

CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2021-24

AN ORDINANCE ADOPTING THE CITY OF KERRVILLE, TEXAS, SUBDIVISION CODE, A COMPREHENSIVE REWRITE OF THE CITY'S SUBDIVISION REGULATIONS; SAID REWRITE TO BE KNOWN AS THE "CITY OF KERRVILLE, TEXAS SUBDIVISION CODE" AND FOUND WITHIN CHAPTER 82 OF THE CITY'S CODE OF ORDINANCES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT HEREWITH; PROVIDING AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATED TO THIS SUBJECT

WHEREAS, the City of Kerrville, Texas, has previously adopted a platting ordinance to provide for the orderly division and development of land within its corporate limits and extraterritorial jurisdiction (ETJ) in accordance with Chapter 212 of the Texas Local Government Code; and

WHEREAS, following the adoption of the *City of Kerrville Comprehensive Plan – Kerrville 2050* ("Comprehensive Plan"), City Council created and appointed a Code Review Committee ("CRC") made up of people with a variety of vocations, experiences, and interests; and

WHEREAS, City Council, pursuant to Resolution No. 34-2018, charged the CRC with reviewing and considering recommendations regarding development codes cited for possible consideration within the Comprehensive Plan; and

WHEREAS, following its help developing a new Zoning Code for the City, the CRC began reviewing the City's subdivision regulations; and

WHEREAS, the CRC, City staff, and at times, the City's consultants, worked diligently to develop subdivision regulations in accordance with the general principals and guidelines found within the Comprehensive Plan; and

WHEREAS, the CRC began meeting in July 2019, to consider subdivision regulations, and met 8 times in meetings that were open to the public; and

WHEREAS, the CRC eventually helped develop a draft Subdivision Code that it recommends that the City adopt; and

WHEREAS, on June 24, 2021, the Planning and Zoning Commission (the "Commission") held a workshop to consider the draft Subdivision Code, and thereafter on July 15, 2021, held a public hearing to consider the proposed code and to provide comments and directions; and

WHEREAS, the CRC, Commission, and City staff now recommend that City Council approve and adopt a newly revised Subdivision Code, said code to be known as the “City of Kerrville, Texas, Subdivision Code” (“Subdivision Code”), which will be found within Chapter 82 of the City’s Code of Ordinances; and

WHEREAS, after receiving the Subdivision Code from the Commission along with its recommendation for adoption, City Council reviewed and considered the Subdivision Code; and

WHEREAS, as part of this review, City Council held a public hearing on September 14, 2021, as required by law; and

WHEREAS, City Council finds that the intent of the Subdivision Code, through its regulation of plats and subdivisions, is to promote the health, safety, morals, or general welfare of the City and its safe, orderly, and healthful development in accordance with Section 212.002, Texas Local Government Code; and

WHEREAS, City Council will require staff to report back to Council on or before one year from the Effective Date (defined below) of this Ordinance as to the implementation of the new Subdivision Code, to include whether any amendments need to be made; and

WHEREAS, after receiving and considering the recommendations of the CRC, the Commission, and City staff and after multiple meetings and a public hearing at which all parties in interest and citizens were given an opportunity to be heard, Council finds it to be in the best interest of the health, safety, morals, and general welfare of the City of Kerrville, Texas, to adopt the proposed Subdivision Code as a comprehensive rewrite of the City’s subdivision and platting regulations;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. The facts, recitations, and findings contained in the preamble of this Ordinance are found to be true and correct.

SECTION TWO. The City of Kerrville, Texas, Subdivision Code, which is attached as **Attachment A** and incorporated herein by reference as if set forth in full, is adopted in its entirety, and will be placed within Chapter 82 of the City’s Code of Ordinances.

SECTION THREE. City Council directs the City Manager to report back to Council on or before the expiration of one year from the Effective Date of this Ordinance as to its implementation and whether any amendments need to be made.

SECTION FOUR. The City Secretary is authorized and directed to submit this Ordinance to the publisher of the City's Code of Ordinances and the publisher is authorized to amend said Code to reflect the provisions adopted herein and to correct typographical errors and to index, format, and number and letter paragraphs to the existing Code as appropriate.

SECTION FIVE. The provisions of this Ordinance are cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are expressly repealed to the extent of any such inconsistency or conflict. Further, the proposed Subdivision Code results from a comprehensive review, rewrite, and replacement of the City's current subdivision regulations and said Code repeals and replaces, to include without limitation: Ordinance No. 82-34 and subsequent amending ordinances regarding Subdivision Regulations, to include Ordinance Nos. 83-27, 84-08, 84-61, 84-67, 86-13, 87-29, 87-46, 87-55, 89-27, 90-03, 91-10, 91-24, 96-04, 97-09, 97-15, 01-13, 07-14, 13-05, and 14-07.

SECTION SIX. It is officially found and determined that the meetings at which this Ordinance is passed were open to the public as required and that public notice of the time, place, and purpose of said meetings was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION SEVEN. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION EIGHT. The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Section 1-7 of the Code of Ordinances of the City of Kerrville, Texas.

SECTION NINE. Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City's Charter, the City Secretary is authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

SECTION TEN. This Ordinance shall become effective on October 15, 2021 (the "Effective Date").

PASSED AND APPROVED ON FIRST READING, this the 14 day of SEPTEMBER A.D., 2021.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the 28 day of SEPTEMBER, A.D., 2021.



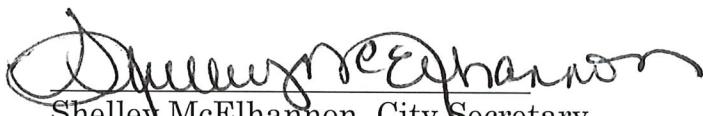
Bill Blackburn, Mayor

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:



Shelley McElhammon, City Secretary

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Chapter 82 - PLANNING Subdivision Code

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ARTICLE I. GENERAL PROVISIONS

Sec. 82.01. - 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*.

Sec. 82.02. - 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, for example, streets, water, wastewater, drainage (stormwater), sidewalks, park facilities, utilities, and other public improvements shall 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 (“ETJ”) in an orderly manner; and to provide attractive, well planned subdivisions with adequate streets, water, wastewater, drainage (stormwater), sidewalks, park facilities, utilities, and building sites in a manner that will be uniformly applied. The goals and objectives of this Subdivision Code are:

- (1) to provide for the harmonious development of the urban area;
- (2) to coordinate the supply of services as a tool for directing the optimal distribution of population in the urban area;
- (3) to provide for the separation of pedestrian and vehicular traffic;
- (4) to designate and preserve through advance dedication and reservation of rights-of way for transportation corridors;
- (5) to ensure the acquisition of land for public needs to include parks, schools, drainage, open space, fire, and police facilities;
- (6) to preserve and maintain scenic vistas;
- (7) to encourage the preservation of natural vegetation to minimize erosion;

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- (8) to restrict development in areas where hazards may result;
- (9) to minimize the financial burden of urban development upon the City and taxpayers;
- (10) to assure the accuracy of land records; and
- (11) to address the needs of sensitive lands that would be adversely affected by the strict application of this Code.

Sec. 82-03. - Authority and Jurisdiction.

- (a) *Authority.* From and after the date of its adoption, this Code 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 Chapter 212, Texas Local Government Code, and pursuant to the home rule charter of the City and the Constitution of the State of Texas.
- (b) *Applicability.*
 - (1) This Code applies to approval of plats, subdivision plans, and other developments for the division or development of property.
 - (2) This Code does not apply to applications for approval of zoning plans or plans required to accompany applications for building permits.
 - (3) Any application for plat or subdivision plan approval filed before the effective date of this Code is governed by the subdivision procedures in effect immediately preceding this Code. Any application for plat or subdivision plan approval filed after such date shall be processed under the requirements of this Code.
 - (4) This Code 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.

Sec. 82-04. - Definitions.

- (a) *Usage and Interpretation.*

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- (1) Usage. For purposes of this Code, words and phrases have the meanings set forth below.
- (2) 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.
- (3) 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.
- (4) Specific Word Usage.
 - a. The word “shall” or “will” is mandatory and not discretionary.
 - b. The word “may” is permissive.
 - c. The word “including” shall be construed as meaning “including, but not limited to”.
 - d. The word “includes” shall be construed as meaning “includes, but is not limited to”.
 - e. The words “applicant”, “developer”, “owner”, “person”, or “individual” shall include corporations, partnerships, associations, and groups acting together as a single entity.
 - f. The word “year” means 365 calendar days.
 - g. The word “month” means 30 calendar days.
 - h. The word “developer” is not, in all cases, interpreted as a reference solely to the property owner. The Director may interpret “developer” to mean the property owner or persons acting on behalf of the property owner as an agent to which the Director may require written affirmation of this relationship.
- (5) Words Not Defined. Terms not herein defined have the meaning assigned to them in the City’s building code(s) or other applicable City code. Terms

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not herein defined nor defined in any applicable City code have the meaning customarily assigned to them in the planning and zoning profession.

- (6) Interpretation. In the event a word or phrase used in this Code 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.

(b) Definitions.

100-year floodplain means 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.

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.

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.

Adequate facilities plan (“AFP”) means a written plan that ensures that an adequate level of public facilities and services is available to efficiently serve the proposed and existing development.

Alley means a minor right-of-way which provides a secondary means of vehicular access to abutting properties for delivery or public service purposes.

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.

Building means any structure which is built for the support, shelter, or enclosure of persons, animals, machinery, equipment, or movable property of any kinds.

Building line or *building setback line* means a line that is parallel, or

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approximately parallel, to the street right-of-way line at a specific distance therefrom and defines an area on the building lot, or tract, between the street right-of-way lines and the building line within which no structure shall be constructed.

Commission means the City's Planning and Zoning Commission.

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.

Corner lot means a lot or parcel of land bound on two (2) sides, usually at a 90-degree angle, by public streets.

Council means the governing body of the City of Kerrville.

County means Kerr County, Texas.

Crosswalk means a public right-of-way generally not more than six feet (6.0') in width between property lines which provides pedestrian circulation.

Cul-de-sac means a street having only one vehicular access to another street and terminated by a vehicular turnaround.

Dead-end street means a street, other than a cul-de-sac, with only one vehicular outlet.

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, including parking lots; the installation of streets, water, wastewater, drainage (stormwater) or park facilities, utilities, 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.

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

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either from a public right-of-way or via a private way, alley, easement, or other right of passage.

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. It may include a street right-of-way.

Extraterritorial jurisdiction ("ETJ") means the unincorporated area this is contiguous to the corporate boundaries of the City pursuant to Chapter 42, Texas Local Government Code, and as may be expanded or contracted from time to time by operation of state law or by agreement.

Final plat means the map or plat of a proposed subdivision submitted to the City for approval by the Commission.

Front or *frontage* means that portion of a tract of land which abuts on a street to which it has direct access.

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.

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.

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.

Lot width means the horizontal distance measured between side lot lines parallel to the front lot line, measured along the front building line.

Master plan(s) means the *Thoroughfare Plan, Parks and Recreation Master Plan, Water Master Plan, Wastewater Master Plan, Stormwater Master Plan* and other master plans adopted, or that may in the future be adopted, by the City.

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Off-site improvements means all required improvements beyond the property limits of the subdivision.

On-site improvements means all required improvements within or contiguous to the proposed subdivision.

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.

On-site sewage facility or *OSSF* means an on-site wastewater system capable of complying with the current rules and regulations of the State of Texas and the County or any other applicable local entity.

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.

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

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.

Pollution means 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.

Preliminary plat means the first or introductory plat of a proposed subdivision submitted to the Commission.

Public facilities system means the collection of water, wastewater, roadway, drainage (stormwater), or park facilities owned or operated by or on behalf of the City for the purpose of providing services to the public, including existing and new developments.

Public infrastructure or *public improvement(s)* means a street, water, wastewater, drainage (stormwater), sidewalks, park facilities, utilities, and other improvements

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that is a part of one or more of the public facilities systems.

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, reflecting the construction plans, or working drawings, used, corrected, and/or clarified in the field and signed by the project’s design engineer.

Remainder tract means any portion of a larger parcel that is not included within the boundaries of a subdivision plat.

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.

Rural road means a rural road that does not meet the City’s street standards.

Sidewalk(s) 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.

Street(s) 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

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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 is 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 10 dwelling units or less. Access streets provide direct vehicular access to individual garages, drives or common parking courts.

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, 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.

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

Subdivision plan means an adequate facilities plan or construction plans. A subdivision plan excludes a zoning plan and/or approvals required pursuant to the City's Zoning Code.

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.

Technical Construction Standards and Specifications (“*TCSS*”) means the City's latest adopted edition of standards and specifications applicable to the construction of public infrastructure or public improvements, as approved by the City Engineer.

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Texas Commission on Environmental Quality (“TCEQ”) means the environmental agency for the state or its successor.

Thoroughfare Plan means the City’s adopted planning document and maps, along with any amendments or supplements, 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 Comprehensive Plan.

Undevelopable lot means a lot that is unbuildable or cannot be feasibly developed due to conditions such as shape, size, topography, amount of floodplain or floodway, unable to meet setbacks, unable to meet minimum size requirements for lots or improvements, lots less than one acre in size located in the ETJ, unable to accommodate utilities to serve the lot, incapable of meeting all applicable requirements for constructing utilities and buildings, or other impairments to lawful development.

Vested right means a right of an applicant in accordance with Chapter 245, 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.

Waiver, major has the meaning set forth in Sec. 82-37.

Waiver, minor has the meaning set forth in Sec. 82-37.

Wastewater means a waterborne industrial waste, recreational waste, domestic waste, or combination of these wastes, as defined by the TCEQ.

Zoning plan means a concept plan, site plan, or similar document required to determine compliance with land use regulations which are authorized under Chapter 211, Texas Local Government.

Sec. 82-05. - Platting Required.

(a) *Duty to file plat.* Except as otherwise provided in Sec. 82.06, the owner of land located within the City or 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 or any type of development or building permit shall be issued until compliance

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with this Code is achieved.

(b) *Exemptions.* The following subdivisions are exempted from the above-stated platting requirement:

(1) A conveyance of land by dedication, lease, or sale to a public agency for a street or other type of right-of-way, utility line, or drainage facility, provided that said conveyance is accepted and approved by the public agency.

(2) Leases, including a lease of public property at the Kerrville Airport.

(3) 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:

- a. Streets constructed and previously accepted for maintenance by the City or County, whichever is applicable;
- b. Water improvements as currently required by this or other applicable ordinances;
- c. Wastewater or individual OSSF disposal system as currently required by this or other ordinances;
- d. Storm drainage facilities as currently required by this or other applicable ordinances; and
- e. 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.

(4) In accordance with Section 212.004(a), Texas Local Government Code, the division of land into two or more parts provided that:

- a. all parts after the division of land are larger than five acres;
- b. no public improvement is required by this Code to be dedicated; and,
- c. after the division, each part has access.

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For purposes of this subsection, “access” means 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 City. A person proposing to divide land under this subsection may apply for an exemption determination from the Director.

Sec. 82-06. - Authority of decision makers.

- (a) *General Delegation.* All actions set forth in this Code for matters not designated for decision by the Commission or reserved to the City Council or otherwise expressly delegated hereby are delegated to the Director.
- (b) *City Engineer.* The City Engineer, or designee (“City Engineer”), is the responsible official for approval of construction plans, preparing rough proportionality determinations, overseeing construction management, and promulgating standard specifications applicable to subdivision approvals.
- (c) *Director.* The Director is 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 Director shall consult with the City Engineer and other City departments and officials and his or her recommendations shall reflect such communications.
- (d) *Planning and Zoning Commission.* The Commission is responsible for approving plats and granting specified waivers to platting requirements.
- (e) *City Council.* City Council is responsible for reviewing appeals from rough proportionality determinations and waiver requests and for adopting changes to the subdivision regulations.

Sec. 82-07. - Filing fees.

- (a) *Establishment and Amendment of Filing Fees.* A schedule of filing fees for plat and subdivision plan applications shall be established by City Council by resolution or ordinance, as amended from time to time.
- (b) *Fees Non-refundable.* All filing fees are nonrefundable.

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Sec. 82-08. - Enforcement.

(a) *Commission authorization required.*

- (1) No plat of any subdivision within the City or its ETJ shall be recorded in the Real Property Records of the County, and has no validity until such has been approved by the Commission in the manner prescribed by this Code.
- (2) 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.
- (3) Until a final plat has been approved by the Commission and filed for record in the Real Property Record of the County, 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 wastewater 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.

(b) *Withholding Permits and Services.*

- (1) 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.
- (2) The City shall withhold all public improvements, including the maintenance of streets and the furnishing of wastewater facilities and water service, to a subdivision or development for which a final plat has not been approved and recorded.

(c) *Enforcement.*

- (1) 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.
- (2) The City shall have the right to institute an action in an appropriate court to enjoin the violation of any provision of this Code.

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- (3) 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.
- (d) *Severability.* If any section, paragraph, subdivision, clause, phrase, or provision of the ordinance adopting the Subdivision Code is adjudged invalid or held unconstitutional, the same shall not affect the validity of the ordinance or this Code as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

ARTICLE II. PLATTING PROCESS - GENERAL PROVISIONS

Sec. 82-20. - Stages of subdivision approval.

- (a) *Platting Sequence.* Except for minor plats, amending plats, and certain replats described in Article III, 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 the City will accept an application for the next stage of the sequence for filing. The stages occur in the following sequence:

- (1) Adequate facilities plan (AFP);
- (2) Preliminary plat;
- (3) Construction plans; and
- (4) Final plat.

- (b) *Sequence to be followed.*

- (1) 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 Sec. 82-22. 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.
- (2) Unless otherwise indicated in the action taken on an application,

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conditional approval means that conditions shall 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.

Sec. 82-21. - Application procedures.

(a) *Pre-application conference.*

- (1) Before a person may submit an application for approval of a plat or subdivision plan approval to the City, an applicant shall meet with the Director to review the following matters:
 - a. the sequence of stages required prior to approval;
 - b. any claim of exemption for a contemplated division of land;
 - c. prerequisites to filing the initial application;
 - d. any request for major waivers to the subdivision regulations; and
 - e. complete application requirements.
- (2) The following authorizations are required prior to submittal of an initial subdivision application for approval, unless a major waiver is approved waiving the requirement:
 - a. For property within the City, zoning approval for the contemplated use(s) of the property to be divided or the developer has applied for a zoning change simultaneously with the subdivision application;
 - b. Texas Department of Transportation approval for any contemplated modification(s) to a state-owned or -maintained roadway, to include access;
 - c. 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;
 - d. Any requested vested rights determination; and

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- e. Any request for a major waiver to the subdivision regulations.
- (3) At the pre-application conference, the applicant may elect in writing to an alternative procedure pursuant to Sec. 82-22.
- (4) No subdivision application will be accepted for filing at the pre-application conference.
- (b) *Official submittal dates.*
- (1) A person may only submit a subdivision application, documents for removal of conditions imposed on a plat or subdivision plan application, or documents for satisfaction of grounds for denial of a subdivision, on an official submittal date.
 - (2) The City shall establish and publish annually on its website a monthly schedule of official submittal dates, which is subject to change.
 - (3) An applicant shall schedule a meeting with the Director on the official submittal date in order to review the proposed subdivision application.
 - (4) A subdivision application shall not be accepted for filing on an official submittal date and shall be returned to the applicant in the following circumstances:
 - a. Prerequisite authorizations have not been obtained;
 - b. A prior required application has not been approved;
 - c. A proposed major waiver is pending for decision;
 - d. The subdivision application is not complete; or
 - e. The applicant has not submitted the filing fee.
 - (5) If a subdivision application 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 (b)(4), above, 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

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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.

(c) *Complete application determination.*

- (1) The Director shall perform a completeness determination for the application within 5 days of the official submittal date.
- (2) 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, such standards to be in conformance with this Code and published on the City's website.
- (3) The Director shall accept the application as complete or provide a list of deficiencies to the applicant that render the application incomplete.
- (4) The Director shall deny and return any subdivision application that remains incomplete after acceptance for filing.

(d) *Thirty-day decision process.*

- (1) Approval by Commission. The Director shall prepare a report on a proposed plat or subdivision application. The adequate facilities plan shall be considered for approval as described in subsection (d)(2), below. 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)(4), below.
- (2) Approval of Adequate Facilities Plan (“AFP”). The Director shall approve, approve with conditions, or disapprove an adequate facilities plan within 30 days after the date the AFP application is filed. An AFP is deemed approved unless it is conditionally approved or disapproved within that period in the manner provided in subsection (d)(4), below.
- (3) 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

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application is deemed approved unless it is conditionally approved or disapproved within that period in the manner provided in subsection (d)(4), below.

- (4) 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 of the plat or subdivision plan. Each condition or reason specified in the written statement shall 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 shall be satisfied.
- (5) 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 (d)(1), above, for a period not to exceed 30 days. The written request shall 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.

(e) *Post-decision procedures.*

- (1) Applicant's response. After the conditional approval or disapproval of a plat or subdivision plan under subsection (d)(4), above, 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. The Commission or responsible official shall disapprove any response that does not address all of the conditions or reasons for disapproval. When the Director or City Engineer determine that 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.
- (2) 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

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subsection (e)(1), above, 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, shall 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 Director shall then provide the applicant with a written statement that clearly articulates each reason for disapproval in the manner provided in subsection (d)(4), above. Following timely disapproval of the plat or subdivision plan, a new application for the plat or subdivision plan will need to be filed. If the response meets the criteria in subsection (e)(1), above, and the Commission or responsible official, as the case may be, fails to act upon the response as required by this subsection, the plat or subdivision plan shall be deemed approved.

- (3) Delegation and appeal. The Director is authorized, and hereby designated as a municipal authority, 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 (e)(2), above. 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.
- (f) *Exceptions to thirty-day decision process.* The 30-day decision process and post-decision procedures described in subsections (d) and (e), above, do not apply to the following proceedings:
 - (1) Any request for relief provided for in this Code, including an application for any waivers from the standards or procedures;
 - (2) Any appeal provided for in these regulations, including an appeal from a vested rights determination;
 - (3) Any action by the City Council on the City Engineer's rough proportionality determination, including an appeal taken by an applicant;
 - (4) Any actions taken to modify an approved final plat;

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- (5) Inspections of improvements;
- (6) Any actions taken after plat recordation, other than a replat or amending plat;
- (7) Any request to extend plat or subdivision plan approval beyond an expiration date; or
- (8) Any matter requiring authorization prior to submittal of a plat or subdivision plan application identified in subsection (a)(2), above.

(g) *Certification.*

- (1) 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. Where approved, the certificate shall be signed by the chair of the Commission. The City Engineer is responsible for approving all construction plans, technical notes, and/or the dedication of improvements and property interests.
- (2) If a plat or subdivision plan application is deemed approved pursuant to subsections (d)(1) or (e)(2), above, 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.

(h) *Expiration and extension of an approved plat or subdivision plan.*

- (1) 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 2 years from the date of approval, unless the applicant submits and receives approval for a required subsequent application for approval. Unconditional approval of a preliminary plat expires 2 years from the date of approval, if a final plat has not been submitted to the City.
- (2) New application required. Following expiration of an approved plat or subdivision plan, a new subdivision application is required unless the date for expiration has been extended in accordance with this section.

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- (3) Project expiration. Following expiration of an approved plat or subdivision plan, the project defined by a prior-approved subdivision application shall be deemed to have expired within 5 years from the date of the last prior approval, unless a new subdivision 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 in accordance with Section 245.005, Texas Local Government Code, such as completion of one or more phases, utility installations, and/or recorded final plats.
- (4) Extension request. An applicant may submit a request to the 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.
- (5) 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 circumstances 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 subdivision application.
- (6) 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 (h)(5), above.
- (7) 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.
 - (i) *Withdrawal of application*. The applicant for a plat or subdivision plan approval may withdraw the subdivision application following the City's acceptance for filing but no later than 4 days before the time of the scheduled decision on the subdivision application. Following withdrawal, the applicant shall submit a

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new subdivision application, including the fee.

Sec. 82-22. - Alternative procedures.

- (a) *Purpose.* The alternative procedures in this section are intended to facilitate the development of a complete subdivision application for each stage of subdivision approval. This process will allow an applicant to have components of their submittal reviewed ahead of an application for a plat or subdivision plan to assure that prerequisites to subdivision approval have been met and that a subdivision application is complete for Commission or responsible official review before the time periods in Sec. 82-21 begin to run.
- (b) *Initial stage procedures.* At the time of the pre-application conference and submittal of an adequate facilities plan or preliminary plat application, an applicant may notify the Director in writing that he or she desires to utilize the alternative procedures provided in this section. If the request to utilize the alternative procedures is approved by the Director, an applicant may submit simultaneously an application for an AFP, where required, and an application for preliminary plat approval.
- (c) *Staff review and application processing.* The Director shall convene necessary staff and others 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 subsections 82-21(d) and (e), above, apply.
- (d) *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 plans and final plat approval at the pre-application conference for construction plans or on any official submittal date. Thereafter, an applicant may submit simultaneously an application for construction plans approval and an application for final plat approval. The procedures in subsection (c), above, apply to review and processing of these applications.
- (e) *Applicant's options.*

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- (1) An applicant who has submitted an application for a plat or subdivision plan approval may opt into the alternative procedures under this section by executing the election in writing and by withdrawing his or her subdivision 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 subdivision application.
- (2) An applicant may withdraw from use of the alternative procedures by notifying the responsible official in writing and by submitting the application for a plat or subdivision plan approval on an official submittal date in the sequence required by Sec. 82-21.
- (3) Where an application for a plat or subdivision plan approval has been denied or is subject to a condition that shall be satisfied before the time of submitting a subsequent application, an applicant may elect in writing to consult with the Director and other staff prior to submitting a response that satisfies the reasons for denial or the condition(s) as otherwise required by subsection 82-21(e).

ARTICLE III. PLATTING PROCEDURES

Sec. 82-30. - Platting procedures; adequate facilities plan.

- (a) *Purpose.* The purpose of an adequate facilities plan is to assure that specific subdivisions, as described in subsection (b), below, are served with adequate, streets, water service, wastewater services, drainage (stormwater) and flood control, parks, and other facilities for each phase of the subdivision or development. An AFP shall 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.
- (b) *Applicability.* An adequate facilities plan shall be required for any of the following proposed subdivisions and developments:
 - (1) any division of land where proposed development of the tract is to occur in phases;

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- (2) any division that creates a remainder tract;
 - (3) a proposed residential subdivision containing 25 or more residential units or lots; or
 - (4) a proposed non-residential subdivision of 1 or more acres.
- (c) *Remainder tract.*
- (1) Remainder tracts will not be considered lots or tracts of the subdivision. A plan for the future development or subdivision of remainder tracts will be reviewed with the application for adequate facilities plan. The City Engineer may require an adjustment in the number of acres included in the subdivision plat to comply with the standards applicable to the plat or plan.
 - (2) The City shall not accept a subdivision application for a remainder tract for filing until a final plat has been approved for the first phase of the adequate facilities plan.
 - (3) A remainder tract shall not be an undevelopable lot.
- (d) *Submittal requirements.* An application for an adequate facilities plan shall be submitted to the Director. The application for the AFP shall include the following information and documentation:
- (1) A copy of all required pre-authorizations set forth in subsection 82-21(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

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- 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 Article IV or as may be required by the City Engineer:
 - a. a traffic impact analysis ("TIA");
 - b. a drainage study; and/or
 - c. a utility plan; and
 - (15) Any other requirements promulgated in writing by the Director and City Engineer.
- (e) *Decision by City Engineer.*

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- (1) The City Engineer is the responsible official for processing an adequate facility plan. The procedures in Sec. 82-21 apply to an AFP submitted for approval.
 - (2) The City Engineer, in consultation with the Director, shall approve, approve with conditions, or disapprove the adequate facilities plan based on the criteria for approval in subsection (g), below. In addition to other conditions, approval of the AFP may be conditioned on exclusion of land from the AFP, 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.
- (f) *Appeal.* An applicant may appeal the City Engineer's disapproval of the adequate facilities plan to the Commission within 10 days following notification thereof. The appeal shall state with specificity why the AFP should be approved. The Commission shall approve, approve with conditions or disapprove the AFP in accordance with the criteria in subsection (g), below. Such conditions may address but are not limited to matters involving conformity with the City's Zoning Code (see Ch. 60, City's Code of Ordinances), 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 AFP, 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.
- (g) *Criteria for Approval.* The following criteria apply to determine whether an adequate facilities plan shall be approved, approved with conditions, or disapproved:
- (1) The AFP is consistent with all existing or proposed zoning requirements for the property and any approved development or annexation agreements;
 - (2) The proposed provision and configuration of streets, water, wastewater, drainage (stormwater), sidewalk, and park facilities generally conform to the master plans for such improvements;

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- (3) The streets, water, wastewater, drainage (stormwater), 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 Article IV;
 - (4) 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;
 - (5) The schedule of development for phased subdivisions is feasible and prudent and supports the development schedule;
 - (6) The location, size, and sequence of the phases of development proposed assure orderly and efficient development of the land subject to the plat;
 - (7) Where the proposed development is located in whole or in part within the ETJ and if subject to an interlocal agreement with the County pursuant to state law, the proposed AFP meets any County standards to be applied pursuant to the agreement.
- (h) *Effect of Approval.* Approval of an adequate facilities plan authorizes an applicant to submit for approval of a preliminary plat for one or more phases of the subdivision. However, approval of the AFP does not reserve any type of utility capacity for the development. Infrastructure capacity may be reserved through the approval of the construction plans.
- (i) *Expiration and Extension.*
- (1) Time of expiration. An adequate facilities plan that is approved, or approved with conditions, is valid for 2 years from date of such approval, but automatically expires without notice if the subdivider fails to receive approval, or conditional approval, for a preliminary plat by such date. Failure to meet said platting deadline to include where the Commission disapproves of a plat will result in the expiration of the AFP for that and any subsequent phases of the development. In addition, where an approved preliminary plat expires pursuant to Sec. 82-31, the AFP 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.
 - (2) Extension. The expiration date for any phase of the development may be

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extended by the Commission for a period of not more than 1 year provided that a request for extension is made in writing by the subdivider at least 30 days before the expiration date of the AFP. Extension of the expiration date for the phase extends the expiration date for the AFP for a like period, including a requirement that one or more current development standards be applied to subsequent subdivision applications within the area subject to the AFP.

Sec. 82-31. - Platting procedures; preliminary plat.

- (a) *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 the subdivision regulations.
- (b) *Submittal Requirements.* The following documents and verifications shall be submitted to the Director with the application for preliminary plat approval:
 - (1) The application shall include a statement describing the current ownership of the property. The owner or owner's representative shall verify such information by signature, with the representative to also submit an owner's affidavit or some other written proof affirming such information and the relationship.
 - (2) If required, a copy of the approved adequate facilities plan and documents addressing any conditions attached to the AFP, 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 Sec. 82-21 have been obtained and a detailed statement of how the proposed subdivision will be served by streets, water, wastewater, drainage (stormwater), sidewalk, and park facilities that have adequate capacity to serve the development;
 - (4) A copy of the preliminary plat showing the scale, layout requirements, and technical standards as per the application checklist promulgated by the Director.
- (c) *Commission Decision.*
 - (1) The Director is the responsible official for processing preliminary plats in

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accordance with the procedures in Sec. 82-21.

- (2) Both the 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 (d), below.
 - (3) 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 (d), below. Such conditions may include that the applicant prepare a utility plan, drainage study, or traffic impact analysis that supports the subdivision.
 - (4) The Commission shall specify whether such conditions must be met at the time of construction plans or final plat approval.
- (d) *Criteria for Approval.* The Commission shall apply the following criteria to determine whether the preliminary plat shall be approved, approved with conditions, or disapproved:
- (1) The preliminary plat is consistent with all zoning requirements for the property if the property is located within the City's limits;
 - (2) The proposed provision and configuration of public infrastructure including streets, water, wastewater, drainage (stormwater), sidewalk, park facilities, and corresponding easements or other property interests are adequate to serve the subdivision and conform to the master plans for those facilities;
 - (3) Where the proposed preliminary plat is located in whole or in part in the ETJ and if subject to an interlocal agreement with the County pursuant to state law, the plat meets any County standards to be applied pursuant to the agreement;
 - (4) The preliminary plat conforms to design requirements and construction standards set forth in Article IV, below; and
 - (5) The proposed subdivision represented on the preliminary plat mitigates the impact of the proposed subdivision on public health, safety, or welfare.
- (e) *Effect.* The approval of a preliminary plat authorizes the applicant to apply for

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approval of construction plans.

(f) *Expiration and Extension.*

- (1) Procedures and Standards. Except as modified by this subsection, the provisions of subsection 82-21(h) apply to expiration and extension of preliminary plat approvals.
- (2) Time of Expiration. A preliminary plat expires 2 years after approval if a final plat is not submitted to the City. If applicant does not submit and receive approval, or conditional approval, for construction plans or a final plat with appropriate surety within the 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.

(g) *Amendments to Preliminary Plat Following Approval.*

- (1) 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.
- (2) Major Amendments. All other proposed changes to the design of the subdivision subject to an approved preliminary plat will 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.
- (3) Determination. The Director shall make a determination of whether proposed amendments are deemed to be minor or major, thereby requiring new submittal of a preliminary plat.

Sec. 82-32. - Platting procedures; construction plans.

- (a) *Purpose.* The purpose of a construction plan is to assure that required public infrastructure be installed in accordance with all of the standards in Article

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IV. The approval of construction plans will serve as capacity reservation from the City for the infrastructure contained within said plans, subject to the conditions below.

(b) *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 the provision for the existence of on-site easements for utility providers and acquisition of off-site easements for placement of the improvements as required by subsection (d), below. The easements shall be filed of record in the Real Property Records of the County and the recording information shall be specified on the plat; and
- (5) The construction of improvements within all subdivisions and developments shall be in conformance with the *Technical Construction Standards and Specifications* pursuant to Article IV.

(c) *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 (f), below.

(d) *Timing of public improvements.*

- (1) Completion prior to final plat approval and recordation. A developer may complete all required public improvements in accordance with the approved construction plans prior to the approval of a final plat.
- (2) Completion before recordation of final plat. Unless an improvement

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agreement is executed pursuant to subsection (3), below, an approved final plat shall not be recorded in the real property records until after the public improvements have been completed by the owner and thereafter, inspected and accepted by the City.

- (3) Deferral of obligation. The City Engineer may defer a subdivider's obligation to construct public improvements upon execution of an improvement agreement, in a form approved by the City Attorney, and upon provision of adequate security pursuant to subsection (e), below. Such improvement agreement shall be executed and security provided before final plat approval if the subdivider wishes to defer construction of any public improvement.
- (4) Easements for utility providers. The applicant shall secure all necessary easements for utility providers prior to City releasing the plans for construction or final acceptance of utility infrastructure. This obligation may be fulfilled for an onsite easement by dedicating the easement on the final plat and may be fulfilled for any offsite easement as set forth in subsection (5), below.
- (5) 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 the City releasing the plans for construction. 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 real property records of the County by an instrument approved by the City.

(e) Improvement agreement and security for completion.

- (1) 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 will not be accepted for filing, nor will it be approved, unless and until the applicant enters into an improvement agreement with the City by which the applicant:
 - a. agrees to complete the improvements by a specified date;
 - b. warrants the improvements for 2 years following final acceptance by the City;

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- c. provides a maintenance bond in the amount of 110% of the costs of the improvements for such time period;
 - d. provides for securing the obligations of the agreement consistent with subsections (4) and (5), below; and
 - e. contains other terms and conditions as are agreed to by the applicant and the City or as may be required by these subdivision regulations.
- (2) 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 prior to submitting an application for final plat approval. The applicant shall thereafter return a copy of the filing to the Director.
- (3) 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. An improvement agreement shall not be considered final until the approved form is executed by the City and all existing owners.
- (4) Security for completion of improvements.
- a. 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 or her construction obligations by an irrevocable letter of credit, cash deposit with the City, or bond executed by a surety company licensed to do business in the State of Texas and on a form provided by the City Attorney. The type of security required for each improvement shall be as agreed to by the City.
 - b. Estimated cost and security approval. Security shall be issued in the amount of 110% of the estimated cost, in the sole opinion of the City Engineer, to construct and complete all required public infrastructure to City's standards. Security shall be subject to the review and approval of the City Attorney.

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- c. 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 regulations.

(5) Escrow Policies and Procedures.

- a. Request for Escrow. The City Engineer may require, or the developer may petition the City, to defer required public infrastructure in exchange for a deposit of cash funds in escrow. The City Engineer may require studies and other information to support a developer's request to escrow funds. The parties will incorporate the provisions for escrow into the improvement agreement.
- b. 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 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.
- c. City usage of escrowed funds. The City may also use the escrowed funds in participation with another party to jointly construct the public infrastructure.
- d. Termination of escrow. Escrow funds which remain unused after a period of 10 years following the date of such payment shall, upon written request, be returned to the property owner or successor without interest if the recorded final plat is vacated. Such return of escrowed funds does not remove any obligations of the subdivider for construction of the required improvement(s).
- e. Refund. If funds are deposited in escrow for a public infrastructure that is constructed by a party other than the developer or City, any unused escrowed funds, upon written request, shall be refunded to the property owner, without interest, after completion and City acceptance of the improvement.

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(f) *Criteria for Approval of Construction Plans.* The City Engineer shall approve the construction plans if:

- (1) The plans are consistent with any deferred conditions attached to an approved adequate facilities plan;
- (2) The plans are consistent with the approved preliminary plat and any conditions attached thereto;
- (3) The plans conform to the standards of Article IV of these regulations;
- (4) An applicant has provided on-site easements and has acquired off-site utilities easements as required by subsection (d), above;
- (5) Postponing construction of public infrastructure until after final plat approval and recordation is appropriate and a financial guarantee is acceptable through an improvement agreement; and
- (6) An applicant has executed an improvement agreement and has posted security as required in subsection (e), above, if the obligation to construct public infrastructure has been deferred until final plat approval.

(g) *Effect.* Approval of construction plans authorizes the applicant to schedule a pre-construction meeting with the City in accordance with subsection 82-40(a) and to apply for the City to release the plans for construction or final acceptance of utility infrastructure in accordance with subsection 82-40(b). If 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.

(h) *Expiration and Extension.*

- (1) Procedures and Standards. Except as modified by this subsection, the provisions of subsection 82-21(h) apply to expiration and extension of construction plan approvals.
- (2) Expiration. Approved construction plans remain valid for a period of 1 year following the date of approval during which period, a developer shall commence and be diligently and continuously pursuing construction of the public infrastructure. If the developer does not undertake these activities as described above, the construction plans will automatically expire without

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notice. If the obligation to construct public infrastructure has been deferred until after approval and recordation of the final plat, the construction plans will expire upon the deadline to complete the improvements contained in the improvement agreement.

Sec. 82-33. - Platting procedures; final plat.

- (a) *Purpose.* The purpose of a final plat is to ensure that the proposed subdivision and development of the land is consistent with all standards of 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.
- (b) *Submittal requirements.* The following documents and verifications shall be submitted to the Director with the application for preliminary plat approval:
 - (1) A copy of the approved preliminary plat and approved construction plans;
 - (2) If construction of any public infrastructure is to be delayed until after recordation of the final plat, an executed copy of the improvement agreement and security for completion required by subsection 82-32(e);
 - (3) 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;
 - (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. Records from the Kerr County Appraisal District are not sufficient;
 - (5) A copy of the final plat showing the signatures of each owner, or owner's representative, authorized to sign legal documents for the owner(s), 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;
 - (6) Where the land to be platted is located in whole or part in the ETJ of the

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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

- (7) One paper bond copy of the final plat, as well as a PDF or other digital file in a format acceptable to the City and 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 (1.0") to one thousand feet (1,000.0');
 - 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 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 Commission and its location in City records; and
 - h. any other requirements as required by an application checklist as promulgated by the Director and available on the City's website.

(c) *Commission decision.*

- (1) The Director is the responsible official for processing final plats.
- (2) 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 (d), below.

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- (3) 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 (d), below.
- (d) *Criteria for approval of final plat.* The Commission shall use the following criteria to determine whether the application for a final plat shall be approved, approved with conditions, or disapproved:
 - (1) The final plat conforms to the approved preliminary plat and may be approved without the necessity of revising the approved preliminary plat;
 - (2) All conditions imposed at the time of approval of the preliminary plat have been satisfied;
 - (3) Construction plans have been approved by the City Engineer;
 - (4) Where public infrastructure have been installed, the infrastructure conforms to the approved construction plans and have been approved for acceptance by the City Engineer;
 - (5) Where the City Engineer has authorized public infrastructure to be deferred, an improvement agreement has been executed and submitted by the property owner, and security and/or escrow in conformity with these regulations has been provided to the City;
 - (6) The final layout of the subdivision or development meets all standards for adequacy of public infrastructure to comply with these subdivision regulations;
 - (7) If applicable, the final plat meets all County standards to be applied under an interlocal agreement between the City and the County under Chapter 242, Texas Local Government, and where the proposed subdivision is located in whole or in part in the ETJ; and
 - (8) The plat conforms to design requirements and construction standards as set forth in Article IV, below.
- (e) *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

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improvements in public rights-of-way in conformance with approved construction plans, an improvement agreement as provided in subsection 82-32(e), and other City regulations.

(f) *Recordation of Plat.*

- (1) The applicant shall deliver to the Director the required number of signed and executed copies of the final plat that will be needed to file the plat in the real property records of the County.
- (2) The Director shall procure the requisite City approvals required on the plat.
- (3) The Director shall record the final plat if:
 - a. The final plat is approved by the Commission;
 - b. All required public infrastructure has been completed and accepted by the City, or an improvement agreement has been executed and appropriate security and/or escrow has been provided in accordance with these regulations;
 - c. All County filing requirements are met;
 - d. 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 and revised to reflect any conditions imposed by the Commission as part of approval; and
 - e. If there has been any change in ownership since the time of the proof of ownership provided under subsection (b), above, 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 is subject to review and approval by the City Attorney.
- (4) Revisions to the recorded plat may only be processed and approved as a replat or amending plat under Secs. 82-35 or -36, respectively.

Sec. 82-34. - Platting procedures; minor subdivisions.

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- (a) *General delegation.* The Director, after consultation with the City Engineer, may approve a minor subdivision. The approval of a minor subdivision will be deemed to be the approval of a final plat for the subdivision, which may be recorded following approval.
- (b) *Applicability.* A proposed subdivision is eligible for minor subdivision approval if it meets each of the following standards:
 - (1) The division creates four or fewer lots;
 - (2) Each lot abuts and takes access from a public street that is constructed to current City specifications;
 - (3) City's water and wastewater systems are in place adjacent to each lot and there is no further extension of improvements for such systems; or, the lots are to be served by on-site water and wastewater facilities, which use is subject to compliance with applicable laws; and
 - (4) Drainage facilities to serve each lot have been constructed in accordance with an approved storm water drainage study for properties within the City.
- (c) *Submittal Requirements.* An application for minor subdivision approval shall be submitted to the Director, together with required number of copies of the minor subdivision drawn at an adequate scale as required by the application checklist promulgated by the Director and available on the City's website. Submission shall include the following:
 - (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.
- (d) *Processing and Decision.*
 - (1) The procedures in Sec. 82-21 apply to an application for minor subdivision approval.

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- (2) The Director shall approve the minor subdivision application if it meets the eligibility standards in subsection (b), above, within 30 days after the date the application is filed. Such division may not create an undevelopable lot. If an application does not meet the eligibility standards, the Director shall disapprove the application within such period. An applicant may then submit an application for preliminary plat approval to the Commission in accordance with these regulations.
- (3) The Director may refer the minor subdivision application to the Commission for a decision for any reason, such decision to be made within 30 days after the date the application is filed. The Commission shall decide the application at its next regularly scheduled meeting applying the criteria in subsection (b), above.

Sec. 82-35. - Platting procedures; re-subdivision.

(a) *Vacation of prior plat.*

- (1) 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.
- (2) Application.
 - a. 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.
 - b. By all lot owners. If lots in the plat have been sold, an application to vacate the plat shall be submitted by all the owners of lots in the plat.
- (3) Commission decision. The Commission, on the recommendation of the 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.
- (4) Recordation of action. If the Commission determines that a plat should be vacated, it shall certify in writing by resolution that the plat vacation has been approved by the City. If the Commission adopts a resolution vacating a plat, it shall cause a vacating plat to be recorded. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is

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approved by the Commission and recorded in the manner prescribed for the original plat.

(5) Effect.

- a. On the execution and recording of the vacating instrument, a previously filed plat has 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 application fees paid to the City nor to the return of any property or consideration previously dedicated or delivered to the City.
- b. City Council, 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, and may require separate instruments prior to the vacating plat being recorded.
- c. Following vacation of a plat, a new application must be filed for any subdivision approval, as provided in Article II.

(b) *Replat without vacation of preceding plat.*

(1) 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:

- a. is signed and acknowledged by only the owners of the property being replatted;
- b. does not propose to amend or remove any covenants or restrictions previously incorporated in the recorded plat; and
- c. is approved by the Commission.

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

- a. a vacating plat and any plat filed after plat vacation;
- b. platting of a remainder tract; or
- c. an amending plat.

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(3) General procedures.

- a. The Director is the responsible official for processing a replat application in accordance with Article II, except as otherwise stated in this subsection.
- b. 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 82-32.
- c. Unless otherwise specified, an application for a replat shall be processed as a final plat application.
- d. If a replat is submitted for only a portion of a previously platted subdivision, the replat shall reference the previous subdivision name and recording information and shall state on the replat the specific lots which are being changed along with a detailed statement as to the purpose of the replat.

(4) Notice and public hearing requirements for certain replats.

- a. If the proposed replat requires a minor waiver, then the Commission shall hold a public hearing. The Director shall then cause a notice of a public hearing to be given by:
 1. Publication in the City's official newspaper before the 15th day (*i.e.*, 17 days) before the date of the hearing; and
 2. Written notice, mailed before the 15th day (*i.e.*, 17 days) before the date of the hearing, including a copy of Section 212.015(c), Texas Local Government Code, as may be amended, and sent by the Director to the owners of lots that are in the original subdivision and that are within two hundred feet (200.0') of the lots to be replatted, as indicated on the most recent City tax roll or in the case of a replat within the ETJ, the most recent 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 postal depository within the City.
- b. The Commission shall conduct a public hearing. If a protest is received

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in accordance with subsection (c), below, 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.

- c. A protest triggering the requirements of subsection (b), above, shall be signed by at least twenty percent (20%) of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending two hundred feet (200.0') from that area, and contained within the original plat. In determining the percentage of land area, the area of streets and alleys shall be included.
 - d. Following approval or conditional approval of the replat that does not require a major or minor waiver, the Director shall cause written notice of the Commission's decision to be given by mail not later than 15 days after the date of approval of the replat to each owner of a lot that is on the original plat and is within two hundred feet (200.0') of the replatted lots according to the most recent City or County tax roll. The notice shall include the zoning designation of the property after the replat, where applicable, and a telephone number and email address an owner of a lot may use to contact the City about the replat.
- (5) 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.

Sec. 82-36. - Platting procedures; amending plat.

(a) *Purpose and applicability.*

- (1) Purpose. The purpose of an amending plat is to provide an expeditious means of making minor revisions to a previously recorded plat.
- (2) Applicability. The procedures for an amending plat only apply if the sole purpose is to achieve one or more of the following:
 - a. Correct an error in a course or distance shown on the preceding plat;
 - b. Add a course or distance that was omitted on the preceding plat;
 - c. Correct an error in a real property description shown on the preceding

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plat;

- d. Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
- e. 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;
- f. 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;
- g. Correct an error in courses and distances of lot lines between two adjacent lots if:
 - 1. Both lot owners join in the application for amending the plat;
 - 2. Neither lot is abolished;
 - 3. The amendment does not attempt to remove recorded covenants or restrictions; and
 - 4. The amendment does not have a material adverse effect on the property rights of the other owners in the plat;
- h. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
- i. Relocate one or more lot lines between one or more adjacent lots if:
 - 1. The owners of all those lots join in the application for amending the plat;
 - 2. The amendment does not attempt to remove recorded covenants or restrictions; and
 - 3. The amendment does not increase the number of lots;
- j. Make necessary changes to the preceding plat to create 6 or fewer lots in the subdivision or a part of the subdivision covered by the preceding

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plat if:

1. The changes do not affect applicable zoning and other regulations of the City;
 2. The changes do not attempt to amend or remove any covenants or restrictions; and
 3. The area covered by the changes is located in an area that the City has approved, after a public hearing, as a residential area; or
- k. Replat one or more lots fronting on an existing street if:
1. The owners of all those lots join in the application for amending the plat;
 2. The amendment does not attempt to remove recorded covenants or restrictions;
 3. The amendment does not increase the number of lots; and
 4. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- (b) *Submittal Requirements.* The applicant shall identify the matters under subsection (a)(2), above, for which an amending plan is sought and submit documentation sufficient to show that the application meets the standards set forth therein.
- (c) *Decision by Director.*
- (1) The approval and issuance of an amending plat does not require notice, a public hearing, or approval of other lot owners.
 - (2) The provisions in Sec. 82-21 apply to an amending plat.
 - (3) 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 (e), below.
- (d) *Appeal.* An applicant may appeal the Director's disapproval of the amending

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plat to the Commission within 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 (e), below.

- (e) *Criteria for Approval.* The following criteria shall be used to determine whether the amending plat shall be approved, approved with conditions, or disapproved:
 - (1) For each ground for which the applicant seeks approval for an amending plat, the eligibility requirement stated in subsection (a)(2), above, have been met; and
 - (2) The plat otherwise meets the requirements of Article IV.
- (f) *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.

Sec. 82-37. - Relief procedures; waivers.

City Council may authorize major waivers from these subdivision regulations upon a request by an applicant. The Director or Commission may authorize minor waivers in accordance with the following:

- (a) *Request for waiver.* Prior to any application for plat or subdivision plan approval, an applicant who seeks a major waiver, as specified below, to the standards in these regulations shall submit the request for the waiver(s) to the Director for consideration by City Council. The request shall 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 Sec. 82-38. Determinations on request for waivers will be handled in the following manner:

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- (1) **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 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 Director. If a minor waiver is requested in an application for a replat, the minor waiver shall be approved by the Commission following the procedures in subsection 82-35(b), above.
- (2) **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. If a major waiver is requested in an application for a replat, the public hearing and notice procedures in subsection 82-35(b), above, shall apply to approval of the major waiver.

(b) *Criteria for Approval of Waiver.*

- (1) 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:
- a. 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:
1. to preserve environmental features that would be otherwise be affected by a strict application of these regulations, including tree preservation, geologic formations, steep slopes, springs, or similar conditions;
2. to enable more efficient use of the land;

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3. to minimize or correct previous adverse effects from placement of drainage courses, transmission lines, or septic systems; or
 4. to enable orientation of lots for greater solar advantage; and
- b. The granting of the waiver will not be detrimental to the public health, safety, general welfare, or injurious to surrounding properties; and
 - c. 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.
- (2) The Director or the Commission may grant a minor waiver utilizing the criteria in subsection (a)(1), above.
- (3) No waiver may be granted that would constitute a violation of a City ordinance.
- (c) *Decision and Effect.* Council or the Director, as the case may be, or in the event of a minor waiver for a replat, the Commission, shall provide the applicant with its written decision on the waiver request. Where Council grants a major waiver, the applicant is authorized to submit an application for plat or subdivision plan approval that incorporates the major waiver(s), which shall not be altered by the Director or Commission, as the case may be, nor shall an approved waiver be the basis for a denial of the application.

Sec. 82-38. - Rough proportionality determination; appeal.

(a) *Purpose and Applicability.*

- (1) Purpose. The purpose of a proportionality determination is to assure that any requirement to dedicate, construct, or pay a fee for streets, water, wastewater, drainage (stormwater), sidewalks, park facilities, utilities, and other public infrastructure imposed on a proposed plat or subdivision plan as a condition of approval does not result in a disproportionate cost burden on the developer, taking into consideration the nature and extent of the demands created by the proposed development on the public facilities systems.
- (2) Applicability. The proportionality determination by the City Engineer and any appeals filed by the developer apply solely to the dedication of land for,

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the construction of, or the payment of fees for 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 regulations are the minimum standards required to supply the development with services from the public facilities systems.

- (b) *Proportionality Determination by City Engineer.* Following the submission of an AFP and/or an application for a preliminary plat, the City Engineer, in conjunction with such review, shall prepare a written 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.
- (1) The City Engineer, in drafting the report, 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 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 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 public facilities systems.
- (2) The City Engineer may require the developer, at his or her expense, to submit any information or studies that reasonably may assist in making the proportionality determination.
- (3) Based on the proportionality determination, the City Engineer shall affirm or not affirm that the exaction requirements of this Code or other ordinance, as applied to the proposed development or subdivision, does not impose costs on the developer for public infrastructure that exceed those roughly proportionate to the impact of the proposed development or subdivision.

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- (4) The City Engineer shall provide the report to the Director and the Commission shall consider the report when making a decision on a plat application.
 - (5) If the City Engineer does not affirm that the costs of the dedication of land for, construction of, or fees for public infrastructure is roughly proportionate to the costs necessary for the City to provide services to the subdivision from its public facilities systems, he or she shall make a recommendation whether City Council should negotiate a participation agreement with the developer in which the City will participate in the costs of such public infrastructure. Council may then determine to eliminate or lessen the requirements for dedication of land for, or construction of, the public infrastructure or negotiate any other terms as it deems necessary.
 - (6) 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.
- (c) *Appeals.* An applicant may appeal the City Engineer's report to City Council as follows:
- (1) Time for filing and stay of construction or applications. The appeal shall be filed in writing within 15 days following the receipt of the 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.
 - (2) Form of appeal. An appeal 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 shall specifically allege what applicant asserts to be proportionate in the appeal.
 - (3) Study required. The applicant shall provide a study in support of the appeal that includes the following information within 30 days following the date the appeal is filed, unless a longer time is requested:

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- a. As a threshold matter, the study shall demonstrate that the public infrastructure at issue serves other property or development(s) in addition to the subdivision which is the subject of the appeal.
 - b. Total capacity of the City's streets, water, wastewater, drainage (stormwater), sidewalk, and/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 shall be provided for the entire development proposed, including any phases already developed.
 - c. Total capacity to be supplied to the City's streets, water, wastewater, drainage (stormwater), sidewalk, and 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.
 - d. Comparison of the capacity of the public facilities systems to be utilized 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 public facilities systems from the entire development shall be considered.
 - e. The amount of any City participation in the costs of oversizing the public infrastructure to be constructed in accordance with the City's requirements.
 - f. 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.
- (4) Extraterritorial jurisdiction. Where the subdivision or the public infrastructure are located in the ETJ and are to be dedicated to the County under an interlocal agreement, if any, 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

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that a copy has been delivered to the County.

(5) Processing application.

- a. The City Engineer is the responsible official for evaluation and processing of an appeal. Where the appeal is for relief from dedication of an easement or other property interest for, or construction of, a facility in the ETJ that is to be dedicated to a County under any interlocal agreement, if applicable, the City Engineer shall coordinate a recommendation with the County.
- b. 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.

(6) *Decision.* City Council shall decide the appeal within 30 days following the final submission of any testimony or evidence by the applicant. Council shall base its decision on the criteria listed in subsection (7), below, and may take one of the following actions:

- a. 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 report;
- b. 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
- c. 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.

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

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(7) *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 streets, water, wastewater, drainage (stormwater), sidewalk, and park facilities and reasonably benefits the development. In making such determination, Council shall consider the evidence submitted by the applicant, the report from the City Engineer, and, where the property or the public infrastructure is located within the ETJ, any recommendations from the County.

Sec. 82-39. - Relief procedures; vested rights determination; appeal.

(a) *Vested rights petition.*

- (1) 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.
- (2) Applicability. A vested rights petition may be filed and shall 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.
- (3) 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.
- (4) Exceptions. The procedures in Article II are not subject to a vested rights petition, nor are the submittal requirements for plat or subdivision plan applications.

(b) *Petition requirements.*

- (1) Who may petition. A vested rights petition may be filed by a property owner or the owner's authorized agents, with a preliminary or final plat application.
- (2) Form of petition. The vested rights petition shall allege that the petitioner

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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 these regulations. The petition shall include the following information and documents:

- a. A narrative description of the grounds for the petition;
- b. 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;
- c. Documentation reflecting the original date of submittal of the prior application or development plan which is claimed as the basis for vesting;
- d. The date the project defined by the prior application or development plan was commenced;
- e. Identification of all standards otherwise applicable to the application(s) from which relief is sought;
- f. Identification of the standards which the petitioner contends apply to the plat or subdivision plan application;
- g. Identification of any current standards which petitioner agrees can be applied to the application(s) at issue; and
- h. A copy of any prior vested rights determination by the City involving the same land.

(c) Processing of Petition and Decision.

- (1) **Responsible Official.** The Director shall review a petition for completeness and where complete, process the vested rights petition. A petition that is incomplete shall be rejected and the applicant shall be notified in writing of the incomplete items within 10 days. An incomplete petition expires if the missing items are not submitted to the Director within 45 days following the date notice is issued. The petition shall be reviewed by the

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Director in consultation with the City Attorney following receipt of the petition.

- (2) Decision by Director. The Director shall render a decision on the vested rights petition within 30 days after receiving a complete petition.
 - (3) Appeal of Decision. The petitioner may appeal the Director's decision on the vested rights petition within 10 days following the date of such decision to City Council.
 - (4) Decision by Council. Council shall consider the vested rights petition on appeal no later than its first regular meeting that follows the expiration of 30 days from the date the written appeal is received from the owner.
- (d) *Form of Action on Petition*. The Director, or Council on appeal, may take any of the following actions:
- (1) 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;
 - (2) 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 (a)(4), above; or
 - (3) 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.
- (e) *Order on Petition*. Either the Director's or Council's decision on the petition shall be memorialized in an order stating the following:
- (1) The nature of the relief granted, if any;
 - (2) The application(s) or development plan(s) which is the basis for any vesting determination;
 - (3) Current standards which shall apply to the plat or subdivision plan application for which relief is sought;

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- (4) Prior subdivision standards which shall apply to the plat application for which relief is sought; and
 - (5) The statutory exception or other grounds upon which relief is denied in whole or in part on the petition.
- (f) *Criteria for Approval.* The Director, or Council on appeal, shall decide the vested rights petition based upon the following factors:
- (1) The nature and extent of prior applications or development plans filed or approved for the land subject to the petition;
 - (2) Whether any prior vested rights determinations have been made with respect to the property subject to the petition;
 - (3) Whether any prior approved applications for the property have expired or have been terminated in accordance with law;
 - (4) Whether any statutory exception to vesting applies to the standards in the current subdivision regulations from which the applicant seeks relief; and
 - (5) Whether the project defined by a prior application(s) has expired.

Sec. 82-40. - Construction management of public infrastructure.

(a) *Pre-Construction Conference.*

- (1) Purpose. The purpose of the pre-construction conference is to discuss procedures for project construction prior to construction release under subsection (b), below. 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.
- (2) Drawings. All record drawings shall reflect the construction plans, or working drawings, used, corrected, and/or clarified in the field and be signed by the project's design engineer.
- (3) Requirement and effect. Following approval of construction plans and prior to commencement of any construction of public infrastructure, the subdivider or his or her engineer(s) and contractors shall attend a pre-

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construction conference with the City Engineer. Following the pre-construction conference, the subdivider may request construction release, as provided in subsection (b), below.

(b) *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 (a), above.

(c) *Inspections.*

- (1) 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.
- (2) Construction shall be in accordance with the approved construction plans. Any significant change in design required during construction shall be made by the applicant's engineer and shall be subject to approval by the City Engineer.
- (3) If the City Engineer finds, upon inspection, that any of the required public 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.

(d) *Maintenance during construction.* The subdivider shall maintain all required public infrastructure during construction of the development.

(e) *Acceptance of improvements.*

- (1) Responsible official. The City Engineer shall be responsible for accepting completed public infrastructure intended for dedication to the City.
- (2) Final inspection. After completion of all public infrastructure, franchise

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utilities, grading, and erosion control, the City Engineer shall perform a final inspection before recommending acceptance of the infrastructure.

- (3) 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 Article IV, and when all required documents associated with acceptance of the new improvements, including maintenance bonds, contractors' affidavits of final payment and release, record drawings reflecting the construction plans, or working drawings, used, corrected, and/or clarified in the field and signed by the project's design engineer, have been submitted to the City, the City Engineer shall issue a letter of final acceptance to the subdivider.
- (4) 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.
- (5) Rejection. The City Engineer shall reject infrastructure that fails to comply with the City's standards and specifications. The City shall enforce the guarantee provided by the improvement agreement.
- (6) 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.
- (7) Acceptance of improvements for land in the ETJ. Where the improvements to be constructed under an improvement agreement are located within the extraterritorial jurisdiction and are to be dedicated to the public, 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.
- (8) 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 remain in effect for 1 year from the date of the City's final acceptance of all public infrastructure. The bond shall be a minimum of 110% of the

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value of the work constructed, such value to be determined by the City Engineer. Final acceptance shall be withheld until said maintenance bond is furnished to the City in a form acceptable by the City Attorney.

ARTICLE IV. SUBDIVISION IMPROVEMENTS AND DESIGN STANDARDS

Sec. 82-50. - Public infrastructure standards.

(a) *Compliance with minimum standards.* Land proposed for subdivision or development within the City and within the ETJ shall be adequately served by public infrastructure, including streets, water, wastewater, drainage (stormwater), sidewalk, and park facilities that meet the City's minimum standards as specified within this Article IV. No plat or development shall be approved unless and until the infrastructure necessary to serve the development exists or provision has been made for the facilities, whether the facilities are to be located within the property being developed or off-site. In addition:

- (1) It is necessary and desirable to require dedication of rights-of-way and easements for public improvements, and in some cases to require construction of such improvements to support new subdivisions.
- (2) There is an essential nexus between the demand on public facility systems created by a new development and the requirement to dedicate rights-of-way and easements and to construct public infrastructure to offset such impacts.
- (3) The City desires to assure both that development impacts are mitigated through contributions of rights-of-way, easements, and construction of public infrastructure, and that a subdivision contributes not more than its proportionate share of such costs.

(b) *Conformance to Plans and Specifications.*

- (1) Proposed public improvements serving new subdivisions and developments shall conform to and be properly related to the master plans and shall meet the service levels specified in such plans.
- (2) The construction of improvements within all subdivisions and developments shall be in conformance with the *Technical Construction Standards and Specifications* (TCSS) and any component or portion of the

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TCSS may be further amended by the City Engineer at any time. The TCSS includes technical design and construction standards, specifications, and regulations that apply to all developments and redevelopments, together with all associated tables, drawings, and other attachments. 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 include the most current versions of the following, each of which City Council may have adopted and may amend:

- a. *Standard Specifications for Subdivision Construction;*
 - b. *Design Manual for Storm Drainage Facilities;*
 - c. *Stormwater Master Plan;*
 - d. *Thoroughfare Plan;*
 - e. Building Codes;
 - f. Fire Code;
 - g. *Water and Wastewater Master Plans;*
 - h. *Parks Master Plan;*
 - i. *Bicycle Plan;*
 - j. *River Trail Master Plan;*
 - k. *Sidewalk Master Plan; or*
 - l. other City plan as adopted.
- (c) *Adequacy of facilities.* All development and all public improvements shall meet the standards and requirements set forth in the master plans and TCSS to include the following:
- (1) 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

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order to maintain adequate water capacity. Additional standards and requirements are defined in Sec. 82-51.

- (2) 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 is 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 Sec. 82-52.
- (3) Streets. Streets 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 street capacity. Additional standards and requirements are defined in Sec. 82-53.
- (4) Drainage (stormwater) and flood control. Drainage (stormwater) 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, to prevent potential 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 Sec. 82-54 and Sec. 82-55.
- (5) 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 and Recreation Master Plan*. This requirement shall be satisfied by compliance with the City's parkland dedication ordinance, as may be amended, and which may include requirements such as dedication of park land or the payment of fees in lieu thereof at the time of final plat approval.

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(d) *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, including rights-of-way, for or construction of on-site or off-site public infrastructure for streets, water, wastewater, drainage (stormwater), sidewalks, park facilities, utilities, and other public improvements 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 public improvements created by the development.

(e) *Property Owner's Obligation.*

(1) Dedication and construction of improvements. The developer shall dedicate all rights-of-way and easements to the public for, and shall construct at developer's expense, public infrastructure and capital improvements within the rights-of-way and easements for those water, wastewater, street, and drainage (stormwater) improvements needed to adequately serve a proposed development consistent with master plans, whether the facilities are located on, adjacent to, or outside the boundaries of the property being developed. Following completion of construction by developer, and inspection and acceptance by the City, all streets (unless approved as private), utilities, and other public improvements within the City limits shall become the property of the City. The developer, at developer's expense, shall extend all water mains, wastewater 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 wastewater 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 wastewater main(s) are across developer's private property, an easement(s) shall be provided to the abutting property line with no gaps such that the main can be easily extended.

(2) Adjacent street improvements. In the case of adjacent or abutting streets, 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

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City design standards, depending on factors such as the impact of the development on the street, the timing of development in relation to need for the street, 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.

- (3) Substandard street improvements. Notwithstanding any other provision within these subdivision regulations, where an existing street 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 *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 an adjoining property will develop in a timely manner.
- (4) 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 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.
- (5) Proportionality. The requirements in this section are subject to a proportionality determination by the City Engineer and subsequent appeal, as provided in Sec. 82-38.

(f) *Timing of Dedication and Construction.*

- (1) 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,

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including 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 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.

- (2) Deferral of obligation. The obligation to dedicate rights-of-way for and/or to construct one or more public 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 improvements agreement, specifying the time for dedication of rights-of-way for or construction of public improvements serving the subdivision.

Sec. 82-51. - Water improvements.

(a) *Water Supply System.*

- (1) Water mains properly connected with the City's 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 shall conform with the TCSS.
- (2) If the City's water distribution system is available within two thousand feet (2,000.0') of a development or subdivision, each lot shall then be required to connect. This requirement also applies to a development or subdivision that is exempt from platting.
- (3) When it is necessary to relocate, oversize, or replace the City's water distribution system to accommodate a proposed subdivision or development, the developer is responsible for all costs associated therewith unless the City agrees to participate in oversizing the facility.

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Sec. 82-52. - Wastewater improvements.

(a) *Wastewater system.*

- (1) Sanitary sewers and ancillary appurtenances shall be installed in such a manner to adequately serve all lots with connection to the City's wastewater 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 shall conform with the TCSS.
- (2) A proposed development or subdivision shall tie onto the City's public wastewater system at the developer's expense if any part of the property is located within two thousand feet (2,000.0') away from the nearest City-owned wastewater line.
- (3) When it is necessary to relocate, oversize, or replace an existing public wastewater facility to accommodate a proposed development or subdivision, the developer is responsible for all costs associated with such work, unless the City agrees to participate in oversizing the facility.

Sec. 82-53. - Thoroughfare and street improvements.

- (a) *Conformity to thoroughfare plans.* The general location, connections, and width of all streets and roads shall conform to the *Thoroughfare Plan*.
- (b) *Relation to adjoining street system.* 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.
- (c) *Additional width of existing streets.* Subdivisions that adjoin existing streets shall dedicate additional right-of-way to meet the minimum street requirements shown on the *Thoroughfare Plan* and as follows:
 - (1) The entire right-of-way shall be provided where any part of the subdivision is on both sides of the existing street.
 - (2) 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-

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way width be less than fifty feet (50.0').

(d) *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*.

(e) *Cul-de-sacs.*

- (1) Streets that are designed to have one end permanently closed (cul-de-sacs) may not exceed six hundred feet (600.0') in length unless a longer length is necessitated by topography or other pre-existing natural feature. In no instance shall any such street exceed twelve-hundred feet (1,200.0') in length unless a waiver is approved by the City in accordance with these regulations. At the closed end, cul-de-sacs shall be provided with a permanent turn-around having an outside street pavement diameter that meets the Fire Code and a street right-of-way diameter that extends a minimum of ten feet (10.0') beyond the paving around the turnaround "bulb". Waivers may be granted as follows:
 - a. A minor waiver for residential cul-de-sacs over six-hundred feet (600.0') in length may be granted by the Director or the Commission pursuant to Sec. 82-37, up to a maximum length of twelve-hundred feet (1,200.0') or 60 lots, whichever is less.
 - b. A minor waiver for non-residential cul-de-sacs over six-hundred feet (600.0') in length may be granted by the Director or the Commission, up to a maximum length of twelve-hundred feet (1,200.0'), pursuant to Sec. 82-37 and subject to the Fire Code.
- (2) 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.
- (3) Temporary dead-end streets may not exceed twelve-hundred feet (1,200.0') in length unless a waiver is granted by City Council in accordance with Sec. 82-37. Such streets shall be provided with a paved turn-around having an outside roadway pavement diameter that meets the Fire Code and be designated by a recorded temporary street easement, which is typically a separate instrument for ease of abandonment when the street is permanently connected. Paving type(s) that can be used for temporary

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turnarounds shall be as determined by the Fire Code. Permanent dead-end streets without a permanent cul-de-sac “bulb” are prohibited.

- (4) Streets which temporarily dead end at power lines, rights-of-way, or easements shall be constructed for at least one-half the distance across these areas or to the property boundary. The applicant shall submit written permission from the utility or entity that owns the easement or right-of-way being crossed to the City prior to preliminary plat approval.
- (5) 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. In addition, the dead-end street shall have a sign in accordance with the City's street signs prominently posted at the terminus of the street to provide notice that the street will be extended in the future.
- (f) *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 Commission may approve an exception allowing extension of the six hundred feet (600.0') maximum length to be up to one thousand feet (1,000.0') maximum length at the time of preliminary plat approval as described in Sec. 82-37.
- (g) *Restriction of access.* When a tract fronts on an arterial street or highway, the 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 subsection (k), below.
- (h) *Reserve strips.* Reserve strips are prohibited. A “reserve strip” is a strip of property that separates one developing property from another property as a way to prevent street or utility extensions into or out of it, thereby controlling access to the streets or utilities. An exception may be made where the control of such strips is definitely placed with the City under conditions approved by the Commission.
- (i) *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 by waiver of City Council in accordance with Sec. 82-37. Corner property line radii at street intersections shall not be less than twenty-five feet (25.0'), or as required by Fire Code, and where the angle

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of street intersection is less than 75 degrees, the 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.

- (j) *Street jogs.* Street jogs with centerline offsets of less than one hundred fifty feet (150.0') shall only be allowed if approved by the City Engineer.
- (k) *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 *Thoroughfare Plan and Technical Construction Standards and Specifications (TCSS)* unless a waiver is granted by City Council in accordance with Sec. 82-37.
- (l) *Pavement.* Excavation, embankment, compaction, preparation of sub-grade, flexible base, and surfacing shall be in compliance with the TCSS.
- (m) *Curb and gutters.* The developer shall provide permanent reinforced concrete curbs and gutters which shall be in compliance with the TCSS.
- (n) *Horizontal curves.* Any curves in the street or street rights-of-way shall be in compliance with the TCSS.
- (o) *Street grades.* The grade of streets shall be as set forth in the TCSS and Fire Code unless otherwise approved by the City Engineer due to unusual topographic or other design constraints.
- (p) *Private streets.*
 - (1) *Eligibility criteria.* No private streets shall be permitted within a subdivision unless the City Council approves a waiver and the subdivision application complies with the following criteria:
 - a. The subdivision shall have no fewer than 20 residential lots;
 - b. The streets to be restricted to private use are not intended for regional or local through traffic circulation (see subsection (4), below);
 - c. 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.*,

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creeks and flood plains, golf course, linear park, utility easements, or rights-of-way, etc.) or by other private street subdivisions;

- d. The subdivision is not located adjacent to an existing or approved public street subdivision that can be reasonably connected, even where the street connection would require construction of a bridge or culvert; and
- e. 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 of the entire Council for approval.

- (2) *Design and construction.* Private streets shall be designed and constructed in accordance with the *Technical Standards and Specifications* (TCSS). The term “private streets” shall also include alleys if such are provided within the development.
- (3) *Homeowners’ association (HOA) ownership and maintenance required.* A subdivision developed with private streets shall have a mandatory homeowners association, which includes all properties served by the private streets. The HOA shall own and be responsible for the maintenance of the private streets and appurtenances. The HOA’s recorded document shall indicate that the streets within the development are private, owned and maintained by the HOA, and that the City has no obligation to maintain the streets. The documents shall be filed of record prior to the approval of the final plat. A notation shall be included on the final plat with the recording information and stating that the HOA shall own and be responsible for all costs associated with the maintenance and reconstruction of the private streets and that the City has no obligation to maintain the streets. Lot deeds shall convey membership in the HOA and provide for the payment of dues and assessments as required by the HOA. The HOA shall not be dissolved without the prior written consent of the City Council. No portion of the HOA’s documents pertaining to the maintenance of the private streets and assessments thereto shall be amended without the written consent of the Council. All HOA documents must be reviewed and approved by the City Attorney to ensure that they conform to this and other applicable City policies prior to being filed of record. The HOA may not be dissolved, nor may deed restrictions and

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covenants providing for maintenance of common areas be deleted or amended, without the prior written consent of the Commission, by way of a plat amendment.

- (4) *Streets excluded.* Streets that are shown on the *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. City Council may deny the creation of a private street subdivision if, in its 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 could cause possible delays in the response time of emergency vehicles.
- (5) *Points of access.* A private street subdivision shall have at least two points of access from a public street(s) as required by the Fire Code. If the subdivision is to be secured/gated and will have fewer than 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.
- (6) *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 *Parks and Recreation Master Plan*.
- (7) *Private street lot.* Private streets shall be constructed within a separate lot owned by the HOA. This lot shall conform to the City's standards for public 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 related to the exercise of a governmental service or function, including City utilities, fire and police protection, and code enforcement. 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.
- (8) *Restricted access.* The entrances to all private street subdivisions shall 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 (9), below. All restricted

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access entrances shall be manned twenty-four (24) hours every day, or they shall 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 emergency access at the sole expense of the HOA.

- (9) *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 (22.0') at the location of the access control device. If an overhead-lifting barrier is used, it shall be a minimum of fourteen feet (14.0') in height above the street 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:
- a. Larger passenger vehicles (e.g., vans, pick-up trucks, etc.);
 - b. Passenger vehicles with short trailers up to twenty-four feet (24.0') in length (e.g., small flatbed, camping, or box-type trailers); and
 - c. 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 subdivision entrance 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.
- (10) *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

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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.

- (11) *Hold harmless.* The final plat and HOA documents shall contain language whereby the HOA, as owner of the private streets and appurtenances, agrees to release, indemnify, defend, and hold harmless the City, its officers, agents, licensees, servants, and employees, any other governmental entity, and any public utility entity for claims or suits for property damage, loss, personal injury, or death, arising out of or in connection with, directly or indirectly the reasonable use of the private streets, emergency access, utility easements, entrance gate or structure by the City, its officers, agents, licensees, servants, and employees; b) the condition of the private streets or appurtenances; or c) any use of the subdivision with private streets by the City, its officers, agents, licensees, servants, and employees for any purpose related to the exercise of a governmental functions or services. The HOA shall be responsible for carrying liability insurance to meet the requirements in this paragraph.
- (12) *Conversion of private streets to public.* 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 are subject to the following provisions:
 - a. 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.
 - b. All of the infrastructure shall meet or exceed the TCSS, pursuant to street core sampling and plans as required and approved by the City Engineer.
 - c. 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.
 - d. 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

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be refunded to the HOA.

- e. The HOA shall prepare and submit a replat to the Planning Department for review and approval by the 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.
 - f. 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.
- (q) *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 Fire Code. The two points of access shall be from two different entrances either on a single public thoroughfare or on two public thoroughfares. Each point of access shall be designed to safely cross any flood prone areas. The primary point of access shall be designed to not be impacted by a 25 year rain event. The secondary point of access shall be designed to not be impacted by a 10 year rain event. Said points of access shall comply with the TCSS and the *Drainage Design Manual*.
- (r) *Traffic impact analysis.*
- (1) A Traffic Impact Analysis (TIA) worksheet, as promulgated by the Director and City Engineer, shall be submitted with the first project application to include an adequate facilities plan, preliminary plat, construction plans, and/or final plat.
 - (2) A TIA is required when:
 - a. according to the thresholds established on the TIA Worksheet;
 - b. on street parking is requested in a commercial area; and/or
 - c. a traffic light is desired.

Sec. 82-54. - Stormwater management.

- (a) *Drainage Improvements.*

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- (1) Drainage facilities shall be designed to meet the City's drainage requirements as approved by the City Engineer and shall be designed and constructed in accordance with the TCSS and *Drainage Design Manual*.
- (2) Stormwater management facilities, to include retention/detention ponds, shall be located on private property and maintained by the property owner or an approved home owners association unless otherwise approved by the City Engineer.
- (3) Pre-existing drainage ways shall not be dedicated to or maintained by the City unless approved by City Council.
- (4) All new subdivisions or modifications to existing subdivisions near the Guadalupe River and creeks are encouraged to follow best practices for stormwater design and stormwater quality near the river and tributaries as well as any City adopted guidelines, as applicable.

(b) *Flood hazard standards.*

- (1) All plats and subdivisions shall comply with standards and regulations contained within Chapter 54 (*i.e.*, floodplain management) of the City's Code of Ordinances.
- (2) The land subject to flooding as identified in the Federal Insurance FEMA Rate Maps report titled "*The Flood Insurance Study for the City of Kerrville*", as may be amended, with accompanying flood hazard maps, shall serve as the basis for identifying those lands susceptible to flood conditions.
- (3) During preparation of the preliminary plat, the developer shall study and establish floodplain and floodway elevations if such elevations had not been established previously.
- (4) 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 (FFEs).

Sec. 82-55. - Parks and open space standards; preservation of natural features.

(a) *Purpose and Effect.*

- (1) The purpose of these requirements is to provide parks and park land to

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support residential development within the City and the 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.

(2) 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.

(3) All subdivisions shall comply with City's Parkland Dedication ordinance.

(b) *Preservation of Natural Features.* Natural features include 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, neighborhood, or community, the Commission may require the preservation of some or all of these natural features.

Sec. 82-56. - Subdivision Design Standards.

(a) *Technical Construction Standards and Specifications (TCSS).* The TCSS are the design standards for the City and are available on the City's website. Public review is also available in the office of the City Secretary and Development Services during business hours.

(b) *Monuments.* Monuments shall be established to define public right-of-way in accordance with the TCSS 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.

(c) *Blocks; lots.*

(1) Blocks

a. Block length shall not exceed one thousand two hundred feet (1,200.0'),

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as measured from the centerline of one intersecting through street to the centerline of another intersecting through street.

- b. 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.).

(2) Lots

- a. 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 feet (30.0') of abutting frontage on such street or easement.
- b. Single- and two-family lots may not be "through lots" to a collector or thoroughfare (i.e., shall not back up to a public or private street) unless fully screened a six foot (6.0') solid wood or masonry fence. Single- and two-family lots shall not have direct (i.e., driveway) access onto any arterial or future collector street, as such are shown on the *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.
- c. 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, as established in the Zoning Code. The minimum size of residential lots not served by both City water and wastewater services shall be as follows:
 1. 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.
 2. 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 County rules for OSSFs;
 3. Lot size shall be dictated by the zoning if served by a community,

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public or shared water system and also a municipal sewage collection system.

- d. 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 or "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 (50.0'), whichever is greater.
- e. All lot lines 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.
- f. No structure shall be constructed across a tract boundary or lot line.

(d) *Driveways, fire lanes, and access easements.*

- (1) Driveways. Driveways shall be designed in accordance with Chapter 90, City's Code of Ordinances, as amended, the Fire Code, and constructed in accordance with the TCSS. Driveway approaches shall be designed in such a way that stormwater does not flow from the street onto private property.
- (2) Fire lanes. Fire lanes shall be designed and constructed in accordance with the Fire Code.
- (3) 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. All access easements require approval from the City Attorney.

(e) *Sidewalks.*

- (1) All sidewalks shall comply with the sidewalk ordinance of the City Code with respect to width and location.

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- (2) 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.
- (3) Unless sidewalks already exist, multi-family, nonresidential developments, colleges and universities, hospitals, and other campus-like facilities shall construct sidewalks 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.
- (4) For single- and two-family residential developments, sidewalks shall be constructed prior to the acceptance of public utilities. 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.
- (5) Sidewalks shall be constructed in the rights-of-way of all streets, public or private, pursuant to these regulations.
- (6) The Director 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.
- (7) A developer may apply to the City to receive a waiver from the sidewalk requirements. Such waivers are heard by City Council and shall require a super majority (3/4 majority) vote of the entire Council for approval. City Council shall consider the following criteria for whether to grant a waiver:
 - a. Topographic restrictions such as slope and drainage structures make the construction and subsequent use of a sidewalk unmanageable;

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- b. Whether all property(s) adjacent to the subject property, whether or not such 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 these regulations;
- c. Whether all property(s) adjacent to the subject property is developed property, whether or not separated from such subject property by a public or private road, alley, or easement, and does not have existing sidewalks as of the effective date of these regulations; or
- d. If it is shown to the satisfaction of 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 these regulations was being met by the granting of such waiver.
- f. *Compliance with other laws.* All sidewalks required by these regulations 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.

Sec. 82-57. - 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 zoning districts, alleys shall be parallel, or approximately parallel, to the streets.
 - (2) Alleys shall be designed and paved in accordance with the TCSS and shall be privately owned and maintained by an HOA that is formed in accordance with 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 are prohibited. Alleys shall 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

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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 (1,200.0'), as measured along the centerline of the alley and between intersections with other alleys or entrances onto streets. 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.

- (b) Means of mitigation, including 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.

Sec. 82-58. - Streetlights.

- (a) The developer shall install fully functional streetlights in accordance with the TCSS.
- (b) Streetlights shall be installed in the right-of-way unless an alternative placement is approved by the City Engineer or Commission.
- (c) Street light easements of ten feet (10.0') in width shall be provided for the purpose of service wire installation, if needed and when necessary for service.

Sec. 82-59. - Street names 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 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

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street names shall be included with a preliminary plat and are subject to the Director's approval in accordance with the City's addressing policy to avoid street naming conflicts.

- (b) Street name signs and traffic control signs and 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 and 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* ("MUTCD"), as amended.

Sec. 82-60. - Addressing.

The Director shall have the authority to assign street addresses for individual lots or building sites located within the City. A person making application for approval of a subdivision shall request and obtain a designation of street addresses by the Director prior to approval of the final plat. The assignment of individual street addresses shall comply with the City's addressing policy.

Sec. 82-61. - Easements.

- (a) The City may require easements for access, poles, wires, conduits, storm and wastewater, gas, water, or other utility lines or their appurtenances. 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 feet (20.0') in width. Easements of the same or greater width may be required where necessary for the extension of existing or planned utilities.
- (c) The full width of all easements for City water and wastewater facilities shall be fully upon one lot and may 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 or uses intended, and shall not be used by private utility providers unless approved by the City Engineer. The City has no obligation to maintain drainage easements or facilities not dedicated to the City.

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Sec. 82-62. - 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, utilities may be placed overhead but only if located entirely behind the front face of the building on private property and within a recorded a utility easement that is at least fifty feet (50.0') away from any single-family zoning district or dwelling.
- (b) High-voltage and large gas distribution lines may be allowed overhead or over-ground if a waiver is granted by City Council.

Sec. 82-63. - Large tracts and 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 Commission review and approval in the manner prescribed by these regulations.

Sec. 82-64. - ETJ subdivisions; rural subdivision standards.

[Intentionally left blank as standards may be adopted pursuant to an interlocal agreement with County.]

Sec. 82-65. - Homeowners' associations (HOAs).

- (a) *Purpose.* The purpose for the establishment of an HOA for residential developments is to create an entity that owns and is responsible for maintaining commonly owned properties pursuant to the plat, private amenities, private streets, and riparian areas for the communal good of the development's property owners and residents. The ownership and maintenance of property and amenities shall be organized and established to exist in perpetuity.
- (b) *Applicability.* An HOA shall be established for any subdivision or development

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that contains any of the following: a private amenity, street, or drainage facility; a floodplain; or open space that will not be dedicated to the City. For purposes of this section, the terms “Homeowners’ Association” and “HOA” are interchangeable with the term “Property Owners’ Association” for multi-family and non-residential developments.

(c) *Descriptions of elements requiring an HOA.* Any of the following elements created as part of a subdivision or development, and not dedicated to the City, shall require the formation and continued operation of a mandatory HOA:

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

(d) *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:

- (1) Documents submitted for review. The declaration, by-laws, covenants, and other necessary documents establishing an HOA shall be submitted to the City for review and approval 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 or recordation of the plat. HOA documents shall include descriptions of all areas and amenities for which the HOA is responsible for maintenance, and shall outline the organization and governance of the HOA.

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- (2) Recordation. All HOA 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 Director prior to or simultaneously with the final plat application.
 - (3) Additional phases. An additional phase to an existing subdivision is not required to establish a separate and distinct HOA, provided that the existing, recorded HOA 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 HOA is responsible for maintenance. The procedure for review and recordation of the HOA amendment documents is as set forth above.
- (e) *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:
- (1) That an HOA has been established for the subdivision;
 - (2) That membership in the HOA is mandatory for all lot owners; and
 - (3) That the developer is required to provide to any person, upon their request, a complete copy of the HOA documents and a five (5)-year projection, at a minimum, of association dues, income and expenses.
- (f) *General requirements*. The following shall be set forth in the HOA documents:
- (1) A statement that membership in the association is mandatory for all owners of property within the subdivision;
 - (2) A listing of all areas and amenities that the association will be responsible for maintaining, 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;
 - (3) By-laws related to the governance of the association;
 - (4) Covenants for maintenance assessments, which shall run with the land;
 - (5) Responsibility for liability insurance and local taxes;

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- (6) 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;
- (7) 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.
- (8) 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;
- (9) Written release of adequate funds 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;
- (10) 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;
- (11) Written consent giving the City the authority to take the actions for violations; and
- (12) Other City requirements as applicable.

(g) *Violations, revocations, and liens.*

- (1) The City will notify the HOA of violations of any of the regulations specified within this section.
- (2) Failure to bring the subdivision into compliance with these regulations may cause the City to revoke the specific approval of the HOA or take other remedies as outlined in this section.
- (3) The City shall have all lien, assessment, and enforcement rights granted therein to the HOA, and the City shall have the ability to enforce the liens

Attachment A

and assessments, and avail itself of any other enforcement actions available to the City pursuant to state law and City regulations.

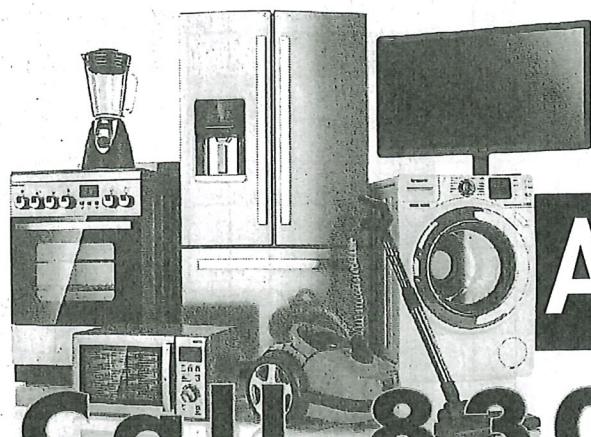
- (4) Should the HOA fail to carry out its duties as specified in these regulations, the City shall have the right and ability, after due notice to the HOA, to perform the duties required by this or any other ordinance, regulation or agreement with the City in order to bring the HOA into compliance therewith. The City shall have the right and ability, after due notice to the HOA to assess the HOA, 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 HOA 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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Public Notice

MAINTENANCE CONTRACT BID:

The Comanche Trace Ranch Community Association will be bidding the service of maintaining the common areas, residential yards in maintained neighborhoods and vacant lots.

We will require that the successful bidder have the following insurance coverage:

General Liability of \$1,000,000
Worker's Comp of \$500,000
Chemical Spray Liability

Note: Pesticide applicators license will also be required.

If interested in bidding, please submit your request for a bid packet to:
Comanche Trace Ranch Community Association Inc.
2801 Comanche Trace Drive, Kerrville, TX, 78028.

The deadline for submission of your bid is
October 19, 2021 by 2 PM.

If you have any questions, please feel free to contact me at (830) 895-8505 X229 or at drollow@comanchetrace.com

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2021-25**

AN ORDINANCE AMENDING ORDINANCE NO. 2019-14, WHICH CREATED A PLANNED DEVELOPMENT DISTRICT ON AN APPROXIMATE 58.74 ACRE TRACT OF LAND OUT OF THE JOSEPH S. ANDERSON SURVEY NO. 141, ABSTRACT NO. 2, AND THE J.S. SAYDER SURVEY NO. 142, ABSTRACT NO. 290; GENERALLY LOCATED NORTH OF AND IN THE 1000 TO 1200 BLOCK OF THOMPSON DRIVE (SPUR 98); SAID AMENDMENT TO UPDATE THE PREVIOUSLY ADOPTED CONCEPT PLAN AND THE LAND USE TABLE; ESTABLISHING A PENALTY AND EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2021-24**

AN ORDINANCE ADOPTING THE CITY OF KERRVILLE, TEXAS, SUBDIVISION CODE, A COMPREHENSIVE REWRITE OF THE CITY'S SUBDIVISION REGULATIONS; SAID REWRITE TO BE KNOWN AS THE "CITY OF KERRVILLE, TEXAS SUBDIVISION CODE" AND FOUND WITHIN CHAPTER 82 OF THE CITY'S CODE OF ORDINANCES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT HEREWITHE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATED TO THIS SUBJECT. EFFECTIVE DATE 10/15/2021.

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