

**ORDINANCE NO. 22-0407-1**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHINA GROVE, TEXAS, ESTABLISHING SUBDIVISION REGULATIONS AND ASSOCIATED PROCEDURES; REPEALING ALL ORDINANCES TO THE EXTENT THEY ARE IN CONFLICT; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City of China Grove ("City") is a Texas General Law Municipality operating under the laws of the State of Texas; and

**WHEREAS**, the City is empowered by Chapter 212 of the Texas Local Government Code to establish subdivision regulations within the incorporated limits of the City; and

**WHEREAS**, the City has given appropriate and reasonable consideration to the subdivision regulations and found them most appropriate for the City; and

**WHEREAS**, the City Council of the City of China Grove, Texas finds that the establishment of subdivision regulations as depicted in this Ordinance are compliant with the requisites of the state law, including Texas Local Government Code, and

**WHEREAS**, the City Council finds that the establishment of subdivision regulations is necessary for the orderly development of this community and represents the best interest of all citizens of the City of China Grove, Texas and promotes the aesthetics, health, safety, general welfare and convenience of the people; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHINA GROVE, TEXAS:**

**Section 1.** The foregoing recitals are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

**Section 2.** The Subdivision Ordinance of the City of China Grove, Texas is hereby established as set forth on Exhibit A attached hereto.

**Section 3.** If any provision of this Ordinance is illegal, invalid, or unenforceable under present or future laws, the remainder of this Ordinance will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Ordinance.

**Section 4.** This Ordinance shall be cumulative of all provisions of ordinances of the City except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

**Section 5.** This Ordinance shall be construed and enforced in accordance with the laws of the state of Texas and the United States of America.

**Section 6.** It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended.

**Section 7.** That all rights and privileges of the City and individual landowners are expressly saved as to any and all pending permits or violations of the provision of any ordinances repealed by this ordinance which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violation and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**Section 8.** This Ordinance shall be in full force and effect after its final passage and approval by the City Council, as duly attested by the Mayor and City Secretary, and any publication required by law.

**PASSED AND APPROVED** this 7<sup>th</sup> day of April 2022.

CITY OF CHINA GROVE, TEXAS

By: Mary Ann Hajek  
Mary Ann Hajek, Mayor

ATTEST:

Leslie Bettice

Leslie Bettice, City Secretary



# Subdivision Ordinance City of China Grove, TX

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## Section 1. General

### Sec.1.1. Short Title

- A. This ordinance shall be known and may be cited as "The Subdivision Ordinance of the City of China Grove, Texas"

### Sec.1.2. Purpose and applicability

- A. It is the purpose of this ordinance to promote sound planning in the subdivision of land, and to provide consistent rules, which protect the public health, safety, and welfare while allowing the legal platting of land. The regulations herein have been made after careful study of existing local conditions and the desirable future development of the City. It is not the desire or the intent of the City to regiment the design of subdivisions of property and its environs, but rather to recommend the utilization, to the fullest extent possible, of good, sound, modern subdivision planning principles.
- B. It is intended that as much freedom as possible be allowed for individual owners and subdividers in the design and ultimate development of new subdivisions so that they will contribute innovation, individuality, and character to the community's new residential neighborhoods and non-residential developments. At the same time, these rules are intended to assure that such development provides for:
  1. promote the health, safety, morals, or general welfare of the City and the safe, orderly, and healthful development of the City
  2. adequate major and secondary traffic thoroughfares and public facilities;
  3. minimum standards for public facilities
  4. a consistent and equitable pattern of development among neighboring parcels of land; and
  5. consistency with the City's adopted plans.
- C. The regulations contained within this ordinance are adopted under the authority of the constitution and laws of the State of Texas, including particularly Chapter 42, Chapter 212, and Chapter 242 of the Texas Local Government Code. Pursuant to the authority herein granted, the City Council extends to all of the area within its City limits, the application of all of the terms and provisions in this ordinance establishing rules and regulations governing plats and subdivisions of land.

### Sec.1.3. Reserved

### Sec.1.4. Definitions

For the purposes of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given in this section. When not inconsistent with the context, words used in the present tense include the future; words used in the singular number include the plural number; and words in the plural number include the singular number. The words "shall" and "will" are always mandatory, while the word "may" is merely discretionary.

Any term not expressly defined in this section shall be defined by a common planning definition from the American Planning Association's, A Planners Dictionary. The City Administrator shall determine the appropriateness of a definition.

- Alley - A public right-of-way which provides a secondary means of vehicular access to abutting property and which is used primarily for vehicular traffic to the rear or side of properties which otherwise abut on a street.

- Alley, Private – A private way which provides a secondary means of vehicular access to abutting property and which is used primarily for vehicular traffic to the rear or side of properties which otherwise abut on a street.
- Block: A tract of land bounded by streets or a combination of streets and public parks, or corporate boundaries of the City.
- City: The City of China Grove, Texas
- City Administrator: The City Administrator of the City of China Grove, Texas or his/her designee
- City Council: The City Council of the City of China Grove, Texas
- City Engineer: A registered professional engineer employed or designated by the City to provide professional engineering services for and on behalf of the City.
- Cul-de-sac: A street having but one (1) outlet to another street, and terminated on the opposite end by a vehicular turn around.
- Dead End Street: A roadway, other than cul-de-sac, with only one (1) outlet.
- Development: Any manmade change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment.
- Dwelling Unit: A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- Easement: An acquired privilege or right-of-way use which one (1) person, business, entity and/or public agency has across, over or under land of another person, business, entity and/or public agency.
- Extraterritorial Jurisdiction (ETJ): The ETJ of the City is the portion of the unincorporated area that is contiguous to the corporate boundaries of the City and not already in the incorporated area or ETJ of another City as set out in Texas Local Government Code.
- Lot: A physically undivided tract or parcel of land having frontage on a public street or other approved access and which is, or in the future may be, offered for sale, conveyance, transfer or improvements; which is designated as a distinct and separate tract; and/or, which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly recorded.
- Lot Area: The area of a lot between lot lines, including any portion of an easement which may exist within such lot lines.
- Lot Frontage: That part of a lot (a lot line) abutting on a street or approved access way; except that the ends of incomplete streets or streets without a turnaround, shall not be considered frontage.
- Lot Depth: The distance of a line connecting the midpoints of the front and rear lot lines, which line shall be at right angle to the front lot or radial to a curved lot line.
- Lot Width: The distance of a line (drawn perpendicular to the lot depth line) connecting the side lot lines at the building setback line or at a point no farther than thirty-five (35') feet from the front lot line.
- Lot, Corner: A lot which has an interior angle of less than 135 degrees at the intersection of two (2) street lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents of the curve at the points of the intersection of the side lot lines intersect at an interior angle of less than 135 degrees.
- Lot, Flag: A lot shaped and designed where the main building site area is set back substantially from the public roadway and access is limited to a narrow private drive. Flag lot shapes are often used to achieve minimal lot frontage on the roadway.
- Lot, Interior: A building lot other than a corner lot.
- Lot, Through: A lot having a frontage on two (2) nonintersecting streets as distinguished from a corner lot.

- Peak Hour Trips (PHT): The number of traffic units generated by and attracted to the proposed development during its heaviest hour of use, dependent on type of use.
- Permit: An official document or certificate issued by the authority having jurisdiction authorizing performance of a specified activity.
- Plat: The map, drawing or chart on which a subdivider's plan of a subdivision is presented and submitted for approval.
- Public Infrastructure: Infrastructure that is generally for public use to include but not be limited to improvements of the following: water system (including water distribution lines, fire hydrants, valves and associated devices), wastewater (including lines, manholes, and lift stations), drainage system (including drainage easements, channels, storm sewer lines and inlets and associated landscaping), sidewalks, and roadways.
- Right-of-Way: The right of passage acquired for or by the public through dedication, purchase or condemnation and intended to provide pedestrian and vehicular access to abutting lots, tracts or areas which may also be used for utilities and to provide for drainage ways.
- Road: See the definition of "Street".
- Street: A strip of land comprising the entire paved area between the face of curbs and gutters and within the right-of-way, intended for use as a means of vehicular and pedestrian circulation to provide access to more than one (1) lot.
- Street, Collector: A roadway which collects traffic from local streets and connects within arterial streets.
- Street, Arterial: A designated principal traffic thoroughfare more or less continuous across the City, which is intended to connect remote parts of the City or areas adjacent thereto, and act as principal connecting street with State and Federal highways.
- Street, Private: Any street right-of-way not dedicated to public use.
- Street, Public: Any roadway for use of vehicular traffic dedicated to public use and/or owned, controlled and maintained by the City, a County, or the State.
- Street Width: The shortest horizontal distance between the lines which delineate the street.
- Subdivider or Developer: Are synonymous and include any person, partnership, firm, association, corporation (or combination thereof), or any officer, agent, employee, servant, or trustee thereof, who performs, or participates in the performance of, any act toward the subdivision of land within the intent, scope and purview of this ordinance.
- Subdivision: The division of any lot, tract or parcel of land into two (2) or more lots, tracts or parcels of land for the purpose, whether immediate or future, of sale or rebuilding development, situated within the City's corporate limits. It also includes vacation and resubdivision of land or lots.
- Surveyor: A State licensed land surveyor or registered public surveyor, as authorized by the state statutes, to practice the profession of surveying.
- Utility Easement: An interest in land granted to the City, to the public generally, and/or to a private utility corporation, for installing utilities and appurtenances across, on, over, upon or under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.
- Visibility Triangle: The triangular sight area from the corner of converging streets to a distance of 25 feet along each street with the triangle completed by drawing a line through the property from both 25 foot points on the converging streets.



### **Sec.1.5. Public facilities required**

- A. The subdivider is responsible for all costs associated with, furnishing, installing, and constructing public facilities (including but not limited to, water and wastewater systems, streets, sidewalks, trails, and drainage facilities) necessary for the proper development of the subdivision according to the minimum standards adopted by the City.
- B. All required public facilities must be designed and constructed in accordance with the City's adopted technical manuals, and any other standards, specifications, and drawings the City may adopt. If the City does not have jurisdiction over a facility, the subdivider must design the facility according to the specification of the provider.

### **Sec.1.6. Rough proportionality and fair share**

- A. If the City requires as a condition of approval for a property development project that the property owner bear a portion of the costs of municipal infrastructure improvements through dedication of property to the City, the payment of impact fees, the payment of construction costs, or the payment of other infrastructure related costs authorized by applicable law, the property owner's portion of the costs may not generally exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by the City Engineer.
- B. A property owner who disputes the determination made by the City Engineer under Subsection A above must appeal to the City Council, or the City Engineer's determination is final. At the appeal, the property owner may present evidence and testimony under procedures adopted by the City Council. After hearing any testimony and reviewing the evidence, the City Council shall make the applicable determination as to the appeal within thirty (30) calendar days after the final submission of any testimony or evidence by the property owner.
- C. A property owner may appeal the determination of the City Council to a county or district court of the county in which the development is located within thirty (30) calendar days after the final determination by the City Council.

### **Sec.1.7. Vested rights**

- A. Introduction. LGC Chapter 245 - Issuance of Local Permits, commonly referred to as the State's "Vested Rights Law", provides an opportunity for landowners or developers to "grandfather" or "vest" government regulations that apply to development at the time of the filing of a permit application. The City has established in this section an administrative procedure for consideration of any claim of a vested right.
- B. Definitions. The following terms shall have the meaning hereinafter ascribed to them under this section:
  - LGC – The Texas Local Government Code
  - Project – an endeavor over which the City (a regulatory agency, as defined by LGC Chapter 245) exerts its jurisdiction and for which one or more permits are required to initiate, continue, or complete the endeavor.
  - Permit - a license, certificate, approval, registration, consent, permit, contract, or other agreement for construction related to, or provisions of, service from a water or wastewater utility owned, operated, or controlled by the City, or other form of authorization required by law, rule, regulation, order or ordinance that a person must obtain to perform an action or initiate, continue, or complete a Project for which the permit is sought (i.e. master plan, preliminary plat or final plat).

- C. Administrative procedure for consideration of claim of vested rights. Any property owner claiming vested rights under Chapter 245 of the LGC, or other applicable vesting law, shall submit a letter explaining in sufficient detail the basis upon which the property owner is claiming vesting and, consequently, is exempt from or not subject to a particular current regulation, ordinance, rule, expiration date, or other requirement. Such written submission shall include, at a minimum, the following:
  - 1. The name, mailing address, and telephone number of the property owner (or the property owner's duly authorized agent);
  - 2. Identification of the property, including the address (if it exists) and the plat reference (if it exists) or metes and bounds (if not platted), for which the property owner claims a vested right;
  - 3. Provide project name, type of permit and date the permit was filed;
  - 4. If a property owner claims that certain regulations do not apply to the project, the property owner must identify, with particularity, all requirements that the property owner claims do not apply; and
  - 5. Attach all supporting documents, if any.
- D. Vested rights determination. The City Administrator will review the request and supporting documents and issue a final administrative determination of whether a vested right exists in relation to the project, and shall identify in writing to the property owner all claims for which vested rights have been granted (the "Vested Rights Determination").
- E. Appeal of vested rights determination. If the property owner believes that the vested rights determination is in error, the property owner shall have the right to appeal such vested rights determination to the City Council, which will have jurisdiction to hear and decide the appeal pursuant to this ordinance and LGC Chapter 245.
- F. Recognition of vested rights.
  - 1. A property owner's original permit application expires on or after the forty-fifth (45<sup>th</sup>) calendar day after the date the application is filed if:
    - a. the property owner fails to provide documents or other information necessary to comply with the City's technical requirements relating to the form and content of the permit application;
    - b. the City provides to the property owner, not later than the tenth (10<sup>th</sup>) business day after the date the application is filed, written notice of the failure 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
    - c. the property owner fails to provide the specified documents or other information within the time provided in the written notice.
  - 2. Basis for vested rights. Only a project which was in progress (as defined by LGC Section 245.003) or for which a permit application was filed after September 1, 1997 may be eligible to claim vested rights; any project for which the permit application was filed prior September 1, 1997, or has expired, is not eligible. Vested rights do not begin to accrue until the filing of an original application or subdivision master plan or plat application that gives the City fair notice of the project to which the permit applies and the nature of the permit sought.

3. A project will expire in five (5) years from the date the first permit application was filed for the project with City if progress, as defined in LGC Section 245.005, has not been made towards completion of the project. An expired project is considered dormant, vested rights lapse and the project must comply with all current ordinances and requirements.

#### **Sec.1.8. Development Manual**

- A. The Development Manual shall contain development application forms, required application materials, fees, and application submittal deadlines. The Development Manual may be adopted and updated from time to time by Resolution approved by City Council. A copy of the current Development Manual shall be available upon request.

#### **Sec.1.9. Public Works Specification Manual**

- A. The Public Works Specification Manual shall contain specifications necessary to complete public projects including but not limited to roadway design specifications, traffic impact requirements, utility easement specifications, and driveway requirements. The Public Works Specification Manual may be adopted and updated from time to time by resolution approved by the City Council. A copy of the current Public Works Specification Manual shall be available upon request.

#### **Sec.1.10. Conflicts between regulations**

- A. In the event of a conflict between the requirements of this ordinance and State law, the requirements of State law shall apply.
- B. In the event of a conflict between the regulations contained within this ordinance and regulations or standards contained within any other ordinance, code or regulation of the City, the more restrictive regulation shall apply.
- C. In the event of a conflict between the regulations contained within this ordinance and the City's Development Manual or Public Works Specification Manual, the requirements of this ordinance shall apply.

#### **Sec.1.11. Violations and penalties**

- A. Any person, firm, or corporation who shall violate any of the provisions of this ordinance, or fails to comply therewith, or who shall violate or fail to comply with any order or regulation made hereunder, or who shall build any project or facility in violation of any detailed statement of specification or plans submitted and approved hereunder, or any certificate or permit issued hereunder, shall, for each and every violation and noncompliance respectively be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed two thousand dollars (\$2,000) or the appropriate legal maximum as determined by statute. Each and every day that such violation and/or noncompliance shall exist shall be deemed a separate offense. In case any person, firm, or corporation violates any of the provisions of this ordinance or fails to comply therewith, the City, in addition to imposing the penalties above provided may institute any appropriate action or proceedings in court to prevent, restrain, correct, or abate or to prevent any illegal act, conduct, business, or use in or about any land, and the definition of any violation of the terms of this ordinance as a misdemeanor, shall not preclude the City from invoking the civil remedies given it by law in such cases, but same shall be cumulative of and in addition to the penalties prescribed for such violation.

#### **Sec.1.12. Validity**

- A. The issuance or granting in error of a permit or approval of plans or plats, site designs, or specifications shall not be construed to be a permit for, or an approval of, a violation of any provision of this ordinance or any other City ordinance.

## Section 2. Procedures

### Sec.2.1. General

- A. The purpose of this section is to establish application procedures, internal review procedures, public notice and hearing procedures, and review criteria for the processing of applications and actions that affect the development and use of property subject to the jurisdiction of the City of China Grove.
- B. The owner of a tract of land located within the City limits who divides the tract in two (2) or more parts to lay out a subdivision of the tract, including an addition to the City, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares parks or other parts must have a plat of the subdivision prepared. A division of a tract under this section includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method.

### Sec.2.2. Initiation of application

- A. Application submittal. All development applications to be considered by any Board, Commission or Committee, or by the City Council shall be initiated by the filing of the application by the owner of the property on which the permit is applicable or by the owner's designated agent. In the event an application is submitted by a designated agent, the application must be accompanied by a written statement, signed by the owner, authorizing the agent to file the application on the owner's behalf.
- B. Determination of application completeness.
  - 1. All submitted development applications shall be subject to a determination of completeness by the City Administrator.
  - 2. No application shall be deemed complete and accepted for filing unless it is accompanied by all documents required by and prepared in accordance with the requirements of the City and any required fees have been paid.
  - 3. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this ordinance.
  - 4. Not later than the tenth (10<sup>th</sup>) business day after the date an application is submitted, the City Administrator shall make a written determination whether the application constitutes a complete application. This shall include a determination that all information and documents required by the City for the type of permit being requested have been submitted. A determination that the application is incomplete shall be sent to the applicant within such time period by email to the address listed on the application or by United States mail at the address listed on the application with the date the application was submitted. The determination shall specify the documents or other information needed to complete the application and shall state that the application will expire if the documents or other information are not submitted within forty-five (45) calendar days after the date the application was submitted.

5. The processing of an application by any City employee other than the City Administrator prior to the time the application is officially determined to be complete shall not be binding on the City as the official acceptance of the application for filing.
  6. A development application shall be deemed to expire on the forty-fifth (45<sup>th</sup>) calendar day after the application is submitted to the City Administrator for processing if the applicant fails to provide documents or other information necessary to meet the requirements of this ordinance or other requirements as specified in the determination provided to the applicant. Upon expiration, the application will be discarded, and a new application must be submitted.
  7. No vested rights accrue solely from the submission of an application that has expired pursuant to this section, or from the submission of a complete application that is subsequently denied.
- C. Application withdrawal. Any request for withdrawal of an application must be submitted in writing to the City Administrator. If notification is required for the application and has been properly given via publication in the newspaper and/or written notification to surrounding property owners, such application must be placed on the agenda. The staff representative shall notify the Board, Commission, Committee or the City Council of the request for withdrawal. Application fees are not refundable unless reimbursement is otherwise authorized by the City Administrator.

### **Sec.2.3. Pre-application conference**

- A. Prior to submitting an application for approval of a development, subdivision master plan, or subdivision plat, the subdivider, at his/her option, may consult with and present a proposed plan for the subdivision to the City Administrator or his/her designee for comments and advice on the procedures, specifications, and standards required by the City for the subdivision of land. At such a meeting the City Staff will be able to make any suggestions that would direct the proposed subdivision toward desirable objectives and possibly prevent unnecessary work and expense if objectives are not met. No vesting shall occur under this subsection in accordance with this ordinance.

### **Sec.2.4. Certification of exhibits**

- A. Applicability. Prior to filing an application for a subdivision master plan or subdivision plat approval the applicant shall secure letters of certification as required by this ordinance and the Development Manual. A request for letters of certification and required items shall be submitted by the applicant as required by the Development Manual.
- B. Application requirements. Any request for a letter of certification shall be accompanied by an application prepared in accordance with the City's Development Manual.
- C. Processing of application and decision.
1. Submittal. A request for a letter of certification shall be submitted to the City Administrator. The City Administrator shall review the application for completeness. The City Administrator may request a review and recommendation from any other City department or consultant.
  2. Decision by the City Administrator.

- a. After the City Administrator has determined whether the request for letters of certification and required technical data is complete, each certifying department shall issue comments, approve or deny a letter of certification within forty-five(45) calendar days. When a certifying department determines that the proposed plan, plat or any of the required accompanying data does not conform with the requirements of this ordinance or other applicable regulations, ordinances or laws, the applicant may at his/her option revise any nonconforming aspects. If any data is revised and resubmitted, the certifying department shall have up to thirty (30) calendar days from the latest date of submission to issue comments, approve or deny a letter of certification.
  - b. If a letter of certification is not issued or denied within the time periods prescribed in subsection above, the same shall be deemed issued and the applicant may submit an application for subdivision master plan or subdivision plat, without submitting the letter of certification.
3. Scope of issuance. A letter of certification does not authorize the development or subdivision of land. Upon receipt of all required letters of certification, the applicant may submit an application for subdivision master plan or subdivision plat approval. Letters of certification shall remain valid for one (1) year from the date of issuance by the certifying department. After that time period, new or updated letters of certification shall be required to file a subdivision master plan or subdivision plat application.
  4. Amendments. A letter of certification may be amended prior to filing an application for subdivision approval if the proposed amendment:
    - a. Does not increase the number of lots subject to the application.
    - b. Does not increase by more than five percent (5%) the lineal footage of roadways or the areas within the paved surface of the street right-of-way.
    - c. Does not reduce the amount of open space within the proposed subdivision.
    - d. Does not alter or change the approved stormwater plan.
  5. Letter of certification authorization. A letter of certification is not recorded. A letter of certification shall be maintained by the applicant and presented with the application for subdivision master plan or subdivision plat approval.

## **Sec.2.5. Subdivision master plan**

### **A. Applicability**

1. A subdivision master plan is required to provide for review of certain developments for compliance with, this ordinance, any additional adopted plans (i.e. water, wastewater, transportation, drainage), the compatibility of land uses, and the coordination of improvements within and among individual parcels of land or phases of development prior to approval of a preliminary or final plat. A subdivision master plan is required for any development meeting one or more following criteria:
  - a. The property is undeveloped and is greater than fifty (50) acres in size;
  - b. The proposed subdivision of land is to occur in phases; or
  - c. The proposed subdivision will require off-site road, drainage or utility connections of improvements that will have a substantial impact or effect on other properties or developments.
2. If a preliminary plat encompasses the entire development and tract of land, a subdivision master plan will not be required.

- B. Application requirements. Any request for a subdivision master plan shall be accompanied by an application prepared in accordance with the City's Development Manual.
- C. Processing of application and decision.
  - 1. Submittal. An application for a subdivision master plan shall be submitted to the City Administrator. The City Administrator shall review the application for completeness. The City Administrator may request a review and recommendation from any other city department or consultant. After appropriate review, the City Administrator shall forward a written recommendation to the City Council for consideration.
  - 2. Decision by City Council. The City Council shall receive the written recommendation of the City Administrator and shall consider the proposed subdivision master plan. The City Council shall act on the plan within thirty (30) calendar days after the date a complete application is filed. The City Council must approve a subdivision master plan that is required to be prepared in accordance with this section and that satisfies all applicable regulations of the City. The City Council may vote to approve with conditions or deny a subdivision master plan that does not satisfy all applicable regulations of the City.
  - 3. Conditional approval and denial. If the City Council conditionally approves or denies the subdivision master plan, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
  - 4. Applicant response to conditional approval or denial. After the conditional approval or denial of a subdivision master plan, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator is authorized to approve revisions required for conditional approval of the subdivision master plan. The City Council shall determine whether to approve or deny the applicant's previously denied subdivision master plan or conditionally approved, if forwarded to the City Council by the City Administrator. Action shall be taken by the City Administrator or City Council no later than the fifteenth (15th) calendar day after the date the response was submitted.
  - 5. Subdivision master plan authorization. Approval of a subdivision master plan by the City Council shall be deemed as an expression of the approval of the layout submitted on the master plan as a guide to the final design of streets, water, sewer and other required improvements and utilities and to the preparation of a preliminary plat in accordance with the requirements of the City.
- D. Criteria for approval. The City Council, in considering final action on a subdivision master plan, should consider the following criteria:
  - 1. the subdivision master plan is consistent with all city requirements including zoning requirements for the property or any development regulations approved as part of a development agreement;
  - 2. the proposed provision and configuration of roads, water, wastewater, drainage and park facilities are adequate to serve each phase of the subdivision;
  - 3. the schedule of development is feasible and prudent and assures that the proposed development will progress to completion within the time limits proposed;
  - 4. the location, size and sequence of the phases of development proposed assures orderly and efficient development of the land subject to the plan.

- E. Expiration. The approval of a subdivision master plan shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved, during which period the applicant shall submit and receive approval for a preliminary plat for any portion of the land subject to the subdivision master plan. If a preliminary plat has not been approved within the two (2) year period, the subdivision master plan approval shall expire and the plan shall be null and void.
- F. Revisions to an approved subdivision master plan.
  - 1. Minor changes. Minor changes in the design of the subdivision subject to a subdivision master plan may be incorporated in an application for approval of a preliminary plat without the necessity of filing a new application for approval of a subdivision master plan. Minor changes shall include adjustment in street or alley alignments, lengths, and adjustment of lot lines that do not result in creation of additional lots, provided that such changes are consistent with any approved prior applications.
  - 2. Major Changes. All other proposed changes to the design of the subdivision subject to an approved subdivision master plan shall be deemed major amendments that require submittal and approval of a new application for approval of a revised subdivision master plan before approval of a preliminary plat.

## **Sec.2.6. Preliminary plat**

- A. Applicability
  - 1. A preliminary plat is required to determine the general layout of the subdivision, the adequacy of public facilities needed to serve the intended development and the overall compliance of the land division with applicable City requirements.
  - 2. A preliminary plat may be submitted for any phase of development consistent with an approved subdivision master plan. Where a subdivision master plan is not required and the area to be platted is part of a larger tract of land, the preliminary plat must encompass the entire tract of land under ownership of the subdivider and shall provide a preliminary layout of streets, lots, blocks, utilities and drainage for the larger tract. A final plat may be submitted for individual lots to be platted out of the larger parcel.
- B. Application requirements. Any request for a preliminary plat shall be accompanied by an application prepared in accordance with the City's Development Manual.
- C. Processing of application and decision.
  - 1. Submittal. An application for a preliminary plat shall be submitted to the City Administrator. The City Administrator shall review the application for completeness. The City Administrator may request a review and recommendation from any other city department or consultant. After appropriate review, the City Administrator shall forward a written recommendation to the City Council for consideration.
  - 2. Decision by City Council. The City Council shall receive the written recommendation of the City Administrator and shall consider the proposed plat. The City Council shall act on the plat within thirty (30) calendar days after the date a complete application is filed. The City Council must approve a preliminary plat that is required to be prepared in accordance with this section and that satisfies all applicable regulations of the City. The City Council may vote to approve with conditions or deny a preliminary plat that does not satisfy all applicable regulations of the City.



3. Conditional approval and denial. If the City Council conditionally approves or denies the plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
  4. Applicant response to conditional approval or denial. After the conditional approval or denial of a plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator is authorized to approve revisions required for conditional approval of the preliminary plat. The City Council shall determine whether to approve or deny the applicant's previously denied plat or conditionally approved, if forwarded to the City Council by the City Administrator. Action shall be taken by the City Administrator or City Council no later than the fifteenth (15th) calendar day after the date the response was submitted.
  5. Preliminary plat authorization. Approval of a preliminary plat by the City Council shall be deemed as an expression of the approval of the layout submitted on the plat as a guide to the final design of streets, water, sewer and other required improvements and utilities and to the preparation of a final plat in accordance with the requirements of this ordinance.
- D. Criteria for approval. The City Council, in considering final action on a preliminary plat, should consider the following criteria:
1. the plat is consistent with all city requirements including zoning requirements for the property;
  2. the plat conforms to the general layout of the subdivision master plan (if applicable) and is consistent with the phasing plan approved therein;
  3. the proposed provision and configuration of roads, water, wastewater, drainage and park facilities, and easements and rights-of-way are adequate to serve the subdivision.
- E. Expiration and extension.
1. Expiration. The approval of a preliminary plat shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved, during which period the applicant shall submit and receive approval for a final plat for any portion of the land subject to the preliminary plat. If a final plat has not been approved within the two (2) year period, the preliminary plat approval, unless extended, shall expire and the plat shall be null and void.
  2. Extension. At the request of the property owners or their representative, the expiration date for approval of a preliminary plat may be extended by the City Council for a period not to exceed six (6) months. A preliminary plat is not subject to reinstatement following expiration.
- F. Revisions to an approved preliminary plat.

1. Minor changes. Minor changes in the design of the subdivision subject to a preliminary plat may be incorporated in an application for approval of a final plat without the necessity of filing a new application for approval of a preliminary plat. Minor changes shall include a revision to plat notes, a revision to street or alley lengths, scrivener's errors, adjustment of lot lines that do not result in the increase or creation of additional lots or additional acreage, or changes or clarifications to easements, provided that such changes are consistent with any approved prior applications.
2. Major Changes. All other proposed changes to the design of the subdivision shall be deemed major changes which includes but is not limited to the reconfiguration of street or alley alignments, the addition of streets or alleys, an increase in the number of lots or acreage, the addition or revision of a unit previously approved by the preliminary plat, any change to the open space dedication requirement, changes to drainage. The City Administrator shall determine if a change is minor or major. Major changes shall require submittal of a revised subdivision master plan (if applicable) and preliminary plat which is submitted and processed the same as a new subdivision master plan application and new preliminary plat application.

### **Sec.2.7. Final plat**

#### **A. Applicability**

1. A final plat is required to assure that the division or development of the land subject to the plat is consistent with all standards of this ordinance pertaining to 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 plat to be recorded, and to assure that the subdivision or development meets all other standards of this ordinance to enable initiation of site preparation activities for any lot or tract subject to the plat. Approval of a final plat shall be required prior to any non-exempt division of land and prior to any site preparation activities for a lot or tract of land that requires installation of public improvements on or adjacent thereto.
2. A final plat may be submitted for any phase of development consistent with an approved preliminary plat.

#### **B. Application requirements. Any request for a final plat shall be accompanied by an application prepared in accordance with the City's Development Manual.**

#### **C. Processing of application and decision**

1. Submittal. An application for a final plat shall be submitted to the City Administrator. The City Administrator shall review the application for completeness. The City Administrator may request a review and recommendation from any other city department or consultant. After appropriate review, the City Administrator shall forward a written recommendation to the City Council for consideration.
2. Decision by City Council. The City Council shall receive the written recommendation of the City Administrator and shall consider the proposed final plat. The City Council shall act on the plat within thirty (30) calendar days after the date a complete application is filed. The City Council must approve a final plat that is required to be prepared in accordance with this section and that satisfies all applicable regulations of the City. The City Council may vote to approve with conditions or deny a final plat that does not satisfy all applicable regulations of the City.

3. Conditional approval and denial. If the City Council conditionally approves or denies the final plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
  4. Applicant response to conditional approval or denial. After the conditional approval or denial of a plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator is authorized to approve revisions required for conditional approval of the final plat. The City Council shall determine whether to approve or deny the applicant's previously denied plat or conditionally approved, if forwarded to the City Council by the City Administrator. Action shall be taken by the City Administrator or City Council no later than the fifteenth (15<sup>th</sup>) calendar day after the date the response was submitted.
- D. Criteria for approval. The City Council, in considering final action on a final plat, should consider the following criteria:
1. The plat is consistent with all city requirements including zoning requirements for the property;
  2. the final plat conforms to the approved preliminary plat, except for minor changes that may be approved without the necessity of revising the approved preliminary plat; and
  3. the proposed provision and configuration of roads, water, wastewater, drainage and park facilities, and easements and rights-of-way are adequate to serve the subdivision.
- E. Expiration and extension.
1. Expiration. The approval of a final plat shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved by the City Council, during which period the applicant shall submit any required revisions for approval and recordation of the plat. If the final plat has not been recorded within the two (2) year period, the final plat approval, unless extended, shall expire and the plat shall be null and void.
  2. Extension. At the request of the property owner or their representative, the expiration date for approval of a final plat may be extended by the City Council for a period not to exceed six (6) months. A final plat is not subject to reinstatement following expiration.
- F. Revisions following approval of final plat
1. Minor Changes. An applicant may make minor changes to an approved final plat to reflect changes arising from installation of public improvements thereafter, provided that the approved final plat has not been recorded and that approval of the revised final plat occurs prior to expiration of approval of the initial final plat application. The City Administrator is authorized to approve minor changes to an approved final plat. If the approved final plat has been recorded, an amending plat or replat must be approved and recorded. Minor changes shall include a revision to plat notes, a revision to street or alley lengths, scrivener's errors, adjustment of lot lines that do not result in the increase or creation of additional lots or additional acreage, or changes or clarifications to easements, provided that such changes are consistent with any approved prior applications.

2. Major Changes. All other proposed changes shall be deemed major changes which includes but is not limited to the reconfiguration of street or alley alignments, the addition of streets or alleys, an increase in the number of lots or acreage, the addition or revision of a unit previously approved by the preliminary plat, any change to the open space dedication requirement, changes to drainage. The City Administrator shall determine if a change is minor or major. Major changes shall require submittal of a revised final plat which is submitted and processed the same as a new final plat application. Major changes may also require the submittal of a new application for approval of a preliminary plat before approval of a revised final plat.

### **Sec.2.8. Minor plat**

- A. Applicability. A minor plat may be submitted for approval where the proposed division of land involves four (4) or fewer lots fronting onto an existing street and not requiring the creation of any new street or the extension of municipal facilities.
- B. Application Requirements. Any request for a minor plat shall be accompanied by an application prepared in accordance with the City's Development Manual.
- C. Processing of Application and Decision
  1. Submittal. An application for a minor plat shall be submitted to the City Administrator. The City Administrator shall review the application for completeness. The City Administrator may request a review and recommendation from any other city department or consultant.
  2. Minor plat approval. The City Administrator may approve a minor plat. The City Administrator may, for any reason, elect to present the plat for approval to the City Council. The City Administrator shall not disapprove a minor plat and shall be required to refer any plat for which approval is refused to the City Council. The City Administrator or the City Council shall act on the plat within thirty (30) calendar days after the date a complete application is filed.
  3. Conditional Approval and Denial. If the City Council conditionally approves or denies the plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
  4. Applicant Response to Conditional Approval or Denial. After the conditional approval or denial of a plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator is authorized to approve revisions required for conditional approval of the plat. The City Council shall determine whether to approve or deny the applicant's previously denied plat or conditionally approved, if forwarded to the City Council by the City Administrator. Action shall be taken by the City Administrator or City Council no later than the fifteenth (15<sup>th</sup>) calendar day after the date the response was submitted.
- D. Criteria for approval. The City Administrator in considering final action on a minor plat should consider the following criteria:
  1. the plat is consistent with all city requirements including zoning requirements for the property;
  2. all lots to be created by the plat already are adequately served by all required public utilities and infrastructure; and

3. the plat does not require the extension of any municipal facilities to serve any lot within the subdivision.
- E. Expiration and extension
1. Expiration. The approval of a minor plat shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved by the City Administrator or the City Council. If the minor plat has not been recorded within the two (2) year period, the plat approval, unless extended, shall expire and the plat shall be deemed null and void.
  2. Extension. At the request of the property owners or their representative, the expiration date for approval of a minor plat may be extended by the City Council for a period not to exceed six (6) months. A minor plat is not subject to reinstatement following expiration.

### **Sec.2.9. Amending plat**

- A. Applicability. An amending plat may be submitted for approval, and if approved and recorded is controlling over the preceding plat without vacation of that plat and without notice and hearing, if the amending plat is signed and acknowledged by all owners of the property being replatted and is solely for one (1) or more of the following purposes:
1. to correct an error in a course or distance shown on the preceding plat;
  2. to add a course or distance that was omitted on the preceding plat;
  3. to correct an error in a real property description shown on the preceding plat;
  4. to indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
  5. to show the location or character of a monument which has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
  6. to 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. to correct an error in courses and distances of lot lines between two (2) 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 materially adverse effect on the property rights of the other owners in the plat;
  8. to relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
  9. to 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; or
    - c. the amendment does not increase the number of lots;
  10. to make necessary changes to the preceding plat to create six (6) or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
    - a. the changes do not affect applicable zoning and other regulations of the municipality;
    - b. the changes do not attempt to amend or remove any covenants or restrictions; and
    - c. the area covered by the changes is located in an area that the City Council has approved, after a public hearing, as a residential improvement area;

11. to 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 the number of lots; and
  - d. the amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- B. Application Requirements. Any request for an amending plat shall be accompanied by an application prepared in accordance with the City's Development Manual.
- C. Processing of Application and Decision
  1. Submittal. An application for an amending plat shall be submitted to the City Administrator. The City Administrator shall review the application for completeness. The City Administrator may request a review and recommendation from any other city department or consultant.
  2. Amending plat approval. The City Administrator may approve an amending plat. The City Administrator may, for any reason, elect to present the plat for approval to the City Council. The City Administrator shall not disapprove an amending plat and shall be required to refer any plat for which approval is refused to the City Council. The City Administrator or the City Council shall act on the plat within thirty (30) calendar days after the date a complete application is filed.
  3. Conditional Approval and Denial. If the City Council conditionally approves or denies the plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
  4. Applicant Response to Conditional Approval or Denial. After the conditional approval or denial of a plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator is authorized to approve revisions required for conditional approval of the plat. The City Council shall determine whether to approve or deny the applicant's previously denied plat or conditionally approved, if forwarded to the City Council by the City Administrator. Action shall be taken by the City Administrator or City Council no later than the fifteenth (15<sup>th</sup>) calendar day after the date the response was submitted.
- D. Criteria for approval. The City Administrator in considering final action on an amending plat should consider the following criteria:
  1. the plat is consistent with all city requirements including zoning requirements for the property;
  2. all lots to be created by the plat already are adequately served by all required public utilities and infrastructure; and
  3. the plat does not require the extension of any municipal facilities to serve any lot within the subdivision.
- E. Expiration and extension

1. Expiration. The approval of an amending plat shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved by the City Administrator or the City Council. If the amending plat has not been recorded within the two (2) year period, the plat approval, unless extended, shall expire and the plat shall be deemed null and void.
2. Extension. At the request of the property owners or their representative, the expiration date for approval of an amending plat may be extended by the City Council for a period not to exceed six (6) months. An amending plat is not subject to reinstatement following expiration.

### **Sec.2.10. Replat**

- A. Applicability. A replat is any plat that complies with LGC sections 212.014, 212.0145, and 212.015, as amended, which is generally submitted to replat a subdivision or part of a subdivision without vacation of the original plat. Replatting a portion of a recorded lot is not permitted.
- B. Application requirements. Any request for a replat plat shall be accompanied by an application prepared in accordance with the City's Development Manual.
- C. Processing of application and decision
  1. Submittal. An application for a replat plat shall be submitted to the City Administrator. The City Administrator shall review the application for completeness. The City Administrator may request a review and recommendation from any other city department or consultant. After appropriate review, the City Administrator shall forward a written recommendation to the City Council for consideration.
  2. Notification requirements for certain replats.
    - a. Applicability. An application for a replat which is also accompanied by a waiver or variance request requires a public hearing and notice if:
      - i. during the preceding five 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 residential units per lot; or
      - ii. any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.
    - b. Public hearing notice. Notice of the public hearing shall be given at least 16 calendar days before the date of the public hearing by:
      - i. publication in an official newspaper or a newspaper of general circulation in the county in which the municipality is located
      - ii. Written notice with a copy of LGC Sec. 212.015(c) attached, mailed to the owners of lots that are in the original subdivision and that are within 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 extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested.





- E. Notification of approval for certain replats. If a proposed replat does not require a variance or exception, the municipality shall, not later than the 15th calendar day after the date the replat is approved, provide written notice by mail of the approval of the replat to each owner of a lot in the original subdivision that is within 200 feet of the lots to be replatted according to the most recent municipality or county tax roll. This subsection does not apply to a proposed replat if the City Council holds a public hearing and gives notice of the hearing in the manner provided by in Sec.2.10.C.2 above.
  - 1. The notice of a replat approval must include:
    - a. the zoning designation of the property after the replat; and
    - b. a telephone number and e-mail address an owner of a lot may use to contact the City about the replat.
- F. Expiration and extension
  - 1. Expiration. The approval of a replat shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved by the City Council. If the replat has not been recorded within the two (2) year period, the plat approval, unless extended, shall expire and the plat shall be deemed null and void.
  - 2. Extension. At the request of the property owners or their representative, the expiration date for approval of a replat may be extended by the City Council for a period not to exceed six (6) months. A replat is not subject to reinstatement following expiration.

**Sec.2.11. Vacating a Plat**

- A. Applicability. The provisions of this section are authorized under LGC Chapter 212 and shall be applicable to all areas within the City's limits.
- B. Application Requirements. Any request for vacating a plat shall be accompanied by an application prepared in accordance with the City's Development Manual.
- C. Processing of Application and Decision
  - 1. Submittal. An application for vacating a plat shall be submitted to the City Administrator. The City Administrator shall review the application for completeness. The City Administrator may request a review and recommendation from any other city department or consultant. After appropriate review, the City Administrator shall forward a written recommendation to the City Council for consideration.
  - 2. Decision by the City Council. The City Council shall receive the recommendation of the City Administrator and shall consider the proposed plat vacation. The City Council may vote to approve, approve with conditions or deny a request for vacating a plat.
- D. Criteria for approval. The City Council in considering action on vacating a plat should consider the following criteria:
  - 1. the vacating plat is consistent with all zoning requirements for the property, all other requirements of this ordinance that apply to the plat vacation, and any other applicable city requirements;
  - 2. the vacating plat is signed and acknowledged by all owners of lots in the original plat; and
  - 3. The vacating plat is consistent with all other state requirements pertaining to vacating a plat.
- E. Effect of Vacation
  - 1. Upon the execution and recording of the vacating instrument, the previous plat shall no longer be in effect.

2. Regardless of the City Council's action on the petition, the applicant will have no right to a refund of any monies, fees or charges paid to the City nor to the return of any property or consideration dedicated or delivered to the City except as may have previously been agreed to by the City Council.
3. 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.
4. The City Council, at its discretion, shall have the right to retain all or specific portions of road right-of-way or easements shown on the plat being considered for vacation. However, the City Council shall consider a request for vacating a plat upon satisfactory conveyance of easements or right-of-way in a separate legal document using forms provided by the City Attorney's office.

### **Sec.2.12. Recordation**

- A. Recording procedures. After approval of a final plat, minor plat, amending plat or replat and acceptance of any required public improvements or execution of a Subdivision Improvement Agreement pursuant to this ordinance, the applicant may submit all required items to the City to record the plat in the county in which the land is located. Upon receipt of the plat recording submittal and notification of acceptance of required public improvements or execution of an Improvement Agreement, the City Administrator shall procure the signature of the City Engineer and the Mayor or his/her designee on the plat and shall promptly cause the plat to be recorded. No plat will be received for recording until all back taxes owed to the City have been paid in full and a certified copy of a tax certificate from the applicable county tax office has been received for the subject property.

### **Sec.2.13. Plat Waivers**

- A. General. The City Council may authorize waivers from the provisions of this ordinance when, in its opinion, undue hardship will result from requiring strict compliance. In granting a waiver, the City Council shall prescribe only conditions that it deems necessary or desirable to the public interest. In making their findings, the City Council shall take into account the nature of the proposed use of the land involved and existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such waivers upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity.
- B. Timing. Plat waivers shall be submitted prior to filing a plat application. The City will not issue a letter of certification for any proposed subdivision plat exhibits requesting a plat waiver until the requested waiver has been approved.
- C. Application requirements. Any request for a plat waiver shall be accompanied by an application prepared in accordance with the City's Development Manual.
- D. Processing of application and decision
  1. Submittal. An application for a plat waiver shall be submitted to the City Administrator. The City Administrator shall review the application for completeness. The City Administrator may request a review and recommendation from any other city department or consultant. After appropriate review, the City Administrator shall forward a written recommendation to the City Council for consideration.
  2. Decision by City Council. The City Council shall receive the written recommendation of the City Administrator and shall consider the proposed plat waiver request. The City Council may vote to approve, approve with conditions, or deny the plat waiver request.

- E. Conditions. In approving a plat wavier, the City Council may prescribe appropriate conditions that it deems necessary or desirable to the public interest
- F. Criteria for approval. The City Council, in considering action on a plat waiver should consider the following criteria:
  - 1. That the granting of the waiver will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area; and
  - 2. The granting of the waiver is in in harmony with the general purpose and intent of this ordinance so that the public health, safety, and welfare may be secured and justice done; and
  - 3. The granting of the waiver is necessary for the preservation and enjoyment of a substantial property right; and
  - 4. There are special circumstances or conditions affecting the land involved or other constraints such that the strict application of the provisions of this ordinance would deprive the Subdivider of the reasonable use of the land; and
  - 5. The waiver request represents the minimum degree of variation, in the opinion of City Council, of requirements necessary to meet the needs of the subdivider; and
  - 6. The waiver is to a provision of this ordinance; and
  - 7. That the granting of the waiver will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this ordinance.
- G. The findings of the City Council, together with the specified facts upon which such findings are based, shall be incorporated into the official minutes of the City Council meeting at which such waiver is granted.
- H. Expiration. Approved waivers shall expire 12 months after approval if a plat application has not been filed with the City. If a plat application is filed before the waiver expires, the approved waiver shall be incorporated into the plat application and follow the same expiration timelines as the associated plat application.
- I. Limitations. City Council shall not authorize a waiver that would constitute a violation of a valid law, ordinance, code or regulation of the City.

**Sec.2.14. Public Infrastructure Construction Plans**

- A. Applicability. The provisions of this section apply to the construction of any public infrastructure improvements.
- B. Application Requirements. Any request for construction of any public infrastructure improvements shall be accompanied by an application prepared in accordance with the City’s Development Manual.
- C. Processing of Application and Decision
  - 1. An application shall be submitted to the City Administrator. The City Administrator shall review the application for completeness. The City Administrator may request a review and recommendation from any other city department or consultant.
  - 2. Decision by the City Administrator. The City Administrator may approve, approve with conditions or deny the construction plans.
- D. Criteria for Approval. The City Administrator shall apply the following criteria in making a decision on the construction plans:
  - 1. The construction plans are consistent with the approved preliminary plat or the proposed final plat in the event that the public infrastructure improvements are in relation to a plat; and

2. The construction plans conform to all applicable regulations pertaining to the construction and installation of public infrastructure improvements.
- E. Expiration. The approval of construction plans shall remain in effect for two (2) years after the date the construction plans were approved by the City Administrator. If construction of the project has not commenced during the two (2) year period, approval of the construction plans shall expire. For public infrastructure improvements that are associated with a final plat, approval of the construction plans shall remain in effect for the time that approval of the final plat is in effect and shall expire when approval of the final plat expires, unless an extension is granted.
- F. Extension. At the written request of the property owner or their authorized agent, the expiration date for the approval of construction plans may be extended by the City Administrator for a period not to exceed six (6) months.
- G. Timing of Public Infrastructure Improvements.
  1. Completion prior to final plat recordation. For public infrastructure improvements associated with a proposed subdivision or development, except as provided below, completion of the improvements shall be in accordance with the approved construction plans and shall occur before an approved final plat is recorded, unless the obligation to construct public infrastructure improvements has been deferred and an improvement agreement is executed.
  2. Installation after final plat recordation. The property owner or applicant may request to defer the obligation to construct and install one (1) or more public improvements to serve the associated subdivision until after final plat recordation. The request shall be submitted in writing and specify what is being requested for deferral. The City Administrator, at their discretion, may approve or deny the request to defer installation of public infrastructure improvements. Deferral of the obligation to install public improvements if granted shall be conditioned on execution of a subdivision improvement agreement and provision of sufficient security.
  3. Off-Site Easements. All necessary off-site easements required for installation of off-site public improvements to serve the subdivision or development shall be acquired by the subdivider or developer and conveyed solely to the City by an instrument approved by the City.
- H. Inspection and Acceptance of Public Infrastructure Improvements.
  1. Inspections. Inspection of the public infrastructure improvements shall be conducted by the City or its representatives. Construction shall be in accordance with the approved construction plans. Any significant change in design required during construction shall be subject to approval by the City Administrator.
  2. Submission of as-built plans or record drawings. The City shall not accept dedication of required public improvements until the applicant has submitted detailed "as-built" record drawings in accordance with City requirements.

3. Acceptance of improvements. When the City Administrator has determined that the public infrastructure improvements have been installed in accordance with the approved Construction Plans, the City Administrator shall accept such improvements on behalf of the City. Acceptance of the improvements shall mean that the property owner has transferred all rights to all the public improvements to the City for use and maintenance. Upon acceptance of the required public improvements, the City Administrator shall have a certificate issued to the property owner stating that all required public improvements have been satisfactorily completed.
- I. Maintenance and Warranty of Improvements.
    1. Maintenance during construction. The developer shall maintain all required public improvements during construction of the development.
    2. Bond. The developer or owner shall covenant to warranty the required public improvements for a period of two (2) years following acceptance by the City of all required public improvements or following the date of plat recordation, whichever occurs later. A warranty bond shall be provided in the amount of 20% of the costs of the improvements for such period. All public improvements shall be bonded.

**Sec.2.15. Subdivision Improvement Agreements**

- A. Deferral of public improvements. The property owner or applicant may request to defer the obligation to construct and install one (1) or more public improvements to serve the associated subdivision until after final plat recordation. The request shall be submitted in writing and specify what is being requested for deferral. The City Administrator, at their discretion, may approve or deny the request to defer installation of public infrastructure improvements. Deferral of the obligation to install public improvements if granted shall be conditioned on execution of a subdivision improvement agreement and provision of sufficient security.
- B. Obligations under agreement. Whenever public improvements to serve development are deferred until after recordation of the final plat, the property owner shall enter into an Improvement Agreement and provide adequate security as determined by the City Administrator. The Improvement Agreement shall be subject to review and approval by the City Administrator and any other city department or consultant they deem necessary. The agreement shall contain the following minimum provisions:
  1. covenants to complete the improvements be no later than two (2) years after approval of the final plat, unless otherwise stipulated in the terms and conditions of the Improvement Agreement;
  2. covenants to warranty the required public improvements for a period of two (2) years following acceptance by the City of all required public improvements, unless stated otherwise in the Improvement Agreement;
  3. covenants to provide a warranty bond in the amount of 20% of the costs of the improvements for such period, unless stated otherwise in the Improvement Agreement;
  4. provisions for participation in the costs of the improvements by the City, if authorization has been obtained from the City Council, and a performance bond for such improvements from the contractor;
  5. provisions for securing the obligations of the agreement in accordance with this ordinance; and
  6. such other terms and conditions as are agreed to by the City and the property owner, or as may be required by this ordinance or other City regulations.

- C. Covenants to run with the land. The Improvement Agreement shall provide that the covenants contained in the Agreement run with the land and bind all successors, heirs and assignees of the property owner. All existing owners and lienholders shall be required to execute the Agreement or provide written consent to the covenants contained in the Agreement.
- D. Security for Completion of Improvements.
  - 1. Security. Whenever the property owner has entered into an Improvement Agreement to defer installation of public improvements, the property owner shall provide sufficient security for completion of the required public improvements. The security shall be in the form of a cash escrow, a performance bond or surety bond provided by a licensed surety company, or other security as approved by the City Administrator.
  - 2. Amount and acceptability. The security shall be issued in the minimum amount of 125% of the estimated cost of completion that is approved by the City Administrator for the required public infrastructure improvements. The terms of the security agreement shall be subject to the approval of the City Administrator and the City Attorney.
  - 3. Remedies. Where an Improvement Agreement has been executed and security has been posted and required public improvements have not been installed in accordance with the terms of the agreement, the City may:
    - a. declare the Agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;
    - b. obtain funds under the security and complete the improvements itself or through a third party; or
    - c. assign its right to receive funds under the security to any third party, including a subsequent owner of the development in exchange for the subsequent owner's agreement and posting of security to complete the public infrastructure improvements.

## Section 3. Design Standards

### Sec.3.1. Monuments and lot markers

- A. Permanent survey reference monuments. Concrete monuments shall be placed at all block corners, angle points, points of curve, and all corners of boundary lines of the subdivision. A monument shall be made of an iron stake one-half ( $\frac{1}{2}$ " ) in diameter and twenty-four inches (24") long centered in concrete a minimum of six inches (6") in diameter and twelve inches (12") long. The iron stake should be left one-half inch above the concrete with a surveyors' aluminum or plastic cap, stamped with the surveyors' registered number or firm. Monuments shall be identified on the plat with elevation and the elevation shall be stamped on top of the monument.
- B. Other markers. All other survey markers, such as lot corners, shall have an iron stake one-half inch ( $\frac{1}{2}$ " ) in diameter and twenty-four inches (24") long and shall be placed flush with the ground, or below ground, if necessary, in order to avoid being disturbed.
- C. Benchmarks. A minimum of two (2) benchmarks shall be established in each subdivision. Benchmarks shall be established on iron rods embedded in concrete monuments six inches (6") in diameter and set in the ground to a depth of three feet (3') and set to U.S. National Geodetic Survey datum. Using tops of manholes as a benchmark is not acceptable.

- D. Monument placement and verification. Monuments and lot markers shall be set immediately after completion of utility installations and street construction. Prior to acceptance of subdivision improvements by the City, the developer's surveyor or engineer shall certify that all monuments, benchmarks and markers are in place and correctly positioned.

### **Sec.3.2. Blocks**

- A. The length, width and shape of blocks will be determined with due regard to:
  - 1. provisions of adequate building sites suitable to the special needs of the type of use contemplated (note that the City Council may require that the block and lot size bear reasonable relation to the planned use of the land);
  - 2. zoning requirements as to lot sizes and dimensions; and
  - 3. need for convenient access, circulation, control and safety of street traffic.
- B. In general, intersecting streets shall be used to determine the block lengths and widths, and shall be provided at such intervals as to serve cross traffic adequately, and to meet existing streets or customary subdivision practices.
- C. In general, block lengths along local or collector streets shall not exceed 1,400 feet or be less than 500 feet, and along arterial streets shall not exceed 1,800 feet or be less than 900 feet.
- D. A waiver to the standards of this section may be allowed in cases where physical barriers, property ownership or adjacent existing subdivisions create conditions where it is appropriate. The length may be increased or decreased to meet the existing conditions having due regard for connecting streets, circulation of traffic and public safety.

### **Sec.3.3. Lots**

- A. Lot sizes and dimensions shall conform to the minimum requirements of the appropriate zoning district. The lot area shall be computed including all easements. Changes in the required lot sizes and dimensions may only be allowed through rezoning or through the granting of a variance by the Board of Adjustment. No lot shall be approved which does not meet the minimum requirements of the appropriate zoning district.
- B. Lot Frontage Requirement. Every lot shall have frontage on, and access to, a public street. City Council may grant a waiver to allow lots to have frontage on a private street or through a public or private access easement.
- C. Non-buildable lots under common ownership. Lots which are designated to be private open space, common areas, greenbelts, and drainage and intended to not be developed and will be owned and maintained by a homeowner's association or property owner's association may be approved by City Council. Non-buildable lots are not required to meet the zoning minimum lot dimensions.
- D. Flag lots. Flag lots are prohibited.
- E. Through Lots. Through Lots are prohibited except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. Through Lots require front setbacks on both frontages established in accordance with the underlying zoning regulations.

### **Sec.3.4. Access management**

- A. Purpose. It is the intent of this section to prohibit the indiscriminate location and spacing of driveways while maintaining reasonable vehicular access to and from the public street system as well as reduce conflicting turning movements and congestion and thereby reduce vehicular accidents.
- B. Shared and cross access.

1. To facilitate access management and internal circulation, common access and cross access Easements are required between and across adjacent lots used, zoned, or planned for commercial and mixed-use fronting on any street section unless the City Administrator authorizes an exemption due to site constraints. Industrial development is not required to provide cross access.
  2. The use of common driveways shall require the dedication of a joint-use public or private access easement on each affected property.
  3. Properties which do not share a common driveway straddling a property line shall provide cross access easements to facilitate the flow of traffic between adjacent properties. Cross access shall begin at a driveway and extend side to side to adjacent properties.
  4. The easement dedication shall be provided on the Final Plat when a public easement is used. Alternatively, a private access easement for access via neighboring property may be filed by separate instrument approved by the City Attorney with the County and a copy forwarded to the City. When a private access easement is used, it shall be filed prior to recordation of the Final Plat or prior to issuance of a Certificate of Occupancy, whichever comes first.
  5. The plat or easement instrument shall state that the easement shall be maintained by the property owner or a property owner's association.
  6. The easement shall encompass the entire width of the planned driveway and drive isles.
- C. Driveway and access. The City may establish standards to regulate the design and construction of driveways within the Public Works Specifications Manual, including but not limited to number of driveways, dimensions, spacing, and deceleration lanes for driveways on arterial streets when required.
- D. Adequate sight distance. Driveways are prohibited where adequate sight distance is not available for the established speed limit. The City Engineer may require sight distance information be prepared by a registered professional engineer to verify adequate sight distance is available for the proposed driveway location. The determination of sufficiency is at the sole discretion of the City Engineer.

### **Sec.3.5. Alleys**

- A. Limitations. Construction of alleys is limited to commercial and industrial districts and prohibited in residential areas unless it is part of an approved Planned Development District.
- B. Commercial and Industrial Districts. Where provided, paved alleys not less than twenty-four feet (24') wide shall be provided in all commercial or industrial districts to assure adequate provision is made for service access, such as off-street loading, unloading and parking consistent with an adequate plan for the uses proposed. Alleys provided within commercial and industrial districts shall be privately owned and maintained.
- C. Intersections and Turns. Alley intersections and sharp changes in alignment shall be avoided, but where two (2) alleys intersect, or an alley turns at an angle sharper than one hundred degrees (100°), a cut off of not less than ten (10') feet from the normal intersection of the property lines shall be provided and shall be designed.
- D. Dead End Alleys. Dead end alleys are prohibited.
- E. Construction Standards. All public alleys shall be constructed in accordance with the standards prescribed in the Public Works Specifications Manual.

### **Sec.3.6. Sidewalks**



- A. Requirement. Sidewalks shall be required along both sides of all streets throughout the City as required by this ordinance. All lots must have access to sidewalks.
- B. Curb ramps. Curb ramps shall be provided at all street intersections at the time of street construction or reconstruction and shall comply with the provisions in the Federal Register 28, CFR part 36 (Americans with Disabilities Act or ADA) and Texas Accessibility Standards as amended from time to time.
- C. Location and width. Where sidewalks are required, they shall be installed in accordance with the Public Works Specifications Manual and shall be a minimum of five feet (5') in width. Sidewalks shall be placed parallel to the street for the entire frontage(s) of the lot and shall be located a minimum of two feet (2') behind the curb. The City Administrator may allow for alternative sidewalk locations based on the existing character and development in the area.
- D. Timing of construction. Sidewalks shall generally be installed concurrently with the construction of the primary structure on a lot except on arterial class streets where they shall be installed concurrently with street construction. Curb ramps and sidewalks on non-buildable lots and shall be installed concurrently with street construction or prior to plat recordation if no street construction is required.
- E. Construction concurrent with street construction. If a street is constructed which shall have no residential lot access points, then sidewalks shall be installed concurrently with street construction.
- F. Corner Lot. Where sidewalks are installed on corner lots, sidewalks shall be installed along both street frontages and shall be extended to the curb with handicapped access ramps in accordance with current ADA and Texas Accessibility standards.
- G. Waiver or deferment of sidewalk installation. The City Administrator may waive the requirements of this section where he/she finds that topographical conditions or other unique conditions exist which would preclude the construction of sidewalks. The City Council may defer the installation of sidewalks to a time deemed more appropriate. In the event that the installation of sidewalks is deferred, the developer shall enter into a subdivision improvement agreement with the City guaranteeing the installation of sidewalks.

### **Sec.3.7. Streets**

- A. Street layout. The street layout shall be arranged to achieve the most desirable development of the entire neighborhood unit with appropriate consideration of creeks, drainage channels, wooded areas and other topographical features, which lend themselves to special treatment. Permits must be obtained from TxDOT for driveways and streets accessing any state highway. The proposed location of driveways must comply with all applicable City and State safety requirements.
- B. Relation to adjoining streets. Adjoining areas shall be continued and tied into the street layout.
- C. Projection of streets. When adjoining properties are not yet subdivided, the arrangement of streets shall provide for the proper projection of streets into the adjoining unsubdivided areas and will be required to comply with the neighborhood pattern or conform to transportation plans adopted by the City.
- D. Dead-end streets and cul-de-sacs.
  - 1. Dead-end streets shall be prohibited, except as short stubs projected to be continued in future subdivisions or when designed as cul-de-sacs. Temporary turnarounds shall be provided on projected streets that exceed 150 feet in length from the nearest intersection.

2. Cul-de-sac streets shall not exceed 500 feet in length and shall have a turnaround of not less than 150 feet in diameter of ROW in single-family residential areas, 150 feet in diameter of ROW in multi-family areas and not less than 200 feet in diameter of ROW in commercial and industrial areas. The diameter may be modified upon approval of the City Engineer.
- E. Private streets. The creation of new private streets is generally prohibited. Private streets may be authorized by a waiver approved by City Council. Private streets, if authorized, shall be constructed to meet public street standards unless otherwise approved by City Council.
- F. Alignment. The alignment of all arterial and collector streets shall conform to the requirements of the Public Works Specifications Manual.
- G. Intersections. The curb radius at street intersections shall conform to the specifications in the Public Works Specifications Manual.
- H. Street names and street numbers. Names of new streets shall not duplicate the names of existing streets within the City unless the new street is a continuation of or part of a future continuation of such existing street. Street names shall be chosen to avoid similarity or confusion with existing street names. A new street name shall not differ from an existing street name solely by the addition of a different auxiliary designation such as "avenue", "way", "boulevard", etc. Names of all new streets shall be subject to approval by the City Council and be coordinated on an area wide basis. Street names shall have prior approval of the United States Postal Service and Bexar Metro 911. Street addresses should also be coordinated with present existing addresses. The City will determine street numbers and advise the subdivider as to the street numbers.
- I. Construction standards. All streets shall be constructed with reference to base, surfacing, curbs, grades, horizontal curves and intersection curve radius in accordance with the standards prescribed in the Public Works Specifications Manual and any other applicable specifications of the City.
- J. Reserve areas are prohibited. There shall be no reserve areas controlling access to land dedicated or intended to be dedicated to public use.
- K. Half streets or adjacent streets.
  1. Where the proposed subdivision abuts upon an existing street or half street not conforming to the requirements of this ordinance, the subdivider shall be required to dedicate any additional right-of-way to meet the street width required.
  2. If new development of property that abuts city-maintained roads does not meet the design or width standards in this ordinance, the Developer shall be required to make the necessary dedication and improvements in conformance with this ordinance or any other applicable code of the city.
  3. The minimum dedication for any new street shall be equal to one-half ( $\frac{1}{2}$ ) of the minimum right-of-way (ROW) for said street.
  4. The minimum construction of any new street shall be equal to one-half ( $\frac{1}{2}$ ) of the minimum pavement width for said street or twenty-four feet (24'), whichever is greater. No new public street shall be constructed with less than twenty-four feet (24') of pavement.

- L. Public accesses. All residential subdivisions shall have a minimum of two (2) locations accessing existing public streets. The extent and location of all accesses is subject to review and approval by the City. The City Council may grant a waiver to allow this requirement to be met through an access easement. The City Council shall not permit "island" subdivisions, lots or streets that would be surrounded by the flood water of a one hundred (100) year flood unless the area is accessible to high ground by at least one dedicated street elevated above the one hundred (100) year flood level.
- M. Safety lanes (fire lanes).
  - 1. Multi-family, commercial and industrial areas shall have driving surfaces within the site designated and clearly identified as safety lanes or fire lanes for fire protection, EMS, etc. These areas must be paved with concrete or asphalt and be maintained by the owners. Exits from these sites must be onto a dedicated street. The pavement width for safety lanes shall be a minimum as required by the adopted building and fire codes but shall not be less than twenty feet (20').
  - 2. All roadways that serve emergency vehicles are required to have a minimum clearance of fourteen feet (14') to any overhead obstructions including, but not limited to, bridges, trees, canopies, awnings and signs.
- N. Street and traffic control signs.
  - 1. All street signs in a new subdivision within the City limits, including street name, speed limit, stop and yield signs, etc. shall be paid for by the developer, and shall be designed and installed in accordance with the Public Works Specifications Manual. Traffic control devices required within the subdivision shall be installed in accordance with the latest revision of the Texas Manual on Uniform Traffic Control Devices for Streets and Highways.
  - 2. Any installation of speed control devices, such as speed bumps or humps, must also be approved by the City Administrator to determine potential impact to emergency response vehicles.
- O. Roadway improvements
  - 1. All street improvements shall meet the current requirements of this ordinance, but in no case shall be less than the following:

ROADWAY IMPROVEMENT STANDARDS TABLE			
Road Classification	ROW Width	Pavement Width	Sidewalk
Local	50 feet	30 feet	5 feet both sides
Collector	60 feet	42 feet	5 feet both sides
Arterial	86 feet	48-56 feet	5 feet both sides

2. Islands in roadways. Islands in road rights-of-way will be considered on a case-by-case basis. Islands shall provide a minimum of twenty feet (20') of pavement on each side of the island. All islands provided within street ROW shall be designated on the plat and shall be dedicated by the developer or its successors and/or assigns. A plat note shall be provided which identifies maintenance of islands as the responsibility of the developer or its successors and/or assigns. Any islands that are not maintained in accordance with this section may be removed by the City and shall be removed at the expense of the developer or its successors and/or assigns, after due notice and the written recommendation by the City Engineer.
- P. Curb and gutter. Curbs and gutters shall be installed by the subdivider on both sides of all streets within or forming part of the boundary of the subdivision. Curb and gutter shall be constructed in accordance with the Public Works Specifications Manual. The City Engineer may waive the requirements for construction of curb and gutter or may approve an alternative curb and gutter construction where developments result in an overall density of less than one (1) unit per one-half (½) acre.
- Q. Street lights.
1. Developers shall furnish satisfactory easements for installation of services to street lights as required by the City and any applicable electric utility provider.
  2. Street light number, type and size shall be determined by the City and any applicable electric utility provider and shall be designed to maximize the light directed toward the ground.
  3. The developer shall pay the cost of purchasing and installing all street lighting equipment and the cost of all street lighting services for a period of two (2) years or until such time as seventy percent (70%) of the buildings for which building permits have been issued are completed, whichever is sooner.
  4. A detailed lighting plan shall be submitted with the public infrastructure construction plans for review and approval by the City and any applicable electric utility provider.

### **Sec.3.8. Traffic Impact Analysis**

- A. Application requirements. Every application for development within the City shall be accompanied by a Traffic Impact Analysis (TIA) Determination form provided in the Development Manual. The TIA Determination Form shall be utilized to determine if a TIA is required.
- B. TIA required. The threshold requirement for a TIA and the level of TIA required shall be based on a land use or combination of land uses that result in peak hour trips in accordance with the following:
1. 100 or less peak hour trips generated – no TIA required
  2. 101 - 500 peak hour trips generated – Level 1 TIA required
  3. 501 – 1,000 peak hour trips generated – Level 2 TIA required
  4. 1,001 or more peak hour trips generated – Level 3 TIA required
- C. TIA scope. If a TIA is required, the applicant shall meet with the City Engineer to determine the scope for the study prior to beginning work on the TIA. The applicant shall be prepared, prior to the meeting with the City Engineer, to discuss potential intersections to be evaluated, data assumptions or any other information required by the City Engineer.

- D. TIA Study Area. The study area required for the TIA shall be based on the level of the TIA required. The City Engineer may, at his/her discretion, require additional area to be included in the study area if deemed necessary to provide adequate review of the transportation network. The following identifies the minimum acceptable study area:
1. TIA Level 1 - The site area and the area within a one quarter ( $\frac{1}{4}$ ) mile radius from the boundary of the site.
  2. TIA Level 2 - At the discretion of the City's engineer, the study area may be extended up to a maximum of one (1) mile radius from boundary of the site.
  3. TIA Level 3 - The site area and the area within a one (1) mile radius from the boundary of the site.
- E. TIA contents. The TIA shall conform to accepted industry standards and shall include a detailed description of the area street network, a description of proposed land uses, the anticipated stages of construction, the anticipated completion date of the various phases of land development, and the trigger points requiring implementation of necessary improvements. The City Engineer may require any additional information necessary to ensure adequate review. The TIA shall contain, at a minimum, the following information:
1. trip generation rates for both the A.M. and P.M. peak periods using the Institute of Transportation Engineers, Trip Generation Manual for all of the land uses specified;
  2. trip distribution;
  3. adequacy determination for existing and proposed street cross-sections by phase of development;
  4. intersection level of service analysis for each phase of development, driveway sizes, locations, and adequacy;
  5. layout showing lane usage (pavement marking layout) for all boundary streets including driveway locations and roadway geometry within the site;
  6. driveways and intersecting streets connecting to boundary streets including all lane widths, traffic islands, medians, sidewalks, curbs, traffic control devices and existing pavement conditions;
  7. existing and proposed turning movement counts for the site;
  8. identification of and timing for transportation improvements, if any, needed to maintain the same or higher level of service than exists prior to development during each phase of land development and the costs of those improvements, including costs of right-of-way acquisition, utility relocation, design and construction;
  9. the TIA shall establish the baseline traffic conditions and peak hour operations prior to development of the subdivision or site, which baseline shall establish the existing level of service that is to be maintained or bettered as the owners develop the subdivision or site over time;
  10. the TIA shall address streets and street intersections, and driveways on commercial sites;
  11. for projects adjacent to a TxDOT ROW, the TIA shall be accompanied by a letter from TxDOT which outlines any agreements between the developer and TxDOT for planned improvements; and
  12. the TIA shall be certified by a registered engineer with experience in the field of traffic engineering.

- F. TIA revisions. It is recognized that the scope of the developer's plans may change from time to time. The monitoring reports may also demonstrate changes in the area street conditions and travel patterns within and around the City. Periodic updates to the TIA may be required to address these issues and identify changes to the level of service at study intersections and streets. These updates shall address modifications to the magnitude and timing of improvements recommended by the original TIA. Any TIA amendments must be acceptable to the City.

### **Sec.3.9. Water utility**

- A. Installation of water facilities. All lots, tracts or parcels on which development is proposed shall be connected to a public water system which has capacity to provide water for domestic use and emergency purposes, including adequate fire protection. The developer shall install adequate water facilities, including fire hydrants, in accordance with all applicable regulations of the State, the City and any other agency regulating public water systems.
- B. Fire Hydrants
  - 1. Fire hydrants are to be properly located so there will be a fire hydrant every three hundred feet (300') in commercial and industrial areas and every five hundred feet (500') in residential areas.
  - 2. Any new fire hydrant is required to have a hydrant locater reflector (blue bump) installed in the roadway perpendicular to the hydrant.
- C. Individual wells
  - 1. Within the City Limits. A new development served by individual wells within the City limits is prohibited.
  - 2. Compliance with other regulations. Installation, operations and maintenance of individual wells shall comply with City standards, regulations of the TCEQ, any other applicable state rules and regulations, and applicable regulations of groundwater conservation districts. In the event of conflict among these regulations, whichever is the most stringent shall apply.
- D. Alternative water sources. An alternative source of water within a development may be used for irrigation or other similar purposes, subject to City approval and the obtaining of all appropriate permits from the City, State and any other applicable agency. An alternative water source may not be used for potable water supply under any circumstances. The design and construction of water system improvements and alternative water sources shall comply with the rules and regulations of the City, State or any other applicable agency.
- E. Extension of Lines. Extension of water lines shall be made along the entire frontage of the subdivision adjacent to a street or thoroughfare. If the subdivision is not adjacent to a thoroughfare, the extension of utilities shall be accomplished in such a manner as to allow future connections to said utilities by new subdivisions. If due to physical constraints, a new subdivision will never be constructed beyond the proposed subdivision, the City Administrator may waive the requirement for adjacent utility line construction at the time of final plat approval and prior to construction of the subdivision.
- F. Design and construction. All water facilities within a subdivision shall be designed and constructed to the standards as set forth by the water utility provider. Said facilities shall meet all state and federal regulations pertaining to approved public water systems including regulations regarding the preparation, submittal and approval of plans and specifications for water systems. Design of water facilities shall also be in conformance with all laws, policies, standards, rules and regulations for establishing the fire insurance key rate for the City.

### **Sec.3.10. Wastewater utility**

- A. Wastewater collection and treatment required. All lots, tracts or parcels on which development is proposed shall be served by an approved means of wastewater collection and treatment.
- B. Public wastewater connection. Any development occurring within five hundred (500) feet of an existing or proposed public wastewater line shall extend and connect to the existing public facilities.
- C. Alternative wastewater systems. When a subdivision is not required to connect to a public wastewater system due to distance or the granting of a plat waiver, an alternative wastewater system may be provided. The City Administrator will make the final determination of the adequacy of the proposed system.
  - 1. On-site sewage facilities (OSSF). The use of OSSF for the treatment and disposal of wastewater shall be subject to the approval of the City. The minimum lot area for residential subdivisions shall be one-half (½) acre (21,780 square feet). The minimum lot area for non-residential subdivisions shall be one (1) acre. OSSF shall be installed on each lot concurrent with any development thereon and the design of such system and the method of installation shall conform in all respects to the standards and specifications of the City, County and State design criteria for OSSF.
- D. Extension of lines. All laterals and sewer mains installed within a subdivision must extend to the borders of the subdivision as required for future extensions of the collection system, regardless of whether such extensions are required for service within the Subdivision. If due to physical constraints, a new subdivision will never be constructed beyond the proposed subdivision, the City Administrator may waive the requirement for adjacent utility line construction at the time of final plat approval and prior to construction of the subdivision.
- E. Design and construction. All wastewater facilities within a subdivision shall be designed and constructed to the standards as set forth by the wastewater utility provider. Said facilities shall meet all state and federal regulations pertaining to approved public water systems including regulations regarding the preparation, submittal and approval of plans and specifications for wastewater systems.

### **Sec.3.11. Easements**

- A. Utility easements. Utility easements including but not limited to water, wastewater, electrical, television, telephone/telecommunication, and natural gas shall be provided for the installation of utilities and appurtenances in accordance with the requirements of the City as determined by the City Engineer. In general, these easements shall be in the front of residential development lots.
  - 1. All new utility installations and appurtenances, including but not limited to electrical, gas, television, and telephone/telecommunication, shall be placed underground. The City Administrator may grant a waiver to allow above ground utility installation when underground placement is deemed impractical due to physical constraints.
- B. Drainage easements.
  - 1. When a subdivision is traversed by a watercourse, drainage way, channel, or stream, a storm water easement shall be provided. Said easement shall substantially encompass the boundaries of said water course and shall be of sufficient width, in accordance with the construction standards in the Public Works Specifications Manual.
  - 2. Drainage or storm water easements may be constructed as open earth channels or concrete drainage structures and shall be maintained by the developer or his/her assigns.

- C. Other easements. Additional easements for utilities and appurtenances, infrastructure maintenance, and public safety may be required by the City Engineer. These additional easements include but are not limited to sidewalk easements, utility easements, sight visibility easements, maintenance easements, and retaining wall easements.

### **Sec.3.12. Parkland Dedication requirements**

#### **A. Purpose**

1. The purpose of this section is to provide for the adequate provision of parkland and open space to meet the needs of a growing City population; for improvements to existing parkland; for establishment, maintenance and operation of a Parkland Dedication Fund; establish requirements and procedures for governing required dedications of parkland or improvements to existing parkland by subdividers of land; and for cash payments-in-lieu of land by subdividers of land in certain cases.
2. It is hereby declared by the City Council that recreational areas in the form of parks and open spaces are necessary and for the public welfare and that the only adequate procedure to provide for parkland and park improvements is by integrating such a requirement into the procedure for planning and developing property or subdivisions in the City, whether such development consists of new residential construction on vacant land or the addition of new dwelling units on existing residential land. It is the policy of the City to require subdividers of residential subdivisions and lots to provide for parkland and park facilities at the time of development approval in proportion to the need for such improvements created by the developments and in proportion to the benefits received from contribution of such facilities.

- B. Applicability. The parkland dedication and park development requirements of this section shall be applicable to every residential and multifamily subdivision developed under the provisions of this ordinance, whether such subdivision consists of new residential construction on vacant land or the addition of new dwelling units on existing residential land, within the City limits.

#### **C. Parkland design requirements**

1. Usable land. At least fifty percent (50%) of proposed parkland dedication site shall be level, well drained and suitable for open play. Such land shall be located outside of any one hundred (100) year floodplain or any other special flood zone identified on the most recently approve FEMA FIRM map and shall not exceed five percent (5%) slope.
2. Access. Access to parkland designated on a subdivision plat shall be provided by the dedication of at least 200 feet of street frontage in a manner satisfactory to the City, preferably at the corner of two (2) intersecting streets. When the land abutting the designated parkland is developed, the subdivider of such abutting land shall furnish and pay for all paving of all abutting street frontage.
3. Utilities. Water and wastewater connections shall be readily available at the park site with water and wastewater lines located along the street frontage. The applicant must demonstrate to the satisfaction of the City that sufficient utilities are available to serve the park.
4. Drainage improvements. Any detention ponds and/or other drainage facilities to be constructed in areas that are to be dedicated as parkland must be designed and constructed to also allow for recreational use. The subdivider may be required to demonstrate that the design, placement and construction of such ponds meet the requirements of the City.



5. Floodplain. Every acre of proposed dedicated parkland located within the floodplain or other special flood hazard area shall count as one-half ( $\frac{1}{2}$ ) acre of land towards the total parkland dedication requirement.
- D. Dedication and improvement
1. Land dedication. The subdivider of a residential (including multifamily) subdivision shall dedicate to the City developed improved parkland in the amount as established within the fee schedule adopted by the City Council. Parkland shall be shown on the final plat establishing a residential (including multifamily) subdivision and shall contain the dedication of an area of land for park purposes meeting the requirements set out in this section.
  2. Development of areas smaller than three (3) acres. The development of park areas smaller than three (3) acres for public park purposes is deemed to be impractical. If fewer than three (3) acres are proposed to be created by a plat, then prior to filing the plat, the subdivider shall be required to pay to the City the applicable cash payment-in-lieu of land. No plat showing a dedication of less than three (3) acres for a public park shall be approved by the City Council.
  3. Improvements. A subdivider dedicating parkland shall improve the public parkland with improvements approved by the City Administrator. The minimum value for the improvements should be roughly proportionate to the amount the subdivider would be required to pay as fee-in-lieu for parkland development if they were not dedicating land. Design, specification, and construction of the improvements shall be subject to review and approval by the City. No final plat shall be recorded for any subdivision in which completion of the required improvements has not been accepted by the City unless a parkland improvement agreement has been approved and executed with an adequate financial surety provided.
- E. Fee-in-lieu
1. Right to request waiver of dedication requirements. A subdivider obligated to make a dedication of land may request the City waive the required dedication of land, in whole or in part, and to accept a cash payment-in-lieu of land dedication. Any request for a waiver to the land dedication requirements shall be subject to review and approval by the City Administrator. The City Administrator may, for any reason, elect to present the waiver request for approval to the City Council.
  2. Required fee-in-lieu of land dedication and improvements. Any subdivider who is required to make a cash payment-in-lieu of land dedication and improvements or who is granted a waiver in accordance with this ordinance, shall make a cash payment-in-lieu of land and improvements in accordance with this section. The amount of such cash payment-in-lieu of land shall be calculated by multiplying the number of dwelling units proposed to be established by the plat times the amount per dwelling unit as established in the fee schedule set from time to time by the City Council. A cash payment-in-lieu of land and improvements shall be made prior to the recordation of the final plat.
  3. Additional dwelling units. The addition of new dwelling units increasing the total number of dwelling units on existing residential land (including multifamily) shall be required to pay a fee-in-lieu for parkland dedication and improvement.
- F. Parkland dedication and improvement fund.

1. The City shall reserve all fee-in-lieu of payments and any accrued interest from the fee-in-lieu of parkland dedication or fee-in-lieu of parkland improvement in a separate account from the general funds of the City. This fund shall be known as the Parkland Dedication & Improvement Fund.
  2. The City shall deposit sums collected as cash payments-in-lieu of land and cash payments-in-lieu of improvements in the Parkland Dedication & Improvement Fund. The City shall expend such funds collected for the acquisition of land or for the improvement of existing parks on a first in, first out basis.
  3. The City shall maintain records detailing the receipts and expenditures for the Parkland Dedication Fund. All funds deposited as credit for fee-in-lieu of parkland dedication or improvement may be utilized for the acquisition of new parkland and/or the development of new or existing parkland within the City.
- G. Parkland dedication procedure
1. Dedication procedures. The owner of property for a residential subdivision shall be required at final plat approval to dedicate parkland. Dedication of parkland shall be evidenced by a formal dedication on the plat to be recorded. The land so dedicated and conveyed shall not be subject to any reservations of record, encumbrances of any kind, or easements, which in the opinion of the City will interfere with or materially increase the cost of making such land available for parks or recreational purposes.
  2. Right to accept/reject land. If the City determines that sufficient park area is already in the public domain within proximity of the proposed development, or if the recreation needs for the area would be better served by expanding or improving existing parks, the City has the right to accept the dedication or to refuse same and require a cash payment-in-lieu of land and improvements.
  3. Development of Subdivision in Phases. If a subdivision is to be developed in phases and the final platting of the park area to be dedicated is to be included in a future phase, then the subdivider shall be required to enter into a Parkland Improvement Agreement and provide sufficient security for the land and improvements.
- H. Parkland Improvement Agreement. The property owner or applicant may request to defer the obligation to dedicate parklands and/or develop parklands until after a final plat recordation. The request shall be submitted in writing and specify what is requested for deferral. Deferral of the obligation to dedicate parkland and/or develop parklands shall be conditioned on execution of an Improvement Agreement and provision of sufficient security. The City Administrator may approve or deny the request to defer obligations to dedicate parkland dedication and/or develop parklands. A Parkland Improvement Agreement may be required for phased subdivisions where the parkland dedication is placed in a future phase.