

ORDINANCE NO. 2022.09.27._

AN ORDINANCE OF THE CITY OF GLEN ROSE, TEXAS, AMENDING THE CITY'S SUBDIVISION ORDINANCE; REQUIRING COMPLIANCE; ESTABLISHING A FINE OF UP TO FIVE HUNDRED DOLLARS (\$500.00) FOR EACH VIOLATION; PROVIDING FOR REPEALING, SEVERABILITY AND PROPER NOTICE, MEETING, AND QUORUM CLAUSES; REQUIRING PUBLICATION; AND, ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Glen Rose (City) is a Type A General Law Municipality; and

WHEREAS, Chapter 212 of the Texas Local Government Code (TLGC) authorizes municipalities to regulate the subdivision of land; and

WHEREAS, the City has exercised the authority granted under Chapter 212 of the TLGC by adopting a Subdivision Ordinance; and

WHEREAS, in 2019 the State Legislature adopted H.B. 3167 implementing new requirements concerning plat approvals; and

WHEREAS, since then the City of Stephenville has updated its Subdivision Ordinance to comply with H.B. 3167; and

WHEREAS, rather than go through the tedious process of line-by-line bringing the Glen Rose Ordinance into compliance with the requirements of state law, staff revised the City's Subdivision Ordinance to incorporate most of the provisions found in the City of Stephenville Ordinance and have submitted the end product for consideration and adoption by the City Council; and

WHEREAS, the City has provided notification and conducted the public hearing required under Chapter 212 of the TLGC concerning the imposition of subdivision regulations; and

WHEREAS, to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality, the City Council has determined to amend the City's Subdivision Ordinance to incorporate most of the provisions found in the City of Stephenville's Subdivision Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GLEN ROSE, TEXAS:

**SECTION 1
INCORPORATION OF RECITALS**

All of the above recitals are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

**SECTION 2
CREATE ARTICLE 10.09 MISCELLANEOUS PROVISIONS
RELOCATE SEC. 10.01.001 MODEL SUBDIVISION**

Article 10.09 *Miscellaneous Provisions* is hereby created and adopted.

Sec. 10.01.001 *Model subdivision rules of state water development board* shall be relocated from Article

10.01 *General Provisions* to Article 10.09 *Miscellaneous Provisions* and redesignated as Sec. 10.09.001 *Model subdivision rules of state water development board*.

SECTION 3

RETITLE ARTICLE 10.02 "SUBDIVISION ORDINANCE" AS "DECISION MAKER AUTHORITY"

Article 10.02 *Subdivision Ordinance* shall be retitled as Article 10.02 *Decision-Maker Authority*.

SECTION 4

REPEAL CERTAIN SECTIONS OF CHAPTER 10 SUBDIVISION REGULATION

The following sections of the City of Glen Rose, Chapter 10 *Subdivision Regulation* are hereby repealed:

- 10.02.001 Division of land to be under supervision of city
- 10.02.002 Withholding improvements
- 10.02.003 Scheduling and consideration
- 10.02.004 Date of filing of plat
- 10.02.005 Definitions, Interpretation
- 10.02.006 Penalty
- 10.02.031 Procedures for Subdivision
- 10.02.032 Annexation
- 10.02.033 Zoning
- 10.02.036 Fees
- 10.02.038 Land Study
- 10.02.039 Enforcement
- 10.02.071 Preliminary Plat
- 10.02.072 Engineering plans
- 10.02.073 Final plat and plans
- 10.02.074 Submittals required for construction
- 10.02.075 Subdivision construction
- 10.02.076 Acceptance of subdivision
- 10.02.077 As-built plans
- 10.02.078 Issuance of building permits
- 10.02.079 Filing of plat
- 10.02.080 Amending plat, minor plat, or minor replat, except for Sec. 10.02.080(a)(1)

SECTION 5

RELOCATE SEC. 10.02.080(a)(1) TO 10.04.007(c)

The requirements for a minor plat as found in Sec. 10.02.080(a)(1) of Chapter 10: Subdivision Regulation is, hereby, relocated to Sec. 10.04.007(c) of the provisions adopted under Section 6 of this Ordinance.

SECTION 6

ADOPTION ARTICLES 10.01 THRU 10.05

Articles 10.01 through 10.05 are hereby adopted as written below:

ARTICLE 10.01 GENERAL PROVISIONS

10.01.001 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."

10.01.002 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 (TLGC). 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.

10.01.003 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 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;
 - 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.

10.01.004 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 found in the City's Zoning Ordinance and building codes.
- 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 TLGC 212 Subchapter A (all plats except Development Plats).
 - A) In accordance with TLGC Section 212.004, the owner of a tract of land located within the city limits or in the 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, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts must have a Plat of the subdivision prepared.
 - 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 TLGC 212 Subchapter B.

- A) Any person who proposes the development (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 ETJ of the City shall have a Development Plat of the tract prepared in accordance with TLGC 212 Subchapter B and this Subdivision Ordinance. (See Sec. 10.04.011 Development Plat for requirements.)
- B) Whenever a property owner proposes to divide land within the City or its ETJ into two (2) or more tracts, and claims exemption from TLGC 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 found in Section C above:

- 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.

10.01.005 Compliance required

Compliance with the latest version of all City ordinances, policies, and plans pertaining to the subdivision and development of land, as listed below, as well as applicable State and Federal regulations, shall be required prior to the approval of any Application pursuant to this Subdivision Ordinance:

- a) Comprehensive Plan, including all associated maps and plans
- b) Subdivision Ordinance
- c) iSWM Criteria Manual for Site Development and Construction (except for Section 3.2 Water Quality Protection)
- d) Zoning Ordinance
- e) International Family of Building Codes
- f) International Fire Code
- g) Thoroughfare Plan
- h) Other applicable portions of the City's Code of Ordinances
- i) North Central Texas Council of Government's (NCTCOG) Public Works Construction Standards.

10.01.006 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 requirements of this Subdivision Ordinance and 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 and approved by the City Council.

- b) *Facilities Sizing.* The subdivider may be required to furnish, install, and/or construct public improvements of greater size or capacity than required by this Subdivision Ordinance should the City deem such necessary or advisable to provide for future growth and expansion and agree to pay for all the costs associated with the increase in size or capacity.
- 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, **subject to City Council approval before execution**, that shall govern the Subdivision if there are any public improvements, **any cost sharing for City-requested oversized facilities**, 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:
 - A) As appropriate, provisions for **cost sharing for City-requested oversized facilities**, 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 Sec. 10.05.005 *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.~~

10.01.007 Special provisions for enforcement.

- a) *Plat Filing Requirement.*
 - 1) 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.

- 2) Sec. 10.01.007(a)(1) above shall not apply to a Minor Plat or an Amending Plat.
 - 3) No lot shall be sold or transferred until a Plat is approved or recorded.
- b) 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 10.06.001(c) and 10.06.001(d) for exemptions.
 - c) 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.
 - d) 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.
 - e) Dedications.
 - 1) Refusal or denial of a Plat by the City Council or the Planning and Zoning Commission shall be deemed a refusal by the City to accept the offered dedications shown thereon.
 - 2) 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.
 - 3) Any such dedication, before or after actual appropriation may be vacated by the Council in any manner provided by law.
 - f) 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.
 - g) 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.
 - h) 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.
 - i) 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.

- 1) 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.
- 2) 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.

10.01.07 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 ETJ 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 ETJ of the City except in conformity with the provisions of this Subdivision Ordinance.

10.01.009 Violations and fines.

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.

10.01.010 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 ETJ who wishes to subdivide such land shall conform to the following procedure.

- a) General Overview of the Platting Process.
 - 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 Sec. 10.05.005
 - 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 Articles 3, 4, and 5 of this Ordinance.

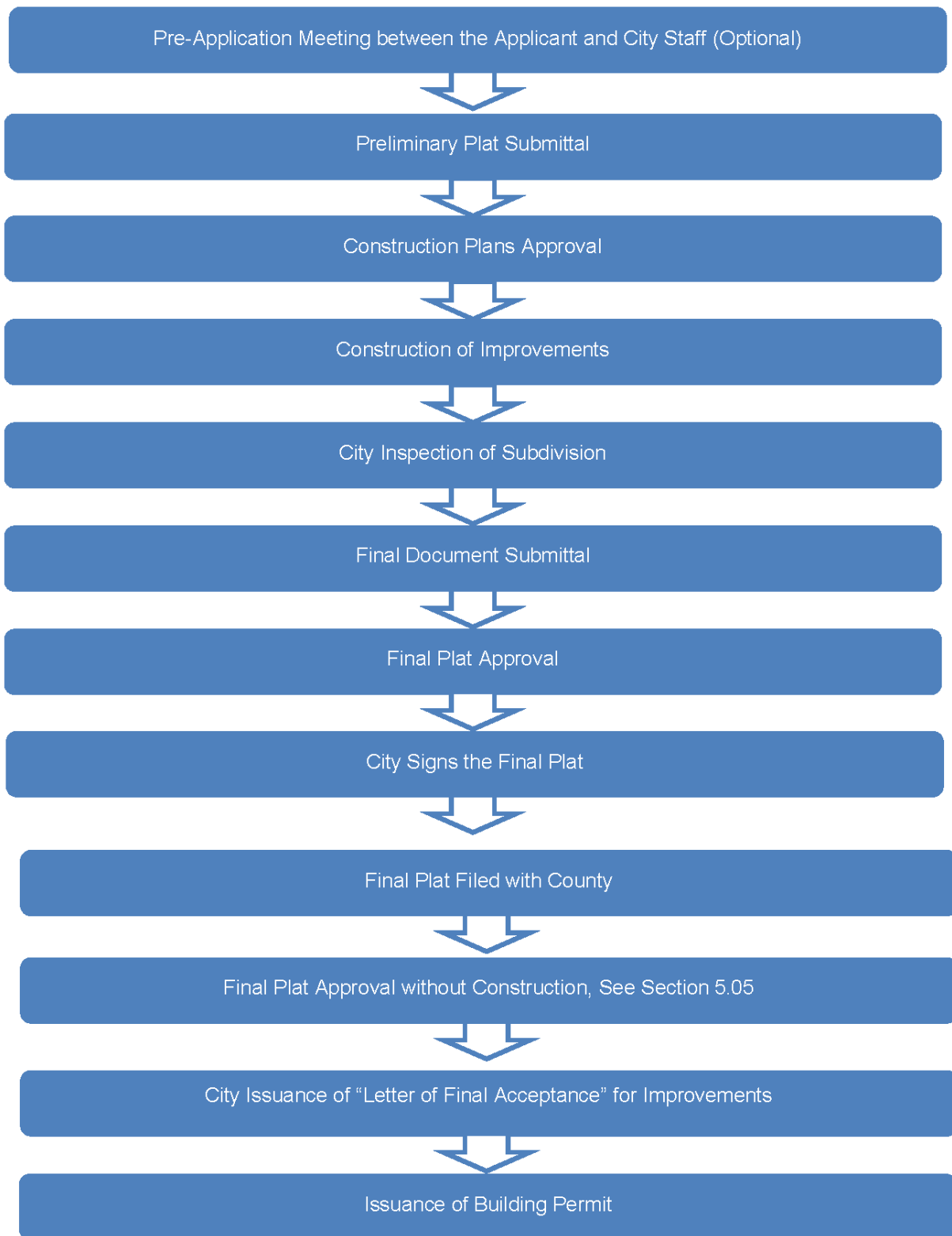


Figure 10.01.010 Summary of general subdivision procedure.

ARTICLE 10.02 DECISION-MAKER AUTHORITY

Sec. 10.02.001 City council.

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

Table 1: City Council Responsibilities	
10.04.005(j)(4)	Approving/Denying an Appeal of the Commission's Decision on a Preliminary Plat Extension
10.04.006(o)(4)	Approving/Denying an Appeal of the Commission's Decision on a Final Plat Extension
10.04.010(e)	Approving/Denying a Plat Vacation
10.07.001(c)(1)(B)	Approving/Denying an Appeal of a Minor Subdivision Waiver Decision
10.07.001(c)(2)	Approving/Denying a Major Subdivision Waiver
10.07.002(c)(3)	Approving/Denying a Subdivision Proportionality Appeal
10.07.003(f)(4)	Approving/Denying a Decision by City Council on a Subdivision Vested Rights Petition
10.07.003(f)(5)	Approving/Denying an Appeal to the Council of a Decision on Subdivision Vested Rights Petition

Sec. 10.02.002 Planning and zoning commission.

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

Table 2: Planning and Zoning Commission Responsibilities	
10.04.005(f)	Approving/Denying a Preliminary Plat
10.04.005(j)(4)(A)	Approving/Denying an Appeal of the Building Official's Decision on a Preliminary Plat Extension
10.04.006(o)(4)(A)	Approving/Denying an Appeal of the Building Official's Decision on a Final Plat Extension
10.04.006(h)	Approving/Denying a Final Plat
10.04.007(h)(1)	Approving/Denying a Deferral to the Commission of a Minor Plat Decision
10.04.008(g)	Approving/Denying a Replat
10.04.012	Approving/Denying a Conveyance Plat
10.04.008(g)(2)(B)	Approving/Denying a Deferral to the Commission of a Minor Replat Decision
10.04.009(g)(1)	Approving/Denying a Deferral to the Commission of an Amending Plat Decision
10.04.011(i)	Approving/Denying a Development Plat
10.07.001(c)(1)(B)	Approving/Denying an Appeal of a Minor Subdivision Waiver Decision
10.07.001(c)(2)	Approving/Denying a Major Subdivision Waiver

10.07.002(c)	Approving/Denying a Subdivision Proportionality Appeal
10.07.003(f)(3)	Approving/Denying a Decision by Commission on a Subdivision Vested Rights Petition

Sec. 10.02.003 City Administrative Staff/Responsible Official.

- a) Establishment. City Administrative Staff shall consist of the City Administrator, Building Official, City Engineer, Public Works Director and other City Staff or Consultants as designated by the City Administrator.
- b) Responsibilities. Table 3 is a summary of the City Administrative Staff responsibilities within the Subdivision Ordinance, with the Building Official taking the lead and being the Responsible Official in most instances.

Table 3: City Administrative Staff Responsibilities	
10.04.005(f)	Reviewing a Preliminary Plat
10.04.006(g)	Reviewing a Final Plat
10.04.007(g)	Approving a Minor Plat
10.04.008(g)	Reviewing a Replat
10.04.008(g)(2)(B)	Approving a Minor Replat
10.04.009(f)	Approving an Amending Plat
10.04.010(d)	Recommending a Plat Vacation
10.04.011(i)	Reviewing a Development Plat
10.05.001(c)(1)	Approving Construction Plans
10.05.001(h)(2)	Approving an Extension of Construction Plans beyond Expiration Date
10.05.002	Attending a Pre-Construction Meeting
10.05.003	Approving a Construction Release
10.05.005(c)	Recommending Development Agreements and Security for Completion
10.05.006(a)	Scheduling and Approving Inspection of Public Improvements
10.07.001(c)(1)	Approving a Minor Subdivision Waiver (as applicable)
10.07.002	Reviewing a Subdivision Proportionality Appeal
10.07.003(f)(2)	Approving a Decision by the Responsible Official on a Subdivision Vested Rights Petition

ARTICLE 10.03 APPLICATION SUBMITTAL, PROCESSING, AND PROCEDURES

Sec. 10.03.001 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 Building Official may require submission of documents, such as an affidavit from the owner, to provide evidence of ownership or agency.

- 2) Initiation by City Building Official. The City Building Official can initiate any Application authorized under this Subdivision Ordinance.
- b) Waiver of Application Information. The Building 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;
 - 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 Building Official may create, manage, and update a Development Application Handbook, which shall be a collection of Application Forms that the Building Official has created per Sec. 10.03.001(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 Building Official shall circulate the Application to all other administrative officials and departments 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 Building 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 Building Official is not the Decision-Maker, the Building 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 Building 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.**

A) The Decision-Maker for the Application shall approve, approve with conditions or deny the Application within the time prescribed by this Subdivision Ordinance.

B) Unless otherwise prescribed by law, 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.

Sec. 10.03.002 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 TLGC 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 TLGC 245.002(a-1), 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.

Sec. 10.03.003 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 (10th) 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 (10th) 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 (10th) 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 Sec. 10.03.003(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 (11th) business day after the Application has been received if notice is not served in accordance with Sec. 10.03.003(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 Building Official 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.
 - 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 Building Official on or before the seventh (7th) 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 TLGC 245.002(e), a subdivision related Application shall automatically expire (ending all vesting claims) at the close of business on the forty-fifth (45th) 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 (10th) 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.

Sec. 10.03.004 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.
- 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.

10.03.005 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 Sections 10.04.008(b) [Replat] and 10.04.010(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 10.04.008(b) (Replat) and 10.04.010(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 (15th) 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 Building Official shall cause notice to be sent by certified mail before the tenth (10th) 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 ETJ. For recently annexed 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 Sec. 10.03.005 Public Hearings for Replat and Plat Vacation Applications and State law.
- 2) The hearing shall be conducted by the City Council.

10.03.006 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 Sec. 10.05.001(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 (Sec. 10.05.005 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.

ARTICLE 10.04 PLATS AND PLATTING PROCEDURES

10.04.001 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 ETJ who wishes to subdivide such land shall conform to the following general procedures:

- a) Pre-Application Conference (Optional)
- b) Preliminary Plat
- c) Construction Plans
- d) Construction of improvements
- e) City acceptance of improvements
- f) Final Plat

10.04.002 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.

10.04.003 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.
- b) Replats and Amending Plats.
 - 1) Replat. A Replat, in accordance with State law, and the provisions of Sec. 10.04.008 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 Sec. 10.04.009.
- 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 Building Official 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 lengthier 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.

10.04.004 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 the Design Review Committee 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 the Design Review Committee 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 Design Review Committee 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, TLGC.

10.04.005 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 Sec. 10.04.007).
 - 2) A Final Plat in accordance with Sec. 10.04.006 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.
 - 2) Approval of each shall be separately included with this application.
 - 3) 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 the Building Official. The Building Official shall:
 - 1) Initiate review of the plat and materials submitted.
 - 2) Include the City Administrator, Public Works Director, City Engineer, and Fire Marshal (if the latter's involvement is deemed appropriate) in the review of the plat and materials submitted.
 - 3) Make available Plats and reports to the Commission for review.
 - 4) 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 Building Official, City Administrator, Public Works Director, City Engineer, and/or Fire Marshal 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.
 - 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 this Subdivision Ordinance and any standards referenced by it;
- 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 Sec. 10.05.001(g)).
- 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 Building Official 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 Building Official.

- A) The Building Official 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 Building Official 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 Building Official 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 Building Official 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 Building Official's Decision on a Preliminary Plat Extension
 - i. The denial of an extension by the Building Official may be appealed to the Commission.
 - ii. A written request for such appeal shall be received by the Building Official 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 Building Official.
- 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.
 - ii. A written request for such appeal shall be received by the Building Official 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 Building Official shall decide whether proposed amendments are deemed to be minor or major, thereby requiring new submittal of a Preliminary Plat.

10.04.006 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 Sec. 10.004.007).
- 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.
 - 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 Sec. 10.05.005.
 - 2) Approval of each shall be separate and in accordance with Sec. 10.05.005.

- 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 Building Official. The Building Official shall:
 - 1) Initiate review of the plat and materials submitted;
 - 2) Include the City Administrator, Public Works Director, City Engineer, and Fire Marshal (if the latter's involvement is deemed appropriate) in the review of the plat and materials submitted.
 - 3) Make available Plats and reports to the Commission for review, and
 - 4) 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 Building Official, City Administrator, Public Works Director, City Engineer, and or Fire Marshal 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 Sec. 10.05.005).
 - 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.
 - 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 Sec. 10.04.005(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 Article 10.05 and have been approved by the Building Official.
 - D) Where Public Improvements have been installed, the improvements conform to the approved Construction Plans and have been approved for acceptance by the Public Works Director and Building Official;
 - 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 Sec. 10.05.005;
 - 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 this Subdivision Ordinance; and
 - H) A plat prepared by a registered public surveyor conforms to the Building Official'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 Article 10.05 and have been approved by the Building Official;
 - C) A Development Agreement with surety for installation of Public Improvements has been prepared and executed by the property owner in conformance with 10.05.005;
 - 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 Building Official 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.
 - A) Signatures. After approval of the Final Plat, the Building Official 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 Sec. 10.05.005; 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 Sec. 10.04.006(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 Sec. 10.04.005(d)(2), 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 Sec. 10.05.005).
 - 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 Building Official, 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.
 - 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 (Sec. 10.05.001(g) Expiration Date for Construction Plans).
 - 3) Void If Not Extended. If the Final Plat is not extended as provided in Sec. 10.04.006(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 Building Official 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 Building Official.
 - A) The Building Official 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 Building Official 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 Building Official 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 Building Official 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 Building Official's Decision on a Final Plat Extension.
 - i. The denial of an extension by the Building Official may be appealed to the Commission.
 - ii. A written request for such appeal shall be received by the Building Official 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 Building Official.
 - 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.
 - ii. A written request for such appeal shall be received by the Building Official 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 Building Official.
 - iv. The decision of the City Council is final.

10.04.007 Minor plat.

- a) Purpose. The purpose of a Minor Plat is to simplify divisions of land under certain circumstances as outlined in TLGC Sec. 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.** An application for a minor plat shall be submitted to the city's building official consisting of one (1) copy of the minor plat drawn on eleven-inch by seventeen-inch (11" x 17") paper at a scale of one inch (1") to one hundred feet (100') or larger if necessary and one (1) copy of the minor plat on eight-and-one-half-inch by fourteen-inch (8-1/2" x 14") paper not to scale and shall include the following:
- 1) The proposed subdivision's name and location, the name and address of the owner(s), and the name of the plat designer.
 - 2) The date, north arrow, graphic scale and the entire subdivision should be tied and oriented to the Texas State Coordinate Systems using NAD 83 in U.S. survey feet, and coordinates given for at least two (2) points on the bound of the said subdivision.
 - 3) A site location map.
 - 4) The location of improvements, existing property lines, streets, buildings, watercourses, sewers, bridges, culverts, drain pipes, water mains, electric transmission lines and appurtenances, wells, visible or known easements, the present and/or proposed zoning classification and for each adjoining unplatted parcel, the deed reference and name of the owner of record or, for each adjoining platted lot, the subdivision name and lot and block reference.
 - 5) Locations of proposed rights-of-way, easements, lot lines, building setback lines, boundary lines and utilities.
 - 6) The total acreage to be subdivided. Projects developed in phases should indicate each phase on the plat.
 - 7) Lot sizes in acres or square feet for those lots smaller than one (1) acre.
 - 8) A metes and bounds description of the lot(s), tract(s), or parcel(s) of land to be subdivided.
 - 9) The boundary of any one hundred (100) year floodplain lying within the subdivision and any other information required by Article 3.07, flood damage prevention.
 - 10) A surveyor's certificate stating accuracy of survey and actually performed on the ground that meets the minimum standards set forth by the Texas Board of Professional Surveyors or its successor, the Texas Board of Professional Engineers and Land Surveyors.
 - 11) An owner's certificate establishing the applicant's relationship to the subject property and establishing that it is intended to subdivide the property essentially as indicated in the plat documents.
 - 12) A building official's certificate.
 - 13) A recording certificate.
- 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 the Building Official. The Building Official shall:
- 1) Initiate review of the plat and materials submitted; and
 - 2) Distribute to appropriate City Departments for review.
- g) Action by the Building Official. The Building Official 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 Building Official, or if the Building Official 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 Building Official 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 Building Official 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 Sec. 10.04.006(j).
- j) Revisions Following Approval. Revisions may only be processed and approved as a Replat, Minor Replat, or Amending Plat, as applicable.

10.04.008 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
 - 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 Sec. 10.03.005, if applicable.
 - A) See specific notice and hearing requirements for "Certain" Replats in Sec. 10.04.008(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 TLGC Sec. 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 (15th) 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 Sec. 212.015(c) of the TLGC (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 Sec. 10.07.001) 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.
- 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 Sec. 10.03.005).

- 2) Minor Replat.

- A) Pursuant to TLGC 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 Building Official. The review and approval process shall be the same as that followed for a minor plat.
- B) Prior to the Building Official or the Planning and Zoning Commission, if the matter has been deferred to that Commission, taking action on a proposed Minor Replat the Planning and Zoning Commission shall hold at least one public hearing thereon.
- C) Effect. Upon approval of the Application, the Replat may be recorded and is controlling over the previously recorded Plat for the portion re-platted.

10.04.009 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;
 - 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 Building Official. The Building Official shall:
 - 1) Review the plat and materials submitted.
- f) Action by Building Official. The Building Official 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
 - 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 Building Official 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 Building Official 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.

10.04.010 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 10.03.005.
- d) Review and Recommendation by the Building Official. The Building Official 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 Building Official shall:
 - 1) Review the Plat Vacation Application, the findings of the Building Official, and any other information available. From all such information, the Building Official shall make a finding as to whether the plat should be vacated.
 - 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.

10.04.011 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 TLGC, 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 ETJ of the City must have a Development Plat of the tract prepared in accordance with Sec. 10.01.004(d)(2), unless a Development Plat is not required in accordance with Sec. 10.01.004(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.
 - 3. Cases Where Development Plat Regulations Apply. Development Plat regulations shall apply to any land lying within the City or within its 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 Sec. 10.01.004(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 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.
- 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.

10.04.012 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 Sec. 10.04.011 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 Sec. 10.04.006 Final Plat.
- 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.
- 1) General 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.

ARTICLE 10.05 CONSTRUCTION PLANS AND PROCEDURES

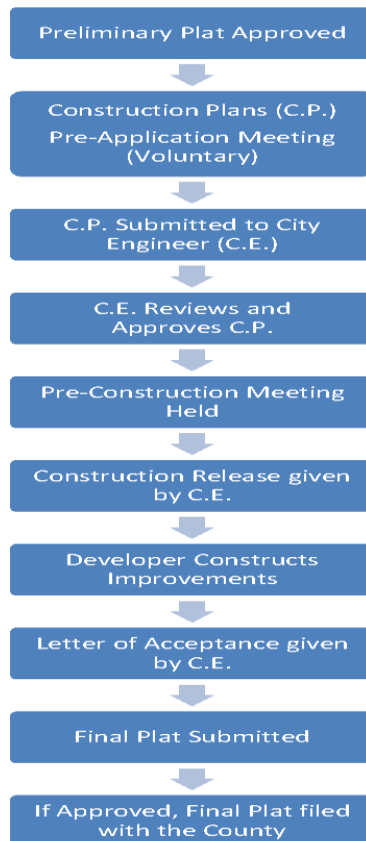


Figure 10.05 Construction Plan Process

10.05.001 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 Building Official'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, 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 Building Official 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 Building Official 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 Article 10.05 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 Building Official 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 Sec. 10.05.002; and
 - 2) Apply for Construction Release Sec. 10.05.003.
- 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 Sec. 10.05.001(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 Building Official for such extension prior to expiration of the plans, and shall include reasons why the plans should be extended.
 - 2) Decision by the Building Official.
 - A) The Building Official 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 Building Official fail to act on an extension request within thirty (30) calendar days, the extension shall be deemed to be approved.
 - 3) Consideration. The Building Official shall extend Construction Plans approval for a period of six (6) additional months beyond the expiration date if:
 - 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 (Sec. 10.05.005 Development Agreements and Security for Completion), if applicable, is still valid and in full effect.
 - 4) Conditions. In granting an extension, the Building Official 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.

10.05.002 Pre-construction meeting.

a) Requirement.

- 1) The Applicant(s) shall attend a Pre-Construction Meeting with the Design Review Committee following the approval of Construction Plans and prior to commencement of any construction on the property.
- 2) The Building Official 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 Building Official 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 Building Official 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.

10.05.003 Construction release.

a) Requirements for a Construction Release.

- 1) 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 and a franchise utility representative, the City Building Official 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.
- 2) 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.

b) Construction Release Expiration and Extension. Expiration, and possible extension, of the Construction Release shall be the same as for the Construction Plans (see Sections 10.05.001(g)

and 10.05.001(h)).

10.05.004 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 Sec. 10.05.004(b).
- b) Completion after Final Plat Approval and Recordation.
 - 1) The Building Official, 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 Sec. 10.05.005 Development Agreements and Security for Completion.
 - 3) It shall be at the Building Official'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 Sec. 10.05.005 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 Building Official 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 Sec. 10.05.002 Pre-Construction Meeting), or prior to approval and recordation 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.

10.05.005 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 recordation, 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 Sec. 10.05.005(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 Sec. 10.05.005(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.
- c) Development Agreement Decision by the City Council.
 - 1) The City Administrator and City Attorney 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 Attorney.
- 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 reviewed and approved by the City Engineer and City Administrator.
- B) Security shall be subject to the review and approval of the City Attorney.
- 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 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) Non-residential versus residential requirements.
 - 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.

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.

10.05.006 Inspection, maintenance, and acceptance of public improvements.

a) Inspection of Public Improvements.

- 1) Timing and Contact.
 - A) The City Administrator, Building Official, Public Works Director, and City Engineer 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 Building Official 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 Building Official.
- 3) Corrections to Improvements. If the City Administrator, Building Official, Public Works Director, or City Engineer 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 City Administrator, upon the recommendation of the Building Official and Public Works Director 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 Building Official and Public Works Director that the improvements have been constructed in accordance with the plans and specifications as approved 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 one percent (1%) 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) 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 Public Works Director, a permit may be granted without making the advance permit payment, or waived if the franchise agreement permits waiver and approved by the Public Works Director.

- 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 Engineer.

- 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 Building Official, through submission of detailed Record Drawings, which have been 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 Building Official.
 - 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, Building Official, Public Works Director and City Engineer (if the latter's involvement is deemed appropriate) 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 Sec. 10.05.006(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.
- 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 7

**CREATE ARTICLE 10.06 SUBDIVISION STANDARDS
RENUMBER SECTIONS 10.02.034, 10.02.035, AND 10.02.037**

Article 10.06 *Subdivision Standards* is hereby, created and adopted.

Section 10.02.034 *General Requirements* is hereby renumbered and incorporated as Section 10.06.001.
Section 10.02.035 *Easement Standards*, is hereby renumbered and incorporated as Section 10.06.002.
Section 10.02.037 *Drainage Study Required* is hereby renumbered and incorporated as Section 10.06.003.

SECTION 8

CREATION OF ARTICLE 10.07 RELIEF FROM SUBDIVISION DESIGN STANDARDS

Article 10.07 *Relief from Subdivision Design Standards* is hereby created and adopted in its entirety:

ARTICLE 10.07 RELIEF FROM SUBDIVISION DESIGN STANDARDS

10.07.001 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 4.
 - 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 Sec. 10.07.001(j) Minor Subdivision Waiver Appeal)

Minor Subdivision Waiver		
Section	Standard	City Administrator
10.01.005(g)	Thoroughfare Plan	Approve
10.03.001(b)	Waiver of Application Information	Approve
10.06.001(d)(1)(D)(ii)	Water Lines Extended to Subdivision Borders	Approve
10.06.001(c)(6)	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 if the property was platted prior to June 14, 2022; and
- B) Waivers requested that do not qualify under the conditions outlined in Sec. 10.07.003(a) above must follow the procedure for a Major Subdivision Waiver.
- C) Applicants whose request for waiver is denied by the City Administrator may appeal this decision. Appeals under Sec. 10.07.003 will follow the procedures for appealing a Minor Subdivision Waiver as set forth in Sec. 10.07.001(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.

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 Sec. 10.03.003(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 (Sec. 10.07.002); or
 - ii. A Subdivision Vested Rights Petition (Sec. 10.07.003).
- 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 Sec. 10.03.003(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.
 - 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 Sec. 10.07.001(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.

- 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.

10.07.002 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 TLGC 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 Sec. 10.07.002 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 Sec. 10.07.002 Subdivision Proportionality Appeal shall not be used to waive standards on grounds applicable to any Subdivision Waiver Application, as outlined in Sec. 10.07.001 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.

- 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 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 Sec. 10.07.002 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) 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 Sec. 10.07.002(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 Sec. 10.07.002(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.

10.07.003 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 Sec. 10.03.003(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 Sec. 10.07.003(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 TLGC, Chapter 245 or successor statute, or pursuant to TLGC, Sec. 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 TLGC Sec. 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.
- 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 Sec. 10.07.003(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 Sec. 10.07.003(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.
 - 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 Sec. 43.002 of the TLGC, 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.
- 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 Sec. 10.07.003(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 Sec. 10.07.001 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 Sec. 10.07.003(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. of two (2) years prior to the effective date of this Subdivision Ordinance, one of the following events had occurred:
 - 1) 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;
 - 2) 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 TLGC, Sec. 245.005(c)(2));
 - 3) 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;
 - 4) 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

- 5) 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 Sec. 10.07.003(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 Sec. 10.07.003(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 Sec. 10.07.003(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 Sec. 10.07.003(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.

SECTION 9 CREATE ARTICLE 10.08 DEFINITIONS

Article 10.08 *Definitions* is hereby created and adopted in its entirety:

ARTICLE 10.08 DEFINITIONS

10.08.001 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.

- c) References. All references to Sections (Sec.) and Articles (Art.) shall be taken as referring to Sections (Sec.) and Articles (Art.) within this Subdivision Ordinance, unless noted otherwise.

10.08.002 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:

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.

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").

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.

Amending Plat. An Amending Plat applies minor revisions to a recorded plat consistent with provisions of State law, see Sec. 10.04.009 Amending Plat.

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.

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.

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.

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.

Arterial, Major/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.

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.

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.

Block Face. The portion of a Block that abuts a street.

Block Length. The length of the Block Face between two intersections.

Bond. Any form of security including cash deposit, surety bond, collateral, instrument or credit in an amount and form satisfactory to the city. All bonds shall be approved by the city attorney wherever a bond is required by the subdivision ordinance.

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.

Building line. A line designated on an approved subdivision plat which is parallel or approximately parallel to a street, beyond which buildings may not be erected.

Building Official. The Building Official of the City or his or her designee.

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.

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.

Centerline, street. A point equidistant from opposite right-of-way lines of a street, roadway, thoroughfare or alley.

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.

City. The City of Glen Rose, Texas, together with all its governing and operating bodies.

City Administrator. The officially appointed and authorized City Administrator of the City of Glen Rose, Texas, and may include the City Administrator's duly authorized representative or designee, per the City Administrator's discretion.

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.

City Council. The duly elected governing body of the City of Glen Rose, Texas.

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.

City Secretary. The person appointed by the City Council to provide clerical and official services for the City Council. This term shall also include any designee of the City Secretary.

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.

Commission. The Planning and Zoning Commission of the City.

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.

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.

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.

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.

Council. See City Council.

County. Somervell County.

Criteria Manual. The iSWM Criteria Manual for Site Development and Construction, Revised January 14, 2015, developed by the North Central Texas Council of Governments (NCTCOG), except for Sec. 3.2 Water Quality Protection.

Crosswalk Way. A public Right-of-Way, four (4) feet or more in width between property lines, which provides pedestrian circulation.

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.

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.

Date of Adoption. The date of adoption of this Subdivision Ordinance shall be the date this ordinance becomes effective.

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

Decision-Maker. The City official or group, such as the City Administrator, Building Official, City Council, or Planning and Zoning Commission, responsible for deciding action on an Application authorized by this Subdivision Ordinance.

Dedication. An act transmitting property or interest to the city or other entity.

Design review committee. Representatives from the City, including the City Administrator, Building Official, Public Works Director, City Engineer (if deemed appropriate), and Fire Marshal (if deemed appropriate) and the utility companies (if deemed appropriate), who provide design recommendations and determine the viability of a new subdivision.

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.

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.

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 Sec. 10.05.005 Development Agreements and Security for Completion for details.)

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 TLGC Chapter 245.

Development Application Handbook. A collection of Application Forms created, updated, and managed by the Building Official. (See Sec. 10.03.001(d).)

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 TLGC 212, Subchapter B (212.045), in lieu of other Subdivision Plats (established in TLGC 212, Subchapter A) required by this Subdivision Ordinance and in accordance with Sec. 10.04.011 Development Plat.

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.

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.

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.

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.

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.

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.

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.

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.

Engineering Plans. See Construction Plans.

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 TLGC, 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.

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.

FEMA. Federal Emergency Management Agency.

Final Acceptance. The acceptance by the City of all infrastructure improvements constructed by the Developer in conjunction with the development of land.

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 Somervell County, Texas.
- c) A Final Plat may also be referenced as a Record Plat or Final Plat.

Floodplain. The area subject to be inundated by water from the Base Flood.

Floodway. A natural drainage area which accommodates the design flood for existing creeks and open drainage ways.

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.

Frontage. All the property abutting on one (1) side of the street, or between two (2) intersecting streets, measured along the street line.

Greenbelt. A linear park, generally in or near a floodplain.

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.

Improvement. Any man-made fixed item which becomes part of or placed upon real property, see also Public Improvement.

Infrastructure. All streets, alleys, sidewalks, storm drainage, water, and wastewater facilities, utilities, lighting, transportation, and other facilities as required by the City.

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.

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.

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.

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.

Lot, Depth. The mean horizontal distance from the front street line to the rear line.

Lot, Double. See Lot, Through.

Lot, Interior. A lot, the side line of which does not abut on any street.

Lot, Reverse. See Lot, Through.

Lot, Through. An interior lot having frontage on two (2) streets. Such through lot shall provide a front yard on each street. Also known as a double or reverse lot.

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

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.

Lot Width. The mean horizontal distance between side lines measured at right angles to the depth.

Major Subdivision Waiver. See Waiver, Major Subdivision.

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.

Metes and bounds. A system of describing and identifying land by measures (metes) and direction (bounds) from an identifiable point of reference such as a monument or other marker, the corner of intersecting streets, or in a rural area, a tree or other permanent fixture.

Minor Plat. A plat dividing land into no more than four (4) lots that meets the submission and approval requirements of Sec. 10.04.007 Minor Plat. Such plat is also considered a Final Plat.

Minor Replat. Pursuant to TLGC 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 Sec. for 10.04.008(g)(2) Minor Replat details.

Minor Subdivision Waiver. See Waiver, Minor Subdivision.

Monument. A permanent structure set on a line to define the location of property lines, important horizontal subdivision control points and other important features on a plat.

Official Submission Date.

- a) A calendar of official submission dates for subdivision related Applications requiring City review and approval pursuant to TLGC Chapter 212.
- b) See 10.03.002 Official Submission Date and Official Vesting Date for further details and standards.

Official Vesting Date.

- a) Pursuant to TLGC 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 Sec. 10.03.002 Official Submission Date and Official Vesting Date for further details and standards.

Owner. The fee simple owner(s) of property being platted or their representative(s) when authorized by a power of attorney, corporate resolution or other appropriate document.

Parcel. See definition of tract.

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.

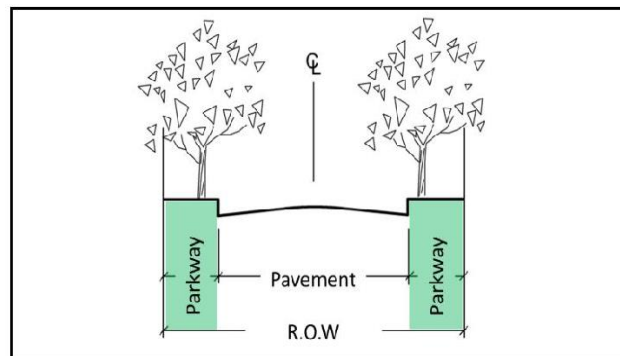


Figure 10: Example of a Parkway

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.

Parking Space. Open space or garage space reserved exclusively for the parking of a vehicle.

Paved Driveways. Paved driveways are constructed of brick pavers, concrete pavers, hot mix asphaltic

concrete, or portland cement concrete.

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.

Perimeter Street. A street which abuts a parcel of land to be subdivided on one side.

Person. Person means an individual, firm, association, organization, partnership, trust, foundation, company or corporation.

Planning and Zoning Commission. The Planning and Zoning Commission of the City.

Plat.

- a) A map or chart of the subdivision, lot or tract of land.
- b) It shall include the term plan, plat or re-plat, in both singular or plural.

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.

Preliminary Plat.

- a) 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.
- b) The Preliminary Plat shall serve as a means for the City to review and study the proposed division of land and/or improvements.

Preliminary Storm Water Management Plan. The purpose of the Preliminary SWMP is to identify permanent water quality feature opportunities for Subdivision development.

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.

Preliminary Utility Plan. A plan detailing both Water Utility and Wastewater Utility requirements.

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.

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.

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.

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.

Record Plat. See Final Plat.

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 10.04.008 Replat of this Subdivision Ordinance. A Replat can function as a Final Plat for a property.

Residential District. Residential district means a single family, patio home, duplex, townhouse, multifamily or mobile home zoning district as defined in the zoning ordinance.

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.

Residential Use. Residential use means use of a structure as a residence.

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.

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.

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.

Screening wall. A wall, not less than 6 feet in height measured at the highest finished grade.

Sec. Abbreviation for section.

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.

Sidewalk. A paved travel way intended for pedestrian use.

Single-family lot. A lot in a single-family zoning district, or a lot in an identifiable single-family component of a planned development district.

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.

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.

Street. A public Right-of-Way that provides vehicular traffic access to adjacent lands.

Street Width. The shortest distance between the property or easement lines which delineate the Right-of-Way of a street.

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.

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.

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.
- b) Any other subdivision or re-subdivision of land contemplated by the provisions of Chapter 212, TLGC.

Subdivision Ordinance. The adopted Subdivision Ordinance of the City, as may be amended in the future, and may be referred as "this Ordinance."

Subdivision Plat. A Plat (e.g., Preliminary Plat, Final Plat, Minor Plat, Replat, or Amending Plat) established in TLGC 212, Subchapter A involving the subdividing of land in two (2) or more parts or the amending of a recorded Plat.

Subdivision Regulations. Any regulations and standards contained within the Subdivision Ordinance.

Subdivision Waiver. Either a Minor Subdivision Waiver or Major Subdivision Waiver, see Section 7.01 Petition for Subdivision Waiver.

Surveyor. A licensed State Land Surveyor or a Registered Public Surveyor, as authorized by the State of Texas to practice the profession of surveying.

TLGC. Texas Local Government Code.

Temporary. Used or lasting for only a limited period of time; not a permanent structure or use. For temporary on-site construction offices, administrative offices and batching plants, temporary shall mean the period of time limited to the actual on-site construction of the structure, facility or subdivision, as the case may be. For all other uses, temporary shall mean a period of time not to exceed 90 calendar days from the date of commencement of the use.

Thoroughfare. See Major Arterial/Thoroughfare Street.

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.

Tract. All contiguous property in common ownership.

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
- h) Rights-of-Way or easements for streets and alleys.

Utilities. An agency under public franchise or ownership which provides a regulated service to the public, such as electric, gas or communication services.

Utility Easement. See Easement.

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.

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 Sec. 10.07.003 Subdivision Vested Rights Petition.

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.

Waiver, Major Subdivision.

- 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 Sec. 10.07.001 Petition for Subdivision Waiver for details.

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 Sec. 10.07.001 Petition for Subdivision Waiver for details.

Wastewater facilities. An underground piping system that conveys wastewater from a lot or subdivision, and includes pipe, manholes and associated appurtenances.

Water Treatment Facility. The facility or facilities within the water supply system which can alter the physical, chemical, or bacteriological quality of the water.

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.

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.

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.

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.

Zoning Ordinance. The adopted Zoning Ordinance of the City, as may be amended in the future.

SECTION 10 SAVINGS/REPEALING CLAUSE

Chapter 10 Subdivision Regulation of the City's Code of Ordinances shall remain in full force and effect, save and except as repealed, replaced and/or amended by this or any other ordinance. All provisions of

any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict. Any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 11
SEVERABILITY CLAUSE**

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional, illegal or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Glen Rose hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

**SECTION 12
PROPER NOTICE, MEETING, AND QUORUM CLAUSE**

It is hereby officially found and determined that the meeting at which this Ordinance was adopted by majority vote of the City Council of the City of Glen Rose, Texas was open to the public; that public notice of the time, place, and purpose of the meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code; and, that a quorum was present pursuant to Section 22.039 of the Texas Local Government Code.

**SECTION 13
PUBLICATION REQUIREMENT**

The City Secretary shall see to it that the caption of this Ordinance is published in the City's Official Newspaper.

**SECTION 14
EFFECTIVE DATE**

This Ordinance shall take effect upon publication.

PASSED AND APPROVED this the 13th day of September, 2022.

Julia Douglas, Mayor

ATTEST:

Stacy L. King, City Secretary