

## Appendix A - SUBDIVISION AND DEVELOPMENT REGULATIONS<sup>[1]</sup>

### Footnotes:

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**Editor's note**— Printed herein are the subdivision and development regulations of the city, as adopted by Ordinance Number 30-2003 on April 1, 2003. Ordinance Number 30-2003 repealed the former appendix A which pertained to the comprehensive subdivision ordinance of the city and derived from Ord. No. 2118, adopted September 28, 1964; Ord. No. 2308, § 1, adopted March 2, 1967; Ord. No. 2386, §§ 1—3, adopted Jan. 22, 1968; Ord. No. 2485, § 1, adopted Feb. 18, 1969; Ord. No. 2506, §§ 1—3, adopted June 17, 1969; Ord. No. 2516, §§ 1—4, adopted July 15, 1969; Ord. No. 2522, § 1, adopted Aug. 19, 1969; Ord. No. 2572, § 1, adopted Feb. 17, 1970; Ord. No. 2589, §§ 1—4, adopted May 19, 1970; Ord. No. 2745, adopted Nov. 7, 1972; Ord. No. 2752, § 2, adopted Nov. 7, 1972; Ord. No. 2767, §§ 1—4, adopted Feb. 20, 1973; Ord. No. 3197, §§ 1, 2, adopted June 7, 1977; Ord. No. 3190, adopted June 16, 1977; Ord. No. 3339, adopted July 12, 1978; Ord. No. 3380, §§ 1, 2, adopted Oct. 3, 1978; Ord. No. 3448, §§ 1—4, adopted April 3, 1979; Ord. No. 3535, adopted Sept. 4, 1979; Ord. No. 3578, §§ 1, 2, adopted Dec. 4, 1979; Ord. No. 3579, adopted Dec. 4, 1979; Ord. No. 3693, §§ 1—5, adopted July 1, 1980; Ord. No. 3738, §§ 1, 2, adopted Oct. 7, 1980; Ord. No. 69-84, adopted June 5, 1984; Ord. No. 77-84, adopted July 3, 1984; Ord. No. 110-84, adopted Sept. 18, 1984; Ord. No. 137-84, adopted Nov. 20, 1984; Ord. No. 52-85, § 1, adopted May 21, 1985; Ord. No. 64-85, §§ 1—3, adopted June 18, 1985; Ord. No. 104-86, § 2, adopted Dec. 16, 1986; Ord. No. 44-87, §§ 1, 2, adopted May 5, 1987; Ord. No. 85-87, § 3, adopted Sept. 1, 1987; Ord. No. 91-87, adopted Sept. 15, 1987; Ord. No. 85-89, §§ 1—3, adopted Nov. 21, 1989; Ord. No. 134-93, adopted Dec. 5, 1993; Ord. No. 113-97, adopted Nov. 4, 1997; and Ord. No. 58-99, § 1, adopted July 6, 1999. Amendments to Ordinance Number 30-2003 are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the Ordinance Number 30-2003. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

**Charter reference**— Authority to adopt subdivision rules and regulations, § 146.

**Sec. 1. - Authority, purpose and extraterritorial application.**

- A. The purpose of this ordinance is to provide for the orderly, safe and healthful development of the area within the city and within the extraterritorial jurisdiction of the city and to promote the health, safety, morals and general welfare of the community.
- B. This ordinance shall apply inside the corporate city limits and within two levels within the extraterritorial jurisdiction. Level one shall be along corridors and areas identified on a map approved by the city council, made a part of this ordinance and referred to herein by reference, as the areas most likely to experience growth in the nearest future. Level two—Development Authority shall be within the remaining areas of the extraterritorial jurisdiction.
- C. The limits of level one and level two will be subordinate to any past or future agreements between jurisdictions that define or redefine the boundaries of the extraterritorial jurisdiction and that would affect the boundar[ies] of level one or level two.
- D. The boundaries describing the limits of levels one and two are subject to periodic review and may be adjusted by the city council.
- E. Should a development or improvement be partially within either levels of development, the most restrictive standards shall apply to the entire development or improvement.

F. Inside the city limits and within levels one and two, there shall under all situations be a plat filed with the city if located within the certificate of convenience and necessity (CCN) area, and/or where there exist a contract between outside water providers and the city. Such plat shall be provided to the Planning Division in conformance with requirements therein and herein as applicable.

Sec. 2. - Definitions.

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings ascribed to them in this section.

*Alley.* An "alley" is a minor public right-of-way, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a public street.

*Applicant.* An "applicant" is any person or any agent thereof establishing a lot of record or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term "applicant" shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner of land sought to be subdivided.

*Block.* A "block" shall be the property fronting on a street between street intersections or 1,200 feet, whichever is less. Where a street intersects only one side of a block, that side of the street shall be calculated in determining the block regardless of an intervening street.

*Board of adjustment.* The "board of adjustment" is the board of adjustment of the City of Wichita Falls, Texas, pursuant to Chapter 211 of the Texas Local Government Code.

*Border lines.* "Border lines" are water or sewer lines that abut one or more sides of a subdivision, but which serve other land as well as the land in such subdivision.

*Building setback line.* The "building setback line" is the line within a property defining the minimum horizontal distance between a building or structure and the property line.

*City.* Unless otherwise stated herein, "City" shall be city departments, and boards and commissions having purview over these regulations as applicable. "City" may also refer to the area contained within the boundary limits of the City of Wichita Falls.

*Commission.* The "Commission" is the Planning and Zoning Commission.

*Comprehensive plan.* The "comprehensive plan" is a plan of the city, adopted by the city council and as may be amended from time to time, that may include details related to growth, development, and city resources.

*Cul-de-sac.* A "cul-de-sac" is a minor street having but one vehicular access to another street and terminated by a vehicular turnaround.

*Dead-end street.* A "dead-end street" is a street, other than a cul-de-sac, with only one outlet.

*Development or developed.* The term "developed" or "development" shall refer to those situations where water, sewer, streets or other utility, including stormwater provisions, are installed according to standards under this regulation or as may be required.

*Easement.* An "easement" is an interest in land recorded for record that may be granted to a public, quasi public or private entity for installing and maintaining utilities, across, over or under private land together with the right to enter thereon, with machinery and other vehicles necessary for the maintenance of said utilities and that may include areas designated for access to an easement where a utility is located. An easement shall also include those areas reserved for other use that may include ingress and egress, drainage and other such utility.

*Engineer.* An "engineer" is a person duly authorized under the provisions of the Texas Engineering Registration Act, as heretofore or hereafter amended, to practice the profession of engineering.

*Extraterritorial jurisdiction.* Area outside of a city as defined by Texas Local Government Code ch. 42.

*Governmental unit.* A "governmental unit" shall be the city, county, state or federal government, or other political subdivision of the state authorized to accept dedications for streets, easements and/or utilities.

*He.* Use of the term "he" shall not be construed as gender specific.

*Improvement(s).* An "improvement" shall be the construction of any structure or site element above the natural grade or additions to or modifications of any such structure or site element. This provision shall also include parking lots.

*Level of development.* "Level of development" shall refer to levels one and two as defined herein.

*Level one and level two.* "Level one and level two" shall refer to the application of standards within areas defined on a map, approved by the city council, and by reference made a part of this ordinance.

*Lot.* A "lot" is an undivided tract or parcel of land which is, or in the future may be, offered for sale, conveyance, transfer or improvement; which is designated as a distinct and separate tract, and which is identified by a tract, lot number, or symbol in a duly approved subdivision plat which has been approved by the Commission and properly filed for record. All lots shall provide dedicated access to a public street sufficient for the projected traffic generated by the proposed development, with the exception of lots for single and/or two family residential development which shall have frontage on a public street.

*Lot of record.* A "lot of record" is a tract of land legally recorded as a plat with the land records of the county.

*Master plan.* A "Master plan" is a comprehensive concept plan to show the development of domestic water, sanitary sewer utilities, and storm water drainage within a proposed subdivision. The applicant's master plan shall have documentation to describe the methodology intended to be used along with the preliminary plans with sufficient analyses to verify that the requirements of the city ordinances can be addressed.

*On-site lines.* "On-site lines" are water or sewer lines within a subdivision, or water or sewer lines abutting one or more sides of a subdivision that serve only land in such subdivision.

*Pavement width.* The "pavement width" is the portion of a street available for vehicular traffic; where curbs are laid, it is the portion between the faces of curbs.

*Person.* A "person" is an individual, association, firm or corporation.

*Plat.* A "plat" shall refer to both preliminary and final plats and shall be determined by the section in which it appears.

*Plat, final.* A "final plat" is a plat prepared by a licensed surveyor or registered engineer, bearing the same requirements as a preliminary plat, in the absence of a preliminary plat, and/or in accordance with requirements herein, which is duly acknowledged by the owners, proprietors and those that have interest in the land, or by some duly authorized agent of such owners, proprietors and interest, in the manner required for the acknowledgment of deeds or as required herein and which is to be filed for record in the office of the county clerk of the county or counties in which the land lies.

*Plat, minor.* "Minor plat" is a final plat of four or fewer lots, and not requiring the creation of any new street, or the extension of municipal facilities.

*Plat, preliminary.* A "preliminary plat" is a tentative drawing made by a licensed surveyor or registered engineer for inspection purposes only, showing the entire tract of land sought to be subdivided, accurately describing all of said subdivision or addition by metes and bounds, locating the same with respect to an original corner of the original survey of which it is a part and giving dimensions thereof of said subdivision or addition, and dimensions of all streets, alleys, squares, parks or other portions of same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto.

*Public improvements.* A public improvement is any water system, sewer system, or drainage system intended to be used by the public, and excepted by the Public Works Department.

*Public right-of-way.* A "public right-of-way" is a strip of land used, or intended to be used, wholly or in part, as a public street, alley, walkway or drainage way.

*Residence.* A building intended to be or is occupied as the dwelling place of one or more persons in which the use and management of sleeping quarters and all appliances for cooking, ventilating, heating, or lighting are under one control, and which shall include one- and two-family dwellings, apartment houses, boardinghouses and mobile/manufactured homes.

*Shall, may.* The word "shall" is always mandatory. The word "may" is discretionary.

*Streets.* A "street" is a public right-of-way or private access which provides vehicular access to adjacent land, whether designated as a street, highway, thoroughfare, parkway, throughway, avenue, lane, boulevard, road, place, drive, expressway, freeway, or however otherwise designated where such designation or classification may be shown on the most recent thoroughfare plan.

- (1) An "arterial street" is one used primarily to provide circulation to various sections of the city.
- (2) A "collector street" is one used primarily to provide circulation within the neighborhood, to carry traffic from minor streets to arterial streets or to carry traffic through or adjacent to commercial, industrial or high population density areas such as large apartment developments.
- (3) A "marginal access street" is a minor street which is parallel and adjacent to an arterial street and which is used primarily to provide access to abutting properties and protection from through traffic.
- (4) A local street is primarily to provide access for residential or commercial traffic. The street use discourages through-traffic where such traffic does not have origin or destination within respective residential or commercial areas.
  - a. A "Local residential street" is a public road used primarily for access to abutting residential property.
  - b. A "Local commercial street" is a public road used primarily for access to abutting non-residential property.

*Subdivision.* A "subdivision" is the division of any tract of land into two or more parts. Subdivision includes resubdivision. For the purpose of this ordinance, a single lot plat shall be considered a subdivision.

*Surveyor.* A "surveyor" is a person duly authorized under the provisions of the Texas Registered Public Surveyors Act, as heretofore or hereafter amended, to practice the profession of public surveying.

*Tank battery.* A "tank battery" shall generally consist of multiple tanks used for the containment or storage of fuels or fuel products or by-products. A single tank may also be considered a tank battery.

*Thoroughfare plan.* The "thoroughfare plan" is intended to address future development by reserving rights-of-way to support development, and shall be a plan adopted by the city council, and may be amended from time to time, that reflects the existing, future or functional classification of all streets, roads and highways indicated therein and the standards associated with right-of-way and paving width.

Words not expressly defined herein are to be construed in accordance with customary usage in municipal planning and engineering practices.

(Ord. No. 20-2018, 5-1-2018)

Sec. 3. - Platting process and conditions.

### 3.1 General.

- A. Whenever an applicant desires to create a subdivision within the city or its extraterritorial jurisdiction, he shall plat the property, construct the required site improvements, and meet all of the other requirements of this ordinance at the applicant's expense.

- B. No subdivision of land shall occur as to make or create a situation as to make any part of the resulting tract, parcel or lot nonconforming or without access.
- C. No preliminary plat shall be submitted concurrently with a final plat. This may be waived on agreement by the Director of Community Development and the Director of Public Works.
- D. A presubmittal meeting with city staff shall be required when a proposed subdivision is more than five lots.

3.2 *Plat required.*

- A. Whenever the owner(s) of platted lot(s) within the city or its extraterritorial jurisdiction proposes to construct or has constructed a structure that crosses a lot line or has violated setback requirements, such owner shall replat the lots in accordance with this ordinance.
- B. Whenever the owner of a tract of land, within the city or its extraterritorial jurisdiction, which has not been platted proposes to sell such tract in part, to obtain a site plan for said tract pursuant to Appendix B of this Code, or to construct or expand any building or other structure thereon, or to connect said tract with any water or wastewater utility, he shall plat such tract in accordance with this ordinance. Even though he plats such tract in whole or in part as a single lot, he shall be required to dedicate the required boundary street right-of-way for the entire original tract as it exists prior to the plat, and comply with all other applicable requirements of this ordinance if shown on the thoroughfare plan, in the metropolitan transportation plan or as required by the county. Provided, however, the owner will not have to plat the tract if such tract was subdivided from a larger tract no later than December 31, 1927. However, if the tract was subdivided from a larger tract on or after September 28, 1964, the larger tract must be platted to show the smaller tract as a lot therein.

Under the above condition, the dedication of right-of-way along a remaining unplattd tract or parcel, where the original parcel, tract or lot was unplattd, will not require the platting of the remainder of the tract or parcel if there is no provision of municipal or other services required for the remaining tract.

3.3 *Sequence of approval.* Unless otherwise provided for by this ordinance, an application for plat approval shall not be considered filed until:

- A. A preliminary plat of such property has been approved or conditionally approved by the Commission and all conditions or preliminary plat approval have been satisfied and approved by the Planning Department or via submittal of a final plat; and,
- B. All public improvements required pursuant to this section have been constructed by the applicant and approved by the city, or secured by the applicant through an approved financing mechanism (i.e. irrevocable letter of credit) in an amount approved by the Director of Public Works.

If desired by the applicant, a final plat may constitute only that portion of the approved preliminary plat proposed to be recorded and developed, provided such portion conforms to all requirements of this section and that the phases of development are indicated.

3.4 *Platting assistance.* Prior to the official submittal of a preliminary plat of more than five lots, the applicant shall meet, consult with and present a proposed plan of subdivision to the Planning Division and Public Works for comments and advice on the procedures, specifications and standards required by the city for the subdivision of land, and who may use the services of other city departments as required.

3.5 *Fees.* At the time an applicant applies for approval of a preliminary plat or final plat or replat, he shall pay to the city, through the Planning Division, a fee to cover the costs of reviewing and processing the plat as provided below. The area for revised preliminary plats shall be determined by the area changed from the previous submission. This fee shall be in addition to other fees required by the city. Fees shall be established as provided in the development fee ordinance adopted by the city council, which may from time to time adjust and revise the fees established, without amending this section.

3.6 *Exceptions to platting or fees.*

- A. The following types of plats are specifically exempt from the payment of fees:
  1. Plats submitted by the city or any of its departments.
  2. Plats submitted by any governmental or educational agency.
  3. Plats submitted to correct minor drafting errors in recorded plats.
  4. Plats filed for the purpose of dedicating land to the city in which no other subdivision of land is shown.
  5. Replats occasioned by governmental action.
- B. The following situations are exempt from platting requirements:
  1. Remodeling an existing structure without adding to the floor area.
  2. Adding additional floor area or constructing accessory structures to an existing single-family or duplex residential use, when such addition or construction is less than 50 percent of the existing floor area and does not encroach over a utility line or easement and/or does not exceed a value equal to or greater than 50 percent of the tax appraised value of the improvement immediately prior [to] construction.
  3. Divisions of land where all resulting tracts are (a) 5.00 acres or greater, and (b) each part has access, and (c) no public improvements, including water service, are required or being provided, and (d) no dedication of right-of-way.

3.7 *Submission requirements.*

- A. The applicant or his engineer or surveyor shall submit to the Planning Division:
  1. A complete application;
  2. Support documents including but not limited to separate instruments, deeds, easements, or other agreements;
  3. Four black line copies of the plat;
  4. A legible-after-reproduction 8½-inch [by] 11-inch copy of the plat that includes all information contained on the full-size plat, with the exception of field notes, metes and bounds descriptions, and signature blocks;
  5. A legible 8½-inch by 11-inch or 11-inch by 17-inch electronic version of the plat including all information contained on the full-size plat in a format required by the Planning Division or Department of Public Works; and
  6. A fee for reviewing and processing as prescribed by the department.
- B. Following approval of a final plat by the city, a digital copy of the plat in a format required by the Planning Division and/or Department of Public Works shall be submitted with all corrections as required. If streets are proposed to be constructed in lieu of an escrow, a copy of the plat prior to filing will be required showing angle, bearings, distances, etc.
- C. All plats must be received at least 28 days prior to the Commission meeting, or as determined by the posted schedule provided by the Planning Division at which they are to be considered for approval.
- D. The plat shall be drawn on sheets 22 [inches] by 34 inches with a minimum three-quarter-inch binding margin on the left side of the sheet and one-quarter-inch margins on the other three sides. An alternative size may be considered by the Planning Division and/or Department of Public Works if legible in all respects and is compatible with archival requirements of the city.
- E. The plat shall be drawn to a scale of 100 feet to one inch. Other scales may be considered by the Planning Division and/or Department of Public Works if legible in all respects and is compatible

with archival requirements of the city. The Planning Division and/or Department of Public Works may require a reduced scale. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat.

F. Plats shall be signed and sealed by a registered state of Texas land surveyor in accordance with Texas state law.

3.8 *Plat processing.*

- A. A plat shall be considered "filed" if and when the application is certified complete by the Planning Department after having reviewed that all applications, fees, and documents have been submitted in accordance with this section, and such documents are sufficiently accurate and appropriate to the specific area proposed under the final plat application.
- B. The Planning Division, Department of Public Works, Department of Parks and Recreation, Health Department, Fire Department, Traffic Division and others whose purview is sought shall check the plat as to its conformity with any plans, standards, and specifications set forth herein or referred to herein.
- C. A copy of the plat shall be submitted by the Planning Division to various public, quasi-public or private entities that may have a real, tangible or service interest in the property, as approved by the city, to determine conformity with the standards and specifications for their interest.
- D. The various entities shall return comments to the Planning Division with their recommendations or requirements as to modifications, additions or alterations of such plat if any.
- E. The Planning Division shall provide the applicant written recommendations, requirements, requested modifications, additions, or alterations of such plat if any. The applicant shall revise the plat and return the plats to the Planning Division for final review and prior to the Commission meeting.
- F. All requirements and city recommendations will be presented to the Commission for their review and consideration at a scheduled meeting. These comments shall be considered part of the process required for approval unless the Commission acts to modify or remove such requirement unless prohibited from doing so. The Planning Division and/or Department of Public Works may authorize or require minor amendments to the plat to conform to the provisions of this section.
- G. The Commission shall determine whether the lands are suitable for platting. The services of any department of the city may be utilized to this end. Land subject to flood or deemed to be topographically unsuitable because of relief, drainage, soil character or other conditions shall not be platted for any use which may increase the danger to health, life or property or aggravate erosion or flood hazard.
- H. Within 30 days after the plat is formally filed, the Commission shall approve or disapprove such plat.

(Ord. No. 20-2018, 5-1-2018)

Sec. 4. - Preliminary plat.

- 4.1 *General.* Whenever an applicant desires to make a subdivision he shall cause to be prepared a preliminary plat by a surveyor or engineer and, when required, site plans and declarations in accordance with this ordinance, and the Code of Ordinances as applicable.
- 4.2 *Changes to preliminary plats.* If, after approval of a preliminary plat, changes thereto are required or desired, a revised preliminary plat shall be submitted following the same procedures as required for the original preliminary plat.
- 4.3 *Documentation required.*

- A. Completed preliminary plat application;
- B. Applicant master plans approved by the City Engineer, in writing, when the development is more than five lots, or as required; and,
- C. Any recorded separate instrument documents for any easements, agreements, right-of-way, or deed that traverses the property or as requested by the Property Management Division or Public Works Department.

4.4 *Plat content.* The plat shall show the following:

- A. Names and addresses and phone numbers of record owner(s), engineers and surveyor.
- B. Proposed name of the subdivision that shall not have the same spelling as or be pronounced similar to the name of any other recorded subdivision located within the city or within its extraterritorial jurisdiction. The name shall appear at the top of the drawing and shall be the largest lettering on the plat.
- C. Names of adjacent subdivisions and the owners of adjoining parcels of unsubdivided land, and an indication of whether or not adjacent properties are platted.
- D. Legal description of the subdivision by metes and bounds.
- E. Primary control points or descriptions and ties to such control points to which all dimensions, angles, bearings, block numbers and similar data shall be referred.
- F. Subdivision boundary lines indicated by heavy lines and the computed acreage.
- G. Existing sites as follows:
  - 1. The location, name, description, and purpose of all existing or recorded streets, alleys, reservations, easements or other rights-of-way within the subdivision, intersecting or adjacent to its boundary or forming such boundary. Areas previously dedicated and shown on the plat shall be described by volume and page or document number if on file in official county records and have a statement shown in the affected area stating that it has been previously dedicated.
  - 2. The location, dimensions, description, name, and purpose of all existing or recorded lots, easements and types, parks, public areas, permanent structures and other sites within or adjacent to the subdivision.
  - 3. The location, sizes, dimensions, description and flow line of existing watercourses and drainage structures within the subdivision or adjoining tracts. In the event any portion of the subdivision lies within or abuts an officially designated floodplain and/or floodway, the delineation of such floodplain and/or floodway shall be clearly shown on all plats submitted for approval.
  - 4. The location of existing structures if necessary to verify that a nonconforming situation has not been or will not be created.
  - 5. All existing features, including, but not limited to, easements, transmission lines, etc., shall be shown by dashed lines.
- H. The location, dimensions and description of all proposed streets, alleys, drainage structures, parks, other public areas, reservations, easements or other rights-of-way, lots and other sites and all rights-of-way and other public areas dedicated shall state within that area that the property is "proposed to be dedicated." The described shall also be in accordance with the city's adopted Comprehensive Plan, master thoroughfare plan, master utility plans, parks and trails master plan, or their successor documents.
  - I. Date of preparation, written and graphic scales of plat, and north arrow.
  - J. Topographical information shall include contour lines on two vertical feet intervals.

- K. A number to identify each lot or site. Block numbers may be used. The Planning Division shall determine the applicability and the requirements for meeting this provision.
- L. Front building setback lines on all lots and sites and side yard building setback lines at street intersections.
- M. Location of city limits line and the outer border of the city's extraterritorial jurisdiction if they traverse the subdivision, form part of the boundary of the subdivision or are adjacent to such boundary.
- N. The location of any noise contour line, approach/departure clearance surface, inner or outer horizontal surface, conical or transitional surface or other such surfaces as required by the Planning Division and as applicable for Sheppard Air Force Base and/or Kickapoo Downtown Airport.
- O. A vicinity map that shows the location of the project that shall show arterials and/or highways in the vicinity for reference.

4.5 *Preliminary plat approval.*

- A. Approval of a preliminary plat by the Commission shall be deemed an expression of approval of the layout submitted on the preliminary plat as a guide to the installation of streets, water, sewer and other required improvements and utilities and to the preparation of the final or record plat. Approval of a preliminary plat shall not constitute automatic approval of the final plat. The plat shall accurately locate all elements as required herein. The accuracy of such information shall be the responsibility of the property owner and/or his agent.
- B. Approval of a preliminary plat shall be effective for two years.
- C. If no development has occurred which would affect the previously approved plat, prior to the end of the two years of effective approval, the Commission may, upon application of the, applicant extend the approval another two-year period without the submission of a new preliminary plat by voting an approval of the original preliminary plat.
- D. A preliminary plat shall be revised if there are discovered to be constraints to the development as proposed on the preliminary plat. Should such constraints or obstacles be found, the Planning Division and/or Department of Public Works shall require the submission of an amended preliminary plat that recognizes, mitigates or otherwise allows for the effects of the constraint or obstacle as approved by the Planning Division and/or Department of Public Works.

(Ord. No. 20-2018, 5-1-2018)

Sec. 5. - Final plat.

5.1 *General.* Whenever an applicant desires to make a subdivision he shall cause to be prepared a final plat by a surveyor or engineer, appropriate site improvement plans, and complete the certificates prescribed in this section. If desired by the applicant, and following approval by the Planning Division and Department of Public Works, the final plat may consist of only that portion of the approved preliminary plat that he proposes to record at that time. However, such portion shall conform to all of the requirements of this section. A plat shall not be considered approved by the Commission unless it complies with all requirements herein.

5.2 *Documentation required.*

- A. Completed final plat application;
- B. Any recorded separate instrument documents for any easements, agreements, right-of-way, or deed that traverses the property or as requested by the Property Management Division or Public Works Department.

5.3 *Plat requirements.*

- A. The final plat shall contain all of the features required for preliminary plats or as required by the Planning Division and/or Department of Public Works and it shall be accompanied by the following site improvement plans bearing the seal of an engineer:
  - 1. *Sanitary sewers.* Detailed engineering plans of the proposed sewer facilities as required by the standard specifications.
  - 2. *Water.* Detailed engineering plans of the proposed water facilities as required by the Department of Public Works.
  - 3. *Storm drainage.* If within level one, detailed engineering plans of the proposed storm drainage facilities as required by the Department of Public Works.
  - 4. *Streets, curbs and gutters.* If within level one, detailed engineering plans of the proposed streets, curbs and gutters as required by the Department of Public Works. [If] within level two detailed engineering plans of the proposed streets as required by the Department of Public Works. Determination of the need for curb and gutter within level two areas shall consider the density of existing development, plans or preliminary plats considered or approved within the last five years, and other such issues. A plat that includes both level one and level two areas shall require the submission of curb and gutter requirements for the entire development, or as required herein.
- B. The final plat and the accompanying site improvement data shall be approved by the Director of Public Works.
- C. Street dedications within level two, and those areas within level one shall be made to the county in which the street is proposed. The width of the required dedication shall be the greater width between the city and county requirements.
- D. All lots shall be served by water, sewer, and public streets unless otherwise approved by the Director of Public Works.
- E. Final plats that require a preliminary plat shall not be considered until there is an approved preliminary plat.

5.4 *Plat content.* A. In addition to the requirements for the preliminary plat, the final plat shall also include the following:

- 1. The exact location, dimensions, name, description, and purpose of all existing or recorded streets, alleys, reservations, easements or other rights-of-way within the subdivision, intersecting or adjacent to its boundary or forming such boundary, with accurate dimensions, bearing or deflecting angles and radii, area, and central angle, degree of curvature, tangent distance and length of all curves where appropriate. Areas previously dedicated and shown on the plat shall be described by volume and page or document number if on file in official county records and have a statement shown in the affected area stating that it has been "previously dedicated."
- 2. The exact location, dimensions, description, name and purpose of all proposed streets, alleys, drainage structures, parks, other public areas, reservations, easements or other rights-of-way, residential lots, and other sites, with accurate dimensions, bearing or deflecting angles. These areas dedicated for public use shall state that they are "herein dedicated" within the area affected.

B. The final plat shall also include the following:

- 1. Owner's acknowledgment:

"State of Texas	
County of _____.	

The owner of land shown on this plat and whose name is subscribed hereto, and in person or through a duly authorized agent hereby dedicates to the use of the public forever all streets, alleys, parks, watercourses, drains, easements and public places thereon shown for the purpose and consideration therein expressed and further warrants that he has lawful authority to make such dedications.

_____ Owner
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State of Texas
County of _____

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated. Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

_____ Notary Public, _____ County, Texas.
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2. Certificate by director of public works:

"The Director of Public Works of the City of Wichita Falls, Texas, hereby certifies that this subdivision plat conforms to all requirements of the subdivision regulations as to which his approval is required.

_____ Director of Public Works
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3. Approval of the Commission of the city:

"This plat has been submitted to and considered by the Planning and Zoning Commission of the City of Wichita Falls, Texas, and is hereby approved.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_ Chairman

By: \_\_\_\_\_ Secretary

OR

In the case of a minor plat, approval by the director of community development:

"This plat has been submitted to and considered by the City of Wichita Falls, Texas, under the terms and conditions of a minor plat and is hereby approved.

Dated this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Director of the  
Department of  
Community Development

4. Surveyor's certification:

"I hereby certify that this plat has been prepared from an actual and accurate field survey of the land under my personal supervision on (date); and that all information shown is true and correct; and that all monuments shown thereon were properly placed under my personal supervision, in accordance with the subdivision regulations of the City of Wichita Falls, Texas.

\_\_\_\_\_  
Surveyor

5. A certificate from the city tax collector and from the proper official of all other taxing authorities within whose jurisdiction the proposed subdivision lies to the effect that all ad valorem taxes have been paid on the land included within the subdivision and that there are no recorded liens by any taxing authority.
6. Where any plat wholly or in part lies outside of the corporate limits of the city, and within the extraterritorial jurisdiction as defined by state law, a legible statement shall appear on the plat as follows:

"The area indicated on this plat as outside of the City limits of Wichita Falls on the date of approval of this plat is within the extraterritorial jurisdiction of the City of Wichita Falls and subject to annexation."

#### 5.5 *Processing of final plat.*

- A. No final plat will be considered unless a preliminary plat has been approved by the Commission. If circumstances prevail in which a single unplatted parcel may be platted into lots in only one obvious manner, no preliminary plat will be necessary. The Planning Department shall determine the necessity of preliminary plats in such cases.

The director of community development may approve minor plats involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities. The director of community development shall not disapprove such plat but refer any plat that he refuses to approve to the Commission.

- B. A final plat of an approved preliminary plat or a portion thereof shall be submitted to the Commission within two years of the date of approval of preliminary plat, otherwise the approval of the Commission shall become null and void.
- C. With the exception of minor situations or drafting errors authorized by the joint approval by the Department of Community Development and Department of Public Works, no changes, erasures, modifications or revisions shall be made in any final plat of a subdivision after approval has been given by the Commission and endorsed on the plat in writing, unless said change, revision or modification is first submitted to and approved by the Commission. Errors affecting existing ROW and easements shall be corrected and a new or revised plat shall be submitted to the Commission.
- D. The director of public works shall certify by his signature on the final plat that all improvements required under this section have been completed prior to submittal of the final plat, or that one of the following types of guarantees has been furnished. If such a guarantee is furnished, it shall provide that all improvements shall be completed within 12 months, unless an extension of time is granted in writing by the director of public works for good cause. Such guarantees are as follows:
  1. The applicant may furnish an approved surety, payable to the governmental unit authorized to accept surety, in an amount sufficient to cover the entire cost of such improvements as required herein, as estimated by the applicant and approved by a person authorized by the governmental unit.
  2. The applicant may deposit cash, or other instrument readily convertible into cash at face value, either with the governmental unit, or in escrow with a bank. The use of any instrument other than cash, and, in the case of an escrow account, the bank with which the funds are to be deposited, shall be subject to the approval by the governmental unit. If an instrument readily convertible into cash is deposited with the governmental unit, it may be reduced to cash at the discretion of the governmental unit. The amount of the deposit shall be sufficient to cover the entire cost of the required improvements, as estimated by the applicant and approved by the governmental unit. In the case of an escrow account, the applicant shall file an agreement between himself and the bank guaranteeing that such funds shall be held in trust until released by the governmental unit, and may not be used nor pledged by the applicant as security in any other matter during that period; that in case of failure of the applicant to complete said improvements within the time specified, then the bank shall immediately make the funds in such account available to the governmental unit for use in the completion of such improvements. Provided, however, periodic payments may be made from the cash deposited with the governmental unit or from the escrow account for progressive payments of construction costs of the required improvements, which payments shall be based upon progress work estimates prepared by the applicant's engineer and approved by the governmental unit.

3. The applicant may provide, from a bank or other reputable financial institution approved by the governmental unit, a letter of credit, which is approved by the city attorney. Such letter of credit shall state that the creditor guarantees funds in an amount equal to the cost of constructing such improvements, as estimated by the applicant and approved by the governmental unit. In case of failure on the part of the applicant to complete such improvements within the specified time, the creditor shall pay to the governmental unit immediately, and without further action, such funds as are necessary to complete such improvements, such letter of credit may not be withdrawn, or reduced in amount, until released by the governmental unit.

If one of such guarantees is furnished to the governmental unit by the applicant, it shall be filed with the governmental unit.

4. The applicant, at his option, may elect to, during the course of improvements, to deposit cash, or other instrument into cash at face value, either with the governmental unit or in escrow with a bank for the balance of improvements yet to be installed. The amount shall be sufficient to cover the cost of the remainder of the improvements. The estimate shall be provided by the applicant and approved by the governmental unit.
- E. A final plat shall become void if there are discovered to be constraints to the development as proposed on the plat. Should such constraints or obstacles be found, the Planning Division and/or Department of Public Works shall require the submission of an amended plat that recognizes, mitigates or otherwise allows for the effects of the constraint or obstacle as approved by the Planning Division and/or Department of Public Works. A nonconforming condition shall also be considered a constraint or obstacle.
- F. Once all conditions are provided and accepted by the Planning Division and Public Works the final plat shall be recorded with the county. A copy of the recorded plat shall be provided to the Planning Division.

(Ord. No. 20-2018, 5-1-2018)

Sec. 6. - Standards, specifications and conditions.

#### 6.1 *General.*

- A. Staking for the proposed street construction will be provided by a competent engineer in the employment of the applicant.
- B. Upon completion of a street, drainage, water and/or sewer improvement as may be required, the respective governmental unit will inspect the finished work and provide the developer with a letter of approval.
- C. No preliminary or final plat shall be approved by the Commission and no completed site improvements shall be accepted by the respective governmental unit unless they conform to requirements herein.
- D. No final inspection shall be made or certificate of occupancy issued on a project unless all requirements under this regulation are installed and approved; and as defined by or under the requirements of the building permit and/or approved site plan unless approved or conditionally approved by the director of community development. The director of community development may require guarantees or commitments that development and/or improvements will occur within a specific time.
- E. Conformity with the city's master plans. The subdivision shall conform to the city's comprehensive plan, utility master plans, thoroughfare plan, and parks and trails master plans, or their successor documents and the standard specifications, as applicable.

- F. Provisions for future subdivisions. If a tract is subdivided into parcels larger than ordinary building lots, such parcels shall be arranged to allow the opening of future streets and logical future subdivisions.
- G. Reserve strips prohibited. There shall be no reserve strips controlling access to land dedicated or intended to be dedicated to public use.
- H. Suitable building sites. Every lot must contain a suitable building site unless otherwise required by the city that a lot be identified for reference and legal description where such is open space, easement, or other such situation as required by the Planning Division, Department of Public Works, Department of Parks and Recreation or other administrative department of the city as applicable.
- I. Suitability of land use. Land shall be suited to the purpose for which it is to be used.
- J. Level of development requirements. Should a development be within two development levels, the most restrictive standards shall apply.

## 6.2 Streets.

### A. General requirements for streets.

- 1. *Street layout.* Adequate streets shall be provided by the applicant, the arrangement, character, extent, width, grade and location of which shall conform to the most recent thoroughfare plan or as required herein and shall be considered in their relation to existing and planned streets, to topographical conditions, to safety and convenience, and their appropriate relation to the proposed uses of the land to be served by such streets.
- 2. *Relation to adjoining street system.* Where necessary to the neighborhood pattern, existing principal streets in adjoining areas shall be continued and shall be at least as wide as such existing streets and in alignment therewith.
- 3. *Projection of streets.* Where adjoining areas are not subdivided, the arrangement of streets in the subdivision shall make provision for the proper projection of streets into such unsubdivided areas. Dead-end streets are prohibited.

Streets projecting into unsubdivided areas shall be provided with a cul-de-sac in accordance with standards herein. The Department of Public Works may consider and authorize a temporary cul-de-sac. Such temporary cul-de-sac shall be constructed in accordance with city standards and shown on the preliminary and final plat or by separate instrument. The length of a temporary cul-de-sac shall be no longer than allowed herein. The director of public works may approve a waiver of the requirement for a temporary cul-de-sac.

- 4. *Street jogs.* Street jogs, with centerline offsets of less than 125 feet shall not be allowed.
- 5. *Half streets.* No new half streets shall be constructed unless approved by the director of public works. The director of public works may only approve the construction of half streets that are arterial functional classification or are four-lane divided streets.
- 6. *Street intersections.* Street intersections shall be as nearly at right angles as practicable, giving due regard to terrain and topography.
- 7. *Cul-de-sacs.* Cul-de-sacs shall not exceed 600 feet in length in residential areas and 900 feet in length in commercial and industrial areas and shall have a turn around right-of-way of not less than 100 feet in diameter in residential areas and not less than 200 feet in diameter in commercial and industrial areas unless otherwise allowed herein.

The Planning Division, Department of Public Works and Fire Department shall evaluate the length and turn-around for each cul-de-sac by considering emergency access, density of residential, intensity of commercial, topography, sight distance, alternative access and other such issues. The above city departments shall have sole discretion to modify

requirements herein in the interest of public health, safety and general welfare of the area and adjacent development and future development.

8. *Access to arterial streets prohibited.* Unless approved by the Directors of Community Development and Public Works, no residential subdivision shall be platted so that a residence fronts on or has direct access to an arterial street, highway, or highway frontage road. The directors may use the services of the metropolitan planning organization as necessary.
9. *Main driveway opening on street.* Each residential lot shall have the main driveway to the garage, carport, or off-street parking area opening on a local residential or collector street, except where the subdivision is platted to allow main driveway opening on the alley as provided herein.
10. *Streets on thoroughfare plan.* Where a subdivision embraces a street, as shown on the most recent thoroughfare plan, such street shall be platted in the location and of the right-of-way width indicated by the thoroughfare plan. Where a subdivision embraces an existing street or road not indicated on the thoroughfare plan, such street shall be platted in the right-of-way width indicated herein.
11. *Local residential streets.* Local residential streets shall be laid out as to discourage their use by through traffic where such traffic does not have its origin or destination within the residential area. This shall not include proposals or needs to connect adjoining residential subdivisions.
12. *New adjacent arterial streets.* The applicant shall dedicate right-of-way sufficient in width to meet the requirements of the thoroughfare plan or as required herein.
13. *Adjacent existing streets or half streets.* Where the proposed subdivision abuts upon an existing dedicated street or half street that does not conform to the thoroughfare plan or requirements herein, the applicant shall dedicate right-of-way sufficient to make the full right-of-way width conform to the requirements of the most recent thoroughfare plan or as required herein.
14. *Single lot subdivision.* All required right-of-way dedication shall also apply to plats wherein a parcel is platted or replatted as a single lot and as required herein.
15. *Street names.* New streets shall be named in accordance with provisions of the Code of Ordinances and approved by the Planning Division.

B. *Design standards for streets.*

1. Curb and gutter in accordance with city standards shall be required on all streets within level one unless exempted under section 94-100 of this Code. The Department of Public Works shall evaluate and may amend the need for curbs and gutters by evaluating the ownership of the roadway, plans for widening the roadway or other situations that may exist where the installation of curbs and gutters does not serve the public purpose.
2. Curb and gutter may not be required by the Department of Public Works within a level two area. The creation of a multiple-lot subdivision or the creation of a new street may require curbs and gutters.
3. Curbs and gutters shall be installed by the applicant on both sides of all interior streets and on the subdivision side of all streets forming part of the boundary of the subdivision. An exception to boundary street dedication and paving may exist where the other side of the street is developed and/or improved and shall consider alignments and other identifiable factors, under which case there may be required a dedication and paving on one or both sides of the street. Curbs and gutters shall be constructed to city specifications. All streets shall be paved by applicant to city specifications.
4. Curb cut and driveway widths shall be in accordance with Appendix B of the Code of Ordinances. Upon approval by an authorized official of the state Department of

Transportation, a 45-foot wide driveway width may be allowed on state-designated highways and frontage roads.

5. Right-of-way and pavement widths shall be in accordance with the following:
  - a. Right-of-way and paving width shall be in accordance with the thoroughfare plan.
  - b. Unless otherwise required or approved by the Department of Public Works, existing or proposed streets or roads within level one and level two areas not addressed in the thoroughfare plan or under other plans, shall be provided meeting city standards. If it is a state road or highway, the right-of-way and paving requirements shall be in accordance with state specifications, or where no standards or requirements exists, the minimum right-of-way requirement shall be the greater of 60 feet or as required by the county. Additional right-of-way and paving width may be required as determined by long range plans, density or intensity of development, historical traffic conditions and counts, and other appropriate factors.
  - c. The minimum right-of-way width and paving width, if the street is not indicated on the thoroughfare plan, shall be as required on the thoroughfare plan for the type and function of the street proposed unless additional width is required along state or county roads.
  - d. The Planning Division and Department of Public Works shall be responsible for approving the street classification and/or type by considering the type, nature, density or intensity of proposed or future land uses related to or affecting the street. Local streets that serve, propose to serve, or may serve 150 or more dwellings shall be required to be upgraded to a minor collector under standards of the thoroughfare plan. Density calculations for local streets in adjacent or neighboring residentially zoned areas shall be based on 3.5 dwellings units per acre. In evaluating the street classification, consideration shall be given to other access.
6. Street Medians.
  1. Definitions.
    - a. Medians: a strip of land, whether raised or flush, between the lanes of opposing traffic on a divided street.
  2. Generally.
    - a. Raised medians shall not be allowed except when required by the thoroughfare plan or other government agency.
    - b. Any required raised median shall be made of solid material that requires no routine maintenance nor designed to contain vegetation including, but not limited to grass, shrubs, or trees.
    - c. Flush medians shall have the surrounding pavement structure extended across the entire median. The flush median shall be delineated with approved pavement markings.
    - d. Director of Public Works or designee may approve a variance to the items above where circumstances allow.

C. *Access management.*

1. Curb cuts on state-designated or state-controlled streets, roads or highways shall receive first approval by the state Department of Transportation. Additional approval by the Planning Division and/or Department of Public Works will consider sight visibility in relation to the posted speed of the road, street or highway, topography, roadway design and distance between curb cuts in accordance with accepted standards.
2. The distance between curb cuts on arterial streets and state-owned streets and roads shall be governed by the nature and type of land use, existing or potential for conflicts, speed and

condition of the roadway, location and spacing of traffic signals, the ability for alternative access, the intended function of the roadway, and existing land uses.

3. As feasibly possible, marginal access streets or access easements shall be used for all commercial development to allow access to all properties or uses without the need to access these individually from a public street.
4. The city, county and/or state may require the closing or partial closing of any curb cut or drive opening where such creates or has the potential to create a hazardous condition. Should the opening be closed, the property owner shall provide a curb and remove the drive approach. An alternative to the removal of a drive approach may be considered by the installation of an approved barricade, generally only where affected roads or streets carry 300 ADT or less.
5. Chapter 6200, exhibit B of Appendix B, Zoning Ordinance of the Code of Ordinances, shall be considered as a guideline used to calculate the distance requirements between curb cuts and intersections. The Planning Division and Department of Public Works shall have final authority to modify conditions therein in the interest of public safety and as intended herein.
6. Section 102-40, visibility sight triangles, of the Code of Ordinances shall be considered a guide to sight visibility requirements. The Planning Division and Department of Public Works may amend requirements therein in the interest of public safety, and in consideration with the above situations, and may require the installation of acceleration/deceleration lanes, modifications or installation of medians and turning bays, and other situations that will enhance public safety.

D. Subdivision access.

1. All residential subdivisions shall have safe and reliable street access for daily use and emergency purposes.
  - a. All preliminary plats showing 80 or more lots must be designed to show a minimum of two means of access to an existing collector or higher classification street as indicated on the Thoroughfare Plan.
  - b. Upon final platting of 80 or more lots within a proposed subdivision or section of a subdivision, a separate connection/access point providing secondary access to an existing collector or higher classification street must be dedicated, installed, and completed according to the provisions referenced in Appendix D. of the fire code and Section 6.2 of Appendix A - Subdivision and development regulations.

6.3 *Easements.*

- A. A developer or property owner may provide or be required to provide utility easements in accordance with the following requirements:
  1. Utility easements shall be provided at the front and/or rear of all lots or as required by the Department of Public Works or utility company.
  2. Utility easements shall be centered on or adjacent to a common property line of two abutting lots and shall be continuous for the entire length of the block as required by the Department of Public Works or utility company. Unless otherwise permitted by the Director of Public Works, a developer or property owner shall provide utility easements in accordance with the following minimum width standards:
    - 10 feet when adjacent to a street right-of-way.
    - 10 feet when occupied by a non-city public utility and not containing or intending to contain city utilities.
    - 15 feet when occupied by a city utility up to 12 inches in diameter, running between common lot lines with public right of way at end for access and not exceeding [two] lots in length.
    - 20 feet when occupied by a city utility up to 36 inches in diameter.

- 30 feet when occupied by a city utility greater than 36 inches in diameter.
- 15 feet when occupied by a city utility when placed at the boundary of a development adjacent to unowned property. This requirement may be reduced to [ten] feet if the developer or property owner is able to secure [ten] feet of utility easement from the adjacent unowned property.
- Additionally, if the existing utility is constructed of any material other than PVC or a material approved by the Director of Public Works, the easement shall be an additional five feet wide when a line is buried more than seven feet in depth. The easement shall be an additional ten feet wide when a line is buried more than [12] feet in depth. The easement shall be an additional [15] feet wide when a line is buried more than [20] feet in depth.

3. Utility easements shall be approximately parallel to the frontage of the street or as required by the Department of Public Works or [the] utility company.
4. No permanent or temporary encroachments shall be located within any easement, except fences may be placed along property lines, driveways and parking lots for ingress and egress, and sidewalks required in the City of Wichita Falls Code of Ordinances. The city may allow permanent or temporary encroachments with an encroachment agreement at the discretion of the Property Management Administrator in agreement with the Director of Community Development and Director of Public Works.
5. Lift stations shall be placed in utility easements, and must provide a five-foot clear space around all sides between the equipment and the fence, as well as a 15-foot access easement with a six-inch thick and 12-foot wide flexible base access road provided from an adjacent street to grant direct access to the pumps.
6. Any pre-existing encroachment that does not have an encroachment agreement shall obtain agreement upon notice by the city or remove said encroachment.

B. Maintenance of easements shall be the responsibility of the owner of the land upon which it is located.

C. Normal curb and gutter shall be required where utility easements intersect streets.

D. Where utility easements are not themselves straight within each block, or if the same do not connect on a straight course with the utility easements of adjoining blocks, then an additional easement shall be provided for the placing of guy wires on lot division lines in order to support poles set on curving or deviating rights-of-way of alleys.

E. The property owner shall be required to identify buried, aerial or above-ground pipelines or other buried, aerial or above-ground utility, and if such is not within an easement recorded for record shall contact the utility owner and dedicate or have dedicated such an easement and recorded and filed on a plat or separate instrument as required by the governmental unit.

F. Access easements. Access easements, where allowed, shall be in accordance with the following:

1. Residential: Access easements, where permitted, serving single-family or duplex dwellings, shall have a minimum width of 20 feet as measured from property line(s), and a minimum unobstructed paving width of nine feet.
2. Commercial: Access easements, where permitted, shall have a minimum, unobstructed paved width of 12 feet. Additional easement width may be necessary for utilities, drainage, etc.

If more than one commercial lot or use is being accessed, there shall be no use of an access easement to provide primary access. The minimum width shall be 60 feet, measured from property line(s) with a minimum unobstructed paving width of 36 feet,

or as required by the city. The Planning Division may consider or require an exception to this provision based on the type of development proposed.

3. All access easements shall be approved by the Planning Division and/or Department of Public Works.
4. All drive surfaces shall be hard-surfaced with Hot Mix Asphaltic Concrete (HMAC) or concrete suitable for continued use by vehicles of the type intended. The Department of Public Works may require details of paving sections, and modifications thereof, prior to plan or permit approval to ensure function and longevity for the intended use. Proposed alternatives to address the intent of this provision shall be considered on a case-by-case basis.
5. No access easement shall provide ingress or egress to or from an arterial street or highway unless approved by the Planning Division and/or Department of Public Works as part of a nonresidential development where the easement is intended to serve multiple land uses.
6. Access easements shall be maintained by the property owner(s). Should the access easement fall into disrepair and pose a hazard or undesirable situation, as determined by the Planning Division and/or Department of Public Works, the responsible property owner(s) shall be provided with written notice that such shall be repaired within a time period agreed to by the governmental unit. Failure to repair shall subject all affected property owners to provisions of section 11.
7. All required paved driving surfaces shall be kept clear of all obstacles including, but not limited to dumpsters, utility poles, personal property and other such situations.

G. Other easements.

1. Should, through a plan for a planned unit development under Appendix B of the Code of Ordinances, or described under other plans, there be defined a trail system, paths, ponds, lakes, drainage easements or other such easement or open space not directly related to a physical utility, there shall be dedicated such on a final plat or separate instrument.
2. Should paving, sidewalk, grading, landscaping or other improvement be required with an easement or open space, such shall be installed at time of platting or the amount placed in escrow with the city to cover all costs according to provisions herein.
3. Responsibility for maintenance of the easement(s) or open space shall be the responsibility of the property owner unless otherwise accepted by the responsible governmental unit.

H. Drainage easements.

1. Drainage easements shall be provided where required by the Department of Public Works.
2. The width and location of such drainage easements shall be in accordance with the current city stormwater design criteria.
3. No structures shall be placed in a drainage easement. These include but are not limited to fences, portable buildings, permanent structures, etc. In addition no vegetation shall be installed in this easement other than what has been approved by the Department of Public Works.
4. Encroachments existing on April 1, 2008, may be allowed to remain if the director of public works determines the encroachment will not constrict the flow of stormwater.
5. All stormwater detention facilities shall require the dedication of a drainage easement in accordance with chapter 106, article VIII, Stormwater Management of this Code.

6. Drainage easements shall be solely for the conveyance of stormwater and the placement of city owned utilities. Drainage easements shall not be combined with non-city utility easements and/or access easements without the approval of the Director of Public Works.
7. Drainage easements shall be a minimum width of 15 feet when on the common lot line between two properties to convey stormwater in a concrete flume or pipe up to 36 inches in diameter with 20 feet minimum width for a pipe greater than 36 inches.
8. The Director of Public Works shall have the discretion to determine the level of maintenance necessary for drainage easements and may elect to maintain any easements in their natural condition.

#### 6.4 *Oil and gas wells.*

[(1)] For the purpose of this regulation, the term "plugged" shall refer to cementing a well to remove the well from production in accordance with standards of the Texas Railroad Commission.

[(2)] It shall be unlawful for any person acting either for himself or acting as agent, employee, independent contractor, or servant for any person to drill any well, assist in any way in the site preparation, re-working, fracturing or operation of any such well or to conduct any activity related to the production of oil or gas without first obtaining a permit issued by the director of public works in accordance with this section. Such activities include, but are not limited to seismic exploration, site preparation, re-working, drilling, fracturing, operation, construction of rigs or tank batteries, fracturing and pressurizing of wells. A permit shall not be required for seismic exploration unless such survey activities will be conducted on city property or public utility easement. Explosives shall not be used within the city.

[(3)] A permit shall authorize seismic exploration, site preparation, re-working, drilling, fracturing, operation, construction of rigs or tank batteries, and well pressurization for a period of one year after issuance. If a well is completed as a result of permitted drilling activity, the permit shall authorize continued operation of the well.

A. *Permit application and contents.* The application for the permit, required by this [appendix], shall include the following information:

1. A copy of the application to drill which has been filed with the state railroad Commission and copies addressing the requirements of the state railroad Commission for which is required to be met based on the application, together with bonding requirements, if required.
2. The name, address, and phone number of the operator of the lease and property owner, with the name of the contact person for the operator.
3. A description of the lease or the lands involved in the exploration, drilling or maintenance, and the length of time that surface operations are expected to occur.
4. A plat showing the location of the well, the ownership of the land, property lines, structures, and offset operators or landowners.
5. The name and address of the drilling contractor.
6. A site plan accurately depicting the proposed site and the location, distance to and nature of adjacent land uses.
7. A statement warning of possible hazardous formation conditions that may be encountered during or as a result of the proposed drilling or exploration operation or maintenance of an existing well site.
8. A copy of the operator's spill prevention plan.
9. The fee for a permit in the amount of \$500.00 or as established in the fees chapter of this code.

10. A bond or letter of credit approved for form by the city attorney in the amount of \$25,000.00 along with the permit application for the initial permit applied for by an operator. The bond shall be executed by the operator, as principal, and a corporate surety on the list of authorized insurance companies published by the State Board of Insurance of the State of Texas, as surety, in a form approved by the city attorney and with the bond in favor of the city conditioned that the operator will comply with all of the terms, conditions and requirements of this chapter and any permit issued pursuant hereto, and further conditioned that the operator will repair any damages to city roads, streets, highways, or other city property, as determined by the director of public works of the city, caused by the equipment and vehicles used by the permittee in going to and from the drill site with such repairs to be in compliance with specifications therefor prepared and provided to the operator by the director of public works. The security shall remain effective until the operations on the drill site are terminated.
11. A certificate of insurance showing the insurance required in this section.

B. *Insurance.* No well shall be drilled or any maintenance or exploration conducted unless the drilling firm, lease owner and/or contractor at all times carries minimum insurance coverage for bodily injury of \$500,000.00 for each occurrence and \$1,000,000.00 aggregate and for property damage of \$500,000.00 for each occurrence and \$1,000,000.00 aggregate, and for the cost of controlling a well that is out of control, re-drilling or restoration expenses, seepage and pollution damage as first party recovery for the operator and related expenses, including, but not limited to, evacuation of residents, in the amount of at least \$5,000,000.00 per occurrence. The lease owner shall at all times carry this minimum limit of insurance until such time that the well is out of production and all appurtenances removed from the site. The insurance under all situations and at all times shall list the City of Wichita Falls as additionally named insured.

C. *Location, maintenance and fencing of tanks and tank batteries.*

1. The oil or fuel storage tank or tank battery shall be erected in conformance with the spill prevention control and countermeasure plan published by the U.S. Environmental Protection Agency.
2. The oil or fuel storage tank or tank battery shall be completely enclosed by:
  - a. A minimum six-foot tall all metal chainlink fence with two-inch maximum mesh interwoven with opaque slats, topped by at least three strands of barbed wire;
  - b. A solid minimum eight-foot tall masonry wall; or
  - c. Other fencing material approved by the director of public works.
3. In no event shall a tank or tank battery be located nearer than 150 feet from any residence, or dwelling, unless the tank or tank battery existed prior to the residence or dwelling, or nearer than 30 feet from any combustible structure.
4. Oil and fuel storage tanks or tank batteries shall be kept well painted and in good repair.
5. If the well(s) associated with an oil storage tank or tank battery is/are plugged, or if the storage tank or tank battery is no longer in use, the storage tank or tank battery and associated pipelines shall be removed and the land restored. This provision may include all associated appurtenances with the wells and tank or tank batteries. This removal shall occur within six months unless documentation can be provided that the well and tank or tank battery will be used within the next two years. For the purpose of this provision, the term "no longer in use" shall mean that the tank or tank battery, while it or they may contain some residue or fuel, has not been pumped into or out of within the past six months. The director of public works may waive this requirement if the operator requests such waiver in writing, and the director determines that failure to pump is due to a reason other than the tank(s) no longer being in use.

6. Other oil or fuel storage tanks that receive products from transmission or distribution lines that are not pumped into or pumped out of for a period of six months shall be considered abandoned and/or unused. The leaseholder shall disassemble and completely remove such tanks from the site unless it is shown that there are plans to reuse the storage tanks within the next two years.
7. Within six months after removal of any oil storage tanks or tank batteries, the permittee shall restore the property to its original state insofar as possible, to include removal and/or restoration of any unremediated soil.

D. *Pumps to be electrically powered.* No pumping unit used for the purpose of lifting oil shall be powered with any power other than electricity. If electrical power lines are proposed to be buried or are buried, a private easement shall be created and the Department of Public Works shall note the location of said easement and/or its encroachment into or within a public easement. Such easement shall be made a matter of public record by the filing of a plat or separate instrument.

E. *Pumping units.*

1. All surface equipment shall be kept clean, painted, in good repair, and properly lubricated in order that they will operate quietly. The noise produced by wells, jacks or units on a producing well shall not exceed 50 decibels at any boundary of the parcel on which the well is located.
2. All pumping units, compressors, and other powered equipment shall be completely enclosed by:
  - a. A minimum six-foot tall all metal chainlink fence with two-inch maximum mesh interwoven with opaque slats, topped by at least three strands of barbed wire;
  - b. A solid minimum eight-foot tall masonry wall; or
  - c. Other fencing material approved by the director of public works.

F. *Flow lines.*

1. All flow lines and/or water and/or oil or gas lines shall be buried at least one foot under the ground unless permission is obtained from the surface owner. The Planning Division and/or Department of Public Works may require that flow lines and transmission lines be buried at a greater depth depending upon adjacent land uses and proposed streets, roads and highways.
2. All flow lines shall be shown on a plat or separate instrument and filed for public record. Upon the removal of the associated tank batteries and/or the plugging of wells associated with such pipelines, the pipelines shall be removed. The Department of Public Works may consider an alternative to the removal of the pipelines if the lines are flushed to remove any potential contaminates. Such exception shall apply to only those situations where removal is not technically feasible.
3. The Department of Public Works shall have sole authority to regulate the location and installation of such lines, which will also incorporate standards by the appropriate government agency.

G. *Waste oil or water to be cleaned up.* Any waste oil or water in, on, or around any premises within the city or the extraterritorial jurisdiction shall be immediately cleaned up and the ground shall be cleaned of any oil-bearing dirt.

H. *Drilling operations generally.* The owner, leaseholder, property owner or other who is responsible for drilling of a well or well site shall proceed with the drilling operations with the highest degree of care so as not to injure adjoining property or persons in any manner by:

1. Keeping the premises suitably fenced or guarded 24 hours a day in such manner as to avoid trespassing during the drilling and exploratory operations;

2. Removing all drilling mud upon the completion of such drilling operations;
3. Immediately clearing the grounds around the well of all drilling mud and/or all oil, salt water or water. The area shall be made to conform in appearance to the lands in the neighborhood wherein such drilling, exploration or maintenance operations are so conducted. All pits must be steel or lined with a minimum six-mil impermeable liner. All pits and contents shall be removed from the premises and drill site within 30 days after completion of the well;
4. Prior to the commencement of any drilling operations, installing private roads used for access to the drill site and the operation site which are at least ten-feet wide, have an overhead clearance of at least 14 feet and are surfaced with asphalt, crushed rock, or gravel, and maintained to prevent dust and mud in accordance with the requirements of the director of public works. The requirements governing surfacing of private roads may be altered at the discretion of the director of public works after consideration of all circumstances, including, but not limited to, the following:
  - [(i)] Distances from public streets and highways;
  - [(ii)] Distances from adjoining and nearby property owners;
  - [(iii)] The purpose for which the property of such owners is or may be used;
  - [(iv)] Topographical features;
  - [(v)] Nature of the soil;
  - [(vi)] Exposure to wind; and
  - [(vii)] Preference of the surface owner.
5. It shall be unlawful to create sound during drilling operations that exceeds:
  - [(i)] 60 decibels during daytime hours between 7:00 a.m. and 7:00 p.m., measured at any occupied structure on a parcel other than the parcel on which the oil well is located.
  - [(ii)] 50 decibels during nighttime hours between 7:00 p.m. and 7:00 a.m., measured at any occupied structure on a parcel other than the parcel on which the oil well is located.

I. *Spacing.*

1. It shall be unlawful to drill any well, the center of which, at the surface of the ground, is located:
  - a. Within 25 feet of any storage tank or source of ignition;
  - b. Within 100 feet of any building accessory to the well, public street, road, highway, right-of-way or property line;
  - c. Within 300 feet of any water well used as a potential source of drinking water;
  - d. Within 400 feet of any commercial or industrial building; or
  - e. Within 600 feet of any residence.
2. The minimum distances described in subsection 1.d and 1.e may be reduced by:
  - a. A waiver granted by the city council; or
  - b. Written notarized waivers granted by all owners of all buildings within the radius being protected from drilling. All waivers must identify the property address, block and lot number, subdivision name (if applicable), and plat volume and page or document number if on file in official county records. Such waivers must be filed,

at the expense of the operator, in the Wichita County records prior to the issuance of the permit.

- J. *Fracturing operations.* It shall be unlawful for any person to conduct fracturing operations on a well during the nighttime hours between 7:00 p.m. and 7:00 a.m. It shall further be unlawful for any person to create sound during such fracturing operations that is greater than 60 decibels, measured at any occupied off-site structure, unless a higher maximum decibel level has been provided by the director of public works. If a higher decibel level has been provided by the director of public works, it shall be unlawful for any person to:
  - 1. Create sound during fracturing operations that exceeds the decibel level provided by the director of public works; or
  - 2. Conduct fracturing operations in a manner that fails to comply with the special conditions established by the director of public works.
- K. *Easements.* Wells shall be serviced from an existing public street or a dedicated access easement.
  - 1. A 25-foot access easement allowing entry of city personnel and other public safety personnel shall be provided from a street to the wellhead, tank, tank battery, flare and mud pits or any other areas where machinery is located.
  - 2. The operator shall pay the city for any damage it causes to city property within 30 days after notification of such damage by the director of public works.
  - 3. Once a well is plugged to remove from production and the site is restored as required herein, the easement may be removed.
- L. *Floodplains.* The floor of any drilling rig and the top of any well head shall be placed at least one foot above the base flood elevation in the area of any special flood hazard as such terms are defined in section 54-26. The base of any pumping units and oil storage tanks must be placed above the base flood elevation.
- M. *Enforcement.* Violation of the terms of this section shall be punishable by a fine of up to \$2,000.00 per day, cancellation or suspension of the permit by the director of public works, or injunction. Prior to cancellation or suspension of a permit, the director of public works shall give the permit holder at least ten days' written notice, posted on the drill site, an opportunity for hearing, and at least one opportunity to cure the failure of at least ten days following the hearing.

#### 6.5 *Water.*

- A. All subdivisions shall be provided by the applicant with water supply and water distribution systems approved by the Department of Public Works and/or Health Department.
- B. Fire hydrants, in accordance with city standards, shall be installed as part of the water distribution system by the applicant so that every lot is within 500 feet of a fire hydrant or as required by the Texas Insurance Commission.
- C. Extension of water lines shall be in accordance with chapter 106, article VI, Extensions, of the Code of Ordinances.

#### 6.6 *Sewer.*

- A. All subdivisions shall be provided by the applicant with an approved sewage disposal system.
- B. Connection with the sanitary sewer system shall be required except where the Department of Public Works determines that such connection will require unreasonable expenditure when compared with other methods of sewage disposal. Where on-site sewer systems are installed, the design for the system will be in accordance with requirements of the Texas Commission on Environmental Quality (TCEQ). If the applicant proposes to install a sanitary sewer disposal system, the plans for such a system must be approved in accordance with standards and requirements of the Health Department and TCEQ prior to approval of the final plat by the

Commission. Unless otherwise advised, the City of Wichita Falls/Wichita County Health Department is the authorized TCEQ representative.

C. Extension of sanitary sewer lines shall be in accordance with chapter 106, article VI, Extensions, of the Code of Ordinances.

6.7. *Utility lines.*

A. All city owned sanitary sewer and water utilities shall be placed in the street right-of-way. For any previously approved applicant master plan, when economically feasible, provisions shall be made to transition from the rear of lots to the street right of way for future extensions. Utility transition routing shall be coordinated with Public Works.

B. All utility lines that pass under a street or alley shall be installed before the street or alley is paved. When it is necessary that utility lines pass under pavement, they shall be installed to a point at least three feet beyond the edge of the pavement. An exception to this requirement exists where underground construction technology (e.g., boring) is used at the utility company's or contractor's option. All necessary utilities shall be installed before building permits and/or certificates of occupancy are issued for work within the subdivision.

C. All telephone, cable television and electrical utility lateral and service lines shall be placed underground throughout new subdivisions for which final plats are approved subsequent to the effective date of this subsection subject to the following conditions:

1. All electrical transmission lines, meaning those electrical lines operated at nominal voltages of 60,000 volts or higher, may be placed overhead.
2. Any electrical feeder lines, meaning those electrical lines that emanate from substations to distribute power throughout an area, may be placed overhead.
3. Where electrical service is to be placed underground, electrical service for street or site lighting shall also be placed underground except for the lighting standards.
4. Temporary electrical service during construction may be provided by overhead utility lines and facilities prior to activation of the underground service. Following activation of the underground permanent service, the temporary overhead electrical service shall be removed as soon as possible.
5. The electrical utility company may plan and construct overhead lines on perimeters of subdivisions or property. Telephone and cable television lines may be constructed overhead where overhead electric utility lines are permitted.
6. Each of the utility companies shall be responsible for developing administrative policies and cost reimbursement procedures for the installation and extension of their underground utilities. Nothing herein shall prohibit or restrict any utility company from recovering the difference in cost of overhead facilities and underground utilities from the owner or developer in accordance with the provisions of such utility's approved tariff. No utility company shall be required to begin construction of underground facilities unless and until the owner or developer of the subdivision has made arrangements satisfactory to the specific utility company for the payment of such difference between the cost of overhead facilities and underground facilities. No plat shall be approved without a certification by all electric, telephone and cable television companies that such satisfactory arrangements have been made being affixed to the plat. The city shall not be responsible for any portion of such cost unless the city determines that the owner, developer or consumer should not pay such difference in cost and the city refuses to grant an exception allowing overhead construction.
7. All electrical, cable television and telephone support equipment (transformers, amplifiers, switching devices, etc.) necessary for underground installation shall be pad mounted or placed underground and the difference in cost of such facilities shall be paid to the installing utility company in accordance with provisions established under paragraph 6 [of this section].

8. Nothing herein shall be construed to require a utility to install underground facilities or any facilities other than standard overhead facilities, unless the increased cost associated with the underground or other non-standard facilities has been paid to the utility by the developer or the city prior to construction.
9. Nothing contained herein shall be construed to require any existing overhead facilities to be placed underground or to prohibit the upgrading, reconstruction, relocation, or reconductoring of any existing overhead facilities with overhead construction.
10. Nothing contained herein shall be construed to alter the intent of any utility Franchise Agreement Ordinance in effect on the effective date of this section.

6.8 *Surveying standards.* All surveys performed in connection with these regulations shall be performed by a registered professional surveyor in good standing licensed by the state. All surveys shall meet the minimum standards of professional practice promulgated by the state board of professional land surveying.

6.9 *Drainage.*

- A. Where a subdivision is traversed by a watercourse, drainage way, natural channel or stream, there shall be provided an easement or right-of-way conforming substantially to the limit of such watercourse, plus additional width to accommodate future needs as determined by the Department of Public Works.
- B. Drainage facilities shall be provided and constructed by the applicant in accordance with chapter 106, article VIII, Stormwater Management, of the Code of Ordinances, and as required by the Department of Public Works.

6.10 *Lots and setbacks.*

- A. All lots shall have access to, and front on a public street unless otherwise approved as required herein. Lots designated for stormwater detention shall not be required to front on a public street, but shall be accessed by approved easements. Once so shown and described on a final plat, such lot shall not thereafter be used for other than as intended unless approved by the Planning Division and Department of Public Works. Lots separated from a street right-of-way by strip of land owned by:
  1. A utility, used for the sole purpose of providing utilities;
  2. A pipeline company, used for the sole purpose of transporting liquids; or
  3. A railroad company, used for the sole purpose of transport;shall not be required to front on a public street, provided that a permanent easement is obtained from the aforesaid utility company, pipeline company or railroad company, providing for vehicular access between the lots and the public street.
- B. Unless otherwise required herein, or allowed under Appendix B of the Code of Ordinances, minimum width at the building limit line of 50 feet as measured along the building limit line or within 25 feet of the right-of-way line, whichever is closer.
- C. The area of a lot for the purposes of compliance with this regulation shall be the net horizontal area within the lot boundary lines and shall exclude any street or alley rights-of-way, but shall include easements.
- D. If a portion of a legally existing lot is acquired for public use in any manner including dedication, condemnation, or purchase, the remainder of such lot shall be considered as complying with the requirements of these regulations.
- E. Lot width shall be measured between the side lot lines along the minimum required front setback line, or the front lot line if no front setback is required.

F. Setbacks shown herein shall apply within the city's extraterritorial jurisdiction in the absence of county requirements. Setbacks within the city limits shall be governed by Appendix B, Zoning, of the Code of Ordinances.

G. Setbacks within level one:

Front setback: 25-foot minimum.

Interior side setback: Five-foot minimum.

Exterior side setback:

15 feet for single-family or duplex residential use.

25 feet for uses other than single-family or duplex use.

Rear setback:

1. For single-family or duplex dwellings, five-foot minimum from common lot line or one-foot minimum from alley.
2. For all other uses, five-foot minimum. In no case shall the roof overhang extend over the property line.
3. If a lot has double frontage, 25 feet.

H. Setbacks within level two:

Front setback:

100-foot minimum from a U.S.-designated roadway or interstate highway.

50-foot minimum from a state road.

40-foot minimum from other road.

Interior side setback: Five-foot minimum.

Exterior side setback:

15 feet for single-family or duplex residential use.

25 feet for uses other than single-family or duplex use.

Rear setback:

1. For single-family or duplex dwellings, five-foot minimum from common lot line or one foot minimum from alley.
2. For all other uses, five-foot minimum. However, in no case shall the roof overhang extend over the property line.
3. If a lot has double frontage, 25 feet.

I. Should the project cross county lines or level of development, the most restrictive standards between the city and county shall apply to the entire development within the city's extraterritorial jurisdiction.

J. All setbacks shall be measured from the edge of an existing right-of-way or following any required dedication.

K. A required setback shall be measured parallel to and for the entire length of the lot line on the side of the lot for which the setback is being measured. No building or structure shall be located,

erected, or altered so as to have a smaller setback than the minimum setback required herein. The area between the setback and the lot line on the side of the lot for which the setback is being measured, shall be known as the setback area.

- L. A required setback area shall be kept free of any building or structure higher than two feet.

6.1[1] *Erosion control.* Reserved.

6.12 *Regulations related to airport proximity.* All development and improvements within the city limits and within levels one and two, and those areas located outside of level two where such regulation is required in the interest of public health, safety and general welfare of north central Texas, shall be subject to standards and regulations contained under Chapter 6400, Airport Zoning Regulations, of Appendix B, Zoning Ordinance of the Code of Ordinances and as authorized under the Airport Zoning Act, Texas Local Government Code ch. 241.

6.13 *Request for easement, license, or abandonment of city property interest.*

- A. An owner of property underlying an easement held by the city may request that the city abandon all or a portion of said easement.
- B. An owner of property abutting city property or right-of-way may request that the city license the use of city property or right-of-way or execute an easement for an encroachment on city property or right-of-way.
- C. A request for such abandonment, license, or easement will be filed in writing with the property management division of the city's Department of Community Development and be accompanied by a fee the greater of [a fee established by separate ordinance] or the value of the requested property interest, with said property interest value to be determined by the city's property administrator. The city's property administrator may waive the aforementioned fee upon a determination that:
  - (1) The requested right or abandonment is of de minimis value and requires minimal staff time to research and define; or
  - (2) The requested right or abandonment is in exchange for a property interest of similar or greater value.
- D. If the city's property administrator determines that a survey or appraisal is necessary to determine the size or nature of the property or its value, the requesting owner shall pay for the cost of said survey or appraisal or provide same.
- E. If the city manager determines that the city's interests are sufficiently protected by the proposed abandonment, license, or easement and that the execution of said document is in the interest of the city, then the city manager may execute all documents necessary to allow the underlying or abutting property owner to utilize the requested interest in the property.
- F. This section authorizes actions that are within the discretion of city staff with respect to property interests owned by the city. This section does not reduce the right of the city council to authorize or abandon a city interest in property. This section is not adopted pursuant to Chapter 211 of the Texas Local Government Code. A decision of an official pursuant to this section is not appealable pursuant to sections 8 or 9 of this appendix to the board of adjustment.

(Ord. No. 38-2003, § 1, 4-15-2003; Ord. No. 88-2005, § 2, 11-1-2005; Ord. No. 56-2006, § 2, 7-18-2006; Ord. No. 103-2007, § 1, 12-18-2007; Ord. No. 21-2008, § 1, 4-1-2008; Ord. No. 29-2009, § 2, 5-5-2009; Ord. No. 45-2009, § 1, 7-21-2009; Ord. No. 63-2010, 11-16-2010; Ord. No. 10-2011, § 1, 2-15-2011; Ord. No. 20-2018, 5-1-2018)

Sec. 7. - Responsibility for payment of installation cost.

- A. The applicant shall pay all design, engineering, material, construction and installation costs of all improvements required by this section unless otherwise provided in this section.
- B. In the event [an] applicant desires the extension of water or sewer lines to serve his subdivision, he shall bear the entire design, engineering, material, construction and installation cost of all border, off-site and on-site lines. The Department of Public Works shall specify the size of all such lines, taking into consideration the city's master plans, standard specifications, and anticipated requirements of adjacent areas of future growth which must be served by such lines. The decision of the Department of Public Works concerning the size of the required lines shall be final.
- C. The construction of water and sewer lines in accordance with city plans and specifications will be done by a contractor of the applicant or property owner's choice; provided however, that such contractor shall furnish a performance bond and warranty bond, executed by a corporate surety authorized to do business in the state acceptable to the city and maintaining in the county an agent upon whom service of citation may be had, in an amount equal to the total construction cost. Said bond shall be conditioned upon:
  - 1. Completion of the entire construction in full conformity with the plans and specifications promulgated or approved by the Department of Public Works; and
  - 2. Payment in full by the contractor of all claims for labor performed or materials furnished, in connection with such construction. All such construction work shall be subject to inspection by the Department of Public Works and/or the respective governmental unit as required, and no portion of any line installed in any excavation shall be covered unless and until the construction of such portion shall have been inspected and approved by the Department of Public Works and/or the respective governmental unit as required.
- D. Should the Department of Public Works require the installation of water and sewer facilities of a larger capacity than necessary to provide adequate water or sewer service to the applicant's property, the difference between the cost of such larger facilities and the size facility required to serve the subdivision will be paid for by the city. Such facilities may be constructed under contract awarded by the city, with a predetermined rate for the developer's share to be deposited with the city prior to the award of the contract. At the option of the city, such facilities may be constructed under a contract awarded by the developer, provided city and state requirements are met. Under either system, the pro rata share of the cost to be borne by the developer shall include all material, construction, and installation cost for the size facility adequate to serve the developer's property. For the purposes of this article, the minimum size line required to serve a subdivision shall not be less than eight-inch water and/or sewer.
- E. All sewer and water lines constructed or installed pursuant to the provisions of this section shall, when completed and accepted by the Department of Public Works, become the property of the city, free and clear of all encumbrances. The applicant shall provide a maintenance bond on the public improvements for a period of one year after the date on which the city accepts the property. Each and every contract entered into between [an] applicant and a contractor for the installation of sewer or water lines pursuant to the provisions of this section shall recite therein the provisions of this subsection.
- F. No sewer or water lines shall be installed or constructed except within a public street or alley, or within an easement granted to the city by appropriate written instrument filed for record with the county clerk of [the] county at the expense of the person requesting the extension of existing lines.
- G. No lift station, sanitary sewer system, or force main shall be constructed as part of the sewer line extension unless the applicant agrees that he will, at his own expense, construct such elements in accordance with the design standards provided by the Department of Public Works or in the case of lift stations a design prepared by the applicant's engineer and approved by the Department of Public Works.
- H. If the Commission or plans adopted by the city council requires the installation of any street with pavement over 48 feet, the city shall award the contract for construction and the developer shall deposit his share of the cost of construction with the city prior to award of the contract. The developer's share

of the cost will include curbs and gutters including median curbs as required, and pavement for a 48-foot street.

- I. In no event shall the city be obligated to proceed under the terms of this section if sufficient funds are not available. Nothing in this ordinance shall be construed as a surrender by the city of its control over the streets, alleys, public ways or public easements within the city.
- J. No person shall acquire any vested rights under the provisions of this section.
- K. Withholding improvements until plat approved.
  - 1. The city shall withhold all city improvements of whatsoever nature including the furnishing of sewage facilities and water service from all subdivisions, which have not been approved as provided by law and further, no permit shall be issued by the building official of the city on any piece of property other than an original or a resubdivided lot in a duly approved and recorded subdivision, except the building official may issue a temporary connection of utilities permit for construction purposes and only during the time of actual construction on unplattd tracts of land if the owner of such property will sign an agreement stating that he will forthwith start proceedings to have such property approved and platted in accordance with these regulations and further acknowledge his understanding that a certificate of occupancy and a permanent permit for connection of public utilities shall be withheld until the platting of such property has been so approved and recorded.

The temporary permit shall automatically terminate within 100 days from its issuance date or upon completion of construction. The master plat must be approved and recorded within 100 days from the temporary building permit issuance date.

The following is the procedure required for the owner of such property to follow before entering into a platting agreement:

- a. Cause an abstractor or lawyer's certificate of ownership to be prepared and furnished to the Planning Division.
- b. Cause a dedication instrument to be prepared covering the dedication of property for public use, as determined by existing ordinances of the city. All lien holders of record shall be required to subordinate their lien on the property dedicated for public use. These instruments shall be placed in the custody of the city and/or the respective governmental unit as required to be recorded by the city and/or the respective governmental unit as required in the county clerk's office of the county(ies) in which the project is located, in the event that the person executing a platting agreement fails to complete the platting process forthwith as agreed.

- 2. The building official shall not issue a building permit until he has received approval from departments having purview over the plat requirements.

L. The developer or contractor shall furnish to the city and/or the respective governmental unit as required a maintenance bond, or an approved surety, for the percentage amount show below in section M based upon the total cost of improvements constructed or installed pursuant to the provisions of this section, conditioned that the applicant shall pay all costs of maintaining, repairing, and replacing any defective parts, workmanship, or equipment for a period of one year after the improvement is accepted by the Department of Public Works and/or the respective governmental unit as required. The said maintenance bond shall be provided before the city engineer and/or the respective governmental unit as required issues a letter of acceptance or approval for the said improvements.

M.

Cost of Improvements	Required Bond Amount Shall be % of Cost of Improvements
\$0—\$100,000	100%

\$100,001—\$249,999	75%
\$250,000—\$499,999	50%
Over \$500,000	25%

(Ord. No. 20-2018, 5-1-2018)

[Secs. 8—10. - Reserved.]

Sec. 11. - Parks.

- A. All applicant shall be required to set aside land for park purposes under conditions set out in subsection B of this section when the master park plan of the city shows a park is required in the area to be subdivided and the applicant shall show such land set aside in compliance with this section on the master plat or preliminary plat. All areas set aside for park purposes shall conform to the master park plan as to general location, area and type of development. The parks and recreation department should be consulted when developing the master plat so that few revisions will be necessary later.
- B. The city shall be granted an option to purchase the land so set aside for park purposes upon the following terms. If at the end of one year from the date of approval by the Commission of the master plat or preliminary plat if there is no master plat, the total area covered by said plat has been at least 50 percent developed, then and in that event the city shall be required to exercise its option within 30 days thereafter or release the same to the applicant with the purchase price to be computed as set out in subsection C of this section. If at the end of one year there has not been a 50 percent development, then and in that event the option shall continue in full force and effect until said total area has been at least 50 percent developed with the city then required to exercise or release its option as set out above.
- C. The price to be paid by the city for the land set aside for park purposes shall be based on the fair market value of the raw land as of the date the master or preliminary plat is first filed with the board, plus the pro rata part of all development cost attributable to the park land so purchased, including abutting streets and utilities necessary to serve the park land.
- D. All applicants shall also submit on the master plat an indication showing how the park area is to be developed in the event the city is unable to purchase the property or rejects it because of other reasons.
- E. All areas reserved for park land shall conform to the city master park plan as to general location, area and type of development. The city shall have the right to accept or reject park land proposals as shown on the developer's master plat, at such time as the master plat is brought before the Commission for approval. The one year option period, which the city has to buy the land, shall begin with the Commission's approval of the developer's master plat.

(Ord. No. 20-2018, 5-1-2018)

Sec. 12. - Penal provisions.

If any individual (including any officer, agent or employee acting in behalf of any individual, firm, association or corporation) violates any provision of this ordinance, he shall be guilty of a misdemeanor, and, upon conviction of such violation he shall be fined an amount as provided by section 1-14 of the Code of Ordinances. Each day that such violation continues shall be a separate offense. Prosecution or

conviction under this provision shall never be a bar to any other remedy or relief for violations of this ordinance.

Sec. 13. - Enforcement other than penal.

- A. No permit shall be issued by the Health Department and/or Department of Public Works for the installation of an on-site sewerage system upon any lot in a subdivision for which a final plat has not been approved or on a lot in a subdivision in which the standards contained herein or referred to herein have not been complied with in full.
- B. No building, repair, plumbing or electrical permit shall be issued by the building official for any structure on a lot in a subdivision in which a final plat has not been approved or on a lot in a subdivision in which the standards contained herein or referred to herein have not been complied with in full, except in those situations described herein.
- C. The Department of Public Works and/or the respective governmental unit as required shall not repair, maintain, install or provide any streets or public utility services in any subdivision for which a final plat has not been approved or in which the standards contained herein or referred to herein have not been complied with in full.
- D. The city shall not sell, supply or allow to be sold or supplied any water, gas, electricity or sewerage service within a subdivision for which a final plat has not been approved or in which the standards contained herein or referred to herein have not been complied with in full.
- E. On behalf of the city and/or the respective governmental unit as required, the city attorney may institute appropriate action in the district court to enjoin any violation of this ordinance or the standards referred to herein which violation occurs within the city limits or within the extraterritorial jurisdiction of the city or as such jurisdiction is determined.
- F. If any subdivision exists for which a final plat has not been approved or in which the standards contained herein or referred to herein have not been complied with in full, the city attorney may, on behalf of the city and/or the respective governmental unit as required, cause an instrument to be filed in the deed records of the county or counties in which such subdivision or part thereof lies. The instrument may state the fact of such noncompliance or failure to secure final plat approval and the fact that the provisions of paragraphs A, B, C and D of this section will apply to the subdivision and the lots therein. If full compliance and final plat approval are secured after the filing of such instrument, the city attorney shall forthwith file an instrument in the deed records of each such county stating that paragraphs A, B, C and D no longer apply.

Sec. 14. - Modification of subdivision regulations.

- A. Where existing conditions require a modification from the standards and regulations herein contained because of a distinct and unusual condition that does not prevail on other undeveloped land generally in the city, the Commission may approve a modification from specific standards to permit the equitable treatment of the land or tract in light of the unusual condition.
- B. The Commission may authorize a modification from these regulations when in its opinion deprivation of use of land will result from requiring strict compliance. The applicant shall have the responsibility of proving that the strict application of the subdivision ordinance creates a deprivation of use of land. The following conditions must be present for consideration:
  1. There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land; and,
  2. The granting of the modification will not be detrimental to the public health, safety or welfare, or injurious to other property in the area; and,
  3. The granting of the modification will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this chapter; and,

4. A more appropriate design solution exists which is not currently allowed in this chapter; and,
5. The granting of the modification is harmonious with the engineered design of the infrastructure of any neighboring subdivision.

C. The modification may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety, and welfare may be secured and substantial justice is done. Economic hardship to the applicant shall not be deemed to constitute a deprivation of use. The Commission may reach a conclusion that a deprivation exists if it finds that:

1. If the applicant complies strictly with the provisions of this chapter, the applicant can make no reasonable use of the property; and
2. The deprivation of use relates to the applicant's land, rather than personal circumstances; and
3. The deprivation of use is unique to the property, rather than one shared by many surrounding properties; and
4. The deprivation of use is not the result of the applicant's own actions or actions of a previous owner or owner's agent.

D. The request for modification shall be made in writing to the Planning Director and accompanied by a fee as set forth by separate ordinance.

E. In cases where a modification was submitted in conjunction with a Final Plat, the plat is considered incomplete until the modification receives approval or denial by the Commission. Following the Commission determination on the modification, a complete Final Plat will be submitted to the Commission for approval or denial at the next available meeting.

F. In granting a modification, the Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified and maintain the spirit and intent of the standards herein set forth.

G. A determination by the Commission shall require an affirmative vote by six members to grant a modification.

H. A determination may be appealed to city council by either the applicant or City Manager or his designee. Any appeal will be heard *de novo* and shall require an affirmative vote by five members to affirm or overturn the decision of the Commission.

(Ord. No. 20-2018, 5-1-2018)