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Kerrville Subdivision Regulations

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 large 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 is 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; and/or
 - (4) a proposed nonresidential 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. The following rules apply to remainder tracts:
 - (1) information concerning remainder tracts will be considered during the review of the adequate facilities plan. Based upon such information, the City may require

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that additional or less land be included in the subdivision plat in order to satisfy the standards applicable to the plat or plan;

(2) remainder tracts will not be considered lots or tracts of the subdivision;

(3) approval of a subdivision plat does not constitute approval of development on a remainder tract;

(4) the City may require that information be submitted for a remainder tract with an adequate facilities plan solely for the purpose of determining whether the proposed public infrastructure will be adequate.

(5) 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.

(6) 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 must be submitted to the Planning Director together in the required number of copies of the plan drawn as required and accompanied by a completed application. The application must include the following information and documentation:

(1) A copy of all required pre-authorizations set forth in **subsection 9.01.b.**;

(2) Names and addresses of the subdivider(s) and record owner and where applicable, the engineer or surveyor;

(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, phasing and its schedule, and the property's relationship to adjacent property and existing adjoining developments;

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- (6) Proposed major categories of land use for each phase, showing existing and proposed zoning, if applicable;
- (7) Proposed and existing arterials and collector streets to serve the land to be platted consistent with the Thoroughfare Plan;
- (8) Location of proposed sites for parks, schools, and other public uses as consistent with those required by the Comprehensive Plan;
- (9) Location of significant natural drainage features including drainage courses and other natural areas;
- (10) Location of significant man-made features such as streets, buildings, utilities, or other physical structures;
- (11) 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;
- (12) A detailed statement of how the proposed subdivision will be served by water, wastewater, streets, and drainage facilities that have adequate capacity to serve the development;
- (13) 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
- (14) Any other requirements promulgated in writing by the Planning Director.

20.05. Decision by City Engineer

- a. The City Engineer is the responsible official for processing of adequate facilities plans. The procedures in **division B, section 9** apply to adequate facilities plans submitted for approval.

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- 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 and park facilities generally conforms to the City's master facilities plans for such improvements, such plans to include the City's water plan, wastewater plan, storm water plan, drainage studies, and sidewalk plan, subject to revision and as others may be adopted;

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- c. The water, wastewater, streets, 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, if any, is supported by the adequate facilities plan;
- 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 in part in the ETJ of the City and if subject to an interlocal agreement with the County, the adequate facilities plan meets applicable standards set out in the agreement.

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.

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

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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 a completed 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 9.01(b) have been obtained, a detailed statement of how the proposed subdivision will be served by water, wastewater, street, 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 preliminary plat in the number of copies and specifications as required by the application.

21.03 Commission Decision

- a. The Planning Director is the responsible official for processing preliminary plats in accordance with the procedures in division B, section 9.

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- 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 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 the proposed development is located in whole in part in the ETJ of the City and if subject to an interlocal agreement with the County, the preliminary plat meets applicable standards set out in the agreement.
- 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.

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21.06 Expiration and Extension

- a. Procedures and Standards. Except as modified by this subsection, the provisions of **division B, subsection 9.08** 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.

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. **Where such plan is approved, the approval will reserve the capacity for City**

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utilities through such time that either the plan expires, as provided below, or until construction begins, wherein the reservation of capacity will be extended.

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 (*e.g.*, easements) 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 41.02.

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. Where such plans are approved or approved with conditions, the City Engineer shall issue a "construction release" which will authorize construction, subject to the application and approval of additional permits for the specific work.

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

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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. **Such providers include Atmos Gas, KPUB, and communication entities as determined by the City Engineer**. 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 must 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 must 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:

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- (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.

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- (3) Security for Construction in ETJ. Where all or some portion of the public infrastructure will be constructed in the ETJ and if subject to an interlocal agreement with the County, the security must meet applicable standards specified in the agreement.

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;

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- 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 from the City Engineer 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 9.08** apply to expiration and extension of construction plan approvals.
- b. Expiration. Construction plans that are approved remain valid for a period of two (2) years 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 (1) 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.

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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 final 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, the proposed plat meets the applicable standards specified in the agreement; and
- (6) A final plat in the number of copies and specifications as required by the application.

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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 9**.
- 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 infrastructure 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. Where the proposed development is located in whole in part in the ETJ of the City and if subject to an interlocal agreement with the County, the final plat meets applicable standards set out in the agreement.; and

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- 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, applicable permitting, and 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 subject to the following:
 - (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.

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- 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 street that is constructed to current City specifications.
- c. Connections to the City’s water and wastewater systems are located immediately adjacent to each lot and does not require the extension of any public utilities 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 the required number of copies of the minor subdivision drawn as required and accompanied by a completed application. The application must include 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.

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24.03 Processing and Decision

- a. The procedures in **division B, section 9**, 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.**

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 takes action to vacate a plat in part, it shall cause a revised final plat to be recorded along with the acknowledged certification which shows that

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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 street 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

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- (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

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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:

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- (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;

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- (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 **division B, section 9**, apply to an amending plat.

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- 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.

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

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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 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 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;

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- (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, or 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 (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 the 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.

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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 improvements 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.

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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.

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- (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 proposed development is located in whole in part in the ETJ of the City and if subject to an interlocal agreement with the County, and where the public infrastructure is to be dedicated to the County, 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:

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- (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.

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.

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- 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 of 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.

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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;

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- 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.

Section 30. Construction Management

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 shall 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**

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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 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 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 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.

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- c. Letter of Final Acceptance. When all public infrastructure have been completed, inspected, tested (if applicable), and determined by the City Engineer 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 two (2) years 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.

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