
SECTION 7. RELIEF FROM SUBDIVISION DESIGN STANDARDS

Sec. 155.7.01. 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 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
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.
3. *Waiver from the Requirements for Sidewalks, Curbs, and/or Gutters.*
 - a. The City Administrator is authorized to grant waivers for Sidewalks, Curbs, and/or Gutters under the following conditions:
 - i. The property was platted prior to March 1, 2021; and
 - ii. The property is located outside of the City of Stephenville's Sidewalk Improvement Area as defined in Resolution No. 2019-R-05.
 - b. Waivers requested that do not qualify under the conditions outlined in Section 3.a. above must follow the procedure for a Major Subdivision Waiver.

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- c. Applicants whose request for waiver is denied by the City Administrator may appeal this decision. Appeals under Section 3 will follow the procedures for appealing a Minor Subdivision Waiver as set forth in Section J.
 - d. All approved waivers require the payment of a fee equal to 25% of the total improvement cost as determined by the city's current bid contract for such improvements. Fees collected will be dedicated to the City's Sidewalk Cost Share Program.
 - 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.
 - 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.

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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.
 - 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.

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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.*
 - 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.

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- 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.

Sec. 155.7.02. 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.*
- 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.*

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- 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 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.

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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.
- 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.

Sec. 155.7.03. Subdivision vested rights petition.

- A. *Purpose.* In accordance with TLGC, 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 TLGC, 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.
 - 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;

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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.
 - 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.
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- 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.
 - 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
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- 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;
 - 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.*

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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,
 - 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;

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- (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:
 - 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.