

ORDINANCE 186-2021

LONE OAK

SUBDIVISION ORDINANCE

TABLE OF CONTENTS

<u>ARTICLE 9.01 GENERAL PROVISIONS</u>	5
SECTION 9.01.001 PURPOSE & APPLICABILITY	5
SECTION 9.01.002 DEFINITIONS	ERROR! BOOKMARK NOT DEFINED.
SECTION 9.01.003 REVIEW BODIES	9
SECTION 9.01.004 AMENDMENTS	10
SECTION 9.01.005 FILING FEES AND CHARGES	10
SECTION 9.01.006 DEVELOPMENT APPLICATION SUBMITTAL & PROCESSING PROCEDURES	11
SECTION 9.01.007 INITIATION, COMPLETE APPLICATION & EXPIRATION	16
SECTION 9.01.008 APPLICATION PROCESSING, ACTION & NOTIFICATION FOLLOWING DECISION	18
SECTION 9.01.009 PUBLIC HEARINGS	18
SECTION 9.01.010 AMENDMENTS & EXPIRATION	19
SECTION 9.01.011 CHAPTER 245 DETERMINATION	20
SECTION 9.01.012 WITHHOLDING PERMITS	22
SECTION 9.01.013 - PROPORTIONALITY DETERMINATION	23
SECTION 9.01.014 - ROUGH PROPORTIONALITY DETERMINATION	24
SECTION 9.01.015 - ROUGH PROPORTIONALITY APPEAL	24
SECTION 9.01.016 - APPEALS PROCEDURE	24
SECTION 9.01.017 - CITY COUNCIL DECISION	26
SECTION. 9.01.018 - ACTION FOLLOWING DECISION OF CITY COUNCIL	26
SECTION 9.01.019 - APPEAL OF CITY COUNCIL DECISION	27
SECTION 9.01.020 - PRO RATA PAYMENTS	27
SECTION 9.01.021 PENALTY FOR VIOLATIONS	28
<u>ARTICLE 9.02 SUBDIVISION PROCEDURES</u>	28
SECTION 9.02.001 GENERAL SUBDIVISION & PLATTING PROCEDURES	28
SECTION 9.02.002 PRELIMINARY PLATS/PRELIMINARY DEVELOPMENT PLAT	29
SECTION 9.02.003 FINAL PLATS	34
SECTION 9.02.004 CONSTRUCTION PLANS	36
SECTION 9.02.005 DEVELOPMENT PLAT	37

SECTION 9.02.006 CONVEYANCE PLATS	38
SECTION 9.02.007 MINOR PLATS	39
SECTION 9.02.008 REPLATS AND AMENDING PLATS – GENERAL REQUIREMENTS	40
SECTION 9.02.009 REPLATS	41
SECTION 9.02.010 AMENDING PLATS	43
SECTION 9.02.011 PLAT VACATION	44
SECTION 9.02.012 PLAT APPEALS	46
<u>ARTICLE 9.03 CONSTRUCTION PLANS & PROCEDURES</u>	46
SECTION 9.03.001 CONSTRUCTION PLANS	47
SECTION 9.03.002 PRE-CONSTRUCTION MEETING	49
SECTION 9.03.003 TIMING OF PUBLIC IMPROVEMENTS	49
SECTION 9.03.004 IMPROVEMENT AGREEMENTS AND SECURITY FOR COMPLETION	50
SECTION 9.03.005 INSPECTION, MAINTENANCE & ACCEPTANCE OF PUBLIC IMPROVEMENTS	52
<u>ARTICLE 9.04 SUBDIVISION REQUIREMENTS</u>	54
SECTION 9.04.001 GENERAL STANDARDS	54
SECTION 9.04.002 WATER & WASTEWATER REQUIREMENTS	58
SECTION 9.04.003 DRAINAGE AND ENVIRONMENTAL STANDARDS	62
SECTION 9.04.004 STREET REQUIREMENTS	64
SECTION 9.04.005 EASEMENTS, LOT & BLOCK DESIGN, MONUMENTS, SUBDIVISION NAMES, FRANCHISE UTILITIES	67
SECTION 9.04.006 SUBDIVISION AMENITIES	69
SECTION 9.04.007 PUBLIC PARKS & OPEN SPACES	70
<u>ARTICLE 9.05 RELIEF PROCEDURES</u>	72
SECTION 9.05.001 PETITION FOR WAIVERS	72
<u>ARTICLE 9.06 STREET NAMING AND NUMBERING</u>	75
SECTION 9.06.001 PROCEDURES ESTABLISHED	75
SECTION 9.06.002 PROPERTY NUMBER POSTING CRITERIA	75
SECTION 9.06.003 STREET NAMES AND PROPERTY NUMBERING RECORDS CRITERIA	75

SECTION 9.06.004	PLACEMENT OF STREET SIGNS	76
ARTICLE 9.07 TREE PRESERVATION		76
SECTION 9.07.001	INTENT	76
SECTION 9.07.002	APPLICABILITY	76
SECTION 9.07.003	DEFINITIONS	77
SECTION 9.07.004	TREE PRESERVATION AND PROTECTION	77
SECTION 9.07.005	REMOVAL, MAINTENANCE AND REPLACEMENT OF TREES	79
SECTION 9.07.006	FEES AND IMPLEMENTATION	79

ARTICLE 9.01 GENERAL PROVISIONS**SECTION 9.01.001 PURPOSE & APPLICABILITY****A. Purpose**

1. The development and subdivision of land, as they affect a community's quality of life, are activities for which regulation is a valid function of a municipal government. The regulations contained within this Subdivision Ordinance are intended to protect the interests of the public and of private parties by granting certain rights and privileges. The requirements in this Subdivision Ordinance are also intended to establish a fair and rational procedure for developing and subdividing land such that land will be developed in accordance with existing physical, social, economic and environmental conditions.
2. The provisions of this Subdivision Ordinance are intended to implement standards and requirements provided for herein and shall be requirements for the platting and development of land within the City limits and its Extraterritorial Jurisdiction ("ETJ") pursuant to the authority granted in Section 212.003, Texas Local Government Code.
3. The provisions of this Subdivision Ordinance are intended to implement the following objectives:
 - a. Promote the development and the utilization of land in a manner that provides an attractive and high-quality community environment in accordance with the Comprehensive Plan and the Zoning Ordinance of the City;
 - b. Guide and assist property owners and applicants in the correct procedures to be followed, and to inform them of the required standards;
 - c. Protect the public interest by having standards for, but not limited to, the location, design, class and type of streets, sidewalks, trails, alleys, utilities and essential public services;
 - d. Assist orderly, efficient and coordinated development within the City's limits and its ETJ;
 - e. Integrate the development of various tracts of land into the community, and coordinate the future development of adjoining tracts;
 - f. Promote the most efficient and beneficial provision of public facilities and services for each tract being subdivided;
 - g. Provide for efficient traffic circulation throughout the municipality;
 - h. Provide for pedestrian circulation that is appropriate for the various uses of land and buildings;
 - i. Minimize pollution of the air, streams, bodies of water, and aquifers; promote the adequacy of storm drainage facilities; minimize erosion; safeguard both surface and groundwater supplies, as well as endangered or threatened plant and animal life in order to preserve the integrity, stability and beauty of the community and the value of the land;

- j. Preserve the natural beauty and topography of public and private properties by encouraging where possible that natural features and landforms are incorporated into developments as amenities;
- k. Establish adequate and accurate records of land subdivision;
- l. Provide for public or private facilities that are available and will have sufficient capacity to serve proposed developments and citizens within the City and ETJ;
- m. Provide for adequate light, air and privacy; secure safety from fire, flood and other dangers; and prevent overcrowding of the land and undue congestion of population.

B. Applicability

- 1. The provisions of this Subdivision Ordinance apply to any division or development of land, combination of separate land parcels, and/or development of land within the corporate boundaries of the City and within its ETJ.
- 2. Except as otherwise expressly provided in this Subdivision Ordinance, no building permit shall be issued for any building or structure on a property located within the city limits of the City until a plat has been approved and filed for record.
- 3. Property located within the city limits must be properly zoned before a Plat may be approved.

C. Subdivision Rules

The provisions of this Subdivision Ordinance, the standards governing constructed facilities applicable to plats in other portions of the Municipal Code of Ordinances, constitute the subdivision rules of the City, which apply to applications for plat approval inside the city limits and within the City's ETJ.

D. Compliance with City Plans and Ordinances Required

- 1. Within the city limits, compliance with all city ordinances pertaining to zoning, subdivision and development of land, and the Comprehensive Plan, shall be required prior to approval of any application pursuant to this Subdivision Ordinance. All such ordinances and Comprehensive Plan shall be construed to mean those documents as they exist or may be amended from time to time. It is the property owner's responsibility to be familiar with, and to comply with, city ordinances, the Comprehensive Plan, and the provisions of this Subdivision Ordinance.
- 2. Within the Extraterritorial Jurisdiction (ETJ), in order to promote the health, safety, and general welfare of the City and the safe, orderly, and healthful development of the City, it is the intent of the City to exercise full authority in all or portions of the ETJ as allowed by state law, including but not limited to the following:
 - a. Plats, Development Plats, subdivision approvals and development requirements applicable to plans and plats;
 - b. Access to and sufficiency of public roads;
 - c. Regulation of ground water; and

d. Any and all portions of the City's Code of Ordinances that specifically state their application to the ETJ.

E. Restrictiveness

Where the regulations imposed herein are either more restrictive or less restrictive than comparable conditions imposed by any other provision of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards are the requirements that shall govern. Notwithstanding the foregoing, the City may, but is not required to, seek enforcement of a more restrictive regulation imposed by a person or entity other than the City.

SECTION 9.01.002 DEFINITIONS

A. General

Terms which are used in this Ordinance and are not specifically defined shall be given their ordinary meaning, unless the context requires or suggests otherwise. In the case of ambiguity or uncertainty concerning the meaning of a particular term, whether or not defined, the City staff shall have the authority to assign an interpretation which is consistent with the intent and purpose of this Ordinance, or an interpretation which is consistent with previous usage or interpretation.

B. Words and Terms Defined

Alley: a right of way which provides secondary access to multiple properties, generally in the rear of the property and used for the purpose of service access and not intended for general travel.

Block: property designated on an officially recorded map existing within well-defined and fixed boundaries within a subdivision and usually being an area surrounded by streets or other features such as parks, railroad rights-of-way or municipal boundary lines which make it a unit.

Building: a structure for the support or shelter of any use or occupancy.

Building Inspector: the officer or other designated authority charged with the administration and enforcement of this Code.

Building Line: means a line established, in general, parallel to a property line, over which no part of a building shall project, except as otherwise provided in this Ordinance.

City Engineer: The duly authorized Engineer of the City of Lone Oak.

Council: the City Council for the City of Lone Oak.

Easement: a right given by the owner of a parcel of land to another person, public agency or entity for specific and limited use of that parcel.

Extraterritorial Jurisdiction: 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.

Floodplain: area subject to inundation by flood, having a given percentage of probability of occurrence in any given year, based on existing conditions of development within the watershed area.

Front Yard: that portion of a lot between the front lot line and the front building line.

Height: the vertical distance measured from grade to the highest point of the structure.

Lot: a designated parcel, tract, or area of land established by a plat and to be used, developed or built upon as a unit.

Lot Depth: the length of a line connecting the mid-point of the front and rear lot lines.

Lot Line: a property line that divides one lot from another lot or from a public or private street or any other public space.

Lot Width: the length of a line, drawn perpendicular to the lot depth line at its point of intersection with the front yard line, connecting the side property lines.

Open Space: any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public use or enjoyment or for the private use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

Platted Lot Line: a lot line that has been recorded with the official recording agency.

Planning and Zoning Administrator: That person appointed by the Mayor and City Council to manage City Planning, Zoning and Subdivision reviews.

Planning and Zoning Commission: The regulatory body appointed by the City Council as an advisory body to it relative to zoning, platting and planning matters and the physical development of the City and its environs and designated as the Planning and Zoning Commission. If no entity is appointed then the members of the City Council shall act as and carry out all duties of the Planning and Zoning Commission.

Public Improvement: means any temporary and permanent on-site and off-site facilities, infrastructure, amenities and other appurtenances, required by City regulations to be provided whether owned and maintained by the City or by a third party, which serve a public purpose in providing a needed service or commodity, such as wastewater collection and treatment and water storage and distribution, street improvements and which protect the general health, safety, welfare and convenience of the City's citizens, including efficiency in traffic circulation and access for emergency services. Required public improvements may include, but shall not be limited to, street and alley paving, including any necessary median openings and left-turn lanes on major thoroughfares; water lines and pumping stations; sanitary sewer lines and lift stations; storm drainage structures and storm water management devices; water quality controls; screening and retaining walls; fire lane paving and fire hydrants; landscaping, where such is used for required screening or other required landscaped area, and associated irrigation systems and irrigation areas; and any required public walkways, streetlights and street name signs .

Public Street: any street in the City of Lone Oak that is not private.

Rear Yard: that portion of a lot between the rear lot line and the rear building line.

Side Yard: that portion of a lot line between the side lot lines and the side building lines.

Street: the right-of-way of a street.

Structure: that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Tree: a plant having a permanently woody main stem or trunk, ordinarily growing to a considerable height, and usually developing branches at some distance from the ground.

TXDOT: Texas Department of Transportation.

Waiver, Major: A significant change to both the standards and intent of this Subdivision Ordinance, which involves City Council approval.

Waiver, Minor: A minor change to the standards, but not the intent, of this Subdivision Ordinance, which requires the City or the City Engineer approval unless otherwise noted.

Yard: that portion of a lot which is required to be unoccupied and unobstructed from the ground to the sky, except as otherwise provided in this Ordinance.

SECTION 9.01.003 REVIEW BODIES

A. Planning and Zoning Commission Authority for Deciding Applications

1. The Planning and Zoning Commission shall have the authority to act on, review and make recommendations on the following types of applications:
 - a. Preliminary Plat;
 - b. Final Plat;
 - c. Major Replat;
 - d. Development Plat.
 - e. Any plat requesting a Major Waiver.
2. Recommendations. After making a recommendation of the types of applications referenced in Section 9.01.003(A)(1)(a) – (e) by the Planning and Zoning Commission, the same shall be reported to the City Council for consideration and approval, approval with conditions, or disapproval.
3. Appeals. Appeals from the Planning and Zoning Commission shall be heard and decided by the City Council.

B. Administrative Authority for Deciding Applications.

1. The Planning and Zoning Administrator shall have the authority to act on the following types of applications:
 - a. Minor Plat
 - b. Amended Plat

- c. Replats where no more than 3 lots are created and no additional public improvements are required.
 - d. Any request for a Minor Waiver associated with the above plat types.
- 2. Appeals. Appeals of a decision by the Planning and Zoning Administrator shall be made to the Planning and Zoning Commission.

C. Authority of City Council

- 1. Reports from Planning and Zoning Commission. The City Council shall review and consider all reports from the Planning and Zoning Commission.
- 2. Appeals. The City Council shall hear and decide the following appeals:
 - a. Any appeal from a decision made by the Planning and Zoning Commission and related to a denial or approval with conditions of a plat or waiver;
 - b. Any appeal from a decision made by the Planning and Zoning Commission and related to a denial of a plat or waiver by the Planning and Zoning Administrator;
 - c. Any other appeal so authorized by this Subdivision Ordinance.
 - d. Decisions of the City Council on platting matters shall be decided by simple majority vote except when associated with a protest, as set out in Texas Local Government Code Section 211.006, upon which the affirmative vote of at least three-fourths of all members of the City Council shall be required to approve the protested platting matter.

SECTION 9.01.004 AMENDMENTS

The City Council may from time to time, after public hearings required by law, amend, supplement, or change the regulations herein provided.

The City Council may from time to time amend, supplement or change the text of the Development Application Handbook which is incorporated herein by reference.

SECTION 9.01.005 FILING FEES AND CHARGES

A. General

Fees shall be paid to the City when any application authorized by this Subdivision Ordinance is submitted to the City. Each of the fees shall be paid in advance, and no action by the City Council shall be valid until all required fees have been paid. Fees paid for the review and consideration of plats and applications under this Subdivision Ordinance are non-refundable.

B. Calculations & Charges

- 1. All fees are prescribed in chapter 12, Fee Schedule.
- 2. These fees shall be charged on all plats and applications authorized by this Subdivision Ordinance, regardless of the action taken by the City and whether the application is approved, denied or closed.

SECTION 9.01.006 DEVELOPMENT APPLICATION SUBMITTAL AND PRE-SUBMITTAL MEETING

Prior to the filing of a plat application, the applicant(s) shall meet with the City to familiarize himself or herself with the City's development regulations. At such meeting the general character of the development may be discussed, and items may be included concerning zoning, utility service, street requirements, vested rights, proposed waivers and other pertinent factors related to the proposed subdivision or development. At the pre-submittal conference the applicant(s) may be represented by his or her land planner, engineer or surveyor, or other representative.

A. Pre-Submittal Meeting**1. Meeting Request**

To schedule a pre-submittal meeting, the applicant shall make a request for a Pre-Submittal Meeting with the Planning and Zoning Administrator, and such request shall describe the type of development or subdivision desired and/or the type of application that the applicant intends to submit. The applicant shall then be notified by the Planning and Zoning Administrator of the meeting time and place.

2. Vested Rights

There shall be no vested rights based on a pre-submittal meeting. If the applicant claims a vested right as described in Section 9.01.011 the vested rights claim shall be resolved prior to submittal of a plat application. If no application is filed claiming a vested right prior to submittal of a plat application, the City will process the application on the assumption that current ordinances of the City apply to the application. If a vested rights claim is made after a plat application is filed, such claim will be grounds for denying the plat until the vested rights claim is addressed.

3. Rough Proportionality. If the applicant claims that construction of a public improvement as required by this Subdivision Ordinance would constitute an illegal exaction on the applicant, such claim shall be resolved such that any exactions are determined in accordance with Section 9.01.013. A determination on the applicant's exaction claim shall be resolved before approval of a recordable plat. If an exaction claim is made after a plat application is filed, such claim will be grounds for denying the plat until the claim is resolved. Applicants are encouraged to raise such issues at the pre-submittal meeting.

4. Effect

Except as otherwise described above, following the pre-submittal meeting the applicant may proceed with the submittal of an application.

B. General Application Contents**1. Application Contents**

All applications shall be submitted on a form supplied by the City with the required information as stated on the application form. Incomplete applications shall not be accepted for filing and shall not be considered officially filed until such time as the application becomes complete.

a. Application Timing

An application must be considered complete in accordance with Section 9.01.007 SECTION 9.01.007 INITIATION, COMPLETE APPLICATION & EXPIRATION of this Subdivision Ordinance prior to being processed for technical review and compliance and prior to placement on an agenda for Planning and Zoning Commission or City Council consideration, or prior to consideration by the Planning and Zoning Administrator, as applicable.

b. Fees Required

Every application shall be accompanied by the prescribed fee set forth in the City's Fee Schedule, as approved by City Council and as may be amended from time to time. The prescribed fee is not refundable.

c. Delinquent City Taxes on Property

An application shall not be deemed complete, nor shall it be approved, if there are delinquent City taxes on the subject property.

2. Accompanying Information to be Provided

Each application shall show or be accompanied by the following information:

a. The name of the applicant(s).

b. The name of the licensed land surveyor, registered professional engineer or land planner responsible for the design of the plat.

c. The title or name of the subdivision (which must not be so similar to that of an existing subdivision as to cause confusion).

d. North point, date, scale (not to exceed one (1) inch to one hundred (100) feet) and the approximate acreage of the proposed subdivision with an accurate survey of the land to be subdivided.

e. The location and width of all existing and dedicated streets, alleys, and easements within or adjacent to the proposed subdivision for a distance of two hundred (200) feet from the proposed subdivision. If there are no adjacent existing or dedicated streets or alleys within two hundred (200) feet of the proposed subdivision on any side, then a map on a smaller scale must accompany the preliminary plat showing the outline and ownership of adjacent properties, locations of the nearest subdivisions and existing or dedicated streets and alleys.

f. All physical features of the property to be subdivided, including location and size of all watercourses, ravines, bridges, culverts, existing structures, drainage areas in acres of any areas draining into the subdivision, and other features pertinent to the subdivision. The outline of wooded areas or the location of important individual trees may be required. All drainage ways within the development shall be protected in a separate easement dedicated by the plat.

g. The location, size and approximate depth of all existing utilities shall be shown.

- h. An additional plat shall be submitted on a contour map with all elevations referenced to city datum. The contours shall be shown at intervals of not more than five feet. The contour interval between these limits shall be determined by the topography of the land to be subdivided or developed.
- i. The plat shall show the actual boundary survey; however, the layout of the proposed subdivision lots, blocks and streets may be scaled dimensions.
- j. The proposed plat for the subdivision shall be shown, including all proposed streets and their names, alleys, easements, blocks, lots, building lines, or setbacks, etc., with principal dimensions. Street names shall conform to existing streets when they are logical extensions.
- k. A designation of the proposed uses of land within the subdivision or development if the property is in the ETJ, and the current zoning for the land located within the city limits.
- l. If the proposed subdivision is a portion of a tract which is later to be subdivided or developed in its entirety, then a tentative master plat of the entire subdivision or development shall be submitted with the plat of the portion first to be subdivided or developed. The master plat shall conform in all respects to the requirements of the plat; except, it may be on a scale of not more than one (1) inch to four hundred (400) feet.
- m. The proposed plan of improvements and utilities to be constructed in the subdivision shall be shown with indications of street widths and utility line sizes. The accurate location of any existing utilities within the subdivision shall be shown on the additional plat.
- o. A copy of any protective or restrictive covenants whereby the applicant(s) proposes to regulate land use and construction in the subdivision or development shall be attached to his or her plat. Residential subdivisions shall provide for appointment of a Home Owner's Association with the authority to own and manage all common property and facilities that serve the project and for compliance with the City's ordinances related to the project. Commercial developments shall provide for appointment of Property Owner's Association or similar entity with the authority to own and manage all common property and facilities that serve the project and for compliance with the City's ordinances related to the project.
- p. No development or construction work shall begin on the property being developed prior to approval of a construction permit by the City Engineer. Except as set out in Subsection 9.02.003, all construction of public improvements shall be completed prior to approval of the Final Plat, Development Plat, or Replat, as applicable.
- q. All survey monuments shall be shown on the plat.
- r. Certification by a surveyor, licensed by the State of Texas, or a professional engineer, registered in the State of Texas, placed on the plat as follows:

KNOW ALL MEN BY THESE PRESENTS:

That I, _____ do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments shown thereon were properly placed, under my personal supervision, in accordance with the subdivision regulations of the City of Lone Oak, Texas.

Seal

s. Certificate of approval by the City Council (to be placed on a plat in a manner that will allow filling in of the certificate):

I hereby certify that the above and foregoing plat of the addition to the City of Lone Oak, Texas, was approved by the City Council of the City of Lone Oak on the _____ day of _____, 20__.

Said addition shall be subject to all requirements of the Subdivision Ordinance of the City of Lone Oak, Texas.

Witness my hand this _____ day of _____ 20__.

City Secretary

City Council:

t. An instrument of dedication, signed and acknowledged by the owner or owners and by all other parties who have a mortgage or lien interest in the property, showing all restrictions, reservations, and/or easements, if any, to be imposed and reserved in connection with the addition. If public improvements will not be constructed prior to approval of the Final Plat, Development Plat or Replat, such restrictions and Draft Plat notes shall contain the following provisions, along with any other restrictions which may be required or imposed:

u. No house, dwelling unit or other structure shall be constructed on any lot or tract by the owner or any other person:

- (1) Until such time as the developer and/or owner has complied with all requirements of the City of Lone Oak Code of Ordinances regarding design and construction of public improvements with respect to the entire development, or phase of the development, being platted and including the actual installation of

on-site or off-site streets, utilities, and other public improvements necessary to serve the development or portion of the phase being platted; or

(2) Unless and until an escrow deposit has been made, sufficient to cover the cost of design and construction of all public improvements, and an improvement or escrow agreement, as applicable, has been agreed to by the developer and/or owner, authorizing the City to use the escrow funds to make such improvements at prevailing private commercial rates, or have the same made by a contractor and paid for out of the escrow deposit. The City shall be authorized to use the escrow funds in the event that the developer and/or owner fail or refuse to construct and install the required public improvements within the time stated in such written agreement, or as provided in the construction permit, but in no case shall the City be obligated to make such improvements itself. If an escrow agreement is made and funds are deposited in the escrow, such funds may be used by the owner and/or developer as progress payments as the work progresses in making such improvements by making certified requisitions to the City Engineer, or designee, supported by evidence of work done; or

(3) Until the developer and/or owner files on a form provided by the City a performance and payment bond with the City Secretary in a sum equal to the cost of design and construction of such improvements for the designated area, guaranteeing the installation thereof within the time stated in the bond, which time shall be fixed by the City Council. Estimates of costs associated with design and construction of public improvements shall be prepared and sealed by a licensed engineer.

v. These restrictions with respect to public improvements are made to ensure the installation of such improvements and to give notice to each owner and to each prospective owner of lots in the subdivision that no house, dwelling unit or other structure may be constructed until said improvements are actually made or provided for on the entire block on the street and/or streets on which the property abuts as described herein.

w. Certificate of dedication in fee of all streets, alleys, easements and other land intended for public use, signed by the owner or owners and by all other parties who have a mortgage or lien interest in the property and acknowledged before a notary public.

x. A waiver of claim for damages against the City occasioned by the establishment of grades or the alteration of the surface of any portion of existing streets and alleys to conform to the grades established for the subdivision or development.

3. Modification of Applications Prior to Approval

Except as otherwise provided herein, the applicant may modify any complete application following its filing and prior to the expiration of the period during which the City is required to act on the application.

4. Modifications Requested by the City

If the modification is for revisions requested by the City, and the modification is received at least eleven (11) calendar days prior to the time scheduled for decision on the application, the application shall be decided within the original period for decision (from the original official filing date) prescribed by this Subdivision Ordinance, but in no event more than thirty (30) days from the Official Filing Date.

SECTION 9.01.007 INITIATION, COMPLETE APPLICATION & EXPIRATION

A. Initiation by Owner

An application required under this Subdivision Ordinance may be initiated only by the owner of the land subject to the application, or by the owner's duly authorized representative. If the applicant is a representative of the property owner, the application shall include a written and notarized statement from the property owner, authorizing the representative to file the application on the owner's behalf.

B. Applicability

The procedures within this section shall apply to all applications that are required by the City and submitted in accordance with this Subdivision Ordinance.

C. Determination of Completeness

Every application shall be subject to a determination of completeness by the Planning and Zoning Administrator for processing the application. An application must be complete in order to be accepted for technical and substantive review by the City.

1. The application shall only be accepted by the Planning and Zoning Administrator for processing when it is accompanied by all documents required by, and prepared in accordance with, the requirements of this Subdivision Ordinance. A typographical error shall not, by itself, constitute an incomplete application.
2. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this Subdivision Ordinance.
3. A determination of completeness of an application shall be conducted in accordance with the following procedures:
 - a. The applicant shall be notified in writing within five (5) business days if the submitted application is incomplete. Such notice shall be served by depositing it in the U.S. Postal Service, or by electronic mail transmission, before the end of the fifth (5th) business day following submission of the application.
 - b. If the application is determined to be incomplete, the notification shall specify the documents or other information needed to complete the application and shall state the date the application will expire if the documents or other information are not provided to the City.
 - c. An application that is not completed within the deadlines provided in Subsection (b) shall be deemed incomplete and shall be returned to the applicant as unfiled.

4. It is not guaranteed that an accepted and complete application will be approved if after the application is deemed complete it is determined that the proposed plan does not comply with this Subdivision Ordinance, other relevant requirements of the City's Code or Ordinances, or the Comprehensive Plan.

D. Re-Submittal After Notification of Incompleteness

If the application is re-submitted after it has been returned to the applicant due to its incompleteness, the application shall be processed upon receipt of the re-submittal. Previous filing fees shall not be refunded and new filing fees shall be required in conjunction with a resubmittal. An additional determination of completeness shall be made thereafter as described in Section 9.01.007(C). Determination of Completeness. The statutory 30-day time frame for plat or plan approvals shall begin when the City deems the application complete as described in Subsection F below, Official Filing Date.

E. Expiration of Application

1. The application shall automatically expire at the close of business following the date of the deadline described in Subsection C(3)(c) and it will be returned to the applicant together with any accompanying documents and materials, if:
 - a. The City provides to the applicant, not later than the fifth (5th) 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
 - b. 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.
2. A complete application which fails to meet the requirements of this Subdivision Ordinance, as demonstrated by the applicant's failure to sufficiently address any technical comments provided by City staff, shall, within 25 days from the official filing date, be placed with the Planning and Zoning Administrator, for decisions on applications that can be administratively approved, or be placed on the Planning and Zoning Commission agenda, for applications that require a decision by the Planning and Zoning Commission, with a staff recommendation for denial.
 - a. If the application is of a type that can be administratively approved or denied, the Planning and Zoning Administrator shall notify the applicant in writing that the application is officially denied.
 - b. If the application is of a type that must be acted upon by the Planning and Zoning Commission and City Council, the Planning and Zoning Administrator shall coordinate the application being placed on the agenda of the Planning and Zoning Commission and subsequently the City Council's agenda. The application will then be denied, approved or approved subject to conditions under report of the Planning and Zoning Commission and official action of the City Council.

F. Official Filing Date

The 30-day period established by State law, and by this Subdivision Ordinance, for processing and deciding an application shall commence on the official filing date. The official filing date

shall be defined as the date the application is filed if the application becomes complete prior to the deadlines set out in Section 5.3.C), Determination of Completeness. This 30-day time period shall allow the Planning and Zoning Administrator and/or Planning and Zoning Commission to review and act on the application. If official action is required by the City Council, then a new 30-day period shall begin for Council action on the application.

SECTION 9.01.008 APPLICATION PROCESSING, ACTION & NOTIFICATION FOLLOWING DECISION

A. Action by The City

The City shall initiate internal review and assessment of the application following the City's development review procedures. The City 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 the City regulations in preparation for consideration by the City Council. All technical comments to an application must be sufficiently addressed by the applicant to receive a recommendation for approval from the City staff to the Planning and Zoning Administrator, Planning and Zoning Commission and/or City Council.

B. Decision

The Planning and Zoning Administrator, the Planning and Zoning Commission or the City Council, as applicable, shall approve, approve with conditions, or deny the application within the time period prescribed by this Subdivision Ordinance and state law.

C. Conditions Attached

The Planning and Zoning Administrator, the Planning and Zoning Commission or the City Council, as applicable, shall be authorized to approve an application subject to certain conditions, which conditions are reasonably necessary to ensure compliance with all applicable requirements of this Subdivision Ordinance, the City's Zoning ordinances, the Comprehensive Plan and any other development requirements of the City's Code of Ordinances.

D. Notification of Decision

The City shall send written notice within seven (7) calendar days following the date of a decision on an application. If the decision is a denial of the application, or if the decision is to grant the application upon conditions, the notice shall state the reasons for the denial or the actions necessary to satisfy the conditions of approval. If the decision is an administrative decision, and the decision of the Planning and Zoning Administrator is to deny the application, or to approve the application with conditions, the applicant may appeal the Planning and Zoning Administrator's decision to the Planning and Zoning Commission within fifteen (15) days of receipt of written notice.

SECTION 9.01.009 PUBLIC HEARINGS

A. Setting the Hearing

When the City staff responsible for review of an application determines that an application is complete and that a public hearing is required by this Subdivision Ordinance or by State law, staff shall cause notice of such hearing to be prepared and made in accordance with State law.

The time set for the hearing shall conform to the time periods required by this Subdivision Ordinance and by State law and shall occur before the expiration of 30 days from Official Filing Date.

B. Conduct of the Hearing

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

C. Record or Proceedings

The Planning and Zoning Commission and/or Council conducting the hearing(s) shall record the proceedings using standard municipal record-keeping procedures.

SECTION 9.01.010 AMENDMENTS & EXPIRATION

A. Amendments/Revisions to a Pending Application

Unless another method is expressly provided by this Subdivision Ordinance, any request to amend or revise an application shall be considered a new application, if the amended or revised application is not yet deemed “filed”, which must be decided in accordance with the procedures and time restrictions governing the original application and the standards in effect at the time such new application is filed with the City, unless the amendment of the application is in response to questions or comments from the City staff responsible for review of the application, or is necessary to address conditions of approval, or is in response to the denial of the application by the Planning and Zoning Administrator, Planning and Zoning Commission or the City Council, as applicable.

B. Time of Expiration

Unless otherwise expressly provided by this Subdivision Ordinance, an approved application and associated permit shall automatically expire two (2) years following the approval date of the application, and shall become null and void, and all activities under the permit thereafter shall be deemed in violation of this Subdivision Ordinance, unless the applicant seeks a time extension prior to the expiration of the permit, plat or approval and such extension of time is granted by the Planning and Zoning Administrator, the Planning and Zoning Commission or the City Council, as applicable. Provided however, that an approved Final Plat, Development Plat, Replat or Amended Plat shall not expire so long as it has been recorded within 180 days of the date of approval.

C. Effect of Expiration

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

SECTION 9.01.011 CHAPTER 245 DETERMINATION

A. Application for Establishment of Chapter 245 Rights. The provisions of this section shall apply to any application for a permit or any other approval of a project for which an applicant desires to establish development rights under Chapter 245 of the Texas Local Government Code. There are two basic types of Chapter 245 determinations.

1. The first type of Chapter 245 determination involves a demonstration by the applicant that a project is vested with Chapter 245 development rights because the original application for a permit gave the City fair notice of the project and of the nature of the permit being sought and neither a permit nor the project have expired.
2. The second type of Chapter 245 determination involves a demonstration by the applicant that a project or permit is entitled to be reviewed in accordance with the regulations of the City in effect on the date that the original application for the first permit in the series of permits was filed because progress toward the completion of the project has been made by the applicant even though the permit and/or project time limits have expired.
3. An applicant, in order to establish development rights for a particular project, may need to demonstrate both fair notice of the project and that progress toward completion of the project has been made.

B. Expiration of Existing Permits

1. Any permit that has an approval date that is prior to January 1, 2021, and that does not have an expiration date, and for which no progress had been made toward completion of the project as of January 1, 2023, is hereby deemed to have expired as of January 1, 2023, and shall no longer be considered valid.
2. Any permit or approval that is not included in Subsection (b)(1) above and that does not have an expiration date, and where no progress towards completion of the project has occurred shall expire on January 1, 2026.
3. All other permits or approvals governed by the City's Code of Ordinances shall expire two years from the date that the permit was approved unless progress towards completion of the project has occurred and been substantiated by sufficient evidence of such progress as required in Subsection (d) below.

C. Expiration of Existing Projects

1. Any project that does not have an expiration date and where no progress towards completion of the project has occurred shall expire on January 1, 2026, the fifth anniversary of the effective date of this ordinance.
2. Any other project governed by the City's Code of Ordinances shall expire on the fifth anniversary from the date that the first permit in the series of permits is approved, unless progress towards completion of the project has occurred and been substantiated by sufficient evidence of such progress as required in Subsection (d) below.
3. Any project governed by this Code of Ordinances shall expire on the fifth anniversary from the date of the issuance of any permit in the series of permits unless progress towards completion of the project has occurred and been substantiated by sufficient evidence of such progress as required in Subsection (d) below.

D. Applications for Chapter 245 Determination

1. An application related to a demonstration that the City has fair notice of the project shall be submitted in a form prescribed by the City and shall be initially reviewed for completeness to ensure that all required items are available for technical review purposes. The application shall state the proposed date of applicable rules for the first permit in the series of permits, and the applicant shall supply documentation in support of the request. The burden of proof is on the applicant to provide sufficient written information to substantiate a claim under this section. One or all of the following items may be considered as part of the Fair Notice Documentation:

- a. Any of the documentation described in Subsection (3) below.
- b. Documentation that clearly shows specific land uses, densities and intensities.
- c. Documentation that shows the layout of streets, public easements, parking areas and building footprints.
- d. Any other documentation that the applicant believes provides evidence of fair notice.

2. Chapter 245 development rights shall only apply to the specified land uses, densities and intensities set forth in the Fair Notice Documentation provided by the applicant. Any modification of the land uses, densities or intensities from those set out in the Fair Notice Documentation shall be considered a new project subject to current City regulations.

3. An application related to a demonstration that a permit or project has not expired because progress has been made toward completion of the project shall be submitted in a form prescribed by the City and shall be initially reviewed for completeness to ensure that all required items are available for technical review purposes. The application shall state the proposed date of applicable rules for the first permit in the series of permits, shall clearly describe each permit that has been issued and include the date of approval for each subsequent permit. The applicant shall provide a statement in narrative form that describes the efforts that have been undertaken toward completion of the project and shall supply documentation in support of the request. The burden of proof is on the applicant to provide sufficient written information to substantiate a claim under this section. One or all of the following items may be considered:

- a. Copy of an application for a final plat or plan that was previously submitted to a regulatory agency;
- b. Proof that a good-faith attempt was previously made to file with a regulatory agency an application for a permit necessary to begin or continue towards completion of the project;
- c. Documentation of costs that 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. Documentation of fiscal security posted with a regulatory agency to ensure performance of an obligation required by the regulatory agency; or

- e. Documentation of utility connection fees or impact fees for the project paid to a regulatory agency.
4. The provisions of Subsection (3) above shall only apply to the project and specified land uses, densities and intensities set forth in the permits that have been previously approved by the City. Any modification of the land uses, densities or intensities shall be considered a new project and subject to current City regulations.
5. Any application for a Chapter 245 determination that is not deemed complete by the City shall be rejected, and the applicant shall be notified in writing of the missing or incomplete items within 10 working days of the submission of the application. An incomplete application shall expire if the missing or incomplete items are not provided by the applicant within 45 days of the date of initial submission of the application.
6. Each application shall be reviewed by the Planning and Zoning Administrator, in consultation with the City Attorney. Where the documentation submitted by the applicant is adequate to confirm a determination that rights exist under Chapter 245, then the regulations, in place at the time such rights vested, shall be applied in the further review and processing of permits for the project.
7. The Planning and Zoning Administrator shall either confirm or deny the application within 45 days of the date of the receipt of a complete application.
8. The applicant may appeal a final determination by the Planning and Zoning Administrator under this section to the Zoning and Planning Commission within 10 calendar days of the date of the Planning and Zoning Administrator decision of the application.
9. The City may enter into a consent agreement with the applicant that is intended to resolve a good-faith dispute concerning development rights and applicable regulations in order to avoid the cost and uncertainty of litigation to both parties.

SECTION 9.01.012 WITHHOLDING PERMITS

No building permit, or any water, sewer, plumbing or electrical permit, shall be issued by the City to the owner or any other person with respect to any property in any subdivision or development covered by this chapter and no certificate of occupancy will be issued or be valid unless and until:

A. The developer and/or owner has complied with the requirements of this chapter and the Final Plat, Development Plat, Replat or Amended Plat, as applicable, regarding all off-site or on-site improvements required to be constructed for the benefit of the subdivision, development or phase of the development which corresponds to the property that was platted.; or

B. An escrow deposit sufficient to pay for the cost of such improvements as determined by a registered professional engineer, for review and approval of the City Engineer and/or mayor computed on a private commercial rate basis has been made with the City Secretary accompanied by an agreement signed by the developer and/or owner authorizing the City to make such improvements at prevailing private commercial rates or have the same made by a private contractor and pay for the same out of the escrow deposit, should the developer and/or owner fail or refuse

to install the required improvements within the time stated in such written agreement, but in no case shall the City be obligated to make such improvements itself. Such deposit may be used by the owner and/or developer as progress payments as the work progresses in making certified requisitions to the City secretary supported by evidence of work done; or

C. The developer and/or owner files a corporate surety bond with the City secretary in a sum equal to the cost of such improvements for the designated area guaranteeing the installation thereof within the time stated in the bond, which time shall be fixed by the approved application or as otherwise provided herein.

SECTION 9.01.013 - PROPORTIONALITY DETERMINATION

A. Prior to a decision by the City Council on a preliminary plat application, or if no preliminary plat application is required, on a final plat application, or any other application for which an exaction requirement is approved as a condition of approval, the City Engineer shall prepare a written statement affirming that each requirement to be imposed as a condition of plat approval or permit approval is roughly proportionate to the demand created by the subdivision or development on the applicable public facilities system of the City, taking into consideration the nature and extent of the development proposed. In making this determination, the City Engineer may consider:

1. Categorical findings of the North Central Texas Council of Governments in developing standard specifications for public infrastructure improvements;
2. The proposed and potential use of the land;
3. The timing and sequence of development in relation to availability of adequate levels of public facilities systems;
4. Impact fee studies, traffic impact studies, drainage studies or other studies that measure the demand for services created by developments and the impact on the City's public facilities system;
5. The function of the public infrastructure improvements in serving the proposed subdivision or development;
6. The degree to which public infrastructure improvements necessary to serve the proposed subdivision are supplied by other developments;
7. The anticipated participation by the City in the costs of necessary public infrastructure improvements;
8. The degree to which acceptable private infrastructure improvements to be constructed and maintained by the applicant will offset the need for public infrastructure improvements;
9. Any reimbursements for the costs of public infrastructure improvements for which the proposed subdivision is eligible; and/or

10. Any other information relating to the impacts created by the proposed subdivision or development on the City's public facilities systems.

B. Based upon the proportionality determination, the City Engineer shall affirm that the exaction requirements of this chapter, or other ordinance requiring the permit, as applied to the proposed subdivision or development, do not impose costs on the applicant for public infrastructure improvements that exceed those roughly proportionate to the impact of the proposed subdivision or development.

C. The City Engineer may require that the applicant, at its expense, submit any information or studies that may assist in making the proportionality determination.

SECTION 9.01.014 - ROUGH PROPORTIONALITY DETERMINATION

A. The Planning and Zoning Commission and City Council shall consider the City Engineer's report concerning the proportionality of the exaction requirements in making a decision on a plat application.

B. The Planning and Zoning Administrator or designee shall consider the City Engineer's report concerning the proportionality of the exaction requirements in making its decision as to whether to grant the permit when a requirement is imposed as a condition of approval.

SECTION 9.01.015 - ROUGH PROPORTIONALITY APPEAL

A. An applicant for a preliminary or final plat or for a permit which imposes an exaction requirement as a condition of approval may file an appeal to contest any proportionality determination, other than impact fees, imposed as a condition of approval or in which the failure to comply is grounds for denying the plat application pursuant to this chapter.

B. The purpose of a proportionality appeal is to ensure that an exaction requirement imposed on a proposed plat or development as a condition of approval does not result in a disproportionate cost burden on the applicant, taking into consideration the nature and extent of the demands created by the proposed subdivision or development on the City's public facilities systems.

SECTION 9.01.016 - APPEALS PROCEDURE

A. An applicant for a preliminary or final plat or an applicant seeking approval for any other permit or zoning for which an exaction requirement is imposed shall file a written appeal with the Planning and Zoning Administrator within ten days of the date the City Council or the city official responsible for issuing the permit takes action applying the exaction requirement. This may include denial of the permit or plat. The applicant shall submit two copies of the appeal.

B. A separate appeal form shall be submitted for each proportionality determination for which relief is sought. The Planning and Zoning Administrator shall forward the appeal to the City Council for consideration.

C. The applicant may request postponement of consideration of the applicant's plat application by the Planning and Zoning Commission pending preparation of the study required by Subsection (F) of this section, in which case the applicant shall also waive the statutory period for acting upon a plat for the time necessary for the City Council to decide the appeal.

D. No development agreement may be approved by the City until the time for appeal has expired or, if an appeal is filed, until the City Council has made a determination with respect to the appeal.

E. The appeal shall state the reasons that application of the exaction requirement is not roughly proportional to the nature and extent of the impact created by the proposed subdivision or development on the City's public facilities systems and does not reasonably benefit the proposed subdivision or development.

F. The appellant shall submit to the Planning and Zoning Administrator ten (10) copies of a study in support of the appeal that includes, with respect to each specific proportionality determination appealed, the following information within thirty (30) days of the date of appeal, unless a longer time is requested:

1. Total capacity of the City's water, wastewater, roadway, drainage, or park system, as applicable, to be utilized by the proposed subdivision or 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 subdivision. If the proposed subdivision is to be developed in phases, such information also shall be provided for the entire development, including any phases already developed;

2. Total capacity to be supplied to the City's public facilities systems for water, wastewater, roadway, drainage or parks, as applicable, by the exaction requirement. This information shall include any capacity supplied by prior exaction requirements imposed on the development;

3. Comparison of the capacity of the applicable city public facilities systems to be consumed by the proposed subdivision or development with the capacity to be supplied to such systems by the proposed exaction requirement. In making this comparison, the impacts on the City's public facilities systems from the entire subdivision or development shall be considered;

4. The amount of any City participation in the costs of oversizing the public infrastructure improvements to be constructed by the applicant in accordance with the City's requirements;

5. Comparison of the minimum size and capacity required by city standards for the applicable public facilities systems to be utilized by the proposed subdivision or development with the size and capacity to be supplied by the proposed exaction requirement; and

6. Any other information that shows the alleged disproportionality between the impacts created by the proposed development and the exaction requirement imposed by the City.

G. The City Engineer shall evaluate the appeal and supporting study and shall make a recommendation to the City Council based upon the City Engineer's analysis of the information contained in the study and utilizing the same factors considered by the engineer in making the original proportionality determination.

SECTION 9.01.017 - CITY COUNCIL DECISION

A. The City Council shall decide the appeal within 30 days of the date of final submission of any evidence by the applicant. Upon receipt of the final submission of evidence from the applicant, the City Secretary shall schedule a time and date for the City Council to consider the appeal and shall cause the applicant to be notified at the address specified in the appeal form of the time, date and location at which the City Council shall consider the appeal.

B. The applicant shall be allowed time to present testimony at the City Council meeting. The Board shall base its decision on the criteria listed in Sections 9.01.012 and 9.01.015 and may:

1. Deny the appeal and impose the proportionality determination in accordance with the City Engineer's recommendation or the City Council's decision on the plat or other development application;
2. Grant the appeal, and waive in whole or in part a proportionality determination to the extent necessary to achieve proportionality; or
3. Grant the appeal, and direct that the city participates in the costs of acquiring land for or constructing the public infrastructure improvement.

C. In deciding an appeal, the City Council shall determine whether application of the proportionality determination is roughly proportional to the nature and extent of the impact created by the proposed subdivision on the City's public facilities systems for water, wastewater, roadway, drainage, or park facilities, as applicable, and reasonably benefits the subdivision. In making such determination, the council shall consider:

1. The evidence submitted by the applicant;
2. The City Engineer's report and recommendation, considering in particular the factors identified in Sections 9.01.013(a) and 9.01.015(f); and
3. If the property is located within the City's extraterritorial jurisdiction, any recommendations from the county.

D. The City Council may require the applicant or the City Engineer to submit additional information that it deems relevant in making its decision.

SECTION. 9.01.018 - ACTION FOLLOWING DECISION OF CITY COUNCIL

A. If the City Council finds in favor of the applicant and waives the proportionality determination as a condition of plat approval or modifies the proportionality determination to the extent necessary to achieve rough proportionality, the applicant shall resubmit the plat application to the City without incurring an additional plat application fee. The resubmittal shall include any modifications necessary to conform the plat to the City Council's decision. The applicant shall not be deemed to have prevailed in the event that the City Council modifies the exaction requirement.

B. If the City Council finds in favor of an applicant and waives the proportionality determination as a condition of plat approval, or modifies the proportionality determination to the extent necessary to achieve rough proportionality, and a permit application has previously been submitted, the applicant shall also resubmit a permit application to the Planning and Zoning

Administrator within 30 days of the date the City Council takes action, with any modifications necessary to conform the application with the City Council's decision. Failure to do so will result in the denial of the existing or non-compliant permit.

C. If the City Council finds in favor of an applicant for any other permit and waives the proportionality determination as a condition of permit approval, or modifies the proportionality determination to the extent necessary to achieve rough proportionality, the applicant shall also resubmit a permit application to the Planning and Zoning Administrator within 30 days of the date the City Council takes action, with any modifications necessary to conform the application with the City Council's decision. Failure to do so will result in the denial of the existing or non-compliant permit.

D. If the City Council denies the appeal and the applicant has executed a waiver of the statutory period for acting upon a plat, the City shall place the plat application on the agenda of the Planning and Zoning Commission within 30 days of the City Council's decision.

E. If the rough proportionality appeal was submitted appealing the imposition of a proportionality determination for a plat application, and City Council grants relief to an applicant but the applicant fails to conform the plat to the City Council's decision within the 30-day period provided, the relief granted by the City Council on the appeal shall expire.

F. If the plat application is modified to increase the number of residential dwelling units or the intensity of nonresidential uses, the Planning and Zoning Administrator or designee may require a new study to validate the relief granted by the City Council.

G. If the plat application for which relief was granted is denied on other grounds, a new appeal shall be required on any subsequent application.

SECTION 9.01.019 - APPEAL OF CITY COUNCIL DECISION

An applicant may appeal the decision of the City Council to the county or district court of the county in which the development is located within thirty (30) days of the date that the Council issues its final decision. In the event that the applicant prevails in such action, the applicant will be entitled to attorneys' fees and costs, including expert witness fees.

SECTION 9.01.020 - PRO RATA PAYMENTS

A. The applicant shall be responsible for the construction of oversize or off-site access, utilities, drainage and other improvements necessary for his or her subdivision unless other provisions are approved by the City Council. Provisions for reimbursement of costs in excess of those necessary to serve the subdivision and any other provisions, shall be made a part of a developer's improvement agreement. For a period of five years following the filing of the final plat, subsequent subdivisions utilizing such facilities shall pay any cost due prior developers as the use by the new subdivision bears to the amount due. Such prorated amounts will be made a part of any subsequent developer's improvement agreement and collected by the City and repaid to the original developer making such improvements, not to exceed his or her actual share of the cost incurred.

B. All such reimbursements or pro-rations shall be based on the actual cost of the improvements at the time of their construction. The original developer applicant shall therefore

provide the City with acceptable documentation of actual construction costs from which calculation of reimbursable amounts will be made for inclusion in the developer's contract.

SECTION 9.01.021 PENALTY FOR VIOLATIONS

Any person, firm, entity or corporation who violates any provision of this chapter shall be deemed guilty of a misdemeanor, and upon conviction, therefore, shall be fined not more than two thousand dollars (\$2,000). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state and federal law.

ARTICLE 9.02 SUBDIVISION PROCEDURES

SECTION 9.02.001 GENERAL SUBDIVISION & PLATTING PROCEDURES

A. Types of Plats Required

1. A Plat shall be approved prior to any land division or development that is subject to these regulations.
2. A Replat, in accordance with State Law and the provisions of Sections 9.02.008 SECTION 9.02.008 REPLATS AND AMENDING PLATS – GENERAL REQUIREMENTS and 9.02.009 SECTION 9.02.009 REPLATS, shall be required any time a platted and recorded lot is further divided or expanded, thereby changing the boundary and dimensions of the property. In the case of minor revisions to recorded plats, a Minor Plat or Amending Plat may also be utilized if allowed by State Law and if in accordance with Section 0 SECTION 9.02.007 MINOR PLATS and Sections 0 SECTION 9.02.008 REPLATS AND AMENDING PLATS – GENERAL REQUIREMENTS and 0 SECTION 9.02.010 AMENDING PLATS, respectively.

B. Exemptions

The following land divisions are exempt from the requirements of this Subdivision Ordinance that apply to plats:

1. Use of existing cemeteries complying with all State and local laws and regulations; and
2. A division of land created by order of a court of competent jurisdiction, provided however, that prior to construction of improvements, a Final Plat or Development Plat meeting the requirements of this Subdivision Ordinance shall be approved and recorded prior to the issuance of any additional development permits.

C. Zoning

Inside the City limits, the following shall apply:

1. Conformance with Existing Zoning.
All applications shall be in conformance with the existing zoning of the property.
2. Request to Rezone First.

If an applicant seeks to amend the zoning for a property, the request to rezone the land shall be submitted and approved prior to acceptance of an application for filing unless as otherwise provided below.

- a. The applicant may request approval from the City to submit an application simultaneously with the zoning change request, in which case the application for the zoning amendment shall be acted upon concurrently with the application for review of the plat.
- b. In the event that the requested zoning amendment is denied, the application shall also be rejected or denied.

3. Development Site Plan Approval/Preliminary Plat

Where Development Site Plan approval is required by the City, no building permits shall be issued until all site plan requirements are constructed, inspected and approved in accordance with the Site Plan approval. Except as provided in Section D below, no application for a Final Plat shall be accepted for filing until a Preliminary Plat has been approved for the land subject to the proposed plat.

D. General Stages of Plat Approval & Staff Review

1. Two-Stage Process

The platting process typically involves two approval stages: Submission and approval of a Preliminary Plat, and a subsequent submission and approval of a Final Plat. However:

- a. An applicant may proceed with a Final Plat without an approved Preliminary Plat whenever:
 - (1) A Minor Plat is submitted; or
 - (2) A Development Site Plan for the development is submitted and approved in accordance with the Zoning Ordinance.
- b. Notwithstanding anything to the contrary herein, an applicant may submit a Preliminary Plat and a Final Plat simultaneously if appropriate fiscal security is submitted along with the application.

2. Review by the Planning and Zoning Administrator.

Unless otherwise specified under the regulations for a specific type of plat, the Planning and Zoning Administrator shall be responsible for completeness review and technical review of all plat and plan applications required by this Subdivision Ordinance and any other applicable ordinances of the City.

SECTION 9.02.002 PRELIMINARY PLATS/PRELIMINARY DEVELOPMENT PLAT

A. Purpose

The purpose of a Preliminary Plat or Preliminary Development Plat shall be to determine the general layout of the subdivision or development, the adequacy of public facilities needed to serve the intended development, and the overall compliance of the land division or development with applicable requirements of this Subdivision Ordinance.

B. Exceptions

1. A Preliminary Plat is not required for a Minor Plat, Amended Plat or Replat. When a Development Plat is sought, the applicant shall submit a Preliminary Development Plat which meets the requirements applicable to a Preliminary Plat prior to submittal of the Development Plat application.
2. A Final Plat in accordance with Section 0, along with Construction Plans in accordance with Section 9.03.001, may be submitted in lieu of a Preliminary Plat if an Improvement Agreement and appropriate fiscal security is submitted along with the application.

C. Accompanying Applications

1. An application for a Preliminary Plat or Preliminary Development Plat shall be accompanied by a Preliminary Drainage Plan, a Preliminary Utility Plan, and other plans that may be deemed necessary for thorough review by the City Engineer. However, approval of each shall be separate and in accordance with Section 0 SECTION 9.02.002 PRELIMINARY PLATS with Section 0 SECTION 9.03.001 CONSTRUCTION PLANS.
2. 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 or Preliminary Development Plat.

D. Action by Planning and Zoning Administrator, Planning and Zoning Commission or City Council

1. Approvals of Plat Applications

- a. Pursuant to State law, and except as provided in Subsection (c) below, all “filed” Platting applications must be processed and approved, approved with conditions or disapproved within 30 days of the Official Filing date.
- b. This 30-day requirement applies to each step in the Platting Process, except for the pre-application meeting.
- c. Notwithstanding, the parties may extend the 30-day period for an additional period, not to exceed 30 days, if the applicant requests the extension in writing to the Planning and Zoning Administrator, Planning and Zoning Commission or City Council, as applicable, for the approval of the application and the Planning and Zoning Administrator, Planning and Zoning Commission or City Council agrees to the extension request.
- d. If a platting application is not approved, approved with conditions or disapproved within these time frames, the application shall be deemed approved by operation of law.
- e. The Planning and Zoning Administrator, Planning and Zoning Commission or the City Council, as applicable, which conditionally approves or disapproves a platting application shall provide the applicant with a written statement of the conditions of the conditional approval or the reasons for the disapproval.
- f. Each condition or reason specified in the written statement must be directly related to the requirements set out in state law, federal law, the Comprehensive Plan, or the City’s Code of Ordinances and include a citation

to the section(s) of such laws or plans that is the basis for the conditional approval or the disapproval and may not be arbitrary.

g. Applicant's Response to Conditional Approval or Disapproval

- (1) After the conditional approval or disapproval of an application related to the platting process, the applicant may submit to the Planning and Zoning Administrator, Planning and Zoning Commission or the City Council a written response that satisfies each condition for the conditional approval or remedies each reason for the denial or disapproval.
- (2) The Planning and Zoning Administrator, Planning and Zoning Commission or the City Council, as applicable, may not establish a deadline for an applicant to submit the response.
- (3) If a response from the applicant to the conditioned approval or disapproval is received by the Planning and Zoning Administrator, Planning and Zoning Commission or the City Council, as applicable, the decision maker shall have 15 days after the response is received to approve, approve with conditions or disapprove the application as revised by the applicant's response. If the Planning and Zoning Administrator, Planning and Zoning Commission or the City Council, as applicable, does not approve the application with conditions or disapprove the application prior to the expiration of the 15-day period, the application is deemed approved by operation of law.
- (4) If the applicant's response is deficient in meeting the conditions of the conditional approval or the disapproval, the Planning and Zoning Administrator, Planning and Zoning Commission or the City Council, as applicable, shall provide a written statement to the applicant and follow the same response requirements set out above. Conditional approval or disapproval is limited to the specific conditions or reasons provided to the applicant in the written statement prepared by the Planning and Zoning Administrator, Planning and Zoning Commission or City Council, as applicable.

E. Criteria for Approval

The following criteria shall be used by the Planning and Zoning Administrator, Planning and Zoning Commission or the City Council, as applicable, to determine whether the application for a Plat shall be approved, approved with conditions, or denied:

1. Does the application conform to the Comprehensive Plan of the City and its current and future plans for streets, alleys, parks, playgrounds, and public utility facilities; and
2. Does the application conform to the general plan for the extension of the City's roads, streets, and public highways within the municipality and in its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities; and
3. Does the application conform to the requirements set out in this Subdivision Ordinance and any other provisions of the City's Code of Ordinances, or manuals, referenced in this Subdivision Ordinance, or any other provisions of the City's Code of Ordinances and

applicable to the extension of city streets or alleys, water, wastewater or other utilities and construction of public improvements necessary to serve the development contemplated by the plat application.

F. Effect of Approval

The approval of a Preliminary Plat or Preliminary Development Plat shall allow the applicant to proceed with the development and platting process by submitting Construction Plans and a Final Plat or Development Plat. Approval of the Preliminary Plat or Preliminary Development 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.

G. Expiration

1. Two-Year Validity

The approval of a Preliminary Plat or Preliminary Development 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 of a Final Plat or Development Plan and Construction Plans for the land area shown on the Preliminary Plat or Preliminary Development Plat. If a Final Plat, Development Plat, and a Construction Plan have not been approved within the two (2) year period, the Preliminary Plat or Preliminary Development Plat shall expire.

2. Phased Developments – Partial Final Plat & Construction Plan

If a Final Plat and a Construction Plan for only a portion of the land area shown on the Preliminary Plat are approved by the end of the two (2) year period, the Preliminary Plat for the remainder of the land not included on the Final Plat and Construction Plan shall expire on such date. Provided however, that if a master plan is approved for development of the property in phases, the Preliminary Plat shall not expire except in accordance with the master plan.

3. Void if Not Extended

If the Preliminary Plat is not extended as provided in Section 4.2.H) Extension, it shall expire and shall become null and void.

H. Extension

A Preliminary Plat may be extended for a period not to exceed one (1) year beyond the Preliminary Plat's expiration date. A request for extension shall be submitted to the City staff 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 Planning and Zoning Commission

The Planning and Zoning Commission 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 filing date of the request.

2. Considerations

In considering an extension, the Planning and Zoning Commission shall consider whether the following conditions exist:

- a. A Final Plat or Development 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 or Development Plat;
- c. Construction is occurring on the subject property;
- d. The Preliminary Plat or Preliminary Development Plat complies with new ordinances that impact the health, safety and general welfare of the community;

3. Conditions

In granting an extension, Planning and Zoning Commission 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.

I. Amendments to Preliminary Plat Following Approval

1. Minor Amendments

Minor amendments to the design of the subdivision or development subject to an approved Preliminary Plat or Preliminary Development Plat may be incorporated in an application for approval of a Final Plat or Development Plat, as applicable, without the necessity of filing a new application for re-approval of a Preliminary Plat or Preliminary Development Plat. Minor amendments may only include minor adjustments in street or alley alignments, lengths and paving details, and minor adjustments to lot lines that do not result in creation of additional lots or any non-conforming lots (as to Zoning standards), provided that such amendments are consistent with applicable approved prior applications.

2. Major Amendments

All other proposed changes to the design of the subdivision or development subject to an approved Preliminary Plat or Preliminary Development Plat shall be deemed major amendments that require submittal and approval of a new application for approval of a Preliminary Plat or Preliminary Development Plat (including new fees, new review, new official filing date, etc.) before approval of Construction Plat and/or a Final Plat or Development Plat.

3. Determination

The Planning and Zoning Administrator shall make a determination whether proposed amendments are deemed to be minor or major, thereby requiring new submittal of an application.

J. Large Lots and Tracts

If the lots or tracts of land in a proposed development are large enough to suggest possible further future subdivision, or if portions of the property are not subdivided or developed immediately, the Preliminary Plat shall show how such large tracts or remainder portions of

the property can be subdivided into conforming lots at a later time and shall also show how streets can be extended and how median openings can be aligned and shared in the future.

SECTION 9.02.003 FINAL PLATS

A. Purpose

The purpose of a Final Plat is to ensure that the proposed subdivision and development of the land is consistent with all standards of this Subdivision Ordinance and other ordinances pertaining to the land use regulations, the adequacy of public facilities, 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, that all other requirements and conditions have been satisfied or provided for to allow the Final Plat to be recorded.

B. Exceptions

A Final Plat is not required when a Minor Plat is submitted.

C. Ownership

1. The applicant shall furnish 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 or Development 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, effectively denoting that they are consenting to the platting of the property and the dedications and covenants that may be contained in the Final Plat or Development Plat. Such consent shall be subject to review and approval by the City Attorney, and the applicant shall reimburse the City for all related legal costs for the review. This reimbursement shall be paid in full prior to recording of the Final Plat or Development Plat.

D. Complete Applications for Final Plats and Development Plats in the Extraterritorial Jurisdiction (ETJ)

Where the land to be platted lies within the ETJ of the City in a county with which the City has entered in an interlocal agreement under Texas Local Government Code, Chapter 242, a complete application shall be submitted to the City.

E. Accompanying Applications

An application for a Final Plat or Development Plat may be accompanied by Construction Plans if also accompanied by an Improvement Agreement and appropriate fiscal security in accordance with Section 0 SECTION 9.03.004 IMPROVEMENT AGREEMENTS AND SECURITY FOR COMPLETION. However, approval of each shall be separate and in accordance with this section for Final Plats or Development Plat and in accordance with Section 0 SECTION 9.03.001 CONSTRUCTION PLANS.

F. Prior Approved Preliminary Plat or Preliminary Development Plat

The Final Plat, or Development Plat, as applicable, and all accompanying data shall conform to the Preliminary Plat or Preliminary Development Plat as approved by the Planning and

Zoning Commission, or as the Preliminary Plat or Development Plat may have been amended subsequently, if applicable, incorporating all conditions imposed or required by the Planning and Zoning Commission, if applicable.

G. Procedures for Recordation Upon Approval

The applicant shall supply to the Planning and Zoning Administrator the required number of signed and executed copies of the Final Plat or Development Plat that will be needed to record the Plat, upon approval, with Hunt County (in the County's required format) at least five (5) calendar days prior to the City Council meeting at which it will be considered for approval.

1. General

a. Signatures

After approval of the Final Plat or Development Plat, the Director shall procure the appropriate City signatures on the Final Plat or Development Plat.

b. Recording Upon Performance

(1) The Final Plat or Development Plat is approved by the City;

(2) All required public improvements have been completed and accepted by the City (or an Improvement Agreement has been executed and appropriate fiscal security provided in accordance with Section 9.03.004 SECTION 9.03.004 IMPROVEMENT AGREEMENTS AND SECURITY FOR COMPLETION);

(3) All County filing requirements are met, if applicable.

2. Submittal of Final Plat or Development Plat After Improvements Installed

If public improvements are to be constructed or installed prior to approval of the Final Plat or Development Plat, the developer or owner shall be required to apply for and obtain approval of a Construction Plan encompassing all such public improvements and to complete construction of same, subject to, inspection and acceptance by the City prior to approval and recording of the Final Plat or Development Plat. Construction Plans shall be submitted and considered for approval in accordance with 0 ARTICLE 9.03 CONSTRUCTION PLANS & PROCEDURES.

3. Submittal of Final Plat or Development Plat Where Improvements are Installed or Constructed after approval of the Final Plat or Development Plat.

Where some of or all required public improvements are not constructed prior to an application and approval of a Final Plat, or Development Plat, the applicant shall be required as a condition of plat approval to enter into an Improvement Agreement and post fiscal security guaranteeing that the public improvements will be constructed in accordance with Section 9.03.004 SECTION 9.03.004 IMPROVEMENT AGREEMENTS AND SECURITY FOR COMPLETION and the developer or owner shall be required to apply for and obtain approval for Construction Plans in accordance with 0 ARTICLE 9.03 CONSTRUCTION PLANS & PROCEDURES.

4. Update of Proof of Ownership

If there has been any change in ownership since the time of the Proof of Ownership was provided under Section 4.3.C) Ownership, the applicant shall submit a new consent

agreement executed by each owner consenting to the platting of the property and the dedications and covenants contained in the plat. The title commitment or title opinion letter and consent agreement shall be subject to review and approval by the City Attorney, and the applicant shall reimburse the City for all related costs for review. This reimbursement shall be paid in full prior to filing of the Final Plat.

H. Effect of Approval

The approval of the Final Plat or Development Plat:

1. Supersedes any prior approved Preliminary Plat or Preliminary Development Plat for the same land.
2. Authorizes the applicant to install or construct any improvements in public rights-of-way and to begin site development in conformance with approved Construction Plans and under an Improvement Agreement, as applicable,
3. Authorizes the applicant to seek issuance of a Building Permit if all public improvements have been constructed that are necessary to support the development approved in the Final Plat or Development Plat.

I. Revisions Following Recording/Recordation

Revisions to a Final Plat or Development Plat may only be processed and approved as a Replat or Amending Plat, as applicable.

SECTION 9.02.004 CONSTRUCTION PLANS

A. Purpose

The purpose of the Construction Plan is to ensure that the proposed development of the land is consistent with all standards of this Subdivision Ordinance and all City ordinances including those governing drainage, paving, utilities, storm water facilities and roadways.

B. Applicability

The Construction Plan shall be required for any proposed subdivision or development of land within the corporate boundaries and ETJ of the City which includes construction of public improvements.

C. Application Procedures and Action by the City Engineer

The Construction Plan application shall be processed and considered for approval in accordance with the procedures and deadlines set out herein. Completeness review and deadlines shall be processed in accordance with Section 9.01.007. Action by the City shall be conducted in accordance with the criteria set out herein and shall include the layouts and engineering plans required for construction of public improvements, extension of public roads and connections to City utilities, which plans have been submitted by the applicant for review by the City Engineer.

D. General Approval

The approval of the Construction Plans by the City Council shall authorize the Planning and Zoning Administrator to issue the construction permit to the developer or owner which

authorizes construction of the public improvements in accordance with the approved Construction Plans.

E. Floodplain Requirement

Construction Plans shall depict the FEMA designated 100-year floodplain boundary and finished floor elevations shall be required a minimum of three (3) feet above the calculated 100-year floodplain.

F. Initiation of Construction Work

Site development and construction of improvements shall not be initiated prior to the approval of the Construction Plans and issuance of the Construction Permit. Additionally, the applicant shall provide copies of letters from applicable utility providers stating that each utility provider has reviewed the Construction Plans and specified any requirements, including easements, they may have.

G. Appeal of City Engineer Construction Permit Decision. The applicant may appeal a decision of the City Engineer related to construction permits to the City Council within ten (10) calendar days of the decision. The request for review shall be submitted in writing to the Planning and Zoning Administrator who shall place the item on the Council agenda. The decision of the City Council shall be final.

SECTION 9.02.005 DEVELOPMENT PLAT

A. Purpose

The purpose of a Development Plat is to ensure that the proposed development of the land is consistent with all standards of this Subdivision Ordinance.

B. Applicability

A Development Plat shall be required for property located within the corporate boundaries and ETJ of the City under the following conditions:

1. The development of any property to be used for commercial or multi-family purposes that requires approval of a site plan under the City's zoning ordinance and which is not proposed to be divided into two or more tracts for sale or development. This requirement does not apply to any property for which a site plan was approved prior to the effective date of these subdivision regulations, which site plan remains in effect and for which no amendment is proposed; or
2. Development of any property, where no division of such property into two or more parts is intended.

C. Exemptions

A Development Plat is not required for the following developments:

1. Total building area in the development does not exceed four hundred (400) square feet in area, or;
2. Where the development does not require, as determined by the City Engineer, any additional public improvements, additional public access, right-of-way, utility or drainage easement or covenants and no subdivision of land is proposed.

D. Application Procedures and Action by the Planning and Zoning Commission/Council

1. The Development Plat application shall be processed and considered for approval in accordance with the procedures and deadlines set out in Section 9.01.007. Action by the Planning and Zoning Commission or City Council, as applicable, shall be conducted in accordance with the criteria set out in this Subdivision Ordinance.
2. The applicant may choose to construct public improvements prior to approval of the Development Plat or after approval of the Development Plat as described herein.

SECTION 9.02.006 CONVEYANCE PLATS**A. Purpose**

The purpose of the Conveyance Plat is to subdivide land and to provide recordation of same, for the purpose of conveying (i.e., selling) the property without developing it. 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. An application for a Conveyance Plat shall not be considered an application for a permit nor the commencement of a project under Chapter 245 of the Texas Local Government Code.

B. Applicability

A Conveyance Plat may be used in lieu of a Final Plat to record the subdivision of property in the following instances:

1. To record the remainder of a tract that is larger than five (5) acres, and that is created by the final platting of a portion of the property, provided that the remainder is not intended for immediate development.
2. To record the subdivision of property into parcels, five (5) acres or smaller in size, that are not intended for immediate development, provided all lots have access to a public street and all other required public improvements and utilities exist to the City's current standards prior to approval and minimum frontage requirements are met.

C. Review

Unless otherwise specified within this section 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.

D. Subsequent 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 any Remainder of the subject property.

E. Conveyance Plat Requirements

1. No building or development permits shall be issued nor utility service provided, except for utility service already provided to the property, in conjunction with approval of a Conveyance Plat.; a Final Plat must be applied for and approved prior to issuance of any building or development permits and for utility service.

2. A Conveyance Plat must be vacated and replaced by approval of a Final Plat or Development Plat meeting the requirements of this Subdivision Ordinance in order to authorize development of the property.

G. Access

All lots created by a Conveyance Plat shall have frontage and access to an existing public street.

H. Effect of Approval

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. The applicant and future owner(s) of the property remain obligated to comply with all provisions of 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 of this Subdivision Ordinance as they exist at the time of application for development is submitted to the City. Plat notes shall be required which clearly describe the limitations on development imposed on the property, the limitation of utility extensions to the property, the need for future vacation of the Conveyance Plat and the need for subsequent approval of a Final Plat or Development Plat in order to develop the property and that future subdivision approval will be reviewed conducted in accordance with the City's Subdivision Ordinance in effect at the time of the new plat application.

SECTION 9.02.007 MINOR PLATS

A. Purpose

The purpose of a Minor Plat is to simplify division of land under certain circumstances outlined in State law.

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 fewer than four (4) lots; and
2. All lots in the proposed subdivision front onto an existing public street and the construction or extension of a street is not required to meet the requirements of this Subdivision Ordinance; and
3. Except for right-of-way widening and public utility easements, the property does not require construction of any public improvements to comply with the development requirements of the Subdivision Ordinance.

C. Application Requirements

An application for a Minor Plat shall be processed and considered for approval in accordance with the procedures and deadlines set out in Section 9.01.007. The requirements for the submittal of a Minor Plat shall be the same as the requirements for a Final Plat, as described in Section 0 SECTION 9.02.003 FINAL PLATS. However, since construction of public

improvements are not applicable to a Minor Plat, the applicant is not required to obtain approval of construction Plans.

D. Administrative Review and Approval by Planning and Zoning Administrator. Minor Plats shall be reviewed and approved administratively by the Planning and Zoning Administrator.

E. Appeal to the Planning and Zoning Commission

Upon the Planning and Zoning Administrator's denial of a Minor Plat or upon approval of Minor Plat with conditions that are not acceptable to the applicant, the applicant may appeal the decision of the Planning and Zoning Administrator to the Planning and Zoning Commission in accordance with the procedures set out herein.

F. Criteria for Approval

1. The criteria for approval shall be the same criteria as that described in Section 9.02.002(E) together with the following: 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, if applicable;
2. The ownership, maintenance and allowed use of all designated easements have been stated on the Minor Plat; and
3. Except for right-of-way widening and easements, the property being platted does not require the extension or construction of any public improvements necessary to support the development of the property.

G. Procedures for 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 described in Section 0 SECTION 9.02.003 FINAL PLATS.

H. Revisions Following Approval

Revisions may only be processed and approved as a Replat or Amending Plat, as applicable.

SECTION 9.02.008 REPLATS AND AMENDING PLATS – GENERAL REQUIREMENTS

A. Applicability and Terminology

1. The procedures outlined in this section and subsequent Sections 0 SECTION 9.02.009 REPLATS, 0 SECTION 9.02.010 AMENDING PLATS and 0 SECTION 9.02.011 PLAT VACATION shall apply only if a property owner seeks to change any portion of a plat that has been filed of record with Hunt County.
2. The term "Replat" includes changes to a recorded Final Plat, whether the change is affected by replatting without vacation or by replatting by vacating the recorded plat and approving a new application. The term "Amended Plat" refers to plat amendments authorized by state law.
3. An application for a Replat or Amended Plat shall be processed and considered for approval in accordance with the procedures and deadlines set out in Section 9.01.007.

B. City Action Required

Except as otherwise provided herein, Major Replats shall be subject to approval by the Planning and Zoning Commission and City Council, and any Minor Replat or Amended Plat shall be subject to administrative approval of the Planning and Zoning Administrator.

C. Construction Management

If the subdivision is replatted and requires construction of additional improvements, the provisions of 0 ARTICLE 9.03 CONSTRUCTION PLANS & PROCEDURES shall apply. If the subdivision, as replatted, does not require any appreciable alteration or improvement of utility installations, streets, building setback lines, etc., then no Construction Plans shall be required.

D. Application and Approval Procedures

Unless otherwise specified, application requirements and all related procedures and approvals, including recordation, for a Replat or Amending Plat shall be the same as specified for a Final Plat in Section 0 SECTION 9.02.003 FINAL PLATS.

SECTION 9.02.009 REPLATS

A. Purpose & Applicability

A Replat of all or portion of a recorded plat may be approved in accordance with State law without vacation of the recorded plat, if the Replat:

1. Is signed and acknowledged by only the owners of the property being replatted;
2. Is approved after a public hearing; and
3. Does not propose to amend or remove any covenants or restrictions previously incorporated in the recorded plat.

B. General Notice and Hearing Requirements

Published notice of the public hearing on the Replat application shall be given in accordance with Section 9.01.009 SECTION 9.01.009 PUBLIC HEARINGS and State law, if applicable. The public hearing shall be conducted by the Planning and Zoning Commission, and subsequently by the City Council.

C. 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.

D. Special Replat Requirements

1. Applicability

A Replat without vacation of the preceding plat, in accordance with State law, must conform to the requirements of this section D 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. Exception

The requirements of this section shall not apply to any approval of a Replat application for a portion of a recorded plat if all of the proposed area sought to be replatted was designated or reserved for usage other than for single family residential usage. Such designation must be noted on the recorded plat or in the legally recorded restriction applicable to such plat.

3. Notice and Hearing

- 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. By written notice, with a copy of Section 212.015(c) of the Texas Local Government Code (as amended) attached, forwarded by the City to the owners of lots that are in the original subdivision and that are within two hundred (200) feet 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.

E. Review and Consideration

The review and approval processes for a Replat shall be the same as the review and approval processed for a Final Plat (except for the public hearing and notice requirements described in Section 4.7.D.3), which are outlined in Section 0 SECTION 9.02.003 FINAL PLATS. The Planning and Zoning Administrator shall be responsible for review of the application, Planning and Zoning Commission shall review and submit a report to the City Council, and the City Council shall receive the report of the Planning and Zoning Commission and decide the Replat application.

F. Effect

Upon approval and recording of the Replat, it is controlling over the previously recorded plat for the portion replatted.

F. Minor Replat.

1. An applicant is eligible to apply for a Minor Replat if the Replat is limited to changes affecting six (6) or fewer lots associated with the preceding plat in the subdivision, or a part of the subdivision covered by the preceding plat, so long as the replat does not:
 - a. affect applicable zoning and other regulations of the municipality; or
 - b. create or require the creation of a new streets or make necessary the extension or construction of new public improvements or municipal facilities;
 - c. attempt to amend or remove any covenants or restrictions; and
 - d. the replat does not trigger the special replat requirements described above in Subsection D.

2. An application for a Minor Replat shall be processed and considered for approval in accordance with the procedures and deadlines set out in Section 9.01.007. The requirements for the submittal of a Minor Replat shall be the same as the requirements for a Final Plat, as described in Section 0 SECTION 9.02.003 FINAL PLATS. However, since construction of public improvements are not applicable to a Minor Replat, the applicant is not required to obtain approval of a Construction Plans.
3. Minor Replats shall be reviewed and considered for approval administratively by the Planning and Zoning Administrator.
4. Upon the Planning and Zoning Administrator's denial of a Minor Replat or upon approval of a Minor Replat with conditions that are not acceptable to the applicant, the applicant may appeal the decision of the Planning and Zoning Administrator to the Planning and Zoning Commission.

SECTION 9.02.010 AMENDING PLATS

B. Purpose

The purpose of an Amending Plat shall be to provide an expeditious means of making minor revisions or correcting errors to the recorded plat consistent with the provisions of State law.

C. 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:

1. Correct an error in a course or distance shown on the preceding plat;
2. Add a course or distance that was omitted on the preceding plat;
3. Correct an error in a real property description shown on the preceding plat;
4. Indicate monuments set after the death, disability or retirement from practice of the engineer or surveyor responsible for setting the monuments;
5. Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to the location or character of the preceding plat;
6. 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;
7. Correct an error in courses and distances of lot lines between two adjacent lots if:
 - a. Both lot owners join in the application for amending the plat;
 - b. Neither lot is abolished;
 - c. The amendment does not attempt to remove recorded covenants or restrictions; and
 - d. The amendment does not have a material adverse effect on the property rights of the other owners in the plat;
8. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
9. Relocate one or more lot lines between one or more adjacent lots if:

- a. The owners of all those lots join in the application for amending the plat;
 - b. The amendment does not attempt to remove recorded covenants or restrictions; and
 - c. The amendment does not increase the number of lots;
10. Replat one or more lots fronting on an existing street if:
- a. The owners of all those lots join in the application for amending the plat;
 - b. The amendment does not attempt to remove recorded covenants or restrictions;
 - c. The amendment does not increase or decrease the number of lots; and
 - d. The amendment does not create or require the creation of a new streets or make necessary the extension or construction of new public improvements or municipal facilities.

D. Certificates of Correction

Certificates of Correction are prohibited.

E. Notice

In accordance with State law, the approval and issuance of an Amending Plat shall not require notice, hearing or approval from other lot owners.

F. Application Procedure

1. An application for an Amended Plat shall be processed and considered for approval in accordance with the procedures and deadlines set out in Section 9.01.007. The requirements for the submittal of an Amended Plat shall be the same as the requirements for a Final Plat, as described in Section 0 SECTION 9.02.003 FINAL PLATS. However, since construction of public improvements are not applicable to an Amended Plat, the applicant is not required to obtain approval of a Construction Plan.
2. An Amended Plats application shall be reviewed and considered for administrative approval by the Planning and Zoning Administrator.
3. Upon the Planning and Zoning Administrator's denial of an Amended Plat, or upon approval of an Amended Plat with conditions that are not acceptable to the applicant, the applicant may appeal the decision of the Planning and Zoning Administrator to the Planning and Zoning Commission.

G. Procedures for Recordation Following Approval

The procedures for recordation of an Amending Plat shall be the same as the procedures for recordation of a Final Plat, as described in Section 0 SECTION 9.02.003 FINAL PLATS.

H. Effect

Upon approval, an Amending Plat shall be recorded and is controlling over the previously recorded plat without vacation of the plat.

SECTION 9.02.011 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 the provisions of State law.

B. Initiation of a Plat Vacation

1. By the 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 owners of the lots in the plat.

3. Planning and Zoning Commission

If the Planning and Zoning Commission, 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 an Improvement 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 Planning and Zoning Commission 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 developing property owner or its successors.

C. Notice

Published notice of the public hearing on the Plat Vacation application shall be given in accordance with Section 9.01.009 SECTION 9.01.009 PUBLIC HEARINGS and State law. The hearing shall be conducted by the Planning and Zoning Commission.

D. Review by the Planning and Zoning Administrator

1. Initiate a review of the Plat Vacation application and materials submitted and provide a recommendation to the Planning and Zoning Commission.

E. Action by the Planning and Zoning Commission

1. Determine whether the Request to Vacate the Plat meets the regulations of this Subdivision Ordinance.
2. Act within thirty (30) calendar days from the Official Filing Date of the application.
3. Take one of the following actions:
 - a. Approve the Request of Vacate;
 - b. Approve the Request of Vacate with conditions; or
 - c. Deny the Request to Vacate.

4. The Planning and Zoning Commission, at its discretion, shall have the right to retain all or specific portions of such public road rights-of-way or easements shown on the plat and dedicated to the City, so long as the City has previously accepted such dedicated rights-of-way, and may condition approval of the plat vacation upon receipt, by the City, of satisfactory conveyances of such easements and/or rights-of-way by separate legal instrument, using forms provided by the City Attorney's office.

F. Procedures for Recordation Following Approval

If the Planning and Zoning Commission approves vacating the entire plat, it shall record a copy of the plat vacation in the Hunt County Clerk's Office. If the Planning and Zoning Commission approves vacating a plat in part, it shall cause a revised Final Plat to be recorded which shows that portion of the original plat that has been vacated and the portion that has not been vacated.

G. Effect

1. On the execution and recording of the vacating instrument, the previously filed plat, or such portion of the previously filed plat, shall have no further legal force or effect. Regardless of the Planning and Zoning Commission's action on the petition, the property owner(s) or developer will have no right to a refund, or 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 Planning and Zoning Commission.
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.

SECTION 9.02.012 PLAT APPEALS

A. Appeal of the Decision on a Plat Application

1. Initiation of an Appeal

The applicant may appeal the decision of the Planning and Zoning Administrator or the Planning and Zoning Commission by submitting a written notice of appeal to the City staff within five (5) calendar days following the date of the decision.

2. The written notice of the appeal shall state the reasons for the appeal and shall cite the specific applicable sections(s) of the Subdivision Ordinance which form the basis of the appeal.

3. Planning and Zoning Commission or Council Decision

The Planning and Zoning Commission or the City Council, as applicable, shall consider the appeal at a public meeting held no later than thirty (30) calendar days after the Official Filing date of the application. The Planning and Zoning Commission or the City Council may affirm, modify or reverse the decision by a simple majority vote of the members present at the time of the appeal's hearing. Regardless of the decision, the decision shall provide and include all information required by Section D of Section 9.01.008 APPLICATION PROCESSING, ACTION & NOTIFICATION FOLLOWING DECISION.

ARTICLE 9.03 CONSTRUCTION PLANS & PROCEDURES

SECTION 9.03.001 CONSTRUCTION PLANS**A. Purpose**

Require public improvements to be constructed and installed to serve a development in accordance with all Subdivision ordinance standards.

B. Submitting Plans

Applications for Construction Plans shall be submitted to the City Engineer and will be reviewed in accordance with this Subdivision Ordinance, and Engineering Services requirements, as provided in the Development Application Handbook. The application for a Construction Plan shall be processed and considered for approval in accordance with the procedures and deadlines set out in Section 9.01.007.

C. Action by the City Engineer

Once the application is deemed complete, the City Engineer shall review the application for technical compliance with the Subdivision Ordinance and the Development Application Handbook and provide comments to the applicant regarding any deficiencies that may need to be addressed in order for the City Engineer to be able to recommend approval of the Construction Plans to the City Council. All comments and opportunities by the applicant to correct or supplement any deficient information shall be completed in time to schedule the application on the City Council agenda within the procedural deadlines set out in Section 9.01.007. The application shall be scheduled for a City Council meeting for approval, approval with conditions, or for denial prior to the expiration of 30 days from the Official Filing Date.

D. Action by the City Council

The City Council action shall include the information required by Section 9.01.008.

E. Approval Required & Timing of Construction

Construction Plans must be approved in accordance with this section prior to the approval and/or recordation of the Final Plat, unless otherwise stated within this Subdivision Ordinance.

F. Criteria for Approval

1. The plans are consistent with any previously approved plat application and the Development Application Handbook;
2. The plans conform to the criteria for approval set out in Section 9.02.002(E).

G. Effect

Approval of Construction Plans authorizes the Planning and Zoning Administrator to issue a Construction permit and authorizes the applicant to schedule a Pre-Construction Meeting in accordance with Section 9.03.001 SECTION 9.03.001 CONSTRUCTION PLANS and begin construction as described in Subsection I.

H. Expiration

The approval of the Construction Plans shall remain in effect for a period of one (1) year from the date of approval, unless the Plans are extended in accordance with Section 0I)

I. Extension, or for the duration of the construction of the project, provided that progress toward completion on the project continues to be demonstrated.

I. Extension

Construction Plans may be extended for a period of six (6) additional months beyond the initial expiration date. A request must be made in writing to the Planning and Zoning Administrator for such extension prior to expiration of the plans and shall include reasons why the plans should be extended.

1. Action by the Planning and Zoning Administrator

- a. The Planning and Zoning Administrator will review the extension request, and shall approve, approve with conditions, or deny the extension request within thirty (30) calendar days following the official filing date.
- b. Should the Planning and Zoning Administrator fail to act on an extension request within thirty (30) calendar days, the extension shall be deemed to be approved.

2. Consideration

The Planning and Zoning Administrator shall extend Construction Plans approval for a period of six (6) additional months beyond the Plans' 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 that impact the health, safety and general welfare of the community;
- c. Demonstrable forward progress has been made to proceed with construction of required improvements; and
- d. An Improvement Agreement, if applicable, is still valid and in full effect.

3. Conditions

In granting an extension, the Planning and Zoning Administrator may impose such conditions as are needed to ensure that the land will be developed in a timely fashion and that the public interest is served.

4. Total Extension

A second six (6) month extension may be requested using the same process outlined above.

J. Construction Permit

Upon approval of any applicable plat and approval of the Construction Plans, receipt of all documentation (e.g., insurance information, bonds, improvement agreements etc.) and fees required by the City have been paid, and after the Pre-Construction Meeting with the City, the Planning and Zoning Administrator shall release the construction permit if all City requirements pertaining to the construction have been met. The Construction Permit 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. Expiration, and possible extension, of the Construction Permit shall be the same as for the Construction Plans.

SECTION 9.03.002 PRE-CONSTRUCTION MEETING

A. Requirement

The applicant(s) shall attend a Pre-Construction Meeting with the Planning and Zoning Administrator and City Engineer following the approval of Construction Plans and prior to commencement of any construction on the property.

B. Purpose

The purpose of the Pre-Construction Meeting is to discuss administrative, communication, and operating procedures for project construction prior release of the Construction Permit. 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 Planning and Zoning Administrator that Construction Plans have been approved and that the project is eligible for a Pre-Construction Meeting.

D. Effect

Following the Pre-Construction Meeting and upon approval of the Construction Plans and full compliance with all pre-construction requirements, the Planning and Zoning Administrator shall issue the Construction Permit, allowing the applicant to commence with construction of the project. Upon completion of any site development requirements associated with the Construction Permit, 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.

SECTION 9.03.003 TIMING OF PUBLIC IMPROVEMENTS

A. Completion Prior to Final Plat Approval & Recordation

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. A Final Plat shall not be accepted for filing, nor shall it be considered for approval, prior to completion of such improvements except as provided in Section 7.1.B).

B. Completion After Final Plat Approval & Recordation

If the applicant chooses to construct public improvements after approval of the Final Plat or Development Plat, in accordance with this section, the Planning and Zoning Administrator shall allow construction of public improvements after Final Plat approval and recordation conditioned upon applicant's compliance with Section 9.03.004 SECTION 9.03.004 IMPROVEMENT AGREEMENTS AND SECURITY FOR COMPLETION.

C. Phased Development

If the development is being platted and constructed in phases, all improvements shall be constructed and completed as necessary to serve the phase that has been approved. Provided however, that all improvements which are intended to serve the project as a whole shall be

constructed and completed in conjunction with Phase 1 of the project. Refer to Section 0) G. Expiration for details regarding phased development and Preliminary Plat validity.

D. Easements for Utility Providers

In conjunction with the Construction Plan application, the applicant shall demonstrate that he or she has contacted all utility providers and secured or will secure all necessary easements for the same prior to Final Plat approval and recordation. The applicant's engineer shall provide the Planning and Zoning Administrator with written certification that all necessary easements are secured for the various utility providers, and such easements shall be shown on the Final Plat with the recording information for each. If construction of the improvements will occur after approval of the Final Plat in accordance with Section 7.1.B), then applicant shall demonstrate in the application for the Construction Plan that any necessary easements have been acquired or will be acquired by separate instrument prior to commencement of construction.

E. Off-Site Easements

All necessary off-site easements required for installation of required off-site public improvements to serve the development shall be acquired by the applicant prior to the Pre-Construction Meeting, or prior to approval and recordation of the Final Plat, whichever occurs first. Off-site easements shall be conveyed and recorded with Hunt County by an instrument approved by the City.

SECTION 9.03.004 IMPROVEMENT AGREEMENTS AND SECURITY FOR COMPLETION

A. Improvement Agreement and Security for Completion

When any of the required public improvements will be postponed and constructed after Final Plat or Development Plat approval and recordation, the Final Plat or Development Plat shall not be accepted for filing, nor shall it be approved, unless and until the applicant enters into an Improvement Agreement provided by the City and which the applicant agrees to:

1. Construct and complete improvements;
2. Warrants the improvements for a period of two (2) years following final acceptance by the City;
3. Provides a maintenance bond in the amount of one hundred and ten percent (110%) of the costs of the improvements for such period;
4. Provides provisions for securing the obligations of the agreement consistent with Section 7.1.E) Security for Completion of Improvements on forms provided by the City; and
5. Outlines other terms and conditions as are agreed to by the applicant and the City, or as may be required by this Subdivision Ordinance.

B. Agreement to Run with the Land

The Improvement Agreement shall provide that the covenants and other items of the agreement contained therein shall run with the land and shall bind all successors, heirs and assignees of the applicant. 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. Action by the Planning and Zoning Administrator

The Planning and Zoning Administrator shall review the Improvement Agreement, and shall approve it, approve it with conditions, or deny it. The agreement shall also be subject to review by the City Attorney prior to any approval by the Planning and Zoning Administrator, and 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.

D. Appeal of Decision

The applicant may appeal the Planning and Zoning Administrator's decision on the Improvement Agreement to the Planning and Zoning Commission by submitting written notice of appeal to the City within fourteen (14) calendar days following the date of such decision. The Planning and Zoning Commission shall hear and decide the appeal within thirty (30) calendar days following receipt of the notice of appeal. The Planning and Zoning Commission may only overturn the Planning and Zoning Administrator's decision with an affirmative vote by at least four voting members of the Planning and Zoning Commission. The Planning and Zoning Commission's decision is final.

E. Security for Completion of Improvements

1. Type of Security

2. 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 improvements, in accordance with the City's design standards and with this Subdivision Ordinance, by obtaining both a performance and payment 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.

3. Estimated Cost & Security Approval

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, and as approved the Planning and Zoning Administrator. Security shall be subject to the review and approval of the City Attorney. 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.

4. Security for Construction in Extraterritorial Jurisdiction (ETJ)

Where all or some portion of the proposed development is located in the City's ETJ, the security shall be in a form and shall contain such terms as are consistent with the City's interlocal agreements with Hunt County under Texas Local Government Code, Chapter 242.

F. Escrow Policies and Procedures

1. Request for Escrow

The City may require, or the developer may petition the City to defer required improvements in exchange for a deposit of escrow and City's agreement to construct the improvements. An example may include a timing issue due to pending street improvements by another agency such as TxDOT. The City Engineer may require studies and other information to support the developer's request to escrow.

2. Escrow Deposit with the City

When the City Council requires or agrees to accept escrow deposits, the developer shall deposit in escrow with 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 City Council 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

Use of the escrowed funds by the City shall be in accordance with an Escrow Agreement provided by the City. The Escrow Agreement will authorize the City to use the escrowed funds for construction of the improvements and may also authorize the City to participate with another entity (such as TxDOT, Hunt County, etc.) to jointly construct the public improvement(s).

4. Termination of Escrow

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. 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 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, be refunded to the developer after completion of the City acceptance of street or public improvement.

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 Council shall require an escrow fee agreement to be executed where applicable.

SECTION 9.03.005 INSPECTION, MAINTENANCE & ACCEPTANCE OF PUBLIC IMPROVEMENTS

A. Inspections

1. The City Engineer shall inspect the construction of improvements while in progress, as well as upon completion. The applicant, or the applicant’s contractor, shall maintain contact with the City Engineer during construction of improvements.
2. Construction shall be in accordance with the approved Construction Plans. Any significant change in design required during construction shall be made by the applicant’s engineer and shall be subject to approval by the City Engineer.
3. If the 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 correction of the public improvements to bring such into compliance.

B. Maintenance During Construction

The applicant shall maintain all required public improvements during construction of the development.

C. Submission of Record Drawings

The City shall accept required public improvements when the applicant's engineer has certified to the City Engineer, through submission of detailed "record" drawings of the project and filed copies of any off-site easements, unless otherwise noted within the Subdivision Ordinance, that the public improvements have been built in accordance with the approved Construction Plans. The City shall not accept improvements until the Final Plat is approved by the City Council and recorded at Hunt County. Each record drawing sheet shall show all changes made in the plans during construction, and on each sheet, there shall be a "record" stamp bearing the signature of the engineer and date.

D. Acceptance or Rejection of Improvements by the City

1. City Engineer

The City Engineer 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 Engineer, and other designated representatives (as applicable) will perform a final inspection.

3. Letter of Final Acceptance

If all improvements are completed, inspected, tested (if applicable), and determined by the City to be in conformance with this Subdivision Ordinance and the City's design standards, then the City Engineer shall issue a Letter of Final Acceptance to the applicant, thereby notifying the applicant of the City's acceptance.

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 purposes of title, use and maintenance.

5. Rejection

The City Engineer 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) for any rejected improvements.

E. Disclaimer

Approval of a Preliminary Plat or Final Plat by the Planning and Zoning Commission or City Council, as applicable, or Construction Plans by the City Engineer, shall not constitute acceptance of any of the public improvements required to serve the subdivision or development. No public improvements shall be accepted for dedication by the City except in accordance with this section.

F. Acceptance of Improvements for Land in Extraterritorial Jurisdiction (ETJ)

Where the improvements to be constructed under an Improvement Agreement are located within the City's ETJ and are to be dedicated to the County, the City Engineer shall inform the County that the public improvements have been constructed in accordance with approved Construction Plans and are ready for acceptance by Hunt County.

G. Maintenance Bond after Acceptance

The applicant shall furnish to the City Engineer a sufficient maintenance bond with a reputable and solvent corporate surety registered with the State of Texas, in favor of the City, to indemnify the City against any repairs. The bond shall be in effect for two (2) years from the date of final acceptance of the entire project. The bond, which is part of the requirements for final acceptance, shall be a minimum of one hundred and ten percent (110%) of the value of the work constructed. Final acceptance shall be withheld until said maintenance bond is furnished to the City in a form acceptable by the City Attorney. Once the maintenance bond has been examined and approved by the City Attorney, the City Attorney shall certify the bond is valid and enforceable as provided by law prior to recommending acceptance by the City Engineer. 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.

ARTICLE 9.04 SUBDIVISION REQUIREMENTS**SECTION 9.04.001 GENERAL STANDARDS****A. Conformance to Standards****1. Public Improvements**

Proposed public improvements serving new development shall conform to and be properly related to the public facilities elements of the Comprehensive Plan and, other adopted master plans for public facilities and services, and applicable capital improvements plans, and shall at a minimum meet the service levels specified in such plans.

2. Plats within the City

Plats within the City, and corresponding Construction Plans, shall provide for thoroughfares as shown in the Comprehensive Plan. The alignment and right-of-way width of all proposed thoroughfares shall be in general conformance with the Comprehensive Plan. Minor adjustments to thoroughfare alignments may be allowed without amending the Comprehensive Plan if the City believes the new alignment meets the spirit and intent of the Comprehensive Plan and will not compromise public safety or traffic efficiency. The design and construction of all proposed thoroughfares shall be in conformance with the City's adopted Construction Standards and shall be subject to approval by the City Engineer. Such approvals shall be required prior to any Plat approval.

3. Water and Wastewater

The design and construction of the water system and wastewater system improvements to serve the development shall be in conformance with the City's master plans, Texas Commission on Environmental Quality (TCEQ) regulations, and the City's adopted

Construction Standards, and shall be subject to approval by the City Engineer in conjunction with consideration of the approval of the Construction Plans and the Final Plat. Provided however, that on-site water wells and/ or septic systems are authorized if a public water system or sanitary sewer system is not available to serve the property. Such wells and septic systems must meet the requirements of the TCEQ, or the County, as applicable.

4. Storm Drainage

The design and construction of storm drainage systems serving property development shall be in conformance with the “Public Works Construction Standards,” by the North Central Texas Council of Governments, the City’s master plans and adopted Construction Standards, comply with all applicable Federal Emergency Management Agency (FEMA) requirements, and shall be subject to approval by the City Engineer in conjunction with consideration of the approval of the Construction Plans and the Final Plat.

B. Adequate Public Facilities

1. Adequate Services for Areas Proposed for Development

Land proposed for development in the City shall be served adequately by essential public facilities and services, including but not limited to water distribution, wastewater collections and treatment, roadways, pedestrian circulation, storm drainage conveyance, and park and recreational facilities. Land shall not be approved for platting or development until adequate public facilities necessary to serve the development exist or provisions have been made for the facilities.

a. Street Access

A Plat will not be approved unless all the proposed lots have safe reliable street access for daily use and emergency purposes.

(1) A Plat will not be approved unless all of the proposed lots have direct access to an improved public street (or a public street that will be improved during construction of the proposed development) to the City’s minimum design and paving standards.

(2) Except for lots which are provided access from an approved cul-de-sac, all lots within a development shall have at least two (2) means of access or approach. Where development phasing or constraints of the land prevent the provision of a second, separate means of access, the City may accept a temporary street connection provided that a second permanent access point can be reasonably anticipated with future development of adjacent properties.

(3) For properties situated adjacent to an existing or planned median-divided thoroughfare, at least one (1) of the required access points shall occur at, or through access easement connection to, a median opening.

b. Water

A Plat will not be approved unless all of the proposed lots are connected to an approved water system or an approved water well which is capable of providing adequate water for health and emergency purposes.

- (1) Except for lots along an approved cul-de-sac, all lots shall be provided service connections from a looped water main providing water flow from two (2) directions or sources.
- (2) Water service shall be sufficient to meet the fire flow requirements of the proposed development.
- (3) The City may require the phasing of development and/or improvements to the water system to ensure adequate fire protection.
- (4) The total system capacity of water production, storage and distribution to be determined by City's historical usage.

c. Wastewater

A Plat will not be approved unless all of the proposed lots are served by an approved wastewater collection and treatment or an approved septic system.

- (1) The projected wastewater discharge of a proposed development shall not exceed the proposed capacity of the wastewater system.
- (2) The City may require the phasing of development and/or improvements to the sanitary sewer system so as to maintain adequate wastewater capacity.

d. Storm Drainage

Increased storm water runoff attributable to new development shall not cause impacts to adjoining, upstream or downstream properties. Impacts are defined as an increase in runoff between pre and post development. Where the projected runoff from a new development exceeds runoff from pre-development conditions, the City may require the phasing of a development, the use of control methods such as retention or detention, obtaining off-site drainage easements, and/or the construction of off-site drainage improvements as means of mitigation.

2. Property Owner's Responsibilities

The property owner shall be responsible for, but not limited to, the following:

a. Dedication and Construction of Improvements

- (1) The property owner shall dedicate all rights-of-way and easements for, and shall construct and extend, all necessary on-site public improvements for water distribution, wastewater collection and treatment, streets, storm drainage conveyance, and other improvements that are necessary to adequately serve each phase of a proposed development at service levels that are consistent with the City's applicable master facilities plans and construction design standards.
- (2) Following the determination required by Texas Local Government Code Section 212.904, the property owner shall construct and extend all proportional off-site public improvements for water distribution, wastewater collection and treatment, streets, storm drainage conveyance, and other improvements that are necessary to adequately serve each phase of a proposed development at service levels that are consistent with the City's applicable master facilities plans and construction design standards.

b. Abutting Substandard Streets

Where a substandard street abuts or traverses a proposed development, the City may require, in accordance with Texas Local Government Code Section 212.904, the property owner to dedicate additional right-of-way and to improve the street to the City's current design and construction standards as set forth in the Comprehensive Plan. Such requirements to improve the substandard street to the City's current standards shall only be imposed following the careful review of factors including, but not limited to:

- (1) The impact of a new development on the street;
- (2) The timing of the development in relation to need for a street; and
- (3) The likelihood that adjoining property will develop in a timely manner.

c. Facilities Impact Studies

The City may require that a developer prepare a comprehensive Traffic Impact Analysis (TIA), flood or drainage study or downstream assessment, or other facilities impact study(ies) in order to assist the City in determining whether a proposed development will be supported with adequate levels of public facilities and services concurrent with the demand for the facilities created by the development. The study(ies) shall identify, at a minimum:

- (1) The adequacy and capacities of existing facilities;
- (2) The nature and extent of current deficiencies; and
- (3) The public improvements that will be needed to meet adequate levels of service assuming the development at the intensity proposed in the application.
- (4) The study(ies) shall be subject to approval by the City Engineer prior to approval of the Preliminary Plat and the Construction Plans. The City also may require, at the time of approval of subsequent application (e.g., Final Plat), an update of a facilities impact study(ies) approved in connection with a prior application (e.g., Preliminary Plat).

d. Future Extension of Public Facilities

The property owner shall make provisions for future expansion of public facilities as needed to serve future developments, subject to Texas Local Government Code Section 212.904.

e. Operations and Maintenance of the Water or Wastewater Facilities

The City shall not be responsible for the operations and maintenance of any water or wastewater facilities not owned by the City.

f. Fiscal Security

The property owner shall provide all fiscal security required for the construction of the public facilities or improvements.

g. Approvals from Utility Providers

The property owner shall obtain all necessary approvals from the applicable utility providers other than the City, and shall submit written verification of such approvals to the City with the Construction Plans; and

h. Compliance with Utility Providers

The property owner shall comply with all requirements of the utility providers, including the City and applicable drainage districts.

3. Rough Proportionality; Fair Share

Subject to the requirements set out in Section 9.01.013 there is a direct correlation between the increased demand on public facilities and systems that is created by a new development, and the City's requirements to dedicate rights-of-way and easements and to construct a fair and proportional share of public improvements that are necessary to offset such impacts such that new development does not negatively affect the City as a whole. The City requires that a new development project contribute its fair and proportional share of such costs.

SECTION 9.04.002 WATER & WASTEWATER REQUIREMENTS

A. Water and Wastewater Standards

1. Construction Plans

Plans for construction of all water and wastewater facilities required by these regulations shall be prepared in accordance with the regulations of the Texas Commission of Environmental Quality (TCEQ), national Sanitation Foundations (NSF), Texas Department of Insurance, Insurance Services Office, the City's adopted Construction Standards, and the City's current adopted Fire Code, which are incorporated by reference and made a part hereof. Plans for the improvements must be prepared by a licensed engineer and accepted by the City Engineer.

2. Construction Requirements

- a. All water and wastewater mains shall be located in the frontage of the property along streets, or in easements adjacent to the development in order provide service to adjacent property;
- b. The minimum easement width for water or wastewater mains shall be ten (10) feet, or as determined by the City Engineer. Where it is necessary for water and wastewater facilities to be located within the same easement, the easement shall be a minimum of fifteen (15) feet in width, or as determined by the City Engineer.
- c. No portion of a structure (including, but not limited to, walls, foundations, porches/patios and porch/patio covers, canopies, roof extensions, overhangs, chimneys, fire flues, etc.) shall encroach over or into any easement, except that wall-attached window awnings, "bay" style windows, and roof eaves shall be allowed to encroach into an easement a maximum of twenty-four inches (24) upon approval by the City Engineer.
- d. A water or wastewater easement between two lots must be evenly distributed to both lots.
- e. Easements shall be dedicated for exclusive use for water and wastewater facilities and shall be shown on the Final Plat for the specific purpose intended. When it is necessary for additional utilities to be placed within an easement, additional width shall be provided, and the easement shall be labeled for its intended purpose on the Final Plat.

3. Construction Specifications

- a. Water source main lines shall be eight (8) inch PVC SDR eighteen (18) or equal.
- b. Where applicable, subdivision lines shall be six (6) inch PVC SDR eighteen or equal.

- c. Long side service shall be 1-1/2 inch class two hundred fifty (250) polybutylene in three (3) inch PVC sleeve or equal.
- d. Ample cutoff must be maintained.
- e. Meter boxes shall be installed side by side where possible.
- f. Lines must have thirty-six (36) inch cover - sand four (4) inches under and twelve (12) inches over.

4. Acquisition of Easements

The developer shall be responsible for the acquisition of all required off-site easements. If the developer is unable to acquire the necessary off-site easement, the City shall be provided 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, at its option, acquire these easements either through negotiations or through condemnation in the appropriate situations. The developer shall reimburse the City for the costs of acquiring the necessary easements including but not limited to attorney fees, expert fees and title searches.

B. Preliminary Utility Plan

Concurrent with the submission of a preliminary plat, replat or minor plat, the developer shall submit a map or plan showing the location and size of water and wastewater mains, which will be required to provide adequate service and fire protection to the lots specified in the proposed plat. Plans and specifications for fire hydrant systems shall be submitted to the Fire Marshall for review prior to construction.

1. Plan Document

The plan shall be prepared as noted in Section 9.04.002(A)(1) and any additional standards adopted by the City.

2. Coordination with other Utility Providers

a. Preliminary Plat

When the subdivision is located in an area served by a utility provider other than the City, the developer must provide a water system analysis.

b. Minor Plat or Replat

1. When a subdivision is located in an area served by utility providers other than the City, the developer must provide utility provider affidavits stating that the facilities existing in the area provide adequate domestic and fire protection. If the City has reason to believe that there may be water supply or pressure concerns, a water system analysis may be required.

c. Final Plat

The Final Plat will not be filed with Hunt County until a letter has been provided from the utility provider stating that they have accepted the plans for construction.

C. Miscellaneous Requirements

1. No building shall be constructed over an existing wastewater, lateral, water main or storm drain unless approved in writing by the City Engineer and approved by the City Council.
2. Ownership and maintenance of water and wastewater mains and service connections shall be regulated as follows:
 - a. Water or wastewater service lines shall not cross any adjacent lot.
 - b. The main shall be extended so as not to require the service to extend across another lot.
 - c. Water and wastewater service lines shall be maintained by the property owner.
3. Water and wastewater mains adjacent to federal, state, or county roadways shall be constructed outside the right-of-way in a separate easement unless otherwise agreed to by those agencies and the City.

D. Water

1. Design & Construction

a. Installation of Water Facilities

The property owner shall install adequate water facilities, including fire hydrants, in accordance with the adopted Fire Code, the current Rules and Regulations for Public Water Systems of the Texas Commission of Environmental Quality (TCEQ), the firefighting standards of the Texas Board of Insurance and the City's Construction standards. If any such requirements conflict, the most stringent requirement shall apply.

b. Facilities for Health and Safety Emergencies; Alternative Water Sources

All water facilities shall be capable of providing water for health and emergency purposes, including fire protection and suppression. The design and construction of water system improvements and alternative water sources shall also comply with the following standards:

- (1) Design and construction of a water source on the site shall be in accordance with applicable regulations of the Texas Commission of Environmental Quality (TCEQ);
- (2) Design and construction of a fire protection and suppression system shall be in accordance with the City's Fire Department and adopted Fire Code.
- (3) Fire hydrants must meet or exceed Mueller standards and be set six hundred (600) feet or less apart.

2. Location

a. Shown on Construction Plans

The location and design of all fire hydrants, all water supply improvements and the boundary lines of special districts, private systems and certified water service areas, including all improvements proposed to be served, shall be shown on the Construction Plans.

b. Extension of Lines

Extension of water lines shall be made along the entire frontage of the development adjacent to a street. If the subdivision is not adjacent to a street, the extension of water

lines shall be accomplished in such a manner as to allow convenient future connections to said lines by new subdivisions.

c. Waiver for Requirement

If new subdivisions will never be constructed beyond a developing subdivision due to physical constraints, the City Engineer may approve a Minor Waiver for this requirement in accordance with Section 9.05.001 SECTION 9.05.001 PETITION FOR WAIVERS of this Subdivision Ordinance prior to action on the Construction Plans or prior to action on any plat.

3. Cost of Installation

The cost of installing all water supply improvements to be made by the developer, including off-site improvements, shall be included in the performance guarantees and Improvement Agreement.

4. Cost of Extension

Where the City's water distribution system is not planned to be extended in time to serve a proposed new development, all necessary water facilities to serve such development shall be provided by and at the expense of the developer. If oversizing of a water facility is deemed necessary by the City Engineer for future developments, then the City may participate in such oversizing costs as part of a Development Agreement.

5. Individual Wells

a. Within the City and the City's ETJ

The property owner must submit with the Preliminary and Final Plat applications a certificate from a professional engineer who is registered, or a geoscientist who is licensed, to practice in the State of Texas verifying the adequacy of the proposed well water supply and potability prior to Preliminary Plat and Construction Plans approvals.

b. Compliance with Other Regulations

Installation, operations and maintenance of individual wells shall comply with City standards, regulation of the Texas Commission on Environmental Quality (TCEQ), and any other applicable County or State rules and regulations. In the event of conflict among these regulations, whichever is the most stringent shall apply.

E. Wastewater

1. Adequate Wastewater Collection System Required

Adequate wastewater collection system, or septic systems, as applicable, shall be required for all new developments within the City's limits. The City is not in any way obligated to extend city wastewater service outside of the city limits.

2. Design & Construction

It is the policy of the City to require all wastewater collection lines to have gravity flow. The use of lift stations and force mains is prohibited unless a gravity design is impractical, as determined by the City Engineer. The location, design and sizing of all wastewater improvements shall be shown on the Construction Plans and are subject to approval by the City Engineer.

3. Cost of Installation

The cost of installing all wastewater improvement to be made by the developer, including off-site improvements, shall be included in the performance guarantees and Improvement Agreement, if applicable.

4. Extension

a. Cost

All necessary wastewater facilities to serve such development shall be provided by and at the expense of the developer.

b. Future Extensions

Pipe stub-outs shall be located in manholes to facilitate the future extension of wastewater lines.

5. On-Site Wastewater Disposal Systems

a. On-site wastewater systems, such as approved septic tanks or similar devices, shall provide adequate sewage disposal for all lots, tracts, parcels and structures in the development that cannot be connected to a public sanitary sewer system.

b. All on-site wastewater disposal systems shall be designed, permitted, constructed, operated and maintained in compliance with all applicable local, County and State regulations, and a permit for such system shall be acquired prior to approvals for Preliminary Plat and Construction Plans.

c. In order to protect the public health, safety and welfare, an existing on-site wastewater disposal system shall be upgraded or reconstructed, by the owner and at the owner's expense, if operation of the facility does not comply with City standards, government regulations or if it causes objectionable odors, unsanitary conditions, pollution, etc. . . .

SECTION 9.04.003 DRAINAGE AND ENVIRONMENTAL STANDARDS

A. Drainage and Storm Water Management Standards

1. Easements

Drainage easements shall be dedicated for public drainage features in accordance with the North Central Texas Council of Governments' "Public Works Construction Standards," the City's adopted Construction Standards, and in compliance with all applicable Federal Emergency Management Agency (FEMA) requirements. Drainage easements and features shall be included as a portion of buildable (habitable structure) lot(s) and not as a lot by itself unless specifically authorized by the City Engineer. Storm drainage easements shall be located along side property lines shall be split across the property line between two (2) lots or tracts.

2. Storm Water Quality

Designs for a new development shall manage storm water in a manner that protects water quality by addressing the development's potential to cause erosion, pollution, siltation, and sedimentation in the natural creeks. The goal is to maintain after development, to the maximum extent practicable, the predevelopment characteristics in the Major Creek, which

ultimately receives storm water runoff from the development. The design for all storm water discharges are subject to approval by the City Engineer.

3. Storm Water Runoff

Storm water runoff shall be calculated anticipating a fully developed watershed. The Comprehensive Plan, existing land use, and zoning maps shall be used to determine fully developed conditions. The City Engineer reserves the right to review the determination of fully developed conditions and may require revisions.

B. Storm Water Management Plan

1. A storm water manage plan (SWMP) shall be prepared for all developments in accordance with this ordinance. The purpose of the SWMP is to identify permanent water quality feature opportunities for the development.
2. The SWMP shall be prepared in coordination with the drainage plan on all projects where both are required. The preliminary SWMP and the drainage plan may be shown on the same sheet. When a drainage plan is not required, the SWMP shall indicate the existing drainage patterns and runoff coefficients and the proposed changes to these items.
3. The SWMP must comply with the standards and criteria outlined in the City's adopted Construction Standards. The plan must satisfy the storm water management portion of the Storm Water Pollution Prevention Plan (SWPPP) that is required for construction activities; however, the SWMP is not a substitution for SWPPP. The City's review of the preliminary SWMP does not constitute acceptance of the final SWMP of final development plans.
4. The developer shall provide a SWMP plan for the area proposed for development. For amended plats or plats with a previously accepted preliminary SWMP, the accepted SWMP shall be enforced unless a revised preliminary SWMP is required.
5. Three (3) paper copies of the SWMP plan shall be submitted with the submittal of a preliminary plat, replat, or minor plat for review and acceptance. Upon acceptance of the plan, the plan shall be signed, sealed, and dated by the engineer, or shall contain a statement showing the engineer's name and license number and affirming the plan was prepared under the direction of the engineer and that the plan is preliminary.

C. Drainage Plan

1. This plan shall show the watershed affecting the development and how the runoff from the fully developed watershed will be conveyed to, through and from the development. It must comply with this ordinance and all City-adopted construction standards.
2. For any property involved in the development process, a drainage plan shall be provided, at the developer's expense, for the area proposed for development. For property with a previously accepted drainage plan, the accepted drainage plan may be submitted and enforced unless a revised drainage plan is required by the City due to lot reconfiguration or other conditions created by the new plat. The City Engineer may waive the requirement for a drainage plan if the submitted plat is not anticipated to cause any significant change in runoff characteristics from a previously accepted drainage study or for single residential properties where no drainage problems are anticipated. If the applicant requests a waiver in writing, a copy of any previous drainage plan shall be provided.

3. Three (3) paper copies of the drainage plan shall be submitted with the submittal of preliminary plat, replat, or minor plat for review and acceptance. The plan shall be stamped by and dated by the engineer.

D. Floodplain Development Requirements

All developments proposed adjacent to or within the 100-year floodplain shall be in accordance with the City's Flood Hazard Prevention Ordinance and this Subdivision Ordinance.

SECTION 9.04.004 STREET REQUIREMENTS

A. Basic Policy

1. Street Improvements

In platting a new development, the property owner shall provide additional right-of-way needed for existing or future streets as shown on the Comprehensive Plan.

2. Improvement of Existing Substandard Streets

- a. When a proposed residential or nonresidential development abuts one or both sides of an existing substandard street, the developer shall be required to improve the substandard street and its appurtenances to bring the same to City standards, or to replace it with a standard City street, at no cost to the City other than as may be provided in the City's cost-sharing policies, including the City's Impact Fee Ordinance, that are in effect at the time of the Final Plat approval.
- b. The developer may request a Major Waiver or may file a proportionality appeal if the requirements for improving an existing substandard street imposed by this section would result in unnecessary hardship or would be disproportional to the impacts generated by the development on the City's street system.

3. New Streets

- a. All new streets shall, at minimum, be built to a width and design which will adequately serve that development and shall have concrete streets with specifications to the same as specified in the Public Works Construction Standards for the class of road being built. When constructing and/or improving roads, a developer or landowner must meet all current standards in place at the time of approval of their plat even though less restrictive standards may have been allowed in the past.
- b. All future driveways shall have access to a public road or public alley and shall consist of four (4) inches of concrete and be reinforced with minimum of 3/8 inch rebar or 6x6x6 gauge. Driveways in excess of one hundred (100) feet shall have the approach and first one hundred (100) feet adjoining the roadway paved in concrete with the remainder in a weather-permeable surface consisting of asphalt, chip and seal or six (6) inches of gravel with a border. Concrete or corrugated metal pipe, no less than 18 inches in diameter, except as otherwise approved by the building official, is to be used from the street to the lot with a minimum six-inch-thick retaining wall on each end of the culvert. The minimum length of culvert shall be 16 feet.

4. Development Fees

All development fees due shall be paid in accordance with the City's Development Fee Schedule, City's Impact Fee Ordinance or Development Agreement.

B. Street Design

1. Conformity to the Comprehensive Plan

The general location of streets shall conform to the Comprehensive Plan. For streets that are not shown on the Comprehensive Plan, such as residential streets, the arrangement of such streets shall:

- a. Provide for the continuation or appropriate projection of existing streets or street stubs from or into surrounding areas;
- b. Conform to any plan for the neighborhood approved or adopted by the City to address a particular situation where topographical or other conditions make continuance or conformity to existing streets impractical;
- c. Not conflict with existing or proposed streets or driveway openings, including those on the opposite side of an existing or planned thoroughfare. New streets shall align with opposite streets and driveway opening such that median openings can be shared.

2. Relation to Adjoining Street System

The proposed street system shall extend all major streets and such existing secondary and local streets as may be necessary for convenience of traffic circulation and emergency ingress and egress.

3. Street Names, Street Name Signs and Traffic Control Signs

a. Street Names

New streets shall be named so as to provide name continuity with existing streets, and so as to prevent conflict or "sound-alike" confusion with similar street names. All street names shall be approved by the City prior to any Plat approval, and prior to approval of the Construction Plans.

b. Cost of Signs

All costs associated with the purchase and installation of street name and traffic control signs shall be the responsibility of the developer.

c. City Standards

All street name signs and traffic control signs shall conform to the City's details for street name sign design and the latest edition of the Texas "Manual of Uniform Traffic Control Devices".

4. Traffic Studies

The City Engineer may require a Traffic Impact Analysis (TIA) when any proposed site plan or subdivision plan:

- a. Would expect to generate over one hundred (100) directional trips during the peak hour of traffic generation or the peak hour on the adjacent streets;
- b. Over seven hundred fifty (750) trips in an average day; or

- c. High traffic volumes on surrounding roads that may affect movement to and from the proposed development.

5. Stub Streets

- a. Connections are required to adjacent vacant properties at locations as approved by the City Engineer.
- b. A note shall be clearly placed on the Final Plat indicating that the stub street will be extended with the future development.
- c. All stub streets shall have a sign prominently posted at the terminus of the street to indicate that the street will be extended in the future. Installation and cost of the sign shall be the responsibility of the developer.

6. Street Connectivity

- a. New developments shall provide street connections to adjacent developments, as determined by the City, allowing access between developments of neighborhood traffic and to enhance pedestrian and bicycle connectivity as recommended in the Comprehensive Plan. Cross-streets shall be provided at intervals of nine hundred (900) feet or less, unless special permission is granted by the City Council.
- b. The use of cul-de-sac streets shall be limited within new developments to the greatest extent possible. The Fire Chief and the City shall have the authority to determine whether or not the use of cul-de-sacs in a development meets the intent of this section during City review and consideration of the Preliminary Plat.
- c. Except in very unusual cases, no dead-end streets will be approved unless such dead-end streets are provided to connect with future streets on adjacent land, but cul-de-sacs may be permitted where the form or contour of the land makes it difficult to plat with connecting streets. Such cul-de-sacs shall provide proper access to all lots, and a suitable turnaround shall be provided at the closed end.

7. Street Lighting

Street lighting shall be provided at all street intersections and furthest extensions of cul-de-sacs.

8. Construction Standards

- a. The minimum width of a street within the City and in all subdivisions shall be determined by the class of the street. The minimum gradient shall be four-tenths (4/10) percent and the maximum gradient shall be ten (10) percent. The property owners on each side of a new or existing road will each be responsible for dedicating fifty percent of the required street width when platting unless the other side of the road is already platted, at which point the applicant must dedicate one hundred percent of the width. The minimum right-of-way and surface widths by classification are as follows:

- (1) Street width (right-of-way).
 - (a) Class A roads: 120 feet.
 - (b) Class B roads: 100 feet.

- (c) Class C roads: 70 feet.
- (d) Class D roads: 70 feet.
- (2) Surface width (concrete).
 - (a) Class A roads: 62.5 feet (two 12.5 ft. lanes in each direction plus a continuous 12.5 ft. center turn lane).
 - (b) Class A, optional: 50 feet (two 12.5 ft. lanes in each direction plus center traffic islands with turn lanes). Note: This option must be submitted as an alternative plan and the submittal must address plans for landscaping, location of turn lanes, irrigation, street lighting, and other issues common to center traffic islands. The City Engineer, Planning and Zoning Commission and City Council will consider this option on a case-by-case basis, based on the items submitted, uniformity concerns, maintenance costs and any other related issue.
 - (c) Class B roads: 37.5 feet (one 12.5 ft. lane in each direction plus a 12.5 ft. continuous center turn lane).
 - (d). Class C roads: 33 feet.
 - (e) Class D roads: 27 feet.
- b. Where a public road abuts a subdivision, the owner (applicant), shall set back the subdivision line to allow the required street width from the centerline of the existing road and the owner shall be responsible for improving the existing road to meet the minimum city standards for new road construction based on its class.
- c. Exception for Class A roads: If the property is running adjacent to only one side of a Class A road, the applicant may submit an alternative plan allowing street width for Class A, but reducing the applicant's responsibility for constructing the road down to a 37.5 ft. road surface (12.5 ft. lane in each direction plus a 12.5 ft. continuous turn lane).
- d. Intersections of two Class A roads, two Class B roads, or an intersection of a Class A and a Class B road must be designed and constructed with both left and right turn lanes.

SECTION 9.04.005 EASEMENTS, LOT & BLOCK DESIGN, MONUMENTS, SUBDIVISION NAMES, FRANCHISE UTILITIES

A. Easements

The type, size and location of easements shall be determined by the City Engineer. All existing and proposed easements shall be shown on the Preliminary and Final Plats. All easements shall be labeled on the Final Plat and dedicated for the specific purpose intended.

B. Zoning Compliance

All lots shall conform to the zoning district requirements, unless located in the ETJ in which they shall comply with any interlocal agreements between the City and Hunt County.

C. Residential Lots Adjacent to Drainage Areas

Lots shall be exclusive of any portion of a natural drainage area, maintenance access, and/or erosion hazard setback. Retaining walls may be allowed on lots adjacent to natural drainage areas as approved by the City Engineer.

D. Lot Shape

The City reserves the right to disapprove any lot which, in its opinion, will not be suitable or desirable for the purpose intended, or which is so oddly shaped as to create a hindrance to the logical lot layout of surrounding properties and/or create an irregular building envelope. The following requirements shall also apply.

1. Lots shall be generally rectangular in shape. Sharp angles between lot lines shall be avoided. Flag lots are prohibited.
2. Irregularly shaped lots shall have sufficient width at the building line to meet minimum lot width and frontage requirements for the appropriate zoning district and shall provide the minimum building pad required by zoning without encroachment into front, side or rear yard setbacks or into any type of easement.

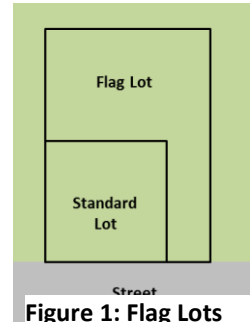


Figure 1: Flag Lots

E. Lot Lines

1. Side Lot Lines

Side lot lines shall be at ninety-degree (90°) angles or radial to street right-of-way lines to the greatest extent possible.

2. Lot Lines and Jurisdictional Boundaries

All lot lines shall, to the greatest extent possible, align along county, school district and other jurisdictional boundary lines such that lots are fully within one county, school district or other jurisdiction.

3. Lot Buildability

Any portion of a lot that is non-buildable for any reason shall be clearly shown as such on the Preliminary and Final Plats. A “Lot Buildability” detail shall be submitted along with the Preliminary and Final Plats and shall verify that the buildable portion of such a lot can accommodate a dwelling or main structure that complies with applicable City zoning regulations, if located within the City’s limits, and building code.

F. Lot Frontages

1. Street Frontage

Each lot shall have adequate access to a street by having frontage on such a street that is not less than sixty feet (60) at the street right-of-way, or otherwise specified in the Zoning Ordinance or a Planned Development (PD) Ordinance, if applicable. Lots fronting onto an eyebrow or bulb portion of a cul-de-sac shall have a minimum frontage of forty feet (40) at the street right-of-way line.

2. Double Frontage

a. Single Family

Double frontage lots are prohibited, except that single family lots may back or side onto a Type C2U thoroughfare or larger with appropriate screening. Where lots back or side onto a Type C2U thoroughfare or larger, no driveway access is allowed onto the thoroughfare from the rear or side of the lot.

- b. Where lots have frontage on more than one street, a front building line shall be established for each street.

3. Lots Facing Other Lots

Whenever feasible, each residential lot shall face the front of a similar lot or shall face a park or open space if one exists or is planned across the street. In general, an arrangement placing adjacent lots at right angles to each other should be avoided.

G. Lots in Relation to Parks/Open Space

All lots that are located directly across a street from a park/open space shall face onto the park/open space.

H. Lot & Block Numbering

All lots within each phase of a development are to be numbered consecutively within each block. Each block shall have an alpha designation.

I. Building Lines

Building lines shall not be shown on the Preliminary and Final Plats.

J. Subdivision Names

New subdivisions shall be named so as to prevent conflict or “sound-alike” confusion with the names of other subdivisions. The subdivision name shall be approved by the City prior to any Plat approval, and prior to approval of the Construction Plans.

K. Franchise Utility Policy

1. General Requirements

The City may require easements for poles, wires, conduits, gas, telephone, cables or other utility lines if necessary.

2. Locations

Utilities shall be located in easements provided adjacent to the street rights-of-way and along the front of lots or tracts.

3. Ground-Mounted Equipment

Ground-mounted equipment shall not be placed in visibility, access or maintenance easements.

SECTION 9.04.006 SUBDIVISION AMENITIES

A. Requirements

Where amenities are proposed in conjunction with a development, such amenities shall be reviewed and approved in accordance with the following:

1. Preliminary plans and illustrations, along with a written statement of such concepts, shall be submitted for review and approval with the Preliminary Plat.
2. Plans for amenities shall then be incorporated into the Screening Plan and/or Landscape Plan for submittal as part of the Construction Plans.
3. Structural elements shall display the seal of a licensed professional engineer and shall be considered for approval by the City.
4. City review and approval of plans for amenities shall be required prior to issuance of a Letter of Final Acceptance for the subdivision improvements.

B. Design of Amenities

The design amenities shall conform to the following:

1. Entry features shall be constructed entirely on private property including open space and shall not extend over a public right-of-way. An entry feature having a water pond, fountain or other water feature shall only be allowed if approved by the City Council and the Fire Chief.
2. No entry feature, other than screening walls or extensions of screening walls, may be constructed on any portion of a single-family lot(s). Screening walls or extensions of screening walls located on any portion of a single-family lot(s) shall be maintained by the property owner.
3. Entry features shall not encroach into visibility easements or otherwise impair pedestrian or vehicular visibility.

C. Maintenance of Amenities

The Developer shall be responsible for the maintenance of all amenities and landscaping constructed for a subdivision located within the corporate boundaries until the creation of a Property Owners Associations or Homeowner Associations, at which time will become responsible for the maintenance of all amenities and landscaping constructed for a subdivision.

SECTION 9.04.007 PUBLIC PARKS & OPEN SPACES

A. General Requirements

Parks shall be easy to access and open to public view so as to benefit area developments, enhance the visual character of the City, protect public safety, and minimize conflict with adjacent land uses. The following guidelines shall be used in designing development around or adjacent to parks and other development:

1. Parks and Open Spaces

Parks shall be bounded by a street(s) or by other public uses unless otherwise specified in this Subdivision Ordinance, the Zoning Ordinance or a Planned Development (PD) ordinance.

2. Residential Lots

Single-family residential lots shall be oriented such that they front or side onto parks and open spaces and they do not back to them.

3. Access to Parks and Open Spaces

A proposed development adjacent to a park or open space shall not be designed to restrict public visibility or reasonable public access to the park or open space from other area developments. Street connections to existing or future adjoining subdivisions shall be required to provide reasonable access to parks and open space areas.

B. Streets Abutting a Park

Streets abutting a park or open space area shall be built in accordance with the Comprehensive Plan, the standards of this Subdivision Ordinance and all other applicable construction standards and ordinances. The City may, however, require any residential street built adjacent to a park or open space be constructed to accommodate possible on-street parking for park users and to prevent traffic congestion.

1. Abutting Street Oversizing

When Park or open space land is acquired by the City, the City shall require at least sixty (60) feet of right-of-way to be dedicated to provide for an abutting street unless otherwise approved by the City.

C. Park Reservation and Dedication

Land for neighborhood and linear parks shall be reserved and dedicated in accordance with the City's adopted Master Plans and the area for such parks shall be determined in accordance with the City's Park dedication ordinance.

D. Site Criteria

Neighborhood and linear park sites shall be of suitable size, dimension, topography and general character to meet the design criteria specified by the City and as determined in accordance with the City's Park dedication ordinance.

E. Minimum Park Improvements

Unless waived by the City Council, neighborhood and linear parks shall be improved by the developer prior to a Letter of Final Acceptance being issued by the City. Minimum Park improvements, as determined by the City, shall include:

1. Grading and clearance of unwanted vegetation, structures or improvements;
2. Installation of storm drainage and stream erosion controls;
3. Establishment of turf and planting of trees;
4. Installation of perimeter streets and streetlights;
5. Provision of water and sewer service to location(s) on the park site as determined by the City.

F. Additional Voluntary Park Improvements

A developer may request permission to construct, at his or her own expense, additional park improvements. The City may accept or reject voluntary dedications of park land and/or additional park improvements. All improvements in the public parks and open spaces shall be consistent with the design criteria for the City, and shall, upon installation, become the property of the City. Prior to constructing such additional park improvements, the developer

shall enter into a Development Agreement with the City that defines, among other things, the work to be performed, construction schedules, improvement costs, performance surety, the amount to be reimbursed by the City (if any), and the time of such reimbursement (if any). The City Council shall consider and decide the proposed Development Agreement for park improvements.

G. Completion of Land Dedication and Improvements

Park land shall be dedicated to the City concurrently with the filing of an approved Final Plat or Replat. All improvements specified in the Improvement Agreement, if applicable, shall be completed prior to approval of the Final Plat or Replat, except where future performance is provided for in the Improvement Agreement.

H. Hike-and-Bike Trail Requirements

1. Requirements

Hike-and-Bike trails shall be in accordance with the City’s adopted master plans.

2. Future Trails and Access for New Developments

When a development is adjacent to an undeveloped property, a pedestrian access stub-out in conjunction with a street connection to the edge of the development shall be required to allow for future access between developments.

ARTICLE 9.05 RELIEF PROCEDURES

SECTION 9.05.001 PETITION FOR WAIVERS

A. Purpose

The purpose of a petition for a Waiver to a particular standard or requirement of this Ordinance, as such are applicable to Plats or Construction Plans for a project, is to determine whether or not such particular standard or requirement should be applied to an application or project.

B. Definitions

Waivers shall be classified as “minor” or “major”, as defined in Section 9.01.002(B) WORDS AND TERMS DEFINED of this Subdivision Ordinance.

C. Authority

1. Minor Waiver

A Minor Waiver is acted upon by the City through the Planning and Zoning Administrator or the City Engineer.

2. Major Waiver

A Major Waiver is acted upon by the City Council. The City Council’s decisions are final.

D. Applicability

1. An applicant may request a 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 Replat. A Waiver petition shall be specific in nature and shall only involve relief consideration for one particular standard or requirement. An applicant may, if desired, submit more than one Waiver petition if there are several standards or requirements at issue.

2. A petition for a Waiver shall not be accepted in lieu of a proportionality appeal or a vested rights petition. If there is a question as to whether a proportionality appeal or vested rights petition is required instead of a petition for a Waiver, such determination shall be made by the City.

E. Submission Procedures

1. Prior to any application for a Preliminary Plat, Construction Plans, Final Plat or Replat, as applicable, an applicant who seeks a Waiver to any of the standards in these subdivision regulations shall submit the request for the Waiver(s) to the Planning and Zoning Administrator and/or City Engineer. No Waiver may be considered or granted unless the applicant has made such written request. All waivers shall be considered and acted on before the submittal of a Preliminary Plat, Construction Plans, Final Plat or Replat.
2. The request must be accompanied by a detailed statement of the reasons for the Waiver and addressing the criteria for approval of the request, together with a schematic showing the Preliminary Plat, Construction Plans, Final Plat or Replat with and without the Waiver.

F. Criteria

1. A Waiver to regulations within this Subdivision Ordinance may be approved only when undue hardship will result from strict compliance to the regulations.
2. The Planning and Zoning Administrator and/or City Engineer shall consider the following factors:
 - a. The nature of the proposed land use involved and existing uses of the land in the vicinity;
 - b. The potential number of individuals to reside in the proposed development; and
 - c. The effect such Waiver might have upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.
3. No Waiver shall be granted unless the Planning and Zoning Administrator and/or City Engineer finds:
 - a. There are special circumstances or conditions affecting the land involved or other constrains 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. The Waiver is necessary for the preservation and enjoyment of a substantial property right of the applicant, and that granting the Waiver will not be detrimental to the public health, safety or welfare or injurious to other property in the area; and
 - c. That granting the Waiver will not prevent orderly subdivision of other lands in the area, in accordance with the provisions of this Subdivision Ordinance.
4. A Waiver may be granted only when in harmony with the general purpose and intent of this Subdivision Ordinance so that the public health, safety and welfare may be secured,

and substantial justice is done. Financial hardship to the applicant shall not be deemed to constitute undue hardship.

5. No Waiver shall be granted unless it represents the minimum degree of variation from requirements necessary to meet the needs of the applicant.
6. The Planning and Zoning Administrator and/or City Engineer shall not authorize a 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. Any falsification of information by the applicant shall be cause for the Waiver request to be denied. If the Waiver request is approved based upon false information, whether intentional or not, discovery of such false information shall nullify prior approval of the Waiver and shall be grounds for reconsideration of the Waiver request.

G. Burden of Proof

The applicant bears the burden of proof to demonstrate that the requirement for which a Waiver is requested, if uniformly applied, imposes an undue hardship or disproportionate burden to the applicant. The applicant shall submit proof of the alleged burden with the original submittal.

H. Decision

The Planning and Zoning Administrator and/or City Engineer shall take one of the following actions:

1. Deny the petition and impose the standard or requirement as it is stated in this Subdivision Ordinance; or
2. Grant the petition and waive in whole or in part the standard or requirement as it is stated in this Subdivision Ordinance.

I. Notification of Decision on Petition

The applicant shall be notified of the decision on the Waiver within fourteen (14) calendar days following the decision.

J. Appeal

1. Initiation of an Appeal

The applicant may appeal a waiver decision of the Planning and Zoning Administrator and/or City Engineer as allowed in this Subdivision Ordinance. The written request to appeal shall be submitted to the City within fourteen (14) calendar days following the denial decision.

2. Appeal to the City

The City shall consider the appeal of a waiver request in conjunction with the approval of the underlying permit application at a public meeting no later than thirty (30) calendar days after the date on which the application was officially filed. The City may affirm, modify or reverse the decision with an affirmative vote by four voting members of the City. The City's decision is final.

K. Effect of Approval

Following the granting of a Waiver, the applicant may submit or continue the processing of a Plat or Construction Plans, as applicable. The 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. Extension of those applications shall also result in extension of the Waiver.

ARTICLE 9.06 STREET NAMING AND NUMBERING

SECTION 9.06.001 PROCEDURES ESTABLISHED

A. Street naming and property numbering procedures shall be established in conjunction with platting and subdivision requirements of Hunt County, and the following as applicable:

1. Formal naming and numbering of Lone Oak streets. A survey and inventory of all Lone Oak public street names shall be prepared for use in establishing a systematic and easy to comprehend method of assigning street names and addresses. Property needing street naming or number assignment will be identified. Duplicate names or similar-sounding names will be repealed and renamed on the recommendation of and the approval by the City Council.
2. Street name criteria. Street names shall be limited to twenty-two (22) characters. There shall be no similar-sounding names nor duplications. Dead-ending roads shall not be designated streets but shall be designated cul-de-sac, cove, circle or court. Other street types may be classified (boulevard must include median) as appropriate.
3. Street name change criteria. Petition for change must be presented to the City Council for approval. The petition shall contain signatures from three-fourths of property owners abutting the street. Development along the street and traffic volume may be considered as additional criteria.
4. Property numbering criteria. Number assignment is based upon a grid system, center point, the north-south line being Hampton Road and the east-west line being Red Oak Creek Drive. Number assignments shall progress from the center point outward each direction. Odd numbers shall be assigned to the north and west and even numbers to the south and east sides of streets.

SECTION 9.06.002 PROPERTY NUMBER POSTING CRITERIA

Property owners and inhabitants shall place (post) a property identification number on residential and business property. Property which does not have construction is not required to be posted. The posted identification number shall be of suitable size and placement on the property such that it is reflective, readily visible and legible when viewed from the street. The grace period for posting the property shall be sixty (60) days after address number notification is given to the property owner or inhabitant by the City.

SECTION 9.06.003 STREET NAMES AND PROPERTY NUMBERING RECORDS CRITERIA

A. After sixty (60) days, if no number sign is posted, the enforcement shall consist of the proper authority posting such number and to apply applicable charges to the resident or property owner.

B. A plat book containing public roads with proper numbering assigned shall be kept on file for public use. Property undergoing subdivision, development, or building permits issued in areas without street addresses must comply with the addressing procedures.

C. Notification in written form must be presented to the property owner and/or tenant when final assignment of addresses occurs. Notification also should be made to the U.S. Postal Service. Once notified, the address becomes effective within sixty days.

SECTION 9.06.004 PLACEMENT OF STREET SIGNS

Street signs are to be erected at intersections of all city roads regardless of current route markings from state, federal, or local designation. For new property development, the signage will be required at the expense of the developer. Signs must conform to guidelines established by this article and the City Council.

ARTICLE 9.07 TREE PRESERVATION

SECTION 9.07.001 INTENT

The intent of this article is to preserve existing trees of certain species, and to provide for the replacement of trees that are necessarily removed during construction or development. No clear-cutting of land is allowed in the City or on land under the City's jurisdiction.

SECTION 9.07.002 APPLICABILITY

A. This article applies to all tracts of land within the City and its ETJ:

1. Final plats. Any development that has received final plat approval prior to the effective date of this chapter;
2. Homeowners. The owner of property containing a single-family residence or duplex which has qualified for the homestead exemption;
3. Public property. All rights-of-way, easements or similar types of public property maintained by the City; and
4. Utility property. All rights-of-way, easements or similar types of public property maintained by a public utility franchised by the City. Utility companies may prune trees as necessary to re-establish disrupted service or maintain existing service.

B. Other Exceptions. In the event that any Protected Tree shall be determined to be in a hazardous or dangerous condition so as to endanger the public health, welfare or safety, and require immediate removal without delay, authorization may be given by the building official, or his/her designee and the tree may then be removed without obtaining approval as herein required. Examples of this exception may include, but are not limited to:

1. Damaged/diseased trees. The tree is dead, diseased or damaged beyond the point of recovery, or is in danger of falling;
2. Public safety. The tree creates unsafe vision clearance or conflicts with other ordinances

or regulations, or the tree is determined to be in a hazardous or dangerous condition so as to endanger the public health, welfare or safety, or the tree poses an imminent or immediate threat to person or property; and

3. Utility service interruption. When a tree has disrupted a public utility service either due to normal growth of the tree or as a result of a tornado, flood or other act of God, the tree may be removed as needed; however, removal shall be limited to the part of the tree which is found necessary to be removed to re-establish and maintain utility service.

SECTION 9.07.003 DEFINITIONS

Caliper. The average diameter of the trunk of the tree as measured at 42 inches above natural grade. On multi-trunk trees, the caliper of the largest trunk, plus one-half of each additional trunk's caliper shall be added to determine the caliper. If only a tree stump is found, then the caliper of the tree shall be the diameter of the stump.

Clear-cutting. The indiscriminant removal of protected trees from a parcel or tract of land.

Critical root zone. An area extending five (5) feet beyond the outermost drip line of the tree.

Principal building. For the purposes of this article, any building which is the first building permitted for construction on a lot or tract of land, or any subsequent building which shall serve as the primary residence or occupied building on the lot or tract of land.

Protected tree.

- (1) Any tree with a caliper of twelve (12) inches or greater of any species; or
- (2) Any tree with a caliper of six (6) inches or greater of any species that is not one of the following: mesquite, bois d'arc, thorny honey locust, hackberry, cottonwood, cedar, chinaberry (common), native black willow, native red or white mulberry.

Tree Preservation Plan. A graphic representation drawn to the largest scale practical showing the exact location, size (trunk diameter and height), and common name of all Protected Trees and indication of which trees are to be removed or replaced. The treescape plan requirements are more fully described in Section 9.07.004 below.

Tree survey date. For purposes of establishing the age of the tree survey, the first date that field observations were made by the preparer.

SECTION 9.07.004 TREE PRESERVATION AND PROTECTION

A. No person, directly or indirectly, shall cut down, destroy, remove or move, or effectively destroy through damaging, any Protected Tree situated on property regulated by this chapter without first receiving a permit or approval of a tree preservation plan, as applicable.

B. No clear-cutting of land is allowed.

C. A tree preservation plan must be submitted with all requests to plat new subdivisions or developments, and again with all requests for permits for any type of construction. If the site of development or construction does not contain any protected trees, a verification letter of no protected trees shall be submitted to the City that attests that protected trees are not on the property and that the person making this determination is qualified to do so. Persons who may prepare the tree preservation plan or verification letter include registered surveyors, professional engineers,

architects, landscape architects, arborists, or other qualified licensed professional(s). The letter must contain a statement affirming the author is qualified to prepare such document and listing his/her state license number or other certificates and documentation as reasonably determined by the City. The tree preservation plan or verification letter of no protected trees must be submitted to and approved by the City prior to the removal of any trees on the site. If there are no trees present of any type in the area of construction on previously platted residential lots, making no expertise necessary for determining the type and size of trees, landowners may submit a verification letter of no protected trees on their own behalf.

D. The tree preservation plan must include a site map including, but not limited to, the following information:

1. Delineation of site boundaries.
2. Location of all existing or proposed structures, construction activities and improvements (e.g., streets, alleys, easements, building lines, drainage ways, major grade changes, etc.).
3. Location, species and caliper of all trees within 100 feet of any proposed construction activities which have a caliper of 6 inches or greater, except, species may be omitted if all trees over 6 inches will be protected.
4. Trees proposed for preservation.
5. Trees proposed for removal.
6. Tree replacement proposal.
7. Location of any existing or proposed utility lines.

The tree preservation plan must be based upon a tree survey, which is less than two years old at the time of submittal for platting and subdividing permits. Requests for building permits may use an existing city-approved tree survey, which is up to five (5) years old at the time of the building permit application submittal, if available.

E. Trees to be preserved must be protected during construction activities by the following measures:

1. No grade changes, or trenching, shall be allowed within the critical root zone without prior the City's approval.
2. For trees within fifty (50) feet of a construction area, temporary barriers shall be erected to protect the critical root zone.
3. No construction or waste materials shall be stored, placed or disposed of within the critical root zone. This includes without limitation paints, oils, solvents, asphalt, concrete, mortar, lumber or other similar materials.
4. No asphalt, concrete or other impervious material shall encroach within the critical root zone, except, when necessary, and with prior city approval, these materials may be placed within five feet of the trunk so long as at least two-thirds of the critical root zone remains undisturbed.
5. No parking or vehicular traffic shall be allowed within the critical root zone. This restriction does not apply to the clearing of underbrush or of approved construction activities within the critical root zone.

SECTION 9.07.005 REMOVAL, MAINTENANCE AND REPLACEMENT OF TREES

A. Dead trees and trees that must be removed for disease or safety reasons may be removed at any time and shall not be considered in the tree preservation plan. This shall not require city approval under this article.

B. Any tree may be reasonably pruned for aesthetic, maintenance, disease control, or safety reasons. This shall not require city approval.

C. Other than in (B) above, no protected tree shall be pruned in a manner that would reasonably lead to the death of the tree.

D. Up to twenty percent of the total caliper inches of existing, protected trees may be proposed for removal during the development process (i.e., the grading, road, drainage and utility construction of the subdivision) without replacing any trees. Any tree twelve (12) inches caliper or greater may not be included in the twenty percent exemption.

E. Up to twenty percent of the total caliper inches of existing protected trees on each lot may be proposed for removal during the construction of a new dwelling or other building without replacing any trees. Any tree twelve (12) inches caliper or greater may not be included in the twenty percent exemption.

F. Removal of a greater percentage of trees than that allowed above shall require the planting of new trees on a one hundred percent replacement rate. That is, for each caliper inch of protected trees removed (in excess of the allowed percentages), new trees with an equivalent aggregate total number of caliper inches must be replanted. Multiple trees may be used to achieve the required total number of caliper inches, but replacement trees must be at least two (2) inches each, except, when replacing a protected tree which had a caliper greater than 16 inches, at least two 5-inch trees shall be included in the total.

G. For the purpose of replacement trees, existing non-protected trees which meet minimum size requirements may be preserved instead of planting replacement trees. Species protected by this article which are between three (3) inches and six (6) inches shall count one hundred percent (i.e., inch-for-inch). Unprotected species shall be a minimum of 6 inches caliper and count only fifty percent (i.e., a six (6) inch unprotected tree will count as a three (3) inch replacement tree).

H. At the request of the applicant, replacement trees may be planted on city property in lieu of the property under construction/development, with prior city council approval.

I. Upon a voluntary request of the applicant, the City Council, in its sole discretion, may allow the applicant to pay a fee in lieu of tree replacement required under this Section 9.07.005. Voluntary requests for waivers to the tree replacement provisions of this chapter shall not exceed forty percent (40%) of the total number of diameter inches of Protected Trees to be replaced located outside of a government designated flood plain zone.

J. A tree identified on the tree preservation plan that is replaced but dies within one year of the date it was planted must be replaced in accordance with the provisions of this article.

SECTION 9.07.006 FEES AND IMPLEMENTATION

A. New development. Review and verification of tree preservation plans shall be performed by the City Engineer in conjunction with other portions of the application. Fees shall be billed to the applicant as per the City's Fee Schedule. Any cost incurred by the City for review, oversight, and verification in excess of collected fees, as established in the Fee Schedule, will be the

responsibility of the applicant and must be reimbursed to the City. Final plat approval shall not be granted until all fees have been paid in full by the applicant and, if applicable, all penalties and any required restitution has been satisfied as well. The City may also withhold construction permits and occupancy permits if necessary until payment is made in full.

B. Individual platted lots. A fee, as prescribed in the City Fee Schedule, shall be assessed per individual platted lot for the City's costs incurred including the initial review and field verification of tree preservation plans required for the issuance of a residential building permit. Fees are due at time of submittal. If no trees are going to be affected by construction as defined in Section 9.07.004, a letter certifying no trees will be affected may be submitted with the fee.