

## SUBDIVISIONS

### *GENERAL PROVISIONS*

#### **Title.**

This Ordinance and subsequent regulations of the City of Glen Rose, Texas shall be known as, and may be cited and referred to as, the "Subdivision Ordinance."

#### **Authority.**

This Subdivision Ordinance and subdivision regulations are adopted pursuant to the authority granted by the U.S. Constitution, the Texas Constitution, and the laws of the State of Texas, specifically including Chapter 212 of the Texas Local Government Code. All property subdivided into lots, blocks, or streets, or property to be re-subdivided, within the City Limits or within its Extraterritorial Jurisdiction (ETJ) shall hereafter be laid out subject to the approval of the City as outlined within this Subdivision Ordinance.

#### **Purpose.**

These regulations shall be administered so as to achieve the following specific purposes:

A. Specific Purposes of the Subdivision Ordinance.

1. Provide for the orderly, safe and healthful development of the area within the City and its Extraterritorial Jurisdiction (ETJ) and provide for adequate public facilities;
2. Promote the health, safety and general welfare of the community;
3. Establish orderly policies and procedures to guide development of the City;
4. Provide for the establishment of minimum specifications for construction and engineering design criteria for public infrastructure reduce inconveniences to residents of the area, and to reduce related unnecessary costs to the City for correction of inadequate facilities that are designed to serve the public;
5. Ensure that development of land and subdivisions shall be of such nature, shape and location that utilization will not impair the general welfare;
6. Protect against the dangers of fires, floods, erosion, landslides, or other such menaces;
7. Provide proper utilities and services for adequate drainage, water supply, and disposal of sanitary and industrial waste; to furnish adequate sites, convenient to schools, parks, playgrounds, and other community services, respecting topography and existing vegetation so that the natural beauty of the land shall be preserved;
8. Coordinate new development realistically and harmoniously with existing development;
9. Protect and conserve the value of land throughout the City;
10. Provide the most beneficial circulation of vehicle and pedestrian traffic throughout the City, and to provide for the proper location and width of streets;
11. Establish reasonable standards of design and procedures for the development and redevelopment, provide for the orderly layout and use of land;

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12. Ensure proper legal descriptions and documentation of subdivided land;
  13. Ensure public facilities with sufficient capacity to serve the proposed subdivision are available for every building site, and to provide public facilities for future development;
  14. Ensure the adequacy of drainage facilities; and encourage the wise use and management of natural resources throughout the City in order to preserve the integrity, stability, and beauty of the community;
  15. Preserve the topography of the City and ensure appropriate development with regard to natural features;
  16. Ensure that new development adequately and fairly participates in the dedication and construction of Public Improvements and infrastructure that are necessitated by or attributable to the development or that provide value or benefit that makes the development feasible; and
  17. Address other needs necessary for ensuring the creation and continuance of a healthy, attractive, safe and efficient community that provides for the conservation, enhancement and protection of its human and natural resources.

### **Applicability.**

- A. *General.* It is hereby declared to be the policy of the City to consider the subdivision and development of land, as subject to the control of the City, in order to carry out the purpose of the Comprehensive Plan, and to promote the orderly, planned, efficient and economical development of the City.
- B. *Subdivision and Development of Land Policies.*
  1. Land shall not be subdivided or developed until proper provision has been made for drainage, water, wastewater, transportation and other facilities required by these regulations.
  2. All public and private facilities and improvements shall be of at least the capacity necessary to adequately serve the development and shall conform to and be properly designed in accordance with the Comprehensive Plan of the City.
  3. These regulations shall supplement, and facilitate the enforcement of, provisions and standards contained in the Zoning Ordinance and building codes adopted by the City.
- C. *Requirement to Plat.* Platting is required for the following purposes:
  1. To create a building site on a single lot or tract;
  2. To construct or enlarge any exterior dimension of any building, structure, or improvement on land without an existing Plat;
  3. To subdivide land to divide a lot or tract into two or more parcels for development of the parcels;
  4. To combine lots or tracts;
  5. To amend a Plat; or
  6. To correct errors on an approved and recorded Plat.
- D. *Plat Required.*
  1. Subdivision Plats Required per LGC 212 Subchapter A (i.e., All plats except Development Plats).
    - a. In accordance with Texas Local Government Code (LGC) Section 212.004, the owner of a tract of land located within the city limits or in the Extraterritorial Jurisdiction (ETJ) who divides the tract in two (2) or more parts to lay out a subdivision of the tract, including an addition to a municipality, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares,

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parcs, 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.

- b. A division of a tract under this subsection 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.
- c. A division of land under this subsection does not include a division of land into parts greater than five (5) acres, where each part has access and no Public Improvement is being dedicated.

2. Development Plats Required per LGC 212 Subchapter B.

- a. Any person who proposes the development (i.e., any new construction or the enlargement of any exterior dimension of any building, structure, or improvement) of a tract of land located within the limits or in the Extraterritorial Jurisdiction (ETJ) of the City shall have a Development Plat of the tract prepared in accordance with LGC 212 Subchapter B and this Subdivision Ordinance. (See Section 4.11 Development Plat of this Ordinance for requirements for Development Plats.)
- b. Whenever a property owner proposes to divide land within the City or its Extraterritorial Jurisdiction (ETJ) into two (2) or more tracts, and claims exemption from LGC 212 Subchapter A for the purposes of development, that results in parcels or lots all greater than five (5) acres in size, a Development Plat shall be required.
- c. In the event that development of any tract of land is intended, and where no Public Improvement is proposed to be dedicated, the Applicant shall first obtain approval of a Development Plat.
- d. No Development Plat is required when the land has an approved Final Plat, Minor Plat, Replat, or Amending Plat.

E. *Exemptions to the Requirement to Plat.* The following are exemptions to the platting requirements in 1.04.C:

- 1. Use of existing cemeteries complying with all State and local laws and regulations;
- 2. Dedication of an easement or Right-of-Way by a separate document recordable in the county records if approved by the City; and
- 3. Divisions of land created by order of a court of competent jurisdiction.

### **Documents comprising subdivision regulations.**

The requirements of this Subdivision Ordinance and the technical design and construction standards contained in the Engineering Standards Manual.

### **Compliance required.**

Compliance with all City ordinances pertaining to the subdivision and development of land, and the Comprehensive Plan (where applicable), shall be required prior to approval of any Application pursuant to this Subdivision Ordinance. All such ordinances and the Comprehensive Plan shall be construed to mean those documents as they exist or may be amended. It is the property owner's responsibility to be familiar with, and to comply with, City ordinances, the Comprehensive Plan, and the provisions of this Subdivision Ordinance.

- A. *Applicable City Codes, Ordinances, and Plans.* Applicable City codes, ordinances, and plans with which all Applications must comply include, but are not limited to, the following. All of the documents shall be the latest version, as amended.

- 1. Comprehensive Plan (including all associated maps and plans);

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2. Zoning Ordinance;
  3. Parks or Trails Master Plans and dedication requirements;
  4. Building Codes;
  5. Drainage System Design Requirements;
  6. International Fire Code;
  7. Storm Water Quality and Land Disturbance Requirements;
  8. Thoroughfare Plan;
  9. Other applicable portions of the Code of Ordinances; and
  10. Applicable State and Federal regulations

**Public improvements required.**

- A. *Requirements.* The subdivider shall furnish, install and/or construct the Public Improvements (e.g., water and wastewater systems and the street and drainage facilities, including any offsite Public Improvements or private improvements) necessary for the proper development of the subdivision. All such facilities shall be designed and constructed in accordance with the City's Engineering Standards Manual, Section 1001.407 Construction of Certain Public Works of the Texas Occupation Code, and any other standards, specifications, and drawings as may be hereafter adopted, approved by the City Council and placed on file in the office of the City Secretary.
- B. *Facilities Sizing.* Where considered necessary by the City Administrator, and/or as recommended by the Planning and Zoning Commission or shown on the Comprehensive Plan, the facilities shall be sized in excess of that dictated by this Subdivision Ordinance or the Engineering Standards Manual to provide for future growth and expansion.
  1. The City Council shall establish policies whereby the City may participate in the difference in cost of the facility as sized in the Comprehensive Plan and the cost of the facility as sized per the requirements of this Subdivision Ordinance or the Engineering Standards Manual.
  2. See Section 7 for rough proportionality and fair share requirements.
- C. *Development Agreement.*
  1. Cases that Require a Development Agreement.
    - a. The Subdivider shall be required to enter into a Development Agreement with the City that shall govern the Subdivision if there are any public improvements, pro rata payments, escrow deposits or other future considerations, or variances are granted to this Subdivision Ordinance, or if the City participates in the cost of any public improvements, or if there are nonstandard development regulations.
    - b. This Development Agreement shall be based upon the requirements of this Subdivision Ordinance, and shall provide the City with specific authority to complete the improvements required in the Development Agreement in the event of failure by the developer, and to recover the full costs of such measures.
  2. The Development Agreement shall be a legally binding agreement between the City and the Subdivider and shall specify the individual and joint responsibilities of both the City and the Subdivider.
  3. The Development Agreement shall contain:

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- a. As appropriate, provisions for pro rata payments, City participation in community facilities, escrow deposits or other payments for future facilities, variances granted to this chapter, and other particular aspects of the proposed Subdivision;
  - b. Authority for the City to withhold building permits, put a hold on construction and inspections in the event of breach by the Subdivider;
  - c. Provisions for financial security (see 5.05.D Security for Completion of Improvements);
    - i. Insurance requirements in accordance with the City's requirements for public works projects; and
    - ii. An indemnification clause by which the Subdivider shall agree to hold the City harmless against any claim arising out of the proposed Subdivision or any actions taken therein.
4. The City may provide a standard-form Development Agreement that may be approved by the City Administrator. In the event that either party desires not to enter into the standard-form Development Agreement, then a Subdivision-specific Development Agreement will be negotiated and will be subject to City Council approval before execution.

### **Special provisions for enforcement.**

#### **A. Provisions.**

1. *Plat Filing Requirement.*
  - a. A Subdivision Plat shall not be filed or recorded until it has been approved by the City and all Public Improvements have been accepted by the City, and any such actual recording shall be void unless such approval shall be endorsed on the face of the Plat as hereinafter provided.
  - b. The above paragraph 1.08.A.1.a shall not apply to a Minor Plat or an Amending Plat.
  - c. No lot shall be sold or transferred until a Plat is approved or recorded.
2. *Water and Wastewater (Sanitary Sewer) System Requirement.* No building permit shall be issued by the City for any structure on any lot without connection to the City's existing or proposed wastewater facilities or without a City approved water source. See sections 6.12 and 6.14 for exemptions.
3. *Final Plat or Development Plat Required for Building Permits.* No building permit shall be issued by the City for any structure on a lot in a Subdivision for which a Final Plat or Development Plat has not been approved and filed for record, nor for any structure on a lot within a Subdivision that the standards contained herein or referred to herein have not been complied with in full.
4. *Compliance with Standards Required.* The City shall not authorize any other person to nor shall the City itself repair, maintain, install or provide any streets or public utility services in any Subdivision for which the standards contained herein or referred to herein have not been complied with in full.
5. *Dedications.*
  - a. Refusal or denial of a Plat by the City Council shall be deemed a refusal by the City to accept the offered dedications shown thereon.
  - b. Approval of a Plat shall not impose any duty upon the City concerning the maintenance or improvement of any such dedicated parts until the proper authorities of the City have actually appropriated the same by final acceptance.
  - c. Any such dedication, before or after actual appropriation may be vacated by the Council in any manner provided by law.

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6. *Services Prohibited to Subdivision.* The City shall not authorize any other person to, nor shall the City itself sell or supply any utility service such as water, gas, electricity, telephone, cable, communication or wastewater service within a Subdivision for which a Final Plat has not been approved or filed for record, nor in which the standards contained herein or referred to herein have not been complied with in full.
  7. *Action in a Court.* On behalf of the City, the City Attorney shall, when directed by the City Council, institute appropriate action in a court of competent jurisdiction to enforce the provisions of this Subdivision Ordinance or the standards referred to herein with respect to any violation thereof which occurs within any area subject to all or a part of the provisions of this Subdivision Ordinance.
  8. *Abutting Owner or Lessee Action.* In addition thereto, any abutting owner or lessee or other person prejudicially affected by the violation of the terms of this Subdivision Ordinance may resort to any court of competent jurisdiction for any writ or writs, or to obtain such relief, either in law or equity, as may be deemed advisable in these premises.
  9. *Non-Compliant Subdivision or Subdivision without a Final Plat.* If any Subdivision exists for which a Final Plat has not been approved or in which the standards contained herein or referred to herein have not been fully complied with, the City Council shall pass a resolution reciting the facts of such non-compliance and failure to secure Final Plat approval, and reciting the fact that the provisions of this Section will apply to the Subdivision and the lots therein.
    - a. The City Secretary shall, when directed by the City Council, cause a certified copy of such resolution under the corporate seal of the City to be filed in the Deed of Records of the County.
    - b. If full compliance and Final Plat approval are secured after the filing of such resolution, the City Secretary shall forthwith file an instrument, in the Deed of Records of the County stating that the provisions of this section no longer apply.

### **Extraterritorial jurisdiction (ETJ).**

- A. *Subdivision Regulations Extend into the ETJ.* Subdivision Regulations as they now exist or may hereafter be amended, are hereby extended to all of the area lying within the extraterritorial jurisdiction of the City and the rules and regulations within said Subdivision Regulations governing Plats and Subdivision of land shall be applicable to such area within said extraterritorial jurisdiction from and after the date of final passage of this Subdivision Ordinance.
- B. *Subdividing.* No person shall subdivide or plat any tract of land into two or more parcels of land within the extraterritorial jurisdiction of the City except in conformity with the provisions of this Subdivision Ordinance.

### **Violations and fines.**

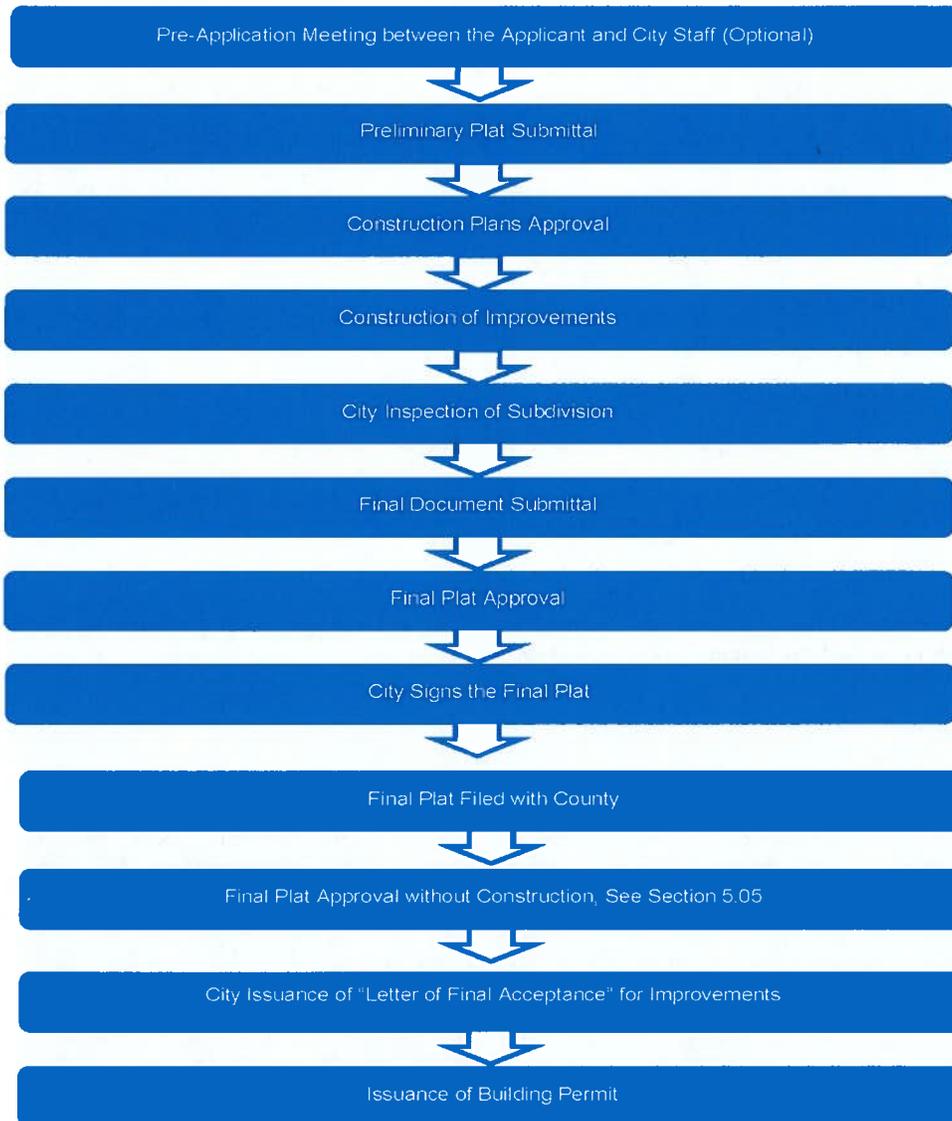
- A. *Subdivision Violations.* Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of the Subdivision Ordinance shall be fined not more than five-hundred dollars (\$500.00) for each violation. Each day that a violation is permitted to exist shall constitute a separate offense.

### **Summary of general subdivision procedure.**

Any owner or Developer of any lot, tract, or parcel of land located within the corporate limits of the City or within its extra-territorial Jurisdiction (ETJ) who wishes to subdivide such land shall conform to the following procedure.

- A. *General Overview of the Platting Process.*

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1. Pre-Application Meeting between the Applicant and City Staff (Optional).
  2. Preliminary Plat Submittal.
  3. Construction Plans Approval.
  4. Construction of Improvements.
  5. City Inspection of Subdivision.
  6. Final Document Submittal.
  7. Final Plat Approval.
  8. City Signs the Final Plat.
  9. Final Plat Filed with County.
  10. Final Plat Approval without Construction, See Section 5.05.
  11. City Issuance of "Letter of Final Acceptance" for Improvements (if improvements fail to meet City standards, then the City will enforce the developer's guarantees).
  12. Issuance of Building Permit.
- B. *Detailed Steps.* The detailed steps within each phase of the Subdivision development procedure are covered in Section 3, Section 4, and Section 5.



**SECTION 2. DECISION-MAKER AUTHORITY**

**City council.**

- A. *Establishment.* The City's Code of Ordinances establishes the standards governing the City Council within the charter.
- B. *Responsibilities.* Table 1 is a summary of the City Council's responsibilities within the Subdivision Ordinance.

4.05.J.4.b	Approving/Denying an Appeal of the Commission's Decision on a Preliminary Plat Extension
4.06.O.4.b	Approving/Denying an Appeal of the Commission's Decision on a Final Plat Extension
4.10.E	Approving/Denying a Plat Vacation
7.01.C.1.b	Approving/Denying an Appeal of a Minor Subdivision Waiver Decision

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7.01.C.2	Approving/Denying a Major Subdivision Waiver
7.02	Approving/Denying a Subdivision Proportionality Appeal
7.03.F.4	Approving/Denying a Decision by City Council on a Subdivision Vested Rights Petition
7.03.F.5	Approving/Denying an Appeal to the Council of a Decision on Subdivision Vested Rights Petition

**Planning and zoning commission.**

- A. *Establishment.* The City's Code of Ordinances establishes the standards governing the Planning and Zoning Commission within charter.
- B. *Responsibilities.* Table 2 is a summary of the Planning and Zoning Commission's responsibilities within the Subdivision Ordinance.

4.05.F	Approving/Denying a Preliminary Plat
4.05.J.4.a	Approving/Denying an Appeal of the City Administrator's Decision on a Preliminary Plat Extension
4.06.O.4.a	Approving/Denying an Appeal of the City Administrator's Decision on a Final Plat Extension
4.06.H	Approving/Denying a Final Plat
4.07.H.1.	Approving/Denying a Deferral to the Commission of a Minor Plat Decision
4.08.G	Approving/Denying a Replat
4.12	Approving/Denying a Conveyance Plat
4.08.G.2.b.i	Approving/Denying a Deferral to the Commission of a Minor Replat Decision
4.09.G.1	Approving/Denying a Deferral to the Commission of an Amending Plat Decision
7.01.C.1.b	Approving/Denying an Appeal of a Minor Subdivision Waiver Decision
7.01.C.2	Approving/Denying a Major Subdivision Waiver
7.02	Approving/Denying a Subdivision Proportionality Appeal
7.03.F.3	Approving/Denying a Decision by Commission on a Subdivision Vested Rights Petition

**City administrator/responsible official.**

- A. *Establishment.* City Administrator/Responsible Official shall consist of the City Administrator, Assistant City Manager, City Secretary, City's Engineering Official, City's Planning Official, City Engineer or other City Staff as designated by the City Administrator.
- B. *Responsibilities.* Table 3 is a summary of the City Administrator/Responsible Official's responsibilities within the Subdivision Ordinance.

4.05.F	Reviewing a Preliminary Plat
4.06.G	Reviewing a Final Plat
4.07.G	Approving a Minor Plat
4.08.G	Reviewing a Replat
4.08.G.2.b	Approving a Minor Replat
4.09.F	Approving an Amending Plat
4.10.D	Recommending a Plat Vacation
4.11.I	Reviewing a Development Plat
5.01	Approving Construction Plans

5.01	Approving an Extension of Construction Plans beyond Expiration Date
5.02	Attending a Pre-Construction Meeting
5.03	Approving a Construction Release
5.05.C	Recommending Development Agreements and Security for Completion
5.06.A	Scheduling and Approving Inspection of Public Improvements
7.01.C.1	Approving a Minor Subdivision Waiver (as applicable)
7.02	Reviewing a Subdivision Proportionality Appeal
7.03.F.2	Approving a Decision by the Responsible Official on a Subdivision Vested Rights Petition

### **SECTION 3. APPLICATION SUBMITTAL, PROCESSING AND PROCEDURES**

#### **General application processing.**

##### **A. Initiation of Application.**

1. Initiation by Owner or Owner's Agent.
  - a. Unless provided by this Subdivision Ordinance, any petition or Application may be initiated only by the property owner, owner of an interest in the land, or by the owner's designated agent.
  - b. If the Applicant is a designated agent, the Application shall include a written statement from the property owner authorizing the agent to file the Application on the owner's behalf.
  - c. The Responsible Official may require submission of documents, such as an affidavit from the owner, to provide evidence of ownership or agency.
2. Initiation by City Administrator. The City Administrator can initiate any Application authorized under this Subdivision Ordinance.

##### **B. Waiver of Application Information.** The Responsible Official may initially waive the submission of any information in the Application and accompanying materials that are not necessary due to the scope and nature of the proposed activity.

##### **C. Universal Application Contents.**

1. *Application Forms Generally.* The City is hereby authorized to prepare Application Forms that include information requirements, checklists, architectural or engineering drawing sizes, Applicant contact information, and any other information necessary to show compliance with City codes.
2. *Information for All Applications.* All Applications shall contain the following information and shall be signed under oath stating that the Applicant believes the information contained therein is true to the best of his or her knowledge:
  - a. Identification of property owner and authorized agent;
  - b. Description of the property including state plane correlated data and the nature of the development that is the subject of the application;
  - c. Identification of all zoning classifications (inside the City only) for the property;
  - d. Identification of all pending legislative applications for the property;
  - e. Identification of decisions on all quasi-judicial or administrative Applications for the property that remain in effect;

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- f. Identification of all accompanying Applications;
  - g. Identification of all pending or accompanying requests for relief;
  - h. Demonstration of compliance with prior approved permits; and
  - i. Application signed by the owner of an interest in the land subject to the Application, or the owner's designated agent.
3. All Application Forms are available at City Offices or on City's official website.
- D. *Development Application Handbook.* The City Administrator may create, manage, and update a Development Application Handbook, which shall be a collection of Application Forms that the City Administrator has created per 3.01.C.1.
- E. *Universal Application Fees.*
1. Every Application shall be accompanied by the prescribed fees set forth in the adopted Fee Schedule.
  2. The prescribed fee shall not be refundable, except when the City Council waives the Application fee for resubmission of an approval that was denied.
  3. The Fee Schedule may be amended from time to time per procedures established by the City Council.
- F. *Payment of all Indebtedness Attributable to the Subject Property.*
1. No Application shall be accepted or reviewed for completeness from a person who owes delinquent taxes, assessments, any fees, or is otherwise indebted to the City until the taxes, assessments, debts, or obligations shall have been first fully discharged by payment, or until an arrangement has been made for the payment of such debts or obligations.
  2. It shall be the Applicant's responsibility to provide evidence or proof that all taxes, fees, etc. have been paid, or that other arrangements have been made for payment of said taxes, fees, etc.
- G. *Modification of Applications.* The Applicant may modify any complete Application following its Official Vesting Date and prior to the expiration of the period, if any, during which the City is required to act on the Application.
1. *Modifications Requested by the City.* If the modification is for revisions requested by the City, and the modification is received at least five (5) business days prior to the time scheduled for decision on the Application, then the Application shall be decided within the period for decision prescribed by this Subdivision Ordinance.
  2. *Modifications not Requested by the City.*
    - a. In all other instances (e.g., when the Applicant chooses to submit a revised Application of his/her own accord because of a change in development decisions), submittal of a modified Application shall extend the time for deciding the Application for a period equal to the time specified in this Subdivision Ordinance to decide the original Application.
    - b. The extension of the time for deciding the Application shall commence on the date the modified Application is submitted.
      - i. For Plat Applications, a modified Application shall be accompanied by a properly executed Waiver of Right to 30-Day Action.
- H. *Action by Responsible Official.*
1. *Circulate and Compile Comments.* After the determination of completeness has been established, the Responsible Official shall circulate the Application to all other administrative officials and departments

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whose review is required for a decision on the Application and shall compile the comments and recommendations of the officials.

2. *Decision Rendered, If Applicable.* The Responsible Official shall render a decision in the time prescribed for the applicable Application, if the official is the Decision-Maker for the Application.
3. *Forward Application and Provide Notification.*
  - a. In cases where the Responsible Official is not the Decision-Maker, the Responsible Official shall forward the Application for review to any advisory board/commission and the final Decision-Maker, and shall prepare a report to such board or commission, or to the City Council, including the compilation of any comments and recommendations by other administrative officials.
  - b. The Responsible Official also shall prepare required notices and schedule the Application for decision within the time and in the manner required by this Subdivision Ordinance.
- I. *Action by the Decision-Maker.*
  1. The Decision-Maker for the Application shall approve, approve with conditions or deny the Application within the time prescribed by this Subdivision Ordinance.
  2. Unless otherwise prescribed by law or City Charter, where the Decision-Maker is a board, commission or the City Council, the Application shall be decided by majority vote of a quorum of the members of the board, commission or the City Council.
- J. *Conditions.* The initial or final Decision-Maker may attach such conditions to the approval of an Application as are reasonably necessary to ensure compliance with applicable requirements of this Subdivision Ordinance.

### **Official submission date and official vesting date.**

#### **A. *Official Submission Date.***

1. A calendar of official submission dates for subdivision related Applications requiring City review and approval pursuant to Texas Local Government Code Chapter 212 (if applicable) shall be published by the City thirty (30) calendar days prior to the beginning of each calendar year or within six (6) months after the adoption of this Subdivision Ordinance.
2. This calendar shall specify one "official submittal date" for each month.
3. All Applications delivered to the City on a date other than a scheduled date shall be dated received on the next Official Submission Date.

#### **B. *Official Vesting Date.***

1. Pursuant to Texas Local Government Code Chapter 245, an Application or plan for development is considered filed on the date the Applicant delivers the Application or plan to the City or deposits the application or plan with the United States Postal Service by certified mail addressed to the City.
2. A certified mail receipt obtained by the Applicant at the time of deposit is prima facie evidence of the date the Application or plan was deposited with the United States Postal Service.
3. Every Application or plan is subject to a determination of completeness by the Responsible Official for processing the Application.

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## Application filing and determination of completeness.

- A. *Applicability.* The following procedures shall apply to any subdivision related plan or Application that is required by the City and is submitted in accordance with this Subdivision Ordinance.
- B. *Determination of Completeness for Subdivision Related Applications.* Every required Application shall be subject to a determination of completeness by the Responsible Official for processing the Application.
1. *Acceptance Standards.* The Application shall only be accepted by the Responsible Official for processing when it is accompanied by all documents required by, and prepared in accordance with, the requirements of this Subdivision Ordinance and required items stated on the Application Form. A typographical error shall not, by itself, constitute an incomplete Application.
  2. *Acceptance Procedures.* A determination of completeness of an Application shall be conducted in accordance with the following procedures:
    - a. A determination of completeness shall be made by the Responsible Official not later than the tenth (10<sup>th</sup>) business day, unless otherwise specified, after the Official Vesting Date.
    - b. If the submitted Application is incomplete, then the Applicant shall be notified in writing not later than the tenth (10<sup>th</sup>) business day after the Official Vesting Date.
      - i. Such notice shall be served by depositing it in the U.S. Postal Service, or by electronic mail transmission, before the tenth (10<sup>th</sup>) business day following submission of the Application.
      - ii. The notification shall specify the documents or other information needed to complete the Application, and shall state the date the Application will expire (see 3.03.E Expiration of a Subdivision Related Application—Before Approval Decision) if the documents or other information are not provided to the City.
    - c. An Application shall be deemed complete on the eleventh (11<sup>th</sup>) business day after the Application has been received if notice is not served in accordance with 3.03.B.2.b.
    - d. If the Application is determined to be complete, the Application shall be processed as prescribed by this Subdivision Ordinance.
  3. *Acceptance shall not Constitute Compliance.* A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this Subdivision Ordinance.
  4. *Acceptance shall not Guarantee Approval.* There is no implied intent or guarantee that an accepted and completed Application will be approved, if after the Application is deemed complete, it is determined that the Application does not comply with this Subdivision Ordinance.
- C. *Re-Submittal after Notification of Incompleteness.*
1. If the Application is re-submitted after a notification of incompleteness, the Application shall be processed upon receipt of the re-submittal.
  2. The statutory 30-day time frame for Plat approvals shall begin on the date of the re-submittal.
  3. To the extent that the information or documents submitted is not sufficient to enable the Decision-Maker to apply the criteria for approval, the Application may be denied on such grounds.
- D. *Waiver of Right to 30-Day Action.* The City Administrator shall be the Responsible Official to approve a Waiver of Right to 30-Day Action.
1. *Request.* An Applicant may submit in writing a Waiver of Right to 30-Day Action.
  2. *Received.*

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- a. If the Applicant is requesting a Waiver of Right to 30-Day Action, the Waiver of Right to 30-Day Action must be received by the City Administrator on or before the seventh (7<sup>th</sup>) calendar day prior to the Planning and Zoning Commission meeting at which action would have to be taken (based on the 30-day requirement in State law) on the Application.
  - b. Waiver requests that are not received by that day shall not be considered properly submitted, and action shall be taken on the Application at such meeting as scheduled.
3. *Requirements Maintained.*
- a. Submission of a Waiver of Right to 30-Day Action, and acceptance of such waiver by the City as part of an Application, shall not be deemed in any way a waiver to any requirement within this Subdivision Ordinance.
  - b. A waiver from requirements herein is a separate and distinct process (see 7.01 Petition for Subdivision Waiver).
- E. *Expiration of a Subdivision Related Application—Before Approval Decision.* Pursuant to Texas Local Government Code Chapter 245, a subdivision related Application shall automatically expire (ending all vesting claims) at the close of business on the forty-fifth (45<sup>th</sup>) calendar day after the Application's Official Vesting Date, if:
- 1. The Applicant fails to provide documents or other information necessary to comply with the City's technical requirements relating to the form and content of the permit Application;
  - 2. The City provides to the Applicant, not later than the tenth (10<sup>th</sup>) business day after the date the Application is filed, written notice that specifies the necessary documents or other information, and the date the Application will expire if the documents or other information is not provided; and
  - 3. The Applicant fails to provide the specified documents or other information necessary to comply with the City's requirements relating to the Application within the time provided in the notification.
- F. *Vesting Begins on the Official Vesting Date.* An Application shall be vested into the standards of the Subdivision Ordinance in effect at the time of the Application's Official Vesting Date.
- G. *Right to 30-Day Action for Plats Applications Begins on the Official Submission Date.* The statutory 30-day time frame for Plat approvals, established by TLGC 212, shall commence on the Official Submission Date.

### **Processing, action, and notification of application decision.**

- A. *Action by the Responsible Official.*
- 1. The Responsible Official for an Application shall initiate internal (i.e., City Staff) review and assessment of the Application following the City's development review procedures.
  - 2. The Responsible Official shall also, to the extent possible, work with the Applicant by advising on and communicating revisions that may be necessary to bring the Application into compliance with City regulations in preparation for consideration by the appropriate Decision-Maker.
- B. *Decision.* The Decision-Maker for the Application shall approve, approve with conditions, or deny the Application within the time period prescribed by this Subdivision Ordinance.
- C. *Conditions Attached.* The Decision-Maker may attach such conditions to the approval of an Application as are reasonably necessary to ensure compliance with all applicable requirements of this Subdivision Ordinance, in which case the Application is considered denied until the conditions are satisfied.
- D. *Notification of Decision.* The City shall send written notice within fourteen (14) calendar days following the date of a decision on an Application.

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- E. *Notification of Appeal.* Whenever appeal is taken from a final decision on an Application following a public hearing, or whenever the City is to consider revocation of an Application that was obtained following a public hearing, personal notice of the appeal or revocation proceeding shall be provided to the Applicant.

### **Public hearings for replat and plat vacation applications.**

A. *Setting the Hearing.*

1. When the Responsible Official determines that an Application is complete and that a public hearing is required by this Subdivision Ordinance (see 4.08.B [Replat] and 4.10.C [Plat Vacation]) or by State law, the official shall cause notice of such hearing to be prepared and made in accordance with State law.
2. The time set for the public hearing shall conform to the time periods required by Sections 4.08.B (Replat) and 4.10.C (Plat Vacation) in this Subdivision Ordinance and by State law.

B. *Conduct of the Hearing.*

1. The public hearing shall be conducted in accordance with State law.
2. Any person may appear at the public hearing and submit evidence, either individually or as a representative of an organization.
3. Each person who appears at a public hearing shall state his or her name and address, and if appearing on behalf of an organization or Applicant, state the name of the organization or Applicant for the record.

C. *Record of Proceedings.* The board/commission conducting the hearing shall record the proceedings using standard municipal record-keeping procedures.

D. *Notice Requirements for Replats.*

1. *Published Notice for Replats.*

- a. Whenever published notice of a public hearing for a Replat approval before the Council and/or Commission is required under State law, or this Subdivision Ordinance, the Responsible Official shall cause notice to be published in a newspaper of general circulation in the City before the fifteenth (15<sup>th</sup>) calendar day before the date set for the required hearing.
- b. The notice shall set forth the date, time, place and purpose of the hearing, and identification of the subject property, where the decision concerns an individual tract or parcel of land.

2. *Personal Notice for Replats.*

- a. *Notification by Mail.* Whenever personal notice of a Replat public hearing before the Council and/or Commission, is required by State law or this Subdivision Ordinance, the City Administrator shall cause notice to be sent by regular mail before the tenth (10<sup>th</sup>) calendar day before the hearing date to the following:
  - i. Each owner of real property located within the original subdivision and within two hundred feet (200') of the exterior boundary of the property in question, and
  - ii. The Applicant and/or property owner.
- b. *Notification Details.* The notice shall set forth the name of the Applicant, the time, place and purpose of the hearing, identification of the subject property.
  - i. Notice shall be sent to each owner indicated on the most recently approved municipal tax roll for land inside the City limits, and, when required by State law, on the most recently approved County tax roll for land in the extraterritorial jurisdiction. For recently annexed

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land that is not included on the most recently approved City or County tax roll, notice may be given by publication.

- ii. Notice shall be considered served by depositing the notice, properly addressed and first class postage prepaid, in the United States mail.

E. *Notice Requirements for Plat Vacations.*

1. Published notice of the public hearing on the Plat Vacation Application shall be given in accordance with 3.05 Public Hearings for Replat and Plat Vacation Applications and State law.
2. The hearing shall be conducted by the City Council.

**Amendments and expiration to approved subdivision applications.**

A. *Amendments/Revisions to an Approved Subdivision Application.* Unless another method is expressly provided by this Subdivision Ordinance, any request to amend or revise an approved Application shall be considered a new Application, which must be decided in accordance with the procedures governing the original Application and the standards in effect at the time such new Application is filed with the City.

B. *Expiration of an Approved Subdivision Application.*

1. *Subdivision Application Expiration—Two (2) Years.* Unless otherwise expressly provided by this Subdivision Ordinance, an approved Application shall automatically expire two (2) years following the approval date of the Application (see 5.01.G Expiration Date for Construction Plans for expiration of Construction Plans), and shall become null and void, and all activities under the Application thereafter shall be deemed in violation of this Subdivision Ordinance, if:
  - a. The Applicant fails to satisfy any condition that was imposed by this Subdivision Ordinance or as part of the approval of the Application or that was made under the terms of any Development Agreement, within the time limits established for satisfaction of such condition or term; or
  - b. The Applicant fails to submit a subsequent complete Application required by this Subdivision Ordinance within the time so required; or
  - c. A Development Agreement (5.05 Development Agreements and Security for Completion) is not approved for the development.
2. *Applications with No Time Limit.* If no time limit for satisfaction of conditions is specified in the decision on the Application or in the regulations governing, the time shall be presumed to be two (2) years following the date the Application was approved.
3. *Applications with Vested Right.* Unless a different date is determined pursuant to and upon review of a vested rights petition, an Application approved prior to the effective date of this Subdivision Ordinance shall expire in accordance with the terms of the regulations in effect at the time the Application was filed.

C. *Effect of Expiration.*

1. Upon the expiration of an approved Application, all previously approved Applications for the same land shall also expire on the expiration date if the filing of an Application was required to avoid expiration for the previously approved Application(s).
2. Thereafter, a new Application must be submitted for consideration and approval subject to regulations in effect at the time the new Application is filed.

## **SECTION 4. PLATS AND PLATTING PROCEDURES**

### **Subdivision procedure summary.**

Any owner or Developer of any lot, tract, or parcel of land located within the corporate limits of the City or within its extraterritorial jurisdiction who wishes to subdivide such land shall conform to the following general procedures.

- A. *General Procedures.*
  - 1. Pre-Application Conference (Optional).
  - 2. Preliminary Plat.
  - 3. Construction Plans.
  - 4. Construction of improvements.
  - 5. City acceptance of improvements.
  - 6. Final Plat.

### **General plat requirements.**

- A. *Development Application.* All submittals shall conform to the appropriate Application Form Requirements.
- B. *Application Fees.* All Application fees shall be paid according to the Fee Schedule.
- C. *Phased Development.*
  - 1. All subdivisions shall be designed in accordance with Municipal Master Utility Plans.
  - 2. The City may establish size limits and requirements for phased development.
  - 3. A concept development plan for the entire site shall be prepared and shall accompany all submittals for a Preliminary Plat and Final Plat.
  - 4. Phased Developments shall coordinate with the surrounding land use plan and existing developments.
  - 5. Each phase shall submit a Preliminary Plat and Final Plat.
- D. *Drainage.* If provisions are necessary for drainage facilities on the unplatted future phases of the development, then the Plat shall include separate instruments for (public or private easements) off-site drainage needs and shall include appropriate notes and descriptions providing the City the appropriate permissions and approvals needed for access and for maintaining and improving the public drainage system.

### **General subdivision and platting procedures.**

- A. *Plats Required for Land Subdivision.* A Preliminary Plat or Minor Plat shall be approved prior to any land division that is subject to these regulations and prior to commencement of any new development.

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B. *Replats and Amending Plats.*

1. *Replat.* A Replat, in accordance with State law, and the provisions of Section 4.08 shall be required any time a platted, recorded lot is further divided or expanded, thereby changing the boundary and dimensions of the property.
2. *Amending Plat.* In the case of minor revisions to recorded Plats or lots, an Amending Plat may also be utilized if in accordance with Section 4.09.

C. *Zoning.*

1. *Conformance with Existing Zoning.* All Applications shall be in conformance with the existing zoning on property inside the City Limits.
2. *Request to Rezone First.* If an Applicant seeks to amend the zoning for the property, the request to rezone the land shall be submitted and approved prior to acceptance of an Application for filing of a plat, unless as otherwise provided below.
  - a. The Applicant may request approval from the City Administrator to submit an application simultaneous with the zoning change request, in which case the Application for the zoning amendment shall be acted upon first, provided that the Application is accompanied by a properly executed Waiver of Right to 30-Day Action (due to the more lengthy time frame necessary to advertise and process zoning Applications).
  - b. In the event that the requested zoning amendment is denied, the Plat Application shall also be rejected or denied.
3. *Zoning Ordinance Site Plan Approval.* Where Site Plan approval is required by the Zoning Ordinance prior to development, no Application for a Final Plat approval shall be accepted for filing until a Site Plan has been approved for the land subject to the proposed Plat.

**Pre-application conference (optional).**

A. *Purpose.*

1. The Pre-Application Conference is optional but intended to allow for the exchange of non-binding information between the Applicant and City Staff to ensure that the Applicant is informed of pertinent City development regulations and processes.
2. The Pre-Application Conference provides an opportunity for the Applicant and City Staff to discuss major development considerations such as utilities, roadways, drainage concerns, Comprehensive Plan elements, specific neighborhood characteristics, and historic information.
3. This exchange of information is intended to promote an efficient and orderly review process.

B. *Pre-Application Conference before the Submission of Plans and Applications.*

1. Prior to formal submittal of any required plan or Application, the Applicant is encouraged to consult with the City Staff in order for the Applicant to become familiar with the City's development regulations and the development process.
2. At the Pre-Application Conference, the Applicant may be represented by their land planner, engineer, surveyor, or other qualified professional.
3. Pre-application meetings do not vest a permit, application or other type of development approval, pursuant to Chapter 245, LGC.

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## **Preliminary plat.**

- A. *Purpose.* The purpose of a Preliminary Plat shall be to determine the general layout of the subdivision, the adequacy of public facilities needed to serve the intended development, and the overall compliance of the land division with applicable requirements of this Subdivision Ordinance.
- B. *Applicability.* No subdivision of land shall be allowed without proper submittal, approval, and adoption of a Preliminary Plat.
- C. *Exceptions.*
  - 1. A Preliminary Plat is not required when a Minor Plat is submitted (refer to 4.07).
  - 2. A Final Plat in accordance with Section 4.06 may be submitted in lieu of a Preliminary Plat if a Development Agreement and appropriate surety are submitted along with the Application.
- D. *Accompanying Applications.*
  - 1. *Preliminary and Other Types of Plans.* An Application for a Preliminary Plat shall be accompanied by the following:
    - a. Preliminary Drainage Plan;
    - b. Preliminary Storm Water Management Plan;
    - c. Preliminary Utility Plan; and
    - d. Other plans if deemed necessary for thorough review by the Responsible Official, such as a Planned Development Master Plan.Approval of each shall be separately included with this application.
  - 2. *Current Title Commitments.* The Applicant shall furnish with the Application to the City a current title commitment issued by a title insurance company authorized to do business in Texas, a title opinion letter from an attorney licensed to practice in Texas, or some other acceptable proof of ownership, identifying all persons having an ownership interest in the property subject to the Preliminary Plat.
- E. *Review by City Administrator/Responsible Official.* The City Administrator shall:
  - 1. Initiate review of the plat and materials submitted.
  - 2. Make available Plats and reports to the Commission for review.
  - 3. Upon determination that the Application is ready to be acted upon, schedule the Preliminary Plat for consideration on the agenda of the next available meeting of the Planning and Zoning Commission.
- F. *Action by the Planning and Zoning Commission.* The Commission shall:
  - 1. Review the Preliminary Plat Application, the findings of the City Administrator and any other information available.
    - a. From all such information, the Commission shall determine whether the Preliminary Plat conforms to this Subdivision Ordinance.
  - 2. Act within thirty (30) calendar days following the Official Submission Date, unless the Applicant submits a Waiver of Right to 30-Day Action.
    - a. If no decision is rendered by the Commission within the thirty (30) day period described above or such longer period as may have been agreed upon, the Preliminary Plat, as submitted, shall be deemed approved by the Commission.

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3. Take one of the following actions:
    - a. Approve the Preliminary Plat;
    - b. Approve the Preliminary Plat with conditions, which shall mean that the Preliminary Plat shall be considered to have been approved once such conditions are fulfilled and until the conditions are satisfied, it is considered denied; or
    - c. Deny the Preliminary Plat.
- G. *Criteria for Approval.* The following criteria shall be used by the Commission to determine whether the Application for a Preliminary Plat shall be approved, approved with conditions, or denied:
1. All Plats must be drawn to conform to the zoning regulations currently applicable to the property. If a zoning change for the property is proposed, then the zoning change must be completed before the approval of any Preliminary Plats/Final Plats;
  2. No Plat or Replat may be approved that leaves a structure located on a remainder lot.
  3. The Preliminary Plat is consistent with any approved Development Agreement;
  4. The proposed provision and configuration of Public Improvements including, but not limited to, roads, water, wastewater, storm drainage, park facilities, open spaces, habitat restoration, easements and Right-of-Way are adequate to serve the development, meet applicable standards of this Subdivision Ordinance, and conform to the City's adopted master plans for those facilities;
  5. The Preliminary Plat has been duly reviewed by applicable City staff;
  6. The Preliminary Plat conforms to design requirements and construction standards as set forth in the Engineering Standards Manual.
  7. The Preliminary Plat is consistent with the adopted Comprehensive Plan, except where application of the Plan may conflict with State law;
  8. The proposed development represented on the Preliminary Plat does not endanger public health, safety or welfare; and
  9. The Preliminary Plat conforms to the City's subdivision Application checklists.
- H. *Effect of Approval.*
1. Approval of a Preliminary Plat shall allow the Applicant to proceed with the development and platting process by submitting Construction Plans and Final Plat.
  2. Approval of the Preliminary Plat shall be deemed general approval of the subdivision's layout only, and shall not constitute approval or acceptance of Construction Plans or a Final Plat.
- I. *Expiration.*
1. *Two-Year Validity.*
    - a. The approval of a Preliminary Plat shall remain in effect for a period of two (2) years following the date of approval, during which period the Applicant shall submit and receive approval for Construction Plans and a Final Plat for the land area shown on the Preliminary Plat.
    - b. If Construction Plans and a Final Plat Application have not been approved within the two (2) year period, the Preliminary Plat shall expire.
  2. *Relationship to Construction Plans.* A Preliminary Plat shall remain valid for the period of time in which approved Construction Plans are valid (See Section 5.01.G).

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3. *Action on Final Plat.* Should a Final Plat Application be submitted within the two (2) year period, but not be acted upon by the Commission within the two (2) year period, the Preliminary Plat shall expire unless an extension is granted.
  4. *Void If Not Extended.* If the Preliminary Plat is not extended as provided in J below, it shall expire and shall become null and void.
- J. *Preliminary Plat Extension.* A Preliminary Plat may be extended for a period not to exceed one (1) year beyond the Preliminary Plat's initial expiration date. A request for extension shall be submitted to the City Administrator in writing at least thirty (30) calendar days prior to expiration of the Preliminary Plat, and shall include reasons why the Preliminary Plat should be extended.
1. *Decision by the City Administrator.*
    - a. The City Administrator will review the extension request and shall approve it, approve it with conditions, or deny the extension request within thirty (30) calendar days following the Official Vesting Date of the request.
    - b. Should the City Administrator fail to act on an extension request within thirty (30) calendar days, the extension shall be deemed to be approved.
  2. *Considerations.* In considering an extension, the City Administrator shall consider whether the following conditions exist:
    - a. A Final Plat has been submitted and/or approved for any portion of the property shown on the Preliminary Plat;
    - b. Construction Plans have been submitted and/or approved for any portion of the property shown on the Preliminary Plat;
    - c. Construction is occurring on the subject property;
    - d. The Preliminary Plat complies with new ordinances that impact the health, safety and general welfare of the community; and/or
    - e. If there is a need for a park, school or other public facility or improvement on the property.
  3. *Conditions.*
    - a. In granting an extension, the City Administrator may impose such conditions as are needed to ensure that the land will be developed in a timely fashion and that the public interest is served.
    - b. Any extension may be predicated upon compliance with new development regulations and/or the Applicant waiving any vested rights.
  4. *Appeal of Denial for Extension.*
    - a. Appeal of the City Administrator's Decision on a Preliminary Plat Extension
      - i. The denial of an extension by the City Administrator may be appealed to the Commission.
      - ii. A written request for such appeal shall be received by the City Administrator within fourteen (14) calendar days following the denial.
      - iii. The Commission shall hear and consider such an appeal within thirty (30) calendar days following receipt of the appeal request by the City Administrator.
    - b. Appeal of the Commission's Decision on a Preliminary Plat Extension
      - i. The denial of an extension by the Commission may be appealed to the City Council.

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- ii. A written request for such appeal shall be received by the City Administrator within fourteen (14) calendar days following the denial.
  - iii. The City Council shall hear and consider such an appeal within thirty (30) calendar days following receipt of the appeal request by the Planning and Development Department.
  - iv. The decision of the City Council is final.

K. *Amendments to Preliminary Plats Following Approval.*

1. *Minor Amendments to Preliminary Plats.*
  - a. Minor amendments to the design of the subdivision subject to an approved Preliminary Plat may be incorporated in an Application for approval of a Final Plat without the necessity of filing a new Application for re-approval of a Preliminary Plat.
  - b. Minor amendments may only include minor adjustments in street or alley alignments, lengths and paving details, and minor adjustments to lot lines that:
    - i. Do not result in creation of additional lots or any non-conforming lots (such as to zoning standards), and
    - ii. Are consistent with approved prior Applications.
2. *Major Amendments to Preliminary Plats.* All other proposed changes to the design of the subdivision subject to an approved Preliminary Plat shall be deemed major amendments that require submittal and approval of a new Application for approval of a Preliminary Plat (including new fees, new reviews, new Official Vesting Date, new Official Submission Date, etc.) before approval of Construction Plats and/or a Final Plat.
3. *Determination of Minor or Major Amendment.* The City Administrator shall decide of whether proposed amendments are deemed to be minor or major, thereby requiring new submittal of a Preliminary Plat.

**Final plat.**

A. *Purpose.* The purpose of a Final Plat is to ensure:

1. That the proposed Subdivision and development of the land is consistent with all standards of this Subdivision Ordinance pertaining to the adequacy of public facilities,
2. That Public Improvements to serve the Subdivision or development have been installed and accepted by the City, or that provision for such installation has been made, and
3. That all other City requirements and conditions have been satisfied or provided for to allow the Final Plat to be recorded.

B. *Applicability.* No subdivision of land shall be allowed without proper submittal, approval, and adoption of a Final Plat.

C. *Exceptions.* A Final Plat is not required when a Minor Plat is submitted (See Section 4.07).

D. *Ownership.*

1. The Applicant shall furnish with the Application to the City a current title commitment issued by a title insurance company authorized to do business in Texas, a title opinion letter from an attorney licensed to practice in Texas, or some other acceptable proof of ownership, identifying all persons having an ownership interest in the property subject to the Final Plat.

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2. The Final Plat shall be signed by each owner, or by the representative of the owners authorized to sign legal documents for the owners and lienholder, effectively denoting that they are consenting to the platting of the property and to the dedications and covenants that may be contained in the Final Plat.
- E. *Accompanying Applications.*
1. An Application for a Final Plat may be accompanied by Construction Plans if also accompanied by a Development Agreement and appropriate surety in accordance with Section 5.05.
  2. Approval of each shall be separate and in accordance with Section 5.05.
- F. *Prior Approved Preliminary Plat.* The Final Plat and all accompanying data shall conform to the approved Preliminary Plat, or as the Preliminary Plat may have been amended subsequently, incorporating all conditions imposed or required, if applicable.
- G. *Review by City Administrator.* The City Administrator shall:
1. Initiate review of the plat and materials submitted,
  2. Make available Plats and reports to the Commission for review, and
  3. Upon determination that the Application is ready to be acted upon, schedule the Final Plat for consideration on the agenda of the next available meeting of the Commission.
- H. *Action by Planning and Zoning Commission.* The Commission shall:
1. Review the Final Plat Application, the findings of the City Administrator, and any other information available.
    - a. From all such information, the Commission shall determine whether the Final Plat conforms to the applicable regulations of this Subdivision Ordinance.
    - b. All Public Improvements have been installed (For exception, See Section 5.05)
  2. Act within thirty (30) calendar days following the Official Submission Date, unless the Applicant submits a Waiver of Right to 30-Day Action.
    - a. If no decision is rendered by the Commission within the thirty (30) day period described above or such longer period as may have been agreed upon, the Final Plat, as submitted, shall be deemed to be approved by the Commission.
  3. Take one of the following actions:
    - a. Approve the Final Plat;
    - b. Approve the Final Plat with conditions, which shall mean that the Final Plat shall be considered to have been approved once such conditions are fulfilled, and until the conditions are satisfied, it is considered denied; or
    - c. Deny the Final Plat.
  4. A motion to approve a Final Plat shall be subject to the following conditions, whether or not stated in the motion to approve:
    - a. All required fees shall be paid.
    - b. All conditions required by ordinances have been reviewed and approved by the City.
    - c. On-site easements and rights-of-way have been dedicated and filed of record and properly described and noted on the proposed plat.

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- d. All required abandonments of public rights-of-way or easements that must be approved by the City Council and the abandonment ordinance numbers are shown on the plat.
  - e. Original tax certificates have been presented from each taxing unit with jurisdiction of the real property showing the current taxes are paid.
- I. *Final Plat Criteria for Approval.* The following criteria shall be used by the Commission to determine whether the Application for a Final Plat shall be approved, approved with conditions, or denied.
- 1. *With Prior Approved Preliminary Plat.*
    - a. The Final Plat conforms to the approved Preliminary Plat except for minor amendments that are authorized under Section 4.05.K.1 and that may be approved without the necessity of revising the approved Preliminary Plat;
    - b. All conditions imposed at the time of approval of the Preliminary Plat, as applicable, have been satisfied;
    - c. The Construction Plans conform to the requirements of Section 5 and have been approved by the City Administrator.
    - d. Where Public Improvements have been installed, the improvements conform to the approved Construction Plans and have been approved for acceptance by the City Administrator;
    - e. Where the City Administrator has authorized Public Improvements to be deferred, a Development Agreement has been executed and submitted by the property owner in conformity with Section 5.05;
    - f. The final layout of the Subdivision or development meets all standards for adequacy of public facilities contained in this Subdivision Ordinance;
    - g. The Plat conforms to design requirements and construction standards as set forth in the Engineering Standards Manual; and
    - h. A plat prepared by a registered public surveyor conforms to the City Administrator's subdivision Application checklists and Subdivision Ordinance regulations.
  - 2. *Without Prior Approved Preliminary Plat.*
    - a. The Final Plat conforms to all criteria for approval of a Preliminary Plat;
    - b. The Construction Plans conform to the requirements of Section 5 and have been approved by the City Administrator;
    - c. A Development Agreement with surety for installation of Public Improvements has been prepared and executed by the property owner in conformance with 5.05;
    - d. The final layout of the Subdivision or development meets all standards for adequacy of public facilities contained in this Subdivision Ordinance; and
    - e. The Final Plat conforms to the City's subdivision Application checklist and Subdivision Ordinance regulations.
- J. *Procedures for Final Plat Recordation upon Approval.* The Applicant shall supply to the City Administrator the required number of signed and executed copies of the Final Plat that will be needed to file the Plat, upon approval, with the County (in the County's required format) at least seven (7) calendar days prior to the meeting at which it will be considered for approval.
- 1. *General.*

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- a. Signatures. After approval of the Final Plat, the City Administrator shall procure the appropriate City signatures on the Final Plat.
  - b. Recording upon Performance. The Final Plat shall be recorded after:
    - i. The Final Plat is approved by the City;
    - ii. All required Public Improvements have been completed and accepted by the City or a Development Agreement has been executed and appropriate surety provided in accordance with Section 5.05; and
    - iii. All County filing requirements are met.
  2. *Submittal of Final Plat Where Improvements Installed.* Where all required Public Improvements have been installed prior to recording of the Final Plat, the Applicant shall meet all requirements in accordance with Section 4.06.I.
  3. *Submittal of Final Plat Where Improvements Have Not Been Installed.* Where some or all required Public Improvements are not yet completed in connection with an approved Final Plat, the Applicant shall submit the Final Plat as approved, revised to reflect any conditions imposed as part of approval.
  4. *Update of Proof of Ownership.* If there has been any change in ownership since the time of the Proof of Ownership provided under 4.05.D, the Applicant shall submit a new consent agreement executed by each owner and lienholder consenting to the platting of the property and the dedications and covenants contained in the Plat.
- K. *Effect of Approval.* The approval of a Final Plat:
1. Supersedes any prior approved Preliminary Plat for the same land.
  2. If applicable, authorizes the Applicant to install any improvements in public Right-of-Way in conformance with approved Construction Plans and under a Development Agreement (refer to 5.05).
  3. Authorizes the Applicant to seek Construction Release and/or issuance of a Building Permit.
- L. *Revisions Following Recording/Recordation.* Revisions may only be processed and approved as a Replat, Minor Replat, or Amending Plat, as applicable.
- M. *Signature Blocks.* Unless otherwise modified by the City Administrator, the following signature blocks shall be used in conjunction with the Final Plat.
1. Certificate of Surveyor.
  2. Owner's Statement for Fire Lane Easement.
  3. Owner's Acknowledgement and Dedication.
  4. Lienholder's Ratification of Plat Dedication.
  5. Certificate of Final Plat Approval.
  6. Certificate of Completion and Authorization to File.
  7. County Authorization (If Applicable).
- N. *Expiration of Approved but not Filed Plat.*
1. *Two-Year Validity.*
    - a. The approval of a Final Plat shall remain in effect for a period of two (2) years following the date of approval, during which period the Applicant shall submit and receive approval for Construction Plans for the land area shown on the Final Plat.

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- b. If Construction Plans have not been approved within the two (2) year period, the Final Plat shall expire.
  2. *Relationship to Construction Plans.* A Final Plat shall remain valid for the period of time in which approved Construction Plans are valid (5.01.G Expiration Date for Construction Plans).
  3. *Void If Not Extended.* If the Final Plat is not extended as provided in 4.06.O Final Plat Extension for Approved but not Filed Plat, it shall expire and shall become null and void.
  4. *Approved Final Plat that have been Filed (Recorded with the County).* Approved plats that have been filed with the County shall not expire.
- O. *Final Plat Extension for Approved but not Filed Plat.* A Final Plat may be extended for a period not to exceed one (1) year beyond the Final Plat's initial expiration date. A request for extension shall be submitted to the City Administrator in writing at least thirty (30) calendar days prior to expiration of the Final Plat, and shall include reasons why the Final Plat should be extended.
1. *Decision by the City Administrator.*
    - a. The City Administrator will review the extension request and shall approve or deny the extension request within thirty (30) calendar days following the date of the request.
    - b. Should the City Administrator fail to act on an extension request within thirty (30) calendar days, the extension shall be deemed to be approved.
  2. *Considerations.* In considering an extension, the City Administrator shall consider whether the following conditions exist:
    - a. Construction Plans have been submitted and/or approved for any portion of the property shown on the Final Plat;
    - b. Construction, including the installation of public improvements, is occurring on the property;
    - c. The Final Plat complies with new ordinances that impact the health, safety and general welfare of the community; and/or
    - d. If there is a need for a park, school or other public facility or improvement on the property.
  3. *Conditions.*
    - a. In granting an extension, the City Administrator may impose such conditions as are needed to ensure that the land will be developed in a timely fashion and that the public interest is served.
    - b. Any extension may be predicated upon compliance with new development regulations and/or the Applicant waiving any vested rights.
  4. *Appeal of the Denial of a Final Plat Approval Extension.*
    - a. Appeal of the City Administrator's Decision on a Final Plat Extension.
      - i. The denial of an extension by the City Administrator may be appealed to the Commission.
      - ii. A written request for such appeal shall be received by the City Administrator within fourteen (14) calendar days following the denial.
      - iii. The Commission shall hear and consider such an appeal within thirty (30) calendar days following receipt of the appeal request by the City Administrator.
    - b. Appeal of the Commission's Decision on a Final Plat Extension.
      - i. The denial of an extension by the Commission may be appealed to the City Council.

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- ii. A written request for such appeal shall be received by the City Administrator within fourteen (14) calendar days following the denial.
  - iii. The City Council shall hear and consider such an appeal within thirty (30) calendar days following receipt of the appeal request by the City Administrator.
  - iv. The decision of the City Council is final.

### **Minor plat.**

- A. *Purpose.* The purpose of a Minor Plat is to simplify divisions of land under certain circumstances as outlined in Texas Local Government Code Section 212.0065.
- B. *Applicability.* An Application for approval of a Minor Plat may be filed only in accordance with State law, when all of the following circumstances apply:
  - 1. The proposed division results in four (4) or fewer lots;
  - 2. All lots in the proposed Subdivision front onto an existing public street and the construction or extension of a street or alley is not required to meet the requirements of this Subdivision Ordinance; and
  - 3. Except for Right-of-Way widening and easements, the plat does not require the extension of any municipal facilities to serve any lot within the Subdivision.
- C. *Application Requirements.* The requirements for the submittal of a Minor Plat shall be determined by the City Administrator.
- D. *Additional Requirements.* To be considered a Minor Plat it must also meet the following requirements:
  - 1. The proposed Plat shall be for the Subdivision of one lot into four (4) or fewer lots.
  - 2. The person, firm or corporation owning the property shall not have more than one Minor Plat approved during any twelve (12) month period.
  - 3. The person, firm or corporation presenting the proposed Plat shall dedicate all easements and Right-of-Way as required elsewhere in these regulations.
  - 4. Private wells and private wastewater treatment facilities that meet the current City health standards shall be considered adequate when existing public water and wastewater lines are not within one hundred (100) feet of the proposed Plat.
- E. *Minor Plat Criteria for Approval.* The following criteria shall be used to determine whether the Application for a Minor Plat shall be approved, approved with conditions, or denied:
  - 1. The Minor Plat is consistent with all zoning requirements for the property (if applicable), any approved Development Agreement (if applicable), and all other requirements of this Subdivision Ordinance that apply to the Plat;
  - 2. All lots to be created by the plat already are adequately served by improved public street access and by all required City utilities and services and by alleys, if applicable;
  - 3. The ownership, maintenance and allowed uses of all designated easements have been stated on the Minor Plat; and
  - 4. Except for Right-of-Way widening and easements, the plat does not require the extension of any municipal facilities to serve any lot within the subdivision.
- F. *Review by City Administrator/Responsible Official.* The City Administrator shall:

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1. Initiate review of the plat and materials submitted; and
  2. Distribute to appropriate City Departments for review.
- G. *Action by City Administrator/Responsible Official.* The City Administrator shall:
1. Determine whether the Minor Plat meets the regulations of this Subdivision Ordinance.
  2. Act within thirty (30) calendar days following the Official Submission Date, unless the Applicant submits a Waiver of Right to 30-Day Action.
    - a. If no decision is rendered by the City Administrator, or if the City Administrator has not deferred the Application to the Planning and Zoning Commission for decision, within the thirty (30) day period described above or such longer period as may have been agreed upon, the Minor Plat, as submitted, shall be deemed to be approved.
  3. Take one of the following actions:
    - a. Approve the Minor Plat;
    - b. Approve the Minor Plat with conditions, which shall mean that the Minor Plat shall be considered to have been approved once such conditions are fulfilled and until the conditions are satisfied, it is considered denied; or
    - c. Defer the Minor Plat to the Planning and Zoning Commission for consideration prior to expiration of the required 30-day approval period unless a Waiver of Right to 30-Day Action is submitted.
- H. *Deferral of Decision of a Minor Plat Application.*
1. Deferral to the Commission of a Minor Plat Decision. If the City Administrator defers the Minor Plat Application to the Planning and Zoning Commission, the Commission shall consider the Application at a regular meeting no later than thirty (30) calendar days after the date on which the City Administrator deferred the Application to the Commission. The Commission shall, upon simple majority vote, take one of the following actions:
    - a. Approve the Minor Plat;
    - b. Approve the Minor Plat with conditions, which shall mean that the Minor Plat shall be considered to have been approved once such conditions are fulfilled and until the conditions are satisfied, it is considered denied; or
    - c. Deny the Minor Plat.
- I. *Procedures for Minor Plat Recordation Following Approval.* The procedures for recordation of a Minor Plat shall be the same as the procedures for recordation of a Final Plat, as outlined in Section 4.06.J.
- J. *Revisions Following Approval.* Revisions may only be processed and approved as a Replat, Minor Replat, or Amending Plat, as applicable.

## **Replat.**

- A. *Purpose and Applicability.*
1. A Replat of all or a portion of a recorded Plat may be approved in accordance with State law without vacation of the recorded Plat, if the Replat:
    - a. Is signed and acknowledged by only the owners of the property being replatted;
    - b. Is approved after a public hearing; and

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- c. Does not propose to amend or remove any covenants or restrictions previously incorporated in the recorded Plat.
    2. A Replat shall be subject to approval by the Commission.
  - B. *General Notice and Public Hearing Requirements.*
    1. Published notice of the public hearings on the Replat Application shall be given in accordance with Section 3.05 if applicable.
      - a. See specific notice and hearing requirements for "Certain" Replats in Section 4.08.F.
    2. A public hearing shall be conducted by the Commission on all Replat Applications.
  - C. *Application.* The Application for a Replat of a Subdivision shall meet all Application requirements of a Final Plat. The Applicant shall acknowledge that the Replat will not amend or remove any covenants or restrictions previously incorporated in the recorded Plat.
  - D. *Partial Replat Application.* 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 are being changed along with a detailed "Purpose for Replat" statement.
  - E. *Criteria for Approval.*
    1. The Replat of the Subdivision shall meet all review and approval criteria for a Final Plat.
    2. The Replat document shall be prepared by a Registered Professional Land Surveyor.
  - F. *Additional Requirements for "Certain" Replats.*
    1. *Applicability of "Certain" Replats.* Pursuant to Texas Local Government Code Chapter 212.015, a Replat without vacation of the preceding Plat must conform to the requirements of this Section if:
      - a. During the preceding five (5) 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 (2) residential units per lot; or
      - b. Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.
    2. *Notice and Public Hearing Requirements for "Certain" Replats.* Notice of the required public hearing shall be given before the fifteenth (15<sup>th</sup>) calendar day before the date of the hearing by:
      - a. Publication in an official newspaper or a newspaper of general circulation in the applicable City or unincorporated area (as applicable) in which the proposed Replat property is located; and
      - b. Written notice, with a copy of Section 212.015(c) of the Texas Local Government Code (as amended) attached, forwarded by the City to the owners of lots that are in the original Subdivision and that are within two hundred feet (200') of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a Subdivision within the ETJ, the most recently approved applicable 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 City.
    3. *Protest.*
      - a. If the Replat Application is accompanied by a waiver petition (per 7.01) and is protested in accordance with this Section, approval of the Replat shall require the affirmative vote of at least three-fourths of the voting members of the Commission present at the meeting.

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- b. For a legal protest, written instruments signed by the owners of at least twenty percent (20%) of the area of the lots or land immediately adjoining the area covered by the Replat Application and extending two hundred feet (200') from that area, but within the original Subdivision, must be filed with the Commission prior to the close of the public hearing.
  - c. The area of streets and alleys shall be included in the area computations.

G. *Replat Review and Approval.*

- 1. *Replat.* The review and approval processes for a Replat shall be the same as the review and approval processes for a Final Plat (except for the special public hearing and notice requirements described in Section 3.05).
- 2. *Minor Replat.*
  - a. Pursuant to Texas Local Government Code 212.0065, a Replat involving four (4) or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities (i.e., a Minor Replat may be approved by the City Administrator in accordance with this Section
  - b. Prior to taking action on a proposed Minor Replat the Planning and Zoning Commission shall hold at least one public hearing thereon. Otherwise, the review and approval process shall be the same as including:
    - i. Deferral to the Commission of a Minor Replat Decision.

- H. *Effect.* Upon approval of the Application, the Replat may be recorded and is controlling over the previously recorded Plat for the portion re-platted.

**Amending plat.**

- A. *Purpose.* The purpose of an Amending Plat shall be to provide an expeditious means of making minor revisions to a recorded Plat consistent with provisions of State law.
- B. *Applicability.* The procedures for an Amending Plat shall apply only if the sole purpose of the Amending Plat is to achieve one or more of the following Purposes:
  - 1. *Error Corrections or Administrative Adjustments.*
    - 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:
      - i. Both lot owners join in the Application for amending the Plat;
      - ii. Neither lot is abolished;

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- iii. The amendment does not attempt to remove recorded covenants or restrictions; and
  - iv. The amendment does not have a material adverse effect on the property rights of the other owners in the Plat.

2. *Relocate Lot Lines.*

- a. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement.
- b. Relocate one or more lot lines between one or more adjacent lots if:
  - i. The owners of all those lots join in the Application for amending the Plat;
  - ii. The amendment does not attempt to remove recorded covenants or restrictions; and
  - iii. The amendment does not increase the number of lots.

3. *Replatting.*

- a. Make necessary changes to the preceding Plat to create six (6) or fewer lots in the Subdivision or a part of the Subdivision covered by the preceding Plat if:
  - i. The changes do not affect applicable zoning and other regulations of the municipality;
  - ii. The changes do not attempt to amend or remove any covenants or restrictions; and
  - iii. The area covered by the changes is located in an area that the City has approved, after a public hearing, as a residential improvement area (per State law, TLGC 212.016).
- b. Replat one or more lots fronting on an existing street if:
  - i. The owners of all those lots join in the Application for amending the Plat;
  - ii. The amendment does not attempt to remove recorded covenants or restrictions;
  - iii. The amendment does not increase the number of lots; and
  - iv. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

C. *Certificates of Correction.* Certificates of Correction are prohibited.

D. *Notice Not Required.* The approval and issuance of an Amending Plat shall not require notice, hearing or approval of other lot owners.

E. *Review by City Administrator.* The City Administrator shall:

- 1. Review the plat and materials submitted.

F. *Action by City Administrator.* The City Administrator shall:

- 1. Determine whether the Amending Plat meets the regulations of this Subdivision Ordinance.
- 2. Act within thirty (30) calendar days following the Official Submission Date, unless the Applicant submits a Waiver of Right to 30-Day Action.
- 3. Take one of the following actions:
  - a. Approve the Amending Plat;
  - b. Approve the Amending Plat with conditions, which shall mean that the Amending Plat shall be considered to have been approved once such conditions are fulfilled and until the conditions are satisfied, it is considered denied; or

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- c. Defer the Amending Plat to the Commission for consideration prior to expiration of the required 30-day approval period unless a Waiver of Right to 30-Day Action is submitted.

G. *Deferral of Decision on an Amending Plat Application.*

1. Deferral to the Commission of an Amending Plat Decision. If the City Administrator defers the Amending Plat Application to the Planning and Zoning Commission, the Commission shall consider the Application at a regular meeting no later than thirty (30) calendar days after the date on which the City Administrator deferred the Application to the Commission. The Commission shall, upon simple majority vote, take one of the following actions:
  - a. Approve the Amending Plat;
  - b. Approve the Amending Plat with conditions, which shall mean that the Amending Plat shall be considered to have been approved once such conditions are fulfilled and until the conditions are satisfied, it is considered denied; or
  - c. Deny the Amending Plat.

**Plat vacation.**

A. *Purpose.* The purpose of a Plat Vacation is to provide an expeditious means of vacating a recorded Plat in its entirety, consistent with provisions of State law.

B. *Initiation of a Plat Vacation.*

1. *By Property Owner.* The property owner of the tract covered by a Plat may submit an Application to vacate the Plat at any time before any lot in the Plat is sold.
2. *By All Lot Owners.* If lots in the Plat have been sold, an Application to vacate the plat must be submitted by all the owners of lots in the Plat.
3. *City Council.* If the City Council, on its own motion, determines that the Plat should be vacated in the interest of and to protect the public's health, safety and welfare; and:
  - a. No lots within the approved Plat have been sold within five (5) years following the date that the Final Plat was approved by the City; or
  - b. The property owner has breached a Development Agreement, and the City is unable to obtain funds with which to complete construction of Public Improvements, except that the vacation shall apply only to lots owned by the property owner or its successor; or
  - c. The Plat has been of record for more than five (5) years, and the City Council determines that the further sale of lots within the Subdivision or addition presents a threat to public health, safety and welfare, except that the vacation shall apply only to lots owned by the property owner or its successors.

C. *Notice.* Published notice of the public hearing shall be given in accordance with Section 3.05.

D. *Review and Recommendation by the City Administrator.* The City Administrator shall:

1. Initiate review of the Plat Vacation Application and materials submitted; and
2. Recommend action on Plat Vacation to the City Council.

E. *Action by the City Council.* The City Administrator shall:

1. Review the Plat Vacation Application, the findings of the City Administrator, and any other information available. From all such information, the City Administrator shall make a finding as to whether the plat should be vacated.

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2. Take one of the following actions:
    - a. Approve the Plat Vacation;
    - b. Approve the Plat Vacation with conditions, which shall mean that the Plat Vacation shall be considered to have been approved once such conditions are fulfilled and until the conditions are satisfied, it is considered denied; or
    - c. Deny the Plat Vacation.
  3. The City Council's decision on a Plat Vacation shall be final.

F. *Procedures for Recordation Following Approval.*

1. If the City Council adopts a resolution vacating a plat in whole, it shall record a copy of the resolution in the County Clerk's Office.
2. If the City Council adopts a resolution vacating a plat in part, it shall cause a revised Final Plat to be recorded along with the resolution which shows that portion of the original plat that has been vacated and that portion that has not been vacated.

G. *Effect.*

1. On the execution and recording of the vacating instrument, the previously filed plat shall have no effect.
  - a. Regardless of the City Council's action on the petition, the property owner(s) or Developer 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 City Council.
2. 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.
3. The City Council, at its discretion, shall have the right to retain all or specific portions of road Right-of-Way or easements shown on the Plat being considered for vacation. However, the City Council shall consider Plat Vacation upon satisfactory conveyance of easements and/or Right-of-Way in a separate legal document using forms provided by the City Attorney's office.

**Development plat.**

- A. *Purpose.* The purpose of a Development Plat is to ensure the adequacy of public facilities needed to serve the intended development and the overall compliance of such development with applicable requirements of this Subdivision Ordinance.
- B. *Authority.* This Section is adopted pursuant to the Texas Local Government Code, Chapter 212, Subchapter B, Sections 212.041 through 212.050, as amended.
- C. *Applicability.*
  1. *To Whom Development Plat Regulations Apply.* Any person who proposes the development of a tract of land located within the limits or in the Extraterritorial Jurisdiction (ETJ) of the City must have a Development Plat of the tract prepared in accordance with 1.04.D.2 of this Subdivision Ordinance, unless a Development Plat is not required in accordance with Section 1.04.D.
  2. *The Term "Development."* For purposes of this Section, "development" means the new construction or the enlargement of any exterior dimension of any building, structure, or improvement.

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3. *Cases Where Development Plat Regulations Apply.* Development Plat regulations shall apply to any land lying within the City or within its Extraterritorial Jurisdiction (ETJ) in the following circumstances:
- a. The development of any tract of land that has not been platted or re-platted prior to the effective date of this Subdivision Ordinance, unless expressly exempted herein; or
  - b. The development of any tract of land for which the property owner claims an exemption from the City's subdivision requirements, including requirements to replat, which exemption is not expressly provided for in Section 1.04.E; or
  - c. The development of any tract of land for which the only access is a private easement or street; or
  - d. The division of any tract of land resulting in parcels or lots each of which is greater than five (5) acres in size, and where no public improvement is proposed to be dedicated or constructed.
- D. *Exceptions.* A Development Plat is not required:
1. When the land has an approved Final Plat, Minor Plat, Replat, or Amending Plat; or
  2. For bona fide agricultural activities; or
  3. For construction of agricultural accessory structures and related development activities.
- E. *Prohibition on Development.* No development shall commence, nor shall any building permit, utility connection permit, electrical connection permit or similar permit be issued for any development or land division subject to this Section until a Development Plat has been approved by the Planning and Zoning Commission and submitted to the City for filing at the County. Notwithstanding the provisions of this Section, the City shall not require building permits or otherwise enforce the City's Building Code in the City's Extraterritorial Jurisdiction (ETJ) in relation to any Development Plat required by this Subdivision Ordinance.
- F. *Required Information for all Development Plat Applicants.* All Applications shall be submitted with the required information as stated on the Application Form. Information required shall be the same as required for a Final Plat. In addition to this information, a Development Plat shall:
1. Be prepared by a Registered Professional Land Surveyor as a boundary survey;
  2. Clearly show the boundary of the Development Plat;
  3. Clearly show each existing or proposed building, structure, or improvement or proposed modification of the external configuration of the building, structure, or improvement involving a change of the building, structure, or improvement;
  4. Clearly show each easement and right-of-way within or abutting the boundary of the surveyed property;
  5. Clearly show the dimensions of each street, sidewalk, alley, square, park, or other part of the property intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, sidewalk, alley, square, park, or other part; and
  6. Be accompanied by the required number of copies of the Development Plat, a completed Application Form, the required submission fee (per the City's current Fee Schedule), and a certificate or some other form of verification from the County appraisal district showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property.
- G. *Accompanying Applications.* An Application for a Development Plat may be accompanied by an application for rezoning approval. The rezoning Application shall be decided first. The applicant must execute a Waiver of Right to 30-Day Action that is mandated by the State for general approval of Plats, including Development Plat approval.

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- H. *Development Plat Criteria for Approval.* The following criteria shall be used to determine whether the application for a Development Plat shall be approved, approved with conditions, or denied.
1. The proposed development conforms to all City plans, including but not limited to, the Comprehensive Plan, utility plans and applicable capital improvements plans;
  2. The proposed development conforms to the requirements of the Zoning Ordinance (if located within the City's corporate limits) and this Subdivision Ordinance;
  3. The proposed development is adequately served by public facilities and services, in conformance with City regulations;
  4. Appropriate agreements for acceptance and use of public dedications to serve the development have been tendered; and
  5. The proposed development conforms to the design and improvement standards contained in this Subdivision Ordinance, Engineering Standards Manual, and any other applicable codes or ordinances of the City that are related to development of a land parcel.
- I. *Development Plat Review and Approval.* The review and approval procedure for a Development Plat shall be the same as the review and approval processes for a Final Plat.
- J. *Effect.* Upon approval, the Development Plat shall be filed at the County by the City in the same manner as prescribed for a Final Plat.

### **Conveyance plat.**

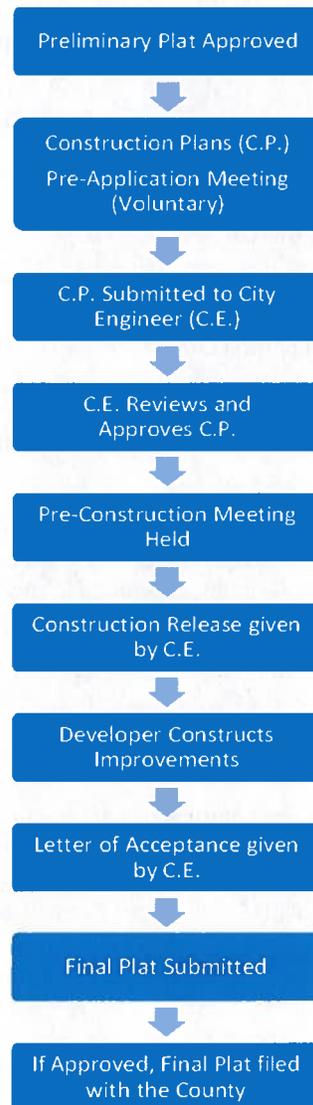
- A. *Purpose.*
1. The purpose of a Conveyance Plat is to subdivide land and to provide for recordation of same, for the purpose of conveying (i.e., selling) the property without developing it.
  2. A Conveyance Plat may be used to convey the property or interests therein; however, a Conveyance Plat does not constitute approval for any type of development on the property.
- B. *Applicability.* A Conveyance Plat may be used in lieu of a Final Plat to record only the subdivision of property in the following instances:
1. *Remainder Tract.*
    - a. To record the remainder of a tract that is created by a Final Plat, provided that the remainder is not intended for immediate development; and
    - b. The remainder of a tract that was involved in a Final Plat must be larger than five (5) acres.
  2. *Inheritance or Holding Tract.* To record the subdivision of property into parcels, five (5) acres or smaller in size, that are not intended for immediate development, provided all required Public Improvements exist to the City's current standards prior to approval and minimum frontage requirements are met.
    - a. All public Right-of-Way must be dedicated, contingent that alignments have been determined.
    - b. Installation of on-site improvements may be delayed if development of other tracts is not affected. All easements shall be dedicated to allow subdivided lot within the conveyance plat access to public infrastructure and/or drainage ways from the parent tract, if applicable.
- C. *Review and Consideration.* Unless otherwise specified within this Section 4.12 Conveyance Plat for specific requirements for a Conveyance Plat, a Conveyance Plat shall be processed and approved using the same timing and procedures, including recordation, as specified for a Final Plat, refer to Section 4.06 Final Plat.

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- D. *Concurrent or Prior Filing of a Final Plat.* No Final Plat processed and approved in association with a Conveyance Plat shall be filed without the concurrent or prior filing of the associated approved Conveyance Plat for the remainder of the subject property.
- E. *Conveyance Plat Requirements.*
- a. No building or development permits shall be issued nor permanent utility service provided for land that has only received approval as a Conveyance Plat; a Final Plat must be filed for building and development permits and for utility service.
  - b. Notwithstanding the above, the Building Official may authorize temporary building permits, temporary occupancy permits, and temporary utility service.
  - c. A Conveyance Plat may be superseded by a revised Conveyance Plat or a Final Plat in total or in part through compliance with the procedures and requirements of these regulations.
2. Require a Preliminary Site Plan or Sketch Plan per the request of the City to ensure all Conveyance Plat tracts and remainder tracts have adequate access to public utilities and infrastructure.
- F. *Standards for Approval.*
1. *Access.*
    - a. All lots created by a Conveyance Plat must have frontage and access to an existing or proposed public street, defined in the Comprehensive Plan, or an existing standard street meeting City construction standards and accessing the existing City street system.
    - b. All lots created by a Conveyance Plat must provide points of access as required by this Subdivision Ordinance.
  2. *Dedication of Right-of-Way.* Dedication of Right-of-Way shall be required in accordance with the City requirements.
- G. *Effect of Approval.*
1. *Development on the Property Prohibited.* The approval of a Conveyance Plat authorizes conveyance of the lot(s) created thereon, but does not authorize any type of development on the property.
  2. *Future Development Requires Compliance.* The Applicant and future owner(s) of the property remain obligated to comply with all provisions in this Subdivision Ordinance upon future development of the property including, but not limited to, all requirements for platting, required Public Improvements, utility extensions, street improvements or assessments, Right-of-Way and easement dedications, and all other requirements in these regulations.

## **SECTION 5. CONSTRUCTION PLANS AND PROCEDURES**

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## Construction plans.



- A. *Purpose.* To require that Public Improvements be installed to serve a development in accordance with all Subdivision Regulations.
- B. *Submitting Plans.*
1. Plans shall be submitted in accordance with the City Administrator's requirements, as required in the City's Application Form. Incomplete Construction Plans shall not be accepted and such plans shall be returned to the Applicant. All Construction Plans shall be prepared by a licensed professional engineer registered with the State of Texas.
  2. In addition to the requisite number of hard copies, Construction Plans shall also be prepared and submitted electronically oriented in Texas State Plane grid coordinates (U.S. Survey Foot), Grid North,

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NAD 83, at an elevation datum based on NAVD 88. Electronic copies shall be submitted in PDF, AutoCAD, GIS or other City approved formats.

- C. *Responsible Official and Decision Authority for Construction Plans.*
1. *Review and Approval Action.* The City Administrator shall be the Responsible Official for review and approval of Construction Plans.
  2. *Outside Review.* If an outside consultant is contracted to review Plats, Construction Plans or other submittals, then the Applicant shall reimburse the City for all review fees after the second review.
  3. *Decision-Maker Options.* In this capacity, therefore, the City Administrator shall approve, approve subject to modifications, or deny the Construction Plans.
- D. *Approval Required and Timing of Construction.* Construction Plans must be approved in accordance with this Section 5 Construction Plans and Procedures prior to the approval and/or recordation of the Final Plat, unless otherwise stated within this Subdivision Ordinance.
- E. *Criteria for Approval.* The City Administrator shall approve Construction Plans if:
1. The Construction Plans are consistent with the approved Preliminary Plat, or the proposed Final Plat; and
  2. The Construction Plans conform to the subject property's zoning (if the property is within the City Limits) and any planned development (PD) standards, and to the technical Engineering Standards Manual (ESM) for adequate public facilities, contained in this Subdivision Ordinance and all other applicable City codes and plans.
- F. *Effect.* Approval of Construction Plans authorizes the Applicant to:
1. Schedule a Pre-Construction Meeting (5.02); and
  2. Apply for Construction Release (5.03).
- G. *Expiration Date for Construction Plans.* The approval of Construction Plans shall remain in effect for a period of one (1) year from the date of approval, or for the duration of construction of the project, provided that progress toward completion of the project continues to be demonstrated, unless the Construction Plans are extended in accordance with Section 5.01.H Extension of Construction Plans beyond Expiration Date.
- H. *Extension of Construction Plans beyond Expiration Date.*
1. *General.*
    - a. Construction Plans may be extended for a period of six (6) additional months beyond the expiration date.
    - b. A request must be made in writing to the City Administrator for such extension prior to expiration of the plans, and shall include reasons why the plans should be extended.
  2. *Decision by the City Administrator.*
    - a. The City Administrator will review the extension request, and shall approve, approve with conditions, or deny the extension request within thirty (30) calendar days following the date of the extension request.
    - b. Should the City Administrator fail to act on an extension request within thirty (30) calendar days, the extension shall be deemed to be approved.
  3. *Consideration.* The City Administrator shall extend Construction Plans approval for a period of six (6) additional months beyond the expiration date if:

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- a. A Final Plat has been submitted, approved or filed of record for any portion of the property shown on the Construction Plans;
  - b. The Construction Plans comply with new ordinances (i.e., ordinances that have been adopted after approval of the original Construction Plans) that impact the health, safety and general welfare of the City;
  - c. Demonstrable forward progress has been made to proceed with construction or required improvements; and
  - d. A Development Agreement (Section 5.05 Development Agreements and Security for Completion), if applicable, is still valid and in full effect.
4. *Conditions.* In granting an extension, the City Administrator may impose such conditions as are needed to ensure that the land will be developed in a timely fashion and that the public interest is served. Any extension may be predicated upon compliance with new development regulations and/or the Applicant waiving any vested rights.
  5. *Total Extension.* A second six (6) month extension may be requested using the same process outlined above.

### **Pre-construction meeting.**

#### **A. Requirement.**

1. The Applicant(s) shall attend a Pre-Construction Meeting with the City Administrator following the approval of Construction Plans and prior to commencement of any construction on the property.
2. The City Administrator shall require three (3) business days to schedule a Pre-Construction Meeting.

#### **B. Purpose.**

1. *Discussion of Procedures.* The purpose of the Pre-Construction Meeting is to discuss administrative, communication, and operating procedures for project construction prior to Construction Release or issuance of a Building Permit.
2. *Review of Criteria.* A list of typical inspection items, procedures, and acceptance criteria for items in public Right-of-Way and easements will also be furnished to the Applicant.

#### **C. Notice.** The Applicant shall receive written notice from the City Administrator that Construction Plans have been approved and that the project is eligible for a Pre-Construction Meeting.

#### **D. Effect.**

1. Following the Pre-Construction Meeting and upon approval of the Construction Plans and full compliance with all pre-construction requirements, the City Administrator shall authorize Construction Release, allowing the Applicant to commence with construction of the project.
2. The Applicant may also be issued a Building Permit, if appropriate, provided that a Building Permit Application has been submitted and approved and all other Building Permit requirements have also been met.

### **Construction release.**

#### **1. Requirements for a Construction Release.**

- a. Upon approval of the Preliminary Plat and/or the Construction Plans, receipt of all documentation (e.g., insurance information, bonds, etc.) and fees, and after the Pre-Construction Meeting with City staff

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and a franchise utility representative, the City Administrator shall release the plans for construction if all City requirements pertaining to construction have been met. All construction of public works, including but not limited to water works, sewers, drainage, highways, and streets shall be supervised by a licensed professional engineer.

- b. The Construction Release shall remain in effect for a period of one (1) year from the date of issuance, or for the duration of construction of the project, provided that progress toward completion of the project continues to be demonstrated.
2. *Construction Release Expiration and Extension.* Expiration, and possible extension, of the Construction Release shall be the same as for the Construction Plans (see Sections 5.01.G and 5.01.H).

### **Timing of public improvements.**

#### **A. *Completion Prior to Final Plat Approval and Recordation.***

1. Completion of all required Public Improvements, in accordance with the approved Preliminary Plat and the approved Construction Plans, shall occur prior to Final Plat approval and recordation.
2. A Final Plat shall not be accepted for filing, nor shall it be considered for approval, prior to completion of such improvements except as provided in Section 5.04.B.

#### **B. *Completion after Final Plat Approval and Recordation.***

1. The City Administrator, upon written request by the Applicant, may allow construction of Public Improvements after Final Plat approval and recordation.
2. Postponement of Public Improvements shall be conditioned on execution of a Development Agreement and provision of security, in accordance with Section 5.05 Development Agreements and Security for Completion.
3. It shall be at the City Administrator's discretion to determine whether postponing construction of Public Improvements until after Final Plat approval and recordation is appropriate, and therefore, whether financial guarantee is acceptable through a Development Agreement.
4. All construction of the required Public Improvements shall be completed within two (2) years of construction release; an extension may be granted by the city council for up to one (1) year.

#### **C. *Deferral of Obligation.*** The City Administrator may defer the Developer's obligation to construct Public Improvements to serve a new development upon execution of a Development Agreement and upon provision of adequate security (see Section 5.05 Development Agreements and Security for Completion).

#### **D. *Phased Development.*** If the development is being platted and constructed in phases, improvements shall be completed as platted areas are approved and phases are constructed.

#### **E. *Easements for Utility Providers.***

1. The Applicant is responsible for contacting all utility providers prior to beginning construction, and for securing all necessary easements for same prior to Final Plat approval and recordation.
2. The Applicant's engineer shall provide the City Administrator with written certification that all necessary easements are secured for the various utility providers, and such easements shall be shown on the Final Plat with the recording information for each.

#### **F. *Off-Site Easements.***

1. All necessary public and/or private off-site easements required for installation of required off-site improvements to serve the development shall be acquired by the Applicant prior to the Pre-Construction Meeting (see Section 5.02 Pre-Construction Meeting), or prior to approval and

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recording of the Final Plat, whichever occurs first. Any off-site private improvements shall be designed by a professional engineer licensed in the State of Texas.

2. Off-site easements shall be conveyed and recorded at the County by an instrument approved by the City.
3. If the property on which the off-site easement is required has been platted, a separate instrument shall be required to dedicate the easement.
4. The Applicant shall be responsible for the acquisition of all required off-site easements. If the Applicant is unable to acquire the necessary off-site easements, the Applicant may request assistance from the City. The Applicant shall provide the City with easement or Right-of-Way survey documents and exhibits, documentation, including evidence of a reasonable offer made to the affected property owner. Upon receiving a written request for assistance, the City may secure the services of a Right-of-Way agent, at the developer's cost. The City may secure easements through eminent domain proceedings, should the City deem it appropriate.
5. The Applicant shall reimburse the City for the costs of acquiring the necessary easements including but not limited to attorney's fees and costs.

### **Development agreements and security for completion.**

- A. *Development Agreements.* When any of the required Public Improvements (i.e., water, wastewater, streets, drainage, park improvements etc.) will be postponed and constructed after Final Plat approval and recording, the Final Plat shall not be accepted for filing, nor shall it be approved, unless and until the Applicant enters into a Development Agreement of standardized format approved by the City by which the
  1. *Applicant:*
    - a. Will complete the improvements;
    - b. Warrants the improvements for a period of two (2) years following final and formal acceptance by the City;
    - c. Provides a maintenance bond in the amount of one hundred and ten percent (110%) of the costs of the improvements for such period to ensure the repair and replacement of all defects due to faulty materials and workmanship that appear within the two (2) year period following date of acceptance;
    - d. Provides provisions (e.g., performance and payment bonds) for securing the obligations of the agreement consistent with Section 5.05.D Security for Completion of Improvements; and
    - e. Outlines other terms and conditions as are agreed to by the Applicant and the City, or as may be required by this Subdivision Ordinance, including insurance requirements and covenants to comply with other ordinances of the City.
  2. *Exception:*
    - a. If escrow is provided in agreement with Section 5.05.E (Escrow Policies and Procedures), then the requirement for a Development Agreement may be waived by the City Administrator.
- B. *Development Agreements to Run with the Land.*
  1. The Development Agreement shall provide that the covenants and other items of agreement contained therein shall run with the land and shall bind all successors, heirs and assignees of the Applicant.
  2. All existing owners shall be required to execute the agreement or provide written consent to the covenants and other items contained in the agreement.

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C. *Development Agreement Decision by the City Council.*

1. The City Administrator shall review all Development Agreements.
2. The City Administrator shall recommend an action to the City Council for all Development Agreements.
3. The Development Agreement shall require the approval of the City Council. The City Council may approve, approve with conditions, or deny a Development Agreement.
  - a. The City Council may authorize the City Administrator to approve specific Development Agreements on behalf of the City Council. In the event of a disagreement between the City staff and the Subdivider concerning stipulations of the Development Agreement, the Subdivider may request City Council approval of alternative provisions.

D. *Security for Completion of Improvements.*

1. *Type of Security.*
  - a. When any of the required Public Improvements will be constructed after approval and recordation of the Final Plat, the Applicant shall guarantee proper construction of such postponed improvements and payment of all claimants supplying labor and materials for the construction of the improvements, in accordance with the City's standards and with this Subdivision Ordinance, by a bond executed by a surety company holding a license to do business in the State of Texas, and acceptable to the City, on the form provided by the City.
  - b. The performance and payment bonds shall be approved as to form by the City Administrator.
  - c. In lieu of security, the City may accept a developer agreement drafted in a form suitable to the City Attorney.
2. *Estimated Cost and Security Approval.*
  - a. Security shall be issued in the amount of one hundred and ten percent (110%) of the cost to construct and complete all required Public Improvements to the City's standards as estimated by the Applicant's professional engineer licensed in the State of Texas, and as approved by the City Administrator.
  - b. Security shall be subject to the review and approval of the City Administrator.
  - c. The Applicant shall reimburse the City for all related legal costs for review (this reimbursement shall be paid in full prior to filing of the Final Plat).

E. *Escrow Policies and Procedures.*

1. *Request for Escrow.*
  - a. The City may require or the Developer may petition the City to defer required improvements in exchange for a deposit of escrow up to an amount not to exceed \$15,000 for a period of two (2) years from acceptance of the project. An example may include a timing issue due to pending street improvements by another agency such as TxDOT.
  - b. The City Administrator may require studies and other information to support the Developer's request to escrow.
2. *Escrow Deposit with the City.*
  - a. When the City Administrator requires or agrees to accept escrow deposits, the Developer shall deposit in escrow with the City, at a financial institution to be approved by the City, an amount equal to one hundred and ten percent (110%) of the total "turnkey" costs including, but not

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limited to, the design, permitting, acceptance and inflation costs related to the improvement(s). The full amount of escrow shall remain deposited with the City until completion of the project.

- b. The City Administrator shall review and approve the amount, which shall be approved and paid prior to recordation of the Final Plat.
  3. *City Usage of Escrowed Funds.* The City may also use the escrowed funds in participation with another entity (such as TxDOT or the County, etc.) to jointly construct the Public Improvement(s).
  4. *Termination of Escrow.*
    - a. Escrows, or portions of escrowed amounts, which remain unused after a period of ten (10) years following the date of such payment shall, upon written request, be returned to the Developer.
    - b. Such return of escrowed funds does not remove any obligations of the Developer for construction of the required improvement(s).
  5. *Refund.* If all or a portion of a street or other type of Public Improvement for which escrow is deposited is constructed by a party other than the City, the remaining unused escrowed funds, upon written request shall be refunded to the Developer after completion and City acceptance of the street or Public Improvement. The City shall require thirty (30) days from the request to process the refund.
  6. *Interest on Escrowed Funds.* When escrowed funds are returned or refunded to the escrowing Developer, the City shall retain all of the interest accrued by the funds.
  7. *Escrow Fee Agreement.* The City Administrator, at his/her discretion, may require an escrow fee agreement be executed.
- F. *Pro-rata Policy for Infrastructure Reimbursement.*
1. The subdivider shall be fully responsible for the construction of utilities necessary for the subdivision and the surrounding area, unless other provisions are approved by the City Council. Provisions for reimbursement of costs required by the City but exceeding those necessary to serve the subdivision, and any other provisions, shall be made a part of a facilities agreement. For any subsequent subdivision utilizing such facilities, any costs due prior subdividers shall be prorated by the use the new subdivision bears to the amount due. Such prorated amounts will be made a part of any subsequent facilities agreement, collected by the City, and repaid to the original developer making such improvements.
  2. All such reimbursements or prorations shall be based on the actual cost of the improvements at the time of their construction, subject to comparison with other current unit and/or project costs. The original subdivider shall therefore provide the City with acceptable documentation of actual construction costs from which calculation of reimbursable amounts will be made for inclusion in a facilities agreement.
  3. (a) As concerns all non-residential property: In cases that a Subdivision utilizes utilities or infrastructure already constructed through use of city funds, the subdivider shall pay to the City for the use of such facilities an amount equal to that which would be required to serve the subdivision under the requirements of this ordinance, based upon policies developed and approved by the City Council.
    - (b) As concerns residential property: All provisions that subjected residential property to a reimbursement policy are void and of no affect.
  4. Notwithstanding the foregoing, the adjacent owner shall pay 100 percent of the costs incurred by the subdividers to acquire an easement from the adjacent owner. The pro-rata share paid by the adjacent owner to the City will be forwarded to the subdivider within 60 days of receipt by the City. All pro rata payments levied are a personal liability and charge against the real and true owners of the premises described, notwithstanding such owners may not be named, or may be incorrectly named.

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G. *City Infrastructure Participation.*

1. The City may participate with the subdivider on major items of construction such as lift stations, bridges or streets adjacent to the subdivision, which benefit existing or future development in addition to that being subdivided. The City shall participate in the street construction within and adjacent to new subdivisions on the following basis:
  - a. All streets not exceeding forty-five (45) feet from curb back to curb back shall be paid for and constructed by the subdivider.
  - b. If the subdivider's property abuts only one side of a street right-of-way, the subdivider shall provide not less than twenty-four (24) feet of paved width.
  - c. Streets in excess of forty-five (45) feet in width shall be provided by the subdivider in accordance with the City's transportation plan, or on request of the City Council, but the City shall pay the cost of developing the width of the street in excess of forty-five (45) feet, excluding the cost of curbs or turning lanes.
2. The construction of certain facilities required by the provisions of this ordinance may not be possible or practical at the time the subdivider prepares their plans for public improvements. Such deletion or delay of improvements may be specified in a facilities agreement, together with provisions for escrow deposits or future payments by the city and/or subdivider. The City shall not be responsible for payment until the street is extended into or through property other than that being subdivided, and/or until funds are available, unless otherwise provided in the facilities agreement for the subdivision.

(Ord. No. 2018-O-24, passed July 3, 2018)

**Inspection, maintenance, and acceptance of public improvements.**

A. *Inspection of Public Improvements.*

1. *Timing and Contact.*
  - a. The City Administrator shall inspect the construction of improvements while in progress, as well as upon completion.
  - b. The Applicant, or Applicant's contractor, shall maintain contact with the City Administrator during construction of improvements.
2. *Conformance with Construction Plans.*
  - a. Construction shall be in accordance with the approved Construction Plans.
  - b. Any significant change in design required during construction shall be made and documented by the Applicant's engineer, and shall be subject to approval by the City Administrator.
3. *Corrections to Improvements.* If the City Administrator finds, upon inspection, that any of the required Public Improvements have not been constructed properly and in accordance with the approved Construction Plans, the Applicant shall be responsible for completing and/or correcting the Public Improvements to bring such into compliance.
4. No building permit shall be issued until completion of all improvements within the subdivision and acceptance by the city. The authorized city representative shall have the authority, after reviewing the improvements, to release parts of the subdivision for building permits. The engineer responsible for the design of the proposed improvements shall submit testing reports performed by the engineer of an independent testing laboratory with a verification statement to the authorized city representative that the improvements have been constructed in accordance with the plans and specifications as approved

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by the City Council and in accordance with any other provisions of any other ordinance of the city applicable thereto.

**B. *Public Works Inspection Fees.***

1. A public works inspection fee of two percent (2%) of the actual contract costs of city-maintained improvements shall be established. The fee shall be based on a percentage of the estimated cost of public improvements including, but not limited to water, sanitary sewer, storm sewer, drainage structures, bridges, culverts, paving, screening walls, etc. The fee shall be due and payable at the time of the preconstruction meeting for residential developments and at the time of the building permit issuance for industrial and commercial developments.
2. Fee Standards.
  - a. The subdivider is required to retain a professional engineer to supervise the construction of all public improvements as required in Title 6 of the Texas Occupation Code, §1001.407. The supervision of the construction shall include, but not be limited to construction inspection and verifying the compliance with the construction plans and specifications.
  - b. If the subdivider does not retain a professional engineer to supervise the construction, then 5.06.B.1 shall apply.
  - c. Inspections shall be conducted during normal business hours, 8:00 A.M. to 5:00 P.M., Monday through Friday.
3. Exceptions.
  - a. Where excavations are made by a public utility company operating under a franchise agreement issued by City or under the direct supervision of the Director of Public Works, a permit may be granted without making the advance permit payment, or waived if the franchise agreement permits waiver and approved by the Director of Public Works.
4. Cost for Construction.
  - a. The Developer shall submit to the City a cost for construction of the public infrastructure to be dedicated to the City and upon which the maintenance bond and inspection fees will be based.
  - b. The cost of construction shall be reviewed and approved by the City Administrator.
5. Inspection During Non-Business Hours.
  - a. Public works inspections may be conducted at times other than normal working hours with prior approval.
  - b. A minimum forty-eight (48) hour notice must be given to the City by the Developer for any work that, in the City's sole opinion, requires inspection and occurs during non-business hours, and the Developer shall reimburse the City a minimum of four (4) hours at the current overtime rate per hour upon receipt of an invoice.

**C. *Maintenance during Construction.*** The Applicant shall maintain all required Public Improvements during construction of the development.

**D. *Engineer's Certification and Submission of Record Drawings.***

1. Upon completion of the construction of all improvements, a certificate shall be provided, signed by the subdivision's professional engineer, that any and all improvements constructed in the subdivision have been completed in accordance with the approved construction plans
2. The City shall not accept dedication of required Public Improvements until the Applicant's engineer has certified to the City Administrator, through submission of detailed Record Drawings, which have been

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approved by the City, of the project and filed copies of any off-site easements that the Public Improvements have been built in accordance with the approved Construction Plans.

3. Each record drawing sheet shall show all changes made in the Construction Plans during construction, and on each sheet, there shall be a "record" stamp bearing the signature of the engineer and date, which shall be maintained by the City Administrator.
4. Digital files of all the Record Drawings shall be submitted by the Applicant in a format acceptable by the City and received by the City.

E. *Acceptance or Rejection of Improvements by the City Administrator.*

1. *Responsible Official.* The City Administrator shall be responsible for inspecting all required Public Improvements shown in the Construction Plans, and for accepting completed subdivision improvements intended for dedication to the City.
2. *Final Inspection.* After completion of all improvements, franchise utilities, grading, and erosion control, the City Administrator and other designated representatives (as applicable) will perform a final inspection before recommending acceptance of the improvements via a Letter of Final Acceptance.
3. *Letter of Final Acceptance.* If all improvements are completed, inspected, tested (if applicable), and determined by the City to be in conformance with Subdivision Ordinance regulations and with the City's design standards and all inspection fees have been paid, then the City Administrator shall issue a Letter of Final Acceptance to the Applicant, thereby notifying the Applicant of the City's approval of improvements and acceptance or future acceptance subject to approval of a Final Plat.
  - a. In cases where a Final Plat has not been approved, the Letter of Final Acceptance will indicate that the City's acceptance of the Public Improvements will occur concurrently with the approval of a Final Plat.
  - b. In cases where a Final Plat has already been approved with a Development Agreement, then the Letter of Final Acceptance will indicate that the City's acceptance of the Public Improvements.
4. *Meaning of Acceptance.* Acceptance of the Improvements shall mean that the Applicant has transferred all rights to all the Public Improvements to the City for title, use, and maintenance.
5. *Rejection.* The City Administrator shall reject those Improvements that fail to comply with the City's standards and specifications. The City shall enforce the guarantee provided by agreement(s).

F. *Disclaimer.*

1. Approval of a Preliminary Plat or Final Plat by the Commission, or Construction Plans by the City Administrator, shall not constitute acceptance of any of the Public Improvements required to serve the Subdivision or development.
2. No Public Improvements shall be accepted for dedication by the City except in accordance with this Section.

G. *Maintenance Bond.*

1. Per requirements established and maintained by the City Administrator, the Developer shall furnish maintenance bonds to the City for Public Improvements for a period of two (2) years from the date of acceptance by the City (see 5.06.E.3 Letter of Final Acceptance for acceptance dates).
2. The maintenance bond shall be a good and sufficient bond executed by a corporate surety approved by the City in an amount equal to the total cost of said improvements and guaranteeing their maintenance for two (2) years from the date of Final Plat approval.

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3. The maintenance bond shall be for a full period of two years from the date of final approval of the contractual project and shall be in the amount of 20% of the contract price for the first year and in the amount of 10% of the contract price for the second year.
  4. A licensed professional engineer shall write and seal an itemized letter verifying the accuracy of the maintenance of the items that were constructed.

## **SECTION 6. SUBDIVISION DESIGN STANDARDS**

### **Minimum standards.**

- A. *Basis for Standards.* The standards established within this Subdivision Ordinance for dedication and construction of public facilities and infrastructure are based upon accepted engineering practices and historical usages and demands by different categories of development.
- B. *Minimum Level of Service Necessary.* This Subdivision Ordinance identifies certain minimum standard requirements and sizes for utilities, roadways, parks, and other facilities that have been determined by the City Council to be necessary in order to provide the minimum level of service necessary to protect or promote the public health, safety, and welfare and to ensure the quality of life currently enjoyed by the citizens.
  1. It is the intent of this Subdivision Ordinance that no development occur until, and unless, these minimum standard levels of service are met.
  2. Therefore, each Subdivision in the City and its ETJ shall be required to dedicate, construct or upgrade required facilities and infrastructure to a capacity that meets these minimum levels.
  3. Additional requirements may be necessary for compliance with the Comprehensive Plan. Where specific topographic or other conditions make special requirements, in addition to the minimum standards, necessary in order to achieve the best overall design, these standards may be modified by the Director of Public Works and/or City Engineer.

### **Adequate public facilities.**

- A. *Services Required.* Land proposed for development in the City and in the City's extraterritorial jurisdiction (ETJ) must be served adequately by essential public facilities and services, including water facilities, wastewater facilities, roadway and pedestrian facilities, and drainage facilities designed by a professional engineer.
- B. *Approval Timing.* Land shall not be approved for platting or development unless and until adequate public facilities necessary to serve the development exist or provision has been made for the facilities, whether the facilities are to be located within the property being developed or off-site.
- C. *Rough Proportionality and Fair Share Statement.*
  1. The City desires that a new development project contribute its fair and proportional share of such costs.
  2. There is a direct correlation between the increased demand on public facilities that is created by a new development, and the City's requirements to dedicate right-of-way and Easements and to construct a fair and proportional share of public improvements that are necessary to offset such impacts such that new development does not negatively affect the City as a whole.

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3. A fair and proportional share shall be determined as the level or standard of service that is required to adequately serve a new development.
  4. Standards relating to the dedication or construction requirements shall be roughly proportional to the nature and extent of the impacts created by the proposed development on the City's water, wastewater, storm drainage, parks or roadway system.
  5. See 7.02 Subdivision Proportionality Appeal for proportionality approval procedures.

### **Conformance to plans and codes.**

#### **A. *Public Improvements Conform to Plan and Codes.***

1. Design and construction of Public Improvements must conform to the standards, criteria, and requirements of the following, as they may from time to time be amended by those responsible for their promulgation.
  - a. The Thoroughfare Plan;
  - b. Engineering Standards Manual (ESM);
  - c. The Standard Construction Details;
  - d. The Texas Manual on Uniform Traffic Control Devices;
  - e. Generally accepted Standard Specifications for Construction of Public Works;
  - f. American Association of State Highway Transportation Officials; Geometric Design of Highways and Streets;
  - g. Texas Health Code;
  - h. Texas Water Code;
  - i. The Drainage Design Manual;
  - j. Master Drainage Plans;
  - k. Floodplain Ordinance;
  - l. Erosion Control Ordinance;
  - m. Stormwater Management Plan; and
  - n. All other codes and ordinances of the City
2. If the construction of Public Improvements is not completed within one (1) year from the Preliminary Plat approval date, then the infrastructure must be redesigned using the most current criteria.

### **Streets.**

#### **A. *Adequate Streets.***

1. The property owner shall ensure that the Subdivision is served by adequate streets and shall be responsible for the costs of Right-of-Way and street improvements, in accordance with the following policies and standards.
2. Additional Right-of-Way may be required at some street intersections to accommodate utilities, sidewalks, traffic control devices and/or sight distances.

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- B. *Design and Construction.* Design and construction shall conform to specifications included within these Subdivision Ordinance regulations as well as those included within the Engineering Standards Manual.
1. The arrangement, character, extent, width, grade, and location of all proposed streets shall conform to the general plan of the community, and their relationship shall be considered to that of the existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
  2. Where such is not shown in the Thoroughfare Plan for the community, the arrangements of streets in a Subdivision shall:
    - a. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas;
    - b. Conform to a plan for the neighborhood approved or adopted by the City to meet a particular situation where topographical or other conditions make continuation of or conformance to an existing street impracticable; and
    - c. Be laid out so that they shall intersect, as nearly as possible, at right angles.
  3. Residential streets shall be laid out so that their use by through traffic shall be discouraged.
  4. Street jogs with centerline offsets of less than one hundred twenty-five feet (125') shall be prohibited.
  5. Street grades shall be established regarding topography, proposed land-use, and the facilities in the area surrounding the land to be subdivided as stated in the Engineering Standards Manual.
  6. Street name markers shall be installed in accordance with the prescribed type currently in use by the Manual on Uniform Traffic Control Devices.
    - a. Street markers and the erection thereof shall be at the expense of the Subdivider.
  7. Residential lots less than one (1) acre shall not face Major Arterial/Thoroughfare Streets.
  8. Driveways or alley pavement cuts shall not be permitted on Major Arterial/Thoroughfare Streets.
  9. Streets shall be installed by the subdivider in accordance with the City's Engineering Standards Manual.
- C. *Street Right-of-Way Dedication.*
1. Any Subdivider laying out and constructing new streets or whose Subdivision includes any portion of or is adjacent to an existing street shall dedicate sufficient Right-of-Way in accordance with the following conditions:
    - a. *General Dedication Requirements.*
      - i. All street Right-of-Way dedications shall in the aggregate provide the Right-of-Way widths required according to street classifications in City Ordinances and be consistent with the City's Comprehensive Plan or Thoroughfare Plan.
      - ii. The required alignment of the Right-of-Way shall be determined with respect to property boundaries, safety, design, topography, and traffic management consideration.
        - (a) Concerns for safety, sound design principles and orderly development will prevail.
        - (b) Principles of efficient traffic management will be applied in accordance with the City's goals and objectives as expressed in the current Comprehensive Plan or Thoroughfare Plan.

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- iii. The appropriate alignment of any street Right-of-Way can only be determined by examining the property and topographical conditions along the entire length of the street.
    - (a) In order to provide adequate information to establish an appropriate Right-of-Way alignment the Developer shall provide property information and topographical information for a minimum distance of 200 feet in every direction that the street extends off of the property.
    - (b) Additional information may be required if, in the opinion of the City, the information provided indicates conditions that may require additional Right-of-Way consideration.
  - b. *New Streets.* New streets shall be provided where there is not an existing street, roadway or passage.
    - i. *Internal Streets.* Internal streets shall be designed and provided in accordance with the current City Ordinances and Engineering/Construction Criteria and be consistent with the City's Comprehensive Plan or Thoroughfare Plans. Streets including curb and gutter shall be constructed in accordance with the Engineering Standards Manual.
    - ii. *Perimeter Streets:*
      - (a) When a proposed residential or nonresidential Subdivision is developed abutting an existing or planned Major Arterial/Thoroughfare Street or Collector Street, the Developer shall dedicate sufficient Right-of-Way within the Subdivision in accordance with the Thoroughfare Plan.
      - (b) The Developer shall construct their proportional share of the abutting street and its appurtenances (such as curbs and gutters, sidewalks, barrier-free ramps, street trees, etc.) to the City's design standards for that type of street.
      - (c) The Developer's proportional share of the street construction shall be one-half (1/2) of the required street improvements for all pavement widths equal to or less than forty four (44) feet. For roadways greater than forty four (44) feet, the developer, subdivider shall construct or provide in escrow the cost of twenty two (22) feet of roadway.
      - (d) If the Developer disagrees with the City Administrator's determination of rough proportionality, then the Developer may file a Subdivision Proportionality Appeal.
  - c. *Existing Streets.* Streets may currently exist by reasons of Plat, metes and bounds description, general description or by prescription. If the existing geometrical configuration does not accommodate the current Comprehensive Plan/Thoroughfare Plan, the City may require the dedication of additional Right-of-Way to address safety, design, topography, and traffic management considerations.
    - i. *Adjacent to a platted Subdivision:* The Right-of-Way dedication shall be based upon the distance from the platted Subdivision boundary. Reasonable geometric adjustments will be made to accommodate safety, design, topography, and traffic management considerations.
    - ii. *Along a Right-of-Way described by a metes and bounds or a general written description:* The Right-of-Way dedication shall be based upon the geometric centerline of the Right-of-Way as described. Reasonable geometric adjustments will be made to accommodate safety, design, topography, and traffic management considerations. All existing Right-of-Way dedication within the Subdivision shall be converted from "separate instrument" to a platted Right-of-Way by being a part of the Final Plat.

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- iii. *Along a prescriptive Right-of-Way:* The Right-of-Way dedication shall be based upon the apparent centerline of the existing pavement or of the travel way if unpaved. Reasonable geometric adjustments will be made to accommodate safety, design, topography, and traffic management considerations. The Developer shall indicate on the Preliminary Plat and Final Plat property lines and features which identify prescriptive Right-of-Way. These features may include fences, borrow ditches, utility lines, drainage improvements, limits of plowed or improved fields, etc. All existing prescriptive Right-of-Way dedications within the Subdivision shall be converted from prescriptive to a platted Right-of-Way by being a part of the Final Plat.

D. *Street Classification Descriptions.*

1. *Local Street.*

- a. Distributes traffic to and from residences.
- b. Short in length, non-continuous to discourage through traffic.
- c. Low-density residential/single family.

2. *Collector Street.*

- a. Carries traffic from local streets to Major Arterial/Thoroughfare Streets.
- b. Uses served would include medium and high density residential, limited commercial facilities, some small offices and as direct access within industrial parks.

3. *Major Arterial/Thoroughfare Street.*

- a. Carries traffic from one urban area to another and serves the major activity centers of urbanized areas.
- b. Used for longer urban trips and carries a high portion of the total traffic with a minimum of mileage.

E. *General Requirements.*

1. Streets must be designed in relation to the Comprehensive Plan/Thoroughfare Plan, existing and proposed streets, the terrain, streams, and other physical conditions.
  - a. The arrangement of streets must provide for the continuation of streets between adjacent properties when the continuation is necessary for the safe and efficient movement of traffic and for utility efficiency.
  - b. The arrangement, character, extent, pavement width, Right-of-Way width, grade and location of each street shall be considered in its relationship to the Comprehensive Plan, to existing and planned streets, topographical conditions, public safety and convenience, and its relationship to the proposed uses of land to be served by such street.
2. Whenever a tract to be subdivided abuts any part of any street so designated on the Comprehensive Plan, or where a street designated on the Comprehensive Plan crosses any part of the tract to be subdivided, such part of the proposed public street shall be platted, the Right-of-Way shall be dedicated, and the street shall be constructed by the Developer, consistent with the location as indicated on the Comprehensive Plan, and to a width consistent with the Comprehensive Plan and the requirements contained within these regulations.
3. All streets shall be designed to coordinate with existing streets in adjoining Subdivisions.
  - a. Centerline offsets, where unavoidable, shall be at least one hundred twenty-five (125) feet.

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- b. Greater centerline offsets as may be required by the City Administrator shall be planned where necessary for traffic safety.
4. Streets shall be named to provide continuity with existing streets.
  5. Names of new streets shall not duplicate or cause confusion with the names of existing streets.
  6. Where adjoining areas are not subdivided, the arrangement of streets in the Subdivision shall make provision for the proper projection of streets into such unsubdivided area.
  7. Streets should be platted to allow two tiers of lots between streets when possible.
  8. The reservation in private ownership of strips of land at the end of proposed or existing streets and intended solely or primarily for the purpose of controlling access to property not included in the Subdivision shall be prohibited.
  9. Half streets shall be prohibited, except where essential to the reasonable development of the Subdivision in conformity with the other requirements of these regulations, and where the City finds it will be reasonable to require the dedication of the other half when the adjoining land is subdivided. The other half of the street shall be platted within the adjacent tract at the time it is platted.
  10. Median openings shall have a minimum offset of at least 125 feet from the centerline of an intersecting street or alley.
  11. To ensure adequate access to each Subdivision, there should be at least two (2) planned points of ingress and egress, except that cul-de-sacs shall be permitted in conformity with Section 6.04.F Cul-de-Sacs and Dead-End Streets (below).
    - a. The City Council may require that more than two access points be constructed if the configuration, number of lots, or other consideration creates the need for additional access points.
    - b. Requirement 6.04.E.11.a will apply to subdivisions with more than 50 lots.
- F. *Cul-de-Sacs and Dead-End Streets.*
1. *Cul-de-sacs.*
    - a. A cul-de-sac or dead-end street shall not exceed six hundred (600) feet in length.
    - b. A cul-de-sac street shall be platted and constructed with a concrete paved cul-de-sac at the closed end having a turnaround with a minimum outside paving diameter of at least one hundred (100) feet and a minimum street Right-of-Way diameter of at least one hundred-twenty (120) feet. (See 6.08.B.4 for supplemental information.)
  2. *Dead-End Streets.*
    - a. Dead-end streets are prohibited unless the street design meets the requirements of paragraph (1) above or unless the street is intended to be extended in the future and the dead-end design is only temporary in nature.
    - b. If a temporary dead-end street is permitted, turnaround pavement meeting the dimensions listed for cul-de-sacs in Paragraph 6.04.F.1 Cul-de-sacs (above) and a temporary turnaround easement meeting the dimensions listed for the Right-of-Way in Paragraph 6.04.F.1 shall be provided on the Plat.
      - i. The portion of the temporary turnaround easement lying outside of the street Right-of-Way shall be shown as a dotted line on the Final Plat which shall denote a temporary easement.

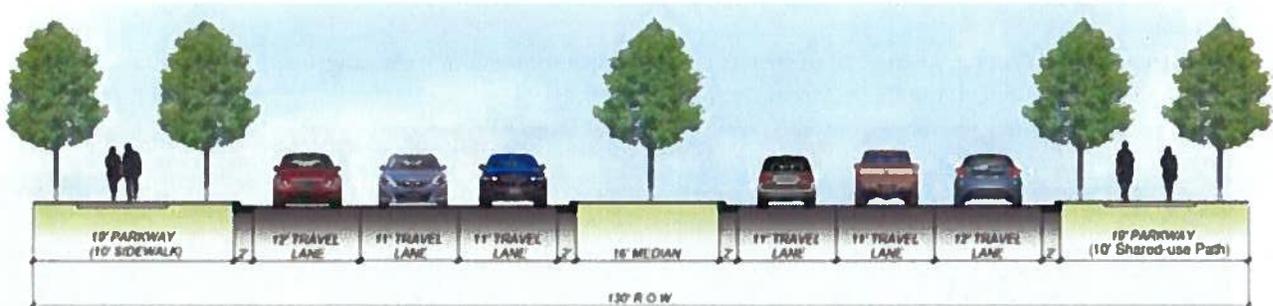
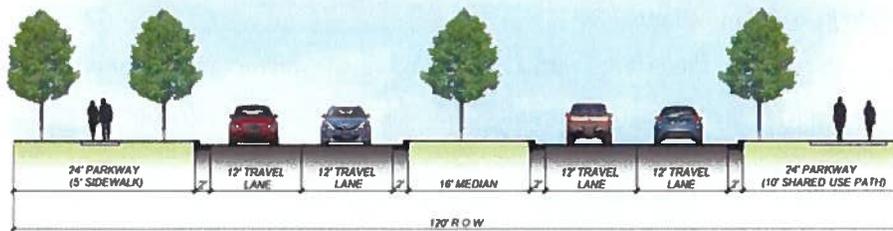
- c. In the event that the temporary dead-end street (as approved and shown on the Final Plat) is extended in the future, the portions of the temporary turnaround easement shall revert back to the lot(s) abutting the temporary turnaround easement.
3. *Drainage Improvements.* Provisions shall be made for adequate storm drainage at the ends of dead-end streets.
  4. *Barricades.*
    - a. Barricades and other traffic controls shall be installed by the Developer at dead-ends in accordance with Engineering Standards Manual.
    - b. Barricades and other traffic controls shall be maintained by the Developer or Homeowners' or Property Owners' Association.
- G. *Street Class Requirements.*
1. Street layout shall provide for continuation of Collector Streets in areas between Major Thoroughfares.
  2. Local streets shall be extended through the tract to the tract boundary to provide future connection with adjoining un-platted lands at intervals necessary to facilitate internal vehicular circulation with adjoining un-platted lands.
  3. Where single family uses abut an existing or proposed Major Arterial/Thoroughfare Streets, the Plat or dedication instrument will provide:
    - a. Lots to side onto the arterial with a non-access restriction on the arterial side, or
    - b. Reverse frontage with screening and containing a non-access restriction along the rear property line, or
    - c. Lots with screened rear alleys, or
    - d. Other treatment as may be necessary or required for adequate protection of adjoining properties, after taking into consideration the proposed method of off-street parking and maneuvering which will prevent the necessity of backing into the Major Arterial/Thoroughfare Streets.
- H. *Street Design Criteria.* All dedicated streets shall conform to the Comprehensive Plan/Thoroughfare Plan and the following Table 4: Minimum Street Design Criteria.

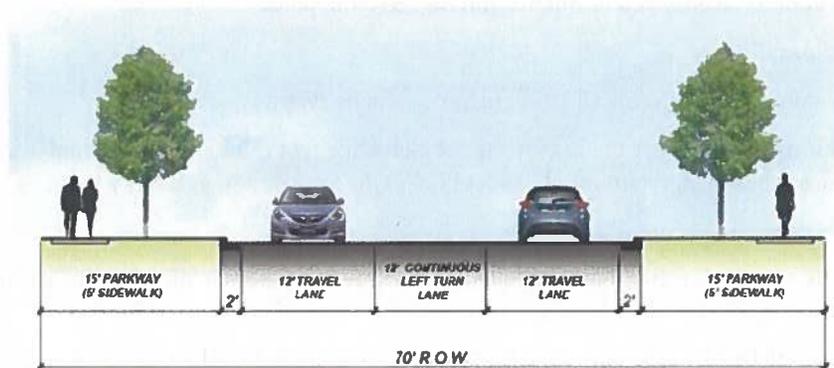
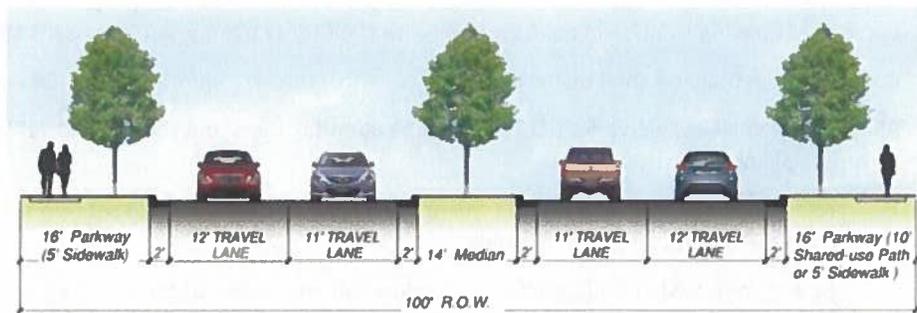
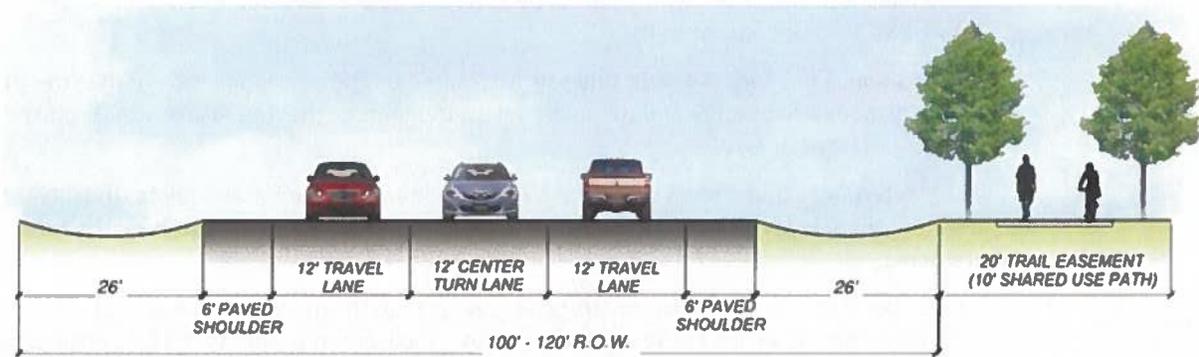
4-Lane Major Arterial	120'	Two @ 28'	4	Prohibited	Two @ 24'	16'	6'/10'
6-Lane Major Arterial	130'	Two @ 38'	6	Prohibited	Two @ 19'	16'	10'/10'
Rural Arterial	100'—120'	48'	3	Prohibited	26'	None	10'/10''

Minor Arterial	100'	Two @ 27'	4	Prohibited	Two @ 16'	14'	6'/10'
Collector	70'	44'	2	Limited	Two @ 13'	None	6'/NA
Local	50'	31'	2	Permitted	Two @ 9.5'	None	5'

**Notes:**

1. Depending upon the nature and impact of the proposed development, additional Right-of-Way will be required at most intersections and may be required at high-volume driveways to provide left and right turn lanes to maintain traffic volume capacities through the intersections. Also, additional utility easements may be required beyond the Right-of-Way.
2. If provided, the minimum width of a median adjacent to a left turn lane shall be five feet (5').
3. Collector Streets: Existing rights-of-way (R.O.W.) fifty-five feet (55') in width or greater may be used for Collector Streets. New R.O.W dedicated for Collector Streets must be a minimum of seventy feet (70').
4. Sidewalk width requirements may be wider when adjacent to curbs, shrubs, fences, walls, or other structures.





- I. **Street Intersection Design.** No street or intersection shall vary from a 90 degree angle of intersection by more than five (5) degrees.
- J. **Construction Responsibilities.** The Developer shall, at the Developer's own cost and expense, pay for constructing all roadways within the Developer's Subdivision.
- K. **Street and Alley Requirements.**
  - 1. **General Requirements.**
    - a. As a minimum, a street must be designated to safely provide two-way traffic for passenger, delivery, emergency, utility, and maintenance vehicles.

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- i. The minimum size street which can safely accommodate a development is a local street with two 15-foot lanes of traffic.
      - ii. In addition, a five foot (5') wide sidewalk is required on the developing side of the street to provide pedestrian safety and to meet the requirements of the Americans with Disabilities Act (ADA).
    - b. If the City determines that streets greater than the minimum standard are required, the City's engineer will conduct investigations, studies, and calculations to determine the infrastructure requirements.
      - i. If the Developer proposes to construct no greater than the minimum standard of infrastructure, it will be the responsibility of the Applicant to submit to the City engineering investigations, studies, and calculations in support of constructing the minimum standard.
  - 2. *Local Streets, Collector Streets, and Alleys.*
    - a. Local street paving shall be in conformance with the City's Engineering Standards Manual.
    - b. Collector Street paving shall be in conformance with Table 4: Minimum Street Design Criteria.
    - c. Alley paving shall be twelve feet (12') wide in residential areas and sixteen feet (16') wide in commercial and industrial areas.
      - i. Alley turnouts shall be paved to the property line and shall be at least two feet (2') wider than the alley paving at that point.
      - ii. Paving radius where alleys intersect residential and Collector Streets shall be ten feet (10') and where alleys intersect Major Arterial/Thoroughfare Streets the radius shall be sixteen feet (16').
    - d. For additional alley requirements, please see 6.06 Alleys.
  - 3. *Street Returns.*
    - a. The minimum radius for all street returns shall be twenty-five feet (25').
    - b. Returns for driveways on local streets shall be five feet (5'). Commercial and industrial driveway returns shall be a minimum of ten feet (10') and a maximum of twenty feet (20') in special cases.
  - L. *Street Signs.*
    - 1. Street signs shall be furnished and installed by the Developer for all intersections within or abutting the Subdivision.
    - 2. Such signs shall be of a type approved by the City and include the block number.
    - 3. Street signs shall be installed in accordance with the prescribed type currently in use by the Manual on Uniform Traffic Control Devices.
  - M. *Curb and Gutter Options.*
    - 1. A six (6) inch standard curb shall be constructed on both sides of all streets except as allowed in 2 and 3 below.
    - 2. On residential local streets and any subdivision where all lots are one (1) acre or large, a "lay down" or "roll down" curb shall be permitted if designed in accordance with Engineering Standards Manual.
    - 3. On subdivision where all lots are one acre or larger, a "ribbon curb" shall be permitted if designed in Engineering Standards Manual.

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## Access management.

A. *Intent of Access Management.* It is the intent of this section to:

1. Prohibit the indiscriminate location and spacing of driveways while maintaining reasonable vehicular access to and from the public street system;
2. Reduce conflicting turning movements and congestion and thereby reducing vehicular accidents; and
3. Maintain and enhance a positive image for the attraction of new, high-quality developments in the City.

B. *Applicability.*

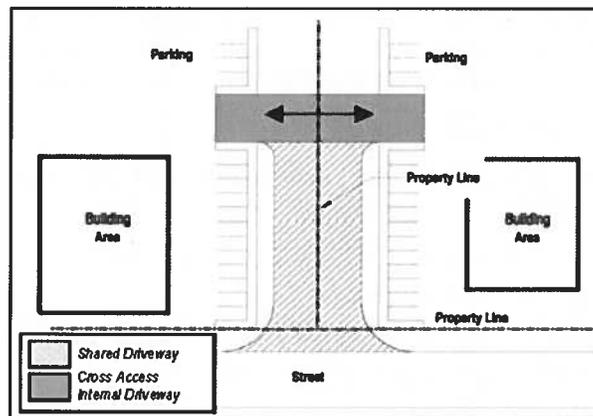
1. A person commits an offense if the person constructs, reconstructs, relocates or in any way alters the design or operation of any driveway without first obtaining a building permit issued by the Building Official.
2. No driveway shall be allowed or permitted if, in the determination of the City Administrator, it is detrimental to the public health, safety and welfare.

C. *Street Section Classifications.* Street section classifications shall be defined in accordance with the Transportation element of the City's Comprehensive Plan.

D. *Traffic Impact Analysis.*

1. A Traffic Impact Analysis (TIA) may be required at the time of Preliminary Plat submittal for all site developments. For phased developments, the TIA shall include an analysis for each phase of the development and the threshold for the TIA shall be for the entire development.
  - a. Threshold for a Traffic Impact Analysis:
    - i. Residentially zoned Subdivisions that are projected to generate more than 1,000 new average daily trips (ADT) shall require a TIA.
    - ii. Office zoned Subdivisions that are projected to generate more than 500 new average daily trips (ADT) shall require a TIA.
    - iii. Nonresidential zoned Subdivisions that are projected to generate more than 2,500 new average daily trips (ADT) shall require a TIA.
    - iv. Industrial zoned Subdivisions that are projected to generate more than 500 new average daily trips (ADT) shall require a TIA.
  - b. Calculation of the ADT for Subdivisions:
    - i. For calculating the ADT for residential zoned Subdivisions, a housing unit shall be considered to generate 10 vehicle trips a day.
    - ii. For calculating the ADT for office zoned Subdivisions, a 50,000 square foot building shall be considered to generate 500 ADT. In order to anticipated if a 50,000 square foot building can be built on a lot, the lot size with all setbacks and other related area zoning standards should be applied.
    - iii. For calculating the ADT for retail zoned Subdivisions, a 60,000 square foot building shall be considered to generate 2,500 ADT. In order to anticipated if a 60,000 square foot building can be built on a lot, the lot size with all setbacks and other related area zoning standards should be applied.

- iv. For calculating the ADT for industrial zoned Subdivisions, a 75,000 square foot building shall be considered to generate 500 ADT. In order to anticipated if a 75,000 square foot building can be built on a lot, the lot size with all setbacks and other related area zoning standards should be applied.
  - c. The TIA impact study area shall include the site and area within one-half (½) mile from the boundary of the site.
  - d. A capacity analysis shall be conducted for all public street intersections and junctions of major driveways with public streets which are significantly impacted within the TIA impact study area. The capacity analysis will follow the principles established in the Transportation Research Board's (TRB) Highway Capacity Manual (HCM).
2. A Minor Subdivision Waiver may be granted by the City Administrator if the roadway is fully built.
- E. *Common Access.*
- 1. Lots with sufficient frontage to safely meet the design requirements below may be permitted their own driveways.
  - 2. A Common Access Easement may be required between adjacent lots fronting on any street section in order to minimize the total number of access points along those streets and to facilitate traffic flow between lots.
  - 3. Common Access Easement.



- a. The use of common driveways shall require the dedication of a joint-use private access easement on each affected property.
  - b. Said dedication shall be provided on the Final Plat of the subject properties, or be filed by separate instrument approved by the City Attorney with the County with a copy forwarded to the City.
  - c. The Plat shall state that the easement shall be maintained by the property owner.
  - d. The Common Access Easement shall encompass the entire width of the planned driveway plus an additional width of one foot on both sides of the drive.
- F. *Driveway Design for State Maintained Roadways Criteria.* The following standards shall be followed in the design and construction of driveways. The values in the following tables represent minimum standards to be applied in designing and locating driveways on State maintained roadways.

1. *Driveway Dimensions and Spacing.* The following Table 5: Dimensions for Driveways along State Maintained Roadways indicates the minimum dimensional values required for driveways along State-maintained roadways.

Criteria	Commercial & Multi-Family Driveway	Service Driveway
Driveway Throat Width	24-40 Feet	30-48 Feet
Driveway Curb Radius	20-30 Feet	25-40 Feet
Minimum Distance to Intersection Along Roadway	300 Feet	300 Feet
Minimum Driveway Spacing Along Roadway	300 Feet	300 Feet
Notes:		

2. *Additional Design Requirements.*

- a. Plans for all work within State Right-of-Way shall be submitted to the City Administrator.
  - b. A driveway permit from TXDOT shall be acquired prior to Preliminary Plat approval. Driveways shall be in accordance with TXDOT standards.
  - c. Deceleration Lane.
    - i. When the turning volume for a driveway exceeds 60 vehicles per hour during the peak hour, a deceleration lane shall be provided on highways with a posted speed of 40 mph or less.
    - ii. When the turning volume for a driveway exceeds 50 vehicles per hour during the peak hour, a deceleration lane shall be provided on highways with a posted speed of 45 mph or greater.
- G. *Driveway Design for City Maintained Roadways.* The following standards shall be followed in the design and construction of driveways. The values in the following tables represent minimum standards to be applied in designing and locating driveways on City streets.
1. *Driveway Dimensions and Spacing (City Maintained Roadways).* The following Table 6: Dimensions for Driveways along City Maintained Roadways indicates the minimum dimensional values required for driveways along City maintained roadways (local streets, collectors, Major Arterial/Thoroughfare Streets).

Driveway Throat Width	Major Arterial/Thoroughfare Street	24-60 Feet	30-48 Feet
	Collectors	24-40 Feet	30-48 Feet
	Minor/Local Streets	24-40 Feet	24-36 Feet
Driveway Curb Radius	Major Arterial/Thoroughfare Street	30-35 Feet	25-30 Feet
	Collectors	25 Feet	10-20 Feet

	Minor/Local Streets	25 Feet	10-20 Feet
Minimum Distance to Intersection Along Roadway	Major Arterial/Thoroughfare Street	150 Feet	200 Feet
	Collectors	120 Feet	150 Feet
	Minor/Local Streets	100 Feet	100 Feet
Minimum Centerline Driveway Spacing Along Roadway	Major Arterial/Thoroughfare Street	230 Feet	250 Feet
	Collectors	120 Feet	150 Feet
	Minor/Local Streets	70 Feet	100 Feet

2. Additional Design Requirements (City Maintained Roadways).

a. Driveways Prohibited.

- i. Nonresidential, multi-family and service driveways shall not be permitted on local streets unless the tract or lot has no other public access.
- ii. In the event there is no other access to a public street, commercial, multi-family and service driveways shall be permitted on local streets provided that they meet the design standards in Table 5: Dimensions for Driveways along State Maintained Roadways.

b. Deceleration Lanes for Driveways on Major Arterial/Thoroughfare Streets Required

c. The driveway dimensions and spacing for residential driveways are provided in the Engineering Standards Manual.

- i. When the turning volume for a driveway exceeds 60 vehicles per hour during the peak hour, a deceleration lane shall be provided on Major Arterial/Thoroughfare Streets with a posted speed of 40 mph to 45 mph.
- ii. When the turning volume for a driveway exceeds 50 vehicles per hour during the peak hour, a deceleration lane shall be provided on Major Arterial/Thoroughfare Streets with a posted speed greater than 45 mph.

H. Required Internal Storage (Minimum throat Length/Stacking).

- 1. *Minimum Throat Length.* The driveway for any multi-family or nonresidential property that connects to a highway, Major Arterial/Thoroughfare Street, or collector or local street shall extend onto private property a minimum distance of 15 feet, but not less than the required front landscape edge width, from the Right-of-Way line before intersecting any internal circulation drive.
- 2. *Internal Storage (Stacking).* Internal storage (stacking) shall be provided on multi-family, commercial or industrial properties for corresponding driveways in accordance with Table 7: Required Internal Storage for driveways that provide ingress/egress to parking areas of 20 or greater spaces.

20-49	20-49	Landscape edge width +20'
	50-199	50'
	200+	75'
50-199	50-199	75'

	200+	100'
200+	200+	100'

I. *Adequate Sight Distance.*

1. Driveways shall be prohibited where adequate sight distance is not available for the established speed limit.
2. Sight distances shall be calculated in accordance with the latest edition of the AASHTO "A Policy on Geometric Design of Highways and Streets."
3. If a field inspection indicates that driveway sight distance may be insufficient, the Applicant will be required to submit vertical and horizontal information prepared by a registered professional engineer to the City Administrator that verifies adequate sight distance is available for the proposed driveway location.
4. For sight triangle requirements, (i.e., visibility triangles), please refer to 6.08.C. Triangular Sight Visibility Easements (see also Figure 9: Visibility Triangles).

**Alleys.**

- A. *Applicability.* If alleys are constructed, the requirements outlined in this section 6.06 shall apply.
- B. *Use of Alleys.* During the Preliminary Plat approval process, the Planning and Zoning Commission shall have the authority to permit the use of any proposed alley. Additionally, the Planning and Zoning Commission may approve changes to the alignment or location of any proposed alley during the Final Plat approval process. The Planning and Zoning Commission shall base its decision on providing reasonable compatibility with surrounding development, providing safe and efficient traffic movement, and providing areas for infrastructure and city services, such as sanitation services.
- C. *Standards for Commercial and Industrial Alleys.* Alleys in retail, commercial, and industrial districts shall be a minimum of 24 feet in width and be constructed in accordance with the Engineering Standards Manual (ESM).
- D. *Standards for Residential Alleys.*
  1. Dedicated public access alleys are not permitted in residential districts.
  2. Shall be independent easements or lots with shared access easements to be privately owned and maintained by an HOA or similar governing body.
  3. Shall have a minimum shared access easement width of 20 feet and a minimum pavement width of 15 feet, unless the easement will be utilized for emergency access, in which case the minimum pavement width shall be 20 feet.
  4. Shall be designed to meet all Engineering Standards Manual (ESM) for pavement design. Alley paving shall be structural concrete.
  5. In new subdivisions, alleys shall connect to and/or be aligned with alleys in adjacent subdivisions.
- E. *Alley Right-of-Way Width and Design.*
  1. The minimum Right-of-Way width of an alley serving industrial and commercial areas shall be 25 feet.
  2. Alley turn-outs shall be paved to the property line and shall be at least two (2) feet wider than the alley paving.
  3. A uniform transition in alley pavement widths shall be made in a distance of not less than 20 feet.

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4. Alleys may be required along the rear lot lines when adjacent to Major Arterial/Thoroughfare Streets for rear entrance.
  5. See section 6.04.K Street and Alley Requirements for additional requirements.
- F. *Maximum Alley Length.*
1. Maximum alley length between access points to a street shall be 600 feet.
  2. A length of more than 600 feet without access to a public street or approved access easement may be approved by Minor Subdivision Waiver.
- G. *Alley/Street Intersection—Right Angles.* Alleys shall intersect streets at right angles or radially to curved streets.
- H. *Alley/Street Intersection—Prohibition.* Alleys shall not intersect streets that are designated in the Comprehensive Plan as Major Arterial/Thoroughfare Streets.
- I. *Alley/Street Intersection—Separation.* The minimum distance between an alley/street intersection and a street/street intersection shall be the width of at least one (1) lot.
- J. *Alleys Intersections or Alley Sharp Angle.* In cases where two alleys intersect or turn at a sharp angle, lot corners shall be platted so that a triangular area of 25' x 25' or greater, is dedicated as part of the alley for the purpose of providing a minimum radius of 30 feet to the inside edge of the alley paving. For sight visibility safety, no utilities taller than three (3) feet shall be placed in the triangular area.
- K. *Alleys—Utilities.*
1. *Water.* Private alleys shall not contain water meters, which must be set in a publicly maintained and accessible location.
  2. *Overhead Utility Lines.* May be considered when a distribution line is necessary to serve the development and only when approved by the City Administrator.
- L. *Radii of the Turn-Outs.* The radii of the turn-outs for alleys intersecting Major Arterial/Thoroughfare Streets shall be a minimum of 16 feet and shall be a minimum 10 feet at intersections with all other streets.
- M. *Alley Fences.* Where driveways connect to alleys in commercial, or industrial areas, fences may be constructed along the rear lot line of any lot to a point within five (5) feet of a point where the driveway would intersect the alley pavement at 90 degrees. Fences are optional. No fences shall be placed over water and/or sewer easements. Fences allowing the pass through of stormwater without the collection of debris may be considered.
- N. *Dead-End Alleys.* Dead-end alleys shall be provided with adequate turn-around facilities.

## **Blocks.**

- A. *Block Length Measurement.* The length of a block shall be considered to be the distance from property corner to property corner measured along the property line of the Block Face:
1. Of greatest dimension, or
  2. On which the greatest number of lots face.
- B. *Block Width Measurements.* The width of a block shall be considered to be the distance from property corner to property corner measured along the property line of the block face:
1. Of least dimension, or
  2. On which the fewest number of lots face.

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C. *Block Measurement Factors.* The length, width and shapes of blocks shall be determined with due regard to:

1. Provision of adequate building sites suitable to the special needs of the type of use contemplated;
2. Zoning requirements as to lot sizes and dimensions;
3. Needs for convenient access, circulation, control and safety of street traffic;
4. Limitations of topography; and
5. Compatibility with efficient development of public facilities as established by surrounding developments.

D. *Block Design.*

1. Intersecting streets shall be provided at such intervals as to serve traffic adequately and to meet existing streets.
2. Where no existing subdivision controls, the block lengths shall not exceed 1,200 feet.
3. Where no existing subdivision controls, the blocks should not be less than 500 feet in length. However, in cases where physical barriers, property ownership, or individual usage creates conditions where it is appropriate that these standards be varied then, upon approval by the City Administrator, the length may be increased or decreased to meet existing conditions, having due regard for connecting streets, circulation of traffic and public safety.

E. *Exceptions.*

1. These limits shall be exceeded only upon approval of a Subdivision Waiver.
2. Blocks longer than 600 feet shall be avoided in commercial and industrial districts.

### **Easements and dedications.**

Easements and fee simple dedication of all property needed for the construction of streets, Major Arterial/Thoroughfare Street, alleys, private common access easements, sidewalks, storm drainage facilities, floodways, water mains, wastewater mains and other utilities, retaining walls and any other property necessary to serve the Plat and to implement the requirements of the Subdivision Ordinance and Engineering Standards Manual shall be provided on Subdivision Plats and maintained by the property owner.

A. *Utility Easements.*

1. Where not adjacent to a public Right-of-Way, easements at least sixteen (16) feet wide shall be provided for utility construction, service, and maintenance shall be provided where necessary.
2. Easements accommodating both water and wastewater (sewer) facilities and easements accommodating both public utilities and franchise utilities shall be at least twenty (20) feet wide.
  - a. More easements or additional easement width may be required by the Planning and Zoning Commission if deemed necessary by the City Administrator.
3. Easements at least sixteen (16) feet wide for utility construction, service, and maintenance shall be provided for lots which have frontage along state highways.
4. Easements of at least eight (8) feet in width shall be provided on each side of all rear lot lines and alongside lot lines, where necessary, for utilities to ensure a total easement width of sixteen (16) feet.

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5. Easements having greater width dimensions may also be required along or across lots where engineering design or special conditions make it necessary for the installation of utilities and drainage facilities outside public Right-of-Way.

6. The following full statement of restrictions shall be placed in the dedication instrument:

*Easements:* Any public utility, including the City, shall have the right to move and keep moved all or part of any building, fences, trees, shrubs, other growths on any of the easements or Right-of-Way shown on the Plat (or filed by separate instrument that is associated with said property); and any public utility, including the City, shall have the right at all times of ingress and egress to and from and upon said easements for the purpose of construction, reconstruction, inspection, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity at any time of procuring the permission of anyone. Easements shall be maintained by property owners. The City can move trees or any other improvements and does not have the responsibility to replace them.

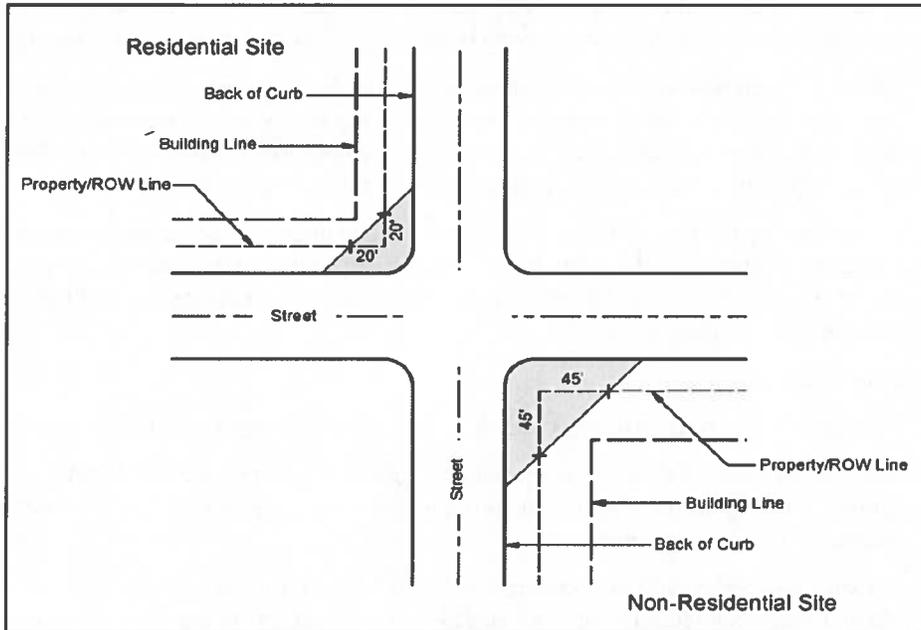
**B. *Fire Lane Easement.***

1. Emergency access and fire lane easements shall be provided in locations required by the City and be curbed.
2. These easements shall have a minimum width of twenty-four (24) feet and a minimum height clearance of fourteen and a half feet (14'6"). Internal drives within parking lots are not required to be curbed.
3. All turns shall have a minimum inside radius of twenty-six (26) feet and a minimum outside radius of 50'.
4. Any emergency access and fire lane easement more than one hundred and fifty (150') feet in length shall either connect at each end to a dedicated public street or private way or be provided with a cul-de-sac having one hundred and fifty (150') feet diameter of paving with an additional distance of ten (10) feet on all sides clear of permanent structures or other obstructions.
5. These easements shall be maintained by the owner or the Homeowners' or Property Owners' Association and a statement shall appear on the face of the Plat indicating maintenance responsibility.

**C. *Triangular Sight Visibility Easements.***

1. Triangular sight visibility easements shall be required as follows for properties whose zoning falls within one of the following categories:
  - a. Residential zoning districts (including all single family, multi-family, mobile/modular home zoning districts and planned development districts having a single family, multi-family or mobile/modular home use designation):
    - i. 20' x 20' sight visibility easements on corner lots at the intersection of two streets.
  - b. Nonresidential zoning districts (including all commercial, industrial and utility districts and planned development districts having a commercial, industrial or utility use designation):
    - i. 45' x 45' sight visibility easement on corner lots at the intersection of two streets.
  - c. Multi-family and nonresidential zoning districts (including all multi-family, commercial, industrial and utility districts and planned development districts having a commercial, industrial or utility use designation):

- i. 15' x 15' sight visibility easements at the main driveways.
- d. All zoning districts (as noted above):
  - i. 15' x 15' sight visibility easements on corner lots at the intersection of an alley and a street.



2. The following full statement of restrictions shall be placed in the dedication instrument or on the face of the Plat:

*Sight Visibility Restriction:* No structure, object, or plant of any type may obstruct vision from a height of twenty-four (24) inches to a height of ten (10) feet above the top of the curb, including, but not limited to buildings, fences, walks, signs, trees, shrubs, cars, trucks, etc., in the sight visibility easement as shown on the Plat. These sight visibility easements will remain in effect until vacated by ordinance adopted by the City Council and the property re-platted.

3. On commercially zoned lots, the preceding triangular sight visibility restrictions may be altered to permit the placement within the easement area of one single pole sign, not to exceed fourteen (14) inches in diameter, with every portion of said sign allowing minimum height clearance between it and the ground of ten (10) feet.

**D. Drainage Easements.**

1. Easements for storm drainage facilities shall be provided at locations containing proposed or existing drainage ways.
2. Storm drainage easements of sixteen (16) feet minimum width shall be provided for existing and proposed enclosed drainage systems.
  - a. Easements shall be centered over the systems.
  - b. Larger easements, where necessary, shall be provided as directed by the City Administrator.

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3. Where lot-to-lot drainage occurs, a drainage easement at least ten (10) feet in width shall be provided along the back and down one side of the downstream property. For information regarding applicable drainage standards see 6.15 Drainage and Storm Water, specifically 6.15.C.1. Lot to Lot Drainage Standards.
  4. Storm drainage easements shall be provided for emergency overflow drainage ways of sufficient width to contain within the easement storm water resulting from a 100-year frequency storm less the amount of storm water carried in an enclosed system of a capacity required by the City.
  5. Where a Subdivision is bounded by a water-course, drainage way, channel, or stream, there shall be provided a storm water easement or drainage Right-of-Way conforming substantially to the lines of such water course, and of such width to provide for increased drainage from anticipated future upstream developments, plus a minimum of ten (10) feet on each side.
  6. As required by the City, drainage easements shall be dedicated up to the full width of easement necessary to construct the ultimate drainage facility (culvert, storm water, channel, etc.) to be constructed within the easement, including provisions for access ingress and egress for maintenance purposes.

E. *Floodplain Easements.*

1. Floodplain easements shall be provided along natural drainage ways, lakes or reservoirs.
2. Floodplain easements shall be provided in accordance with the recommendation of the City Administrator to accommodate the 100 year storm drainage flows or the flow of the flood of record, whichever is greater.
3. Floodplain easements shall encompass all areas beneath the water surface elevation of the Base Flood, plus such additional width as may be required to provide ingress and egress to allow maintenance of the banks and for the protection of adjacent property, as determined by the City Administrator.
4. The following full statement shall be placed in the dedication instrument of the Plat:  
*Floodplain Easement Restriction:* Construction within the floodplain may only occur with the written approval of the City. A request for construction within the floodplain easement must be accompanied with detailed engineering plans and studies indicating that no flooding will result, that no obstruction to the natural flow of water will result; and subject to all owners or the property affected by such construction becoming a party to the request. Where construction is permitted, all finished floor elevations shall be a minimum of one (1) foot above the 100-year flood elevation as determined by analyzing the ultimate build-out conditions of the entire drainage basin.
  - a. Existing creeks, lakes, reservoirs, or drainage channels traversing along or across portions of this addition, will remain as an open channel at all times and will be maintained by the individual owners of the lot or lots that are traversed by the drainage courses along or across said lots. The City will not be responsible for the maintenance and operation of said drainage ways or for the control of erosion. Each property owner shall keep the natural drainage channels traversing his/her property clean and free of debris, silt, or any substance, which would result in unsanitary conditions. The City shall have the right of ingress and egress for the purpose of inspection and supervision of maintenance work by the property owner to alleviate any undesirable conditions, which may occur.
  - b. The natural drainage channel, as in the case of all natural drainage channels, are subject to storm water overflow and natural bank erosion. The City shall not be liable for damages of any nature resulting from the occurrence of these natural phenomena, nor resulting from a

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failure of any structure(s) within the natural drainage channels. The natural drainage channel crossing each lot is shown by the Floodway easement line as shown on the plat. If a Subdivision alters the horizontal or vertical floodplain, a FEMA Floodway map revision may be required.

F. *Retaining Wall Easements.*

1. If in the opinion of the City Administrator, the grading plans submitted with the Application for approval of a Final Plat indicate a need for the construction of one or more retaining walls over 6' in height, a private retaining wall easement showing the location of the retaining wall(s) and the no-build zone shall be dedicated and shown on the Preliminary Plat and the Final Plat.
2. The width of the retaining wall easement shall be 10 feet or the width of the retaining wall, whichever is greater, plus the width of the no-building zone, as established by the Applicant's structural engineer and approved by the City Administrator.
3. The retaining wall easement shall include a no-building zone extending from the retaining wall on both sides, within which any additional load from future construction would exceed the design capacity of the retaining wall.
  - a. No structure (other than the retaining wall), swimming pool, landscaping, or any other feature which adds load to the retaining wall, shall be constructed within the no-building zone.
4. A retaining wall easement shall be located entirely on one lot and shall not straddle property lines unless the wall is constructed within a retaining wall easement dedicated to the Homeowners' or Property Owners' Association in accordance with 6.08.F.5 (below).
5. The Homeowners' or Property Owners' Association for the subdivision, as applicable, shall be responsible for maintenance of the retaining wall, and a note shall be included to this effect on the Final Plat.

G. *Needs/Benefits Determination.*

1. No dedication otherwise required by this ordinance may be imposed upon a property owner unless the City determines that the dedication is related to the impact of the proposed development; is roughly proportional to the needs created by the proposed development; and provides a benefit to the development.
2. An Applicant may appeal a staff recommendation that a dedication be required in accordance with the provisions of Section 7 Relief from Subdivision Design Standards.

H. *Maintenance of Easement.*

1. An area established for public purposes on private property upon which the City shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs, or other improvements or growths which in any way endanger or interfere with the construction, maintenance, or efficiency of City systems.
2. The City shall at all times have the right of ingress and egress to and from and upon the said easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, and adding to or removing all or part of its respective systems without the necessity at any time or procuring the permission of anyone.
3. The property owner shall be responsible for maintaining the easement.

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## Homeowners' or property owners' associations.

- A. *Applicability.* When a Subdivision contains common areas, common property, private parks or other improvements not intended to be dedicated to the City for public use, a Homeowners' or Property Owners' Association shall be created, and the duties and responsibilities shall be established in a declaration consistent with State laws.
- B. *Dedication.* The common areas shall be shown on the Final Plat or record Plat along with an adequate form for dedication thereof. This dedication form shall:
1. Save the title to common area properties for the benefit of the Homeowners' or Property Owners' Association; and
  2. Express a definite undertaking by the subdivider to convey the common properties to the Homeowners' or Property Owners' Association.
- C. *Membership.* A Homeowners' or Property Owners' Association shall be an incorporated nonprofit organization operating under recorded land declarations through which:
1. Each lot owner in a described land area is automatically a member; and
  2. Each lot is automatically subject to a charge for a proportionate share of the expenses for the Homeowners' or Property Owners' Association's activities, such as maintenance of common areas, common open spaces or the provision and upkeep of common recreational facilities.
- D. *Legal Requirements.* To ensure the establishment of a permanent Homeowners' or Property Owners' Association, including its financing and the rights and responsibilities of the homeowners in relation to the use, management and ownership of common areas or common property, the Subdivision plat, dedication documents, covenants, and other recorded legal agreements must:
1. Legally create an automatic membership, nonprofit Homeowners' or Property Owners' Association;
  2. Place title to the common property in the Homeowners' or Property Owners' Association or give definite assurance that it automatically will be so placed within a reasonable, definite time;
  3. Appropriately limit the uses of the common property;
  4. Give each lot owner the right to the use and enjoyment of the common property;
  5. Place responsibility for operation and maintenance of the common property in with the Homeowners' or Property Owners' Association;
  6. Provide for or place an association charge or assessment on each lot in a manner which will ensure sufficient association funds to maintain the common property or improvements;
  7. Give each lot owner voting rights in the association; and
  8. Identify the land area within the association's jurisdiction including, but not limited to, the following:
    - a. The property to be transferred to public agencies;
    - b. The individual residential lots;
    - c. The common properties to be transferred by the Developer to the Homeowners' or Property Owners' Association; and
    - d. Other parcels.

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- E. *Protective Covenants.* Protective covenants shall be developed which, including, but not limited to, shall make the Homeowners' or Property Owners' Association responsible for the maintenance and operation of all common property, and include provisions for assessments, to be enforced by lien.
- F. *Procedure.* Prior to filing the Plat, the Subdivider shall:
1. Draft the articles of incorporation of the Homeowners' or Property Owners' Association, its bylaws, and the restrictive covenants;
  2. Submit draft articles, bylaws, and covenants to the City Administrator for approval;
  3. After approval (see above), create an incorporated nonprofit corporation;
  4. Record approved covenants, at the County Clerk's office, which automatically make every lot owner a member of the association, give him/her the right to use the common property, and establish his/her voting rights and his/her obligations to pay assessments;
  5. Provide evidence of the recorded articles, bylaws, and the restrictive covenants prior to Final Plat approval; and
  6. Pay attorney fees for document review.
- G. *Maintenance, Repair or Capital Improvement.* Any maintenance, repair or capital improvement effort made to Homeowners' or Property Owners' Association property or facilities by the City as a result of non-performance or negligence on the part of the Association shall be assessed between the various Association members in proportion to the taxable value of their properties.

#### **Lots.**

- A. *Lot Design.* Lot design shall provide adequate width, depth, and shape to provide open area, to eliminate overcrowding, and to be appropriate for the location of the Subdivision for the type of development and use contemplated, and shall meet the requirements of the Zoning Regulations of the City.
- B. *Lot Frontage Requirement.* Every lot shall have at least forty (40') feet frontage, and access to, a public street or other approved public access easement.
- C. *Lot Frontage Prohibition for SF Lots on Major Arterial/Thoroughfare Street.* Lots zoned for single family use shall not front upon an Major Arterial/Thoroughfare Street as designated on the Comprehensive Plan/Thoroughfare Plan.
- D. *Right Angles for Side Lot Lines.* All side lines of lots shall be at approximately right angles to straight street lines and radial to curved street lines except where a variation to this rule will provide a better street and lot layout. The City Administrator may grant a Minor Subdivision Waiver, if unusual circumstances exist on the subject property or on adjacent property that make it difficult to comply with this requirement.
- E. *Lot Width.* The width of every lot at the building line shall be equal to or greater than that required by the Zoning Regulations.
- F. *Scenarios where Additional Lot Depth is Required.* Where a lot in a residential area backs up to a railroad Right-of-Way, drainage easement, a high-pressure gasoline, oil or gas line, electric transmission lines (69kv or higher), water or wastewater transmission lines, an Major Arterial/Thoroughfare Street, an Industrial, Commercial, or other land use that has a significant change in use from the residential use of the property, and where no street or alley is provided at the rear of such lot, additional lot depth will be required per the Zoning Regulations.
- G. *Double Frontage and Reverse Frontage Lots.*

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1. Double frontage and reverse frontage lots shall be prohibited except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.
  2. Where lots have double frontage, front building setbacks shall be established in accordance with the Zoning Regulations.
- H. *Lots with Septic Tanks.* In a Subdivision where buildings are to be served by septic tanks or other on-site sewer facilities, the size of lots shall be sufficiently large to accommodate adequate drainage fields and to meet the standards set forth by the State of Texas, the County or any other governmental unit having appropriate jurisdiction.
- I. *Land Subject to a 100-Year Flood.*
1. Any land which, in its natural state, is subject to a 100-year flood or which cannot be properly drained shall not be subdivided, re-subdivided or developed until receipt of evidence that the construction of specific improvements proposed by the Developer can be expected to yield a usable building site, i.e. Flood Study and FEMA CLOMR (Conditional Letter of Map Revision).
  2. Thereafter, the Planning and Zoning Commission may recommend approval of the Plat; however, building construction upon such land shall be prohibited until the specific drainage improvements have been planned, public infrastructure construction completed, and a LOMR (Letter of Map Revision) has been received from FEMA.

## **Sidewalks.**

- A. *Sidewalks and Pedestrian ways are required as a part of Subdivision Plat approval to help the City achieve the following:*
1. Promote the mobility, health, safety, and welfare of residents, property owners, and visitors to the City and to implement objectives and strategies of the Comprehensive Plan,
  2. Improve the safety of walking by providing separation from motorized transportation and improving travel surfaces for pedestrians,
  3. Improve public welfare by providing an alternate means of access to transportation and social interaction, especially for children, other citizens without personal vehicles, or those with disabilities, and
  4. Facilitate walking as a means of physical activity recognized as an important provider of health benefits.
- B. *Sidewalk Location and Design.*
1. Sidewalks shall be constructed for both sides of all streets within the Subdivision.
  2. Sidewalks shall be constructed along all lots adjoining dedicated streets, along Major Arterial/Thoroughfare Streets where lots do not adjoin the street, across power line easements and in other areas where pedestrian walkways are necessary.
  3. Routing to clear poles, trees or other obstacles shall be subject to City Administrator approval.
  4. The Plat or Construction Plans shall show the location of all proposed sidewalks and shall state at what stage of the project they will be constructed.
  5. All sidewalks shall conform to Federal Americans with Disabilities Act (ADA) requirements and barrier-free ramps should be provided for access to the street.
- C. *Sidewalk General Construction.*

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1. Sidewalks shall be constructed by Class "A" concrete and shall have a width of not less than five (5) feet and a minimum thickness of four (4) inches.
  2. Sidewalks along Major Arterial/Thoroughfare Streets shall be no less than six feet (6') in width.
  3. Sidewalks adjacent to screening and retaining walls shall be five (5') feet in width and shall abut the wall, eliminating the landscape area found along the wall, thereby reducing maintenance.
  4. Sidewalks shall be constructed one foot (1') from the property line within the street or Major Arterial/Thoroughfare Street Right-of-Way and shall extend along the full street frontage including both sides of corner lots and block ends.
  5. Construction of sidewalks adjacent to curbs will be considered where driveway entrances are constructed from the rear of lots on each side of the street for the full length of the block or where mountable curbs are installed. In these instances, the sidewalks shall be a minimum of five feet (6') wide.
  6. Sidewalk construction may be delayed until development of lots, but in locations not adjacent to lots and across bridges and culverts, the sidewalk shall be constructed with the other improvements to the Subdivision.
- D. *Sidewalks in Nonresidential Areas.* Sidewalks in nonresidential areas shall be a minimum width of five feet (6') or extend from the back of the curb to the building line as required by the City.

### **Utility policy.**

A. *Adequate Utility Systems Required.*

1. Subdivisions within the City shall be provided with an approved water supply and distribution system and with an approved sewage collection and disposal system. An adequate water supply and distribution system and sanitary sewer system shall conform to the Engineering Standards Manual. All systems must be consistent with the Comprehensive Plan Master Plan for Water Distribution and Basin Sanitary Sewer Evaluation Studies.
2. Water and sewer lines must be laid across property lines in every instance. Beginning point and ending point of main line shall be determined by the city and shall simply be at the nearest existing adequate source in the case of water.
3. On a corner lot, utility lines shall be laid to conform to the Comprehensive Plan and the city shall never bear the expense of these extensions except for oversized pipe. The developer will be responsible for the cost of the extension. Where a corner lot can be adequately served from the side, the utility lines must still be laid in front at the expense of the Developer if the Comprehensive Plan so indicates.
4. The city shall be responsible for maintenance, oversize participation, replacement of old inadequate line and the laying of line along frontage owned by the city
5. In case of development along or either side of water or sewer lines, any builder or developer shall be held responsible to pay back to the original developer fifty percent (50%) of the original cost on or either side of the utility line before taps are issued.
6. Water and sewer lines extended to other areas, and having no development immediately adjacent to the line, have no pro rata claim to any reimbursement. Any extension from the end of a water or sewer line will also not require any reimbursement.
7. Wastewater collection systems requiring lift stations shall be avoided. Lift stations shall be privately owned and maintained.

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## **Water utility.**

### **A. General.**

1. All Subdivisions shall provide an approved water distribution system connected to the existing City water system in conformance with all applicable City master plans and Engineering Standards Manual.
2. In the absence of specific standards, all water supply, distribution, pumping, and storage improvements shall be designed in accordance with the most current standards of the American Water Works Association and the most current criteria included in the Texas Administrative Code, Chapter 290.
3. The City shall make the final determination of the adequacy of the proposed system.
4. **Water Main Construction.** All water mains shall be constructed within the street Right-of-Way or easements dedicated to the City.
5. **Water Lines Extended to Subdivision Borders.**
  - a. All water lines installed within a Subdivision must extend to the borders of the Subdivision as required for future extensions of the distribution system, regardless of whether such extensions are required for service within the Subdivision.
  - b. If due to physical constraints, a new subdivision will never be constructed beyond a developing subdivision, the City Administrator may approve a Minor Subdivision Waiver for this requirement prior to action on the Construction Plans or prior to action on any Plat.
6. **Fire Hydrants (Locations and Hose-Lay).**
  - a. Fire hydrants shall be placed on block corners or near the center of the block to place all of every lot within a radius of five hundred feet (500') in residential areas, but under no circumstances shall a hose-lay for more than five hundred feet (500') be made from the fire hydrant to cover all of every lot within the Subdivision or tract under development.
  - b. Fire hydrants shall be located in commercial and industrial areas so that all of every lot shall be within a radius of three hundred feet (300'), but under no circumstances shall a hose-lay of more than three hundred feet (300') be made in order to adequately afford fire protection to the building or buildings.
  - c. A fire hydrant shall be placed at the entrance of all cul-de-sacs.
7. All subdividers shall connect to the City's water system if they are within 500' of a municipal water line. The City shall make the final determination of the adequacy of the proposed system.
8. If the development is not within 500' of the water system, the City may grant a waiver. If a water well is used, the city shall require testing of the well in accordance with the Texas Commission of Environmental Quality (TCEQ).

### **B. Preliminary Utility Plan.**

1. *General.* A Preliminary Utility Plan is regulated as part of Preliminary Plat approval and shall detail both Section 6.13 Water Utility and 6.14 Wastewater Utility requirements.
2. *Illustrate the Location and Size of Water Utility and Wastewater Utility Mains.*
  - a. Concurrent with the submission of a Plat, the Developer shall submit a map or plan showing the location and size of Water Utility and Wastewater Utility mains, which will be required to provide adequate service and fire protection to the lots specified in the proposed plat.

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- b. Plans and specifications for fire hydrant systems shall be submitted to the City Administrator for review prior to construction in accordance with Engineering Standards Manual.
  3. *Plan Document.* The plan shall be prepared as noted in the City's application requirements.
  4. *Coordination with other Utility Providers.*
    - a. *Preliminary Plat.* When the subdivision is located in an area served by a utility provider other than the City, the Developer must provide a water system analysis, indicating adequate water supply and water quality.
    - b. *Replat.*
      - i. When a Subdivision is located in an area served by a utility provider other than the City, the Developer must provide a letter from the utility provider stating that facilities exist in the area to provide adequate domestic service and fire protection.
      - ii. If the City has reason to believe that there may be water supply or pressure concerns the City may require, a water system analysis, indicating adequate water supply and water quality.
    - c. *Final Plat.* The Final Plat will not be approved until a letter has been provided from the utility provider stating that they have accepted the plans for construction.

## **Wastewater utility.**

### **A. General.**

1. *Approved Means of Wastewater Collection and Treatment Required.* All lots, tracts or parcels on which development is proposed shall be served by an approved means of wastewater collection and treatment in accordance with Engineering Standards Manual.
2. *Determining the Approved Means of Wastewater Collection and Treatment.* The City Administrator shall be responsible for determining the approved means of wastewater collection and treatment in accordance with City master plans and the Engineering Standards Manual.
3. *Possible Phasing of Development Required.*
  - a. The City Administrator may require the phasing of development and/or improvements in order to maintain adequate wastewater capacity.
  - b. Subdivisions either in the ETJ or that have recently been annexed and are not served by the City shall meet the same requirements but be subject to approval by the City Administrator.
4. *Wastewater Collection System Required.*
  - a. All Subdivisions shall provide an approved wastewater collection system conforming to the current criteria and all applicable City master plans and regulations and the requirements of Texas Administrative Code, Chapter 217, Design Criteria for Domestic Wastewater Systems.
  - b. All subdividers shall connect to the City's wastewater system if they within 500' of the wastewater line. The City shall make the final determination of the adequacy of the proposed system.
  - c. If no sanitary sewer service is available beyond the drainage divide line, the City may grant a waiver and allow an on-site sewage disposal system. Such systems shall follow all standards as required by the Texas Commission on Environmental Quality (TCEQ).
5. *Wastewater Lines Extended to Subdivision Borders.*

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- a. All laterals and sewer mains installed within a subdivision must extend to the borders of the subdivision as required for future extensions of the collection system, regardless of whether such extensions are required for service within the subdivision.
  - b. If due to physical constraints, a new subdivision will never be constructed beyond a developing subdivision, the City Administrator may approve a Minor Subdivision Waiver for this requirement prior to action on the Construction Plans or prior to action on any Plat.
- B. *Preliminary Utility Plan.* When required by the Subdivision Ordinance, a Preliminary Utility Plan for Wastewater Utility requirements shall be prepared in accordance with 6.13.B Preliminary Utility Plan.

## **Drainage and storm water.**

### **A. General.**

1. *Components of the Drainage System.* Drainage systems, including all conveyances, inlets, conduits, structures, basins, or outlets used to drain storm water, must be designed and constructed to promote the health, safety, and welfare of the property owner and the public.
2. *Management of Storm Water Runoff.* Adequate provision must be made for the acceptance, collection, conveyance, detention, and discharge of storm water runoff drainage onto, through and originating within the Subdivision.
3. *Maintenance Responsibility.*
  - a. Detention and retention pond maintenance is the responsibility of the property owner or the Homeowners' or Property Owners' Association.
  - b. It is a violation of this Subdivision Ordinance for the pond not to be maintained according to the City's requirements.
  - c. It is a violation of the City's Storm Water Management Plan's Best Management Practices for a detention/retention pond or a structural control to be unable to operate for its intended purpose due to lack of maintenance.
4. *Discharge of Storm Water Runoff.* Storm water must be discharged in an acceptable form and at a controlled rate so as not to endanger human life or public or private property.
5. *Drainage Facilities.* Drainage facilities shall be provided and constructed by the Developer in accordance with the requirements within this 6.15 Drainage and Storm Water and the City's Engineering Standards Manual.

### **B. Planning and Construction.**

1. Plans, profiles, and specifications shall be prepared for storm water improvements to be constructed and shall show the locations, sizes, grades, hydraulic gradients, flow arrows, and other details for the proposed pipe, inlets, channels, manholes, culverts, outlet structures, and other appurtenances.
  - a. Each sheet of the plans and profiles shall bear the seal and signature of the Professional Engineer licensed in the State of Texas who prepared them.
2. The Developer shall incur the cost of all drainage improvements connected with development of the Subdivision and acceptance of current upstream flows necessary to safely and adequately drain the Subdivision, including any necessary off-site channels or storm sewers and acquisition of any required easements.
  - a. The 100-year storm must be contained within the street Right-of-Way and/or the drainage easement boundaries.

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- b. Any necessary off-site channel or storm sewers which are required to be within easements must have a separate instrument easement filed in the County Real Property Records and a filed copy shall be submitted to the City before Construction Plans will be approved.

C. *Residential Grading and Drainage.*

1. *Lot to Lot Drainage Standards.*

- a. Surface runoff from residential lots shall cross no more than one additional lot before being directed toward the street or a dedicated drainage system.
- b. When the flow reaches the second lot, side lot swales shall be in place to direct the flows to the street or to a dedicated City drainage system within a privately-maintained easement. Easements shall be acquired and/or provided by the Developer.
- c. Furthermore, no more than one lot may drain to a second lot before the flow is directed to the street or to a dedicated City drainage system.
- d. Where lot to lot drainage occurs, the lot lines shall be aligned and a minimum of a ten (10') feet wide drainage easement shall be provided.

2. *Detailed Standards.* See the Engineering Standards Manual for requirements for detailed standards and policies.

D. *Nonresidential Grading and Drainage.*

1. *Lot to Lot Grading and Drainage Standards.*

- a. Grading and drainage plans shall strive to ensure that surface runoff from nonresidential individual lots cross no more than one (1) additional lot before being directed toward a private on site system or a dedicated City drainage system.
- b. When the flow reaches the third lot, side lot swales may be utilized to direct the flows to private enclosed systems or to a dedicated City drainage system within a dedicated easement or street Right-of-Way.
- c. No runoff may drain to a fourth lot.
  - i. The flow must be directed to the street system or to a dedicated City drainage system with a dedicated easement.
- d. Concentrations of stormwater shall not be discharged to City Streets through driveways or flumes in a manner that may inundate paved streets with water or ice but shall be collected into an enclosed system, either private or public, prior to reaching the curb line of the roadway.
- e. Specific deviations from these guidelines may be addressed on an individual basis.

2. *Detailed Standards.* See the Engineering Standards Manual for detailed standards and policies.

E. *Design Criteria.*

- 1. The design of the swales and enclosed systems located within a dedicated drainage easement shall utilize the City's adopted drainage design criteria for channel and pipe systems.
- 2. Side yard swales shall have a minimum slope of one (1) percent to ensure adequacy of flow during and after a rain event.
- 3. See the Engineering Standards Manual for requirements for detailed standards and policies.

F. *Maintenance.*

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1. All grassed swales should be designed and constructed with 3:1 side slopes that will be gentle enough to allow easy mowing.
  2. Mowing and maintenance responsibility shall be the responsibility of the property owner or Homeowners' or Property Owners' Association.
  3. Periodic cleaning of enclosed systems located within public, dedicated drainage easements shall be the responsibility of the City.
- G. *Preliminary Drainage Plan.*
1. *Applicability and Purpose.*
    - a. A Preliminary Drainage Plan shall be prepared for all developments in accordance with the requirements set forth in the City's application forms.
    - b. The Preliminary Drainage Plan shall show the watershed affecting the development and how the runoff from the fully-developed watershed will be conveyed to, through, and from the development.
      - i. The Preliminary Drainage Plan must comply with the standards outlined in this Subdivision Ordinance, Engineering Standards Manual, and the Code of Ordinances.
    - c. The Preliminary Drainage Plan is a guide for later detailed drainage design.
    - d. The review of the Preliminary Drainage Plan does not constitute final drainage plan approval or authorize a waiver to the Subdivision Regulations.
      - i. The design engineer may also submit a sealed letter of No Adverse Impact with supporting documentation and calculations if the Preliminary Drainage Plan indicates there will be no adverse impact to downstream properties.
  2. *Plan Required, Previous Plans, and Waivers.*
    - a. For any property involved in the development process, a Preliminary Drainage Plan shall be provided, at the Developer's expense, for the area proposed for development.
    - b. For property with a previously accepted Preliminary Drainage Plan, the accepted Preliminary Drainage Plan may be submitted and enforced unless a revised Preliminary Drainage Plan is required by the City due to lot reconfiguration or other conditions created by a new Plat.
    - c. The City Administrator may waive the requirement for a Preliminary Drainage Plan if the submitted plat is not anticipated to cause any significant change in runoff characteristics from a previously accepted drainage study or for single residential properties where no drainage problems are anticipated.
    - d. If the applicant requests a waiver in writing, a copy of any previous drainage plan prepared for the property shall be provided.
  3. *Submittal.*
    - a. The Preliminary Drainage Plan shall be labeled as "Preliminary" or attached to the Preliminary Plat.
    - b. The Preliminary Drainage Plan shall be stamped by and dated by the professional engineer.

### **Retaining wall construction.**

- A. *Applicability.* This section shall apply for retaining walls under private ownership.

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B. *Location.*

1. Retaining walls shall be located and constructed on private property only.
2. Retaining walls shall be located within a private retaining wall easement.
3. If a retaining wall is designed to traverse three or more lots within a Subdivision, the wall shall be located within a private retaining wall easement dedicated to the Homeowners' or Property Owners' Association of the Subdivision.
  - a. The easement shall be shown on the Final Plat and shall be dedicated to the Homeowners' or Property Owners' Association of the Subdivision to maintain the wall in a safe and orderly condition.

C. *Maintenance.* Retaining walls shall be maintained under private ownership.

D. *Design.* Any retaining wall four (4) feet tall or higher shall be designed by a professional engineer licensed in the State of Texas and plans submitted to the City for review must be signed and sealed by the design engineer.

E. *Building Permit Required.*

1. Any earth terracing method that supports a structure or vehicle load, or that is over four feet (4') in height (as measured from the bottom of footing to top of wall), shall require a building permit and shall meet the requirements of this section.
2. A retaining wall shall not be constructed in excess of four (4') feet in height.
  - a. If the wall is to be more than four feet high, the retaining wall system shall be terraced, so as to provide a minimum of four (4) feet of flat ground between the faces of the retaining walls for each four-foot section of retaining wall.
  - b. The flat terrace shall be sloped to a maximum of two (2) percent to allow drainage.
3. No building permit, other than for a retaining wall, shall be issued for any lot within a Subdivision until all retaining walls are constructed in accordance with a grading plan for the Subdivision.
4. A retaining wall shall be constructed in accordance with the grading plan and shall comply with the requirements of the applicable building code and this ordinance.
5. Any change from the approved grading plan or design for a retaining wall within a Subdivision shall not be permitted unless the Applicant has submitted sealed plans for the entire Subdivision showing the proposed changing in grading and the City Administrator has approved the proposed change(s).

### **Private streets and gated subdivisions.**

A. *Private Streets and Gated Subdivisions.*

1. *General Requirements.* Subdivisions with private streets and gated communities shall meet the following requirements:
  - a. The general provisions of this Subdivision Ordinance and other City Codes as they relate to development, streets, and utilities will apply.
  - b. A vehicular turn around shall be provided at entry gates to allow vehicles that have been denied entry the ability to exit without having to backup.
  - c. All plans concerning private subdivisions are subject to review and approval by the local fire department.

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- d. The definition of a "subdivision" and "street," as contained in the Subdivision Ordinance, will apply to all subdivisions or streets, whether public or private.
  2. *Authority Maintained by City.* All streets, gates, and other fire protection features, signage, and equipment are subject to periodic inspection by the City and must be repaired immediately if found to be in a condition of disrepair or inadequate for public access. The City shall have the right to enter the subdivision and disable, open, or remove any gate, device, or other feature that impedes or controls vehicle access at the sole expense of the Homeowners' or Property Owners' Association.
  3. *Owners Responsibility.* The person or corporation in control of the property is responsible for, and liable for, any violations of this private road requirement. This includes, but is not limited to, the developer, property owner, the Homeowners' or Property Owners' Association and its officers, if applicable, or others who may own or exercise control over the property.
  4. *Private Street Lot.* Each private street and alley must be constructed within a separate lot owned by the Homeowners' or Property Owners' Association.
    - a. Each lot must conform to the City's standards for design of a public street and alley right-of-way. An easement covering the street lot shall be granted to the City providing unrestricted use of the property for utilities and the maintenance of the same. This right shall extend to all utility providers including telephone and cable companies, operating within the City.
    - b. The easement shall also provide the City with the right of access for any purpose related to the exercise of a governmental service or function, including but not limited to fire and police protection, inspection and code enforcement. The easement shall permit the City to remove any vehicle or obstacle within the street lot that impairs emergency access.
  5. *Payment.* The City shall not pay for any portion of the cost of constructing or maintaining a private street.
  6. *Plans and Inspections.* An applicant for a proposed subdivision with private streets must submit to the City the same construction plans and engineering information required to construct public streets and utilities. Requirements pertaining to inspection and approval of improvements prior to Final Plat approval shall apply. Fees charged for these services shall also apply. The City may periodically inspect private streets and require repairs necessary to ensure emergency access.
  7. *Waiver of Services.* The Final Plat, property deeds and Homeowners' or Property Owners' Association documents shall note that certain City services shall not be provided on private streets. Among the services that will not be provided are the following:
    - a. Routine police patrols.
    - b. Enforcement of traffic and parking ordinances and preparation of accident reports.
    - c. Depending on the characteristics of the proposed development, other services may not be provided.
  8. *Signs.* The entrances to all private streets shall be marked with a sign stating that it is a private street. All private traffic regulatory signs shall conform to the Texas Manual of Uniform Traffic Control Devices.
  9. *Indemnification.* The Final Plat shall contain the following language:
    - a. Whereby the Homeowners' or Property Owners' Association, as owner of the private streets and appurtenances, agrees to release, indemnify, defend and hold harmless the City, any governmental entity and public utility:
      - i. For damages to the private street occasioned by the reasonable use of the private street by the City, governmental entity of public utility;

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- ii. For damages and injury (including death) arising from the condition of said private street;
  - iii. For damages and injury (including death) arising out of the use by the City, governmental entity or public utility of any restricted access gate or entrance; and
  - iv. For damages and injury (including death) arising out of any use of the subdivision by the City, governmental entity or public utility.
  - v. Further, such language shall provide that all lot owners shall release the City, governmental entities and public utilities for such damages and injuries.
- b. The indemnifications contained in this above language apply regardless of whether or not such damages and injury (including death) are caused by the negligent act or omission of the City, governmental entity or public utility, or their representative officers, employees or agents.

**B. Gates.**

1. Each gate installation in a gated community must conform to the following provisions:
  - a. Fire Department Approval Required. Each gate installation must be approved by the fire department who will serve the proposed subdivision prior to installation. The installation must be completed and tested prior to the City's acceptance of the subdivision.
  - b. Gate Openings and Clearances. Gate design may incorporate one or two gate sections to meet the required minimum gate width of twenty four feet. If the entrance will incorporate a median, guard shack, or similar structure that necessitates a divided gate arrangement, the gate widths may be reduced if approved by the fire marshal, but in no case shall any gate or street pavement have a clear opening of less than eighteen feet.
  - c. If a gate design incorporates any overhead obstruction, the obstruction must be a minimum of fourteen feet (14') above the finished road surface.
2. Setback Required. Approach and departure areas on both sides of a gated entrance must provide adequate setbacks and proper alignment to allow free and unimpeded passage of emergency vehicles through the entrance area.
3. Gates to Be Per Fire Department Guidelines. An automatic gate installation must conform to the design and performance guidelines established by the fire department.
4. Good Working Order Required. All components of the gate system must be maintained in an approved operating condition, with all components serviced and maintained on a regular basis as needed to ensure proper gate operation. A proper power supply shall be maintained to all electrical and electronic components at all times.
5. Failure to Meet Requirements. Each security gate is subject to a performance test on a regular basis as determined by the fire department. Upon failure of a performance test, the security gate system shall be disabled and maintained in the open position until repaired, and shall not be placed back in service until tested and authorized by the fire department.

**C. Property Owners Associations Required.**

1. Homeowners' or Property Owners' Association Required. Subdivisions developed with private streets and alleys must have a mandatory Homeowners' or Property Owners' Association which includes all property to be served by private streets. The association shall own and be responsible for the maintenance of private streets and appurtenances.
2. The association documents must establish a reserve fund for the maintenance of streets and other improvements. The association documents shall be reviewed and approved by the City's attorney to ensure that they conform to this and other applicable City ordinances. The documents shall be filed of

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record prior to the approval of the Final Plat. Lot deeds must convey membership in the association and provide for the payment of dues and assessments required by the association. The association may not be dissolved without the prior written consent of the City. No portion of the association documents pertaining to the maintenance of the private streets and alleys and assessment therefore may be amended without the written consent of the City.

- D. *Construction and Utilities.* Water, sewer, drainage facilities, street lights and signs placed within the private street and alley lot shall be installed to City standards prior to approval of the Final Plat. All City regulations relating to infrastructure financing and developer cost participation shall apply to subdivisions with private streets.
- E. *Converting Private Streets to Public Streets.* The property association documents shall allow the association to request the City to accept private streets and alleys and the associated property as public streets and right-of-way upon written notice to all association members. The request will be accepted for consideration if it contains the notarized signatures of the owners of at least 75% of the affected lots on the street. However, in no event shall the City be obligated to accept said streets and alleys as public.
1. *City's Acceptance of Streets and Alleys.* Should the City elect to accept the streets and alleys as public, the City may inspect the private streets and assess the lot owners for the expense of needed repairs concurrent with the City's acceptance of the streets and alleys. The City will be the sole judge of whether repairs are needed and to the extent they are needed, including any associated drainage and street light repairs.
  2. *Initiation.* The property owners' association or abutting property owners with responsibility to maintain the private streets shall submit a formal request to the City Administrator to convert street ownership and an offer of dedication.
  3. *Offer of Dedication.* The formal request shall consist of a written evaluation sealed by a professional engineer registered in Texas, qualified in the area of soil mechanics and pavement design, of the pavement construction compared to the City's current public street standards, including an evaluation of the anticipated service life and maintenance costs of the subject street(s). The above shall be based on a sealed report of core samples of the subject street(s) performed by a geotechnical engineering firm. At a minimum, the geotechnical report shall include pavement thickness and type, the presence, size and spacing of reinforcing steel, and the type and density of subgrade material. The geotechnical engineering firm shall submit a plan showing the proposed core locations for City review prior to beginning work.
  4. *Approval Procedures.*
    - a. Once a completed offer of dedication is submitted and reviewed, the request may be submitted to the City Council for consideration. The City Council may consider the request at a regular meeting or conduct a public hearing.
    - b. The City Council may, at its discretion, approve, conditionally approve, or deny the application. Conditions of approval may include obligations relating to items noted above or any other matter within the City Council's legislative discretion.
    - c. Upon conditional approval, the applicant must:
      - i. Hire a city-approved contractor to make all repairs and maintenance noted in the evaluation. The applicant, contractor, and City shall enter into a three-way contract to cover all work to be performed. All work will be inspected by the City. The applicant may be required to cover the cost of the inspection(s). A two year maintenance bond will also be required for the repair work.

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- ii. Hire a contractor or pay the City the cost for any streetlight work needed, as well as the cost for any street markers and/or sign replacement.
    - iii. Hire a contractor and obtain necessary building permits for demolition of any gates, guard houses, or any other improvements that must be removed.
    - iv. Submit a metes and bounds description of the right-of-way to be dedicated to the City or submit a replat of the affected properties.
    - v. Submit an Easement Use Agreement for any privately maintained improvements that are allowed to remain in the dedicated right-of-way.
    - vi. Address any other matter required by the City Council.
  5. *Recording.* Upon final approval of the request, the right(s)-of-way shall be dedicated to the public through replatting of the affected properties with the right-of-way shown as public and filed for record with the County Clerk.
- F. *Access Restrictions.*
1. *General Requirements.* The entrances to all private streets shall be marked with a sign stating that it is a private street. Either a guard house or an access control device such as a gate or cross arm shall be constructed at each entrance. All restricted access entrances shall be manned 24 hours every day, or an alternative means shall be provided of ensuring access to the subdivision by the City and other utility service providers with appropriate identification. If the association fails to maintain reliable access as required to provide City services, the City shall have the right to enter the subdivision and remove any gate or device which is a barrier to access at the sole expense of the association.
  2. *Restricted Access.* Private streets that have access controlled by a gate, cross arm, or other access control device shall conform to the following requirements:
    - a. The street must have a minimum uninterrupted pavement width of 24 feet at the location of the access control device.
    - b. If an overhead barrier is used, it shall have minimum height above the road surface as required by the local fire department for fire lanes.
    - c. The design of all gates, cross arms and access control devices, including automatic opening systems and manual backup systems, shall be approved by the local fire department before installation.
    - d. The gates, cross arms, and access control devices shall be tested and accepted by the fire department before being put into operation.
    - e. Gate designs may incorporate one or two gate sections to meet the required minimum width of 24 feet.
    - f. If the entrance incorporates a median, guard shack, or similar structure that necessitates a divided gate arrangement, the gate and street pavement widths may be reduced if approved by the fire department. This approval shall be contingent upon the subdivision with private streets having a second approved means of access, but in no case shall any single gate or street pavement have a clear opening of less than 15 feet.
  3. *Visitor Entrance Design Standards.* At least one entrance to a subdivision with private streets shall be equipped for visitor access. In addition to meeting the above design standards, the visitor entrance shall be equipped with a call or code box located at least 50 feet from the boundary of the subdivision to provide for visitors calling in an automobile queuing. A turn-around space with a minimum outside radius of 30 feet shall be located between any call or code box and the access control device to allow

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vehicles denied access to safely exit onto public streets in a "headout" position. A sign shall be erected next to the edge or such turn around space to prohibit vehicle parking in such space. A resident entrance used in combination with a visitor entrance shall comply with the requirements of this Subsection.

4. *Resident Only Entrance Design Standards.* In addition to meeting the above design standards, an access control device that requires residents to use a key, card, or code to gain access shall setback internally a minimum of 50 feet from the boundary of the subdivision to provide for automobile queuing; except that resident entrances equipped with an electronic opener that allows residents to remotely open the access control device and enter the subdivision without having to stop are exempted from this requirement. A sign shall be erected next to any resident entrance that does not meet the 50 foot setback requirement of this paragraph and does not provide a turn-around space with a minimum outside radius of 30 feet to indicate that it is for resident use only and not for visitors.

### **Survey monuments and lot markers.**

#### **A. Temporary Survey Reference Markers.**

1. Before the Preliminary Plat is submitted to the City for consideration, a temporary marker and a guard stake with flagging shall be placed by the surveyor on all of the development's perimeter boundary corners which do not have a "found" monument.
  - a. Perimeter boundary corners includes points of intersection (PI), points of curvature (PC), points of compound curvature (PCC), points of tangency (PT) and any other point along the boundary which is necessary to establish the boundary of the development.
  - b. A guard stake with flagging shall be placed on all "found" monuments.
  - c. The temporary markers shall be within one foot (1') of the surveyed corner and the guard stake shall be within one foot (1') of the temporary marker or the "found" monument.
2. Submission of the Preliminary Plat prepared by the licensed surveyor shall be considered evidence that the temporary markers, guard stakes, and flagging have been set, regardless of whether or not the Final Plat has been sealed and signed.

#### **B. Permanent Survey Reference Monuments.**

1. Before the Final Plat is submitted to the City for consideration, a concrete monument six inches (6") in diameter and twenty-four inches (24") long, shall be placed by the surveyor on each of the development's perimeter boundary corners which do not have a "found" monument.
  - a. An eighteen inch (18") long steel rod, 5/8 inch in diameter and embedded at least twelve inches (12") into the monument, shall be placed at the boundary intersection point on each monument.
  - b. These monuments shall be set at such an elevation that they will not be disturbed during construction.
  - c. The tops of the monuments shall be at least twelve inches (12") below the finished grade.
2. In addition to the requisite number of hard copies, Final Plats shall also be prepared and submitted electronically oriented in Texas State Plane grid coordinates (U.S. Survey Foot), North Central Zone (4202), NAD 83, at an elevation datum based on NAVD 88.
3. Submission of the Final Plat prepared by the licensed surveyor shall be considered evidence that the monuments and benchmarks have been set, regardless of whether or not the Final Plat has been sealed and signed.

#### **C. Public Right-Of-Way Markers.**

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1. Public Rights-of-Way and easements for public streets or approved access easement shall be indicated by monuments placed along their centerlines. Monuments shall be placed at PI, PC, PCC, and PT.
  2. Where concrete streets are constructed, the monuments shall be an "X" cut into the concrete pavement.
  3. Each leg of the "X" shall be at least six inches (6") long and ¼-inch deep.
  4. Where asphalt streets are constructed and in unpaved areas, the monument shall be a 5/8-inch iron bar, eighteen inches (18") long.

D. *Survey Benchmarks.*

1. All survey monuments and lot markers shall adhere to the adopted survey benchmark documents.
2. Each Final Plat is required to have at least one permanent benchmark monument set within its boundary based upon NAVD 88. All portions of the perimeter boundary of the development shall be less than ½ mile from the benchmark, or additional benchmarks shall be set such that all portions of the perimeter boundary of the development are within ½ mile of a benchmark.
3. Benchmark monuments may be similar to permanent boundary corner monuments set flush with the ground, or may be set on top of visible concrete structures such as headwalls or curb inlets by chiseling a 1-1/2 inch square in the concrete ¼ inch deep. The location and elevation of the Benchmark(s) (based on NAVD 88) shall be noted on the Final Plat.

**Miscellaneous.**

A. *Underground Utilities (Optional).*

1. All distribution lines, cables, etc. for utilities shall be installed below ground within the Subdivision in a manner designed to eliminate the necessity for disturbing the street, curb and gutter, sidewalk and other services and structures when making connections.
  - a. Transmission lines or major cables to provide utilities such as electric, telephone, and cable television to the area as a whole may be located above ground on the perimeter of the Subdivision being served.
  - b. The installation of these utilities shall conform to commonly accepted construction standards and be subject to review by the City Administrator.
2. The Developer shall provide separate service lines for water and wastewater (sanitary sewerage) to each lot or point of metering.
3. The Developer shall make arrangements with all other appropriate utility companies for the extension of their respective utility lines and service to and within the subdivision and for any costs or refunds of such cost.
4. All Plats for residential and multi-family developments shall require all telephone lines, cable television lines, electric lines, and utility lateral and services lines and wires to be placed underground except as otherwise herein provided.
  - a. In special or unique circumstances or to avoid undue hardships a Major Subdivision Waiver may be approved to permit the construction and maintenance of overhead electric utility lateral or services lines and of overhead telephone and cable TV lines and may approve any Plat or Site Plan with such approved exceptions or waivers.
  - b. All Final Plats for residential and multi-family Subdivisions submitted for approval by the City must display signature approval by utility companies prior to submittal.

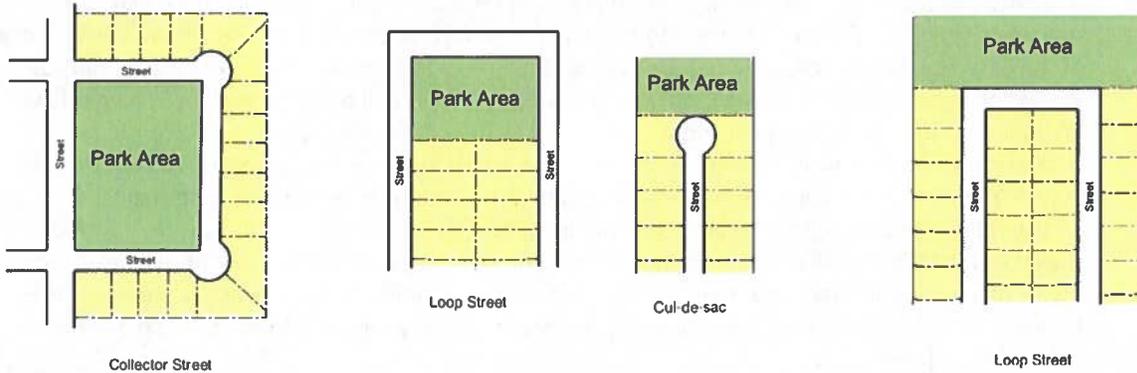
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- i. All multi-family Plats or Site Plans must display signature approval by utility companies before any building permits are issued.
    - ii. No Final Plat shall be approved and no building permit will be issued without such approval.
  - c. Where electrical service is to be placed underground, street or site facilities shall also be placed underground.
  - d. All electrical, cable TV and telephone support equipment (transformers, amplifiers, switching devices, etc.) necessary for underground installations in Subdivisions shall be pad mounted or placed underground.
  - e. Nothing herein set forth shall prohibit or restrict any utility company from recovering the difference between the cost of overhead facilities and underground facilities.
    - i. Each utility whose facilities are subject to the provisions of this Subdivision Ordinance shall develop policies and cost reimbursement procedures with respect to the installation and extension of underground service.
  - f. Unless specifically stated otherwise, temporary construction service may be provided by overhead utility lines and facilities without obtaining a waiver.
  - g. "Electric Utility Service Lines" shall mean those electric lines which through a transformer connect a lateral line to a customer's service entrance.
5. All installations regulated by the provisions set forth herein shall be in conformance with the intent of this ordinance and shall conform to any regulations and/or specifications that the various public utility companies may have in force from time to time.
6. Nothing in this ordinance shall be construed to require any existing facilities to be placed underground when no development is proposed.
- B. *Company Notification to City.* All utility companies will notify the City before digging, boring, drilling, etc.

### **Park land design, dedication, and fees.**

- A. *Purpose.* This Section Sec. 155.6.20 (Park Land Design, Dedication, and Fees) is intended to ensure that adequate recreational areas in the form of neighborhood and community parks are provided to meet the additional needs created by new residential development.
- B. *Scope.* The provisions of this Section shall apply to all new residential development within the City and all residential subdivisions within its extraterritorial jurisdiction after the effective date of this Ordinance for which a Final Plat or Preliminary Plat is required to be submitted to the City for approval
- C. *Exemptions.* The provisions of this Section shall not apply to the following:
  - 1. Residential development for property to be located on a lot of record, Final Plat or replat that was approved prior to the effective date of this Ordinance.
  - 2. Residential development constructed or to be constructed in accordance with a building permit issued prior to the effective date of this Ordinance.
  - 3. Senior living facilities and senior care facilities, including assisted living facilities, senior congregate care facilities, memory care facilities and nursing homes. However, independent living and retirement communities or age-restricted housing developments shall be subject to the provisions of this Section
- D. *Park Design Requirements for Neighborhood and Community Parks.* Parks must be easy to access and open to public view to benefit area development, enhance the visual character of the City, protect public safety

and minimize conflict with adjacent land uses. The following standards be used in designing parks and adjacent development:

1. Where physically feasible, parks shall be bounded by streets, or by other public uses (e.g. school, library, recreation center).
2. Where residential lots directly abut a park, lots must be oriented to side and not back to the park. In this instance, cul-de-sac and looped streets must be used to access the lots and park.



3. Residential lots may back to a park only when the site's physical character (e.g. shape, topography, drainage) does not reasonably permit an alternative design or the layout of the subdivision complements the use of the park (e.g., lots backing to a golf course). Lots backing to a park or open space shall only be allowed upon approval from the City Administrator and the Parks Department.
4. A proposed subdivision adjacent to a park may not be designed to restrict reasonable access to the park from other area subdivisions. Street connections to existing or future adjoining subdivisions may be required to provide reasonable access to parks.
5. Where a nonresidential use must directly abut a park, the use shall be oriented such that it sides, and does not back, onto the park if at all possible. The use must also be separated by a screening wall or fence and landscaping approved by the City. Access points to the park may be required by the City if a public benefit is established.
6. Alleys may abut a park provided that the alley does not exceed the residential lot depth by the width of the alley. Alleys should not be designed to encourage their use as a means of vehicular, bike or pedestrian travel to the park.
7. Streets abutting a park shall be built in accordance with the thoroughfare plan, the standards of this Ordinance and all other applicable construction standards and/or ordinances, as they exist or may be amended; however, the City may require any residential street built adjacent to a park to be constructed to collector street width to ensure access and prevent traffic congestion.
  - a. When park land is acquired, the City shall reserve sufficient land to provide the additional right-of-way required for an abutting collector size street, sixty (60) feet of right-of-way, unless otherwise approved by the City.
  - b. The proposed street alignment fronting on City parks is subject to City approval. Land owners shall also provide street access to all Major Creeks and/or Access Dedications.
8. If the City adopts a Recreation or Open Space Master Plan, all park land dedication shall meet the requirements stated therein.

E. *Trail and Park Connections.*

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1. Public access to a park shall not be less than fifty (50) feet and shall not be part of a residential lot. The Property Owner shall install a ten (10) foot wide concrete trail from the street to the hike and bike trail/park prior to final acceptance of the subdivision. This trail must be blocked from motor vehicle traffic. However, the Property Owner may request to escrow funds for the contracted amount prior to final acceptance of the subdivision with City approval. The escrow amount will remain in place until the trail has been completed and accepted by the City. The requirements of this section 6.20.E.1 shall only apply if a Hike and Bike Plan is adopted by the City.
  2. A twenty-five (25) foot level surface shall be provided for a twelve (12) foot wide public hike and bike trail when required. The twenty-five (25) foot wide level surface can be provided within and/or outside of the Base Flood Plain and/or Access Dedication. The parkway for the public street may count towards the twenty-five (25) foot wide level surface. The proposed hike and bike trail shall be shown on the Preliminary Plat. The Parks Department shall make the final determination of the placement of the public hike and bike trail at the time of the Final Plat. Low water crossings for the hike and bike trail may be permitted with approval from the City Administrator. The hike and bike trail shall be designed so as to minimize visibility blind spots from public streets for public safety purposes. No development shall interrupt future trail routes or otherwise hinder efficient public access to or from an existing or future planned trail. Gated and other limited access developments shall be designed such that they facilitate, and do not impede, through public access, emergency ingress and egress, usage and enjoyment of public trails
  3. If the City adopts a Recreation or Open Space Master Plan, all park land dedication shall meet the requirements stated therein.

F. *Dedication Requirements (Land, Payment, or Combination).*

1. Land Conveyance or Payment in Lieu of Land. The owner of any property to be developed for residential purposes shall convey for park purposes land or make a payment of money in lieu of land, or a combination of both, to the City at the time of rezoning or subdivision to provide for the recreational needs created by such development, in accordance with the provisions of this chapter.
2. Proposed Number of Dwelling Units. All plats, lots of record, replats, site plans or proposed improvements of land for new residential development shall indicate the number of proposed dwelling units to be constructed or placed within the development on such plat, lot of record, replat or site plan.
3. Determination Authority. In reviewing any lot of record, plat, site plan or proposed improvements of land for a new residential development, the Planning and Zoning Commission shall make a determination of whether a conveyance of land, payment of money in lieu of land or a combination of both shall be made to meet the requirements of this Section.
4. Factors Considered. In making a determination of which type of dedication, or combination thereof, shall be made, the Director of Community Services shall recommend what would be in the best interest of the City, based upon relevant factors which may include, but not be limited to, the following:
  - a. Whether the proposed land to be conveyed for park purposes would be suitable as a neighborhood, linear, community, or City park.
  - b. The parks master plan for the area in which the development is located.
  - c. The recommendation of the Director of Community Services or the Department of Parks and Recreation.
  - d. Whether the proposed land to be conveyed for park purposes is adjacent to an existing or proposed school site.
  - e. Whether there is sufficient existing public or private park land in the area of the proposed development.

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- f. Whether the park needs of the area where the proposed development is located would be best served by expanding or upgrading existing parks.
  - g. Land located adjacent to a greenbelt park.

G. *Dedications: Conveyance of Land Requirements.* Where the Director of Community Services recommends and the Planning and Zoning Commission determine that a conveyance of land shall be required, in whole or in part, to meet the requirements of this Section, the following provisions shall apply:

1. *Amount.* The required conveyance of land shall be one (1) acre of land per thirty-five (35) residential units, or an amount proportionally equal to five percent (5%) of the total tract acreage, whichever is greater.
2. *Manner and Method.* Plats required to be submitted to the City for approval shall show thereon a fee simple conveyance to the City of the land required by this Section for park purposes as a condition to approval of such plat by the Planning and Zoning Commission, and the City may further require the conveyance of the park property by general warranty deed. As a condition to acceptance of the plat or deed by the City, the Subdivider shall provide the City with an owner's title policy of insurance in an amount equal to the value of the land conveyed, which amount shall be determined by the City.
3. *Credit for Prior Dedications.* Where a dedication of land was made prior to the effective date of this Section 6.20 by the owner of land required to convey land under the provisions of this Section 6.20, the former dedication of land shall be credited on a per-acre basis toward the required conveyance provided by this Section 6.20 when the Planning and Zoning Commission finds that:
  - a. The dedication was made within five (5) years of the effective date of this Ordinance from which this Section derives;
  - b. The land dedicated was within one-half (1/2) mile of the new development for which land is required to be conveyed;
  - c. The land dedicated is not being presently used for purposes incompatible with park purposes and is suitable for park purposes; and
  - d. A credit may be given for on-site improvements that are compatible with long-range development plans for the proposed park.

The credit provided for herein shall not be transferable and shall only be given to the donor of the land who is the owner of the property being developed for which a conveyance of land is required by this Section, unless said prior conveyances were included as a part of an executed facilities and/or development agreement with the City and the Developer.

4. *Credit for Private Recreation Facilities.* Where private recreation facilities are built for the residents for the subdivision or development, a credit may be granted with a recommendation from the Director of Community Services and approval by the Planning and Zoning Commission. The value of these private recreation facilities shall be determined by the Planning and Zoning Commission, but shall not exceed one hundred percent (100%) credit of conveyance.
5. *Suitability of Land for Neighborhood or Community Parks.* A proposed conveyance of land shall not be considered suitable for neighborhood or community park purposes if it has one or more of the following characteristics:
  - a. Located within the 100-year floodplain, as shown on the latest flood insurance rate map or floodplain Ordinance adopted by the City on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

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- b. The proposed park site dedication shall not be less than five (5) acres for a neighborhood park or twenty (20) acres for a community park, unless the proposed dedication is located in such a manner in which it could be combined with other dedications to create a park of adequate size.
  - c. It has unusual topography or slope that renders it unsuitable for organized recreational activities or passive park needs, depending on the City's intended use for the park.
  - d. It does not or would not front an improved public street or would not be readily accessible, in whole or in part, to the public.
- H. *Dedications: Payment in Lieu of Land Provisions.* Where the Planning and Zoning Commission determines that a payment of money in lieu of land shall be made, the following provisions shall apply:
- 1. *Determining the Amount of Payment.*
    - a. Any payment of money required to be paid shall be as follows:
      - i. Eight-hundred (800) dollars per single-family unit.
      - ii. Four-hundred (400) dollars per multi-family unit.
  - 2. *Time of Payment.* Any payment of money required herein shall be paid as a condition to the approval of any Final Plat or replat. Payment shall be made prior to the signing of the plat unless otherwise stated in an agreement approved by the Planning and Zoning Commission.
  - 3. *Park Development Fund.* All cash payments paid to the City in accordance with this Section 6.20 shall be deposited in a separate park development fund. The City shall account for all such payment with reference to each development for which the payment is made.
  - 4. *Use of Funds.* Any payments made to the park development fund must be used for the acquisition, development, expansion or upgrading of parks located within the same park district or general area where the proposed development for which payment was made is located.
  - 5. *Right to Refund.* If all or part of the payments made for a development are not expended for the purposes authorized herein within three (3) years of the date that 95 percent of all certificates of occupancy have been issued for the completed development of the property for which the payments were made, the person or entity who made such payments may be entitled to a refund on all unexpended funds if a request for a refund in writing has been made within six (6) months of entitlement. If no such timely request is made, the right to a refund of the unexpended funds shall be considered waived.
  - 6. *Compliance.*
    - a. *Requirements to be Satisfied Prior to Development.* It shall be unlawful for any person who is required to convey land, or make a payment in lieu of land, to begin, or allow any other person or contractor to begin, any construction or improvements on any land within any development until the required conveyance of land, or payment of money in lieu of land, is made to the City in accordance with this Section 6.20.
    - b. *Permits and Services to be Withheld.* No building permits shall be issued for, and no permanent utility services shall be provided to, any land within any development until the required conveyance of land, or payment of money in lieu of land, is made to the City in accordance with this Section 6.20.
  - 7. *Additional Voluntary Park Improvements.* A developer may request permission to construct, at his or her own expense, additional park improvements. The City may accept or reject voluntary dedications of park land and/or additional park improvements. Such voluntary dedications and/or improvements shall be considered for approval by the Director of Community Services. All improvements in public

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parks and open spaces shall be consistent with the design criteria and objectives of the Parks, Recreation & Open Space Master Plan, and shall, upon installation, become the property of the City. Prior to constructing such additional park improvements, the developer shall enter into a Development Agreement with the City that defines, among other things, the work to be performed, construction schedules, improvement costs, performance surety, the amount to be reimbursed by the City (if any), and the timing of such reimbursement (if any). The Director of Community Services shall assess and decide the proposed Development Agreement for park improvements.

8. *Appeals and Variances.*

- a. The Developer may appeal the following decisions of the City Administrator to the City Council:
  - i. The applicability of the park fee;
  - ii. The amount of the fee due; or
  - iii. The amount of refund due, if any.
- b. The burden of proof is on the appellant to demonstrate that the amount of the fee, the amount of the credit or reimbursement was not calculated according to the applicable schedule of fees or the guidelines established for determining such amounts. The appellant must file a notice of appeal with the City Council within thirty (30) days following the determination by the City Administrator. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the City Attorney in an amount equal to the park fee due as calculated by the City Administrator, the development application shall be processed. The filing of an appeal shall not stay the collection of the fee due, unless a bond or other sufficient surety has been filed.
- c. The City Council may grant a variance from any requirements of this Section, upon written request by a Property Owner subject to this Section, following a public hearing, and only upon a finding that a strict application of such requirement would result in a substantial hardship that is not common to similarly situated Property Owners.

9. *Park Fee as Additional and Supplemental Requirement.* The park fee is additional and supplemental to and not in substitution of any other requirements imposed by the City on the residential development of the land.

## ***RELIEF FROM SUBDIVISION DESIGN STANDARDS***

### **Petition for subdivision waiver.**

- A. *Purpose.* The purpose of a petition for a Subdivision Waiver to a particular standard or requirement with these Subdivision Regulations, as such are applicable to Plats or Construction Plans, is to determine whether such particular standard or requirement should be applied to an Application.
- B. *Definitions.* Subdivision Waivers shall be classified as a Minor Subdivision Waiver or Major Subdivision Waiver.
- C. *Decision-Maker.*
  1. *Minor Subdivision Waiver.*
    - a. *Decision-Maker Authority.*
      - i. The City Administrator or Assistant City Manager shall act upon a Minor Subdivision Waiver listed in Table 8.
    - b. *Appeal of a Minor Subdivision Waiver Decision.*

- i. *Appeal Review and Recommendation.* An appeal of the Minor Subdivision Waiver decision may be considered by the Commission.
- ii. *Appeal Decision.* If further appeal is made, the City Council shall then act on such an appeal. (See 7.01.J Minor Subdivision Waiver Appeal)

Table 8. Minor Subdivision Waiver		
Section	Standard	City Administrator/ Assistant City Manager
1.06.A.8	Thoroughfare Plan	Approve
3.01.B	Waiver of Application Information	Approve
6.06.N	Dead-End Alleys	Approve
6.10.D	Right Angles for Side Lot Lines	Approve
6.05.D	Traffic Impact Analysis	Approve
6.13.A.5	Water Lines Extended to Subdivision Borders	Approve
6.14.A.5	Wastewater Lines Extended to Subdivision Borders	Approve

2. *Major Subdivision Waiver.*

- a. *Decision Maker Authority.* After review and recommendation from the Commission, the City Council shall decide a Major Subdivision Waiver.

D. *Subdivision Waiver Applicability.*

1. *Waiver of Standard or Requirement.*

- a. An Applicant may request a Subdivision Waiver of a particular standard or requirement applicable to a Preliminary Plat, to Construction Plans, or where no Preliminary Plat Application has been submitted for approval, to a Final Plat or a Replat.
- b. A Subdivision Waiver petition shall be specific in nature, and shall only involve relief consideration for one particular standard or requirement.
- c. An Applicant may, if desired, submit more than one Subdivision Waiver petition if there are several standards or requirements at issue.
- d. For processing a Subdivision Waiver in relationship with a Plat Application, an Applicant shall submit a Waiver of Right to 30-Day Action in accordance with 3.03.D Waiver of Right to 30-Day Action.

2. *Waiver Petition Acceptance.*

- a. A petition for a Subdivision Waiver shall not be accepted in lieu of:
  - i. A Subdivision Proportionality Appeal (7.02); or
  - ii. A Subdivision Vested Rights Petition (7.03).
- b. If there is a question as to whether a Subdivision Proportionality Appeal or Subdivision Vested Rights Petition is required instead of a Subdivision Waiver petition, such determination shall be made by the City Administrator.

E. *Subdivision Waiver Submission Procedures.*

1. *Written Waiver Request with Application.*

- a. A request for a Subdivision Waiver shall be submitted in writing by the Applicant with the filing of a Preliminary Plat, Construction Plans, Final Plat or Replat, as applicable.

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- b. No Subdivision Waiver may be considered or granted unless the Applicant has made such written request.
2. *Grounds for Waiver.*
- a. The Applicant's request shall state the grounds for the Subdivision Waiver request and all of the facts relied upon by the Applicant.
  - b. Failure to do so, will result in denial of the Application unless the Applicant submits a Waiver of Right to 30-Day Action in accordance with 3.03.D Waiver of Right to 30-Day Action.
- F. *Subdivision Waiver Criteria.*
1. *Undue Hardship Present.* A Subdivision Waiver to regulations within this Subdivision Ordinance may be approved only when, in the Decision-Maker's opinion, undue hardship will result from strict compliance to the regulations.
  2. *Consideration Factors.* The Decision-Maker shall take into account the following factors:
    - a. The nature of the proposed land use involved and existing uses of the land in the vicinity;
    - b. The number of persons who will reside or work in the proposed development; and
    - c. The effect such Subdivision Waiver might have upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.
  3. *Findings.* No Subdivision Waiver shall be granted unless the Decision-Maker finds:
    - a. That there are special circumstances or conditions affecting the land involved or other constraints such that the strict application of the provisions of this Subdivision Ordinance would deprive the Applicant of the reasonable use of his or her land; and
    - b. That the Subdivision Waiver is necessary for the preservation and enjoyment of a substantial property right of the Applicant, and that the granting of the Subdivision Waiver will not be detrimental to the public health, safety or welfare or injurious to other property in the area; and
    - c. That the granting of the Subdivision Waiver will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this Subdivision Ordinance.
  4. *Intent of Subdivision Regulations.*
    - a. A Subdivision Waiver may be granted only when in harmony with the general purpose and intent of the Subdivision Ordinance so that the public health, safety and welfare may be secured and substantial justice done.
    - b. Financial hardship to the Applicant shall not be deemed to constitute undue hardship.
  5. *Minimum Degree of Variation.* No Subdivision Waiver shall be granted unless it represents the minimum degree of variation of requirements necessary to meet the needs of the Applicant.
  6. *Violations and Conflicts.* The Decision-Maker shall not authorize a Subdivision Waiver that would constitute a violation of, or conflict with, any other valid ordinance, code, regulation, master plan or Comprehensive Plan of the City.
  7. *Falsification of Information.*
    - a. Any falsification of information by the Applicant shall be cause for the Subdivision Waiver request to be denied.

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- b. If the Subdivision Waiver request is approved based upon false information, whether intentional or not, discovery of such false information shall nullify prior approval of the Subdivision Waiver, and shall be grounds for reconsideration of the Subdivision Waiver request.
  - G. *Burden of Proof.* The Applicant bears the burden of proof to demonstrate that the requirement for which a Subdivision Waiver is requested, if uniformly applied, imposes an undue hardship or disproportionate burden on the Applicant. The Applicant shall submit the burden of proof with the original submittal.
  - H. *Subdivision Waiver Decision.*
    - 1. The Decision-Maker shall consider the Subdivision Waiver petition and, based upon the criteria set forth in 7.01.F Subdivision Waiver Criteria, shall take one of the following actions:
      - a. Deny the petition, and impose the standard or requirement as it is stated in this Subdivision Ordinance; or
      - b. Grant the petition, and waive in whole or in part the standard or requirement as it is stated in this Subdivision Ordinance.
    - 2. Decision Process for a Minor Subdivision Waiver. The Decision-Maker shall deny or grant a request for a Minor Subdivision Waiver concurrently with the decision of a Preliminary Plat, Construction Plans, Final Plat or Replat, as applicable.
    - 3. Decision Process for a Major Subdivision Waiver.
      - a. Recommendation of the Planning and Zoning Commission.
        - i. The Commission shall consider the Major Subdivision Waiver request at a public meeting no later than thirty (30) calendar days after the date on which the notice of Major Subdivision Waiver is submitted to the City Administrator.
        - ii. The Commission shall recommend to the City Council to approve or deny a request for a Major Subdivision Waiver by majority vote.
      - b. Decision by City Council.
        - i. After the recommendation from the Commission has been made, the City Council shall consider the Major Subdivision Waiver request at a public meeting no later than thirty (30) calendar days after the date on which the Commission's recommendation was made.
        - ii. The City Council may or shall approve or deny a request for a Major Subdivision Waiver by a vote of all members.
        - iii. The decision of the City Council is final.
  - I. *Notification of Decision on Petition—14 Days.* The Applicant shall be notified of the decision on the Subdivision Waiver by the applicable Decision-Maker (e.g., the City Administrator, Commission or City Council, as applicable), within fourteen (14) calendar days following the decision.
  - J. *Minor Subdivision Waiver Appeal.*
    - 1. *Initiation of an Appeal.*
      - a. The Applicant may appeal a Minor Subdivision Waiver decision of the City Administrator, as allowed within the Subdivision Ordinance.
      - b. The written request to appeal shall be submitted to the City Administrator within thirty (30) calendar days following the denial decision.
    - 2. *Recommendation of the Planning and Zoning Commission.*

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- a. The Commission shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date on which the notice of appeal is submitted to the City Administrator.
  - b. At this meeting, new information may be presented and considered, if available, that might alter the previous decision to deny the Minor Subdivision Waiver.
  - c. The Commission shall recommend to the City Council to affirm, modify or reverse the previous decision by simple majority vote.

3. *Appeal to City Council.*

- a. The Applicant may appeal the Commission's decision by submitting a written notice of appeal to the City Administrator within thirty (30) calendar days following the Commission's decision.
- b. After the recommendation from the Commission has been made, the City Council shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date on which the Commission's recommendation was made.
- c. The City Council may affirm, modify or reverse the decision by simple majority vote.
- d. The decision of the City Council is final.

K. *Effect of Approval.*

1. *Submission and Processing.* Following the granting of a Subdivision Waiver, the Applicant may submit or continue the processing of a Plat or Construction Plans, as applicable.
2. *Expirations.* The Subdivision Waiver granted shall remain in effect for the period the Plat or Construction Plans are in effect, and shall expire upon expiration of either or both of those Applications.
3. *Extensions.* Extension of those Applications shall also result in extension of the Subdivision Waiver.

(Ord. No. 2020-O-38 , §§ 2, 3, 11-16-2020)

**Subdivision proportionality appeal.**

A. *Purpose and Applicability.*

1. *Purpose.* The purpose of a petition for relief from a dedication, construction requirement, or a requirement to pay a fee, other than an impact fee authorized by Chapter 395 of the Texas Local Government Code is to ensure that the imposition of uniform dedication, construction, and fee standards to a proposed development does not result in a disproportionate burden on the property owner, taking into consideration the nature and extent of the demands created by the proposed development on the City's roadways and public facilities systems.
2. *Applicability.*
  - a. An Applicant may file a petition for relief under this 7.02 Subdivision Proportionality Appeal to contest any requirement to dedicate land or to construct Public Improvements as required by this Subdivision Ordinance, other ordinance, or attached as a condition to approval of the Application.
  - b. A petition under this 7.02 Subdivision Proportionality Appeal shall not be used to waive standards on grounds applicable to any Subdivision Waiver Application, as outlined in 7.01 Petition for Subdivision Waiver.

B. *Petition Requirements.*

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1. **Form of Petition.** The petition for relief from a dedication, construction, or fee requirement shall allege that Application of the standard relating to the requirement is not roughly proportional to the nature and extent of the impacts created by the proposed development on the City's water, wastewater, storm drainage, parks or roadway system or does not reasonably benefit the proposed development.
  2. **Study Required.** The Applicant shall provide a study in support of the petition for relief that includes the following information:
    - a. **Capacity Utilized.**
      - i. Total capacity of the City's water, wastewater, storm drainage, parks or roadway system to be utilized by the proposed development, employing standard measures of capacity and equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the development.
      - ii. If the proposed development is to be developed in phases, such information also shall be provided for the entire development proposed, including any phases already developed.
    - b. **Capacity Supplied.**
      - i. Total capacity to be supplied to the City's water, wastewater, storm drainage, parks or roadway system by the proposed dedication of an interest in land or construction of Public Improvements.
      - ii. If the Application is part of a phased development, the information shall include any capacity supplied by prior dedications or construction of Public Improvements.
    - c. **Capacity Comparison.**
      - i. Comparison of the capacity of the City's public facilities system(s) to be consumed by the proposed development with the capacity to be supplied to such system(s) by the proposed dedication of an interest in land, construction of Public Improvements, or payment of a fee.
      - ii. In making this comparison, the impacts on the City's public facilities system(s) from the entire development shall be considered.
    - d. **Oversizing.** The effect of any City participation in the costs of oversizing the Public Improvement to be constructed in accordance with the City's requirements.
    - e. **Other Information.** Any other information that shows the alleged disproportionality between the impacts created by the proposed development and the dedication or construction requirement imposed by the City.
  3. **Time for Filing Petition and Study.**
    - a. A petition for relief from a dedication, construction, or fee requirement shall be filed with the City Administrator within fourteen (14) calendar days following the City Council's decision to conditionally approve or deny an Application.
    - b. The study in support of the petition shall be filed within sixty (60) calendar days following the initial decision, unless the Applicant (petitioner for relief) seeks an extension in writing.
    - c. The City Administrator may extend the time for submitting the study for a period not to exceed an additional thirty (30) calendar days for good cause shown.
  4. **Land in Extraterritorial Jurisdiction (ETJ).** Where land or facilities to be dedicated are located in the ETJ of the City and are to be dedicated to the County, a petition for relief or study in support of the petition shall be accepted as complete for review by the City Administrator only when such petition or study is

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accompanied by verification that a copy has been delivered to and accepted by the County, as applicable.

C. *Processing of Subdivision Proportionality Appeal Petitions and Decision.*

1. *Responsible Official.* The City Administrator shall be the Responsible Official for a petition for relief from a dedication or construction requirement.
2. *Review and Recommendation.*
  - a. The City Administrator shall review the petition and supporting study and shall make a recommendation to:
    - i. The Commission, and
    - ii. The City Council.
  - b. In response to a petition for relief from a dedication or construction requirement pursuant to 7.02 Subdivision Proportionality Appeal and to achieve proportionality between the demands created by a proposed development on public facilities and the obligation to provide adequate public facilities, the City may participate in the costs of Public Improvements, credit or offset the obligations against payment of impact fees, or relieve the property owner any of the obligations.
3. *Decision-Maker.* The City Council shall decide the Subdivision Proportionality Appeal petition, after receiving a recommendation from the Planning and Zoning Commission.
4. *Public Hearing Held within 60 Days after Receipt of Study.* The City Council shall conduct a public hearing within sixty (60) calendar days after the study supporting the petition (refer to Section 7.02.B) is filed with the City Administrator.
5. *Burden of Proof.* The Applicant bears the burden of proof to demonstrate that the Application of a dedication or construction requirement that is uniformly applied imposes a disproportionate burden on the Applicant.
6. *Decision.* The City Council shall consider the petition for relief from a dedication or construction requirement based upon the following criteria:
  - a. The City Council shall determine whether the Application of the standard or condition is roughly proportional to the nature and extent of the impacts created by the proposed development on the City's water, wastewater, storm drainage, parks or roadway system, and whether the Application of the standard or condition reasonably benefits the development.
  - b. In making such determination, the City Council shall consider the evidence submitted by the Applicant, the report and recommendation of the City Administrator and, where the property is located within the City's ETJ, any recommendations from the County, as applicable.
7. *Action.* Based on the criteria in 7.02.C.6, the City Council shall take one of the following actions:
  - a. Deny the petition for relief, and impose the dedication or construction requirement as required by this Ordinance; or
  - b. Grant the petition for relief, and waive any dedication or construction requirement to the extent necessary to achieve proportionality; or
  - c. Grant the petition for relief, and direct that the City participate in the costs of acquiring land for or constructing the Public Improvement under standard participation policies.
8. *Notification of Decision on Petition.* The City Administrator shall notify the Applicant of the decision on the petition for relief within fourteen (14) calendar days following the City Council's decision.

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- D. *Expiration or Failure to File Application.* Where an Application was denied based upon the imposition of the standard requiring dedication of land or construction of a required Public Improvement and the City Council's decision is to grant some level of relief, the Applicant shall resubmit the Application within sixty (60) calendar days following the date the petition for relief is granted, in whole or in part, showing conformity with the City Council's decision on the petition.
1. If the Application is not resubmitted within the sixty (60) day period, the relief granted by the City Council on the petition shall expire.
  2. If the re-submittal of the Application is modified in any other way, a new petition for relief may be required by the City Administrator.
  3. If the Application for which relief was granted is denied on other grounds, a new petition for relief may be required by the City Administrator.
- E. *Effect of Relief.*
1. The City Administrator may require the Applicant to submit a modified Application or supporting materials consistent with the relief granted by the City Council on the petition.
  2. The relief granted on the petition shall remain in effect for the period the Application is in effect, and shall expire upon expiration of the plat or related Application.

### **Subdivision vested rights petition.**

- A. *Purpose.* In accordance with the Texas Local Government Code, Chapter 245 or successor statute, the purpose of a Subdivision Vested Rights Petition is to determine whether an Application should be processed under the terms of a previous ordinance, to provide a process for determination of possible vested status, and to determine when certain permits are subject to expiration.
- B. *Applicability of a Subdivision Vested Rights Petition.*
1. *Any Application.* A Subdivision Vested Rights Petition may be submitted for any Application authorized by this Subdivision Ordinance.
  2. *Prohibit Joint Submission.* A Subdivision Vested Rights Petition cannot be submitted by an Applicant along with submission of a request for a text amendment to this Subdivision Ordinance, a Zoning Map amendment, or any other request for a legislative decision by the City Council.
- C. *Petition Submission.*
1. *Filing.* A Subdivision Vested Rights Petition shall be submitted to the City's Responsible Official and shall be in accordance with the Texas Local Government Code, Chapter 245 or successor statute.
  2. *Automatic Waiver.* Submission of a Subdivision Vested Rights Petition shall require a Waiver of Right to 30-Day Action (See Section 3.03.D).
  3. *Stay of Further Proceedings.* Submission of a Subdivision Vested Rights Petition shall stay further proceedings on the related Application until a final decision is reached on the Subdivision Vested Rights Petition.
- D. *Time for Filing a Petition and Application.*
1. A Subdivision Vested Rights Petition shall be filed jointly with an Application for which a vested right is claimed.
  2. A Subdivision Vested Rights Petition may be filed without a joint Application if the petition is filed pursuant to Section 7.03.K Dormant Projects.

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3. Where more than one Application is authorized to be filed simultaneously by this Subdivision Ordinance, the petition may be filed simultaneously for each Application.
- E. *Petition Requirements.* The Subdivision Vested Rights Petition shall allege in writing that the Applicant has a vested right for some or all of the land subject to the Application under Texas Local Government Code, Chapter 245 or successor statute, or pursuant to Texas Local Government Code, Section 43.002 or successor statute or other applicable law, that requires the City to review and decide the Application under standards that were in effect prior to the effective date of the currently applicable standards. The petition shall include the following information and documents:
1. The name, mailing address, phone number and fax number of the property owner (or the property owner's duly authorized agent).
  2. Identification of the property for which the person claims a vested right.
  3. Identification of the project, as that term is defined in Local Government Code Section 245.001(3), and the permit application, permit, or plan for development giving rise to the project.
  4. A narrative description of the grounds for the petition, including a statement as to whether the petition asserts a vested right related to a specific standard or to an entire project;
  5. A copy of each approved or pending Application which is the basis for the contention that the City may not apply current standards to the Application which is the subject of the petition;
  6. The Official Vesting Date of the Application;
  7. The date the subdivision for which the Application was submitted was commenced;
  8. Identification of all standards otherwise applicable to the Application from which relief is sought;
  9. Identification of any current standards which Applicant agrees can be applied to the Application at issue;
  10. A narrative description of how the Application of current standards affect proposed landscaping, Usable Open Space or park dedication, shown on the Application for which the petition is filed;
  11. A copy of any prior vested rights determination involving the same land; and
  12. Whenever the Applicant alleges that an Application subject to expiration should not be terminated, a description of the events constituting Progress Towards Completion of the subdivision for which the application was approved.
- F. *Decision of a Subdivision Vested Rights Petition.*
1. Reviewing a Subdivision Vested Rights Petition.
    - a. The Responsible Official for a Subdivision Vested Rights Petition is the same as that for reviewing the Application with which the petition is associated.
    - b. Where multiple Applications are submitted, and there is more than one Responsible Official, the decision of each Responsible Official shall be coordinated with that of any other Responsible Official on the Subdivision Vested Rights Petition.
    - c. The City Attorney shall also be notified of the Subdivision Vested Rights Petition following its filing and acceptance for processing.
    - d. The Applicant shall reimburse the City for all related legal costs for review of a Subdivision Vested Rights Petition. This reimbursement shall be paid in full prior to filing of the Final Plat.
  2. Decision by the Responsible Official on a Subdivision Vested Rights Petition.

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- a. If the City Administrator or Responsible Official is the Decision-Maker on the original related Application, that official shall determine whether the relief requested in the Subdivision Vested Rights Petition should be granted in whole or in part, and shall formulate a written report summarizing the Decision-Maker's reasoning and recommendation.
  - b. The Applicant shall be notified of the decision within fourteen (14) calendar days following the date the Subdivision Vested Rights Petition was filed at the City.
  - c. The City Administrator or Responsible Official may defer making a decision on the Subdivision Vested Rights Petition and instead forward the petition to the Commission for a decision, in accordance with the process outlined in 7.03.F.3.
3. Decision by Commission on a Subdivision Vested Rights Petition.
    - a. If the original related Application is to be decided by the Commission, or if the City Administrator or Responsible Official defers making a decision on a Subdivision Vested Rights Petition pursuant to 7.03.F.2.c, the Responsible Official for that type of Application shall submit a report in the form of a recommendation on the petition to the Commission.
    - b. The Commission shall render a decision on the petition within thirty (30) calendar days following the date the petition was filed at the City or deferred by the City Administrator or Responsible Official.
    - c. The Commission's decision on a petition shall be upon a simple majority vote of the full Commission's voting members.
  4. Decision by City Council on a Subdivision Vested Rights Petition.
    - a. Where the City Council is the final Decision-Maker on the related Application, or for any petition submitted pursuant to Paragraph K. Dormant Projects, the Responsible Official for that type of Application shall submit a report in the form of a recommendation on the petition to the City Council.
    - b. The City Council shall render a decision on the petition within thirty (30) calendar days following the date the petition was filed at the City.
    - c. The City Council's decision on a petition shall be upon a simple majority vote of the full City Council's voting members, and shall be final.
  5. Appeal to the Council of a Decision on Subdivision Vested Rights Petition.
    - a. For an Applicant-Initiated Appeal. The Applicant may appeal the City Administrator or Responsible Official's or Commission's decision on the Subdivision Vested Rights Petition to the City Council by submitting written notice of appeal to the applicable Responsible Official within fourteen (14) calendar days following the date of such decision.
      - i. A letter stating the reasons for the appeal, citing the specific applicable section(s) of the Subdivision Ordinance, shall be submitted by the Applicant.
    - b. For a City Council-Initiated Appeal. No less than four (4) voting members of the City Council may appeal the Responsible Official's or Commission's decision on the Subdivision Vested Rights Petition to the entire City Council by submitting written notice of appeal to the applicable Responsible Official within fourteen (14) calendar days following the date of such decision.
      - i. The Council shall consider and act on whether it will appeal the decision at its first regular meeting (for which there is time to include such appeal on its posted agenda, as required by State law) that occurs after the date at which the decision was made.

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- ii. Written notice of the City Council's vote to appeal shall be submitted to the City Administrator within seven (7) calendar days following the City Council's vote to appeal the decision.
      - c. The City Council shall hear and decide the appeal within thirty (30) calendar days following receipt of the notice of appeal by the City.
      - d. Approval of an appeal by the City Council shall only be upon a favorable vote of at least four (4) of the City Council's voting members, and shall be final.
  - G. *Criteria for Subdivision Vested Rights Petition Approval.*
    - 1. *Factors.* The Decision-Maker shall decide the Subdivision Vested Rights Petition based upon the following factors:
      - a. The nature and extent of prior Applications filed for the land subject to the petition;
      - b. Whether any prior vested rights determinations have been made with respect to the property subject to the petition;
      - c. Whether any prior approved Applications for the property have expired or have been terminated in accordance with State law or local ordinances;
      - d. Whether current standards adopted after commencement of the project affect proposed use of the land, landscaping or tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage or building size based upon the proposed Application;
      - e. Whether any statutory exception applies to the standards in the current Subdivision Regulations from which the Applicant seeks relief;
      - f. Whether any prior approved Applications relied upon by the Applicant have expired; and
      - g. Any other applicable provisions outlined in Chapter 245 or Section 43.002 of the Texas Local Government Code, or successor statutes.
    - 2. *Conditions for a Pending Application.* If the claim of vested rights is based upon a pending Application, subject to standards that have been superseded by current standards of this Subdivision Ordinance, the Decision-Maker may condition any relief granted on the Subdivision Vested Rights Petition on the approval of the pending Application.
  - H. *Action and Record of Action on the Subdivision Vested Rights Petition.*
    - 1. *Action.* The Decision-Maker may take any of the following actions:
      - a. Deny the relief requested in the petition, and direct that the Application shall be reviewed and decided under currently applicable standards; or
      - b. Grant the relief requested in the petition, and direct that the related Application be reviewed and decided in accordance with the standards contained in identified prior regulations; or
      - c. Grant the relief requested in part, and direct that certain identified current standards be applied to the related Application, while standards contained in identified prior regulations also shall be applied.
    - 2. *Record.* The Responsible Official's report and the decision on the Subdivision Vested Rights Petition shall be recorded in writing in an order identifying the following:
      - a. The nature of the relief granted, if any;
      - b. The related Application(s) upon which relief is premised under the petition;

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- c. Current standards that shall apply to the related Application for which relief is sought, if applicable;
  - d. Prior standards that shall apply to the related Application for which relief is sought, including any procedural standards, if applicable;
  - e. The statutory exception or other grounds upon which relief is denied in whole or in part on the petition; and
  - f. To the extent feasible, subsequent related Applications that are subject to the same relief granted on the petition.
- I. *Effect of the Final Petition Decision on Related Applications.*
- 1. **Petition Decision Required Before Proceeding with Application.** A final decision on the Subdivision Vested Rights Petition must be achieved prior to further processing, and prior to any consideration of, or decision on, the related Application.
  - 2. **Revision Made (if necessary) to Related Application After Petition Decision.** Following the City's final decision on a petition, the Applicant shall, if necessary, revise the related Application such that it conforms to the City's decision on the petition.
  - 3. **Related Applications with Revisions.** After submission of a revised related Application, the Decision-Maker on the related Application shall review and consider the revised Application in accordance with the procedures for deciding that type of Application, as outlined in this Subdivision Ordinance, and in conformity with any relief granted.
  - 4. **Related Applications without Revisions.** If the relief granted on the petition is consistent with the related Application on file, no revisions shall be necessary, and the related Application shall be deemed submitted at the time of the final decision on the petition.
- J. *Expiration and Extension of a Subdivision Vested Rights Petition.*
- 1. **Expiration.** Relief granted on a Subdivision Vested Rights Petition shall expire on occurrence of one of the following events:
    - a. The Applicant fails to submit a revised Application that is consistent with the relief granted, if any, within sixty (60) calendar days following the final decision on the petition;
    - b. The Application for which relief was granted on the petition is denied; or
    - c. The Application for which relief was granted on the petition expires.
  - 2. **Extension.** Extension of the date of expiration for the Application for which relief was granted on a petition shall result in extension of the relief granted on the petition for the same time period.
- K. *Dormant Projects.*
- 1. **Definitions.** For purposes of this Section 7.03.K only:
    - a. **Dormant Project.** A dormant project shall meet the following criteria:
      - i. An Initial Permit does not have an expiration date; and
      - ii. No Progress Towards Completion has been made within the project over 5 years.
    - b. **Initial Permit.** Initial permit means any of the following types of approvals granted under these Subdivision Regulations, or any predecessor subdivision or development-related regulation or ordinance that was in effect prior to the adoption of this Subdivision Ordinance:
      - i. Preliminary Plat,

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- ii. Construction Plans,
      - iii. Construction Release,
      - iv. Subdivision Waivers to any requirement in this Subdivision Ordinance (per 7.01 Petition for Subdivision Waiver), or
      - v. Any other Application that was approved subject to a schematic drawing illustrating the location, arrangement, orientation or design of development, lots or improvements on a site intended for development.
    - c. *Final Permit.* Final permit means a Final Plat approved under this Subdivision Ordinance, or any predecessor subdivision or development-related regulation or ordinance that was in effect prior to the adoption of this Subdivision Ordinance.
  2. *Expiration Date Established for an Initial Permit.* Any Application for an Initial Permit that was approved or filed two (2) years prior to the adoption date of this Subdivision Ordinance, and was not subject to an expiration date shall expire on the effective date of this Subdivision Ordinance.
  3. *Reinstatement of an Expired Initial Permit.*
    - a. The property owner of the land subject to an Initial Permit that expires under 7.03.K.2 (above) may petition the City Council to reinstate such Initial Permit by filing a written petition within one (1) year following the effective date of this Subdivision Ordinance.
    - b. The petition shall clearly state the grounds for reinstatement, and shall be accompanied by documentation the following:
      - i. As of two (2) years prior to the effective date of this Subdivision Ordinance, one of the following events had occurred:
        - (a) A Final Permit to continue toward completion of the project was submitted to the City for all or part of the land subject to the approved Initial Permit and was approved by the City, or was filed and was subsequently approved by the City;
        - (b) An Application for a Final Permit to continue toward completion of the project was submitted to the City for all or part of the land subject to the expired Initial Permit, but such Application was rejected on grounds of incompleteness (consistent with Texas Local Government Code, Chapter 245.005(c)(2));
        - (c) Costs for development of the land subject to the Initial Permit, including costs associated with roadway, utility and other infrastructure facilities designed to serve the land in whole or in part, but exclusive of land acquisition costs, were incurred in the aggregate amount of five percent (5%) of the most recent appraised market value of the land;
        - (d) Fiscal security was posted with the City to guarantee performance of obligations required under this Subdivision Ordinance, including the construction of required improvements associated with the proposed development, for all or a part of the land subject to the approved Initial Permit; or
        - (e) Utility connection fees for all or part of the land subject to the approved Initial Permit were paid to the City.
  4. City Council Action on Reinstatement of a Dormant Project's Expired Initial Permit. The City Council may take one of the following actions:

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- a. Reinstatement the expired Initial Permit without an expiration date, if it finds that the Applicant has met any one of the criteria listed in 7.03.K.3.b.i.
  - b. Reinstatement the Initial Permit for all or part of the land subject thereto, if it finds that the Applicant has met any one of the criteria listed in 7.03.K.3.b.i, subject to expiration dates or other conditions that ensure that the remaining land that is not subject to an approved or pending Final Permit Application will be developed in a timely fashion.
    - i. In granting relief under this provision, the City Council may require that development of such remaining land is subject to standards enacted after approval of the Initial Permit.
  - c. Deny the reinstatement petition, if it finds that the Applicant has failed to meet any of the criteria in 7.03.K.3 Reinstatement of an Expired Initial Permit); or
  - d. Reinstatement the permit for only that part of the land subject to a pending Final Permit Application, if it finds that the Applicant has met the criteria in Section 7.03.K.3.b.i and the pending Application subsequently was approved, and deny the reinstatement petition for the remaining land subject to the expired Initial Permit.

## **DEFINITIONS**

### **Usage and interpretation.**

- A. *Usage and Interpretation Rules.* For the purpose of this Subdivision Ordinance certain terms or words herein shall be interpreted or defined as follows:
  - 1. Words used in the present tense include the future tense;
  - 2. The singular includes the plural;
  - 3. The word "person" includes a corporation as well as an individual;
  - 4. The term "shall" is always mandatory;
  - 5. The term "may" is discretionary;
  - 6. The male gender shall include the female and the neutral.
- B. *Words and Terms not Expressly Defined.* Words and terms not expressly defined herein are to be construed according to the normally accepted meaning of such words or terms or, where no definition appears, then according to their customary usage in the practice of municipal planning and engineering.

### **Words and terms defined.**

For the purpose of this Subdivision Ordinance, certain terms and words are herewith defined and shall have the meaning here applied; any word not defined herein shall be determined by the City Council; to wit:

- 1. *Abutting.* Adjacent, adjoining and contiguous to. It may also mean having a lot line in common with a right-of-way or easement, or with a physical improvement such as a street, waterline, park, or open space.
- 2. *Access.* A means of approaching or entering a property, or the ability to traverse a property (such as in the use of the phrase "pedestrian access easement").

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3. *Alley*. A public Right-of-Way, not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street.
  4. *Amending Plat*. An Amending Plat applies minor revisions to a recorded plat consistent with provisions of State law, see Section 4.09 Amending Plat.
  5. *Applicant*. The person or entity responsible for the submission of an Application. The Applicant must be the actual owner of the property for which an Application is submitted, or shall be a duly authorized representative of the property owner. Also see Developer.
  6. *Application*. The package of materials, including but not limited to an Application Form, Plat, completed checklist, tax certificate, Construction Plans, special drawings or studies, and other informational materials, that is required by the City to initiate City review and approval of a development project.
  7. *Application Form*. The written form (as provided by and as may be amended by the City Administrator) that is filled out and executed by the Applicant and submitted to the City along with other required materials as a part of an Application.
  8. *Approval*.
    - a. Approval constitutes a determination by the official, board, commission or City Council responsible for such determination that the Application is in compliance with the minimum provisions of this Subdivision Ordinance.
    - b. Such approval does not constitute approval of the engineering or surveying contained in the plans, as the design engineer or surveyor that sealed the plans is responsible for the adequacy of such plans.
  9. *Major Arterial/Thoroughfare Street*.
    - a. A street designated within the Comprehensive Plan.
    - b. A principal traffic way more or less continuous across the City or areas adjacent thereto and shall act as a principal connecting street with highways as indicated in the Comprehensive Plan.
  10. *Base Flood*. The flood having a one (1) percent chance of being equaled or exceeded in any given year, determined based upon FEMA (Federal Emergency Management Agency) guidelines and as shown in the current effective Flood Insurance Study.
  11. *Block*. A tract or parcel of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad Right-of-Way, highway, stream, or corporate boundary lines.
  12. *Block Face*. The portion of a Block that abuts a street.
  13. *Block Length*. The length of the Block Face between two intersections.
  14. *Building*. Any structure built for support, shelter or enclosure of persons, animals, personal property, records or other movable property and when separated in a manner sufficient to prevent fire, each portion of such building shall be deemed a separate building.
  15. *Building Official*. The Building Official of the City or his or her designee.
  16. *Building Permit*. A permit issued by the City before a building or structure is started, improved, enlarged or altered as proof that such action is in compliance with the City code.
  17. *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/property line.

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18. *Certificate of Occupancy.* An official certificate issued by the City through the enforcement official which indicates conformance with the City's rules and regulations and which authorizes legal use of the premises.
  19. *City.* The City of Stephenville, Texas, together with all its governing and operating bodies.
  20. *City Administrator.* The officially appointed and authorized City Administrator of the City of Stephenville, Texas, and may include the City Administrator's duly authorized representative or designee, per the City Administrator's discretion.
  21. *City Attorney.* The person(s) so designated by the City Council to provide oversight for and have legal responsibility for the City. This term shall also include any designee of the City Attorney.
  22. *City Council.* The duly elected governing body of the City of Stephenville, Texas.
  23. *City Engineer.* The Licensed Professional Engineer or firm of Licensed Professional Consulting Engineers that has been specifically designated or contracted as such by the City Administrator.
  24. *City Secretary.* The person(s) so designated by the City Administrator to provide clerical and official services for the City Council. This term shall also include any designee of the City Secretary.
  25. *City's Engineering Official.* The person(s) so designated by the City Administrator to provide oversight for and have responsibility of the City's Public Works Department. This term shall also include any designee of the City's Engineering Official or per the City Administrator the City Engineer (which may be a private consulting firm).
  26. *City's Planning Official.* The person(s) so designated by the City Administrator to provide oversight for and have responsibility of the City's Planning and Development Department. This term shall also include any designee of the City's Planning Official. Also, this term shall be inclusive of any future variations of the term, as deemed appropriate by the City Administrator, such as "Director of Planning and Development" or "City Planner."
  27. *Collector Street.* A street which is continuous through several residential districts and is intended as a connecting street between residential districts and Major Arterial/Thoroughfare Streets, highways or business districts.
  28. *Commission.* The Planning and Zoning Commission of the City.
  29. *Comprehensive Plan*
    - a. The plan, including all revisions thereto, adopted by the City Council as the official policy regarding the guidance and coordination of the development of land in the City.
    - b. The plan indicates the general location recommended for various land uses, transportation routes, public and private buildings, streets, utilities, parks other public and private developments and improvements and population projections.
    - c. The plan may consist but is not limited to the following plan elements: Future Land Use Plan, Mobility, Housing, Livability, and Infrastructure.
  30. *Construction Details.* A separate and stand-alone document not included within this Subdivision Ordinance that provides technical construction drawings of the City's required Improvements, such as a "Standard Storm Drain Curb Inlet." The Construction Details document is developed and maintained by the City Administrator.
  31. *Construction Plans.* A set of drawings and/or specifications, including paving, water, wastewater, drainage, or other required plans, submitted to the City for review in conjunction with a subdivision or a development.

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32. *Conveyance Plat.* An interim step in the subdivision and development of land, a Conveyance Plat is a plat designed to subdivide land and to provide for recordation for the purpose of conveying (*i.e.*, selling) the property without developing it. A Conveyance Plat does not constitute approval for any type of development on the property.
  33. *Council.* See City Council.
  34. *County.* Erath County.
  35. *Crosswalk Way.* A public Right-of-Way, four (4) feet or more in width between property lines, which provides pedestrian circulation.
  36. *Cul-de-Sac.* A short, residential street having but one vehicular access to another street, and terminated on the opposite end by a vehicular turnaround.
  37. *Curb Level.*
    - a. The level of the established curb in front of the building measured at the center of such front.
    - b. Where no curb has been established, the City Administrator shall establish such curb or its equivalent for the purpose of this Subdivision Ordinance.
  38. *Date of Adoption.* The date of adoption of this Subdivision Ordinance shall be the date this ordinance becomes effective.
  39. *Dead-End Street.* A street, other than a cul-de-sac, with only one outlet.
  40. *Decision-Maker.* The City official or group, such as the City Administrator, City Council, or Planning and Zoning Commission, responsible for deciding action on an Application authorized by this Subdivision Ordinance.
  41. *Developer.*
    - a. A person or entity, limited to the property owner or duly authorized representative thereof, who proposes to undertake or undertakes the division, developments, or improvement of land and other activities covered by this Subdivision Ordinance.
    - b. The word Developer is intended to include the terms Subdivider, property owner, and, when submitting platting documents, Applicant.
  42. *Development.* Any manmade change to improved or unimproved real estate, including but not limited to, buildings and/or other structures, paving, drainage, utilities, storage, and agricultural activities.
  43. *Development Agreement.* Agreement between the City and a Subdivider, which includes provisions for construction of Public Improvements, City participation, pro rata agreements, escrow deposits, and other provisions for the development of land. (See 5.05 Development Agreements and Security for Completion for details.)
  44. *Development Application.* An Application, developed and updated by the City Administrator, for any type of plan, permit, plat or Construction Plans/drawings authorized or addressed by this Subdivision Ordinance. Also may be referred to as a permit within the Texas Local Government Code, Chapter 245.
  45. *Development Application Handbook.* A collection of Application Forms created, updated, and managed by the City Administrator. (See 3.01.D.)
  46. *Development Plat.* A Plat required prior to development (*i.e.*, any new construction or the enlargement of any exterior dimension of any building, structure, or improvement), in accordance with Local Government Code 212, Subchapter B (212.045), in lieu of other Subdivision Plats (established in LGC 212, Subchapter A) required by this Subdivision Ordinance and in accordance with Section 4.11 Development Plat.

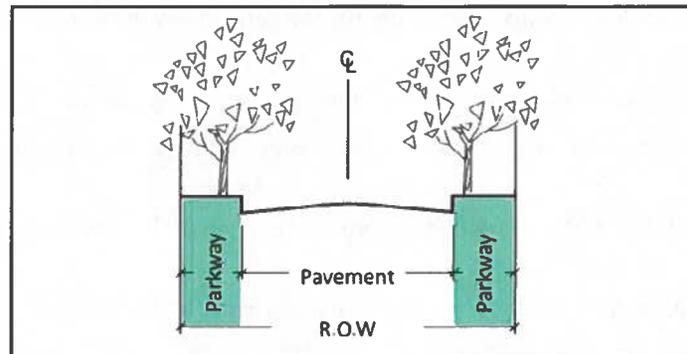
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47. *Director of Community Services.* The person(s) so designated by the City Administrator to perform and manage tasks related to community services. This term shall also include any designee of the Director of Community Services.
  48. *Dwelling, Multi-Family.* Any building, or portion thereof, which is designed, built, rented, leased or let to be occupied as three or more dwelling units or apartments, or which is occupied as a home or place of residence by three or more families living in independent and separate housekeeping units.
  49. *Dwelling, Single Family (attached—duplex).* A building designed for occupancy for two (2) families living independently of each other. A two family attached unit (also known as a duplex) has a lot line dividing the building and separating the building's two (2) dwellings units onto two (2) separate lots.
  50. *Dwelling, Single Family (attached—townhouse).* A dwelling which is joined to another dwelling at one or more sides by a party wall or abutting separate wall, and which is designed for occupancy by one family and is located on a separate lot delineated by front, side and rear lot lines.
  51. *Dwelling, Single Family (detached).* A dwelling designed and constructed for occupancy by one family and located on a lot or separate building tract and having no physical connection to a building located on any other lot or tract and occupied by one family.
  52. *Dwelling Unit.* One or more rooms, which are arranged, designed, used, or intended to be used for occupancy by a single family or group of persons living together as a family or by a single person.
  53. *Easement.*
    - a. Authorization by a property owner for another to use any designated part of the owner's property for a specified purpose or use and evidenced by an instrument or plat filed with the County Clerk. Among other things, easements may be used to install and maintain utility lines, drainage ditches or channels, or for other City or public services.
    - b. An area established for public purposes on private property upon which the City shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs, or other improvements or growths which in any way endanger or interfere with the construction, maintenance, or efficiency of City systems.
    - c. The City shall at all times have the right of ingress and egress to and from and upon the said easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, and adding to or removing all or part of its respective systems without the necessity at any time or procuring the permission of anyone.
  54. *Easement, Common Access.* An easement to provide shared access to and from commercial, and industrial owned and maintained by the owners of the property upon which the easement is located or as otherwise provided by deed restrictions or the terms of the easement instrument.
  55. *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 and who is specifically qualified to design and prepare Construction Plans and specifications for public works improvements.
  56. *Engineering Plans.* See Construction Plans.
  57. *Engineering Standards Manual.* A separate and stand-alone document or compilation of documents not included within this Subdivision Ordinance, the Engineering Standards Manual (ESM) details specific engineering requirements (e.g., drainage criteria) for the construction of Public Improvements. The ESM is developed and maintained by the City Administrator or designated responsible official.
  58. *ESM.* ESM is an abbreviation of Engineering Standards Manual.

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59. *Extraterritorial Jurisdiction (ETJ)*. The unincorporated area, not a part of any other municipality, which is contiguous to the corporate limits of the City, the outer limits of which are measured from the extremities of the corporate limits of the City outward for the distance as stipulated in Chapter 42 of the Texas Local Government Code, according to the population of the City, and in which area the City may regulate subdivisions and enjoin violation of provisions of this Subdivision Ordinance.
  60. *Fee Schedule*. A listing of fees for various City Applications, which is prepared by the City Administrator and approved by City Council and may be amended periodically. The Fee Schedule is approved separately from this Subdivision Ordinance.
  61. *Final Acceptance*. The acceptance by the City of all infrastructure improvements constructed by the Developer in conjunction with the development of land.
  62. *Final Plat*.
    - a. 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 all boundaries, corners and curves of the land division sufficiently described so that they can be reproduced without additional references.
    - b. The Final Plat of any lot, tract, or parcel of land shall be recorded in the Deed Records of Erath County, Texas.
    - c. A Final Plat may also be referenced as a Record Plat or Final Plat.
  63. *Flood Plain*. The area subject to be inundated by water from the Base Flood.
  64. *Floodway*. A natural drainage area which accommodates the design flood for existing creeks and open drainage ways.
  65. *Floor Area*. The habitable area of a building that is served by a conditioned air system, but specifically excluding porches, patios, breeze-ways, automobile storage areas, garages, workshops, attic storage areas and basements.
  66. *Frontage*. All the property abutting on one (1) side of the street, or between two (2) intersecting streets, measured along the street line.
  67. *Homeowners' or Property Owners' Association*. A formal nonprofit organization operating under recorded land agreements through which:
    - a. Each lot and/or property owner in a specific area is automatically a member; and
    - b. Each lot or property interest is automatically subject to a charge for a proportionate share of the expense for the organization's activities, such as the maintenance of common property; and
    - c. The charge if unpaid, becomes a lien against the nonpaying member's property.
  68. *Improvement*. Any man-made fixed item which becomes part of or placed upon real property, see also Public Improvement.
  69. *Infrastructure*. All streets, alleys, sidewalks, storm drainage, water, and wastewater facilities, utilities, lighting, transportation, and other facilities as required by the City.
  70. *Land Planner*. A person(s) other than Surveyors or Engineers who also possess and can demonstrate a valid proficiency in the planning of residential, commercial, industrial and other related developments; such proficiency often having been acquired by education in the field of landscape architecture or other specialized planning curriculum and/or by actual experience and practice in the field of land planning and who is a member of the American Planning Association.

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71. *Letter of Final Acceptance.* Notification to an Applicant from the City Administrator that all improvements are completed, inspected, tested (if applicable), and determined by the City to be in conformance with this Subdivision Ordinance and with the City's design/engineering standards and all improvements are accepted by the City or will be accepted contingent to the approval of a Final Plat.
  72. *Lot.* Land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under this Subdivision Ordinance, and having its principal frontage upon a street or officially approved place.
  73. *Lot, Corner.*
    - a. A lot situated at the junction of two (2) or more streets.
    - b. A corner lot shall be deemed to front on the street on which it has its smallest dimensions, or as otherwise designated by the Planning and Zoning Commission.
  74. *Lot, Depth.* The mean horizontal distance from the front street line to the rear line.
  75. *Lot, Interior.* A lot, the side line of which does not abut on any street.
  76. *Lot, Through.* An interior lot having frontage on two (2) streets. Such through lot shall provide a front yard on each street.
  77. *Lot Lines.* The lines bounding a lot as defined herein.
  78. *Lot of Record.* A lot which is part of a subdivision, a map of which has been recorded in the office of the County Clerk.
  79. *Lot Width.* The mean horizontal distance between side lines measured at right angles to the depth.
  80. *Major Subdivision Waiver.* See Waiver, Major Subdivision.
  81. *Manual on Uniform Traffic Control Devices.* The Manual on Uniform Traffic Control Devices, or MUTCD defines the standards used by road managers nationwide to install and maintain traffic control devices on all public streets, highways, bikeways, and private roads open to public traffic. The MUTCD is published by the Federal Highway Administration (FHWA) under 23 Code of Federal Regulations (CFR), Part 655, Subpart F.
  82. *Minor Plat.* A plat dividing land into no more than four (4) lots that meets the submission and approval requirements of Section 4.07 Minor Plat. Such plat is also considered a Final Plat.
  83. *Minor Replat.* Pursuant to Texas Local Government Code 212.0065, a Minor Replat is a Replat involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities. See Section for 4.08.G.2 Minor Replat details.
  84. *Minor Subdivision Waiver.* See Waiver, Minor Subdivision.
  85. *Official Submission Date.*
    - a. A calendar of official submission dates for subdivision related Applications requiring City review and approval pursuant to Texas Local Government Code Chapter 212.
    - b. See 3.02 Official Submission Date and Official Vesting Date for further details and standards.
  86. *Official Vesting Date.*
    - a. Pursuant to Texas Local Government Code Chapter 245, an Application or plan for development is considered filed on the date the Applicant delivers the Application or plan to the City or deposits the application or plan with the United States Postal Service by certified mail addressed to the City.

b. See 3.02 Official Submission Date and Official Vesting Date for further details and standards.

87. *Parkway*. Within the Right-of-Way, the area between the property line and the nearest curb or edge of the roadway (if no curb exists.) See Figure 10: Example of a Parkway for visual depiction of a parkway.



88. *Park, Playground, or Community Center, Public*. An open recreational facility or park owned and operated by a public agency such as the City or the school district, and available to the general public.
89. *Parking Space*. Open space or garage space reserved exclusively for the parking of a vehicle.
90. *Paved Driveways*. Paved driveways are constructed of brick pavers, concrete pavers, hot mix asphaltic concrete, or portland cement concrete.
91. *Pavement Width*. The portion of a street available for vehicular traffic. Where curbs are laid, it is the portion between the back of the curbs.
92. *Perimeter Street*. A street which abuts a parcel of land to be subdivided on one side.
93. *Person*. Person means an individual, firm, association, organization, partnership, trust, foundation, company or corporation.
94. *Planning and Zoning Commission*. The Planning and Zoning Commission of the City.
95. *Plat*.
- A map or chart of the subdivision, lot or tract of land.
  - It shall include the term plan, plat or re-plat, in both singular or plural.
96. *Preliminary Drainage Plan*. This plan shows the watershed affecting the development and how the runoff from the fully-developed watershed will be conveyed to, through, and from the development.
97. *Preliminary Plat*.
- The graphic expression of the proposed overall plan for subdividing, improving and developing a tract shown by superimposing a scale drawing of the proposed land division on a topographic map and showing in plan view existing and proposed drainage features and facilities, street layout and direction of curb flow, and other pertinent features with notations sufficient to substantially identify the general scope and detail of the proposed development.
  - The Preliminary Plat shall serve as a means for the City to review and study the proposed division of land and/or improvements.
98. *Preliminary Storm Water Management Plan*. The purpose of the Preliminary SWMP is to identify permanent water quality feature opportunities for Subdivision development.

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99. *Preliminary SWMP.* Preliminary SWMP is an abbreviation for the graphic expression of the proposed overall plan for subdividing, improving and developing a tract shown by superimposing a scale drawing of the proposed land division on a topographic map and showing in plan view existing and proposed drainage features and facilities, street layout and direction of curb flow, and other pertinent features with notations sufficient to substantially identify the general scope and detail of the proposed development.
100. *Preliminary Utility Plan.* A plan detailing both Water Utility and Wastewater Utility requirements.
101. *Premises* referring to a sexually oriented business, premises means the building of the sexually oriented business.
102. *Progress Towards Completion.* Progress towards completion of the project shall include any one of the following:
- a. An Application for a Final Plat or plan for development is submitted;
  - b. A good-faith attempt is made to file with the City or County an Application for a permit necessary to begin or continue towards completion of the project;
  - c. Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;
  - d. Fiscal security is posted with a regulatory agency to ensure performance of an obligation required by the regulatory agency; or
  - e. Utility connection fees for the project have been paid to a regulatory agency.
103. *Pro-rata.* Pro-rata means a charge made against an existing lot abutting a utility or other city infrastructure that is the average per foot cost of the improvement, multiplied by the front footage of the land, and that is imposed to reimburse the original subdivider their cost of installing or paying for the improvement. The pro-rata must be approved as part of a subdivider agreement.
104. *Public Improvement.* Any Improvement, facility or service together with its associated public site, Right-of-Way or easement necessary to provide transportation, storm drainage, public or private utilities, parks or recreational, energy or similar essential public services and facilities, for which the City ultimately assumes the responsibility, upon a Letter of Final Acceptance being issued, for maintenance, operation and/or ownership.
105. *Record Drawings.* A group of drawings or plans that depicts the final configuration of the installed or constructed improvements of a development, improvements that have been verified by the contractor as their installation or construction occurs during development. The Record Drawings shall reflect the Construction Plans (or working drawings) used, corrected, and/or clarified in the field.
106. *Record Plat.* See Final Plat.
107. *Replat.* The re-subdivision of any or part or all of any block or blocks of a previously platted subdivision, addition, lot or tract, that is beyond the definition of an Amending Plat and which does not require the vacation of the entire preceding plat. Such plat also conforms to Section 4.08 Replat of this Subdivision Ordinance. A Replat can function as a Final Plat for a property.
108. *Residential District.* Residential district means a single family, patio home, duplex, townhouse, multifamily or mobile home zoning district as defined in the zoning ordinance.
109. *Residential Street.* A street which is intended primarily to serve traffic within a neighborhood or limited residential district and which is used primarily for access to abutting properties.

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110. *Residential Use.* Residential use means use of a structure as a residence.
111. *Responsible Official.* The City staff person who has been designated by the City Administrator to accept a type of development Application for filing, to review and make recommendations concerning such Applications, and where authorized, to initially decide such Applications, to initiate enforcement actions, and to take all other actions necessary for administration of the provisions of development Applications. Also includes any designee of the designated City staff person.
112. *Retaining Wall.* A non-building, structural wall supporting soil loads and live and dead surcharge loads to the soil, such as additional soil, structures and vehicles.
113. *Right-of-Way:*
- a. A parcel of land occupied or intended to be occupied by a street or alley.
  - b. A Right-of-Way may be used for other facilities and utilities, such as sidewalks, railroad crossings, electrical communication, oil or gas, water or sanitary or storm sewer facilities, or for any other use.
  - c. The use of Right-of-Way shall also include parkways and medians outside of pavement.
  - d. For platting purposes, the term "Right-of-Way" shall mean that every Right-of-Way shown on a Final Plat is to be separate and distinct from the lots or parcels adjoining such Right-of-Way and not included within the dimensions or areas of such lots or parcels.
114. *Setback Line.* A line within a lot, parallel to and measured from a corresponding lot line, establishing the minimum required yard and governing the placement of structures and uses on the lot.
115. *Site Plan.* A Site Plan is a detailed, scaled drawing of all surface improvements, structures, and utilities proposed for development and is associated with the zoning ordinance.
116. *Sketch Plat.* A sketch or informal plan prepared prior to the preparation of the Preliminary Plat describing the proposed design of the subdivision to be reviewed during the pre-application review process.
117. *Street.* A public Right-of-Way that provides vehicular traffic access to adjacent lands.
118. *Street Width.* The shortest distance between the property or easement lines which delineate the Right-of-Way of a street.
119. *Structure.* Anything constructed or erected, which requires location on the ground, or attached to something having a location on the ground, including, but not limited to advertising signs, billboards and poster panels, but exclusive of customary fences or boundary of retaining walls, sidewalks and curbs.
120. *Subdivider.*
- a. Any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision.
  - b. 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 to be subdivided.
121. *Subdivision.*
- a. The division of a tract or parcel of land into two or more parts or lots for the purpose, whether immediate or future, of sale or building development or transfer of ownership with the exception of transfer to heirs of an estate, and shall include re-subdivision.

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- b. Any other subdivision or re-subdivision of land contemplated by the provisions of Chapter 212, Local Government Code.
122. *Subdivision Ordinance*. The adopted Subdivision Ordinance of the City, as may be amended in the future, and may be referred to as "this Ordinance."
123. *Subdivision Plat*. A Plat (e.g., Preliminary Plat, Final Plat, Minor Plat, Replat, or Amending Plat) established in LGC 212, Subchapter A involving the subdividing of land in two (2) or more parts or the amending of a recorded Plat.
124. *Subdivision Regulations*. Any regulations and standards contained within the Subdivision Ordinance.
125. *Subdivision Waiver*. Either a Minor Subdivision Waiver or Major Subdivision Waiver, see Section 7.01 Petition for Subdivision Waiver.
126. *Surveyor*. A licensed State Land Surveyor or a Registered Public Surveyor, as authorized by the State to practice the profession of surveying.
127. *Thoroughfare*. See Major Arterial/Thoroughfare Street.
128. *Thoroughfare Plan*. The plan that guides the development of adequate circulation within the City, and connects the City street system to regional traffic carriers. Also, referred to as the Thoroughfare Plan.
129. *Usable Open Space*. An area or recreational facility that is designed and intended to be used for outdoor living and/or recreation. Usable Open Space may include recreational facilities, water features, required perimeter landscape areas, floodplain areas, and decorative objects such as art work or fountains. Usable Open Space shall not include the following:
- a. Walks,
  - b. Rooftops,
  - c. Buildings, except those portions or any building designed specifically for recreation purposes,
  - d. Parking areas,
  - e. Landscaped parking requirements,
  - f. Driveways,
  - g. Turnarounds, or
  - h. Rights-of-Way or easements for streets and alleys.
130. *Utility Easement*. See Easement.
131. *Vested Right*. A right of an Applicant requiring the City to review and decide the Application under standards in effect prior to the effective date of the standards of this Subdivision Ordinance and/or of any subsequent amendments.
132. *Vested Rights Petition*.
- a. A request for relief from any standard or requirement of the Subdivision Regulations based on an assertion that the Applicant (petitioner for relief) has acquired a Vested Right.
  - b. Such petition is regulated under Section 7.03 Subdivision Vested Rights Petition.
133. *Vision Clearance*. A space left open and unobstructed by fences, structures, shrubs, trees or other plant life along streets at the corner in front of the building line of lots contiguous to intersecting streets.
134. *Waiver, Major Subdivision*.

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- a. A significant change to both the standards and intent of the Subdivision Regulations, which involves Planning and Zoning Commission and City Council approval.
  - b. See Section 7.01 Petition for Subdivision Waiver for details.
135. *Waiver, Minor Subdivision.*
- a. A minor change to the standards, but not the intent, of these Subdivision Regulations, which involves the City Administrator approval unless otherwise noted.
  - b. See Section 7.01 Petition for Subdivision Waiver for details.
136. *Water Treatment Facility.* The facility or facilities within the water supply system which can alter the physical, chemical, or bacteriological quality of the water.
137. *Yard.*
- a. An open space other than a court, on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.
  - b. In measuring to determine the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the main building shall be used.
138. *Yard, Front.* A yard across the full width of a lot extending from the front line of the main building to the front street line of the lot.
139. *Yard, Rear.* A yard extending across the full width of the lot and measured between the rear line of the lot and rear line of the main building, except that area included in the side yard as defined below.
140. *Yard, Side.* A yard between the building and the side line of the lot and extending from the front yard to the required minimum rear yard.
141. *Zoning Ordinance.* The adopted Zoning Ordinance of the City, as may be amended in the future.

