



CITY OF KERRVILLE PLANNING & ZONING COMMISSION AGENDA
CALLED MEETING, Thursday, July 15, 2021, at 4:30 P.M.
CITY HALL COUNCIL CHAMBERS
701 MAIN STREET, KERRVILLE, TEXAS

CALL TO ORDER

1. PUBLIC HEARING, CONSIDERATION & ACTION

1A. Public hearing, consideration, and action to approve an ordinance: adopting the City of Kerrville, Texas, Subdivision Code, a comprehensive rewrite of the City's subdivision regulations to be known as the "City of Kerrville, Texas Subdivision Code," within Chapter 82 of the City's Code of Ordinances; repealing in their entirety all ordinances or parts of ordinances inconsistent herewith. (File No. 2021-032)

2. ADJOURNMENT

The facility is wheelchair accessible, and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-257-8000 for further information.

I hereby certify that this agenda was posted as notice of the meeting on the bulletin board at the City Hall of the City of Kerrville, Texas, and on the City's website on the following date and time: 7/7/2021 at 3:15 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Kesha Franchina
Kesha Franchina, Deputy City Secretary, City of Kerrville, Texas

Kerrville Subdivision Regulations

Contents

Division A. General Provisions	7
Section 1. Kerrville Subdivision Code.....	7
Section 2. Purpose Statement.....	7
Section 3. Authority and Jurisdiction	7
3.01 Authority.....	8
3.02 Applicability	8
Section 4. Definitions	8
4.01 Usage and Interpretation.....	8
4.02 Definitions.....	9
Section 5. Platting Required.....	14
5.01 Duty to File Plat.....	14
5.02 Exemptions	14
Section 6. Authority of Decision Makers.....	15
6.01 General Delegation.....	15
6.02 City Engineer	15
6.03 Planning Director	15
6.04 Planning and Zoning Commission.....	15
6.05 City Council	15
Section 7. Filing Fees	15
7.01 Establishment and Amendment of Filing Fees	16
7.02 Fees Non-refundable.....	16
Section 8. Enforcement.....	16
8.01 Commission Authorization Required	16
8.02 Withholding Permits and Services	16
8.03 Enforcement	17
8.04 Severability	17
Division B. Platting Process – General Provisions.....	18
Section 9. Stages of Subdivision Approval	18
9.01 Platting Sequence	18
9.02 Sequence to be Followed.....	18

Section 10. Application Procedures	18
10.01 Pre-application Conference	18
10.02 Official Submittal Dates	19
10.03 Complete Application Determination.....	20
10.04 Thirty-Day Decision Process.....	20
10.05 Post-Decision Procedures	21
10.06 Exceptions to Thirty-Day Decision Process	21
10.07 Certification	22
10.08 Expiration and Extension of an Approved Plat or Subdivision Plan	22
10.09 Withdrawal of Application.....	23
Section 11 Alternative Procedures.....	23
11.01 Purpose.....	23
11.02 Initial Stage Procedures	23
11.03 Staff Review and Application Processing	24
11.04 Second Stage Procedures	24
11.05 Applicant's Options.....	24
Division C. Platting Procedures.....	25
Section 20. Platting Procedures – Adequate Facilities Plan	25
20.01 Purpose.....	25
20.02 Applicability	25
20.03 Remainder Tract	25
20.04 Submittal Requirements	26
20.05. Decision by City Engineer	27
20.06 Appeal.....	27
20.07 Criteria for Approval	27
20.08 Effect of Approval	29
20.09 Expiration and Extension	29
Section 21. Platting Procedures – Preliminary Plat	30
21.01 Purpose.....	30
21.02 Submittal Requirements	30
21.03 Commission Decision	30
21.04 Criteria for Approval	31
21.05 Effect	31
21.06 Expiration and Extension	31
21.07 Amendments to Preliminary Plat Following Approval.....	31

Section 22. Platting Procedures – Construction Plans	33
22.01 Purpose	33
22.02 Submittal Requirements	33
22.03 Decision by City Engineer.....	33
22.04 Timing of Public Improvements	33
22.05 Improvement Agreement and Security for Completion	34
22.06 Criteria for Approval of Construction Plans	36
22.07 Effect	36
22.08 Expiration and Extension	36
Section 23 Platting Procedures – Final Plat.....	37
23.01 Purpose	37
23.02 Submittal Requirements	37
23.03 Commission Decision	38
23.04 Criteria for Approval of Final Plat	38
23.05 Effect	39
23.06 Recordation of Plat	39
Section 24. Platting Procedures – Minor Subdivisions.....	40
24.01 Applicability.	40
24.02 Submittal Requirements	40
24.03 Processing and Decision	40
Section 25. Platting Procedures – Re-Subdivision.....	42
25.01 Vacation of Prior Plat.....	42
25.02 Replots Without Vacation of Preceding Plat.....	42
Section 26. Platting Procedures - Amending Plat.....	45
26.01 Purpose and Applicability	45
26.02 Submittal Requirements	46
26.03 Decision by Director.....	46
26.04 Appeal.....	46
Section 27. Relief Procedures – Waivers.....	48
27.01 Request for Waiver.....	48
27.02 Criteria for Approval of Waiver.....	48
27.03 Decision and Effect	49
Section 28. Relief Procedures – Rough Proportionality Appeal	50
28.01 Purpose and Applicability	50
28.02 Proportionality Determination by City Engineer	50

28.03	Appeals	51
Section 29.	Relief Procedures – Vested Rights Determination and Appeal	54
29.01	Vested Rights Petition.....	54
29.02	Petition Requirements.....	54
29.03	Processing of Petition and Decision.....	55
29.04	Form of Action on Petition.....	55
29.05	Order on Petition	55
29.06	Criteria for Approval	56
Section 30.	Construction Management of public infrastructure	57
30.01	Pre-Construction Conference	57
30.02	Construction Release	57
30.03	Inspections.....	57
30.04	Maintenance During Construction.....	57
30.05	Acceptance of Improvements.....	57
Division D.	Subdivision Improvements and Design Standards.....	59
Section 40.	Adequate Public Facilities and Infrastructure	59
40.01	Policy.....	59
40.02	Conformance to Plans and Specifications.....	59
40.03	Adequacy of Specific Facilities	60
40.04	City Options	61
40.05	Property Owner's Obligation	61
40.06	Timing of Dedication and Construction	62
Section 41.	Water Improvements	62
41.01	Water Supply System.....	62
Section 42.	Wastewater Improvements.....	63
42.01	Sanitary Sewer System.....	63
Section 43.	Thoroughfare and Street Improvements	63
43.01	Conformity to Thoroughfare Plans.	63
43.02	Relation to Adjoining Street System	63
43.03	Additional Width of Existing Streets,	63
43.04	Street Right-of-Way Widths.....	64
43.05	Cul-De-Sacs	64
43.06	Topographic Restrictions.	65
43.07	Restriction of Access.....	65
43.08	Reserve Strips.	65

43.09	Intersections.....	65
43.10	Street Jogs.....	65
43.11	Minimum Pavement Widths.....	65
43.12	Pavement.....	66
43.13	Curb and Gutters.....	66
43.14	Horizontal Curves.....	66
43.15	Street Grades.....	66
43.16	Private Streets.....	66
43.17	Points of Access.....	69
43.18	Traffic Impact Analysis.....	69
Section 44.	Stormwater Management.....	70
44.01	Drainage Improvements.....	70
Section 45.	Flood Hazard Standards.....	70
Section 46.	Parks and Open Space Standards; Preservation of Natural Features.....	71
46.01	Purpose and Effect.....	71
46.02	Dedication of Park Land.....	71
46.03	Fees in Lieu of Park Land Dedication.....	71
46.04	Exemptions.....	71
46.05	Additional Park Land Regulations.....	71
46.06	Preservation of Natural Features.....	71
Section 47.	Subdivision Design Standards.....	72
47.01	Technical Standards & Specifications (TCSS).....	72
47.02	Monuments [Section IV-4.A.1.a].....	72
47.03	Blocks; Lots;.....	72
47.04	Driveways, Fire Lanes and Access Easements.....	74
47.05	Sidewalks.....	74
47.06	Alleys.....	76
47.07	Street Lights.....	76
47.08	Street Names; Street Name and Traffic Control Signs/Devices.....	77
47.09	Addressing.....	77
47.10	Easements.....	77
47.11	Utility Placement.....	77
47.12	Large Scale Tracts; Large Scale Developments.....	78
Section 48.	Rural Subdivision Standards; ETJ Subdivisions.....	78
Section 49.	Homeowners' Associations (HOAs).....	78

49.01	Purpose	78
49.02	Applicability	78
49.03	Descriptions of Elements Requiring an HOA.....	78
49.04	Procedure for HOA Formation.....	79
49.05	Notice to Purchasers.....	79
49.06	General Requirements.....	80
49.07	Violations, Revocations & Liens	80

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Division A. General Provisions

Section 1. Kerrville Subdivision Code.

This Chapter shall be known and may be cited as the “City of Kerrville Subdivision Code,” and unless otherwise stated, the phrase “Subdivision Code” or “Code” as used in this Chapter means the City of Kerrville Subdivision Code.

Section 2. Purpose Statement.

The subdivision of land is a major factor toward the process of achieving sound community development and makes up a public responsibility because at times it includes the construction and dedication of public improvements, meaning that for example streets, utilities, and other public improvements must be provided and thereafter maintained by the City. Therefore, it is to the interest of the public, the developer, property owners, and future owners that subdivisions and other developments be conceived, designed, and developed in accordance with appropriate design standards and development specifications. It is the intent of these regulations to aid in guiding the growth of the City of Kerrville (“City”) and its extraterritorial jurisdiction in an orderly manner; and to provide attractive, well planned subdivisions with adequate streets, utilities, and building sites in a manner that will be uniformly applied. The goals and objectives of this Chapter are:

- a. to provide for the harmonious development of the urban area;
- b. to coordinate the supply of services as a tool for directing the optimal distribution of population in the urban area;
- c. to provide for the separation of pedestrian and vehicular traffic;
- d. to designate and preserve through advance dedication and reservation of rights-of-way for transportation corridors;
- e. to insure the acquisition of land for public needs to include parks, schools, drainage, open space, fire and police facilities;
- f. to preserve and maintain scenic vistas;
- g. to encourage the preservation of natural vegetation to minimize erosion;
- h. to restrict development in areas where hazards may result;
- i. to minimize the financial burden of urban development upon the City and taxpayers;
- j. to assure the accuracy of land records; and
- k. to address the needs of sensitive lands that would be adversely affected by the strict application of this Chapter.

Section 3. Authority and Jurisdiction

3.01 Authority.

From and after the date of its adoption, this Chapter shall govern all subdivisions of land and other development activities specified herein within the City and within its extraterritorial jurisdiction ("ETJ"), under the authority conferred by Tex. Loc. Gov't Code Chapter 212 and pursuant to the home rule charter of the City and the Constitution of the State of Texas.

3.02 Applicability

- a. This Chapter applies to approval of plats, subdivision plans, and other developments for the division or development of property.
- b. This Chapter does not apply to applications for approval of zoning plans or plans required to accompany applications for building permits.
- c. Any application for plat or subdivision plan approval filed before **September 1, 2019** is governed by the subdivision procedures in effect immediately preceding this Chapter. Any application for plat or subdivision plan approval filed after such date shall be processed under the requirements of this Chapter. The procedures in divisions A, B, C, and D of these subdivision regulations shall take effect on the date of adoption by the City Council.
- d. This Chapter applies to divisions of land and other developments within the City's ETJ, except as otherwise expressly stated in the regulations or as may be prohibited by law.

Section 4. Definitions

4.01 Usage and Interpretation

- a. Usage. For purposes of this chapter, words and phrases have the meanings set forth below.
- b. Conflicts. When words and terms are defined herein and are also defined in other ordinance(s) of the City, they are to be read in harmony unless there exists an irreconcilable conflict, in which case the definition contained in this section controls.
- c. Present and Past Tenses. Words used in the present tense include the future tense; words used in the masculine gender include the feminine gender; words used in the singular number include the plural number; and words used in the plural number include the singular number.
- d. Specific Word Usage.
 - (1) The word "shall" or "will" is mandatory and not discretionary.
 - (2) The word "may" is permissive.
 - (3) The word "including" shall be construed as meaning "including, but not limited to".

(4) The word "includes" shall be construed as meaning "includes, but is not limited to".

(5) The words "applicant", "developer", "owner", "person", or "individual" shall include corporations, partnerships, associations, and groups acting together as a single entity.

e. Words Not Defined. Terms not herein defined have the meaning assigned to them in the City's building code or other applicable City code. Terms not herein defined nor defined in any applicable City code have the meaning customarily assigned to them in the planning and zoning profession.

f. Interpretation. In the event a word or phrase used in this Chapter is unclear or ambiguous, any interpretation shall be made in a manner that uses reasonable judgment to apply the intent and purpose of regulations to the specific situation in question. The Director of Development Services ("Director") or such other official as designated by the City Manager shall have the authority, upon request of an affected person, to interpret unclear or ambiguous words and phrases. The following rules of construction apply, where applicable, in interpreting provisions of these regulations:

- (1) The designation in these regulations of an official, by title or otherwise includes a designee of the official.
- (2) The word "year" means 365 calendar days.
- (3) The word "month" means 30 calendar days.

(4) The word "developer" is not, in all cases, interpreted as a reference solely to the property owner. The Director may interpret "developer" to mean persons acting on behalf of the property owner as an agent, to which the Director may require written affirmation of this relationship.

4.02 Definitions

- a. **100-year floodplain:** the land area that may be affected by the flood having a one percent (1%) chance of being equaled or exceeded in any given year, based upon a fully developed watershed and the capacity of a creek or other drainageway to accommodate stormwater runoff from a 100-year storm event.
- b. "Abutting" means adjacent, adjoining and contiguous to; it may also mean having a lot line in common with a right-of-way or easement, or with a physical improvement such as a street, utility line, park, open space, etc.
- c. "Access" means an approach or entrance to a property either from a public right-of-way or via a private way, alley, easement or other right of passage.
- d. "Alley" means a minor right-of-way which provides a secondary means of vehicular access to abutting properties for delivery or public service purposes.
- e. "Block" means a grouping of residential lots (and their alleys) that are partially or fully surrounded by one or more streets. A block consists of one or two tiers of lots. Lots that are separated by an alley are in the same block, but lots that are separated by a street are in different blocks.

- f. "Building" means any structure which is built for the support, shelter, or enclosure of persons, animals, machinery, equipment, or movable property of any kinds.
- g. "Building line" or "building setback line" means a line that is parallel, or approximately parallel, to the street right-of-way line at a specific distance therefrom and defines an area on the building lot between the street right-of-way lines and the building line within which no structure shall be constructed.
- h. "Commission" means the City's Planning and Zoning Commission.
- i. "Community sewage system" means a sewage collection, treatment, and disposal system designed to serve two or more sewage generating units on separate lots in a subdivision or a system that is connected to another system for collection, treatment, and disposal of sewage.
- j. "Comprehensive Plan" means the City's adopted planning document and maps, to include the City's Thoroughfare Plan, along with any amendments, which is used as a guide for future development of the City and its surrounding areas.
- k. "Corner lot" means a lot or parcel of land bound on two (2) sides, usually at a 90-degree angle, by public streets.
- l. "Council" means the governing body of the City of Kerrville.
- m. "County" means Kerr County, Texas.
- n. "Crosswalk" means a public right-of-way not more than six (6) feet in width between property lines which provides pedestrian circulation.
- o. "Cul-de-sac" means a street having only one vehicular access to another street and terminated by a vehicular turnaround.
- p. "Dead-end street" means a street, other than a cul-de-sac, with only one vehicular outlet.
- q. "Development" means any activities related to the division of land or installation of improvements thereon, including the construction, reconstruction, conversion, or enlargement of buildings or structures; the construction of impervious surfaces (e.g., parking lots); the installation of utilities, roadways, drainage facilities, or other infrastructure; or any disturbance of the surface or subsurface of the land in preparation for such construction activities, including grading, drainage, storage, paving, clearing, filling, and/or removal of vegetation or soil, and any mining, dredging, excavation, or drilling operations. "Development" includes such activities on a previously platted lot or tract.
- r. "Double-frontage lot" means a building lot, not a corner lot, which has frontage on two (2) streets that are parallel or within forty-five (45) degrees of being parallel to each other.

"Driveway" means the paved or improved access, approach, or entrance to a property either from a public right-of-way or via a private way, alley, easement or other right of passage.

- s. "Easement" means a right that is granted to the City, to the public generally, and/or to a private entity for the purpose of limited public or semi-public use across, over, or under private land.
- t. "ETJ" means the extraterritorial jurisdiction of the City, as may be expanded or contracted from time to time by operation of law or by agreement.
- u. "Final plat" means the map or plat of a proposed subdivision submitted to the City for approval by the Planning and Zoning Commission.
- v. "Front" or "frontage" means that portion of a tract of land which abuts on a street to which it has direct access.
- w. "Homeowners Association" (HOA) means a community association which is organized within a development in which individual owners share common interests and responsibilities for open space, landscaping, amenities, or facilities, and which operates under recorded land agreements. This term also includes a Property Owners Association (POA) and Property Management Corporation (PMC), which are more typically formed for multi-family and nonresidential developments.
- x. "Lot" means a physically undivided tract or parcel of land having access to a street and which is, or in the future may be, offered for sale, conveyance, transfer, lease, or improvement, which is designated as a distinct and separate tract and may be identified by a lot number or tract symbol on an approved subdivision plat which has been properly recorded.
- y. "Lot depth" means the horizontal distance measured perpendicularly between two points on the front lot line and two points on the rear lot line which creates an area that meets (or exceeds) the zoning district's minimum width and depth requirements.
- z. "Lot width" means the horizontal distance measured between side lot lines parallel to the front lot line, measured along the front building line.

"Nuisance lot "

- aa. "Off-site improvements" means all required improvements beyond the property limits of the subdivision.
- bb. "On-site improvements" means all required improvements within or contiguous to the proposed subdivision.
- cc. "Open space" means public and private property under public or common ownership designated for recreational use, private park, play lot area, building setback and ornamental areas open to general view within the development, areas to be retained for views and vistas, wild-life preserves, and land set aside for drainage ways. No parking shall be permitted in lands defined as open space.
- dd. On-site sewage facility (OSSF") means an on-site sewage system capable of complying with the current rules and regulations of the State of Texas and Kerr County.

ee. "Pavement width" means the portion of the surface of a street available for vehicular traffic. Where curbs are laid, "pavement width" shall be measured from back of curb to back of curb. In the absence of curbs, it is that portion of vehicular improvements.

ff. "Person" means any individual, association, firm, corporation, governmental agency, or political subdivision.

gg. "Plat" means a map drawing or plan identifying the layout of a subdivision and includes a preliminary plat, final plat, minor plat, amending plat, and replat.

hh. "Pollution" mean any substance which would generate, produce, or discharge any matter or thing into the atmosphere, surface of land, or water courses, including noise or odor, which violates state, federal, or local laws and/or is offensive to a person of ordinary sensibilities.

ii. "Preliminary plat" means the first or introductory plat of a proposed subdivision submitted to the Planning and Zoning Commission.

jj. "Record drawings" sometimes referred to as "as-builts", means a group of drawings or plans that depicts the final configuration of the installed or constructed improvements of a development, improvements which have been verified by the contractor as their installation or construction occurs during development; the record drawings shall reflect the construction plans (or working drawings) used, corrected and/or clarified in the field, and shall be signed by the project's design engineer.

kk. "Replat" means a preliminary plat or final plat for all or part of any block or blocks of a previously platted subdivision, addition, lot or tract, other than an amending plat, whether or not the prior plat for the subdivision is proposed for vacation.

ll. "Road" means an access way for vehicular traffic and other public uses, whether designated a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however otherwise designated, that is a rural road that does not meet the City's Street standards.

mm. "Sidewalk" means a paved pathway, normally located within public right-of-way or within a pedestrian easement, which is typically used by pedestrian traffic, bicycles, and other non-motorized personal conveyances.

mm. "Street" means an access way for vehicular traffic and other public uses, whether designated a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however otherwise designated. An alley is not considered a street. Streets include the following types:

(1) An "arterial" street means a principal traffic artery or traffic way, generally having continuous routing over long distances, whose function is to serve as a principal connecting street with state and federal highways and shall include each street designated as an "arterial" on the Thoroughfare Plan.

(2) A "collector" street means a street whose primary function is to collect and distribute traffic between major thoroughfares and minor streets, is not necessarily having

continuous routing for long distances, generally has intersections at-grade providing direct access to abutting properties, and shall include each street designated as a "collector" on the Thoroughfare Plan.

- (3) A "local" street means a street whose primary function is to provide access to abutting residential property within neighborhoods, with all intersections at-grade, and not having continuous routing for any great distances to discourage through traffic.
- (4) A "marginal access" street means a street whose primary function is to provide a buffer between a subdivision fronting along an arterial street or highway. The purpose of these streets are to allow better through-traffic movement along arterials while preserving low-density residential living environments.
- (5) An "access" street means a street that provides access to cluster housing unit developments limited to ten (10) dwelling units or less. Access streets provide direct vehicular access to individual garages, drives or common parking courts.

nn. "Subdivide" or "subdivision" means the division of a tract of land into two or more parts by using metes and bounds description in a deed conveyance, a contract for deed, a lease, or by another manner such as platting, for the purpose of:

- (1) Laying out a subdivision of any tract of land or any addition to the City;
- (2) Laying out suburban lots or building lots or any lots; or
- (3) Laying out streets, alleys, or parks or other portions intended for public use or the use of the purchasers, owners, or lessees of lots fronting thereon or adjacent thereto.

oo. "Subdivision application" means a request for approval of a plat or subdivision plan required to initiate the division or development of land.

pp. "Subdivision plan" means an adequate facilities plan or construction plans. "Subdivision plan" excludes a zoning plan and/or the City Zoning Ordinance

qq. "Subdivision regulations" or "these regulations" means the standards and procedures for property development and division, adopted by the Council by ordinance, as may be amended from time to time.

rr. "Thoroughfare Plan" means the City's adopted planning document and maps, along with any amendments or supplements thereto, which is used as a guide for the layout and configuration of major and secondary streets and highways and is a component part of the City's Comprehensive Plan.

ss. "U.G.R.A." means the Upper Guadalupe River Authority.

Undevelopable lot/ unbuildable lot

tt. "Vested right" means a_right of an applicant in accordance with Chapter 245 of the Texas Local Government Code, as amended, requiring the City to review and decide the application under

standards in effect prior to the effective date of the standards of the subdivision regulations or any subsequent amendments thereto.

uu. "Zoning plan" means a concept plan, site plan or similar document required to determine compliance with land use regulations which are authorized under Tex. Loc. Gov't Code, Ch. 211.

Section 5. Platting Required

5.01 Duty to File Plat

Except as otherwise provided in Section 5.02, the owner of land located within the City or its extraterritorial jurisdiction who proposes to divide or develop the land shall have a plat of the land approved as provided in this Code. A division of land under this section includes a division of land by metes and bounds, or in a contract for a deed, contract of sale or other executory contract for conveyance. No improvements to the land shall be commenced until compliance with this Subdivision Code is achieved.

5.02 Exemptions

The following subdivisions are exempted from the above stated platting requirement:

- a. A conveyance of land by dedication, lease, or sale to a public agency for a roadway, utility lines or drainage facility, provided that said conveyance is accepted and approved by the public agency.
- b. The conveyance of parcels of land between owners of adjoining property and contiguous land, provided that no additional lot or substandard lot is created.
- c. Any lease of public property at the Kerrville Airport.
- d. Any property subdivided prior to **February 12, 2012**, provided that each part of the subdivided property was adequately served by the following after the subdivision:
 - (1) Streets constructed and previously accepted for maintenance by the City or County, whichever is applicable;
 - (2) Water improvements as currently required by this or other applicable ordinances;
 - (3) Sanitary sewer or individual on-site sewage disposal system as currently required by this or other ordinances;
 - (4) Storm drainage facilities as currently required by this or other applicable ordinances, and
 - (5) Easements or rights-of-way as may be currently required by this or other applicable ordinance for the installation of any of the above stated improvements
- e. In accordance with Tex. Loc. Govt. Code §212.004(a), the division of land into two or more parts provided that:
 - (1) all parts after the division of land are larger than five acres;
 - (2) no public improvement is required by this Code to be dedicated; and,
 - (3) after the division, each part has access.

For purposes of this subsection (e), "public improvement" includes any extension of a water line or wastewater line to a point of connection located outside the boundary of the property. For purposes of this subsection (e), "access" shall mean connection to an existing public right-of-way abutting each part of the subdivided property, on which right-of-way is constructed a publicly maintained paved street or road, unless access by some other means has been previously approved by the Commission.

- f. A person proposing to divide land under subsection (e) may apply for an exemption determination.

Section 6. Authority of Decision Makers

6.01 General Delegation.

Any actions set forth in these subdivision regulations for matters not designated for decision by the Commission or reserved to the City Council or otherwise expressly delegated hereby are delegated to the Planning Director.

6.02 City Engineer

The City Engineer shall be the responsible official for approval of construction plans, preparing rough proportionality determinations, overseeing construction management, and promulgating standard specifications applicable to subdivision approvals.

6.03 Planning Director

The Planning Director, Director of Development Services, or other official or designee of the City responsible for filing plat and subdivision plan applications, for preparing recommendations for approval, conditional approval or disapproval of plat and adequate facilities plan applications to the Commission, for promulgating requirements for such plat or plan applications, for deciding exemption requests, and for approving adequate facilities plans. In carrying out these duties, the Planning Director shall consult with the City Engineer and other City departments and officials and his or her recommendations shall reflect such communications.

6.04 Planning and Zoning Commission

The Commission shall be responsible for approving plats and granting waivers to platting requirements.

6.05 City Council

The City Council shall have responsibility for reviewing appeals from rough proportionality determinations and waiver requests and for making changes to these subdivision regulations.

Section 7. Filing Fees

7.01 Establishment and Amendment of Filing Fees

A schedule of filing fees for plat and subdivision plan applications shall be established by City Council, as amended from time to time.

7.02. Fees Non-refundable.

All fees are nonrefundable.

Section 8. Enforcement

8.01 Commission Authorization Required

- a. No plat of any subdivision within the City or its ETJ shall be recorded in the Real Property Record of Kerr County, Texas and has no validity until it shall have been approved by the Commission in the manner prescribed by this Code.
- b. No changes, erasures, modifications, or revisions shall be made in any plat of a subdivision after approval has been given by the Commission and endorsed in writing on the plat, unless such changes are approved by the Commission.
- c. Until a final plat has been approved by the Commission and filed for record in the Real Property Record of Kerr County, Texas, no person shall transfer title of any parcel of such land, nor shall there be initiated any construction of residences or other buildings or private sewage disposal systems, nor shall any such property be served with public utilities. This prohibition does not apply to the construction of approved streets and utilities, provided that said utilities do not become operable and serve the development until such time as the final plat is approved and recorded.

8.02 Withholding Permits and Services

- a. The City shall not issue a permit for construction on a lot in a subdivision or development for which a final plat has not been approved and recorded.
- b. The City shall withhold all public improvements, including the maintenance of streets and the furnishing of **sewage** facilities and water service, to a subdivision or development for which a final plat has not been approved and recorded.

8.03 Enforcement

- a. Any person violating any of the provisions of this Code shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to the penalty provided in the Code of Ordinances.
- b. The City shall have the right to institute an action in an appropriate court to enjoin the violation of any provision of this Code.
- c. The City may institute an action to recover damages from the owner of a tract of land in an amount adequate for the City any construction or other activity necessary to bring about compliance with a requirement of this Code. "Owner" does not include the purchaser of an individual lot in a subdivided tract of land.

8.04 Severability

If any section, paragraph, subdivision, clause, phrase, or provision of the ordinance adopting the Subdivision Code shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

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Division B. Platting Process – General Provisions

Section 9. Stages of Subdivision Approval

9.01 Platting Sequence

Except for minor plats, amending plats, and certain replats described in [Section 25](#), the City's review and, where appropriate, approval of a subdivision is subject to three or four separate stages. Approval is required for each stage before an application for the next stage of the sequence will be accepted for filing. The stages shall occur in the following sequence:

- (1) Adequate facilities plan, as required in [Section 20.02](#);
- (2) Preliminary plat;
- (3) Construction plans; and
- (4) Final plat.

9.02. Sequence to be Followed

- a. No required plat or subdivision plan may be submitted for filing simultaneously with another required plat or subdivision plan, except under the alternative procedure provided in [Section 11](#). No required plat or subdivision plan may be approved unless a required prior plat or subdivision plan has been approved or conditionally approved. Approval is required before the City will accept an application for the next stage of the sequence.
- b. Unless otherwise indicated in the action taken on an application, conditional approval means that conditions must be satisfied prior to the approval of a subsequent plat or subdivision plan. Disapproval of an application means that the applicant may not proceed to the next stage of subdivision approval until the grounds for disapproval have been satisfied.

Section 10. Application Procedures

10.01 Pre-application Conference

- a. Before any application for plat or subdivision plan approval is submitted for filing, and at least two weeks before the next official submittal date, an applicant shall meet with the Director to review the following matters:
 - (1) the sequence of stages required prior to approval;
 - (2) any claim of exemption for a contemplated division of land;
 - (3) prerequisites to filing the initial application;

- (4) any request for major waivers to the subdivision regulations; and
- (5) complete application requirements.

b. The following authorizations are required prior to submittal of an initial application for subdivision approval, unless the Director determines that such authorization may be deferred until a later stage of subdivision approval:

- (1) For property within the City, zoning approval for the contemplated use(s) of the property to be divided;
- (2) Texas Department of Transportation approval for any contemplated modifications to a state-maintained roadway, to include access;
- (3) Approval of amendments to the City's adopted Thoroughfare Plan or other master plan for public facilities and services necessary to serve the proposed development;
- (4) Any requested vested rights determination; and
- (5) Any request for a major waiver to these subdivision regulations.

c. At the pre-application conference, the applicant may elect in writing to an alternative application procedure pursuant to **Section 11**.

d. No application for subdivision approval will be accepted for filing at the pre-application conference.

10.02 Official Submittal Dates

- a. Applications for subdivision approval, submittal of documents for removal of conditions imposed on a plat or subdivision plan application, or submittal of documents for satisfaction of grounds for denial of subdivision approval may only be filed on official submittal dates.
- b. The City shall establish and publish annually on its website a monthly schedule of official submittal dates, which is subject to change.
- c. An applicant shall schedule a meeting with the Director on the official submittal date in order to review the proposed application.
- d. An application for subdivision approval shall not be accepted for filing on an official submittal date in the following circumstances:
 - (1) Prerequisite authorizations have not been obtained;
 - (2) A prior required application has not been approved;
 - (3) A proposed **major waiver** is pending for decision; or

(4) The application is not complete.

e. If an application for subdivision approval has been returned to the applicant for incompleteness following an initial review, the application shall be accepted for filing on the next official submittal date that it is submitted by the applicant. If any of the items in subsection (d) have not been resolved, the application shall be placed on the Commission agenda for summary denial. No further materials in support of the application shall be filed after the application has been accepted for filing. An applicant may elect to withdraw an application prior to the Commission decision on the application.

10.03 Complete Application Determination

- a. The Director shall perform a completeness determination for the application within 5 days of the official submittal date.
- b. In addition to any requirements stated in this Code, the Director in consultation with the City Engineer shall promulgate standards for a complete application for each plat or subdivision plan application, such standards to be in conformance with this Code and published on the City's website.
- c. The Director shall accept the application as complete or provide a list of deficiencies to the applicant that render the application incomplete.
- d. An application that remains incomplete after acceptance for filing shall be denied and returned to the applicant.

10.04 Thirty-Day Decision Process

- a. *Approval by Commission.* The Director shall prepare a report on a proposed plat or adequate facilities plan application. The Commission, upon consideration of the Director's report, shall approve, approve with conditions, or disapprove a preliminary plat, final plat, or other plat within 30 days after the date the plat or adequate facilities plan application is filed. A plat is deemed approved unless it is conditionally approved or disapproved by the commission within that period in the manner provided in subsection (d).
- b. *Approval of Adequate Facilities Plan.* The Director shall approve, approve with conditions, or disapprove an adequate facilities plan within 30 days after the date the construction plans application is filed. An adequate facilities plan is deemed approved unless it is conditionally approved or disapproved within that period in the manner provided in subsection (d).
- c. *Approval of Construction Plans.* The City Engineer shall approve, approve with conditions, or disapprove construction plans within 30 days after the date the construction plans application is filed. A construction plan application is deemed approved unless it is conditionally approved or disapproved within that period in the manner provided in subsection (d).
- d. *Documentation for Conditional Approval or Disapproval.* The Commission or the Director, as the case may be, shall provide the applicant a written statement that clearly articulates each specific condition for conditional approval or reason for disapproval. Each condition or reason specified in

the written statement must be directly related to the requirements of this Code and include a citation to the applicable law, including state or local laws, that is the basis for the conditional approval or disapproval. The Commission or Director shall identify the stage of the subdivision approval process by which the time for satisfaction of each condition or reason for approval imposed on the application must be satisfied.

- e. *Extension by Agreement.* The applicant may request in writing and the Commission may approve the request for an extension of the time for plat or subdivision plan approval required by **subsection (a)** for a period not to exceed 30 days. The written request must be made at least 15 days prior to the time scheduled for a decision on the application. If an extension is granted, the applicant may submit additional materials in support of the application no later than 20 days before the date the Commission is scheduled to review the application.

10.05 Post-Decision Procedures

- a. *Applicant's Response.* After the conditional approval or disapproval of a plat or subdivision plan under **Section 10.04**, the applicant may submit to the Commission or the responsible official, as the case may be, on an official submittal date a written response that satisfies each condition for the conditional approval or remedies each reason for disapproval. Any response that does not address all of the conditions or reasons for disapproval shall be disapproved. When a condition may be satisfied at the next stage of subdivision approval, the applicant need not submit a response before application is made for the next plat or subdivision plan in the sequence of approvals.
- b. *Reply to Applicant's Response.* The Commission or the responsible official, as the case may be, that receives an applicant's response in accordance with subsection (a) shall determine whether to approve or disapprove the plat or subdivision plan not later than the 15th day after the date the response was submitted. The Commission or the responsible official, as the case may be, must approve the plat or subdivision plan if the response adequately addresses each condition of the conditional approval or each reason for the disapproval. If the Commission or responsible official disapproves the plat or subdivision plan, the applicant shall be provided a written statement that clearly articulates each reason for disapproval in the manner provided in Section 9.04(d). Following timely disapproval of the plat or subdivision plan, a new application for the plat or subdivision plan must be filed. If the response meets the criteria in subsection (a) and the Commission or responsible official, as the case may be, fails to act upon the response as required by this section, the plat or subdivision plan shall be deemed approved.
- c. *Delegation and Appeal.* The Director is authorized to take action on and prepare a reply to an applicant's response to conditional approval or disapproval of a plat or an adequate facilities plan in the event the Commission is unable to meet within the 15-day period required by **subsection (b)**. The City Engineer is authorized to take action on and prepare a reply to an applicant's response to conditional approval or disapproval of construction plans. An applicant may appeal the decision of the Director or the City Engineer to the Commission. An applicant may also elect to have the Commission take action on and make the reply by agreeing in writing to have the response considered at the next scheduled Commission meeting.

10.06 Exceptions to Thirty-Day Decision Process

The 30-day decision process and post-decision procedures described in **Sections 10.04 and 10.05**, respectively, do not apply to the following proceedings:

- a. Any request for relief provided for in this Code, including an application for any waivers from the standards or procedures;
- b. Any appeal provided for in these subdivision regulations, including but not limited to an appeal from a vested rights determination;
- c. Any action by the City Council on the City Engineer's rough proportionality determination, including but not limited to an appeal taken by an applicant;
- d. Any actions taken to modify an approved final plat;
- e. Inspections of improvements;
- f. Any actions taken after plat recordation, other than a replat or amending plat;
- g. Any request to extend plat or subdivision plan approval beyond an expiration date; or
- h. Any matter requiring authorization prior to submittal of a plat or subdivision plan application identified in section 10.01(b).

10.07 Certification

- a. If a plat or subdivision plan is approved, the Commission or the responsible official, as the case may be, shall endorse the approved plat or subdivision plan with a certificate indicating the approval. The certificate shall be signed by the chair of the Commission, a majority of its members, or, in the case of approved construction plans, by the City Engineer.
- b. If a plat or subdivision plan application is deemed approved pursuant to sections 10.04(a) or 10.05(b), the Commission, or the responsible official, as the case may be, shall issue a certificate stating the date that the plat or plan application was filed and that the Commission or the responsible official failed to act on the application within the prescribed period.

10.08 Expiration and Extension of an Approved Plat or Subdivision Plan

- a. Expiration Date. Except as otherwise provided in this Code, unconditional approval of a plat or subdivision plan application or conditional approval where all conditions may be satisfied at a subsequent stage of subdivision approval, expire 1 year from the date of approval, unless the applicant submits and receives approval for a required subsequent application for approval.
- b. New Application Required. Following expiration of an approved plat or subdivision plan, a new application is required unless the date for expiration has been extended in accordance with this section.
- c. Project Expiration. Following expiration of an approved plat or subdivision plan, the project defined by a prior approved application shall be deemed to have expired within 5 years from the date of the last prior approval, unless a new application is made and approved for the expired plat or subdivision plan within such period, or unless progress toward completion of the project has

otherwise been made, such as completion of one or more phases, utility installations, and/or recorded final plats.

- d. Extension Request. An applicant may submit a request to the planning director, or in the case of construction plans, to the City Engineer, for an extension of a plat or subdivision plan expiration date for a period not to exceed 1 year, if the request is filed at least 30 days before the date of expiration. Every request for extension shall include a statement of the reasons why the expiration date should be extended. More than one extension request may be filed.
- e. Criteria for Approval of Extension Request. The Director shall take into account the reasons for the requested extension, the ability of the applicant to comply with any conditions attached to the original approval, whether extension is likely to result in timely completion of the project, whether the applicant has made a good faith effort to submit a complete application for the next required application, whether there are circumstance beyond the applicant's control which have prevented submittal of an application for a subsequent stage of approval, and the extent to which newly adopted regulations should be applied to the original application.
- f. Appeal to Commission. Denial of an extension request by the responsible official may be appealed to the Commission within 10 days of notification of the denial. In deciding the appeal, the Commission shall apply the criteria in subsection (f).
- g. Conditions. The responsible official, or the Commission on appeal, may attach conditions to approval of an extension request such as are needed to assure that the land will be developed in a timely fashion and that the public interest is served.

10.09 Withdrawal of Application

The applicant for a plat or subdivision plan approval may withdraw the application following acceptance for filing at least 4 days before the time of the scheduled decision on the application. Following withdrawal, the applicant must submit a new application.

Section 11 Alternative Procedures

11.01 Purpose

The alternative procedures in this section are intended to facilitate the development of a complete application for each stage of subdivision approval. This process will expedite approval of an application for a subdivision plan or a plat by assuring that prerequisites to subdivision approval have been met and that an application is complete for Commission or responsible official review before the time periods in **Section 9** begin to run.

11.02 Initial Stage Procedures

At the time of the pre-application conference preceding submittal of an adequate facilities plan or preliminary plat application, or on any official submittal date, an applicant may elect in writing to utilize the alternative procedures provided in this section. Following execution of the election to proceed under

alternative procedures, an applicant may submit simultaneously an application for an adequate facilities plan, where required, and an application for preliminary plat approval.

11.03 Staff Review and Application Processing

The Director shall convene all necessary persons to review the application(s) in order to identify any prerequisites to completeness of the application(s) and shall assist the applicant in satisfying such requirements. To the extent reasonably possible, the responsible official shall expedite approval of any prerequisites to completing the application(s). When the application(s) is complete in accordance with application standards, the responsible official shall accept the application(s) for filing on the next official submittal date. Thereafter, the procedures in **Sections 10.04 and 10.05** apply.

11.04 Second Stage Procedures

Following approval or conditional approval of the adequate facilities plan and/or preliminary plat, the applicant may elect in writing to utilize the alternative procedures for applications for construction plat and final plat approval at the pre-application conference for construction plans or on any official submittal date. Thereafter, the applicant may submit simultaneously an application for construction plans approval and an application for final plat approval. The procedures in **Section 11.03** apply to review and processing of these applications.

11.05 Applicant's Options

- a. An applicant who has submitted an application for subdivision plan or plat approval may opt into the alternative procedures under this section by executing the election in writing and by withdrawing his application pending for decision by the Commission or by the responsible official at least 5 days prior to the time scheduled for decision on the application. No additional filing fees will be charged for such election. Thereafter, the alternative procedures shall apply to processing the application.
- b. An applicant may withdraw from use of the alternative procedures by notifying the responsible official in writing and by submitting the application for subdivision plan or plat approval on an official submittal date in the sequence required by **Section 9**.
- c. Where an application for subdivision plan or plat approval has been denied or is subject to a condition that must be satisfied before the time of submitting a subsequent application, the applicant may elect in writing to consult with staff prior to submitting a response that satisfies the reasons for denial or the condition(s) as otherwise required by **Section 10.05**.

Division C. Platting Procedures

Section 20. Platting Procedures – Adequate Facilities Plan

20.01 Purpose

- a. The purpose of an adequate facilities plan is to assure that specific subdivisions, as described in **subsection 20.02**, are served with appropriate levels of public facilities and services throughout the development and life of the subdivision or development. An adequate facilities plan must delineate the sequence and timing of development within a proposed subdivision or development, where the tract to be developed is relatively large, will be developed in phases, or is part of a larger parcel of land owned by the applicant, in order to determine compliance with the Comprehensive Plan and the availability and capacity of public improvements needed to serve the development, both now and into the future.

20.02 Applicability

- a. An adequate facilities plan shall be required for the following proposed subdivisions and developments:
 - (1) any division of land where proposed development of the tract is to occur in phases;
 - (2) any division that creates a remainder tract;
 - (3) a proposed residential subdivision containing twenty-five (25) or more residential units or lots; or
 - (4) a proposed non-residential subdivision of one (1) or more acres.

20.03 Remainder Tract

- a. A remainder tract is that portion of a larger parcel that is not included within the boundaries of a subdivision plat. Remainder tracts will not be considered lots or tracts of the subdivision. Approval of a subdivision plat shall not constitute approval of development on a remainder tract. The City shall require that information be submitted for a remainder tract with an adequate facilities plan solely for the purpose of determining whether the planned public infrastructure and improvements will be adequate. Information concerning remainder tracts will be considered during the review of the adequate facilities plan. Based upon such information, the City may require that additional or less land be included in the subdivision plat in order to satisfy the standards applicable to the plat or plan. If the adequate facilities plan is approved, a plat for a remainder tract shall not be accepted for filing and any application that conflicts with the limitations of this section shall be deemed incomplete until a final plat has been approved for the first phase of the adequate facilities plan.
- b. No tract shall be remaining on any plat or subdivision plan that is predominately floodplain and/or incapable of meeting all applicable requirements for constructing utilities and buildings.

20.04 Submittal Requirements

- a. An adequate facilities plan shall be submitted to the Planning Director, together with an application. The application for the adequate facilities plan shall include the following information and documentation:
 - (1) A copy of all required pre-authorizations set forth in subsection 10.01.b.;
 - (2) Names and addresses of the subdivider(s), record owner, land planner, engineer or surveyor (when applicable);
 - (3) Proposed name of the subdivision;
 - (4) Location in relation to the rest of the City and boundaries of proposed subdivision;
 - (5) A schematic layout of the entire property to be subdivided, including any remainder tracts, and the property's relationship to adjacent property and existing adjoining developments;
 - (6) Designation of each phase of development within the subdivision, the order of development, and a proposed schedule for the development of each phase of the development;
 - (7) Proposed major categories of land use for each phase, showing existing and proposed zoning, if applicable;
 - (8) Proposed and existing arterials and collector streets to serve the land to be platted consistent with the Thoroughfare Plan;
 - (9) Location of proposed sites for parks, schools, and other public uses as consistent with those required by the Comprehensive Plan;
 - (10) Location of significant natural drainage features including drainage courses and other natural areas;
 - (11) Location of significant man-made features such as streets, buildings, utilities, or other physical structures;
 - (12) Proposed dedication of land, including rights-of-way, for the construction and placement of public improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision, such as streets, utilities, and drainage facilities;
 - (13) A detailed statement of how the proposed subdivision will be served by water, wastewater, roadway and drainage facilities that have adequate capacity to serve the development;

(14) The following studies, where impacts on the City's public infrastructure systems from the development exceed the thresholds established in Division D, or as may be required by the City Engineer:

- (a) a traffic impact analysis ("TIA");
- (b) a drainage study;
- (c) a utility plan; and

(15) Any other requirements promulgated in writing by the Planning Director and City Engineer.

20.05. Decision by City Engineer

- a. The City Engineer is the responsible official for processing of adequate facilities plans. The procedures in **section 10** apply to adequate facilities plans submitted for approval.
- b. The City Engineer, in consultation with the Planning Director, shall approve, approve with conditions or disapprove the adequate facilities plan based on the criteria for approval in **subsection 20.07**. In addition to other conditions, approval of the adequate facilities plan may be conditioned on exclusion of land from the adequate facilities plan, or adjustments in the proposed sequence or timing in the phases of the development. If approved with conditions, the City Engineer shall specify whether such conditions must be met at the time of preliminary plat or construction plans approval.

20.06 Appeal

- a. The applicant may appeal the City Engineer's disapproval of the adequate facilities plan to the Commission within ten (10) days following notification thereof. The appeal shall state with specificity why the adequate facilities plan should be approved. The Commission shall approve, approve with conditions or disapprove the adequate facilities plan in accordance with the criteria in **subsection 20.07**. Such conditions may address but are not limited to matters involving conformity with the City's zoning regulations, the availability and capacity of public improvements, or the phasing of development. The Commission may require that a utility plan, drainage study, or traffic impact analysis that supports the subdivision be prepared as a condition of approval or reason for disapproval. In addition to other conditions, approval of the adequate facilities plan may be conditioned on exclusion of land from the adequate facilities plan, or adjustments in the proposed sequence or timing in the phases of the development. The Commission shall specify whether any conditions to approval must be met at the time of preliminary plat or construction plans approval.

20.07 Criteria for Approval

The following criteria apply to determine whether the adequate facilities plan shall be approved, approved with conditions, or disapproved:

- a. The adequate facilities plan is consistent with all existing or proposed zoning requirements for the property and any approved development or annexation agreements;
- b. The proposed provision and configuration of streets, water, wastewater, drainage (stormwater), sidewalk, and park facilities generally conforms to the City's master plans for such improvements;
- c. The water, wastewater, roadway, drainage, and park facilities serving the development have adequate capacity to accommodate the demands for services created by each phase of the development in accordance with the standards in **division D, section 40**;
- d. A required TIA, drainage study, and/or utility plan has been properly prepared and supports the adequacy of such facilities to serve the proposed development;
- d. The schedule of development for phased subdivisions is feasible and prudent and supports the development schedule;
- e. The location, size, and sequence of the phases of development proposed assure orderly and efficient development of the land subject to the plat;
- f. Where the proposed development is located in whole or in part in the ETJ of the City and if subject to an interlocal agreement with the County pursuant to state law, the proposed adequate facilities plan meets any County standards to be applied pursuant to the agreement.

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20.08 Effect of Approval

Approval of an adequate facilities plan authorizes the applicant to submit for approval of a preliminary plat for one or more phases of the subdivision.

Approval of the adequate facilities plan does not reserve capacity for the development. Infrastructure capacity is reserved through the approval of the construction plans.

20.09 Expiration and Extension

- a. Time of expiration. An adequate facilities plan that is approved or approved with conditions is valid for two (2) years but shall thereafter automatically expire without notice if the subdivider fails to submit and receive approval for a preliminary plat. Failure to meet said platting deadline to include where the Commission disapproves of a plat will result in the expiration of the adequate facilities plan for that and any subsequent phases of the development. If an approved preliminary plat expires, the adequate public facilities plan for that phase shall expire, and for all other phases for which a preliminary plat or final plat has not been approved, is not pending for approval or no longer remains in effect.
- b. Extension. The expiration date for any phase of the development may be extended by the Commission for a period of not more than one (1) year, provided that a request for extension is made in writing by the subdivider at least thirty (30) days before the expiration date of the adequate facilities plan. Extension of the expiration date for the phase extends the expiration date for the adequate facilities plan for a like period, including a requirement that one or more current development standards be applied to subsequent plat applications within the area subject to the adequate facilities plan.

Section 21. Platting Procedures – Preliminary Plat

21.01 Purpose

The purpose of a preliminary plat is to determine the general layout of the subdivision, the adequacy of public infrastructure needed to serve the intended development, and the overall compliance of the land division with these subdivision regulations.

21.02 Submittal Requirements

The following documents and verifications must be submitted to the Planning Director with the application for preliminary plat approval:

- (1) A copy of the approved adequate facilities plan, where required;
- (2) Documents addressing any conditions attached to the adequate facilities plan, where satisfaction of the conditions has been delayed until the time of preliminary plat approval;
- (3) Where an adequate facilities plan is not required, documentation that all pre-authorizations set forth in **subsection 10.01(b)** have been obtained; Where an adequate facilities plan is not required, a detailed statement of how the proposed subdivision will be served by water, wastewater, roadway and drainage facilities that have adequate capacity to serve the development;
- (4) A current title commitment issued by a title insurance company authorized to do business in Texas, a title opinion letter from an attorney licensed to practice in Texas, or other proof of ownership acceptable to the City, identifying all persons having an ownership interest in the property subject to the preliminary plat. KCAD records are not sufficient; and
- (5) A copy of the preliminary plat showing the scale, layout requirements, and technical standards as per the application checklist promulgated by the Director.

21.03 Commission Decision

- a. The Planning Director is the responsible official for processing preliminary plats in accordance with the procedures in, **section 10**.
- b. Both the Planning Director and the City Engineer shall submit reports to the Commission and the Commission shall thereafter approve, approve with conditions or disapprove the preliminary plat based on the criteria for approval in **subsection 21.04**.
- c. The Commission may impose such conditions on the approval of the preliminary plat as are reasonably necessary to assure compliance with the criteria in **subsection 21.04**. Such conditions may include that the applicant prepare a utility plan, drainage study, or traffic impact analysis that supports the subdivision.

d. The Commission shall specify whether such conditions must be met at the time of construction plans or final plat approval.

21.04 Criteria for Approval

The Commission shall apply the following criteria to determine whether the preliminary plat shall be approved, approved with conditions, or disapproved:

- a. The preliminary plat is consistent with all zoning requirements for the property, if the property is located within the City's limits;
- b. The proposed provision and configuration of public infrastructure including roads, streets, water, wastewater, storm drainage, park facilities and corresponding easements or other property interests are adequate to serve the subdivision and conform to the City's adopted master plans for those facilities;
- c. Where applicable, the preliminary plat is in accordance with the City's interlocal agreement with the County if the proposed subdivision is located in whole or in part in the ETJ of the City;
- d. The preliminary plat conforms to design requirements and construction standards set forth in division D of these subdivision regulations; and
- e. The proposed subdivision represented on the preliminary plat does not endanger public health, safety or welfare.

21.05 Effect

The approval of a preliminary plat authorizes the applicant to apply for approval of construction plans.

21.06 Expiration and Extension

- a. Procedures and Standards. Except as modified by this subsection, the provisions of **division B, subsection 10.08** apply to expiration and extension of preliminary plat approvals.
- b. Time of Expiration. A preliminary plat that is approved or approved with conditions is valid for a period of two (2) years following the date of approval, during which period the applicant shall submit and receive approval for construction plans for the subdivision. If applicant does not submit and receive approval for construction plans or a final plat with appropriate surety within the two (2) year period, the preliminary plat shall automatically expire without notice. A preliminary plat shall remain valid for the period of time in which approved construction plans are in effect.

21.07 Amendments to Preliminary Plat Following Approval

- a. Minor Amendments. Following approval of the preliminary plat, minor amendments may be made to the design of the subdivision by incorporating those into an application for approval of a final plat without the necessity of filing a new application for a preliminary plat. Minor amendments only include minor adjustments in street or alley alignments, lengths and paving details, and minor adjustments to lot lines that do not result in creation of additional lots or any non-conforming lots,

provided that such amendments are otherwise consistent with the approved prior plat and subdivision plan.

- b. Major Amendments. All other proposed changes to the design of the subdivision subject to an approved preliminary plat shall be deemed major amendments that require submittal and approval of a new application for approval of a preliminary plat before approval of construction plans and/or a final plat.
- c. Determination. The Planning Director shall make a determination of whether proposed amendments are deemed to be minor or major, thereby requiring new submittal of a preliminary plat.

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Section 22. Platting Procedures – Construction Plans

22.01 Purpose

The purpose of a construction plan is to assure that required public infrastructure be installed in accordance with all of the standards in **division D** of these subdivision regulations. The approval of construction plans shall also serve as capacity reservation for the infrastructure contained within said plans.

22.02 Submittal Requirements

The following documents and verifications shall be submitted with an application for approval of construction plans:

- (1) Documentation that any conditions of an approved adequate facilities plan that have been deferred to the time of construction plan approval have been satisfied;
- (2) An approved preliminary plat showing that all conditions attached to approval have been satisfied;
- (3) Any request to defer construction of required public infrastructure until after final plat approval and recordation;
- (4) If construction of required public infrastructure will occur before final plat approval and recordation, documents evidencing provision for on-site easements for utility providers and acquisition of off-site easements for placement of the improvements as required by **subsection 22.04**; and
- (5) The construction of improvements within all subdivisions and developments shall be in conformance with the City's Technical Construction Standards & Specifications (TCSS), as defined in **division D, subsection 40.02**.

22.03 Decision by City Engineer

The City Engineer is the responsible official for processing and approving construction plans. The City Engineer shall review and approve, approve with conditions, or disapprove the construction plans applying the criteria in **subsection 22.06**.

22.04 Timing of Public Improvements

- a. **Completion Prior to Final Plat Approval & Recordation.** Completion of all required public improvements, in accordance with the approved preliminary plat and the approved construction plans, shall occur prior to final plat approval and recordation. A final plat shall not be accepted for filing, nor shall it be considered for approval, prior to completion of such improvements except as provided in **subsection b.**
- b. **Completion After Final Plat Approval & Recordation.** The City Engineer, upon written request by the applicant, may allow construction of public improvements to be postponed until after final plat

approval and recordation. Such postponement shall be conditioned on execution of an improvement agreement and provision of security, in accordance with **subsection 22.05**. It shall be at the Director's discretion to determine whether postponing construction of public improvements until after final plat approval and recordation is appropriate, and therefore, whether financial guarantee is acceptable through an improvement agreement.

- c. **Deferral of Obligation.** The City Engineer may defer the subdivider's obligation to construct, public improvements to serve a subdivision upon execution of an improvement agreement and upon provision of adequate security pursuant to **subsection 22.05**.
- d. **Easements for Utility Providers.** The applicant shall secure all necessary easements for utility providers prior to construction release or final acceptance of utility infrastructure. This obligation may be attached as a condition of final plat approval if the City Engineer allows deferral of public infrastructure until after final plat approval and recordation.
- e. **Off-Site Easements.** All necessary off-site easements required for installation of required off-site public infrastructure to serve the subdivision shall be acquired by the applicant prior to construction release. This obligation may be attached as a condition of final plat approval if the City Engineer allows deferral of public infrastructure until after final plat approval and recordation. Off-site easements shall be conveyed and recorded in the County's real property records by an instrument approved by the City. If the property on which the off-site easement is required has been platted, a replat is required to dedicate the easement.

22.05 Improvement Agreement and Security for Completion

- a. **Contents of Agreement.** When construction of any of the required public infrastructure has been deferred until after final plat approval and recordation, the final plat shall not be accepted for filing, nor shall it be approved, unless and until the applicant enters into an improvement agreement with the City by which the applicant:
 - (1) agrees to complete the improvements;
 - (2) warrants the improvements for a period of two (2) years following final acceptance by the City;
 - (3) provides a maintenance bond in the amount of one hundred and ten percent (110%) of the costs of the improvements for such time period;
 - (4) provides for securing the obligations of the agreement consistent with **subsections d. and e.**; and
 - (5) contains other terms and conditions as are agreed to by the applicant and the City, or as may be required by these subdivision regulations.
- b. **Agreement to Run with the Land.** The improvement agreement shall provide that the covenants of the agreement contained therein shall run with the land and shall bind all successors, heirs, and assignees of the applicant. All existing owners shall be required to execute the agreement or provide written consent to the covenants contained in the agreement. The applicant shall record the agreement or evidence thereof in the County's real property records on a form approved by the City.

c. Decision by City Engineer. The City Engineer shall review the improvement agreement, and shall approve it, approve it with conditions, or disapprove it. The agreement shall also be reviewed and approved by the City Attorney prior to any approval by the City Engineer.

d. Security for Completion of Improvements.

(1) Type of Security. When any of the required public infrastructure will be constructed after approval and recordation of the final plat, the applicant shall guarantee his construction obligations by a letter of credit or bond executed by a surety company holding a license to do business in the State of Texas and on a form provided by the City. The performance bond shall be approved as to form by the City Attorney.

(2) Estimated Cost & Security Approval. Security shall be issued in the amount of one hundred and ten percent (110%) of the estimated cost to construct and complete all required public infrastructure to City's standards as estimated by the applicant's professional engineer and as approved by the City Engineer. Security shall be subject to the review and approval of the City Attorney.

(3) Security for Construction in ETJ. Where all or some portion of the public infrastructure will be constructed in the ETJ, the security shall be in a form and shall contain such terms as are consistent with the City's interlocal agreement with the County, where applicable. In cases where the requirements governing the form and terms of the security are defined in such interlocal agreement, they will supersede any conflicting provisions within these subdivision regulations.

e. Escrow Policies and Procedures.

(1) Request for Escrow. The City Engineer may require, or the developer may petition the City to defer required improvements in exchange for a deposit of cash funds in escrow. The City Engineer may require studies and other information to support the developer's request to escrow funds. Provisions for escrow shall be incorporated in the improvement agreement.

(2) Escrow Deposit. When the City Engineer requires or agrees to accept escrow deposits, the subdivider shall deposit funds in escrow in an amount equal to one hundred and ten percent (110%) of the total "turnkey" costs including the design, permitting, acceptance and inflation costs related to the improvement(s). The City Engineer shall review and approve the amount, which shall be approved and paid prior to approval of the final plat.

(3) City Usage of Escrowed Funds. The City may also use the escrowed funds in participation with another entity to jointly construct the public improvement(s).

(4) Termination of Escrow. Escrow funds which remain unused after a period of ten (10) years following the date of such payment shall, upon written request, be returned to the property owner. Such return of escrowed funds does not remove any obligations of the subdivider for construction of the required improvement(s).

(5) Refund. If funds deposited in escrow for a public infrastructure that is constructed by a party other than the City, the unused escrowed funds, upon written request, shall be refunded to the property owner after completion and City acceptance of the improvement.

22.06 Criteria for Approval of Construction Plans

The City Engineer shall approve the construction plans if:

- a. The plans are consistent with any deferred conditions attached to an approved adequate facilities plan;
- b. The plans are consistent with the approved preliminary plat and any conditions attached thereto;
- c. The plans conform to the standards of division D of these subdivision regulations;
- d. If construction of public infrastructure is to be undertaken before final plat approval and recordation, the applicant has provided easements for on-site and has acquired off-site utilities easements, as required by subsection 22.04;
- e. Postponing construction of public improvements until after final plat approval and recordation is appropriate, and a financial guarantee is acceptable through an improvement agreement; and
- f. If construction of public infrastructure is to be deferred until after final plat approval and recordation, the applicant has executed an improvement agreement and has posted security as required in 22.05, or the obligation to do so has been deferred until final plat approval.

22.07 Effect

Approval of construction plans authorizes the applicant to schedule a pre-construction meeting with the City in accordance with subsection 30.01 and to apply for construction release or final acceptance of utility infrastructure, in accordance with subsection 30.02. In circumstances where the obligation to construct public infrastructure has been deferred until after final plat approval and recordation, approval of construction plans authorizes the applicant to apply for final plat approval.

22.08 Expiration and Extension

- a. Procedures and Standards. Except as modified by this subsection, the provisions of subsection 10.08 apply to expiration and extension of construction plan approvals.
- b. Expiration. Construction plans that are approved remain valid for a period of one (1) year following the date of approval, during which period the applicant shall submit and receive approval for a final plat. If applicant does not submit and receive approval for a final plat for the subdivision within the one year year period, the construction plans shall automatically expire without notice. If the obligation to construct public infrastructure has been deferred until after approval and recordation of the final plat, construction plans shall remain valid for the period of time in which the final plat is in effect.

Section 23 Platting Procedures – Final Plat

23.01 Purpose

The purpose of a final plat is to ensure that the proposed subdivision and development of the land is consistent with all standards of these subdivision regulations pertaining to the adequacy of public infrastructure, that public infrastructure to serve the subdivision have been installed and accepted by the City or that provision for such installation has been made, and that all other requirements and conditions have been satisfied or provided for to authorize the recording of the final plat.

23.02 Submittal Requirements

The following documents and verifications shall be submitted to the Planning Director with the application for preliminary plat approval:

- (1) A copy of the approved preliminary plat and approved construction plans;
- (2) Documents addressing any conditions attached to the approved preliminary plat or construction plans, where satisfaction of the conditions has been delayed until the time of final plat approval;
- (3) A current title commitment issued by a title insurance company authorized to do business in Texas, a title opinion letter from an attorney licensed to practice in Texas, or other proof of ownership acceptable to the City, identifying all persons having an ownership interest in the property subject to the preliminary plat. KCAD records are not sufficient;
- (4) A copy of the final plat showing the signatures of each owner, or owner's representative authorized to sign legal documents for the owners, denoting that each owner is consenting to the platting of the property and to the dedications and covenants that may be contained in the final plat;
- (5) Where the land to be platted is located in whole or part in the ETJ of the City and if subject to an **interlocal agreement with the County pursuant to state law, the proposed plat meets any County standards to be applied pursuant to the agreement;** and
- (6) One paper bond copy of the final plat, as well as a PDF or other digital file in a format acceptable to the City of Kerrville, showing the following:
 - a. Name and location of subdivision, date the drawing was prepared, graphic scale and true north arrow;
 - b. Location map at a scale of one inch to one thousand feet;
 - c. Lot and block numbers for each lot or tract;
 - d. Certification of dedication of all rights-of-way, easements or property to be dedicated for public use, signed by the owner(s);
 - e. An agreement waiving any claim for damages against the City of Kerrville occasioned by the alteration of the surface of any portion of existing streets or alleys to conform to the grade established in the subdivision;

- f. Certification by a Registered Professional Land Surveyor, registered in the State of Texas, to the effect that the plat represents a complete and accurate survey made on the ground;
- g. If the final plat is not a minor plat, a note referencing the date of approval of the preliminary plat by the Planning Commission and its location in City records; and
- h. any other requirements as required by an application checklist as promulgated by the Director.

23.03 Commission Decision

- a. The Planning Director is the responsible official for processing final plats in accordance with the procedures in **division A, section 10**.
- b. After consideration of the Director's report and the report of the City Engineer, the Commission shall approve, approve with conditions, or disapprove the final plat based on the criteria for approval in **subsection 23.04**.
- c. If the obligation to construct public infrastructure has been deferred until after approval and recordation of the final plat, the Commission may impose such conditions on the approval of the final plat as are reasonably necessary to assure compliance with the criteria for approval in **subsection 23.04**.

23.04 Criteria for Approval of Final Plat

The following criteria shall be used by the Commission to determine whether the application for a final plat shall be approved, approved with conditions, or disapproved:

- a. The final plat conforms to the approved preliminary plat and may be approved without the necessity of revising the approved preliminary plat;
- b. All conditions imposed at the time of approval of the preliminary plat have been satisfied;
- c. Construction plans have been approved by the City Engineer;
- d. Where public infrastructure have been installed, the infrastructure conforms to the approved construction plans and have been approved for acceptance by the City Engineer;
- e. Where the City Engineer has authorized public infrastructure to be deferred, an improvement agreement has been executed and submitted by the property owner in conformity with **subsection 22.05**;
- f. The final layout of the subdivision or development meets all standards for adequacy of public infrastructure to comply with these subdivision regulations;
- g. The final plat meets all applicable County standards to be applied under an **interlocal agreement between the City and the County under Texas Local Government Code, Chapter 242**, where the

proposed subdivision is located in whole or in part in the ETJ of the City and in the applicable County; and

h. The plat conforms to design requirements and construction standards as set forth in Division D of these subdivision regulations.

23.05 Effect

The approval of a final plat supersedes any prior approved preliminary plat for the same land. The approval authorizes the applicant to install any improvements in public rights-of-way in conformance with approved construction plans and/or under an improvement agreement as provided in **subsection 22.05**.

23.06 Recordation of Plat

a. The applicant shall deliver to the Planning Director the required number of signed and executed copies of the final plat that will be needed to file the plat, upon approval, with the County.

b. After approval of the final plat, the Planning Director shall procure the requisite City approvals required on the plat.

c. The Planning Director shall record the final plat:

- (1) The final plat is approved by the Commission;
- (2) All required public infrastructure have been completed and accepted by the City, or an improvement agreement has been executed and appropriate surety provided in accordance with **subsection 22.05**.
- (3) All County filing requirements are met.
- (4) Where some of or all required public infrastructure are not yet completed in connection with an approved Final Plat, the applicant shall submit the Final Plat as approved by the Commission, revised to reflect any conditions imposed by the Commission as part of approval.
- (5) If there has been any change in ownership since the time of the proof of ownership provided under **subsection 23.02**, the applicant shall submit a new consent agreement executed by each owner consenting to the platting of the property and the dedications and covenants contained in the plat. The title commitment or title opinion letter and consent agreement shall be subject to review and approval by the City Attorney.

d. Revisions to the recorded plat may only be processed and approved as a replat or amending plat under **sections 25 or 26**, respectively.

Section 24. Platting Procedures – Minor Subdivisions

The Planning Director, after consultation with the City Engineer, may approve a minor subdivision. The approval of a minor subdivision shall be deemed to be the approval of a final plat for the subdivision, which may be recorded following approval.

24.01 Applicability.

A proposed subdivision is eligible for minor subdivision approval if it meets the following standards:

- a. The division creates four or fewer lots;
- b. Each lot abuts and takes access from a public street that is constructed to current City specifications;
- c. City's water and wastewater systems are in place adjacent to and does not require further extension each lot unless the lots are to be served by on-site water and wastewater facilities; and
- d. Drainage facilities to serve each lot have been constructed in accordance with an approved storm water drainage study for properties within the City's limits.

24.02 Submittal Requirements

An application for minor subdivision approval must be submitted to the Planning Director, together with required number of copies of the minor subdivision drawn at an adequate scale on a minimum 22"x34" sheet and shall be accompanied by the following information and documentation:

- (1) Authorization for any on-site water and wastewater facilities;
- (2) Any storm water drainage study approved for the property; and
- (3) If the street abutting the subdivision from which the lots will take access is substandard under current subdivision regulations, a waiver approved by Council authorizing approval of the subdivision without the necessity of improving the street to current standards.

24.03 Processing and Decision

- a. The procedures in **section 10**, applies to an application for minor subdivision approval.
- b. The Director shall approve the minor subdivision application if it meets the eligibility standards in **subsection 24.01** within thirty (30) days after the date the application is filed. Any such division may not create a nuisance lot. If the application does not meet the eligibility standards, the application will be disapproved within such period and an application for preliminary plat approval may be submitted for Commission decision.
- c. The Director may refer the minor subdivision application to the Commission for decision for any reason within thirty (30) days from the acceptance of the application for filing. The Commission

shall decide the application at its next regularly scheduled meeting applying the criteria in subsection b.

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Section 25. Platting Procedures – Re-Subdivision

25.01 Vacation of Prior Plat

- a. Purpose. The purpose of a plat vacation is to provide an expeditious means of vacating a previously recorded plat in its entirety, consistent with state law.
- b. Application.
 - (1) By Property Owner. The property owner of the whole tract covered by a plat may submit an application to vacate the plat at any time before any lot in the plat is sold.
 - (2) By All Lot Owners. If lots in the plat have been sold, an application to vacate the plat must be submitted by all the owners of lots in the plat.
- c. Commission Decision. The Commission, on the recommendation of the Planning Director, shall determine whether the plat is eligible for vacation and whether the plat should be vacated in whole or in part. The Commission's decision on a plat vacation is final.
- d. Recordation of Action. If the Commission determines that a plat should be vacated, it shall certify in writing that the plat vacation has been approved by the City. If the Commission adopts a resolution vacating a plat, it shall cause a revised final plat to be recorded along with the acknowledged certification which shows that portion of the original plat that has been vacated and that portion that has not been vacated. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved by the Commission and recorded in the manner prescribed for the original plat.
- e. Effect.
 - (1) On the execution and recording of the vacating instrument, a previously filed plat shall have no effect. Regardless of the Commission's action on the application, the property owner(s) or subdivider has no right to a refund of any fees paid to the City nor to the return of any property or consideration dedicated or delivered to the City.
 - (2) The City, at its discretion, shall have the right to retain all or specific portions of road rights-of-way or easements shown on the plat being considered for vacation.
 - (3) Following vacation of a plat, a new application must be filed for subdivision approval, as provided in division B of these subdivision regulations.

25.02 Replats Without Vacation of Preceding Plat

- a. Purpose and Applicability. The purpose of a replat is to allow changes to be made to all or a portion of a recorded plat without vacation of the recorded plat, if the replat:
 - (1) Is signed and acknowledged by only the owners of the property being replatted; and

(2) Does not propose to amend or remove any covenants or restrictions previously incorporated in the recorded plat.

b. Exceptions. The term "replat" for purposes of this subsection does not include the following:

- (1) a vacating plat and any plat filed after plat vacation;
- (2) platting of a remainder tract; or
- (3) an amending plat.

c. General Procedures

- (1) The Planning Director is the responsible official for processing a replat application in accordance with the procedures in division B, section 9, except as otherwise stated in this subsection 25.02.
- (2) At the required pre-application conference, the City Engineer will determine the replat requires construction of additional improvements, in which case an application for approval of construction plans shall be required in accordance with section 22.
- (3) Unless otherwise specified, an application for a replat shall be processed as a final plat application.
- (4) If a replat is submitted for only a portion of a previously platted subdivision, the replat must reference the previous subdivision name and recording information and must state on the replat the specific lots which are being changed along with a detailed statement as to the purpose of the replat.

d. Notice and Public Hearing Requirements For Certain Replats

- (1) Special notice and public hearing provisions apply to a replat application if:
 - (a) 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
 - (b) any lot in the preceding plat was limited by deed restrictions for not more than two residential units per lot.
- (2) If an applicant has received any type of waiver from City Council, the Planning Director shall cause a notice of a public hearing before the Commission to be given by:
 - (a) Publication in the City's official newspaper before the 15th day before the date of the hearing; and
 - (b) Written notice, mailed before the 10th day before the date of the hearing, including a copy of Section 212.015(c) of the Texas Local Government Code (as amended) attached, forwarded by the City to the owners of lots that are in the

original subdivision and that are within two hundred feet (200') of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision within the ETJ, the most recently approved applicable County tax roll of the property upon which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the City.

- (3) Public Hearing. The Commission shall conduct the public hearing. If a protest is received in accordance with subsection (4) before the close of the public hearing, approval or conditional approval of the replat requires an affirmative vote of at least three-fourths of the members present at the Commission hearing.
- (4) Protest. A protest triggering the requirements of subsection (3) must be signed by at least twenty (20) percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending two hundred (200) feet from that area, but within the original subdivision. In determining the percentage of land area, the area of streets and alleys shall be included.
- (5) Post-decision Notice. Following approval or conditional approval of the replat, the Planning Director shall cause written notice of the Commission's decision to be given by mail not later than fifteen (15) days after the date of approval of the replat to each owner of a lot that is within two hundred (200) feet of the replatted lots according to the most recent City or County tax roll. The notice must include the zoning designation of the property after the replat, where applicable, and a telephone number and e-mail address an owner of a lot may use to contact the City about the replat.

e. Effect. Following Commission approval of the replat application and recording of the replat, the replat is controlling over the previously recorded plat for the portion replatted.

Section 26. Platting Procedures - Amending Plat

26.01 Purpose and Applicability

- a. Purpose. The purpose of an Amending Plat shall be to provide an expeditious means of making minor revisions to a previously recorded plat.
- b. Applicability. The procedures for an amending plat shall apply only if the sole purpose is to achieve one or more of the following:
 - (1) Correct an error in a course or distance shown on the preceding plat;
 - (2) Add a course or distance that was omitted on the preceding plat;
 - (3) Correct an error in a real property description shown on the preceding plat;
 - (4) Indicate monuments set after the death, disability or retirement from practice of the engineer or surveyor responsible for setting monuments;
 - (5) Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
 - (6) Correct any other type of scrivener or clerical error or omission on a plat previously approved by the City including lot numbers, acreage, street names, and identification of adjacent recorded plats;
 - (7) Correct an error in courses and distances of lot lines between two adjacent lots if:
 - (a) Both lot owners join in the application for amending the plat;
 - (b) Neither lot is abolished;
 - (c) The amendment does not attempt to remove recorded covenants or restrictions; and
 - (d) The amendment does not have a material adverse effect on the property rights of the other owners in the plat;
 - (8) Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
 - (9) Relocate one or more lot lines between one or more adjacent lots if:
 - (a) The owners of all those lots join in the application for amending the plat;
 - (b) The amendment does not attempt to remove recorded covenants or restrictions; and

- (c) The amendment does not increase the number of lots;
- (10) 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 City;
 - (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 has approved, after a public hearing, as a residential improvement area; or
- (11) 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.

26.02 Submittal Requirements

The applicant for an amending plat shall identify the matters under subsection 26.01.b. for which an amending plan is sought and shall submit documentation sufficient to show that the application meets the standards set forth therein.

26.03 Decision by Director

- a. The approval and issuance of an amending plat shall not require notice, hearing or approval of other lot owners.
- b. The provisions in section 10, apply to an amending plat.
- c. The Director, in consultation with the City Engineer, shall approve the amending plat, approve the amending plat with conditions or disapprove the amending plat in accordance with the criteria in subsection 26.05.

26.04 Appeal

An applicant may appeal the Director's disapproval of the amending plat to the Commission within ten (10) days following notification thereof. The appeal shall state with specificity why the amending plat should be approved. The Commission shall approve the amending plat, approve

the amending plat with conditions, or disapprove the amending plat in accordance with the criteria in subsection 26.05.

26.05 Criteria for Approval

The following criteria shall be used to determine whether the amending plat shall be approved, approved with conditions, or disapproved:

- a. For each ground for which the applicant seeks approval for an amending plat, the eligibility requirement stated in subsection 26.01.b. have been met; and
- b. The plat otherwise meets the requirements of division D of these subdivision regulations.

26.06 Effect and Recordation

Upon approval, an amending plat shall be recorded and is controlling over the previously recorded plat without vacation of that plat. The procedures for recordation of an amending plat shall be the same as the procedures for recordation of a final plat.

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Section 27. Relief Procedures – Waivers

City Council may authorize major waivers from these subdivision regulations upon a request by an applicant. The Planning Director may authorize minor waivers.

27.01 Request for Waiver

Prior to any application for plat or subdivision plan approval, an applicant who seeks a major waiver, as defined below, to the standards in these subdivision regulations shall submit the request for the waiver(s) to the Planning Director for consideration by City Council. The request must be accompanied by a detailed statement of the reasons for the waiver and addressing the criteria for approval of the request, together with a schematic showing the plat or subdivision plan with and without the waiver. No application for plat or subdivision approval shall be accepted for filing until Council has acted upon the waiver request. Any waiver request that is based upon the alleged disproportionate costs of dedicating land, construction, or payment of fees for a public infrastructure will be classified as an appeal of a rough proportionality determination and processed under **Section 28**.

Determinations on request for waivers will be handled in the following manner:

- a. Minor Waivers. Request for waivers that will be considered minor amendments to the subdivision regulations may only include minor adjustments in street or alley alignments, and lengths, and minor adjustments to lot lines that do not result in creation of additional lots or any non-conforming lots, provided that such amendments are consistent with applicable approved prior plats and subdivision plans. Minor waivers may be approved by the Planning Director. However, if the plat or subdivision plan goes to the Commission, then the waiver shall be decided in the Commission's report with the recommendation of the Planning Director.
- b. Major Waivers. All other proposed changes that do not meet the criteria to be a minor waiver to the subdivision regulations shall be deemed major amendments that require approval of the major waiver by City Council.

27.02 Criteria for Approval of Waiver

- a. In deciding a major waiver request, Council shall consider the hardship of the applicant in complying with the standards for which the waiver is sought, the nature of the proposed use of land involved and existing uses of the land in the vicinity, and the probable effect of such waivers upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity. No major waiver will be granted unless Council finds that:
 - (1) There are special circumstances or conditions affecting the land to be platted such that the strict application of the provisions of these subdivision regulations would result in unnecessary hardship to the applicant, and/or the waiver accomplishes one of the following:
 - (a) to preserve environmental features that would be otherwise be affected by a strict application of these regulations, including but not limited to tree preservation, geologic formations, steep slopes, springs, or similar conditions;

- (b) to enable more efficient use of the land;
- (c) to minimize or correct previous adverse effects from placement of drainage courses, transmission lines, or septic systems; or
- (d) to enable orientation of lots for greater solar advantage; and

- (2) The granting of the waiver will not be detrimental to the public health, safety, general welfare, or injurious to other property in the area; and
- (3) The granting of the waiver will not have the effect of preventing the orderly subdivision of other land in the area in accordance with these subdivision regulations.

- b. The Planning Director or the Commission may grant a minor waiver utilizing the criteria in subsection 27.01(a).
- c. No waiver shall be granted that would constitute a violation of City law.

27.03 Decision and Effect

Council or the Planning Director, as the case may be, shall provide the applicant with its written decision on the waiver request. Where Council grants a waiver, the applicant is authorized to submit an application for plat or subdivision plan approval that incorporates the waiver(s), which shall not be altered by the decision-maker on the application.

Section 28. Relief Procedures – Rough Proportionality Appeal

28.01 Purpose and Applicability

- a. Purpose. The purpose of a proportionality appeal is to assure that a requirement to dedicate, construct, or pay a fee for a public infrastructure imposed on a proposed plat or subdivision plan application as a condition of approval does not result in a disproportionate cost burden on the property owner, taking into consideration the nature and extent of the demands created by the proposed development on the City's public facilities systems.
- b. Applicability. The proportionality determination by the City Engineer and any appeals therefrom apply solely to the dedication of land for, the construction of, or the payment of fees for a public infrastructure that serves developments in addition to the subdivision which is the subject of the determination or appeal. The standards for on-site public infrastructure set forth in these subdivision regulations are hereby deemed to be the minimum standards required to supply the development with services from the City's public facilities systems.

28.02 Proportionality Determination by City Engineer

Following approval of construction plans and prior to any construction of improvements, or prior to a decision by the Commission on a final plat application where the obligation to construct improvements has been deferred until after final plat approval, the City Engineer shall prepare a report (the "Report") affirming that each required dedication of land for, construction of, or payment of fees for a public infrastructure is roughly proportionate to the City's costs required to supply services to the subdivision from its public facilities systems, taking into consideration the nature and extent of the development proposed.

- a. In drafting the Report, the City Engineer may rely upon categorical findings pertaining to on-site improvements; the proposed or potential use of the land; the timing and sequence of development in relation to availability of adequate levels of public facilities systems; the effects of development of subsequent phases of the subdivision or of a remainder tract on the City's public facilities systems; impact fee studies or other studies that measure the demand for services created by the development and the cost impacts on the City's public facilities systems; standardized land values or construction costs; the function of the public infrastructure in serving the proposed development; the degree to which public infrastructure to serve the subdivision are supplied by other developments; the anticipated participation by the City in the costs of such infrastructure; any reimbursements for the costs of public infrastructure for which the proposed development is eligible; or any other information relating to the mitigating effects of the public infrastructure on the impacts created by the development on the City's public facilities systems.
- b. The City Engineer is authorized to adopt any application requirements that may assist in drafting the Report.
- c. The City Engineer shall the Report to the applicant.
- d. If the City Engineer determines that the costs of the dedication of land for, construction of, or fees for public infrastructure is not roughly proportionate to the costs necessary for the City to provide services to the subdivision from its public facilities systems, he or she shall present City Council

with a proposed agreement pursuant to which the City will participate in the costs of such public infrastructure.

- e. City Council shall approve, reject, or modify the participation agreement. In lieu of entering into a participation agreement, Council may determine to eliminate or lessen the requirements for dedication of land for, or construction of, the public infrastructure. In such case, Council's determination shall be reflected in the Commission's decision on the final plat application.

28.03 Appeals

An applicant may appeal the City Engineer's Report to City Council.

- a. Time for Filing and Stay of Construction or Applications. The appeal shall be filed in writing within fifteen (15) days following the receipt of the City Engineer's Report. The appeal shall be filed with the City Secretary and shall be forwarded to City Council for consideration. The applicant may not proceed with construction of improvements or submit an application for final plat approval until Council has decided the appeal.
- b. Form of Appeal. An appeal under this section shall allege that the costs of the required dedication of land for, construction of, or payment of fees for public infrastructure is not roughly proportionate to the City's costs in supplying the subdivision with services from its public facilities system, or does not reasonably benefit the subdivision. The applicant must specifically allege what applicant asserts to be proportionate in the appeal.
- c. Study Required. The appellant shall provide a study in support of the appeal that includes the following information within thirty (30) days following the date the appeal is filed, unless a longer time is requested:
 - (1) As a threshold matter, the study must demonstrate that the public infrastructure at issue serve developments in addition to the subdivision which is the subject of the appeal.
 - (2) Total capacity of the City's water, wastewater, streets, drainage, or park facilities to be utilized by the proposed development, employing standard measures of capacity and equivalency tables relating the type of development proposed to the quantity of public facilities systems capacity to be consumed by the development. If the proposed subdivision is to be developed in phases, such information also shall be provided for the entire development proposed, including any phases already developed.
 - (3) Total capacity to be supplied to the City's water, wastewater, streets, drainage, or park facilities by the dedication of land for, construction, or payment of fees for public infrastructure and the associated costs. If the plat application is proposed as a phased development, the information shall include the costs of any capacity supplied by prior dedication of land for, construction of, payment of fees for public infrastructure.
 - (4) Comparison of the capacity of the City's public facilities systems to be consumed by the proposed development with the capacity to be supplied to such systems by the proposed dedication of land for, construction of, or payment of fees for the public infrastructure.

In making this comparison, the impacts on the City's public facilities systems from the entire development shall be considered.

- (5) The amount of any City participation in the costs of oversizing the public infrastructure to be constructed in accordance with the City's requirements.
- (6) Any other information that shows the alleged disproportionality between the impacts created by the proposed subdivision and the dedication, construction or fee requirement imposed by the City.

d. Land in Extraterritorial Jurisdiction. Where the subdivision or the public infrastructure are located in the extraterritorial jurisdiction of the City and are to be dedicated to a County under any interlocal agreement, an appeal or study in support of the appeal shall not be accepted as complete for filing by the City Engineer unless the appeal and subsequent study are accompanied by verification that a copy has been delivered to the County.

e. Processing Application.

- (1) Responsible Official. The City Engineer is the responsible official for evaluation and processing of an appeal under this section. Where the appeal is for relief from dedication of an easement or other property interest for or construction of a facility in the City's extraterritorial jurisdiction that is to be dedicated to a County under any interlocal agreement, the City Engineer shall coordinate a recommendation with the County.
- (2) Evaluation and Recommendation. The City Engineer shall evaluate the appeal and supporting study and shall make a recommendation to City Council based upon the information contained in the study, any comments received from the County, and the City Engineer's Report. The City Engineer's recommendation shall present the City's costs of supplying the subdivision with services from its public facilities systems in comparison to the costs attributed to the subdivision by the proportionality determination.

f. Decision. City Council shall decide the appeal. Council shall base its decision on the criteria listed in subsection g. and may take one of the following actions:

- (1) Deny the appeal and affirm the required dedication of land for, construction of, or payment of fees for the public infrastructure in accordance with the City Engineer's Report;
- (2) Grant the appeal and waive in whole or in part any dedication of land for, construction of, or payment of fees for the public infrastructure to the extent necessary to achieve rough proportionality; or
- (3) Grant the appeal and direct that the City participate in the costs of acquiring land for or constructing the public infrastructure under standard participation policies; or

If the appeal is granted in whole or in part, the Commission's decision on the final plat application shall reflect Council's action on the appeal.

g. Criteria for Approval. In deciding an appeal under this section, City Council shall determine whether the application of the standard or condition requiring dedication of land for, construction of, or payment of a fee for public infrastructure is roughly proportionate to the City's costs of supplying services to the subdivision from its public facilities systems for water, wastewater, streets, drainage, or park facilities, and reasonably benefits the development. In making such determination, the Council shall consider the evidence submitted by the appellant, the City Engineer's Report, and, where the property or the public infrastructure is located within the City's extraterritorial jurisdiction, any recommendations from the County.

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Section 29. Relief Procedures – Vested Rights Determination and Appeal

29.01 Vested Rights Petition

- a. Purpose. The purpose of a vested rights petition is to determine whether one or more standards of these subdivision regulations should not be applied to a plat or subdivision plan application by operation of state law.
- b. Applicability. A vested rights petition may be filed and must be decided prior to submittal of a plat or subdivision plan application. A petitioner may elect to request a decision on all required plat or subdivision plan applications simultaneously.
- c. Effect. Upon granting of a vested rights petition in whole or in part, the plat or subdivision plan application shall be decided in accordance with the standards specified in the relief order based on prior subdivision requirements.
- d. Exceptions. The procedures in **division B** of these regulations are not subject to a vested rights petition, nor are the submittal requirements for plat or subdivision plan applications.

29.02 Petition Requirements

- a. Who May Petition. A vested rights petition may be filed by a property owner or the owner's authorized agents, including the applicant, with a master, preliminary, or final plat application.
- b. Form of Petition. The vested rights petition must allege that the petitioner has a vested right for some or all of the land subject to the plat application under Chapter 245, Texas Local Government Code or pursuant to Section 43.002, Texas Local Government Code, that requires the City to review and decide the application under standards in effect prior to the effective date of the currently applicable standards. The petition must include the following information and documents:
 - (1) A narrative description of the grounds for the petition;
 - (2) A copy of each approved or pending development application which is the basis for the contention that the City may not apply current standards to the plat or subdivision plan application which is the subject of the petition;
 - (3) Documentation reflecting the original date of submittal of the prior application or development plan which is claimed as the basis for vesting;
 - (4) The date the project defined by the prior application or development plan was commenced.
 - (5) Identification of all standards otherwise applicable to the application(s) from which relief is sought;
 - (6) Identification of the standards which the petitioner contends apply to the plat or subdivision plan application;

- (7) Identification of any current standards which petitioner agrees can be applied to the application(s) at issue; and
- (8) A copy of any prior vested rights determination by the City involving the same land.

29.03 Processing of Petition and Decision

- a. Responsible Official. The Planning Director shall process the vested rights petition and shall forward a copy to the City Attorney following receipt of the petition.
- b. Decision by Director. The Planning Director shall render an initial decision on the vested rights petition.
- c. Appeal of Decision. The petitioner may appeal the Commission's decision on the vested rights petition within ten (10) days following the date of such decision to City Council.
- d. Decision by Council. Council on appeal shall decide the vested rights petition.

29.04 Form of Action on Petition

The decision-maker on the vested rights petition may take any of the following actions:

- a. Deny the relief requested in the petition and direct that the plat or subdivision plan application(s) be reviewed and decided under currently applicable standards;
- b. Grant the relief requested in the petition and direct that the plat or subdivision plan application be reviewed and decided in accordance with the standards contained in the identified prior subdivision regulations or other than applicable exceptions identified in **subsection 29.01.d.**; or
- c. Grant the relief requested in part and direct that certain identified current standards shall be applied to the plat application, while other standards contained in prior subdivision regulations also shall be applied.

29.05 Order on Petition

The decision on the petition shall be memorialized in an order stating the following:

- a. The nature of the relief granted, if any;
- b. The application(s) or development plan(s) which is the basis for any vesting determination;
- c. Current standards which shall apply to the plat or subdivision plan application for which relief is sought;
- d. Prior subdivision standards which shall apply to the plat application for which relief is sought; and

- e. The statutory exception or other grounds upon which relief is denied in whole or in part on the petition.

29.06 Criteria for Approval

The decision-maker shall decide the vested rights petition based upon the following factors:

- a. The nature and extent of prior applications or development plans filed or approved for the land subject to the petition;
- b. Whether any prior vested rights determinations have been made with respect to the property subject to the petition;
- c. Whether any prior approved applications for the property have expired or have been terminated in accordance with law;
- d. Whether any statutory exception to vesting applies to the standards in the current subdivision regulations from which the applicant seeks relief; and
- e. Whether the project defined by a prior application(s) has expired.

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Section 30. Construction Management of public infrastructure

30.01 Pre-Construction Conference

- a. Purpose. The purpose of the pre-construction conference is to discuss procedures for project construction prior to construction release under **subsection 30.02**. The City Engineer may furnish a list of typical inspection items, procedures, and acceptance criteria for public infrastructure within public right-of-way and easements to the applicant.
- b. Requirement and Effect. Following approval of construction plans and prior to commencement of any construction of public infrastructure, the subdivider, his engineer(s) and contractors shall attend a pre-construction conference with the City Engineer. Following the pre-construction conference, the subdivider may request construction release, as provided in **subsection 30.02**

30.02 Construction Release

Following approval of construction plans and fulfillment of any conditions thereto, the City Engineer shall release the plans for commencement of construction of the public infrastructure. The construction release will remain in effect as long as the construction plans are in effect. If the obligation to construct public infrastructure has been deferred, the City Engineer shall release plans for commencement of construction following approval of the final plat, fulfillment of any conditions thereto, and following recordation of the final plat. No construction release shall be issued until after a pre-construction conference has been held pursuant to **subsection 30.01**.

30.03 Inspections

- a. The City Engineer or designee shall inspect the construction of public infrastructure while in progress, as well as upon completion. The subdivider, or his contractor, shall maintain contact with the City Engineer or designee during construction of improvements.
- b. Construction shall be in accordance with the approved Construction Plans. Any significant change in design required during construction shall be made by the applicant's engineer and shall be subject to approval by the City Engineer.
- c. If the City Engineer or designee finds, upon inspection, that any of the required public infrastructure have not been constructed properly and in accordance with the approved construction plans, the applicant shall be responsible for completing and/or correcting the public infrastructure to bring such into compliance.

30.04 Maintenance During Construction

The subdivider shall maintain all required public infrastructure during construction of the development.

30.05 Acceptance of Improvements

- a. Responsible Official. The City Engineer shall be responsible for accepting completed public infrastructure intended for dedication to the City.

- b. Final Inspection. After completion of all public infrastructure, franchise utilities, grading, and erosion control, the City Engineer and other designated representatives will perform a final inspection before recommending acceptance of the infrastructure.
- c. Letter of Final Acceptance. When all public infrastructure have been completed, inspected, tested (if applicable), and determined by the City Engineer or designee to be in conformance with the approved construction plans and the standards and specifications in **division D** of these subdivision regulations, and when all required documents associated with acceptance of the new improvements, including maintenance bonds, contractors' affidavits of final payment and release, record drawings, etc., have been submitted to the City, the City Engineer shall issue a Letter of Final Acceptance to the subdivider.
- d. Effect. Acceptance of the improvements shall mean that the applicant has transferred all rights to all the public infrastructure to the City for title, use, and maintenance.
- e. Rejection. The City shall reject the infrastructure that fails to comply with the City's standards and specifications. The City shall enforce the guarantee provided by the improvement agreement.
- f. Disclaimer. Approval of a preliminary plat or final plat by the Commission, or construction plans by the City Engineer, shall not constitute acceptance of any of the public infrastructure required to serve the subdivision. No public infrastructure shall be accepted for dedication by the City except in accordance with this **Section 30.**
- g. Acceptance of Improvements for Land in Extraterritorial Jurisdiction (ETJ). Where the improvements to be constructed under an improvement agreement are located within the ETJ and are to be dedicated to the County, the City Engineer shall inform the County that the public infrastructure have been constructed in accordance with approved construction plans and are ready for acceptance by the County.
- h. Maintenance Bond for Accepted Improvements. The subdivider shall furnish the City Engineer with a sufficient maintenance bond with a reputable and solvent corporate surety registered with the State of Texas, in favor of the City, to indemnify the City against any repairs. The bond shall be in effect for one (1) year from the date of final acceptance of all public infrastructure. The bond shall be a minimum of one hundred and ten percent (110%) of the value of the work constructed. Final acceptance shall be withheld until said maintenance bond is furnished to the City in a form acceptable by the City Attorney. Once the maintenance bond has been examined and approved by the City Attorney, the City Attorney shall certify the bond is valid and enforceable prior to recommending acceptance by the City Engineer.

Division D. Subdivision Improvements and Design Standards

Section 40. Adequate Public Facilities and Infrastructure

40.01 Policy

Land proposed for subdivision or development in the City and in the City's extraterritorial jurisdiction must be served adequately by essential public facilities and services, including water facilities, wastewater facilities, roadway and pedestrian facilities, drainage facilities and park facilities. Land shall not be approved for platting or development unless and until adequate public facilities necessary to serve the development exist or provision has been made for the facilities, whether the facilities are to be located within the property being developed or off-site.

- a. New development must be supported by adequate levels of public facilities and services.
- b. It is necessary and desirable to require dedication of rights-of-way and easements for public infrastructure improvements, and in some cases to require construction of such improvements to support new subdivisions.
- c. There is an essential nexus between the demand on public facilities systems created by a new development and the requirement to dedicate rights-of-way and easements and to construct capital improvements to offset such impacts.
- d. The City desires to assure both that development impacts are mitigated through contributions of rights-of-way, easements and construction of public infrastructure improvements, and that a subdivision contributes not more than its proportionate share of such costs.

40.02 Conformance to Plans and Specifications

- a. Proposed public infrastructure improvements serving new subdivisions shall conform to and be properly related to the City's master plans for public facilities and services, and applicable capital improvements plans, and shall meet the service levels specified in such plans.
- b. The construction of improvements within all subdivisions and developments shall be in conformance with the City's Technical Construction Standards & Specifications (TCSS), as amended, and any component or portion of the TCSS may be further amended by the City Engineer from time to time. The TCSS includes technical design and construction standards, specifications, documents and regulations that apply to all developments and redevelopments, together with all associated tables, drawings and other attachments and all such components of the TCSS may also be further amended from time to time. All City standards described or referred to in these regulations are adopted by reference and are a part of these regulations in the same way as if they were set forth at length herein, and they include (but are not be limited to) the most current versions of the following:
 - (1) The "Standard Specifications for Subdivision Construction";
 - (2) The "Design Manual for Storm Drainage Facilities";
 - (3) Stormwater Master Plan

(4) (Geodetic Control Network/GCN?);
(5) Thoroughfare Plan;
(6) Fire Codes;
(7) Building Codes;
(8) Water and Wastewater Master Plans;
(9) Parks Master Plans;
(10) Bicycle Plan;
(11) River Trail Master Plan;
(12) Sidewalk Master Plan;
(13) or other city master plans as adopted.

40.03 Adequacy of Specific Facilities

a. Water. All lots, tracts and parcels of a proposed subdivision 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 City may require the phasing of development and/or improvements in order to maintain adequate water capacity. Additional standards and requirements are defined in section 41.

b. Wastewater. All lots, tracts and parcels of a proposed subdivision shall be served by an approved means of wastewater collection and treatment. The City Engineer shall be responsible for determining the approved means of wastewater collection and treatment. The City may require the phasing of development and/or improvements in order to maintain adequate wastewater capacity. Additional standards and requirements are defined in section 42.

c. Roads. Roads serving a proposed subdivision shall provide a safe, convenient and functional system for vehicular circulation, and shall be properly related to the applicable Thoroughfare Plan, and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision. New subdivisions shall be supported by a thoroughfare network having adequate capacity, and safe and efficient traffic circulation. Each development shall have adequate access to the thoroughfare network. The City may require the phasing of development and/or improvements in order to maintain adequate road capacity. Additional standards and requirements are defined in section 43.

d. Drainage and Flood Control. Drainage improvements serving a proposed subdivision shall accommodate potential runoff from the entire property drainage area under fully developed conditions, and shall be designed to prevent overloading the capacity of the downstream drainage system or under-designed potentially causing flooding upstream. The City may require the phasing of development, the use of control methods such as retention or detention, and/or the construction of off-site drainage improvements in order to mitigate the impacts of the proposed subdivision. Additional standards and requirements are defined in sections 44 and section 45.

e. Parks. All lots, tracts and parcels of a proposed subdivision shall be served by public parks that provide a variety of outdoor recreational opportunities, and are located according to the **Parks Master Plan**.

This requirement shall be satisfied either by dedication of park land or by payment of fees in lieu thereof at the time of final plat approval, as per section 46.

40.04 City Options

In order to maintain prescribed levels of public facilities and services for the health, safety and general welfare of its citizens, the City may require the dedication of easements and rights-of-way for or construction of on-site or off-site public infrastructure improvements for water, wastewater, road, drainage and/or park facilities to serve a proposed subdivision, or may require the payment of fees in lieu thereof. If adequate levels of public facilities and services cannot be provided concurrent with the schedule of development proposed, the City may deny a plat or subdivision plan application until the public facilities and services can be provided, or may require that the development be phased so that the delivery of facilities and services coincides with the demands for the facilities created by the development.

40.05 Property Owner's Obligation

- a. Dedication and Construction of Improvements. The developer shall dedicate all rights-of-way and easements for, and shall construct at developer's expense, capital improvements within the rights-of-way and easements for those water, wastewater, road and drainage improvements needed to adequately serve a proposed development consistent with the applicable adopted City master plans, whether the facilities are located on, adjacent to or outside the boundaries of the property being developed.

All streets, utilities, and other public improvements within the City limits shall become the property of the City of Kerrville upon completion and acceptance. The developer, at developer's expense, shall extend all water mains, sewer lines, other utilities and streets across a property's full frontage, or as approved by the City Engineer, and to the outer boundaries of the subdivision for future connections and use beyond the subdivision. The ability to tap into, and utilize, City water and sewer services will become available only when a public utility main exists or is constructed across the full property frontage, and future connection point(s) shall be located such that future extension(s) are easily made. If water and/or sewer main(s) are across developer's private property, an easement(s) shall be provided to abutting property line with no gaps such that the main can be easily extended.

- b. Adjacent Road Improvements. In the case of adjacent or abutting roads (along and parallel to the property line), the City shall require that the one half (1/2) the entire width of the right-of-way be dedicated and improved to City design standards, depending on factors such as the impact of the development on the road, the timing of development in relation to need for the road, and the likelihood that adjoining property will develop in a timely manner. In the case of frontage or service roads for state and federally designated highways, the entire abutting right-of-way, for the frontage or service road, shall be dedicated and improved to applicable design standards.
- c. Substandard Road Improvements. Notwithstanding any other provision within these subdivision regulations, where an existing road that does not meet the City's right-of-way or design standards abuts a proposed subdivision, the City may require the property owner to dedicate part or all of the right-of-way for the improvement of the road to its ultimate planned width, and to improve the street according to the dimensions and specifications in the applicable thoroughfare plan, depending on factors such as the impact of the development on the thoroughfare, the timing of development in

relation to the need for the thoroughfare, and the likelihood that adjoining property will develop in a timely manner.

- d. Facilities Impact Studies. The City may require that a property owner prepare a comprehensive traffic impact analysis (TIA) study, drainage study and/or other public facilities study(s) in order to assist the City in determining whether a proposed development will be supported with adequate levels of public facilities and services concurrent with the demand for the facilities created by the subdivision. The study(s) shall identify at a minimum the adequacy of existing facilities and the nature and extent of any deficiencies, and the public infrastructure improvements that will be needed to meet the facilities' established levels of service assuming development at the intensity proposed in the subdivision application. The study(s) shall be subject to approval by the City Engineer.
- e. Proportionality. The requirements in this section are subject to a proportionality determination by the City Engineer and subsequent appeal, as provided in Section 28.

40.06 Timing of Dedication and Construction

- a. Initial Provision for Dedication or Construction. The City shall require an initial demonstration that a proposed development shall be adequately served by public facilities and services at the time for approval of the first development application that portrays a specific plan of development, including but not limited to a petition for establishing a planned development zoning district, or other overlay zoning district; a petition for an annexation agreement or a development agreement; an application for a subdivision master plat, or an application for a preliminary or final subdivision plat. As a condition of approval of the development application, the City may require provision for dedication of rights-of-way or easements for, and construction of, capital improvements to serve the proposed development.
- b. Deferral of Obligation. The obligation to dedicate rights-of-way for and/or to construct one or more public infrastructure improvements to serve a proposed subdivision may be deferred until approval of a subsequent stage of subdivision approval, or until approval of a subsequent phase of the subdivision, at the sole discretion of the City Engineer, upon written request of the subdivider, or at the City's own initiative. As a condition of deferring the obligation, the City may require that the developer enter into a public infrastructure improvements agreement, specifying the time for dedication of rights-of-way for or construction of public infrastructure improvements serving the subdivision.

Section 41. Water Improvements

41.01 Water Supply System

- a. Water mains properly connected with the City water distribution system, or with an alternate supply approved by the City Engineer, shall be constructed to adequately serve all lots shown on the subdivision plat for both domestic use and shall meet Fire Code requirements for fire protection. The sizes of water mains, the location and types of valves, hydrants and appurtenances, the amount of soil cover over the pipes and other features of the installation shall be approved by the City Engineer and, and shall conform with the City's latest adopted edition Technical Standards & Specifications (TCSS), as amended.

- b. A proposed development or subdivision shall tie onto the City's public water system, at the developer's expense, if any part of the property or subdivision is located within two thousand (2,000) feet away from the nearest City-owned water main.
- c. When it is necessary to relocate, oversize, or replace an existing public water facility to accommodate a proposed subdivision, the developer is responsible for all costs associated therewith (unless the City agrees to participate in oversizing the facility).

Section 42. Wastewater Improvements

42.01 Sanitary Sewer System

- a. Sanitary sewers shall be installed in such a manner to adequately serve all lots with connection to the public system. The sizes of wastewater mains, the location and types of manholes and appurtenances, the amount of soil cover over the pipes and other features of the installation shall be approved by the City Engineer and, and shall conform with the City's latest adopted edition Technical Standards & Specifications (TCSS), as amended.
- b. A proposed development or subdivision shall tie onto the City's public sanitary sewer system, at the developer's expense, if any part of it is located within two thousand (2,000) feet away from the nearest City-owned sewer line.
- c. When it is necessary to relocate, oversize, or replace an existing public wastewater facility to accommodate a proposed subdivision, the developer is responsible for all costs associated therewith (unless the City agrees to participate in oversizing the facility).

Section 43. Thoroughfare and Street Improvements

43.01 Conformity to Thoroughfare Plans.

The general location, connections, and width of all streets and roads shall conform to the City's Thoroughfare Plan.

43.02 Relation to Adjoining Street System

- a. A proposed street system shall extend existing stubbed streets from adjacent properties at the same or greater right-of-way and paving widths, but in no case less than the required minimum widths.

43.03 Additional Width of Existing Streets,

Subdivisions that adjoin existing streets shall dedicate additional right-of-way to meet the minimum street requirements shown in section 40.04 below.

- a. The entire right-of-way shall be provided where any part of the subdivision is on both sides of the existing street.
- b. When the subdivision is located on only one side of an existing street, one-half of the required right-of-way measured from the centerline of the existing roadway, shall be provided. In no case shall the resulting right-of-way width be less than fifty (50) feet.

43.04 Street Right-of-Way Widths.

The minimum width of street rights-of-way, measured from lot line to lot line, shall be as shown on the Thoroughfare Plan.

43.05 Cul-De-Sacs

- a. City streets that are designed to have one end permanently closed shall be no more than six hundred (600) feet long unless longer length is necessitated by topography or other pre-existing natural feature (1,200-foot maximum length unless a waiver is granted by City Council in accordance with **section 27**). At the closed end, cul-de-sacs shall be provided with a permanent turn-around having an outside roadway pavement diameter that meets the City's Fire Code and a street right-of-way diameter that extends a minimum of ten (10) feet beyond the paving around the turnaround bulb.
 - a. A minor waiver for residential cul-de-sacs over 600' may be granted by Director or P&Z, as per **Section 27**, up to 1200' maximum length or sixty (60) lots, whichever is less.
 - b. A minor waiver for non-residential cul-de-sacs over 600' may be granted by Director or P&Z, as per **Section 27**, and subject to the Fire Department Fire Marshal's recommendation.
- b. street access to adjoining property is required unless necessitated by topography or other pre-existing natural feature. Proposed cul-de-sac streets shall be extended by right of way dedication to the boundary of such property with abutting (i.e., contiguous) width of at least the same width of the street segment for future extension.
- c. Temporary dead-end streets (1,200-foot maximum length unless a waiver is granted by City Council in accordance with **section 27**) shall be provided with a paved temporary turn-around having an outside roadway pavement diameter that meets the City's Fire Code, which shall be placed within a recorded "temporary street easement" (typically by separate instrument for ease of abandonment when the street is extended). Paving type(s) that can be used for temporary turnarounds shall be as determined by the adopted Fire Code. Permanent dead-end streets without a permanent cul-de-sac bulb are prohibited.
- d. Streets which temporarily dead end at power lines, railroads or similar rights-of-way or easements shall be constructed for at least one-half the distance across these rights-of-way or easement or to the property boundary. Written permission from the utility, railroad or other entity that owns the easement or right-of-way being crossed shall be submitted to the City prior to preliminary plat approval.

e. For any temporary dead-end street, a note shall be clearly placed on the final plat stating that the street will be extended with future development, and such dead-end streets shall have a sign prominently posted at the terminus of the street to provide notice that the street will be extended in the future.

43.06 Topographic Restrictions.

In cases where topography or other physical conditions make a street of the required minimum width, cul-de-sac length, and/or street grade impracticable, the Planning and Zoning Commission may modify the above requirements at the time of preliminary plat approval as described in section 27.

43.07 Restriction of Access.

When a tract fronts on an arterial street or highway, the Planning and Zoning Commission may require such lots to be provided with frontage on a marginal access street having a minimum right-of-way and paving width as set forth in section 24.

43.08 Reserve Strips.

There shall be no reserve strips (i.e., where a strip of property separates a development from another property to prevent street or utility extensions into or out of it) controlling access to streets or utility, except where the control of such strips is definitely placed with the City under conditions approved by the Planning and Zoning Commission.

43.09 Intersections.

Proposed streets shall align with existing streets at intersections. Street intersections shall be as nearly at right angles as is possible, and no intersection shall be at an angle of less than 75 degrees for a principal or secondary arterial, or 75 degrees for a collector or local street (unless a lesser angle is granted a waiver by City Council in accordance with section 27). Corner property line radii at street intersections shall not be less than twenty-five (25) feet or as required by Fire Code, and where the angle of street intersection is less than seventy-five (75) degrees the Planning and Zoning Commission may require a greater curb radius at the time of preliminary plat approval. Wherever it is necessary to allow the construction of a curb having a desirable radius without curtailing the sidewalk at a street corner to less than normal width, the property line at such street corner shall be rounded or otherwise set back sufficiently to accommodate such construction.

43.10 Street Jogs.

Street jogs with centerline offsets of less than one hundred fifty (150) feet shall only be allowed if approved by the City Engineer.

43.11 Minimum Pavement Widths.

Minimum pavement widths from back of curb to back of curb for each type of street shall be as set forth in the City's Thoroughfare Plan and City's Technical Construction Standards & Specifications (TCSS), as amended, unless a waiver is granted by City Council in accordance with section 27.

43.12 Pavement.

Excavation, embankment, compaction, preparation of sub-grade, flexible base, and surfacing shall be in compliance with the City's Technical Standards & Specifications (TCSS), as amended.

43.13 Curb and Gutters.

The developer shall provide permanent reinforced concrete curbs and gutters which shall be in compliance with the City's Technical Standards & Specifications (TCSS), as amended.

43.14 Horizontal Curves.

Any curves in the street or street rights-of-way shall be in compliance with the City's Technical Standards & Specifications (TCSS), as amended.

43.15 Street Grades.

The grade of streets shall be as set forth in the City's Technical Standards & Specifications and adopted Fire Code unless otherwise approved by the City Engineer due to unusual topographic or other design constraints.

43.16 Private Streets

- a. Design and Construction. Private streets shall be designed and constructed by the developer to the City's standards for public streets, in accordance with the City's current Technical Standards & Specifications (TCSS). The term "private streets" shall also include alleys, if such are provided within the development.
- b. City Council Approval Required. Private street subdivisions that do not meet the criteria described in subsection 43.16.d require approval as an exemption by City Council prior to submission of a preliminary plat. Previously dedicated streets and rights-of-way shall not be designated or used as private streets and such use is prohibited, except where specific approval is given by action of the City Council. The City Council may add any conditions as deemed appropriate as part of the approval of a private street development.
- c. Homeowners' Association (HOA) Required. Private street developments require formation of a permanent HOA that meets all requirements of section 49 of these regulations.
- d. Subdivision Eligibility Criteria. Private streets shall be permitted only within a subdivision satisfying each of the following criteria:
 - (1) The subdivision shall have no fewer than twenty (20) residential lots;
 - (2) The streets to be restricted to private use are not intended for regional or local through traffic circulation (see subsection 43.16.e below);
 - (3) The subdivision is located in an area that is surrounded on at least three sides (i.e., 75% of the perimeter) by natural or manmade barriers (e.g., creeks and flood plains, golf course, linear park, large utility easement or right-of-way, etc.) or by other private street subdivisions; and

- (4) The subdivision is not located adjacent to an existing or approved public street subdivision that can be reasonably connected, even though the street connection would require construction of a bridge or culvert – the two subdivisions shall be connected as public street subdivisions.
- (5) The subdivision shall connect to any existing street stubs with a public street.

If the proposed subdivision cannot meet the eligibility requirements, the applicant may request a waiver from City Council prior to a preliminary plat application. Said waiver shall require a super majority (3/4 majority) vote for approval.

- e. Streets Excluded. Streets that are shown on the City's Thoroughfare Plan as arterials or collectors shall not be used, maintained or constructed as private streets, and a private street subdivision shall not cross or interfere with an existing or future collector or arterial street. The City Council may deny the creation of a private street subdivision if, in their sole judgment, the private streets would negatively affect traffic circulation on public streets, or if they would impair access to the subject or adjacent property; impair access to or from public facilities including schools or parks; or if they would cause possible delays in the response time of emergency vehicles.
- f. Points of Access. A private street subdivision shall have at least two points of access from a public street(s) as required per City's Fire Code. If the subdivision is to be secured/gated and will have fewer than one hundred (100) residential lots, then only one main entry point may be allowed, with the second (additional) point(s) of access being designated as emergency-only, if such arrangement is approved by the City Engineer and Fire Chief.
- g. Parks and Greenbelts Excluded. A private street subdivision shall not cross or interfere with an existing or future public pedestrian pathway, hike and bike trail, greenbelt or park as shown on the City's Kerrville 2050 Comprehensive Plan and the Parks Master Plan.
- h. Private Street Lot. Private streets must be constructed within a separate lot owned by the HOA. This lot must conform to the City's standards for public street rights-of-way. An easement covering the street lot shall be granted to the City providing unrestricted access to and use of the property for any purpose deemed necessary by the City. This right shall also extend to utility providers operating within the City. The easement shall also permit the City to remove any vehicle or obstacle within the street lot that may impair emergency access.
- i. Restricted Access. The entrances to all private street subdivisions must be clearly marked with a sign, placed in a prominent and visible location, stating that the streets within the subdivision are private, and that they are not maintained by the City. Guard houses, access control gates, and cross arms, if used, shall be constructed per subsection 24.17.j. below. All restricted access entrances must be manned twenty-four (24) hours every day, or they must provide an alternative means of ensuring access to the subdivision by City personnel and other utility or public service providers (e.g., postal carriers, utility companies, etc.) with appropriate identification. If the HOA fails to maintain reliable access as required herein, the City may enter the subdivision and remove any gate or device which is a barrier to access at the sole expense of the HOA.
- j. Access Restricted Entrance Design Standards. A private street which has an access control gate or cross arm shall have a minimum uninterrupted pavement width of twenty-two feet (22') at the location of the access control device. If an overhead-lifting barrier is used, it shall be a minimum of fourteen feet (14') in height above the road surface, and this clearance height shall be extended through all streets.

All gates and cross arms shall be of a break-away design. A turnaround space shall be located in front of any restricted access entrance to allow vehicles denied access to safely exit onto public streets without having to back up into the street. The design and geometry of such turnaround shall be such that it will accommodate smooth, single-motion U-turn movements by the following types of vehicles:

- (1) Larger passenger vehicles (e.g., vans, pick-up trucks, etc.);
- (2) Passenger vehicles with short trailers up to twenty-four feet (24') in length (e.g., small flatbed, camping or box-type trailers); and
- (3) The types of service and utility trucks that commonly visit or make deliveries to neighborhoods that are similar to the proposed private street development (e.g., utility company vehicles, postal/UPS delivery trucks, two- to three-axle flatbed or box-type trucks used by contractors and moving companies, etc.).

The City Council and/or the City Engineer may require submission of additional drawings, plans and/or exhibits demonstrating that the proposed turnaround will work and that vehicle turnaround movements will not compromise public safety on the entry roadway or on the adjacent public street(s). The design of all proposed access restricted entrances shall be submitted for review and approval by the City Engineer along with the construction plans for the subdivision.

~~Waiver of Services, Hold Harmless, and Conversion of Private Streets to Public~~

- k. Waiver of Services. The subdivision final plat, HOA documents and contracts for sale of each lot shall note that certain City services will not be provided for private street subdivisions. Among the services which will not be provided are: routine law enforcement patrols, enforcement of traffic and parking regulations, and preparation of accident reports. Depending upon the characteristics of the development and upon access limitations posed by the design of entrances into the subdivision, other services (such as sanitation) may not be provided.
- l. Hold Harmless. On the subdivision final plat shall be language whereby the HOA, as owner of the private streets and appurtenances, agrees to release, indemnify, defend and hold harmless the City, any other governmental entity, and any public utility entity for damages to the private streets that may be occasioned by the reasonable use of the private streets by same, and for damages and injury (including death) arising from the condition of the private streets, out of any use of access gates or cross arms, or out of any use of the subdivision by the City or governmental/utility entity.
- m. Conversion of Private Streets to Public. The City Council may, but is not obligated to, accept private streets for public access and maintenance. Private alleys shall remain private. Requests to convert private streets to public streets shall be subject to the following provisions:
 - (1) The homeowners' association (HOA) shall submit a petition signed by at least seventy-five percent (75%) of its members/lot owners (or a greater number of signatures, if required by the HOA documents or Declaration).
 - (2) All of the infrastructure shall meet or exceed current TCSS (proven by road core sampling and plans as required) and approved by the City Engineer.
 - (3) All security stations and other structures not consistent with a public street development shall be removed by the HOA, at its cost, prior to acceptance of the streets and appurtenances by the City.

- (4) All monies in the reserve fund for private street maintenance shall be delivered to the City. Money in the reserve fund in excess of what is needed to bring the streets and appurtenances up to City standards will be refunded to the HOA.
- (5) The HOA shall prepare and submit a replat to the Planning Department for review and approval by the Planning & Zoning Commission, and for acceptance of the streets (excluding alleys) by the City Engineer. Upon approval, the replat shall be recorded at the County thereby dedicating the streets and appurtenances to the City.
- (6) The HOA shall modify and re-file, at its cost, the HOA documents to remove requirements specific to private street developments. The City Attorney shall review the modified HOA documents prior to their filing. The HOA shall be responsible for the cost of review by the City Attorney.

43.17 Points of Access.

All residential subdivisions shall have at least two (2) points of access from improved public roadways. All entrances shall be consistent with the requirements of the current adopted Fire Code. The two points of access shall be from two different entrances either on a single public thoroughfare or on two public thoroughfares. All single- and two- family residential developments shall provide no less than one (1) entrance for every seventy-five (75) lots, or portion thereof, including dead-end stubbed streets that will eventually provide connections into adjacent future developments and thence to an existing arterial or collector street.

43.18 Traffic Impact Analysis.

- a. A Traffic Impact Analysis (TIA) worksheet, as promulgated by the Director and City Engineer, shall be submitted with the first project application for an Adequate Facilities Plan, Preliminary Plat, Civil Construction Plans, and/or Final Plat.
- b. TIA Required when:
 - 1) Required according to the thresholds established on the TIA Worksheet;
 - 2) On street parking is requested in a commercial area; and/or
 - 3) Traffic light is desired.

Section 44. Stormwater Management

44.01 Drainage Improvements

- a. Drainage facilities shall be designed to meet City of Kerrville Drainage Requirements the approval of the City Engineer, and shall be designed and constructed in accordance with the City's Technical Standards & Specifications and Drainage Design Manual.
- b. Stormwater management facilities such as retention/detention ponds shall be located on private property and maintained by the property owner (or an approved HOA/POA) unless otherwise approved by the City Engineer.
- c. Pre-Existing drainage ways shall not be dedicated to or maintained by the City unless approved by City Council.
- d. **Nimitz Lake Water Quality/Runoff... ...**

Section 45. Flood Hazard Standards

- a. All plats and subdivisions shall comply with standards and regulations contained within Chapter 54 of the City of Kerrville Code of Ordinances as applicable.
- b. The land subject to flooding as identified in the Federal Insurance FEMA Rate Maps report entitled "The Flood Insurance Study for the City of Kerrville" (latest version), with accompanying flood hazard maps, shall serve as the basis for identifying those lands susceptible to flood conditions.
- c. During preparation of the preliminary plat, the developer and/or his agent shall study and establish floodplain and floodway elevations if such elevations had not been established previously.
- d. Lands that are to be platted for development, and which are susceptible to flooding, shall be in accordance with current City Code requirements for finished floor elevations (FFEes).
- e. No structure shall be permitted/allowed in the Floodway.

Section 46. Parks and Open Space Standards; Preservation of Natural Features

46.01 Purpose and Effect

- a. The purpose of this is to provide parks and park land to support residential development within the City and its ETJ. Public parks provide a variety of outdoor recreational opportunities to residents of new subdivisions and developments. It is the policy of the City to require residential developments to contribute park land or fees in lieu of land dedication in proportion to the needs of future residents and within close proximity to their homes.
- b. In order to accomplish the objectives of this section, all residential subdivisions within the City shall dedicate park land or pay fees in lieu of dedication. For multiple family projects that are not required to dedicate park land, payment of in lieu fees may be deferred until the time of building permit application.
- c. All subdivisions shall comply with the Parkland Dedication Ordinance, **Ordinance No. _____**.

46.02 Dedication of Park Land

46.03 Fees in Lieu of Park Land Dedication

46.04 Exemptions

46.05 Additional Park Land Regulations

46.06 Preservation of Natural Features

- a. Natural features such as large trees, water courses, historic spots, and similar community assets which, if preserved, will add attractiveness and value to the property. Nature features shall be identified on a site plan prior to preliminary plat approval. If considered to be of significant value to the property, or the neighborhood, or the community, the Commission may require the preservation of some or all of these natural features.

Section 47. Subdivision Design Standards

47.01 Technical Standards & Specifications (TCSS)

- a. The City's TCSS, defined in 21.02 of these regulations, is available on the City's website. Public review copies are also available at City Hall during normal business hours.

47.02 Monuments [Section IV-4.A.1.a]

- a. Concrete monuments shall be established to define public right-of-way in accordance with the City's Technical Standards & Specifications and applicable state law related to surveying. Variances from these requirements may be allowed by written authorization of the City Engineer in cases where rock strata, unusual soil conditions, major trees, fences or other obstacles are encountered.

47.03 Blocks; Lots;

a. Blocks

- (1) Block length shall not exceed one thousand two hundred (1,200) feet, as measured from the centerline of one intersecting through street to the centerline of another intersecting through street.
- (2) All lots within each phase of a development shall be numbered consecutively within each block. Each block shall have an alpha or numeric designation (e.g., "Block A", "Block 6", etc.).

b. Lots

- (1) Arrangement. Insofar as practical, side lot lines shall be at right angles to street lines or radial to curved street lines. Each lot shall have direct frontage onto a public street or to an approved public way, private street or irrevocable access easement. Each lot shall have at least thirty (30) feet of abutting frontage on such street or easement.
- (2) Orientation. Single- and two-family lots shall not be "through lots" to a collector or thoroughfare (i.e., shall not back up to any type of roadway) unless fully screened a six foot solid wood or masonry fence. Single- and two-family lots shall not have direct (i.e., driveway) access onto any arterial or future collector roadway, as such are shown on the City's Thoroughfare Plan. Where a subdivision abuts or contains an existing or proposed arterial street, the City may require marginal access streets, rear service alleys, or such treatment as may be necessary for adequate protection to residential properties and to afford separation of through and local traffic.
- (3) Minimum Size. The size, shape and orientation of lots shall be in accordance with the type of development and use contemplated and, for properties that are located within the City's limits, as established in the City's Comprehensive Zoning Ordinance. The minimum size of residential lots not served by both municipal water and wastewater services shall be as follows:

- (a) Five (5) acres for lots where an individual water well is planned to be the source of potable water, and an on-site sewage facility (OSSF) will be used for wastewater disposal.
- (b) One (1) acre for lots; served by a public water system and served by an on-site sewage facility (OSSF) if such OSSF is installed in compliance with the then existing rules of Kerr County for OSSFs;.
- (c) Lot size shall be dictated by the zoning if served by a community, public or shared water system and also a municipal sewage collection system.

(4) Lot Shape, Configuration. The City shall have the right to disapprove any lot which, in its opinion, will not be suitable for the purpose intended or which is so oddly shaped as to create an irregular or difficult building envelope or that does not fully contain a building envelope that meets all applicable size and setback requirements. Sharp angles between lot lines and flag/"panhandle" lots shall be avoided unless some physical attribute of the property requires such angles or flag lot configuration. Flag lots shall have a minimum street frontage in compliance with the zoning code or fifty feet (50'), whichever is greater.

(5) Jurisdictional Boundaries. All lot line shall, to the greatest extent possible, align along City, County, School District and other jurisdictional boundary lines such that lots are fully within one jurisdiction or other.

(6) Structures. No structure shall be constructed across a tract boundary or lot line.

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47.04 Driveways, Fire Lanes and Access Easements

- a. Driveways. Driveways shall be designed in accordance with Sections 90-80 through 90-82 in Chapter 90 of the Code of Ordinances, as amended, in accordance with applicable provisions in the City's Fire Code, and constructed in accordance with TCSS. Driveway approaches shall be designed in such a way that stormwater does not flow from the street onto private property.
- b. Fire Lanes. Fire lanes shall be designed and constructed in accordance with the City's Fire Code.
- c. Access Easements. Easements shall be required, when necessary, to allow convenient access to other adjacent property(s) due to such having minimal or inadequate public street access, location of median opening, etc. The City Engineer and the Planning Director have the authority to require such access easement(s) when needed.

47.05 Sidewalks

- a. Multi-Family and Nonresidential Developments and Public and private colleges and universities, hospitals and other campus-like facilities
 - (1) Unless they already exist, sidewalks shall be constructed within all street rights-of-way adjacent to all tracts or lots utilized or intended to be utilized for any development purposes, whether platted or unplatted, to the full length of the frontage of the lot or tract involved, said construction to be:
 - (a) Concurrent with construction of the first structure on any lot or tract of land, whether or not the tract of land is platted or being subdivided;
 - (b) Concurrent with the construction of the addition to an existing building or buildings, regardless of the amount of additional square footage; or
 - (c) Concurrent with the construction of an additional building(s) on a lot or tract regardless of the amount of additional square footage.
 - (2) Public and private colleges and universities, hospitals and other campus-like facilities are exempted from the requirements of this section subject to the following standards:
 - (a) Such uses existed prior to January 1, 1981; and
 - (b) Such uses have an existing or planned fully developed internal pedestrian circulation system that provides access points from the use's property to an existing or planned public sidewalk system. In the event of a planned or incomplete internal system, said planned or incomplete system shall be completed as part of the related building construction and/or expansion which increases the total square footage of an existing facility, regardless of the amount of additional square footage or, the construction of a new building.

- b. Single- and Two-Family Residential Developments. Sidewalks shall be constructed prior to the acceptance of public utilities.
 - (1) For existing lots, sidewalks shall be constructed concurrent with construction of the first structure on any lot or tract of land, whether or not the tract of land is platted or being subdivided.
- c. Compliance With Subdivision Ordinance. All sidewalks must comply with the sidewalk ordinance of the City Code with respect to width and location.
- d. Sidewalks Required Regardless of Exemption From Subdivision Regulations. Sidewalks shall be constructed in the rights-of-way of all streets, public or private, pursuant to these regulations.
- e. Utility Connections; Certificates of Occupancy. The chief building official shall not issue any final utility clearance or certificate of occupancy until all sidewalks required to be constructed have been finally completed or repaired and approved by the City Engineer/Engineering.
- f. Appeal to City Council. the City Council shall consider the following criteria for granting a waiver:
 - (1) Topographic restrictions such as slope, drainage structures, etc.;
 - (2) Whether all property(s) adjacent to the subject property, whether or not the said property(s) is separated from the subject property by a public or private road, alley, or easement, is exempted from sidewalk construction by operation of this article;
 - (3) Whether all property(s) adjacent to the subject property is developed property, whether or not separated from said subject property by a public or private road, alley, or easement, and does not have existing sidewalks as of the effective date of this article; or
 - (4) If it is shown to the satisfaction of the City Council that any of the requirements of this section, if complied with, would work an undue hardship on the property owner, the requirements required herein would not be in the best interest and general welfare of the public and, that the intent of this article was being met by the granting of such waiver.
- g. Compliance With Other Laws. All sidewalks required in this section shall comply with all federal, state, and local laws, including those requiring certain accessibility standards. Where there are instances of conflicting requirements, the most restrictive standards apply.

47.06 Alleys

- a. Alleys shall not be allowed except within certain zoning districts, or to connect to a subdivision with existing alleys for the purpose of providing continuity. If alleys are constructed or required, the following standards shall be met:
 - (1) In residential districts, alleys shall be parallel, or approximately parallel, to the streets.
 - (2) Alleys shall be designed and paved in accordance with the City's TCSS that is in effect at the time of subdivision construction, and shall be privately owned and maintained by an HOA that is formed in accordance with **section 49** of these regulations.
 - (3) Where the deflection of alley alignment occurs, the design of the paving and property line shall be as established by the TCSS.
 - (4) Dead-end alleys shall not be allowed. Alleys must have adequate turnouts and street entrances such that vehicular traffic flow is continuous and efficient. Where a temporary dead-end alley situation is unavoidable, a temporary turnaround bulb or turnout onto a street (either of which will need a temporary easement for street/alley purposes) shall be provided as determined by the City Engineer.
 - (5) Alleys may not exceed a maximum length of one thousand two hundred feet (1,200'), as measured along the centerline of the alley and between intersections with other alleys or entrances onto streets. The City Council may approve a waiver for an overlength alley upon consideration of the following:
 - (a) Alternative design which would reduce alley length;
 - (b) The effect of overlength alleys upon access, congestion, delivery of municipal services, and upon convenience to residents of the subdivision in accessing rear driveways;
 - (6) Public utilities shall be placed in a platted easement.
- (c) Means of mitigation, including but not limited to additional mid-block alley turnouts, limitation on the number of lots to be served along a single alley segment, temporary points of access, and additional fire protection measures

47.07 Street Lights

- a. Street lights shall be installed and fully electrified/functional by the developer in accordance with standards prescribed by the City of Kerrville.
- b. Street lights shall be installed in the right of way unless approved by the City Engineer or Planning and Zoning Commission.
- c. Street light easements of ten (10) feet in width shall be provided for the purpose of service wire installation, if needed and when necessary for service.

47.08 Street Names; Street Name and Traffic Control Signs/Devices

- a. Proposed streets which are in alignment with already existing (or approved) named streets, shall bear the same names of existing (or already approved) streets. In no case shall the names for proposed streets duplicate existing streets' names or like-sounding street names, irrespective of the use of the suffixes such as street, avenue, boulevard, driveway, place or court. Proposed street names (if applicable) must be submitted along with a preliminary plat, and are subject to the Planning Director's approval to avoid street naming conflicts.
- b. Street name signs and traffic control signs/devices shall be installed by the developer prior to acceptance of public infrastructure by City Engineer, final plat approval and recordation at the County. The design and placement of all signs shall be submitted to, and approved by, the City Engineer prior to installation, and all traffic control signs/devices shall be designed and placed in accordance with the latest edition of the Federal Highway Administration's (FHWA's) "Manual on Uniform Traffic Control Devices for Streets and Highways", as amended.

47.09 Addressing

- a. The Planning Director shall have the authority to assign street addresses for individual lots or building sites located within the City's limits. A person making application for approval of a subdivision must request and obtain a designation of street addresses by the Planning Director prior to approval of the final plat. To the extent feasible, the assignment of individual street addresses shall be in conformity with the addressing method used by the Kerr Emergency 9-1-1 District (or its successor entity).

47.10 Easements

- a. The City may require easements for access, poles, wires, conduits, storm and sanitary sewers, gas, water or other utility lines. The developer shall be responsible for acquisition of all necessary easements, on-site and off-site (if such are necessary to serve the proposed development).
- b. Easements shall be a minimum of twenty (20) feet in width. Easements of the same or greater width may be required along the lines of or across lots, where necessary for the extension of existing or planned utilities.
- c. The full width of all easements for City water and sewer facilities shall be fully upon one lot (i.e., not straddle a common lot line).
- d. Public water, wastewater and drainage easements shall be dedicated to the City and shown on the final plat for the specific use intended (i.e., not as generic "utility" easements), and shall not be used by private utility providers unless approved by the City Engineer.

47.11 Utility Placement

- a. All utilities shall be placed underground or if the developer so elects, they may be placed overhead only if located on pre-existing utility poles. If no pre-existing poles exist where the service needs to run, then utilities may be placed overhead only if located entirely behind the front face of the building on

private property and within a recorded a general/franchise utility easement that is at least fifty (50) feet away from any single-family zoning district or dwelling.

- b. High-voltage and large gas distribution lines may be allowed overhead if a waiver is granted by the City Council in accordance with section 27.

47.12 Large Scale Tracts; Large Scale Developments

- a. When the land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged to allow for the extension of future streets and for logical re-subdivision in the future.
- b. Developments of a large scale nature under single ownership or condominium arrangement which would result in significant change to existing topographic and landscape features, traffic and drainage patterns, parking and other development changes that would impact the community shall be required to submit a plat of the proposed development for City Planning and Zoning Commission review and approval in the manner prescribed by these regulations.

Section 48. Rural Subdivision Standards; ETJ Subdivisions

(Pending interlocal agreement with Kerr County)

Section 49. Homeowners' Associations (HOAs)

49.01 Purpose

The purpose for the establishment of an HOA (also referred to as "Association") for residential developments is to create an organization that owns and is responsible for maintaining commonly owned properties, amenities, rights-of-way and riparian areas for the communal good of the development's property owners and residents.

49.02 Applicability

An HOA shall be established for any development that contains any of the following: an amenity, private street(s), a floodplain or open space that will not be dedicated to the City as public park land, and/or thoroughfare screening. For purposes of this section, the terms "Homeowners' Association" and "Association" are interchangeable with the term "Property Owners' Association" for multi-family and non-residential developments.

49.03 Descriptions of Elements Requiring an HOA

Any of the following elements created as part of a subdivision, and not dedicated to the City, shall require formation and continued operation of a mandatory HOA:

- a. Amenity center (e.g., private swimming pool, club house, tennis court, recreation center, playground, etc.);
- b. Entry features, signage and landscaping;
- c. Open space, walkways and trails that will not be dedicated to the City;
- d. Ponds (including those for detention/retention of stormwater);
- e. Water features and fountains;
- f. Private streets, alleys and internal sidewalks (including security stations and gates, perimeter security fencing, etc.);
- g. Thoroughfare screening walls, fences and landscaping; and
- h. Any other non-public and commonly owned facilities.

49.04 Procedure for HOA Formation

The establishment of a required HOA shall occur prior to final plat approval and acceptance of the public improvements, and generally using the following procedure:

- a. Documents Submitted for Review. The Declaration, by-laws, covenants and other necessary documents establishing the Association shall be submitted to the City for review by the City Attorney for conformance with this and other applicable ordinances prior to submission of the final plat, and prior to issuance of a letter of final acceptance for the subdivision. Association documents shall include descriptions of all areas and amenities for which the Association is responsible for maintenance, and shall outline the organization and governance of the Association.
- b. Approval by City Attorney. All Association documents shall be reviewed by the City Attorney prior to recordation of the final plat, and the fee for such review is as stated in the City's adopted fee schedule.
- c. Recordation. All Association documents shall be recorded at the County prior to the recordation of the final plat. Two (2) copies of the recorded documents shall be submitted to the Planning Director prior to or simultaneously with the final plat application.
- d. Additional Phases. An additional phase to an existing subdivision is not required to establish a separate and distinct HOA, provided that the existing, recorded Association documents are amended to incorporate the area of the new subdivision phase and to adopt the responsibility of all areas and amenities for which the Association is responsible for maintenance. The procedure for review and recordation of the HOA amendment documents is as set forth above.

49.05 Notice to Purchasers

For any subdivision that will have an HOA, notice shall be posted in a prominent place at all model homes and sales offices stating the following:

- a. That an Association has been established for the subdivision;
- b. That membership in the Association is mandatory for all lot owners; and

- c. That the developer is required to provide to any person, upon their request, a complete copy of the Association documents and a five (5)-year projection (at a minimum), of Association dues, income and expenses.

49.06 General Requirements

The following shall be set forth in the HOA documents:

- a. A statement that membership in the Association is mandatory for all owners of property within the subdivision;
- b. A listing of all areas and amenities that the Association will be responsible for (including legal descriptions for land parcels, if applicable), and such maintenance areas shall be clearly shown as dedicated to the Association on the final plat;
- c. By-laws related to the governance of the Association;
- d. Covenants for maintenance assessments, which shall run with the land;
- e. Responsibility for liability insurance and local taxes;
- f. Statement that the authority for enforcement of Association rules and regulations is solely the responsibility of the Association and is not, in any way, the responsibility of the City;
- g. Authority for the Association to secure funds from its members sufficient to meet its responsibilities, which shall include the ability to collect dues, to increase dues, to charge special assessments, and to place liens against property for failing to pay dues and assessments.
- h. Provision that no amendment of the Association documents relating to maintenance of Association areas or amenities, or related reserve funds (as applicable), shall occur without prior City approval;
- i. Written release of liability for maintenance to benefit the City; written indemnification of the City outlining that under no circumstances shall the City be liable to the Association or any property owner or their respective heirs, executors, administrators, devisees, personal representatives, successors or assigns for any damages, injuries (including death), and/or liability resulting from any amenity, on the private streets, within or adjacent to any Association area or amenity;
- j. Written assurance of funds based on an accredited cost projection analysis within a specific reserve account of the Association for the maintenance and removal of amenities as determined by the City;
- k. Written consent giving the City the authority to take the actions for violations as set forth in Section 40.07; and
- l. Other City requirements as applicable.

49.07 Violations, Revocations & Liens

- a. The City will notify the Association of violations of any of the regulations specified within this section.
- b. Failure to bring the subdivision into compliance with these regulations may cause the City to revoke the specific approval of the Association or take other remedies as outlined in this section.
- c. The City shall have all lien, assessment and enforcement rights granted therein to the Association, and the City shall have the ability to enforce the liens and assessments, and avail itself of any other enforcement actions available to the City pursuant to State law and/or City regulations.
- d. Should the Association fail to carry out its duties as specified in these regulations, the City shall have the right and ability, after due notice to the Association, to perform the duties required by this or any other ordinance, regulation or agreement with the City in order to bring the Association into compliance therewith. The City shall have the right and ability, after due notice to the Association to assess the Association, for the full amount owed and/or assess the property owners on a pro rata basis for all costs incurred by the City in performing said duties if the Association fails to do so. Said assessment shall constitute a lien, in favor of the City, upon the property for which the assessment is made.

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