plat" and reviewed accordingly, and signed by all owners of the existing subdivision.

7.5. - Other requirements.

The replat of the subdivision shall meet all the requirements under current regulations for a final plat for a new subdivision that may be pertinent, as provided for herein.

7.6. - Submittal.

A submission for a replat shall be the same as for a final plat, and shall be accompanied one copy of the plat, a completed application form, the required submission fee, and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property, and all other documentation needed for a final plat. The replat shall also bear a detailed "purpose for replat" statement which describes exactly what has been changed on the plat since the original (or previous) plat was approved by the city and filed at the county.

7.7. - Materials.

A copy of all application materials for a replat shall be submitted to the city for review in the same manner as for a final plat, or the application shall be deemed incomplete.

[7.8. - Reserved.]

7.9. - Filing with county.

The replat shall be filed at the county in the same manner as prescribed for a final plat, and approval of a replat shall expire if all filing materials are not submitted to the city secretary, and if the replat is not filed at the county within the time periods specified for a final plat.

SECTION 8. - AMENDED PLATS

8.1. - Requirements.

- 8.1.1. An amending plat shall meet all of the informational requirements set forth for a final plat, and shall be accompanied by the copy of the plat, a completed application form, the required submission fee, and a certificate or some other acceptable form of verification from the Hays County Central Appraisal District showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property.
- 8.1.2. For the purpose of these regulations, the "official filing date" shall be the date upon which a submission for approval of an amending plat, that contains all required elements mandated by the Local Government Code and by this chapter, is deemed complete by the city administrator. To be considered complete, the submission must be accompanied by a check payable to the city in the amount of all applicable fees. It is only after the official filing date that any statutory period required for approval or disapproval of the plat shall commence to run. No application shall be deemed officially filed until the city administrator determines that the submission is complete and a certificate of completeness is issued by the city administrator. Failure by the city administrator to make a determination of incompleteness within ten business days following the date on which the submission was first received by the city, shall result in the submission being deemed complete on the next uniform submittal date, the submission becoming an application, and the "official filing date" shall become the next uniform submittal date following initial receipt of the application by the city.

8.1.3. Official filing date.

- 8.1.3.1. For the purpose of these regulations, the "official filing date" shall be the date upon which a complete

submission for approval of an amending plat, that contains all required elements mandated by the Local Government Code and by this chapter, is deemed complete by the city administrator. To be considered complete, the submission must be rendered to the city within the timelines established by this chapter and accompanied by a check payable to the city in the amount of all applicable fees. It is only after the official filing date that any statutory period required for approval or disapproval of the plat shall commence to run. No application shall be deemed officially filed until the city administrator determines that the submission is complete and a certificate of completeness is issued by the city administrator. Failure by the city administrator to make a determination of incompleteness within ten business days following the date on which the submission was first received by the city, shall result in the submission being deemed complete, the submission becoming an application, and the "official filing date" shall become the next uniform submittal date.

- 8.1.3.2.** Plat applications submissions which do not include all required information and materials, as outlined below and per other city ordinances that may change from time to time, will be considered incomplete, shall not be accepted for official submission by the city, and shall not be reviewed by the city administrator until the proper information is provided to city officials including the city's retained planning and engineering consultants, if applicable.

8.2. - Materials.

A copy of all application materials for an amending plat shall be submitted to the city for review in the same manner as for a final plat, or the application shall be deemed incomplete.

8.3. - Administrative approval.

- 8.3.1.** Upon review and a finding that the amending plat is in full conformance with this and all other applicable city ordinances, the city administrator may approve, disapprove, or approve with conditions the amending plat. The amending plat may be recorded and is controlling over the preceding or final plat without vacation of that plat, if the amending plat is signed by the applicants only and if the amending plat is for one or more of the purposes set forth in this section. The procedures for amending a plat shall apply only if the sole purpose of the amending plat is to:

- (a) Correct an error in a course or distance shown on the preceding plat;
- (b) Add a course or distance that was omitted on the preceding plat;
- (c) Correct an error in a real property description shown on the preceding plat;
- (d) Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
- (e) Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
- (f) Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
- (g) Correct an error in courses and distances of lot lines between two adjacent lots if:
 - (1) Both lot or unit owners join in the application for amending the plat;
 - (2) Neither lot or unit is abolished;
 - (3) The amendment does not attempt to remove or modify recorded covenants or restrictions or easements;

and

- (4) The amendment does not have a material adverse effect on the property rights of the owners in the plat;
- (h) Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or unit boundary or easement;
- (i) Relocate one or more lot lines or unit boundaries between one or more adjacent lots or units if:
 - (1) The owners of all those lots or units join in the application for amending the plat;
 - (2) The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and
 - (3) The amendment does not increase the number of lots or units.

8.3.2. All amending plat applications that were disapproved by the city administrator, shall be provided to the applicant with a written statement of the reasons for disapproval that clearly articulates the reason for disapproval including citation to the law, a statute or city ordinance, that is the basis for the disapproval.

8.3.3. If the applicant amends its filed plat application in response to the city administrator's initial disapproval, the applicant may file its amended application at the city on a date or day on which the city is accepting amended filings. The city will then have up to 15 days to approve or disapprove the amending plat application. The city administrator may either: (1) approve plat if the response adequately addresses each reason for the disapproval; or (2) disapprove plat if the response does not adequately address each reason for disapproval or creates new reasons for a violation of a statute or city ordinance. Any disapproval shall include a written statement of the reasons for disapproval that clearly articulates the reason for disapproval including citation to the law, a statute or city ordinance, that is the basis for the disapproval. Any plat that is disapproved after the city has reviewed the response in the form of an amended application may be refiled at any time as a new plat application.

8.4. - Title.

The amending plat shall be entitled and clearly state that it is an "amending plat", and it shall include a detailed "purpose for amending plat" statement which describes exactly what has been changed on the plat since the original (or previous) plat was approved by the city and filed at the county. It shall also state the specific lots or units affected or changed as a result of the amending plat, and shall include the original subdivision plat boundary. All references to "final plat" or "replat" shall be removed.

8.5. - Process.

Other than noted above, the procedure for approval of plat amendment(s) shall be the same as for final plats.

8.6. - Filing with county.

The amending plat shall be filed at the county in the same manner as prescribed for a final plat, and approval of an amending plat shall expire if all filing materials are not submitted to the city secretary, and if the plat is not filed at the county within the time periods specified for a final plat.

SECTION 9. - PLAT VACATION

9.1. - By property owner.

The property owner of the tract covered by a plat may vacate, upon review by the P&Z and approval by the planning and zoning commission, the plat at any time before any lot or unit in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat (instrument language is available from the city, upon request).

9.2. - By all lot or unit owners.

If some or all of the lots or unit covered by the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots or units in the plat with approval obtained in the manner prescribed for the original plat.

9.3. - Criteria.

The P&Z shall review the application for vacation on such terms and conditions as are in accordance with section 212.013 of the Texas Local Government Code (as amended), and as are reasonable to protect the public health, safety and welfare. As a condition of vacation of the plat, the P&Z may direct the applicants to prepare and seek approval of a revised final plat in accordance with this chapter such that the property does not become "unplatted".

9.4. - Effect of action.

On the execution and recording of the vacating instrument, the plat that has been vacated as a result of this instrument shall have no effect. Regardless of the P&Z's and city council's action on the application, the property owner will have no right to a refund of any monies, fees or charges paid to the city nor to the return of any property or consideration dedicated or delivered to the city except as may have previously been agreed to by the P&Z.

9.5. - City-initiated plat vacation.

9.5.1. General conditions. The planning and zoning commission, on its motion and following a public hearing on the matter, may vacate the plat of an approved subdivision or addition when:

- (a) No lots or units within the approved plat have been sold within five years following the date that the plat was signed by the city; or
- (b) The property owner has breached an improvement agreement and the city is unable or does not desire to obtain funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by property owner or its successor; or
- (c) The plat has been of record for more than five years and the city determines that the further sale of lots or units within the subdivision or addition presents a threat to public health, safety or welfare, except that the vacation shall apply only to lots or units owned by the property owner or its successors.

9.5.2. Procedure. Upon any motion of the P&Z or city council to vacate the plat of any previously approved subdivision or addition, in whole or in part, the city shall publish notice in the city's official newspaper no sooner than the 30th day nor later than the 15th day prior to the date of the public hearing at which the plat vacation shall be heard by the P&Z. The city shall also provide written notice to all property owners within the subdivision or addition, and to all members of the planning and zoning commission. The notice shall state the time and place for a public hearing before the P&Z on the motion to vacate the subdivision or addition plat. The P&Z shall approve the plat vacation only if the criteria and conditions cited above are satisfied.

9.5.3. Record of notice. If the planning and zoning commission approves vacating a plat, the city secretary shall record

a copy of the plat vacation instrument in the office of the county clerk of Hays County along with an exhibit showing a drawing of the area or plat vacated. The county clerk shall write legibly on the vacated plat the word "vacated" and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded. If the planning and zoning commission vacates only a portion of a plat, it shall cause a revised final plat drawing to also be recorded which shows that portion of the original plat that has been vacated and that portion that has not been vacated. On the execution and recording of the vacating instrument the plat that has been vacated as a result of this instrument (or the vacated portion of the plat) has no effect.

SECTION 10. - MINOR PLATS

10.1. - Requirements.

- 10.1.1.** A minor plat, as defined by section 2 of this chapter [ordinance], shall meet all of the informational and procedural requirements set forth for an amending plat, and shall be accompanied by:
- (a) One half-sized copy to scale of the plat;
 - (b) A completed application form;
 - (c) The required submission fee; and
 - (d) A certificate or some other acceptable form of verification from the Hays County Central Appraisal District showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property.
- 10.1.2. Official filing submission date.** For the purpose of these regulations, the "official filing date" shall be the date upon which a complete submission for approval of a minor plat, that contains all required elements mandated by the Local Government Code and by this chapter, is deemed complete by the city administrator. To be considered complete, the submission must be rendered to the city within the timelines established by this chapter and accompanied by a check payable to the city in the amount of all applicable fees. It is only after the official filing date that any statutory period required for approval or disapproval of the plat shall commence to run. No application shall be deemed officially filed until the city administrator determines that the submission is complete and a certificate of completeness is issued by the city administrator. Failure by the city administrator to make a determination of incompleteness within ten business days following the date on which the submission was first received by the city, shall result in the submission being deemed complete, the submission becoming an application, and the "official filing date" shall become the next uniform submittal date.

10.2. - Materials.

A copy of all application materials for a minor plat shall be submitted to the city for review in the same manner as for a final plat, or the application shall be deemed incomplete.

10.3. - Drainage plans.

Applicant must submit a drainage plan to city engineer, unless expressly waived in writing by the city engineer.

10.4. - Administrative approval.

- 10.4.1.** Upon review and a finding that the minor plat is in full conformance with this and all other applicable city ordinances, the city administrator may approve, disapprove, or approve with conditions. Any decision made on

the minor plat by the city administrator shall be final.

10.4.2. All minor plat applications that were disapproved by the city administrator, shall be provided to the applicant with a written statement of the reasons for disapproval that clearly articulates the reason for disapproval including citation to the law, a statute or city ordinance, that is the basis for the disapproval.

10.4.3. If the applicant amends its filed plat application in response to the city administrator's initial disapproval, the applicant may file its amended application at the city on a date or day on which the city is accepting amended filings. The city will then have up to 15 days to approve or disapprove the amending plat application. The city administrator may either: (1) approve plat if the response adequately addresses each reason for the disapproval; or (2) disapprove plat if the response does not adequately address each reason for disapproval or creates new reasons for a violation of a statute or city ordinance. Any disapproval shall include a written statement of the reasons for disapproval that clearly articulates the reason for disapproval including citation to the law, a statute or city ordinance, that is the basis for the disapproval. Any plat that is disapproved after the city has reviewed the response in the form of an amended application may be refiled at any time as a new plat application.

10.5. - Notice and hearings.

Notice, a public hearing, and the approval of other lot owners are not required for the approval of a minor plat.

10.6. - Title.

The minor plat shall be entitled and clearly state that it is a "minor plat."

10.7. - Filing with county.

The minor plat shall be filed at the county in the same manner as prescribed for a final plat, and approval of a minor plat shall expire if all filing materials are not submitted to the city and if the plat is not filed at the county within the time periods specified for a final plat.

SECTION 11. - STREET DESIGN STANDARDS

11.1. - Transportation plan.

The arrangement, character, extent, width, grade and location of all streets shall conform to the City of Dripping Springs' Transportation Plan and ordinances, and shall be considered in their relation to existing and planned streets or driveways (whether within the City of Dripping Springs, within its ETJ area, or within adjacent municipal or county areas), to topographical conditions, to public safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. Reserve or residual strips of land controlling access to or egress from other property, or to or from any street or alley, or having the effect of restricting or damaging the adjoining property for subdivision purposes, or which will not be taxable or accessible for improvements shall not be permitted in any subdivision unless such are required by the city in the public interest (such as to enhance public safety or other public interest). All streets shall be constructed in accordance with this section and with the city's ordinances.

11.2. - Requirements.

Proposed streets shall provide a safe, convenient and functional system for vehicular and pedestrian circulation, shall be properly related to the transportation plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development. All streets shall be open and unobstructed at all times. The layout of the street network shall, to the greatest extent possible, be sited and aligned along natural contour lines, and shall minimize the amount of cut and fill on slopes in order to minimize the amount of land area that is disturbed during construction, thereby helping to reduce stormwater runoff and preserve natural, scenic characteristics of the land.

11.3. - Adequacy of streets and thoroughfares.

- 11.3.1. Responsibility for adequacy.** The property owner shall assure that the subdivision is served by adequate streets and thoroughfares, and shall be responsible for the costs of rights-of-way and street improvements, in accordance with the following policies and standards, and subject to the city's cost participation policies on oversized facilities, and in accordance with the technical standards and transportation plan.
- 11.3.2. General adequacy policy.** Every subdivision shall be served by improved streets and thoroughfares adequate to accommodate the vehicular traffic to be generated by the development. Proposed streets shall provide a safe, convenient and functional system for traffic circulation; shall be properly related to the city's transportation plan, road classification system, comprehensive plan and any amendments thereto; and shall be appropriate for the particular traffic characteristics of each development.
- 11.3.3. Road network.** New subdivisions shall be supported by a road network having adequate capacity, ingress/egress, and safe and efficient traffic circulation. The adequacy of the road network for developments of 200 or more dwelling units, or for developments generating 2,000 or more "one-way" trips per day, or for developments involving collector or arterial streets not appearing on the city's adopted transportation plan, shall be demonstrated by preparation and submission, prior to the preliminary plat application, of a traffic impact analysis prepared, which takes into consideration the need to accommodate traffic generated by the development, land to be developed in common ownership and other developed property. In the event that the property to be developed is intended as a phase in a larger development project, or constitutes a portion of the land to be ultimately developed, the planning and zoning commission may require a demonstration of adequacy pursuant to this section for additional phases or portions of the property as a condition of approval for the proposed preliminary plat. In the event that the applicant submits a traffic impact analysis for an entire phased development project, the city may require an update of the study for each subsequent phase of the development which reflects any applicable changed conditions. If the preliminary plat is in conformance with the transportation plan and if the preliminary plat is for a development of less than 200 dwelling units or for a development generating less than 2,000 "one-way" trips per day, then a traffic impact analysis is not required.
- 11.3.4. Approach roads and access.** All subdivisions with 50 or more lots or units must have at least two points of vehicular access and must be connected via improved roadways to the improved thoroughfare and street system (city, county and state, as may be applicable) by one or more approach roads of such dimensions and improved to such standards as are hereinafter set forth. Requirements for dedication of right-of-way and improvement of approach roads may be increased depending upon the size or density of the proposed development, or if such need is demonstrated by traffic impact analysis. This requirement shall be waived by the city upon demonstration by the applicant that the required access points are prohibited by TxDOT.
- (a) "Two points of vehicular access" shall be construed to mean that the subdivision has at least two improved roads accessing the subdivision from the improved thoroughfare system, and the subdivision has at least two road entrances. The planning and zoning commission may, at its discretion and upon a finding that such will not compromise public safety or impede emergency access, accept a single median-divided entrance from

the city's improved thoroughfare system provided that the median extends into the subdivision for an unbroken length of at least 200 feet to an intersecting internal street which provides at least two routes to the interior of the subdivision. For example, the entrance street is not a dead-end or cul-de-sac, and it does not create a "bottleneck" allowing only one emergency route into the interior of the subdivision.

- (b) The subdivision shall be designed to provide adequate emergency access for public safety vehicles. Each residential lot in the subdivision shall have a minimum frontage on a dedicated public street as required by applicable zoning or 35 feet, whichever is greater, unless other provisions have been authorized through planned development district approval. Each nonresidential lot shall have a minimum frontage on a dedicated public street as required by applicable zoning or 50 feet, whichever is greater, unless other provisions have been authorized through planned development approval.
- (c) At the discretion of the city engineer, the second access point may take the form of an unimproved dedicated public right-of-way without requiring improvement. The city engineer may waive the requirement for a second access point if justified by the presence of a multiple-lane entrance and exit, the width of the single access point, and any geographical or topographical considerations.

11.4. - Off-site improvements.

Where a traffic impact analysis (TIA) demonstrates the need for such facilities, or where the city believes public safety is at risk, the property owner shall make such improvements to off-site collector and arterial streets and intersections as are necessary to mitigate traffic impacts generated by the development or in conjunction with related developments. The city may participate in the costs of oversize improvements with the property owner as set out herein, and subject to the city's cost participation policies on oversized improvements. The extent of the public exaction for off-site improvements, and the city's level of participation in cost-sharing, may be established through an agreement.

11.5. - Street dedications.

- 11.5.1. Dedication of right-of-way.** The property owner shall provide all rights-of-way required for existing or future streets, and for all required street improvements, including perimeter streets and approach roads, as shown in the transportation plan and as required by the ordinances or by other valid development plans approved by planning and zoning commission. In the case of perimeter streets, half of the total required right-of-way width, as measured from the centerline, for such streets shall be provided unless the proposed development is on both sides of the street, in which case the full right-of-way width shall be provided, or unless there is some other compelling reason to require more than half of the right-of-way width (such as avoiding the infringement upon or demolition of existing structures, avoiding crossing a creek or floodplain or some other obstacle, or other similar circumstance). In some instances, more than half of the required width shall be required when a half-street is impractical or unsafe and depending upon the actual or proposed alignment of the street, such as in the case of a curved street, as may be required by the planning and zoning commission.
- 11.5.2. Perimeter streets.** Where an existing half-street is adjacent to a new subdivision or addition, the other half of the street shall be dedicated, and an appropriate amount of the street shall be improved, by the developer of the new subdivision or addition.
- 11.5.3. Slope easements.** The dedication of easements, in addition to dedicated rights-of-way shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall be no steeper than three feet horizontal run to one foot vertical height, or a three-to-one (3:1) slope.

11.6. - Street construction.

All streets and thoroughfares shall be paved to city standards and within rights-of-way as required by the transportation plan and this chapter, and in accordance with the ordinances and other city standards as may be from time to time amended or adopted. The planning and zoning commission may approve alternate paving designs for residential subdivisions in accordance with the ordinances.

11.7. - Intersections and devices.

Intersection improvements and traffic-control devices shall be installed as warranted in accordance with the traffic impact analysis required by subsection (f) [section 11.11], or as may be required by the city for traffic safety and efficiency. Construction and design standards shall be in accordance with city standards and the ordinances.

11.8. - Phased development.

Where a subdivision is proposed to occur in phases, the applicant, in conjunction with submission of the preliminary plat, shall provide a proposed schedule of development. The schedule shall set forth the intended plan of development and dedication of rights-of-way for streets and street improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision. The planning and zoning commission shall determine whether the proposed streets and street improvements are adequate pursuant to standards herein established, and may require that a traffic impact analysis be submitted for the entire project or such phases as the planning and zoning commission determines to be necessary to adjudge whether the subdivision will be adequately served by streets and thoroughfares.

11.9. - Private streets.

Subdivisions having private streets may be established only under the terms set forth in this section, and pursuant to any other ordinances or guidelines for private street developments as may be adopted for use by the city either as part of this chapter or as separate ordinances or policies. All private streets shall be designed and constructed in accordance with the city's standards for publicly dedicated streets. The term "private street" shall be inclusive of alleys, if such are to be provided within the subdivision.

11.9.1. Subdivision eligibility criteria. Private streets shall be permitted only within a subdivision satisfying each of the following criteria:

- (a) The streets to be restricted to private use are not intended for regional or local through traffic circulation; and
- (b) The subdivision is not located adjacent to an existing or approved public street subdivision that can be reasonably connected, even though the street connection would require construction of a bridge or culvert (in that instance, the two subdivisions shall be connected as public street subdivisions unless the bridge or culvert would be so expansive as to be impractical or unfeasible); and
- (c) A mandatory property owners' (homeowners' or condominium) association, which includes all property to be served by the private streets, will be formed; and
- (d) The subdivision conforms to any other special guidelines for private street developments as may be approved separately by the planning and zoning commission.

11.9.2. Exclusion of certain streets. Roads or streets that are shown on the city's transportation plan, such as highways, major or minor thoroughfares or arterials, or collectors, shall not be used, maintained or constructed as private streets, and a private street subdivision shall not cross or interfere with an existing or future collector or arterial street. Also, the P&Z may deny the creation of any private street if, in their sole

judgment, the private street would negatively affect traffic circulation on public streets, or if it would impair access to the subject or adjacent property; impair access to or from public facilities including schools or parks; or if it would cause possible delays in the response time of emergency vehicles.

- 11.9.3. Access onto public thoroughfare.** A private street subdivision shall provide a minimum of 80 feet of access frontage on a public collector or arterial street for subdivision entrances in order to accommodate a median-divided entrance with appropriate vehicle stacking, queuing and turnaround area. Primary access into a private street subdivision shall be from a major roadway, which has a minimum right-of-way of 60 feet, or from a larger roadway, as shown on the city's transportation plan. Restricted access entrances shall not be allowed from residential collector streets, minor residential or local streets, nor from alleys or private driveways or parking lots. A private street subdivision shall provide a minimum of 80 feet queuing distance between edge of pavement of public roadway and subdivision gate. As an alternative to the queuing distance the applicant may dedicate and promptly construct deceleration/acceleration turning lanes.
- 11.9.4. Parks, greenbelts and wildlife preserves excluded.** A private street subdivision shall not cross or interfere with public access to or enjoyment of an existing or future public pedestrian pathway, hike and bike trail, greenbelt, park or wildlife preserve as shown on the City of Dripping Springs' Parks and Open Space Plan or as already dedicated for public use.
- 11.9.5. Property owners', homeowners' or condominium association.** Subdivisions developed with private streets shall have a mandatory property owners' association which includes all property and lots served by the private streets. The association shall own and be responsible for the maintenance of private streets and appurtenances. The association documents shall be reviewed and approved by the city administrator and the city's attorney to ensure that they conform to these and other applicable city rules and regulations. The documents shall be filed of record at the county prior to final plat approval in order to ensure that there is an entity in place for long-term maintenance of private streets and appurtenances. The association may not be dissolved without the prior written consent of the city council. No portion of the association documents pertaining to the maintenance of private streets and alleys, and assessments therefor, may be amended without the written consent of the city council. The city will not assist in enforcing deed restrictions.
- 11.9.6. Private street lot.** Private streets must be constructed within a separate lot or unit owned by the property owners' association. This lot or unit must conform to the city's standards for public street rights-of-way. An easement covering the street lot or unit shall be granted to the city providing unrestricted access to and use of the property for any purpose deemed necessary by the city. This right shall also extend to all utility providers operating within the city and to other necessary governmental service providers, such as the U.S. Postal Service. The easement shall also permit the city to remove any vehicle or obstacle within the street lot or unit that may impair emergency access.
- 11.9.7. Construction and maintenance cost.** The city shall not pay for any portion of the cost of constructing or maintaining a private street.
- 11.9.8. Infrastructure and utilities.** Any public water, sewer and drainage facilities, streetlights, and traffic-control devices, such as traffic signs, placed within the private street lot shall be designed and constructed to city standards, and shall be accepted by and dedicated to the city prior to filing the record plat for the subdivision. All private traffic-control devices and regulatory signs shall conform to the "Texas Manual of Uniform Traffic Control Devices", as amended, and to city standards. All city regulations relating to infrastructure financing, developer cost participation, and capital cost recovery shall apply to developments with private streets, with the exception of those applying to street construction.
- (a) The metering for utilities such as water, gas and electricity shall be located on the individual lots to be

served, not grouped together in a centralized location(s), such as "gang-box" style metering stations, which shall not be permitted.

- 11.9.9. Plans and inspections.** Development applications for subdivisions with private streets must include the same plans and engineering information required for public streets and utilities. City requirements pertaining to review and approval of improvements shall apply, and fees charged for these services shall also apply. The city may inspect private streets, and require any repairs necessary to ensure efficient emergency access and to protect the public health, safety, convenience and welfare.
- 11.9.10. Restricted access.** The entrances to all private streets shall be clearly marked with a sign, placed in a prominent and visible location, stating that the streets within the subdivision are private, and that they are not maintained nor regularly patrolled by the city. All restricted access entrances must be manned 24 hours every day, or they must provide a reliable, alternative means of ensuring city and emergency access to the subdivision, preferably with an opticom-type system for emergency access, by the city and other utility or public service providers, such as postal carriers and utility companies, with appropriate identification. The method to be used to ensure city and emergency access into the subdivision shall be approved by the planning and zoning commission and by all applicable emergency services providers prior to engineering release for construction of the development. If the association fails to maintain reliable access as required herein, the city may enter the subdivision and remove any gate or device which is a barrier to access at the sole expense of the association. The association documents shall contain provisions in conformity with this section which may not be amended without the written consent of the city council.
- 11.9.11. Access restricted entrance design standards.** Any private street (and any other type of gated entrance) which has an access control gate or cross-arm must have a minimum uninterrupted pavement width of 24 feet at the location of the gate or access control device, both ingress point and egress point, regardless of the type of device used. If an overhead, or lift-up, barrier is used, it must be a minimum of 16 feet in height above the road surface, and this clearance height shall be extended for a minimum distance of 50 feet in front of and behind the location of the device. All gates and cross-arms must be of a breakaway design. A minimum vehicle stacking distance of 100 feet shall be provided from the right-of-way line of the public road from which the private street subdivision is accessed to the first vehicle stopping point, which is usually an access request keypad, a telephone, or a guard's window. Adequate distance shall be provided between the access request point(s) and the entry barrier, or gate, to accommodate a vehicle turnaround as described below.
- 11.9.12.** A paved turnaround space must be located in front of (i.e., prior to passage of) any restricted access entrance barrier, between the access request device and the barrier or gate, to allow vehicles that are denied access to safely exit onto public streets without having to back up, particularly into the public street upon which the entrance is located. The design and geometry of such turnaround shall be of such pavement width and having such inside turning radius that it will accommodate smooth, single-motion U-turn movements by the following types of vehicles:
- (a) Larger passenger vehicles, such as full-sized vans and pickup trucks;
 - (b) Passenger vehicles with short trailers up to 24 feet in length, such as small flatbed, camping or box-type trailers; and
 - (c) The types of service and utility trucks that typically visit or make deliveries to neighborhoods that are similar to the proposed private street development, such as utility service vehicles, postal or UPS delivery trucks, and two- to three-axle flatbed or box-type trucks used by contractors and moving companies.

The city administrator and the P&Z may require submission of additional drawings, plans or exhibits demonstrating that the proposed turnaround will work properly, and that vehicle turnaround movements will not compromise public safety on the entry roadway or on the adjacent public street(s).

A site plan showing the design and location of all proposed access restricted entrances shall be submitted for review by the city engineer, along with the construction plans for the subdivision, and must be approved by the planning and zoning commission along with approval of the preliminary plat.

- 11.9.13. Waiver of services.** The subdivision final plat, property deeds and property owners' association documents shall note that certain city services shall not be provided for private street subdivisions. Among the services which will not be provided are: Routine law enforcement patrols, enforcement of traffic and parking regulations, and preparation of accident reports. Depending upon the characteristics of the development and upon access limitations posed by the design of entrances into the subdivision, other services (such as sanitation) may not be provided, as well.
- 11.9.14. Private streets: Application to convert to public streets.** The property owners' association documents shall contain provisions that describe how the association may make application [to] the city to accept private streets and any associated property as public streets and right-of-way upon written notice to all association members and upon the favorable vote of a majority of the membership. However, in no event shall the city be obligated to accept said streets as public. Should the city elect to accept the streets as public, then the city has the right to inspect the private streets and to assess the lot or unit owners for the expense of needed repairs concurrent with the city's acceptance of the streets. The city shall be the sole judge of whether repairs are needed. The city may also require, at the association's or the lot or unit owners' expense, the removal of any guard houses, access control devices, landscaping or other aesthetic amenities located within the street lot or within any other common area. The association documents shall provide for the city's right to such removal and assessment. Those portions of the association documents pertaining to the subject matter contained in this section shall not be amended without the written consent of the city council.
- 11.9.15. Hold harmless.** On the subdivision final plat shall be language whereby the property owners' association, as owner of the private streets and appurtenances, agrees to release, indemnify, defend and hold harmless the city, any other governmental entity, and any public utility entity for damages to the private streets that may be occasioned by the reasonable use of the private streets by same, and for damages and injury (including death) arising from the condition of the private streets, out of any use of access gates or cross-arms, or out of any use of the subdivision by the city or governmental or utility entity (such plat language is available from the city).

11.10. - Escrow policies and procedures.

- 11.10.1. Request for escrow.** Whenever this chapter requires a property owner to construct a street or thoroughfare, or other type of public improvement, the property owner may, if there exist unusual circumstances, such as a timing issue due to pending roadway improvements by another agency such as TxDOT or Hays County, that would present undue hardships or that would impede public infrastructure coordination or timing, request the city to construct the street or thoroughfare, usually at a later date, in exchange for deposit of escrow as established in this section. If more than one street or thoroughfare must be constructed in order to meet adequacy requirements for roadways, as demonstrated by a traffic impact analysis, the city administrator may prioritize roadways for which escrow is to be accepted and require the deposit of all funds attributable to the development in escrow accounts for one or more of such affected roadways. The city council shall review the particular circumstances involved (a traffic impact analysis may be required to facilitate the city council's

deliberations on the matter), and shall determine, at its sole discretion, whether or not provision of escrow deposits will be acceptable in lieu of the property owner's obligation to construct the street or thoroughfare with his or her development.

- 11.10.2. Escrow deposit with the city.** Whenever the city council agrees to accept escrow deposits in lieu of construction by the owner of the property under this chapter, the property owner or developer shall deposit in escrow with the city an amount equal to his or her share of the costs of design, construction, permits, reviews and approvals, inspections, any additional land acquisition, and an appropriate (and realistic) inflation factor to ensure that the actual "future dollar" costs will be covered when actual construction occurs in the future. Such amount shall be reviewed and approved by the city administrator and by the city engineer, and shall be paid prior to release of construction plans by the city engineer. The obligations and responsibilities of the property owner shall become those of the property owner's transferees, successors and assigns; and the liability therefore shall be joint and several.
- 11.10.3. Determination of escrow amount.** The amount of the escrow shall be determined by using 110 percent of the maximum comparable "turnkey" bid price of construction of the improvements (including design, permits, reviews and approvals, inspections and any additional land acquisition that may be needed). Such determination of the escrow amount shall be made as of the time the escrow is due hereunder, and shall be subject to the review and approval of the city administrator and the city engineer.
- 11.10.4. Termination of escrow.** Escrows, or portions of escrowed amounts, which have been placed with the city under this section and which have been held for a period of ten years from the date of such payment or agreement, in the event that the city has not authorized the preparation of plans and specifications for construction of such roadway facilities for which the escrow was made, shall, upon written request, be returned to the property owner, along with one-half of its accrued interest. Such return does not remove any obligations of the property owner for construction of the required facilities if a building permit has not been issued on the subject lot or if a new building permit is applied for.
- 11.10.5. Refund.** If any street or highway for which escrow is deposited is constructed by a party other than the city or is reconstructed by another governmental authority at no cost to the city, the escrowed funds and accrued interest shall be refunded to the property owner or applicant who originally paid the escrow amount after completion and acceptance of the public improvements. In the event that a portion of the cost is borne by the city and the other portion of the cost by another party or governmental authority, the difference between the property owner's actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.
- 11.10.6. Interest limitation.** If money is refunded within six months of deposit, only the principal will be refunded. Monies returned after this date will be refunded with one-half of its accrued interest.

11.11. - Traffic impact analysis.

Any proposed development project or plat involving a significant change to a proposed roadway alignment from that shown on the City of Dripping Springs' Transportation Plan (or involving a development of 200 or more dwelling units, or for developments generating 2,000 or more "one-way" trips per day) shall be preceded by submission, city staff and P&Z review, and city council approval of a traffic impact analysis. Such a proposed roadway alignment change shall also be preceded by (or simultaneous with) an amendment to the city's transportation plan showing the new proposed alignment. Failure to provide for such approvals prior to submission of a preliminary plat shall be grounds for denial of the plat submission as incomplete.

- 11.11.1. Required analysis components.** A traffic impact analysis shall include the following elements:

- (a) General site description. The traffic impact analysis shall include a detailed description of the roadway network within one mile of the site, a description of the proposed land uses, the anticipated states of construction, and the anticipated completion date of the proposed land development shall be provided. This description, which may be in the form of a map, shall include the following items: (1) all major intersections; (2) all proposed and existing ingress and egress points; (3) all existing roadway widths and rights-of-way; (4) all existing traffic signals and traffic-control devices; and (5) all existing and proposed public transportation services and facilities within a one mile radius of the site.
- (b) Proposed capital improvements. The traffic impact analysis shall identify any changes to the roadway network within one mile of the site that are proposed by any government agency or other developer. This description shall include the above items as well as any proposed construction project that would alter the width or alignment of roadways affected by the proposed development.

11.11.2. Roadway impact analysis.

- (a) Transportation impacts:
 - (1) Trip generation. The average weekday trip generation rates (trip ends), the average weekend trip generation rates (for uses other than residential or institutional), the highest average a.m. and p.m. hourly weekday trip generation rates, and the highest hourly weekend generation rates (for uses other than residential or institutional) for the proposed use shall be determined based upon the trip generation rates contained in the most recent edition of the Institute of Transportation Engineers' Trip Generation book; or shall be based upon data generated by actual field surveys of area uses compatible to the proposed use and approved by the city administrator and the city engineer.
 - (2) Trip distribution. The distribution of trips to arterial and collector roadways within the study area (general site description) above shall be in conformity with accepted traffic engineering principles, taking into consideration the land use categories of the proposed development; the area from which the proposed development will attract traffic; competing developments (if applicable); the size of the proposed development; development phasing; surrounding existing and anticipated land uses, population and employment; existing and projected daily traffic volumes; and existing traffic conditions identified.
- (b) Adequacy determination. The roadway network included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing roadways identified as arterials and collectors can accommodate the existing service volume, and the service volume of the proposed development, and the service volume of approved but unbuilt developments holding valid, unexpired building permits at a level of service "C" or above (refer to the city's transportation plan for discussion of levels of service).

11.11.3. Intersection analysis.

- (a) Level of service analysis. For intersections within the roadway traffic impact analysis area (general site description), a level of service analysis shall be performed for all arterial to arterial, arterial to collector, collector to arterial, and collector to collector intersections, and for any other pertinent intersections identified by the city administrator or by the city engineer. Also, level of service analyses will be required on all proposed site driveway locations for all nonresidential developments. The city may waive analysis of minor intersections and site driveway locations within the one-mile radius. The level of service analysis shall be based upon the highest hourly average a.m. or p.m. peak weekday volume or highest average hourly peak weekend volume as determined from a two-day survey of weekday volumes and, where necessary, a one-day survey of weekend volumes. The level of service analysis shall take into consideration the lane geometry, traffic volume, percentage of right-hand turns, percentage of left-hand

turns, percentage (and typical size) of trucks, intersection width, number of lanes, signal timing and progression, roadway grades, pedestrian and bicycle flows, school routes, number of accidents, and peak hour factor.

- (b) Adequacy analysis. The intersections included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing intersections can accommodate the existing service volume, the service volume of the proposed development, and the service volume of approved but unbuilt developments holding valid, unexpired building permits at level of service "C" or above.

11.11.4. Effect of adequacy determination. If the adequacy determination for roadways and intersections indicates that the proposed development would cause a reduction in the level of service for any roadway or intersection within the study area that would cause the roadway to fall below the level of service required hereto, the proposed development shall be denied unless the developer agrees to one of the following conditions:

- (a) The deferral of building permits until the improvements necessary to upgrade the substandard facilities are constructed;
- (b) A reduction in the density or intensity of development;
- (c) The dedication or construction of facilities needed to achieve the level of service required herein; or
- (d) Any combination of techniques identified herein that would ensure that development will not occur unless the levels of service for all roadways and intersections within the traffic impact analysis study are adequate to accommodate the impacts of such development.

11.12. - Streets not on transportation plan.

For streets that are not shown on the city's transportation plan, such as local residential streets, the arrangement of such streets within a subdivision shall:

- 11.12.1. Provide for the continuation or appropriate projection of existing streets from or into surrounding areas;
- 11.12.2. Conform to a plan for the neighborhood approved or adopted by the city council to meet a particular situation where topographical or other conditions make continuance or conformity to existing streets impractical;
- 11.12.3. Provide for future access, such as by stubbing streets for future extension, to adjacent vacant areas which will likely develop under a similar zoning classification or for a similar type of land use; and
- 11.12.4. Not conflict in any way with existing or proposed driveway openings (including those on the other side of an existing or planned median-divided arterial, in which case new streets shall align with such driveway openings such that median openings can be shared).

11.13. - Residential collector streets.

Residential collector streets and minor residential streets shall be laid out such that their use by through traffic will be discouraged, such as via circuitous routes or multiple turns or offsets, but such that access is provided to adjacent subdivisions.

- 11.13.1. Wherever the right-of-way width of a collector or residential street must transition to a greater or lesser width, such transition shall occur along the front, side or rear lot lines of adjacent lots (for a reasonable distance) and shall not occur within the street intersection itself. In other words, the right-of-way width shall be the same on both sides of the street intersection.

11.13.2. To the greatest extent possible, the number of lots fronting along residential collector streets shall be minimized to ensure adequate traffic safety and efficiency. No more than 20 percent of the total centerline length of a collector street may have residential lots fronting onto the collector on each side of the street. For example, a collector street having a total centerline length (from one terminus to another) of 1,000 feet may have lots fronting onto it with a total frontage distance of 200 feet on each side of the street. Calculations shall be submitted with the preliminary plat application verifying that lots fronting onto a collector street do not exceed the above.

11.13.3. At least 50 percent of the total centerline length of all streets (including collector streets) within a residential subdivision (or within each phase of a residential subdivision, unless otherwise approved by planning and zoning commission to apply to the subdivision in its entirety rather than each individual phase) shall be curvilinear in design. Calculations shall be submitted with the preliminary plat application verifying that the above curvilinear street requirement is being met.

11.14. - Relation to arterial.

Where a subdivision abuts or contains an existing or proposed arterial street, the planning and zoning commission may require marginal access streets, reverse frontage (lots which back onto the arterial), deep lots with rear service alleys, or such treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

11.15. - Reserve strips.

Reserve strips controlling access to streets shall be prohibited except where their control is required by the city and approved by the planning and zoning commission.

11.16. - Intersecting streets.

Intersecting, undivided streets with centerline offsets of less than 150 feet shall be avoided. Intersecting streets onto an existing or future divided roadway must be configured such that the centerline offset will accommodate the appropriate median opening and left turn lanes (with required transition and stacking distances) on each divided roadway, and shall be aligned with any existing or proposed streets or driveways on the opposite side of the divided roadway (in order to share the median opening).

11.17. - Intersections with major thoroughfares.

A street intersection with a major thoroughfare shall be at a 90-degree angle and shall be tangent to the intersecting street for at least 100 feet. All other street intersections shall be laid out so as to intersect as nearly as possible at a 90-degree angle or radial to the centerline of the intersecting street for the full right-of-way of the intersecting street, and tangent to the intersecting street for at least 50 feet. No street shall intersect at an angle that is less than 85 degrees.

11.18. - Rights-of-way.

Street right-of-way widths shall be as shown on the transportation plan and as defined by the corresponding roadway cross-sections on the transportation plan and in the city's ordinance.

11.19. - Half-streets.

Construction of half-streets shall be prohibited, except when essential to the reasonable development of the subdivision in conforming with the other requirements of this chapter and the transportation plan, and where the city council makes a determination that there is no immediate benefit to be gained by constructing the full street section since no access from the street will be needed by the subdivision in question. The city council may also find that it would be more practical, or cost effective, to delay construction of the other half of a street until when the adjoining property is developed.

11.20. - Owner's responsibility.

If the property owner is responsible for one-half of the street, then the property owner shall either construct the facility along with the development or shall provide escrow for the construction cost of his or her share of the facility (including all applicable street appurtenances such as median openings, left turn lanes into the development, sidewalks with barrier-free ramps, drainage structures, etc.) unless the city participates in the construction of the facility. Whenever a partial street has been previously platted along a common property line, the other portion of the street right-of-way shall be dedicated such that the right-of-way is increased to the street's ultimate planned width. Improvements shall be made to all on-site facilities.

11.21. - Maximum block length.

The following applies to subdivision block or street segment design (including a looped street) as measured along the street centerline and between the point(s) of intersection with other through streets, but does not include blocks with cul-de-sacs or dead-ends:

- 11.21.1. Urban subdivisions.** Residential blocks in an urban subdivision shall not exceed 1,200 feet between the centerlines of street intersections; however, if blocks are parallel to and adjacent to an arterial road as defined by the county, such blocks shall not exceed 1,600 feet between the centerlines of street intersections. Commercial and industrial blocks in areas zoned for each shall not exceed 2,000 feet between the centerlines of street intersections.
- 11.21.2. Rural and suburban subdivisions.** Residential and suburban subdivision blocks shall not exceed 2,000 feet between the centerlines of street intersections.
- 11.21.3.** Minimum block length is 400 feet.

11.22. - Cul-de-sac.

In general, a cul-de-sac street shall not be longer than 2,000 feet, and at the closed end shall have a turnaround bulb with an outside pavement diameter of at least 80 feet and a right-of-way diameter of at least 110. The length of a cul-de-sac shall be measured from the centerline of the intersecting street to the centerline of the cul-de-sac bulb. Cul-de-sacs may be up to 3,000 feet in length if each lot accessing the cul-de-sac has at least 200 feet of street frontage.

- 11.22.1.** The P&Z may approve, waivers for overlength streets or cul-de-sacs, whether temporary or permanent, upon considering the following:

[(a)—(c) Reserved;]

- (d) Alternative designs which would reduce street or cul-de-sac length;
- (e) The effect of overlength streets upon access, congestion, delivery of municipal services, and upon convenience to residents of the subdivision in traveling to and from their homes; and
- (f) Means of mitigation, including but not limited to additional mid-block street connections, limitation on the number of lots to be served along an overlength street segment or cul-de-sac, temporary (or permanent) points of emergency access, and additional fire protection measures.

11.23. - Dead-end streets.

Except in unusual cases, no dead-end streets will be approved unless such dead-end streets are provided to connect with future streets on adjacent land. In the case of dead-end streets which will eventually be extended into the adjacent subdivision, no more than one lot or unit (per side) can front onto the dead-end street stub unless a temporary turnaround bulb (with the appropriate temporary street easement) is provided at the end. A temporary dead-end street shall not exceed the maximum allowed length of a normal cul-de-sac, and the temporary turnaround bulb must be constructed like a cul-de-sac (the city engineer may authorize the use of asphalt or other durable paving material than concrete for the arc, or "wing", portions of the temporary turnaround bulb in order to minimize the cost of removing those portions later on). A note shall be placed on the final plat clearly labeling any temporary dead-end streets (if any) that will at some point be extended into the adjacent property, and signage shall be placed at the end of the constructed street stub, such as on the barricade, also stating that the street will be extended in the future. Signage and lettering must be large enough to be legible by a person with normal vision at a 20-foot distance. Any required temporary turnaround easements shall be shown on the final plat along with their appropriate recording information, if they are off-site or established by separate instrument.

11.24. - Extension of existing streets.

New streets which extend existing streets shall bear the names of the existing streets, and shall be dedicated at equal or greater right-of-way widths than the existing streets for an appropriate transition length, if applicable.

11.25. - Construction of new streets.

All new streets dedicated within a subdivision shall be constructed in accordance with paving widths and specifications as set forth in the ordinances of the City of Dripping Springs at the time at which the preliminary plat application is officially submitted and deemed a complete application.

SECTION 12. - ALLEYS AND EASEMENTS

12.1. - Alleys.

12.1.1. Service alleys in nonresidential districts, if provided or constructed by the developer, shall be a minimum right-of-way width of 30 feet and a pavement width of 24 feet.

12.1.2. Residential alleys shall be permitted in single-family subdivisions within the city and its ETJ under the following standards:

(a) In residential districts, alleys shall be parallel, or approximately parallel, to the frontage of the street.

(b) Alleys in residential districts shall provide a minimum of 20 feet of right-of-way and 12 feet of pavement.

12.1.3. General alley design standards.

(a) Alleys shall be paved in accordance with the City of Dripping Springs' TCSS and construction standards that are in effect at the time the preliminary plat application is officially submitted and deemed a complete application.

(b) Where the deflection of alley alignment occurs, the design of the paving and property line shall be as established by the TCSS.

(c) Dead-end or "hammerhead" alleys shall not be allowed. Alleys must have adequate turnouts and street

entrances such that vehicular traffic flow is continuous and efficient. Where a temporary dead-end alley situation is unavoidable, a temporary turnaround bulb or turnout onto a street, either of which will need a temporary easement for street or alley purposes, shall be provided as determined by the city engineer.

- (d) Alleys may not exceed a maximum length of 1,600 feet, as measured along the centerline of the alley and between intersections with other alleys or entrances onto streets (at the right-of-way line of the street at the alley entrance). The P&Z may recommend, and the planning and zoning commission may approve, variances for overlength alleys upon consideration of the following:
 - (1) Alternative designs which would reduce alley length;
 - (2) The effect of overlength alleys upon access, congestion, delivery of municipal services, and upon convenience to residents of the subdivision in accessing rear driveways and in driving around to the front of their homes; and
 - (3) Means of mitigation, including but not limited to additional mid-block alley turnouts, limitation on the number of lots to be served along a single alley segment, temporary points of access, and additional fire protection measures.
- (e) Alley intersections shall be perpendicular and at a 90-degree angle or radial to the intersecting alley centerline for the full alley right-of-way width, and intersection pavement shall be of sufficient width and inside radius to accommodate waste collection and emergency vehicles. Intersections shall be three-way wherever possible and four-way intersections shall be avoided. No alley intersection serving more than four directions shall be allowed.

12.2. - Easements.

- 12.2.1. The minimum width for city utility easements shall be 20 feet or as otherwise required by the city engineer. The width of easements for other utility providers, such as for gas, electric, telephone or cable television, shall be as required by that particular entity. It shall be the applicant's responsibility to determine appropriate easement widths required by other utility companies.
- 12.2.2. Where a subdivision is traversed by a watercourse, drainageway or channel, there shall be provided a storm drainage easement conforming substantially with the 100-year floodplain of such course and of such additional width as may be designated by the city engineer, subject to determination according to proper engineering considerations. The required width shall conform to the requirements set forth by the Federal Emergency Management Agency (FEMA), the U.S. Army Corps of Engineers, and/or the city. Parallel streets or parkways shall be required adjacent to certain portions of creek[s] or drainageways to provide maintenance access and/or public access and visibility into public open space or recreation areas. The number of lots that back or side onto creeks, drainageways, public parks and open spaces, and public school sites shall be severely limited, and possibly prohibited, such that public access, visibility, safety and security within these areas are maximized. Other utilities may be permitted within a drainage or floodway easement only if approved by the city engineer and any other applicable entity requiring the drainage or floodway easement.
- 12.2.3. A lot's or unit's area shall be computed inclusive of all easements. However, there shall be a minimum buildable area, exclusive of required easements, buffer zones and setbacks for each lot or unit.
- 12.2.4. Where alleys are not provided in a residential subdivision, a minimum 20-foot wide utility easement shall be provided along the front of all lots, adjacent to and flush with the street right-of-way line for the potential placement of utility facilities.
- 12.2.5. For new development, all necessary on-site easements shall be established on the subdivision plat and not by separate instrument, and they shall be labeled for the specific purpose, and to the specific entity if other than the

city, for which they are being provided. Examples include, but are not limited to, the following: A water, sanitary sewer or drainage easement, which is dedicated to the city for a water or sanitary sewer line or for a drainage structure; an access easement, which is dedicated to the public for unrestricted access purposes; a fire lane easement, which is dedicated to the city and its fire suppression and emergency medical service providers for access purposes; an electrical, gas or telephone easement, which is dedicated to the specific utility provider that requires the easement; and so on.

SECTION 13. - BLOCKS

13.1. - Length, width and shape.

The length, width and shapes of blocks shall be determined with due regard to:

- 13.1.1. Provision of adequate building sites suitable to the special needs of the type of use contemplated;
- 13.1.2. Zoning requirements as to lot or unit sizes, setbacks and dimensions (if within the city's limits); and
- 13.1.3. Needs for convenient access, circulation, control and safety of street traffic and for pedestrians or bicyclists traveling to a public park or school site or other facility within or close to the neighborhood.

13.2. - Intersecting streets.

Intersecting streets, which determine the lengths and widths of blocks, shall be provided at such intervals as to serve cross-traffic adequately, to provide adequate fire protection, and to conform to customary subdivision practices. Where no existing subdivision or topographical constraints control, the block lengths shall not exceed 1,200 feet in length. Where no existing subdivision or topographical constraints control, the blocks shall not be less than 400 feet in length; however, in cases where physical barriers or property ownership creates conditions where it is appropriate that these standards be varied, the length may be increased or decreased (through issuance of a waiver by the planning and zoning commission with plat approval) to meet the existing conditions having due regard for connecting streets, circulation of traffic and public safety.

SECTION 14. - LOTS

14.1. - Requirements.

Lots or units shall conform to the minimum requirements of the established zoning district, if located within the city's city limits.

14.2. - Frontage.

Each lot or unit on a subdivision plat shall front onto a dedicated, improved public street unless platted as an approved private street subdivision in accordance with this chapter. Lot width and access shall conform with the provisions of the City of Dripping Springs' Zoning Ordinance (if within the city's limits), comprehensive plan, and any other applicable city code or ordinance. Commercial properties shall utilize joint use access easements to limit curb cuts along streets, and provide cross access easements for adjacent commercial properties.

In all cases, lots or units shall have a minimum of 30 feet along a dedicated, improved street.

For subdivisions developed under the city's conservation development option, minimum lot or unit frontages shall be 70 linear feet if served by private, on-site sewage disposal systems, and 50 linear feet if served by a public or private centralized sewer system.

14.3. - Irregular-shaped lots.

Irregular-shaped lots or units shall have sufficient width at the building line to meet lot width and frontage requirements of the appropriate zoning district (if within the city's limits), and shall provide a reasonable building pad without encroachment into front, side or rear yard setbacks or into any type of easement. Also, the rear width shall be sufficient to provide access for all necessary utilities, including access for driveways and solid waste collection when alleys are present (minimum 20-foot alley frontage). Flag lots are prohibited. In general, triangular, severely elongated or tapered lots or units shall be avoided, and the city reserves the right to disapprove any lot which, in its sole opinion, will not be suitable or desirable for the purpose intended, which is an obvious attempt to circumvent the purpose and intent of lot or unit configuration or lot or unit width minimums, or which is so oddly shaped as to create a hindrance to the logical lot or unit layout of surrounding properties.

14.4. - Side lots or units.

Side lot lines or unit boundaries shall be at 90-degree angles or radial to street right-of-way lines to the greatest extent possible. The city reserves the right to disapprove any lot or unit which, in its sole opinion, is shaped or oriented in such a fashion as to be unsuitable or undesirable for the purpose intended, or which is not attractively or appropriately oriented toward its street frontage.

14.5. - Double frontage.

Double frontage lots or units shall be avoided, except where they may be essential to provide separation of residential development from traffic arterials, as defined in section 3.1 [section 11.14], or to overcome a specific disadvantage or hardship imposed by topography or other factors. Where lots or units have double frontage, building setback lines shall be established for each street side, and rear yard screening shall be provided. Residential lots shall not back onto any residential street or collector street within a residential area or neighborhood, and shall not have more than one-half of its perimeter boundaries along streets.

14.6. - Minimum lot sizes or unit in ETJ.

As part of the city's comprehensive water quality protection program, the minimum lot or unit sizes in the ETJ shall be in accordance with this chart:

Wastewater System	Aquifer Zone	Surface or Rainwater	Public Water Supply	Private Well
Public Sewer	Recharge	1.5	1.5	2.0
	Contributing	.75	.75	1.5
	WQBZ	2.0/Av 3.0	2.0/Av 3.0	2.0/Av 3.0

Private Septic	Recharge	2.0	2.0	2.0
	Contributing	1.5	1.5	2.0
	CWQZ	2.0	2.0	2.0
	WQBZ	2.0/Av 3.0	2.0/Av 3.0	2.0/Av 3.0

14.7. - Minimum lot or unit sizes in city limits.

The minimum lot size or unit in the city limits shall be three-quarters of an acre for lots served by a public water supply, and one acre for those served by a private well.

	Public Water Supply	Private Well
Private Septic	.75	1.0

SECTION 15. - SIDEWALKS

15.1. - Purpose.

15.1.1. Pedestrian concrete walkways (sidewalks) shall be required for all residential and nonresidential developments within the city limits and ETJ. Sidewalk width and location shall be in accordance with the transportation master plan (TMP).

15.1.2. When not defined by the TMP the following shall apply:

- (a) For commercial site developments. A minimum five-foot sidewalk shall be provided within adjacent street right-of-way (ROW) along the entire frontage of the property.
- (b) For residential subdivisions. A minimum five-foot sidewalk shall be required within ROW on both sides of all streets.

(Ord. No. 2020-39, § 2, 7-14-20)

15.2. - Requirements.

15.2.1. Sidewalks shall be constructed in compliance with the Dripping Springs Technical Criteria Manual (DSTC).

15.2.2. Sidewalk plan. A sidewalk plan shall be required on all construction plans and site development plans. Plans shall show the location of all proposed sidewalks and shall state at what stage of the project they will be constructed. If compliant sidewalks have already been constructed, the constructed sidewalks shall appear on all construction plans and site development plans.

15.2.3 Sidewalk alignment. Sidewalk alignment shall comply with that set forth in the TMP with the following exceptions:

- (a) A sidewalk shall be allowed to meander within the ROW or an easement upon approval by the development review committee.
- (b) Routing to clear poles, trees or other obstacles shall be subject to approval by the development review committee.
- (c) When not defined by the TMP sidewalks shall be constructed within the ROW, a minimum one foot away from the ROW line, and at least five feet away from the street curb.
- (d) In certain instances, the development review committee may approve placement of sidewalks adjacent or closer than five feet to the curb or located on private property and in a public access easement, provided that such placement benefits the general public by allowing more space for pedestrian safety, drainage facilities, landscaping or tree preservation.
- (e) Where no raised curb is installed, the sidewalk shall be at least ten feet from the edge of pavement (EOP) unless otherwise approved by the development review committee.

15.2.4. Root barriers shall be required, as determined by the city engineer, in locations where trees are (or will be) in close proximity to the sidewalk.

15.2.5. ADA requirement. All sidewalks shall be designed and constructed to meet the Texas Accessibility Standards administered by the Texas Department of Licensing and Regulation and the Americans with Disabilities Act, as amended. Barrier-free ramps shall be constructed at all street intersections and at any other locations deemed appropriate by the city due to anticipated pedestrian travel patterns.

15.2.6. Finish. All sidewalks shall have a light broom-swept finish to provide a non-slip surface.

(Ord. No. 2020-39, § 2, 7-14-20)

15.3. - City acceptance and certificate of occupancy.

15.3.1. Sidewalks along streets or in public sidewalk easements are considered part of the overall development's required public improvements and shall be installed prior to acceptance of the subdivision public improvements by the city and prior to final plat approval, unless fiscal surety is provided.

- (a) Exception: To prevent damage to newly constructed sidewalks. Construction of sidewalks fronting residential or commercial lots may occur after city acceptance of public infrastructure and final plat approval if fiscal surety is provided.

15.3.2. Certificate of occupancy will not be issued for any lot or unit within the subdivision until the required sidewalks are in place.

(Ord. No. 2020-39, § 2, 7-14-20)

15.4. - Fee in lieu of construction.

15.4.1. Fee-in-lieu of construction of sidewalks may be accepted when approved by the development review committee.

15.4.2. The development review committee shall consider the following criteria when evaluating a request for fee-in-lieu of construction for sidewalks:

- (a) Proximity to the nearest existing sidewalk;
- (b) Proximity to public facilities, such as public or private schools, libraries and other government buildings;
- (c) Whether any public sidewalk improvements are planned or contemplated in the area; and

(d) Any other information deemed appropriate by the development review committee.

15.4.3. Fee-in-Lieu payments shall be placed in the City of Dripping Springs Sidewalk Fund. Payments will be calculated based on the square feet of sidewalk construction waived as set out in the fee schedule. Funds shall be used for the sole purpose of sidewalk improvements and pedestrian amenities in public right-of-way, parks and sidewalk easements within the city. The fee in lieu of sidewalks shall be paid in full to the city prior to approval of the construction plans or site development plans.

(Ord. No. 2020-39, § 2, 7-14-20)

SECTION 16. - BUILDING LINES

16.1. - Minimum building setback lines.

Front, rear, side and street side building lines shall be consistent with the zoning ordinance requirements for the district in which the development is located (if subject to the city's zoning regulations) and with any other applicable city ordinance, respectively. Any city limit plats shall identify all setbacks via a plat note that states "setbacks shall comply to the zoning regulations at the time of permitting." For property that is not subject to the city's zoning regulations, such as property that lies within the city's ETJ, the minimum front building line (for residential and nonresidential lots) shall be ten feet and the minimum rear and side building lines (for residential and nonresidential lots) shall be five feet.

16.2. - Encroachments.

No person shall construct an auxiliary structure or building, porch, roof, or swimming pool encroaching into the building setback lines. It shall be an offense for any part or appurtenance of auxiliary structure or building, porch, or swimming pool to encroach into the building setback lines, unless authorized by the city's zoning or building codes.

SECTION 17. - UTILITY SERVICES

17.1. - Definitions.

For purposes of this section, the following meanings shall apply:

- (a) Utility services: The facilities of any person, firm or corporation providing electric, natural gas, telephone, cable television, or any other such item or service for public use approved but not provided by the City of Dripping Springs.
- (b) Feeder or feeder/lateral line: High voltage supply electric lines carrying more than 69,000 volts that emanate from substations used to distribute power through an area to an unspecified number of customers.
- (c) Lateral lines: Those electric or telephone lines used to distribute power from a feeder line to a single subdivision. These electric lines are normally connected to a feeder line through a sectionalizing device such as a fuse.
- (d) Service lines: Those electric lines used to connect between the utilities' supply system or lateral lines and the end user's meter box.

17.2. - Provision for utility services.

All major subdivision plats and construction plans submitted to the City of Dripping Springs for approval of land that will be residential in use shall provide for utility services such as electrical, gas, telephone and cable television utility lines, including lateral or service distribution lines, and wires to be placed underground. Feeder and other major transmission lines may remain overhead within the appropriate easements. However, an applicant shall endeavor and, whenever practical, the city shall require that feeder lines are placed away from major or minor thoroughfares or arterials, as shown on the transportation plan. Whenever practical, feeder lines which are to be placed overhead shall not be placed along both sides of the street right-of-way. Verification of acceptance of easement locations and widths by the public utilities shall be provided to the city, by the applicant, prior to final plat approval by the planning and zoning commission, and all easements shall be reviewed by the utility companies and by the city engineer (for those to the city) prior to granting final approval for any residential subdivision affected by this section. The applicant shall also, prior to final plat approval, provide a letter of commitment from each utility provider, such as those providing electricity, gas, telephone and cable television, who will serve the development that said utility providers will ensure the provision of necessary infrastructure and service to all portions of the proposed development within 12 months following final plat approval. Failure to submit such letters of commitment from utility providers shall constitute grounds for denial of the final plat application on the basis that there is no written assurance that the development can be served by essential utility services.

17.3. - Utility company criteria.

Each of the utility companies shall be responsible for developing administrative policies, criteria for easement size, and cost reimbursement procedures for the installation and extension of their underground utilities. Nothing herein shall prohibit or restrict any utility company from recovering the difference in cost of overhead facilities and underground utilities from the property owner in accordance with the provisions of such utility's approved tariff. No utility company shall be required or permitted to begin construction of underground facilities unless and until the property owner or developer of the subdivision has made arrangements satisfactory to the specific utility company for the payment of such difference between the cost of overhead facilities and underground facilities.

17.4. - Temporary construction service.

Temporary construction service may be provided by overhead electric lines and facilities without obtaining a waiver or special exception, provided that when the underground utility service to any portion of a subdivision is completed, such overhead electric lines and facilities are promptly removed.

17.5. - Underground.

Nothing in this section shall be construed to require any existing facilities in place prior to the effective date of this chapter to be placed underground.

17.6. - Meters.

The metering for utilities such as water, gas and electricity shall be located on the individual lots or units to be served, not grouped together in a centralized location(s), such as "gang-box" style metering stations, which shall not be permitted.

17.7. - Easements.

The locations, widths and configurations of easements for any utility service provider other than the City of Dripping Springs shall be determined, approved and acquired (if necessary) by the applicable utility service provider.

SECTION 18. - WATER FACILITY DESIGN

18.1. - Water supply.

- 18.1.1. Public water supply for all new subdivisions shall be connected with the appropriate publicly certified water when available, reasonable and practical, and shall be capable of providing water for health and emergency purposes.
- 18.1.2. Individual wells may be used in accordance with the rules of Hays County and the Hays-Trinity Groundwater Conservation District.
- 18.1.3. Alternative sources of water, such as rainwater collection systems, are highly encouraged.
- 18.1.4. **Minimum standards.** Water system with mains of sufficient size and having a sufficient number of outlets to furnish adequate and safe domestic water supply and to furnish fire protection to all lots or units shall be provided. Water lines shall extend to the property line in order to allow future connections into adjacent undeveloped property, and a box for the water meter(s) for each lot or unit shall be installed either in the right-of-way or immediately adjacent to the right-of-way in a water meter easement.
- 18.1.5. An alternative source of water may be used subject to city approval and provided that all appropriate permits are procured from the city, the U.S. Army Corps of Engineers, the TCEQ, LCRA, USFWS, the Hays-Trinity Groundwater Conservation District, and any other applicable agency(s). The design and construction of water system improvements and alternative water sources shall comply with the following standards:
- (a) Design and construction of a water source on the site shall be in accordance with applicable regulations of the USFWS, TCEQ, Hays County, the Hays-Trinity Groundwater Conservation District, and the Lower Colorado River Authority (LCRA) standards, whichever is the most stringent requirement.
 - (b) Design and construction of water service shall be in accordance with the standards in the city's ordinances, and in accordance with TCEQ, Hays County, the Hays-Trinity Groundwater Conservation District, and the Lower Colorado River Authority (LCRA) standards, whichever is the most stringent requirement.
 - (c) Design and construction of a fire protection and suppression system shall be in accordance with the standards in the ordinances, and in accordance with the fire department and applicable fire code.
 - (d) Water wells may be used if approved by Hays County and if the requirements enacted by the Hays-Trinity Groundwater Conservation District (or other applicable district) are met, and water is not available from a surface provider.

18.2. - Wastewater facility.

- 18.2.1. Wastewater treatment for all new subdivisions shall be served by an appropriate wastewater collection and treatment system. The design and construction of the wastewater system improvements shall be in accordance with the standards in the city's ordinances, and in accordance with TCEQ, Hays County, and the Lower Colorado River Authority (LCRA) standards, whichever is the most stringent requirement.
- 18.2.2. The applicant shall be responsible for:
- (a) Phasing of development or improvements in order to maintain adequate water and wastewater services;
 - (b) Extensions of utility, water, and wastewater lines to connect to existing utility services;
 - (c) Providing and/or procuring all necessary easements for the utilities (whether on-site or off-site);
 - (d) Providing proof to the city of adequate water and wastewater service;

- (e) Providing provisions for future expansion of the utilities if such will be needed to serve future developments, such as the city's oversized participation policies, if applicable;
- (f) Providing all operations and maintenance of the utilities, or providing proof that a separate entity will be responsible for the operations and maintenance of the utilities;
- (g) Providing all fiscal security required for the construction of the utilities;
- (h) Obtaining approvals from the applicable utility providers if other than the city; and
- (i) Complying with all requirements of the utility providers, including the city.

18.2.3. Extension of water and wastewater lines shall be made along the entire frontage of the subdivision adjacent to a street or thoroughfare. If the subdivision is not adjacent to a thoroughfare, the extension of utilities shall be accomplished in such a manner as to allow future connections to said utilities by new subdivisions. If new subdivisions will never be constructed beyond a developing subdivision due to physical constraints, the planning and zoning commission may waive the requirement for adjacent utility line construction at the time of preliminary plat approval and prior to construction of the subdivision.

18.2.4. Installation, operations and maintenance of utilities not specifically referenced herein shall comply with regulations of the USFWS, TCEQ, Hays County, and the LCRA standards, and with any other applicable state rules and regulations, whichever is the most stringent requirement.

18.2.5. For all new subdivisions that are intended to use on-site septic facilities (OSSFs), the applicant shall, prior to final plat approval, provide the following:

- (a) A letter from the Hays County Environmental Health Department representing that the department has reviewed the proposed subdivision design.
- (b) An approval by the city of a drawing that is representative of the intended layout of a typical lot within the proposed subdivision, specifically showing how the OSSF would be positioned on and how it would serve the lot. This drawing shall be reviewed by the city engineer prior to its approval or denial by the city.

18.3. - Stormwater systems.

18.3.1. System design requirements. Drainage improvements shall accommodate runoff from the upstream drainage area in its anticipated maximum "build-out" condition, and shall be designed to prevent overloading the capacity of the downstream drainage system. The city may require the phasing of development, the use of control methods such as retention or detention, or the construction of off-site drainage improvements in order to mitigate the impact of the proposed development. Any stormwater collection system constructed shall be designed in accordance with the city's ordinance by a licensed professional engineer, shall be reviewed and approved by the city engineer, and shall be in accordance with the City of Dripping Springs Flood Damage Prevention Ordinance, or the Hays County Flood Damage Prevention Ordinance, as applicable. All plans submitted to the city engineer for approval shall include a layout of the drainage system together with supporting calculations for the design of the system.

18.3.2. All erosion and sedimentation controls shall conform to the ordinances.

18.3.3. No person, individual, partnership, firm or corporation shall deepen, widen, fill, reclaim, reroute or change the course or location of any existing ditch, channel, stream or drainageway without first obtaining written permission of the city engineer and any other applicable agency (such as FEMA or the U.S. Army Corps of Engineers) having jurisdiction. The city engineer may, at his or her discretion, require preparation and

submission of a FEMA or flood study for a proposed development if there are concerns regarding storm drainage on the subject property or upstream or downstream from the subject property. The costs of such study, if required, shall be borne by the developer.

- 18.3.4.** In order to help reduce stormwater runoff, and resulting erosion, sedimentation and conveyance of nonpoint source pollutants, the layout of the street network, lots and building sites shall, to the greatest extent possible, be sited and aligned along natural contour lines, and shall minimize the amount of cut and fill on slopes in order to minimize the amount of land area that is disturbed during construction.
- 18.3.5.** No cross-street flow (i.e., perpendicular to traffic flow) of stormwater runoff shall be permitted unless approved by the city engineer. When and if such drainage flow is allowed, it must be across a concrete street (i.e., valley gutter) and as approved by the city engineer.
- 18.3.6.** All stormwater retention or detention facilities shall be designed using materials and techniques as established in the city's TCSS Manual or as may be required by the city engineer.
- 18.3.7. Requirements.** An adequate storm sewer system consisting of inlets, pipes and other underground structures with approved outlets shall be constructed where runoff of stormwater and the prevention of erosion cannot be accomplished satisfactorily by surface drainage facilities. Areas subject to flood conditions or inadvertent stormwater retention, such as standing or pooling water, as established by the city engineer, will not be considered for development until adequate drainage has been provided.
- 18.3.8. Criteria.** The criteria for use in designing storm sewers, culverts, bridges, drainage channels, and drainage facilities shall conform to section 3.10 [section 18.3.1] of this chapter. In no case shall drainage areas be diverted artificially to adjacent properties or across roadways. Stormwater drainage from one lot onto another shall not be allowed unless such does not pose any harm or inconvenience to the downstream property owner(s), unless specifically approved by the city engineer, and unless the necessary off-site drainage easement is procured on the affected property(s).
- 18.3.9. Proper function.** The developer shall ensure that all drainage improvements within public easements or rights-of-way are functioning properly prior to the expiration of the maintenance bond. The developer shall be responsible for removing any significant build-up of sediment or debris from drainage improvements, with the exception of back-lot and side-lot drainage swales, at the 11th month of the second year for the required two-year maintenance bond for the applicable facilities. The city shall inspect the improvements to determine any maintenance or correction of deficiencies at the conclusion of this period.

18.4. - Reuse of effluent.

The city may enact programs to encourage or reward the reuse of effluent by individual property owners on residential tracts.

18.5. - Land for plat.

No final plat shall be approved for any subdivision within the city or its ETJ until the applicant has made adequate provision for a water system and a sanitary sewer system of sufficient capacity to adequately provide service to all tracts and lots, individually or collectively, within the area to be subdivided. The design and construction of the water system and of the sanitary sewer system to serve the subdivision shall be in conformance with the city's, water district's, and Hays County's master plans for water and wastewater facilities and with the ordinances, and shall be approved by the city engineer.

18.6. - Ease of access.

Services for utilities shall be made available to the property line of each lot or unit in such a manner as will minimize the necessity for disturbing the street pavement and drainage structures when connections are made.

18.7. - Fire chief.

Fire protection shall be provided in accordance with this chapter, with the city's ordinance, and with any other city policy or ordinance pertaining to fire protection or suppression. The fire chief or fire marshal, as appropriate, shall have the authority to approve the locations and placement of all fire hydrants and fire lanes and the chief or marshal may, at the chief's or marshal's discretion, modify fire hydrant spacing or fire lane placement based upon special design or distance circumstances. All required fire lanes shall be shown as "fire lane easements" on the construction and final plats, along with the applicable fire lane language block. Vertical construction (i.e., any building construction above foundation/slab level) shall not commence until all required fire lanes are properly installed and accepted by the city, nor until all fire hydrants have been installed, inspected, tested and accepted by the city.

18.8. - Water district requirements.

Any requirements of publicly approved underground water districts shall also be incorporated into the water and/or wastewater system.

18.9. - Pollution abatement.

Subdivisions within the city limits of the city and its ETJ shall comply with the city's water quality protection ordinance. Nonpoint source pollution shall be abated through the employment of structure controls, the provision of open space for overland flow, and the utilization of best management practices (BMPs) with regard to the use of pesticides, herbicides, and fertilizers for both residential sites and commercial tracts.

SECTION 19. - PUBLIC SITES AND OPEN SPACES

19.1. - Areas for public use.

The applicant shall give consideration to suitable and adequate sites for schools, parks, playgrounds, and other areas for public use or service so as to conform with the recommendations contained in the city's comprehensive plan; park and open space plan; and other applicable plans. Any provision for schools, parks or other public facilities shall be indicated on the preliminary and final plat, and shall be subject to approval by planning and zoning commission.

19.2. - Protection of drainage and creek areas.

19.2.1. All creeks and drainage areas shall be preserved and protected in their natural condition wherever possible, unless significant storm drainage improvements are required by the city in these areas. All development adjacent to creeks and drainage areas shall be in accordance with the city's ordinances, and with any other city policies or ordinances related to aesthetics or public access or enjoyment of creeks and waterways.

19.2.2. Floodway management area (FMA). The definitions for "floodway" and "floodway fringe" shall correspond to those set forth by the Federal Emergency Management Agency (FEMA). For purposes of the National Flood Insurance Program, the concept of a floodway is used as a tool to assist the local community in the aspect of floodplain management. Under this concept, the area of the 100-year flood is divided into a floodway and floodway fringe. The floodway is the channel of a stream plus any adjacent floodplain areas that must be kept

free of encroachment in order that the 100-year flood may be carried without substantial increases in flood heights as defined by FEMA. The area between the floodway and boundary of the 100-year flood is termed the floodway fringe. The floodway fringe area cannot be reclaimed (elevated, infilled) for development (for exceptions to this, refer to the flood damage prevention ordinance).

- 19.2.3.** For the purposes of this chapter, the floodway management area (FMA) will correspond to the floodway, as defined by FEMA, or as may be modified pursuant to a flood study that is approved by FEMA.
- 19.2.4. Areas where an FMA is required.** All drainage areas or regulated floodways as referenced on the applicable floodway and flood boundary map (flood insurance rate map, or FIRM) shall be included in the FMA. If FEMA does not specify a floodway zone in any of the creeks or their tributaries, it shall be the developer's responsibility to establish and identify the FMA. The determination shall be made by a licensed professional engineer and approved by the city engineer. Where improvements to a drainage area are required by other ordinances of the city for the purpose of safety or other reasons related to drainage, those ordinances shall also be observed. The FMA is intended to apply to a creek or channel which is to remain open or in its natural condition. The creek shall remain in its natural state unless improvements are permitted or required by the city due to the pending development of properties adjacent to or upstream of the required improvements.
- 19.2.5. Ownership and maintenance of the FMA.** The area determined to be the FMA shall be designated on both the preliminary plat and final plat. Approximate locations shall be shown on zoning change requests and accurate locations of the FMA shall be established on the preliminary plat and final plat prior to site construction. At the city's option, the FMA shall be protected by one of the following methods:
- (a) Dedicated to the City of Dripping Springs; or
 - (b) Easement(s). Creeks or drainageways on tracts which have private maintenance provisions, other than single- or two-family platted lots, can be designated as the FMAs by an easement to the city on the preliminary plat (with the appropriate plat language, as required by the city). Subdivisions with platted single-family or two-family lots may designate the FMA by easement provided there are adequate access and maintenance provisions (such as by a mandatory homeowners' association), but no lots or portions of lots may be platted in the easement portion required for access unless specifically allowed by the city engineer. The area designated as FMA may be identified by a tract number; or
 - (c) Certain recreational uses normally associated with or adjacent to flood-prone areas (no structures allowed in the FMA), such as golf courses or certain types of parks. The uses allowed shall be in conformance with the zoning ordinance and approved by the P&Z.

Prior to acceptance of any drainageway as an FMA by the city, the area shall be cleared of all debris and brush (except for mature trees) and placed in a maintainable state. Floodway management areas dedicated to the city shall be left in a natural state except those areas designated for active recreational purposes and unless storm drainage requirements do not permit this to occur.

- 19.2.6. Design criteria.** The following design criteria shall be required for development adjacent to the FMA:
- (a) Adequate access shall be provided to and along the FMA for public and/or private maintenance. An unobstructed area a minimum of 20 feet wide with a maximum 5:1 slope (five feet horizontal to one foot vertical), the length of the floodway shall be provided adjacent to or within the FMA. On the opposite side of the drainage area, an unobstructed area having a minimum width of five feet shall be provided.
 - (b) Lots or units in a single-family, or duplex residential zoning district shall not be platted within the FMA, and no more than ten percent of the linear length of the FMA (on each side) shall be allowed to have lots or units backing or siding onto it. If lots back or side onto an FMA, at least two reasonable points of access to the FMA,

each a minimum of 20 feet in width, shall be provided. Streets, alleys and open-ended cul-de-sacs may qualify as access points if designed such that they are navigable by maintenance vehicles (e.g., alleys must be 20-foot width). All areas of the FMA shall be accessible from the access points and shall be visible from access points. Lots used for multifamily dwellings may be platted in the FMA if the FMA is identified as an easement and is maintained as open space for use by the residents, and provided that access to the FMA is possible by city maintenance vehicles, should that need arise. If the FMA is to be public park land, then adequate public access and good public visibility shall also be provided to all portions of it.

- (c) Public or private streets may be approved in the FMA by the P&Z (if they conform to applicable engineering standards).
- (d) Linear public streets may be required to be constructed adjacent to some (or all) portions of the FMA to allow access for maintenance or recreational opportunities, and/or to allow increased visibility into creek areas for public safety and security purposes.
- (e) Alternate designs to facilitate equal or better access may be permitted if approved by the P&Z.

19.2.7. Drainage areas which have been altered and are not in a natural condition can be exempted from an FMA and this section at the discretion of the P&Z.

19.3. - Property owners', homeowners', or condominium associations.

19.3.1. Applicability. When a subdivision contains either common open space or other improvements which are not intended to be dedicated to the City of Dripping Springs for public use, such as private streets, a private recreation facility, landscaped entry features or other private amenities, a property owners', homeowners', or condominium association agreement consistent with state and other appropriate laws, must be submitted to and approved by the city administrator and the city attorney. The conditions, covenants and restrictions (CCRs) and the association documents, such as the articles of incorporation and association bylaws, shall be submitted to the city for review and approval along with the final plat application, and shall be filed of record at the county simultaneously with the final plat in order to ensure that there is an entity in place for long-term maintenance of these improvements. Said documents must, at a minimum, include provisions which allow the city, at its discretion, to take over the maintenance of common property, including but not limited to common elements, private streets and private recreation facilities, using association funds, if such action becomes necessary due to nonperformance or inaction by the association or if the association goes defunct. To the extent allowed by law, provisions shall also be included which would, in the latter instance, convey ownership of the private streets (if any) and all other common areas to the city, and which would allow the city to remove any improvements or amenities from the common areas and sell any buildable land area, as residential lots, to recoup the city's expenses for maintenance or demolition of the improvements. Any monies that remain after the city has recovered all of its expenses shall be retained for future maintenance or upgrading of the streets, common elements, common areas (if any remain), screening walls, or other improvements within the subdivision. These provisions are not intended to allow the city to profit in any way from taking over the association's responsibilities or funds; they are only intended to allow the city to recoup its actual incurred expenses such that the general public, the taxpayers of the city, does not have to bear these costs.

19.4. - Park land and public facility dedication.

19.4.1. The applicant shall give consideration to suitable sites for parks, playgrounds and other areas, as required by the city, for public use so as to conform with the recommendations of the city's park and open space plan. Any provision for parks and public open space areas shall be indicated on the preliminary and final plat, and shall be

subject to approval and acceptance by the planning and zoning commission.

- 19.4.2. Applicants shall dedicate parkland, or render money in lieu of land donations, in accordance with the city's parkland dedication ordinance, volume 2, article 15, chapter 17 [article 28.03] of the city's Code of Ordinances, as may be amended.
- 19.4.3. No individual, partnership, firm, or corporation shall deepen, widen, fill, reroute or change the course or location of any existing ditch, channel, stream or drainageway, without first obtaining written permission of the city and any other agency having jurisdiction.

SECTION 20. - IMPROVEMENTS FOR ACCEPTANCE

20.1. - General.

- 20.1.1. The requirements as set forth below are designed and intended to ensure that, for all subdivisions of land within the scope of the subdivision ordinance, all improvements as required herein are installed properly and:
- (a) The city can provide for the orderly and economical extension of public facilities and services;
 - (b) All parcels of land in the subdivision are useable for the intended purpose or are developable; and
 - (c) All required improvements are constructed in accordance with city standards.
- 20.1.2. **Adequate public facilities policy.** The land to be divided or developed must be served adequately by essential public facilities and services. No subdivision shall be approved unless and until adequate public facilities exist or provision has been made for water facilities, wastewater facilities, drainage facilities, electricity and street facilities which are necessary to serve the development proposed, whether or not such facilities are to be located within the property being platted or off-site. This policy may be defined further and supplemented by other ordinances adopted by the city. Wherever the subject property adjoins undeveloped land, or wherever required by the city to serve the public good, utilities shall be extended to adjacent property lines to allow connection of these utilities by adjacent property owners when such adjacent property is platted and/or developed.
- 20.1.3. Public improvements that are required by the City of Dripping Springs for the acceptance of the subdivision by the city shall include, but are not limited to, the following:
- (a) Water and wastewater facilities;
 - (b) Stormwater drainage, collection and conveyance facilities;
 - (c) Water quality, erosion and sedimentation controls;
 - (d) Streets;
 - (e) Streetlights;
 - (f) Street signs;
 - (g) Sidewalks on both sides of the street in both residential and nonresidential developments utilizing curbs (not open ditches). Sidewalks shall be required in conjunction with sewer line installation. Sidewalks shall include barrier-free ramps at street intersections and other appropriate locations, as well as root barriers if necessary due to the close proximity of trees;
 - (h) Screening and/or retaining walls;
 - (i) Traffic-control devices or treatments required as part of the project; and
 - (j) Appurtenances to the above, and any other public facilities required as part of the proposed subdivision.
- 20.1.4. All aspects of the design and implementation of public improvements shall comply with the city's current design

standards and any other applicable city codes and ordinances, including preparation and submittal of construction plans and construction inspection. The construction of all of the improvements required in this chapter shall conform to the latest edition of the city's ordinances, as may be amended, and to any other applicable city standards.

- 20.1.5.** All public improvements required by this ordinance shall be completed or supported by complete fiscal security in accordance with approved construction plans prior to submission for final plat approval. A final plat shall not be filed until all improvements and/or fiscal security has been accepted.

SECTION 21. - MONUMENTS

21.1. - Placement.

In all subdivisions and additions, monuments shall be established at the corner of each block in the subdivision consisting of an iron rod or pipe not less than one-half-inch in diameter and 18 inches deep, and set flush with the top of the ground. Lot corner monuments shall be placed at all lot corners except corners which are also block corners, consisting of iron rods or pipes of a diameter of not less than one-half-inch and 18 inches deep, and set flush with the top of the ground. In addition, curve point markers shall be established of the same specifications as lot corners. Each block corner monument shall include a cap with the surveyor's name and registration number attached to it. All block corners shall be installed prior to the final review of the subdivision by the city. Lot corners shall be installed prior to issuance of a building permit.

21.2. - Minimum.

A subdivision shall have at least two concrete monuments set by the surveyor, if not already existing, for two corners of the subdivision, and such concrete monuments shall be located at opposite ends (or at widely separated corners) of the subdivision and clearly shown on the final plat prior to filing at the county. The final plat shall also show clear ties to existing concrete monuments in the vicinity of the subdivision.

SECTION 22. - STREETLIGHTS

22.1. - General.

All street lighting shall be in keeping with the "semi-rural" atmosphere of Dripping Springs, and shall be in conformance with the lighting (i.e., "dark sky" or illumination) ordinance and any other applicable city codes. Street lighting shall be of a design that casts light downward to the greatest extent possible, and shall minimize light overspill onto adjacent properties.

SECTION 23. - STREET NAMES AND SIGNS

23.1. - Approval of street names.

Street names must be submitted to Hays County for review and approval in accordance with the county's guidelines for the naming of streets. The county shall forward all proposed street names to others for review, including the U.S. Postal Service, the county, and any other applicable emergency service providers. Proposed street names shall be submitted for review along with (and as a part of) the preliminary plat application, and shall become fixed at the time of approval of the

preliminary plat. On the final plat, street names shall not be changed from those that were approved on the preliminary plat unless special circumstances have caused the major realignment of streets or a proposed street name(s) is discovered to have already been used elsewhere in the city (or some other similar eventuality). If additional street names are needed for the final plat, then they must be submitted for review and approval by the city, and applicable emergency service providers, including 9-1-1 dispatch, along with the final plat application. A fee may be established by the city for the changing of street names after approval of the preliminary plat. The rules established in this section shall be in addition to any rules promulgated in the city's interlocal agreement with Hays County for 9-1-1 addressing services.

23.2. - Surnames.

Surnames of people or the names of corporations or businesses shall not be used as street names, unless approved by the planning and zoning commission. The city or county will maintain a list of existing street names (and "reserved" street names that have been approved on a preliminary plat), and will update the list as new streets are platted.

23.3. - New street names.

New street names shall not duplicate existing street names either literally or in a subtle manner (for example, Smith Street vs. Smythe Street; Oak Drive vs. Oak Place vs. Oak Court vs. Oak Circle; Cascade Drive vs. Cascading Drive); shall not be so similar as to cause confusion between names (for example, Lakeside Drive vs. Lake Side Drive vs. Lake Siding Drive); and shall not sound like existing street names when spoken (for example, Oak Drive vs. Doak Drive vs. Cloak Drive; Lantern Way vs. Land Tern Way).

23.4. - Existing streets.

New streets which extend existing streets shall bear the names of the existing streets. Streets crossing thoroughfares or other roadways shall bear the same name on both sides of the thoroughfare, wherever practical, unless otherwise approved by planning and zoning commission.

23.5. - Documentation.

The developer shall provide the city with documentation evidencing that the street signs were installed.

23.6. - Guidelines.

Street name signs shall be installed in accordance with the city's guidelines before issuance of a building permit for any structure on the streets approved within the subdivision.

SECTION 24. - STREET AND ALLEY IMPROVEMENTS

24.1. - Responsibility of developer.

All on-site, such as internal, streets and alleys shall be constructed by the developer at the developer's expense, unless otherwise allowed by this chapter. If the subdivision is adjacent to a planned or future or substandard street and derives access, whether direct or indirect, from said roadway, then the developer shall be required to design and construct a reasonable portion of the roadway as well as any required median openings and left turn lanes needed to serve his or her

subdivision. The planning and zoning commission may, at its option, accept escrow funds in lieu of immediate roadway construction if the subdivision derives principal access from another improved roadway and if delaying construction or improvement of the road will not harm or otherwise inconvenience neighboring property owners or the general public.

24.2. - Requirements.

All streets and alleys shall be constructed using the materials, products and procedures outlined in the specification of the city's ordinance.

24.3. - Minimum.

The minimum street and alley paving standards for which the construction shall be made by the developer are shown in the ordinance.

24.4. - Barrier-free ramps.

In addition to the above-mentioned minimum standards, barrier-free ramps for physically challenged persons shall be constructed at all street corners, driveway approaches, appropriate mid-block crosswalks, and in locations where accessible parking spaces are provided. All barrier-free ramps and other accessibility considerations shall comply with section 228 of the Highway Safety Act, as currently amended, and with the Americans with Disabilities Act (ADA), as amended.

24.5. - Signs and barricades.

All signs and barricades shall be in conformity with ADA standards, and with specifications for uniform traffic-control devices, as adopted by the city, by Hays County, by the Texas Department of Transportation, and by the Texas Department of Public Safety, as applicable.

24.6. - Driveway connections.

Approval is required prior to the installation of any driveway connecting to a public street. The city engineer shall approve all driveway cuts. The minimum distance, as measured from the edge or curb to the edge or curb of driveways, and not from the centerlines of the driveways, between driveway openings for multifamily and nonresidential developments shall be as set forth in the city's ordinances, unless otherwise approved by planning and zoning commission. Driveways shall not be within the transition or stacking portion of a right turn lane, and shall be no closer than 100 feet to an intersecting thoroughfare or arterial street, as measured from the intersecting street's end of curb radius, and no closer than 50 feet to an intersecting residential or collector street. Residential driveways shall not be allowed on a major roadway (over 60 feet in right-of-way width; "type 1" or "type 2" within the city's transportation plan).

24.7. - Existing on-site facilities.

When a proposed subdivision, whether residential or nonresidential, abuts on one or both sides of an existing substandard street, or on a planned or future road as shown on the transportation plan, being substandard according to the then existing current transportation plan, the developer shall be required to improve his or her reasonable share of the existing on-site facility as that term is defined herein, including appurtenant sidewalks, barrier-free ramps, screening and landscaping, median openings and/or left turn lanes (if a divided thoroughfare), storm drainage structures, water quality or erosion controls, and other utilities, to bring the same to city standards, or to replace it with a standard city street as determined by the traffic impact analysis, if required, at no cost to the city.

24.8. - Developer's share.

The developer's share of improvements to a substandard perimeter road shall be 14 feet of pavement (including curb, if any), which is approximately equivalent to half of a collector street width (i.e., two through traffic lanes), along the entire front footage of the subdivision, unless the traffic impact analysis, if required, indicates that some other pavement width is needed to achieve and maintain an acceptable level of service on the roadway. If the subdivision is to be located on both sides of the roadway, 14 feet of pavement shall be constructed by the developer on each side of the road along the entire front footage of the subdivision on each respective side of the road, unless the traffic impact analysis determines otherwise. Design and construction of the roadway shall be in accordance with the city's transportation plan (with respect to right-of-way width and general location), the ordinances, and with any other applicable city codes and ordinances. Depending upon the specific roadway in question, and upon the traffic impact analysis results, any oversizing above the 14-foot width shall be borne by the city, the county, the state or by some other entity. The city council may, at its option, accept escrow funds in lieu of immediate roadway construction if the subdivision derives principal access from another improved roadway and if delaying construction and improvement of the road will not harm or otherwise inconvenience neighboring property owners or the general public.

24.9. - Dead-ends.

Streets which dead-end at power lines or similar rights-of-way or easements, and which are intended for future extension across these rights-of-way or easements, shall be constructed in the right-of-way or easement for half the distance across the right-of-way or easement, and shall be further restricted as set forth in this chapter. As with any other dead-end street, a note shall be placed on the final plat clearly labeling the dead-end streets that will, at some point, be extended across the power line easement (or right-of-way), and signage shall be placed at the end of the constructed street stub, such as on the barricade, also stating that the street will be extended in the future. Signage size and lettering shall be large enough to be legible by a person with normal vision at a distance of 20 feet.

SECTION 25. - RETAINING WALL CRITERIA

25.1. - Requirements.

In general, the use of retaining walls shall be minimized, wherever possible, through minimal and balanced cut and fill on property. When property within or directly adjacent to a subdivision contains changes in elevation exceeding two and one-half feet and the slope exceeds one unit vertical to two units horizontal, a retaining wall shall be required at the locations specified herein prior to the acceptance of the subdivision:

Location A. The grade change roughly follows a side or rear lot line.

Location B. The grade change is adjacent to a proposed building site boundary.

Location C. The grade change is adjacent to a watercourse or drainage easement.

25.2. - Design and construction.

All retaining wall design and construction shall be in compliance with the provisions of the building code and the ordinances of the City of Dripping Springs, and shall be approved by the city engineer.

25.3. - Maintenance.

Retaining walls shall be maintained by the owner of the property whereon such retaining wall is located.

25.4. - Easements.

Retaining walls shall not be constructed within any portion of a public utility, drainage, or right-of-way easement, unless approved by the city engineer and properly permitted by the city.

SECTION 30. - REQUIREMENTS FOR ACCEPTANCE

30.1. - Withholding city services and improvements.

The city hereby defines its policy to be that the city will withhold all city services and improvements of whatsoever nature, including the maintenance of streets and the furnishing of all other city services from any subdivision or property until all of the street, utility, storm drainage and other public improvements, as well as lot or unit improvements such as retaining walls and grading and installation of improvements required for proper lot or unit drainage and prevention of soil erosion on the individual residential lots or units, are properly constructed according to the approved construction plans and to city standards, and until such public improvements are dedicated to and accepted by the city.

30.2. - Guarantee of public improvements.

- 30.2.1. Property owner's guarantee.** Before approving the final plat of a subdivision located all or partially within the city or its ETJ, the city council must be satisfied that all required public improvements have been (or soon will be) constructed in accordance with the approved construction plans and with the requirements of this chapter.
- 30.2.2. Waiver.** The city administrator may waive performance guarantees for subdivisions in the ETJ that are subject to county performance guarantees and are in compliance with the county regulations.
- 30.2.3. Improvement agreement and guarantee.** The city council may waive the requirement that the applicant complete and dedicate all public improvements prior to approval of the final plat, and may permit the property owner to enter into an improvement agreement by which the property owner contracts to complete all required public improvements no later than two years following the date upon which the final plat is approved. The city council may also require the property owner to complete or dedicate some of the required public improvements prior to approval of the final plat, and to enter into an improvement agreement for completion of the remainder of the required improvements during such two-year period. The improvement agreement shall contain such other terms and conditions as are agreed to by the property owner and the city.
- 30.2.4. Improvement agreement required for oversize reimbursement.** The city shall require an improvement agreement pertaining to any public improvement for which the developer shall request reimbursement from the city for oversize costs. The city council, as it deems appropriate, has the authority to authorize the approval of such agreement as meeting the requirements of the city, and the city shall not withhold approval as a means of avoiding compensation due under the terms of this chapter. The city administrator is authorized to sign an improvement agreement on behalf of the city.
- 30.2.5. Security.** Whenever the city permits an applicant to enter into an improvement agreement, it shall require the applicant to provide sufficient security, covering the completion of the public improvements. The security shall be in the form of cash escrow or, where authorized by the City, a performance bond or other security acceptable to the city council and the city attorney, as security for the promises contained in the improvement agreement.

Security shall be in an amount equal to 100 percent of the estimated cost of completion of the required public improvements and lot or unit improvements. The issuer of any surety bond shall be subject to the approval of the city administrator and the city attorney.

30.2.6. Performance bond. If the city council authorizes the applicant to post a performance bond as security for its promises contained in the improvement agreement, the performance bond shall comply with the following requirements:

- (a) All performance bonds must be in the forms acceptable to the city administrator and the city attorney;
- (b) All performance bonds must be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies", as published in Circular 570, as may be amended, by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury;
- (c) All performance bonds must be signed by an agent, and must be accompanied by a certified copy of the authority for him or her to act;
- (d) All performance bonds shall be obtained from surety or insurance companies that are duly licensed or authorized in the State of Texas to issue performance bonds for the limits and coverage required; and
- (e) Approval of bonding company as per ratings of the Texas Department of Insurance, or a successor agency.

30.2.7. Bankruptcy or insolvency. If the surety on any performance bond furnished by the applicant is declared bankrupt, or becomes insolvent, or its right to do business is terminated in the State of Texas, or the surety ceases to meet the requirements listed in Circular 570, the developer shall, within 20 calendar days thereafter, substitute another performance bond and surety, both of which must be acceptable to the city.

30.2.8. As portions of the public improvements are completed in accordance with the ordinances and the approved construction plans, the applicant may make written application to the city administrator to reduce the amount of the original security. If the city administrator is satisfied that such portion of the improvements has been completed in accordance with city standards, he or she may, but is not required to, cause the amount of the security to be reduced by such amount that he or she deems appropriate, so that the remaining amount of the security adequately insures the completion of the remaining public improvements.

30.2.9. At the same time as acceptance by the city of all required public improvements, the applicant shall file a maintenance bond with the city for the full cost of the public improvement in a form approved by the city. The maintenance bond shall be security for the applicant's covenant to maintain the required public improvements and to warrant that the improvements are free from defects for two years thereafter. When the required security for maintenance and warranty is provided through the maintenance bond the city will release the entire amount of the developer's security.

30.3. - Temporary improvements.

30.3.1. The applicant shall build and pay for all costs of temporary improvements required by the city, and shall maintain those temporary improvements for the period specified by the city. Prior to construction of any temporary facility or improvement, the applicant shall file with the city a separate improvement agreement and escrow in an appropriate amount for temporary facilities, which agreement and escrow shall ensure that the temporary facilities will be properly constructed, maintained and removed.

30.3.2. Any temporary public improvement (e.g., a temporary cul-de-sac, alley turnout, drainage swale, erosion control device, etc.) shall be placed within an easement established specifically for that purpose. The recording information of the instrument establishing the temporary easement shall be clearly shown on the final plat for

the subdivision prior to approval of the final plat. A temporary easement for a required public improvement shall not be abandoned without the city engineer's approval and without written consent by the city.

30.4. - Government units.

Governmental units to which these contract and security provisions apply may file, in lieu of the contract and security, a certified resolution or ordinance from officers or agents authorized to act in their behalf, agreeing to comply with the provisions of this section.

30.5. - Failure to complete improvements.

For plats for which no improvement agreement has been executed and no security has been posted, if the public improvements are not completed within the period specified by the city, the plat approvals shall be deemed to have expired. In those cases where an improvement agreement has been executed and security has been posted, and the required public improvements have not been installed within the terms of the agreement, the city may:

- (a) Declare the agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;
- (b) Suspend final plat approval until the public improvements are completed, and may record a document to that effect for the purpose of public notice;
- (c) Obtain funds under the security and complete the public improvements itself or through a third party;
- (d) Assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision for which public improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete the public improvements on the property; or
- (e) Exercise any other rights or remedies available under the law.

30.6. - Acceptance of dedication offers.

Acceptance of formal offers for the dedication of streets, public areas, easements or parks shall be by authorization of the city administrator. The approval by the planning and zoning commission of a construction plans or final plat shall not, in and of itself, be deemed to constitute or imply the acceptance by the city of any street, public area, easement or park shown on the plat. The city may require the plat to be endorsed with appropriate notes to this effect.

30.7. - Maintenance and guarantee.

The property owner shall maintain all required public improvements for a period of two years following acceptance of the subdivision by the city, and shall also provide a two-year maintenance bond (warranty) that all public improvements will be free from defects for a period of two years following such acceptance by the city.

30.8. - Construction procedures.

30.8.1. A site development permit is required from the city prior to beginning any site development related work in the city or its ETJ that affects erosion control, storm drainage, vegetation or tree removal, or a floodplain.

30.8.2. Pre-construction conference. The city shall require that all general and site development contractors (e.g., excavation, utilities, roadways) participating in the construction meet with the city for a pre-construction conference to discuss the project prior to any grading, filling, excavation, clearing or removal of vegetation and

any trees that are larger than six-inch caliper; discussion shall also include the required construction traffic plan. All contractors shall be familiar with, and shall conform with, applicable provisions of the city's zoning ordinance as well as the city's building code.

30.8.3. Conditions prior to authorization. Prior to authorizing release of a site development permit, the city engineer shall be satisfied that the following conditions have been met:

- (a) The preliminary plat has been approved by the planning and zoning commission (and any conditions of such approval have been satisfied);
- (b) All required engineering documents are completed and approved by the city engineer;
- (c) All necessary off-site easements and dedications required for city-maintained facilities and not shown on the plat must be conveyed solely to the city, such as by filing of a separate instrument, with the proper signatures affixed. The original of the documents and the appropriate fees for filing the documents at the county (per Hays County requirements and the city's submission guidelines, as may be amended from time to time) shall be returned to the city secretary prior to approval and release of the construction plans by the city engineer;
- (d) All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of release of the city engineer, and at least one set of these plans shall remain on the job site at all times;
- (e) A complete list of the contractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times must be submitted to the city;
- (f) All applicable fees must be paid to the city; and
- (g) All required approvals and permits have been obtained from all local, state, and federal entities/agencies.

30.9. - Nonpoint source pollution controls and tree protection.

All nonpoint source pollution controls, erosion controls, and tree protection measures and devices shall be in place, to the city engineer's satisfaction, prior to commencement of construction on any property.

30.10. - Review and acceptance of public improvements.

30.10.1. General procedure. Construction observation and daily on-site representation shall be supervised and provided by the developer's engineer at the developer's expense. Construction shall be in accordance with the approved construction plans and the ordinances of the City of Dripping Springs (and other applicable codes and ordinances). Any change in design that is required during construction should be made by the licensed professional engineer whose seal and signature are shown on the plans. All revisions shall be reviewed and accepted by the city engineer. If the city engineer finds that any of the required public improvements — which include but are not limited to streets, drainage, water improvements, wastewater improvements, electrical, natural gas, and communication improvements — have not been constructed in accordance with the city's standards and ordinances, then the property owner shall be responsible for completing and correcting the deficiencies such that they are brought into conformance with the applicable standards.

30.10.2. Prior to final acceptance of the required public improvements the applicant shall ensure the provision/completion of the following:

- (a) A signed statement from the design engineer that the public improvements have been constructed in conformance with the construction drawings, contract documents, and specifications.
- (b) Shop drawing submittals of all materials, structures, etc., with approvals by the design engineer.
- (c) Laboratory and field testing reports certified by a geotechnical firm or the testing laboratory(s) that are

involved with the project.

- (d) A certificate from the general contractor that all bills for materials, services, and subcontractors have been paid.
- (e) Site visit/construction representation daily (or otherwise) reports signed by the design engineer or an acceptable representative as approved by the City of Dripping Springs.
- (f) A listing of the elevation of at least four permanent benchmarks located at the project site.
- (g) A walk-through of the public improvements with City of Dripping Springs officials, during which a complete final "punch list" of any additional/incomplete items will be developed. Once the punch list has been completed, there shall be a final walk-through with City of Dripping Springs officials.
- (h) Submission of final written approvals of the completed infrastructure improvements by county, state, and local entities.

30.11. - Letter of satisfactory completion.

- 30.11.1.** The city will not deem required public improvements satisfactorily completed until the applicant's engineer or surveyor has certified to the city engineer, through submission of detailed sealed "as-built", or record, drawings of the property which indicate all public improvements and their locations, dimensions, materials and other information required by the city engineer, and until all required public improvements have been completed. The "as-builts" shall also include a complete set of sealed record drawings of the paving, drainage, water, sanitary sewer and other public improvements, showing that the layout of the lines and grades of all public improvements are in accordance with construction plans for the plat, and showing all changes made in the plans during construction, and containing on each sheet an "as-built" stamp bearing the signature and seal of the licensed professional engineer and the date. One reproducible drawing of the utility plan sheets containing the as-built information shall also be submitted. The engineer or surveyor shall also furnish the city with a copy of the approved final plat and the construction plans, if prepared on a computer-aided design and drafting (CADD) system, in such a digital format (on disk) that is compatible with the city engineer's CADD system. When such requirements have been met to the city engineer's satisfaction, the city administrator shall thereafter make a recommendation to the planning and zoning commission for consideration of satisfactory completion of the public improvements. Once the city council votes its approval of satisfactory completion, the city administrator shall issue the letter of satisfactory completion.
- 30.11.2.** Acceptance of the development shall mean that the developer has transferred all rights to all the public improvements to the city for use and maintenance. The city council may, at its option, accept dedication of a portion of the required public improvements if the remaining public improvements are not immediately required for health and safety reasons, and if the property owner has posted a performance bond or cash bond in the amount of 100 percent of the estimated cost of those remaining improvements for a length of time to be determined by the city council. If the remaining public improvements are greater than \$10,000.00 and are not completed within the determined length of time, the city will impose a penalty that equals ten percent of the performance bond or cash bond. The obligation to complete the improvements remains with the developer, and all future building permits or certificates of occupancy will be withheld until the improvements are complete. If the remaining public improvements are less than \$10,000.00, the developer shall pay the actual dollar amount. The length of time may be extended due to inclement weather or unforeseen delays by mutual agreement between the developer and the city.
- 30.11.3.** Upon acceptance of the required public improvements, the city administrator shall submit a certificate to the developer stating that all required public improvements have been satisfactorily completed.

30.12. - Deferral of required improvements.

- 30.12.1.** The planning and zoning commission may, upon application of the property owner and favorable recommendation of the city engineer, defer at the time of plat approval, subject to appropriate conditions, the provision of any or all public improvements as, in its judgment, are not required in the immediate interests of the public health, safety and general welfare.
- 30.12.2.** Whenever an application to defer the construction of any public improvements required under this chapter is granted by the planning and zoning commission, the property owner shall deposit in escrow his or her share of the costs (in accordance with city participation and oversizing policies) of the future public improvements with the city prior to approval of the plat, or the property owner may execute a separate improvement agreement secured by a cash escrow guaranteeing completion of the deferred public improvements upon demand of the city.

30.13. - Building permits and certificates of occupancy.

No building permit shall be issued for a lot, building site, building or use unless the lot or building site has been officially recorded by a final plat approved by the planning and zoning commission, and unless all public improvements, as required by this chapter for final plat approval, have been completed, except as may be permitted below:

- 30.13.1.** A building "foundation only" permit may be issued for a nonresidential or multifamily development provided that a preliminary plat has been approved by the planning and zoning commission, and provided that the construction plans have been released by the city engineer. However, the building permit shall not be issued and building construction shall not be allowed to surpass the construction of fire protection improvements. In other words, the building shall not proceed above the slab level until all required fire lanes have been completed, and until all water lines serving fire hydrants have been completed, inspected and tested.
- 30.13.2.** The city building official may release some residential building permits for not more than ten percent of the lots within a new residential subdivision, provided that a preliminary plat has been approved by the planning and zoning commission and the construction plans have been approved by the city engineer, and provided that all public improvements have been completed for that portion of the development including, but not limited to, those required for fire and emergency protection, such as streets providing at least two points of emergency access, alleys, water lines serving fire hydrants, and other similar, required public safety improvements. No lot may be sold nor title conveyed until the final plat has been approved by the planning and zoning commission and recorded at Hays County.
- 30.13.3.** No certificate of occupancy shall be issued for a building or the use of property unless all subdivision improvements have been completed and a final plat has been approved by the planning and zoning commission and recorded at the county. Notwithstanding the above, the city administrator may authorize the conditional or partial occupancy of a structure provided that an agreement providing cash escrow or other sufficient surety is approved by the city administrator for the completion of all remaining public improvements, and provided that the structure is safely habitable in accordance with the city's building codes.

SECTION 31. - FILING FEES AND PLAT RESUBMISSION**31.1. - Other ordinances.**

Fees and charges, as well as other submission requirements, for the submission of applications for the approval of any type of plat and for engineering review and construction observation shall be as provided by separate ordinance, and may be amended from time to time. It is the applicant's responsibility to obtain and comply with the city's current fee schedule and submission requirements.

31.2. - Uniform applicability.

Such fees and charges shall be imposed and collected on all applications for approval of any type of plat, regardless of the action taken by the P&Z thereon. Such fees shall be collected for the purpose of defraying the costs of administrative, clerical, engineering, planning and review services necessary to properly review and investigate plats and subdivision construction. The cost incurred by the city to retain professionals to perform necessary development review, possibly including but not limited to, the city planner and city engineer, may be charged directly to the applicant for the actual cost of said professional services.

31.3. - Cessation of pending status.

Should a development proposal or plat application lapse or expire, or should it be denied by the P&Z, then that application ceases "pending" status and the project, and its corresponding series of development approvals and permits, shall be deemed to be ended, or "completed". Any reapplication for any type of development approval for that property shall be considered commencement of a new project, and shall be accompanied by new application materials, including new submission fees, and shall conform to all applicable city ordinances in effect at the time of submission of the new application.

31.4. - Other fees.

All required fees, unless specifically stated otherwise herein, shall be paid as required in other sections of this chapter. Final observation and review fees may be paid at the time the actual review (i.e., final "walk-through") of the project is undertaken.

SECTION 32. - ENFORCEMENT

32.1. - Prohibition.

No person shall violate the terms, conditions or regulations enacted in this chapter.

32.2. - Violations and penalties.

In addition to all other remedies and relief available to the city at law or in equity for a violation of this subdivision ordinance, the following nonexclusive forms of relief shall be available to the city:

32.2.1. Violations and penalties. Any person who violates any of these regulations for lands within the jurisdiction of the city shall be subject to a fine of not more than \$500.00 per day, with each day constituting a separate offense, pursuant to the Texas Local Government Code, chapter 54, as amended. Each day constitutes a separate violation.

32.2.2. Civil enforcement. Appropriate civil actions and proceedings may be maintained in law or in equity to prevent unlawful construction, to recover damages, to impose additional penalties, to restrain, correct or

abate a violation of these regulations, whether such violation occurs with respect to lands within the jurisdiction of the city. These remedies shall be in addition to the penalties described above. The city may recover a civil penalty not to exceed \$1,000.00 per day for violation of this chapter.

32.3. - Withholding of subdivision acceptance.

The city may refuse to grant final acceptance of a subdivision that does not fully and completely comply with all terms and conditions of this subdivision ordinance including, but not limited to, the refusal to issue building permits and certificates of occupancy, and the refusal to connect the property to city utilities and services.

32.4. - Withholding of other authorizations.

The city may refuse to grant development, construction, or occupancy approvals for improvements in a subdivision that does not fully and completely comply with all terms and conditions of this chapter. Without limiting the type or number of approvals the city may withhold, the city is specifically authorized to refuse to grant site development permits, building permits, utility connections, and certificates of occupancy.

(Ordinance 2019-29, adopted 9/10/19)

EXHIBIT B. - UNIFORM SUBMITTAL SCHEDULE—2020-2021

PLAT FILINGS

Submission for Administrative Completeness—Submit by:	Filing Date	Review Date
8/10/2020	8/24/2020	9/22/2020
9/14/2020	9/28/2020	10/27/2020
10/6/2020	10/20/2020	11/18/2020
11/3/2020	11/17/2020	12/16/2020
12/14/2020	12/28/2020	1/26/2021
1/11/2021	1/25/2021	2/23/2021
2/8/2021	2/22/2021	3/23/2021
3/15/2021	3/29/2021	4/27/2021
4/12/2021	4/26/2021	5/25/2021
5/10/2021	5/24/2021	6/22/2021

6/14/2021	6/28/2021	7/27/2021
7/12/2021	7/26/2021	8/24/2021
8/16/2021	8/30/2021	9/28/2021

RESPONSE TO DENIAL COMMENTS

Submission for Administrative Completeness—Submit by:	Filing Date for Resubmission Response to Comments	Review Date
8/24/2020	9/7/2020	9/22/2020
9/28/2020	10/12/2020	10/27/2020
10/20/2020	11/3/2020	11/18/2020
11/17/2020	12/1/2020	12/16/2020
12/28/2020	1/11/2021	1/26/2021
1/25/2021	2/8/2021	2/23/2021
2/22/2021	3/8/2021	3/23/2021
3/29/2021	4/12/2021	4/27/2021
4/26/2021	5/10/2021	5/25/2021
5/24/2021	6/7/2021	6/22/2021
6/28/2021	7/12/2021	7/27/2021
7/26/2021	8/9/2021	8/24/2021
8/30/2021	9/13/2021	9/28/2021

A plat application is considered filed on the date at which it has been deemed administratively complete.

An applicant may file comments in response to denial at any time, but the response will not be considered filed until the next resubmission date.

(Ordinance 2019-31, adopted 9/10/19; Ord. No. 2020-35, § 2, 7-14-2020)