

SECTION 7. - RELIEF FROM SUBDIVISION DESIGN STANDARDS

Sec. 155.7.01. - Petition for subdivision waiver.

- A. *Purpose.* The purpose of a petition for a Subdivision Waiver to a particular standard or requirement with these Subdivision Regulations, as such are applicable to Plats or Construction Plans, is to determine whether such particular standard or requirement should be applied to an Application.
- B. *Definitions.* Subdivision Waivers shall be classified as a Minor Subdivision Waiver or Major Subdivision Waiver.
- C. *Decision-Maker.*
  - 1. *Minor Subdivision Waiver.*
    - a. *Decision-Maker Authority.*
      - i. The City Administrator shall act upon a Minor Subdivision Waiver listed in Table 8.
    - b. *Appeal of a Minor Subdivision Waiver Decision.*
      - i. *Appeal Review and Recommendation.* An appeal of the Minor Subdivision Waiver decision may be considered by the Commission.
      - ii. *Appeal Decision.* If further appeal is made, the City Council shall then act on such an appeal. (See 7.01.J Minor Subdivision Waiver Appeal)

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

Sidewalk, curb and gutter waiver requests abutting local or collector streets, county roads and state highways

**Commented [SK1]:** To establish a minor waiver process for staff review, OPTION B

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

1. *Waiver of Standard or Requirement.*

- a. An Applicant may request a Subdivision Waiver of a particular standard or requirement applicable to a Preliminary Plat, to Construction Plans, or where no Preliminary Plat Application has been submitted for approval, to a Final Plat or a Replat.
- b. A Subdivision Waiver petition shall be specific in nature, and shall only involve relief consideration for one particular standard or requirement.
- c. An Applicant may, if desired, submit more than one Subdivision Waiver petition if there are several standards or requirements at issue.
- d. For processing a Subdivision Waiver in relationship with a Plat Application, an Applicant shall submit a Waiver of Right to 30-Day Action in accordance with 3.03.D Waiver of Right to 30-Day Action.
- e. The waiver process shall not be applicable to the requirements set forth for sidewalks, curbs and gutters.

Commented [SK2]: Proposed for Option E

2. *Waiver Petition Acceptance.*

- a. A petition for a Subdivision Waiver shall not be accepted in lieu of:
  - i. A Subdivision Proportionality Appeal (7.02); or
  - ii. A Subdivision Vested Rights Petition (7.03).
- b. If there is a question as to whether a Subdivision Proportionality Appeal or Subdivision Vested Rights Petition is required instead of a Subdivision Waiver petition, such determination shall be made by the City Administrator.
- c. A waiver shall not be accepted for developments involving four or more structures intended to be conveyed from the developer to another party as part of a development platted after April 1, 2021, or, for newly platted or replatted properties after April 1, 2021.
- d. For properties that fall within the Sidewalk Improvement Program area.

Commented [SK3]: Proposed for Option A

Commented [SK4]: Proposed for Option A

E. *Subdivision Waiver Submission Procedures.*

1. *Written Waiver Request with Application.*

- a. A request for a Subdivision Waiver shall be submitted in writing by the Applicant with the filing of a Preliminary Plat, Construction Plans, Final Plat or Replat, as applicable.
- b. No Subdivision Waiver may be considered or granted unless the Applicant has made such written request.

2. *Grounds for Waiver.*

- a. The Applicant's request shall state the grounds for the Subdivision Waiver request and all of the facts relied upon by the Applicant.
- b. Failure to do so, will result in denial of the Application unless the Applicant submits a Waiver of Right to 30-Day Action in accordance with 3.03.D Waiver of Right to 30-Day Action.

F. *Subdivision Waiver Criteria.*

1. *Undue Hardship Present.* A Subdivision Waiver to regulations within this Subdivision Ordinance may be approved only when, in the Decision-Maker's opinion, undue hardship will result from strict compliance to the regulations.

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; **or, that the strict application would result in improvements that, in relation to surrounding and/or contiguous properties, add little to value to the overall development and benefit to the community s as referenced in Section 155.1.03, and**
- b. That the Subdivision Waiver is necessary for the preservation and enjoyment of a substantial property right of the Applicant, and that the granting of the Subdivision Waiver will not be detrimental to the public health, safety or welfare or injurious to other property in the area; and
- c. That the granting of the Subdivision Waiver will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this Subdivision Ordinance.

4. *Intent of Subdivision Regulations.*

- a. A Subdivision Waiver may be granted only when in harmony with the general purpose and intent of the Subdivision Ordinance so that the public health, safety and welfare may be secured and substantial justice done.
- b. Financial hardship to the Applicant shall not be deemed to constitute undue hardship.

5. *Minimum Degree of Variation.* No Subdivision Waiver shall be granted unless it represents the minimum degree of variation of requirements necessary to meet the needs of the Applicant.

6. *Violations and Conflicts.* The Decision-Maker shall not authorize a Subdivision Waiver that would constitute a violation of, or conflict with, any other valid ordinance, code, regulation, master plan or Comprehensive Plan of the City.

7. *Falsification of Information.*

- a. Any falsification of information by the Applicant shall be cause for the Subdivision Waiver request to be denied.
- b. If the Subdivision Waiver request is approved based upon false information, whether intentional or not, discovery of such false information shall nullify prior approval of the Subdivision Waiver, and shall be grounds for reconsideration of the Subdivision Waiver request.

G. *Burden of Proof.* The Applicant bears the burden of proof to demonstrate that the requirement for which a Subdivision Waiver is requested, if uniformly applied, imposes an undue hardship or disproportionate burden on the Applicant. The Applicant shall submit the burden of proof with the original submittal.

H. *Subdivision Waiver Decision.*

- 1. The Decision-Maker shall consider the Subdivision Waiver petition and, based upon the criteria set forth in 7.01.F Subdivision Waiver Criteria, shall take one of the following actions:
  - a. Deny the petition, and impose the standard or requirement as it is stated in this Subdivision Ordinance; or
  - b. Grant the petition, and waive in whole or in part the standard or requirement as it is stated in this Subdivision Ordinance.

**Commented [SK5]:** Proposed – many waivers are submitted due to the associated costs, not deprivation of use.

2. Decision Process for a Minor Subdivision Waiver. The Decision-Maker shall deny ~~of~~ grant a request for a Minor Subdivision Waiver concurrently with the decision of a Preliminary Plat, Construction Plans, Final Plat or Replat, as applicable.

**Commented [SK6]:** Proposed correction of typo

a. The City Administrator may develop policies or procedures as necessary to ensure standard and consistent decisions and minimize the likelihood of appeals.

**Commented [SK7]:** Propose language for Option B

b. Any minor wavier granted by the Decision-Maker will be subject to the fees referenced in paragraph H(3)(b)(iii) below.

**Commented [SK8]:** Proposed for Option B to remain consistent with awarded waivers

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. A subdivision waiver request relating to sidewalk and/or curb and gutter, if approved by the City Council, will result in an additional fee totaling 15% of the total cost of such improvement based on the linear footage of the total sidewalk and/or curb and gutter improvement generally required by the subdivision ordinance, calculated by the most recent bid tabulation sheet of the City. Such fee will be allocated to the city's cost share sidewalk program. The fee must be paid within 30 days of the waiver approval or the waiver is nullified.

**Commented [SK9]:** Proposed for Option A and B, together or separately.

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.

- e. Any waiver that is approved by the City Council through the appeal process will be subject to the fees referenced in paragraph H(3)(b)(iii) above.

**Commented [SK10]:** Proposed for Option A and B, together or separately

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, or, in the event of non-payment within the 30 day period as referenced in paragraph H(3)(b)(iii) above.
- 3. *Extensions.* Extension of those Applications shall also result in extension of the Subdivision Waiver.

**Commented [SK11]:** For Option A and B, together or separately

Sec. 155.7.02. - Subdivision proportionality appeal.

A. *Purpose and Applicability.*

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

B. *Petition Requirements.*

- 1. *Form of Petition.* The petition for relief from a dedication, construction, or fee requirement shall allege that Application of the standard relating to the requirement is not roughly proportional to

the nature and extent of the impacts created by the proposed development on the City's water, wastewater, storm drainage, parks or roadway system or does not reasonably benefit the proposed development.

2. *Study Required.* The Applicant shall provide a study in support of the petition for relief that includes the following information:

a. *Capacity Utilized.*

- i. Total capacity of the City's water, wastewater, storm drainage, parks or roadway system to be utilized by the proposed development, employing standard measures of capacity and equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the development.
- ii. If the proposed development is to be developed in phases, such information also shall be provided for the entire development proposed, including any phases already developed.

b. *Capacity Supplied.*

- i. Total capacity to be supplied to the City's water, wastewater, storm drainage, parks or roadway system by the proposed dedication of an interest in land or construction of Public Improvements.
- ii. If the Application is part of a phased development, the information shall include any capacity supplied by prior dedications or construction of Public Improvements.

c. *Capacity Comparison.*

- i. Comparison of the capacity of the City's public facilities system(s) to be consumed by the proposed development with the capacity to be supplied to such system(s) by the proposed dedication of an interest in land, construction of Public Improvements, or payment of a fee.
- ii. In making this comparison, the impacts on the City's public facilities system(s) from the entire development shall be considered.

d. *Oversizing.* The effect of any City participation in the costs of oversizing the Public Improvement to be constructed in accordance with the City's requirements.

e. *Other Information.* Any other information that shows the alleged disproportionality between the impacts created by the proposed development and the dedication or construction requirement imposed by the City.

3. *Time for Filing Petition and Study.*

- a. A petition for relief from a dedication, construction, or fee requirement shall be filed with the City Administrator within fourteen (14) calendar days following the City Council's decision to conditionally approve or deny an Application.
- b. The study in support of the petition shall be filed within sixty (60) calendar days following the initial decision, unless the Applicant (petitioner for relief) seeks an extension in writing.
- c. The City Administrator may extend the time for submitting the study for a period not to exceed an additional thirty (30) calendar days for good cause shown.

4. *Land in Extraterritorial Jurisdiction (ETJ).* Where land or facilities to be dedicated are located in the ETJ of the City and are to be dedicated to the County, a petition for relief or study in support of the petition shall be accepted as complete for review by the City Administrator only when such petition or study is accompanied by verification that a copy has been delivered to and accepted by the County, as applicable.

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

1. *Responsible Official.* The City Administrator shall be the Responsible Official for a petition for relief from a dedication or construction requirement.
  2. *Review and Recommendation.*
    - a. The City Administrator shall review the petition and supporting study and shall make a recommendation to:
      - i. The Commission, and
      - ii. The City Council.
    - b. In response to a petition for relief from a dedication or construction requirement pursuant to 7.02 Subdivision Proportionality Appeal and to achieve proportionality between the demands created by a proposed development on public facilities and the obligation to provide adequate public facilities, the City may participate in the costs of Public Improvements, credit or offset the obligations against payment of impact fees, or relieve the property owner any of the obligations.
  3. *Decision-Maker.* The City Council shall decide the Subdivision Proportionality Appeal petition, after receiving a recommendation from the Planning and Zoning Commission.
  4. *Public Hearing Held within 60 Days after Receipt of Study.* The City Council shall conduct a public hearing within sixty (60) calendar days after the study supporting the petition (refer to Section 7.02.B) is filed with the City Administrator.
  5. *Burden of Proof.* The Applicant bears the burden of proof to demonstrate that the Application of a dedication or construction requirement that is uniformly applied imposes a disproportionate burden on the Applicant.
  6. *Decision.* The City Council shall consider the petition for relief from a dedication or construction requirement based upon the following criteria:
    - a. The City Council shall determine whether the Application of the standard or condition is roughly proportional to the nature and extent of the impacts created by the proposed development on the City's water, wastewater, storm drainage, parks or roadway system, and whether the Application of the standard or condition reasonably benefits the development.
    - b. In making such determination, the City Council shall consider the evidence submitted by the Applicant, the report and recommendation of the City Administrator and, where the property is located within the City's ETJ, any recommendations from the County, as applicable.
  7. *Action.* Based on the criteria in 7.02.C.6, the City Council shall take one of the following actions:
    - a. Deny the petition for relief, and impose the dedication or construction requirement as required by this Ordinance; or
    - b. Grant the petition for relief, and waive any dedication or construction requirement to the extent necessary to achieve proportionality; or
    - c. Grant the petition for relief, and direct that the City participate in the costs of acquiring land for or constructing the Public Improvement under standard participation policies.
  8. *Notification of Decision on Petition.* The City Administrator shall notify the Applicant of the decision on the petition for relief within fourteen (14) calendar days following the City Council's decision.
- D. *Expiration or Failure to File Application.* Where an Application was denied based upon the imposition of the standard requiring dedication of land or construction of a required Public Improvement and the City Council's decision is to grant some level of relief, the Applicant shall resubmit the Application within sixty (60) calendar days following the date the petition for relief is granted, in whole or in part, showing conformity with the City Council's decision on the petition.
1. If the Application is not resubmitted within the sixty (60) day period, the relief granted by the City Council on the petition shall expire.

2. If the re-submittal of the Application is modified in any other way, a new petition for relief may be required by the City Administrator.
3. If the Application for which relief was granted is denied on other grounds, a new petition for relief may be required by the City Administrator.

E. *Effect of Relief.*

1. The City Administrator may require the Applicant to submit a modified Application or supporting materials consistent with the relief granted by the City Council on the petition.
2. The relief granted on the petition shall remain in effect for the period the Application is in effect, and shall expire upon expiration of the plat or related Application.

Sec. 155.7.03. - Subdivision vested rights petition.

A. *Purpose.* In accordance with the Texas Local Government Code, Chapter 245 or successor statute, the purpose of a Subdivision Vested Rights Petition is to determine whether an Application should be processed under the terms of a previous ordinance, to provide a process for determination of possible vested status, and to determine when certain permits are subject to expiration.

B. *Applicability of a Subdivision Vested Rights Petition.*

1. *Any Application.* A Subdivision Vested Rights Petition may be submitted for any Application authorized by this Subdivision Ordinance.
2. *Prohibit Joint Submission.* A Subdivision Vested Rights Petition cannot be submitted by an Applicant along with submission of a request for a text amendment to this Subdivision Ordinance, a Zoning Map amendment, or any other request for a legislative decision by the City Council.

C. *Petition Submission.*

1. *Filing.* A Subdivision Vested Rights Petition shall be submitted to the City's Responsible Official and shall be in accordance with the Texas Local Government Code, Chapter 245 or successor statute.
2. *Automatic Waiver.* Submission of a Subdivision Vested Rights Petition shall require a Waiver of Right to 30-Day Action (See Section 3.03.D).
3. *Stay of Further Proceedings.* Submission of a Subdivision Vested Rights Petition shall stay further proceedings on the related Application until a final decision is reached on the Subdivision Vested Rights Petition.

D. *Time for Filing a Petition and Application.*

1. A Subdivision Vested Rights Petition shall be filed jointly with an Application for which a vested right is claimed.
2. A Subdivision Vested Rights Petition may be filed without a joint Application if the petition is filed pursuant to Section 7.03.K Dormant Projects.
3. Where more than one Application is authorized to be filed simultaneously by this Subdivision Ordinance, the petition may be filed simultaneously for each Application.

E. *Petition Requirements.* The Subdivision Vested Rights Petition shall allege in writing that the Applicant has a vested right for some or all of the land subject to the Application under Texas Local Government Code, Chapter 245 or successor statute, or pursuant to Texas Local Government Code, Section 43.002 or successor statute or other applicable law, that requires the City to review and decide the Application under standards that were in effect prior to the effective date of the currently applicable standards. The petition shall include the following information and documents:

1. The name, mailing address, phone number and fax number of the property owner (or the property owner's duly authorized agent).
2. Identification of the property for which the person claims a vested right.



3. Identification of the project, as that term is defined in Local Government Code Section 245.001(3), and the permit application, permit, or plan for development giving rise to the project.
4. A narrative description of the grounds for the petition, including a statement as to whether the petition asserts a vested right related to a specific standard or to an entire project;
5. A copy of each approved or pending Application which is the basis for the contention that the City may not apply current standards to the Application which is the subject of the petition;
6. The Official Vesting Date of the Application;
7. The date the subdivision for which the Application was submitted was commenced;
8. Identification of all standards otherwise applicable to the Application from which relief is sought;
9. Identification of any current standards which Applicant agrees can be applied to the Application at issue;
10. A narrative description of how the Application of current standards affect proposed landscaping, Usable Open Space or park dedication, shown on the Application for which the petition is filed;
11. A copy of any prior vested rights determination involving the same land; and
12. Whenever the Applicant alleges that an Application subject to expiration should not be terminated, a description of the events constituting Progress Towards Completion of the subdivision for which the application was approved.

F. *Decision of a Subdivision Vested Rights Petition.*

1. Reviewing a Subdivision Vested Rights Petition.
  - a. The Responsible Official for a Subdivision Vested Rights Petition is the same as that for reviewing the Application with which the petition is associated.
  - b. Where multiple Applications are submitted, and there is more than one Responsible Official, the decision of each Responsible Official shall be coordinated with that of any other Responsible Official on the Subdivision Vested Rights Petition.
  - c. The City Attorney shall also be notified of the Subdivision Vested Rights Petition following its filing and acceptance for processing.
  - d. The Applicant shall reimburse the City for all related legal costs for review of a Subdivision Vested Rights Petition. This reimbursement shall be paid in full prior to filing of the Final Plat.
2. Decision by the Responsible Official on a Subdivision Vested Rights Petition.
  - a. If the City Administrator or Responsible Official is the Decision-Maker on the original related Application, that official shall determine whether the relief requested in the Subdivision Vested Rights Petition should be granted in whole or in part, and shall formulate a written report summarizing the Decision-Maker's reasoning and recommendation.
  - b. The Applicant shall be notified of the decision within fourteen (14) calendar days following the date the Subdivision Vested Rights Petition was filed at the City.
  - c. The City Administrator or Responsible Official may defer making a decision on the Subdivision Vested Rights Petition and instead forward the petition to the Commission for a decision, in accordance with the process outlined in 7.03.F.3.
3. Decision by Commission on a Subdivision Vested Rights Petition.
  - a. If the original related Application is to be decided by the Commission, or if the City Administrator or Responsible Official defers making a decision on a Subdivision Vested Rights Petition pursuant to 7.03.F.2.c, the Responsible Official for that type of Application shall submit a report in the form of a recommendation on the petition to the Commission.

- b. The Commission shall render a decision on the petition within thirty (30) calendar days following the date the petition was filed at the City or deferred by the City Administrator or Responsible Official.
  - c. The Commission's decision on a petition shall be upon a simple majority vote of the full Commission's voting members.
4. Decision by City Council on a Subdivision Vested Rights Petition.
- a. Where the City Council is the final Decision-Maker on the related Application, or for any petition submitted pursuant to Paragraph K. Dormant Projects, the Responsible Official for that type of Application shall submit a report in the form of a recommendation on the petition to the City Council.
  - b. The City Council shall render a decision on the petition within thirty (30) calendar days following the date the petition was filed at the City.
  - c. The City Council's decision on a petition shall be upon a simple majority vote of the full City Council's voting members, and shall be final.
5. Appeal to the Council of a Decision on Subdivision Vested Rights Petition.
- a. For an Applicant-Initiated Appeal. The Applicant may appeal the City Administrator or Responsible Official's or Commission's decision on the Subdivision Vested Rights Petition to the City Council by submitting written notice of appeal to the applicable Responsible Official within fourteen (14) calendar days following the date of such decision.
    - i. A letter stating the reasons for the appeal, citing the specific applicable section(s) of the Subdivision Ordinance, shall be submitted by the Applicant.
  - b. For a City Council-Initiated Appeal. No less than four (4) voting members of the City Council may appeal the Responsible Official's or Commission's decision on the Subdivision Vested Rights Petition to the entire City Council by submitting written notice of appeal to the applicable Responsible Official within fourteen (14) calendar days following the date of such decision.
    - i. The Council shall consider and act on whether it will appeal the decision at its first regular meeting (for which there is time to include such appeal on its posted agenda, as required by State law) that occurs after the date at which the decision was made.
    - ii. Written notice of the City Council's vote to appeal shall be submitted to the City Administrator within seven (7) calendar days following the City Council's vote to appeal the decision.
  - c. The City Council shall hear and decide the appeal within thirty (30) calendar days following receipt of the notice of appeal by the City.
  - d. Approval of an appeal by the City Council shall only be upon a favorable vote of at least four (4) of the City Council's voting members, and shall be final.
- G. *Criteria for Subdivision Vested Rights Petition Approval.*
1. *Factors.* The Decision-Maker shall decide the Subdivision Vested Rights Petition based upon the following factors:
- a. The nature and extent of prior Applications filed for the land subject to the petition;
  - b. Whether any prior vested rights determinations have been made with respect to the property subject to the petition;
  - c. Whether any prior approved Applications for the property have expired or have been terminated in accordance with State law or local ordinances;

- d. Whether current standards adopted after commencement of the project affect proposed use of the land, landscaping or tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage or building size based upon the proposed Application;
  - e. Whether any statutory exception applies to the standards in the current Subdivision Regulations from which the Applicant seeks relief;
  - f. Whether any prior approved Applications relied upon by the Applicant have expired; and
  - g. Any other applicable provisions outlined in Chapter 245 or Section 43.002 of the Texas Local Government Code, or successor statutes.
2. *Conditions for a Pending Application.* If the claim of vested rights is based upon a pending Application, subject to standards that have been superseded by current standards of this Subdivision Ordinance, the Decision-Maker may condition any relief granted on the Subdivision Vested Rights Petition on the approval of the pending Application.
- H. *Action and Record of Action on the Subdivision Vested Rights Petition.*
1. *Action.* The Decision-Maker may take any of the following actions:
    - a. Deny the relief requested in the petition, and direct that the Application shall be reviewed and decided under currently applicable standards; or
    - b. Grant the relief requested in the petition, and direct that the related Application be reviewed and decided in accordance with the standards contained in identified prior regulations; or
    - c. Grant the relief requested in part, and direct that certain identified current standards be applied to the related Application, while standards contained in identified prior regulations also shall be applied.
  2. *Record.* The Responsible Official's report and the decision on the Subdivision Vested Rights Petition shall be recorded in writing in an order identifying the following:
    - a. The nature of the relief granted, if any;
    - b. The related Application(s) upon which relief is premised under the petition;
    - c. Current standards that shall apply to the related Application for which relief is sought, if applicable;
    - d. Prior standards that shall apply to the related Application for which relief is sought, including any procedural standards, if applicable;
    - e. The statutory exception or other grounds upon which relief is denied in whole or in part on the petition; and
    - f. To the extent feasible, subsequent related Applications that are subject to the same relief granted on the petition.
- I. *Effect of the Final Petition Decision on Related Applications.*
1. *Petition Decision Required Before Proceeding with Application.* A final decision on the Subdivision Vested Rights Petition must be achieved prior to further processing, and prior to any consideration of, or decision on, the related Application.
  2. *Revision Made (if necessary) to Related Application After Petition Decision.* Following the City's final decision on a petition, the Applicant shall, if necessary, revise the related Application such that it conforms to the City's decision on the petition.
  3. *Related Applications with Revisions.* After submission of a revised related Application, the Decision-Maker on the related Application shall review and consider the revised Application in accordance with the procedures for deciding that type of Application, as outlined in this Subdivision Ordinance, and in conformity with any relief granted.

4. Related Applications without Revisions. If the relief granted on the petition is consistent with the related Application on file, no revisions shall be necessary, and the related Application shall be deemed submitted at the time of the final decision on the petition.

J. *Expiration and Extension of a Subdivision Vested Rights Petition.*

1. *Expiration.* Relief granted on a Subdivision Vested Rights Petition shall expire on occurrence of one of the following events:
  - a. The Applicant fails to submit a revised Application that is consistent with the relief granted, if any, within sixty (60) calendar days following the final decision on the petition;
  - b. The Application for which relief was granted on the petition is denied; or
  - c. The Application for which relief was granted on the petition expires.
2. *Extension.* Extension of the date of expiration for the Application for which relief was granted on a petition shall result in extension of the relief granted on the petition for the same time period.

K. *Dormant Projects.*

1. *Definitions.* For purposes of this Section 7.03.K only:
  - a. *Dormant Project.* A dormant project shall meet the following criteria:
    - i. An Initial Permit does not have an expiration date; and
    - ii. No Progress Towards Completion has been made within the project over 5 years.
  - b. *Initial Permit.* Initial permit means any of the following types of approvals granted under these Subdivision Regulations, or any predecessor subdivision or development-related regulation or ordinance that was in effect prior to the adoption of this Subdivision Ordinance:
    - i. Preliminary Plat,
    - ii. Construction Plans,
    - iii. Construction Release,
    - iv. Subdivision Waivers to any requirement in this Subdivision Ordinance (per 7.01 Petition for Subdivision Waiver), or
    - v. Any other Application that was approved subject to a schematic drawing illustrating the location, arrangement, orientation or design of development, lots or improvements on a site intended for development.
  - c. *Final Permit.* Final permit means a Final Plat approved under this Subdivision Ordinance, or any predecessor subdivision or development-related regulation or ordinance that was in effect prior to the adoption of this Subdivision Ordinance.
2. *Expiration Date Established for an Initial Permit.* Any Application for an Initial Permit that was approved or filed two (2) years prior to the adoption date of this Subdivision Ordinance, and was not subject to an expiration date shall expire on the effective date of this Subdivision Ordinance.
3. *Reinstatement of an Expired Initial Permit.*
  - a. The property owner of the land subject to an Initial Permit that expires under 7.03.K.2 (above) may petition the City Council to reinstate such Initial Permit by filing a written petition within one (1) year following the effective date of this Subdivision Ordinance.
  - b. The petition shall clearly state the grounds for reinstatement, and shall be accompanied by documentation the following:
    - i. As of two (2) years prior to the effective date of this Subdivision Ordinance, one of the following events had occurred:

- (a) A Final Permit to continue toward completion of the project was submitted to the City for all or part of the land subject to the approved Initial Permit and was approved by the City, or was filed and was subsequently approved by the City;
  - (b) An Application for a Final Permit to continue toward completion of the project was submitted to the City for all or part of the land subject to the expired Initial Permit, but such Application was rejected on grounds of incompleteness (consistent with Texas Local Government Code, Chapter 245.005(c)(2));
  - (c) Costs for development of the land subject to the Initial Permit, including costs associated with roadway, utility and other infrastructure facilities designed to serve the land in whole or in part, but exclusive of land acquisition costs, were incurred in the aggregate amount of five percent (5%) of the most recent appraised market value of the land;
  - (d) Fiscal security was posted with the City to guarantee performance of obligations required under this Subdivision Ordinance, including the construction of required improvements associated with the proposed development, for all or a part of the land subject to the approved Initial Permit; or
  - (e) Utility connection fees for all or part of the land subject to the approved Initial Permit were paid to the City.
4. City Council Action on Reinstatement of a Dormant Project's Expired Initial Permit. The City Council may take one of the following actions:
- a. Reinstatement the expired Initial Permit without an expiration date, if it finds that the Applicant has met any one of the criteria listed in 7.03.K.3.b.i.
  - b. Reinstatement the Initial Permit for all or part of the land subject thereto, if it finds that the Applicant has met any one of the criteria listed in 7.03.K.3.b.i, subject to expiration dates or other conditions that ensure that the remaining land that is not subject to an approved or pending Final Permit Application will be developed in a timely fashion.
    - i. In granting relief under this provision, the City Council may require that development of such remaining land is subject to standards enacted after approval of the Initial Permit.
  - c. Deny the reinstatement petition, if it finds that the Applicant has failed to meet any of the criteria in 7.03.K.3 Reinstatement of an Expired Initial Permit); or
  - d. Reinstatement the permit for only that part of the land subject to a pending Final Permit Application, if it finds that the Applicant has met the criteria in Section 7.03.K.3.b.i and the pending Application subsequently was approved, and deny the reinstatement petition for the remaining land subject to the expired Initial Permit.

## SECTION 8. - DEFINITIONS

### Sec. 155.8.01. - 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.

Sec. 155.8.02. - Words and terms defined.

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

1. *Abutting.* Adjacent, adjoining and contiguous to. It may also mean having a lot line in common with a right-of-way or easement, or with a physical improvement such as a street, waterline, park, or open space.
2. *Access.* A means of approaching or entering a property, or the ability to traverse a property (such as in the use of the phrase "pedestrian access easement").
3. *Alley.* A public Right-of-Way, not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street.
4. *Amending Plat.* An Amending Plat applies minor revisions to a recorded plat consistent with provisions of State law, see Section 4.09 Amending Plat.
5. *Applicant.* The person or entity responsible for the submission of an Application. The Applicant must be the actual owner of the property for which an Application is submitted, or shall be a duly authorized representative of the property owner. Also see Developer.
6. *Application.* The package of materials, including but not limited to an Application Form, Plat, completed checklist, tax certificate, Construction Plans, special drawings or studies, and other informational materials, that is required by the City to initiate City review and approval of a development project.
7. *Application Form.* The written form (as provided by and as may be amended by the City Administrator) that is filled out and executed by the Applicant and submitted to the City along with other required materials as a part of an Application.
8. *Approval.*
  - a. Approval constitutes a determination by the official, board, commission or City Council responsible for such determination that the Application is in compliance with the minimum provisions of this Subdivision Ordinance.
  - b. Such approval does not constitute approval of the engineering or surveying contained in the plans, as the design engineer or surveyor that sealed the plans is responsible for the adequacy of such plans.
9. *Major Arterial/Thoroughfare Street.*
  - a. A street designated within the Comprehensive Plan.
  - b. A principal traffic way more or less continuous across the City or areas adjacent thereto and shall act as a principal connecting street with highways as indicated in the Comprehensive Plan.
10. *Base Flood.* The flood having a one (1) percent chance of being equaled or exceeded in any given year, determined based upon FEMA (Federal Emergency Management Agency) guidelines and as shown in the current effective Flood Insurance Study.
11. *Block.* A tract or parcel of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad Right-of-Way, highway, stream, or corporate boundary lines.
12. *Block Face.* The portion of a Block that abuts a street.

13. *Block Length.* The length of the Block Face between two intersections.
14. *Building.* Any structure built for support, shelter or enclosure of persons, animals, personal property, records or other movable property and when separated in a manner sufficient to prevent fire, each portion of such building shall be deemed a separate building.
15. *Building Official.* The Building Official of the City or his or her designee.
16. *Building Permit.* A permit issued by the City before a building or structure is started, improved, enlarged or altered as proof that such action is in compliance with the City code.
17. *Building Setback Line.* The line within a property defining the minimum horizontal distance between a building or other structure and the adjacent street Right-of-Way/property line.
18. *Certificate of Occupancy.* An official certificate issued by the City through the enforcement official which indicates conformance with the City's rules and regulations and which authorizes legal use of the premises.
19. *City.* The City of Stephenville, Texas, together with all its governing and operating bodies.
20. *City Administrator.* The officially appointed and authorized City Administrator of the City of Stephenville, Texas, and may include the City Administrator's duly authorized representative or designee, per the City Administrator's discretion.
21. *City Attorney.* The person(s) so designated by the City Council to provide oversight for and have legal responsibility for the City. This term shall also include any designee of the City Attorney.
22. *City Council.* The duly elected governing body of the City of Stephenville, Texas.
23. *City Engineer.* The Licensed Professional Engineer or firm of Licensed Professional Consulting Engineers that has been specifically designated or contracted as such by the City Administrator.
24. *City Secretary.* The person(s) so designated by the City Administrator to provide clerical and official services for the City Council. This term shall also include any designee of the City Secretary.
25. *City's Engineering Official.* The person(s) so designated by the City Administrator to provide oversight for and have responsibility of the City's Public Works Department. This term shall also include any designee of the City's Engineering Official or per the City Administrator the City Engineer (which may be a private consulting firm).
26. *City's Planning Official.* The person(s) so designated by the City Administrator to provide oversight for and have responsibility of the City's Planning and Development Department. This term shall also include any designee of the City's Planning Official. Also, this term shall be inclusive of any future variations of the term, as deemed appropriate by the City Administrator, such as "Director of Planning and Development" or "City Planner."
27. *Collector Street.* A street which is continuous through several residential districts and is intended as a connecting street between residential districts and Major Arterial/Thoroughfare Streets, highways or business districts.
28. *Commission.* The Planning and Zoning Commission of the City.
29. *Comprehensive Plan*
  - a. The plan, including all revisions thereto, adopted by the City Council as the official policy regarding the guidance and coordination of the development of land in the City.
  - b. The plan indicates the general location recommended for various land uses, transportation routes, public and private buildings, streets, utilities, parks other public and private developments and improvements and population projections.
  - c. The plan may consist but is not limited to the following plan elements: Future Land Use Plan, Mobility, Housing, Livability, and Infrastructure.

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



46. *Development Plat.* A Plat required prior to development (i.e., any new construction or the enlargement of any exterior dimension of any building, structure, or improvement), in accordance with Local Government Code 212, Subchapter B (212.045), in lieu of other Subdivision Plats (established in LGC 212, Subchapter A) required by this Subdivision Ordinance and in accordance with Section 4.11 Development Plat.
47. *Director of Community Services.* The person(s) so designated by the City Administrator to perform and manage tasks related to community services. This term shall also include any designee of the Director of Community Services.
48. *Dwelling, Multi-Family.* Any building, or portion thereof, which is designed, built, rented, leased or let to be occupied as three or more dwelling units or apartments, or which is occupied as a home or place of residence by three or more families living in independent and separate housekeeping units.
49. *Dwelling, Single Family (attached—duplex).* A building designed for occupancy for two (2) families living independently of each other. A two family attached unit (also known as a duplex) has a lot line dividing the building and separating the building's two (2) dwellings units onto two (2) separate lots.
50. *Dwelling, Single Family (attached—townhouse).* A dwelling which is joined to another dwelling at one or more sides by a party wall or abutting separate wall, and which is designed for occupancy by one family and is located on a separate lot delineated by front, side and rear lot lines.
51. *Dwelling, Single Family (detached).* A dwelling designed and constructed for occupancy by one family and located on a lot or separate building tract and having no physical connection to a building located on any other lot or tract and occupied by one family.
52. *Dwelling Unit.* One or more rooms, which are arranged, designed, used, or intended to be used for occupancy by a single family or group of persons living together as a family or by a single person.
53. *Easement.*
  - a. Authorization by a property owner for another to use any designated part of the owner's property for a specified purpose or use and evidenced by an instrument or plat filed with the County Clerk. Among other things, easements may be used to install and maintain utility lines, drainage ditches or channels, or for other City or public services.
  - b. An area established for public purposes on private property upon which the City shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs, or other improvements or growths which in any way endanger or interfere with the construction, maintenance, or efficiency of City systems.
  - c. The City shall at all times have the right of ingress and egress to and from and upon the said easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, and adding to or removing all or part of its respective systems without the necessity at any time or procuring the permission of anyone.
54. *Easement, Common Access.* An easement to provide shared access to and from commercial, and industrial owned and maintained by the owners of the property upon which the easement is located or as otherwise provided by deed restrictions or the terms of the easement instrument.
55. *Engineer.* A person duly authorized under the provisions of the Texas Engineering Practice Act, as heretofore or hereafter amended, to practice the profession of engineering and who is specifically qualified to design and prepare Construction Plans and specifications for public works improvements.
56. *Engineering Plans.* See Construction Plans.
57. *Engineering Standards Manual.* A separate and stand-alone document or compilation of documents not included within this Subdivision Ordinance, the Engineering Standards Manual

(ESM) details specific engineering requirements (e.g., drainage criteria) for the construction of Public Improvements. The ESM is developed and maintained by the City Administrator or designated responsible official.

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

landscape architecture or other specialized planning curriculum and/or by actual experience and practice in the field of land planning and who is a member of the American Planning Association.

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

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

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

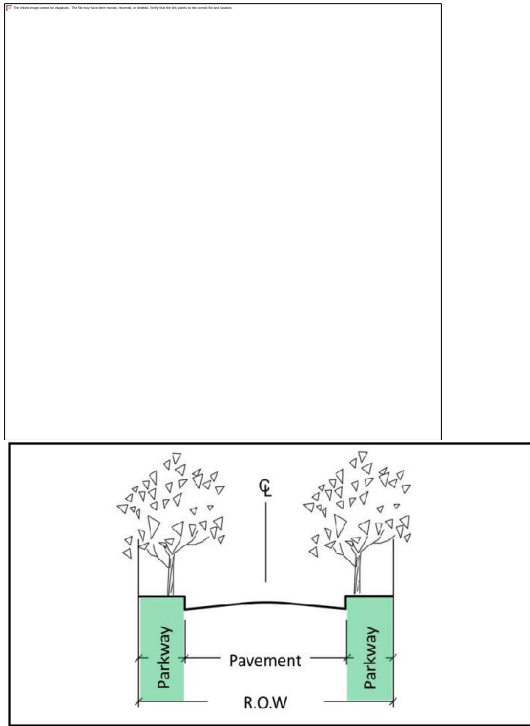


Figure 10: Example of a Parkway

- 88. *Park, Playground, or Community Center, Public*. An open recreational facility or park owned and operated by a public agency such as the City or the school district, and available to the general public.
- 89. *Parking Space*. Open space or garage space reserved exclusively for the parking of a vehicle.
- 90. *Paved Driveways*. Paved driveways are constructed of brick pavers, concrete pavers, hot mix asphaltic concrete, or portland cement concrete.
- 91. *Pavement Width*. The portion of a street available for vehicular traffic. Where curbs are laid, it is the portion between the back of the curbs.
- 92. *Perimeter Street*. A street which abuts a parcel of land to be subdivided on one side.
- 93. *Person*. Person means an individual, firm, association, organization, partnership, trust, foundation, company or corporation.
- 94. *Planning and Zoning Commission*. The Planning and Zoning Commission of the City.

95. *Plat.*
  - a. 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.
96. *Preliminary Drainage Plan.* This plan shows the watershed affecting the development and how the runoff from the fully-developed watershed will be conveyed to, through, and from the development.
97. *Preliminary Plat.*
  - 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.
98. *Preliminary Storm Water Management Plan.* The purpose of the Preliminary SWMP is to identify permanent water quality feature opportunities for Subdivision development.
99. *Preliminary SWMP.* Preliminary SWMP is an abbreviation for the graphic expression of the proposed overall plan for subdividing, improving and developing a tract shown by superimposing a scale drawing of the proposed land division on a topographic map and showing in plan view existing and proposed drainage features and facilities, street layout and direction of curb flow, and other pertinent features with notations sufficient to substantially identify the general scope and detail of the proposed development.
100. *Preliminary Utility Plan.* A plan detailing both Water Utility and Wastewater Utility requirements.
101. *Premises* referring to a sexually oriented business, premises means the building of the sexually oriented business.
102. *Progress Towards Completion.* Progress towards completion of the project shall include any one of the following:
  - a. An Application for a Final Plat or plan for development is submitted;
  - b. A good-faith attempt is made to file with the City or County an Application for a permit necessary to begin or continue towards completion of the project;
  - c. Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;
  - d. Fiscal security is posted with a regulatory agency to ensure performance of an obligation required by the regulatory agency; or
  - e. Utility connection fees for the project have been paid to a regulatory agency.
103. *Pro-rata.* Pro-rata means a charge made against an existing lot abutting a utility or other city infrastructure that is the average per foot cost of the improvement, multiplied by the front footage of the land, and that is imposed to reimburse the original subdivider their cost of installing or paying for the improvement. The pro-rata must be approved as part of a subdivider agreement.
104. *Public Improvement.* Any Improvement, facility or service together with its associated public site, Right-of-Way or easement necessary to provide transportation, storm drainage, public or private utilities, parks or recreational, energy or similar essential public services and facilities, for

which the City ultimately assumes the responsibility, upon a Letter of Final Acceptance being issued, for maintenance, operation and/or ownership.

105. *Record Drawings.* A group of drawings or plans that depicts the final configuration of the installed or constructed improvements of a development, improvements that have been verified by the contractor as their installation or construction occurs during development. The Record Drawings shall reflect the Construction Plans (or working drawings) used, corrected, and/or clarified in the field.
106. *Record Plat.* See Final Plat.
107. *Replat.* The re-subdivision of any or part or all of any block or blocks of a previously platted subdivision, addition, lot or tract, that is beyond the definition of an Amending Plat and which does not require the vacation of the entire preceding plat. Such plat also conforms to Section 4.08 Replat of this Subdivision Ordinance. A Replat can function as a Final Plat for a property.
108. *Residential District.* Residential district means a single family, patio home, duplex, townhouse, multifamily or mobile home zoning district as defined in the zoning ordinance.
109. *Residential Street.* A street which is intended primarily to serve traffic within a neighborhood or limited residential district and which is used primarily for access to abutting properties.
110. *Residential Use.* Residential use means use of a structure as a residence.
111. *Responsible Official.* The City staff person who has been designated by the City Administrator to accept a type of development Application for filing, to review and make recommendations concerning such Applications, and where authorized, to initially decide such Applications, to initiate enforcement actions, and to take all other actions necessary for administration of the provisions of development Applications. Also includes any designee of the designated City staff person.
112. *Retaining Wall.* A non-building, structural wall supporting soil loads and live and dead surcharge loads to the soil, such as additional soil, structures and vehicles.
113. *Right-of-Way:*
  - a. A parcel of land occupied or intended to be occupied by a street or alley.
  - b. A Right-of-Way may be used for other facilities and utilities, such as sidewalks, railroad crossings, electrical communication, oil or gas, water or sanitary or storm sewer facilities, or for any other use.
  - c. The use of Right-of-Way shall also include parkways and medians outside of pavement.
  - d. For platting purposes, the term "Right-of-Way" shall mean that every Right-of-Way shown on a Final Plat is to be separate and distinct from the lots or parcels adjoining such Right-of-Way and not included within the dimensions or areas of such lots or parcels.
114. *Setback Line.* A line within a lot, parallel to and measured from a corresponding lot line, establishing the minimum required yard and governing the placement of structures and uses on the lot.
115. *Site Plan.* A Site Plan is a detailed, scaled drawing of all surface improvements, structures, and utilities proposed for development and is associated with the zoning ordinance.
116. *Sketch Plat.* A sketch or informal plan prepared prior to the preparation of the Preliminary Plat describing the proposed design of the subdivision to be reviewed during the pre-application review process.
117. *Street.* A public Right-of-Way that provides vehicular traffic access to adjacent lands.
118. *Street Width.* The shortest distance between the property or easement lines which delineate the Right-of-Way of a street.

119. *Structure*. Anything constructed or erected, which requires location on the ground, or attached to something having a location on the ground, including, but not limited to advertising signs, billboards and poster panels, but exclusive of customary fences or boundary of retaining walls, sidewalks and curbs.
120. *Subdivider*.
  - a. Any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision.
  - b. In any event, the term "subdivider" shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner, of land to be subdivided.
121. *Subdivision*.
  - a. The division of a tract or parcel of land into two or more parts or lots for the purpose, whether immediate or future, of sale or building development or transfer of ownership with the exception of transfer to heirs of an estate, and shall include re-subdivision.
  - b. Any other subdivision or re-subdivision of land contemplated by the provisions of Chapter 212, Local Government Code.
122. *Subdivision Ordinance*. The adopted Subdivision Ordinance of the City, as may be amended in the future, and may be referred as "this Ordinance."
123. *Subdivision Plat*. A Plat (e.g., Preliminary Plat, Final Plat, Minor Plat, Replat, or Amending Plat) established in LGC 212, Subchapter A involving the subdividing of land in two (2) or more parts or the amending of a recorded Plat.
124. *Subdivision Regulations*. Any regulations and standards contained within the Subdivision Ordinance.
125. *Subdivision Waiver*. Either a Minor Subdivision Waiver or Major Subdivision Waiver, see Section 7.01 Petition for Subdivision Waiver.
126. *Surveyor*. A licensed State Land Surveyor or a Registered Public Surveyor, as authorized by the State to practice the profession of surveying.
127. *Thoroughfare*. See Major Arterial/Thoroughfare Street.
128. *Thoroughfare Plan*. The plan that guides the development of adequate circulation within the City, and connects the City street system to regional traffic carriers. Also, referred to as the Thoroughfare Plan.
129. *Usable Open Space*. An area or recreational facility that is designed and intended to be used for outdoor living and/or recreation. Usable Open Space may include recreational facilities, water features, required perimeter landscape areas, floodplain areas, and decorative objects such as art work or fountains. Usable Open Space shall not include the following:
  - a. Walks,
  - b. Rooftops,
  - c. Buildings, except those portions or any building designed specifically for recreation purposes,
  - d. Parking areas,
  - e. Landscaped parking requirements,
  - f. Driveways,
  - g. Turnarounds, or
  - h. Rights-of-Way or easements for streets and alleys.
130. *Utility Easement*. See Easement.

131. *Vested Right*. A right of an Applicant requiring the City to review and decide the Application under standards in effect prior to the effective date of the standards of this Subdivision Ordinance and/or of any subsequent amendments.
132. *Vested Rights Petition*.
  - a. A request for relief from any standard or requirement of the Subdivision Regulations based on an assertion that the Applicant (petitioner for relief) has acquired a Vested Right.
  - b. Such petition is regulated under Section 7.03 Subdivision Vested Rights Petition.
133. *Vision Clearance*. A space left open and unobstructed by fences, structures, shrubs, trees or other plant life along streets at the corner in front of the building line of lots contiguous to intersecting streets.
134. *Waiver, Major Subdivision*.
  - a. A significant change to both the standards and intent of the Subdivision Regulations, which involves Planning and Zoning Commission and City Council approval.
  - b. See Section 7.01 Petition for Subdivision Waiver for details.
135. *Waiver, Minor Subdivision*.
  - a. A minor change to the standards, but not the intent, of these Subdivision Regulations, which involves the City Administrator approval unless otherwise noted.
  - b. See Section 7.01 Petition for Subdivision Waiver for details.
136. *Water Treatment Facility*. The facility or facilities within the water supply system which can alter the physical, chemical, or bacteriological quality of the water.
137. *Yard*.
  - a. An open space other than a court, on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.
  - b. In measuring to determine the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the main building shall be used.
138. *Yard, Front*. A yard across the full width of a lot extending from the front line of the main building to the front street line of the lot.
139. *Yard, Rear*. A yard extending across the full width of the lot and measured between the rear line of the lot and rear line of the main building, except that area included in the side yard as defined below.
140. *Yard, Side*. A yard between the building and the side line of the lot and extending from the front yard to the required minimum rear yard.
141. *Zoning Ordinance*. The adopted Zoning Ordinance of the City, as may be amended in the future.