

City of Anna, Texas

**Article 9.02**  
**Subdivision**  
**Regulations**

9/26/2023

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# Contents

<b>Division 1. GENERALLY .....</b>	<b>1</b>
Sec. 9.02.001. Authority; Extension to Extraterritorial Jurisdiction .....	1
Sec. 9.02.002. Interpretation and Purpose.....	2
Sec. 9.02.003. Compliance with Regulations .....	3
Sec. 9.02.004. Adequate Public Facilities Policy .....	3
Sec. 9.02.005. Jurisdiction .....	7
Sec. 9.02.006. Pending Applications.....	8
Sec. 9.02.007. Determination of Vested Rights .....	8
Sec. 9.02.008. Interpretation; Conflict; Severability.....	11
Sec. 9.02.009. Saving Provision .....	11
Sec. 9.02.010. Waivers, Suspensions, Amendments .....	12
Sec. 9.02.011. Proportionality Appeal .....	13
Sec. 9.02.012. Payment Of All Indebtedness Attributable to a Specific Property .....	16
Sec. 9.02.013. Right To Deny Hearing and Plat.....	16
Sec. 9.02.014. Misrepresentation of Facts .....	17
Sec. 9.02.015. Diversity Of Ownership .....	17
Sec. 9.02.016. Definitions .....	17
<b>Division 2. PROCEDURES .....</b>	<b>27</b>
Sec. 9.02.041. Introduction and Procedural Overview .....	27
Sec. 9.02.042. General Requirements for Plats .....	29
Sec. 9.02.043. Expiration Of Permits, Generally, Dormant Projects, and Exemptions from Vesting .....	36
Sec. 9.02.044. Conveyance Plats .....	37
Sec. 9.02.045. Preliminary Plats .....	40
Sec. 9.02.046. Final Plats .....	46
Sec. 9.02.047. Development Plats .....	50
Sec. 9.02.048. Replatting .....	53
Sec. 9.02.049. Amending Plats .....	56
Sec. 9.02.050. Plat Vacation .....	57
Sec. 9.02.051. Minor Plats .....	59
<b>Division 3. SUBDIVISION DESIGN STANDARDS.....</b>	<b>60</b>
Sec. 9.02.081. Streets .....	60
Sec. 9.02.082. Perimeter and Approach Streets.....	71

**Article 9.02. Subdivision Regulations**  
**Contents**

Sec. 9.02.083. Alleys .....	74
Sec. 9.02.084. Easements .....	75
Sec. 9.02.085. Blocks .....	77
Sec. 9.02.086. Sidewalks.....	78
Sec. 9.02.087. Lots.....	78
Sec. 9.02.088. Building Lines .....	79
Sec. 9.02.089. Utility Services Not Provided by City .....	80
Sec. 9.02.090. Water and Wastewater Facility Design .....	82
Sec. 9.02.091. Storm Water Collection and Conveyance Systems .....	83
Sec. 9.02.092. Extension of Service of Utilities and Pro-Rata Agreements .....	85
<b>Division 4. PUBLIC SITES AND OPEN SPACES .....</b>	<b>93</b>
Sec. 9.02.131. Areas for Public Use .....	93
Sec. 9.02.132. Protection of Drainage and Creek Areas .....	93
Sec. 9.02.133. Public Improvement Districts .....	95
Sec. 9.02.134. Property Owners’ or Homeowners’ Associations .....	96
Sec. 9.02.135. Park Land Dedication & Development .....	98
<b>Division 5. IMPROVEMENTS REQUIRED PRIOR TO ACCEPTANCE OF SUBDIVISION</b> <b>.....</b>	<b>104</b>
Sec. 9.02.161. Improvements, In General .....	104
Sec. 9.02.162. Monuments.....	105
Sec. 9.02.163. Streetlights .....	106
Sec. 9.02.164. Street Names and Signs.....	106
Sec. 9.02.165. Street and Alley Improvements .....	107
Sec. 9.02.166. Retaining Wall Requirements, Construction Regulations, and Design Criteria.....	108
Sec. 9.02.167. Screening and Landscaping Construction Regulations, Requirements, and Design Criteria.....	108
Sec. 9.02.168. Water and Wastewater Requirements .....	111
Sec. 9.02.169. Storm Drainage and Water Quality Controls .....	112
<b>Division 6. REQUIREMENTS FOR ACCEPTANCE OF SUBDIVISIONS BY CITY .....</b>	<b>114</b>
Sec. 9.02.201. Withholding City Services and Improvements Until Acceptance .....	114
Sec. 9.02.202. Guarantee of Public Improvements .....	114
Sec. 9.02.203. Temporary Improvements. ....	118
Sec. 9.02.204. Failure to Complete Improvements .....	119
Sec. 9.02.205. Acceptance of Dedication Offers.....	119

Sec. 9.02.206. Maintenance Guarantee .....119

Sec. 9.02.207. Construction Procedures.....120

Sec. 9.02.208. Inspection and Acceptance of Public Improvements .....120

Sec. 9.02.209. Issuance of Building Permits and Certificates of Occupancy.....122

**Division 7. FILING FEES; PLAT RE-SUBMISSION AND CONSTRUCTION INSPECTION  
FEES ..... 123**

Sec. 9.02.241. Schedule of Fees and Re-Submission Requirements .....123

**Division 8. ENFORCEMENT; VIOLATIONS; PENALTIES..... 124**

Sec. 9.02.260. Enforcement; Violations; Penalties .....124

**Division 9. TABLES AND DIAGRAMS..... 125**

Sec. 9.02.261. Tables and Diagrams. ....125



## Division 1. GENERALLY

### Sec. 9.02.001. Authority; Extension to Extraterritorial Jurisdiction

(a) Authority

The following rules and regulations (sometimes referred to herein as “subdivision regulations”), adopted and codified as Article 9.02 of the Anna Code, are adopted under the authority of the constitution and laws of the State of Texas, including Chapter 212, Texas Local Government Code, being adopted after a public hearing on the matter and in a duly noticed meeting open to the public as required by law.

(b) Application in the ETJ

The City Council hereby extends the application of these subdivision regulations to the extraterritorial jurisdiction (“ETJ”) of the City, as that area may exist from time to time. These subdivision regulations shall be applicable to the filing of plats and the subdivision of land, as those terms or activities are defined herein and in Chapter 212 of the Texas Local Government Code, within the corporate limits of the City and its Extraterritorial Jurisdiction as they may be from time to time adjusted by annexation, disannexation, or otherwise. The City shall have all remedies and rights provided by said Chapter 212 with regard to the control and approval of subdivisions, plats, and other development both within the City and within its Extraterritorial Jurisdiction.

(c) Interlocal Agreement with Collin County

The City has executed an interlocal cooperation agreement with Collin County as authorized under Chapter 242 of the Texas Local Government Code. Collin County has assigned the City its respective authority to approve subdivision plats in the City's ETJ. The agreement generally provides for the City to enforce its subdivision regulations, within the applicable areas of the ETJ. These subdivision regulations will therefore be enforced to the fullest extent possible in the ETJ as agreed upon with Collin County.

(d) The authority to review, approve, conditionally approve, and disapprove applications for the platting or subdivision of land, including development plats, conveyance plats, preliminary plats, final plats, amended plats, replats, and vacations of plats, is the Planning and Zoning Commission (hereinafter “Commission”), in accordance with Chapter 212 of the Texas Local Government Code. The City Council of the City of Anna (hereinafter “Council”) may grant replats variances from these regulations pursuant to a public hearing as required in Chapter 212 of the Texas Local Government Code.

(e) The Director of Development Services is vested with the authority to approve minor plats, development plats, and replats involving four or fewer lots fronting an existing street and not requiring the creation of any new street or the extension of municipal facilities. The Director of Development Services may, for any reason, elect to present a minor plat to the Commission for approval. The Director of Development Services may not disapprove a minor plat and shall refer any minor plat refused for approval by the Commission within 30 days of the official date of application.

(f) The exclusion of such activities from these regulations does not waive any jurisdiction the City now exercises or may exercise over such matters.

(g) Except as provided above, no land may be subdivided or platted through the use of any legal description other than with reference to a plat approved by the Council in accordance with these regulations.

## Sec. 9.02.002. Interpretation and Purpose

- (h) Except as provided above and lots of record established prior to the effective date of this ordinance, no land shall be sold, leased, or transferred until the property owner has obtained approval of a minor plat, final plat, or conveyance plat from the Director of Development Services or the Commission as required by these regulations.
- (i) The City shall withhold all public improvements and utilities, including the maintenance of streets and the provision of sewage facilities and water service, from all tracts, lots, or additions, the platting of which has not been officially approved by the Director of Development Services or the Commission.
- (j) Except as provided in Sec. 9.02.003, no certificate of occupancy shall be issued for any parcel or tract of land inside the City limits until such property has received final plat approval and is in substantial conformity with the provisions of these regulations, and no private improvements shall take place or be commenced except in conformity with these regulations.
- (k) A division of land under this subsection does not include a division of land into parts greater than five (5) acres, where each part has access to a public right-of-way and no public improvement is required.

### Sec. 9.02.002. Interpretation and Purpose

#### (a) Minimum Requirements

In the interpretation and application of the provisions of these subdivision regulations, it is the intention of the City that the principles, standards, and requirements provided for herein shall be minimum requirements for the platting and developing of subdivisions within the City and its ETJ.

#### (b) Purpose

(1) These regulations are adopted for the following purposes:

- (A) To protect and provide for the public health, safety, and general welfare of the City.
- (B) To guide the future growth and development of the City in accordance with the Comprehensive Plan.
- (C) To ensure safety from fire, flood, and other danger, and to prevent overcrowding of the land and undue congestion of population.
- (D) To guide public and private development in order to provide adequate and efficient transportation, water, sewerage, drainage, stormwater quality, and other public requirements and facilities.
- (E) To provide for the circulation of traffic and pedestrians required for the beneficial use of land and buildings and to avoid congestion throughout the City.
- (F) To establish reasonable standards of design and procedures for platting and replatting to further the orderly layout and use of land and to ensure proper legal descriptions and monumenting of platted land.
- (G) To ensure that adequate public facilities and services are available and will have sufficient capacity to serve the proposed subdivision or development and that the community will be required to bear no more than its fair share of the cost of providing the facilities and services.
- (H) To prevent the pollution and sedimentation of streams and ponds; ensure the adequacy of drainage facilities; safeguard the water table, encourage the wise use and management of natural resources, and enhance the stability and beauty of the community and the value of the land.
- (I) To provide for open spaces through the most efficient design and layout of the land.

- (J) To remedy the problems associated with inappropriately platted lands, including premature subdivision, incomplete subdivision, and scattered subdivision.

(c) Minimum Standards

Minimum standards for development are contained in the City design standards, the building regulations in Chapter 4 of this code, and the other development regulations in this chapter. In addition, the comprehensive plan (including the future land use plan, thoroughfare plan, parks master plan, and other related plans, and amendments) contains policies designed to achieve an optimum quality of development in the City and its extraterritorial jurisdiction. If only the minimum standards are followed, as expressed by the various ordinances regulating land development, a standardization of development will occur. This will produce a monotonous municipal setting and physical environment within the community. Subdivision design shall be of a quality that will carry out the purpose and spirit of the policies expressed within the comprehensive plan and within this Article, and shall be encouraged to exceed the minimum standards required herein.

### Sec. 9.02.003. Compliance with Regulations

(a) Recordation of Subdivision Plat

- (1) No subdivision plat shall be recorded until a final plat, accurately describing the property, has been approved by the Commission in accordance with these subdivision regulations and:
  - (A) All improvements required by these subdivision regulations have been constructed and accepted by the City; or
  - (B) Adequate security for completion of improvements has been provided in accordance with Division 6 of this Article.
- (2) Except as otherwise specifically authorized in these subdivision regulations, no certificate of occupancy shall be issued by the City for any parcel of land until a final plat or development plat, as applicable—of the land has been recorded.
- (3) Compliance with the Comprehensive Plan and all City ordinances pertaining to the subdivision of land shall be required prior to approval of any development application governed by this Article. It is the developer's responsibility to be familiar with, and to comply with, City ordinances and the Comprehensive Plan. Applicable ordinances and other requirements include, but are not limited to, the following:
  - (A) The Comprehensive Plan, which includes the future land use plan, thoroughfare plan, park master plan, and all other associated maps and plans;
  - (B) The building regulations in Chapter 4 of this code;
  - (C) The development regulations in Chapter 9 of this code;
  - (D) All applicable design standards; and
  - (E) Other applicable sections in this code and any other applicable ordinances.

### Sec. 9.02.004. Adequate Public Facilities Policy

(a) Adequate Service for Areas Proposed for Development, Generally

- (1) Land proposed for development in the City and in the City's extraterritorial jurisdiction must be served adequately by essential public facilities and services, including water facilities, wastewater facilities, streets and pedestrian facilities, drainage facilities, and park facilities consistent with the requirements of these subdivision regulations. Where the development of land requires the submission and approval of a

## Sec. 9.02.004. Adequate Public Facilities Policy

conveyance plat or final plat under these subdivision regulations, such land shall not be approved for recording unless and until adequate public facilities necessary to serve the development exist or provision has been made for the facilities, whether the facilities are to be located within the property being developed or off-site.

- (2) New development must be supported by adequate levels of public facilities and services.
- (3) It is necessary and desirable to provide for dedication of rights-of-way and easements for capital improvements to support new development at the earliest stage of the development process.
- (4) Requirements for dedication and construction of public infrastructure improvements to serve a proposed new development should be attached as conditions of approval of any development application that contains a specific layout of the development.
- (5) There is an essential nexus between the demand on public facilities systems created by a new development and the requirement to dedicate rights-of-way and easements and to construct capital improvements to offset such impacts.
- (6) The City desires to ensure both that development impacts are mitigated through contributions of rights-of-way, easements and construction of capital improvements, and that a development project contributes not more than its proportionate share of such costs.

(b) Conformance to Plans

Proposed capital improvements serving new development shall conform to and be properly related to the public-facilities elements of the City's adopted Comprehensive Plan, other adopted master plans for public facilities and services, and applicable capital improvements plans, and shall meet the service levels specified in such plans.

(c) Adequacy of Facilities, Generally

(1) Water

All lots, tracts, or parcels shown on a preliminary or final plat and on which development is proposed shall be connected to a public water system that has capacity to provide water for domestic use and emergency purposes, including adequate fire protection. The City may require the phasing of development and/or improvements in order to maintain adequate water system capacity.

(2) Wastewater

All lots, tracts, or parcels shown on a preliminary or final plat and on which development is proposed shall be served by an approved means of wastewater collection and treatment. The City may require the phasing of development and/or improvements in order to maintain adequate wastewater system capacity.

(3) Streets

Proposed streets serving new development shall provide a safe, convenient, and functional system for vehicular, bicycle, and pedestrian circulation and shall be properly related to the applicable master thoroughfare plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development. New developments shall be supported by a thoroughfare network having adequate capacity, and safe and efficient traffic circulation. Each development shall have adequate access to the thoroughfare network.

## (4) Drainage

Drainage improvements serving new developments shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent overloading the capacity of the downstream drainage system. The City may require the phasing of development, the use of control methods such as retention or detention, or the construction of off-site drainage improvements in order to mitigate the impacts of the proposed development. All drainage shall further comply with the City's floodplain damage prevention ordinance (Article 4.12 of this code) and related regulations.

## (d) City Options

In order to maintain prescribed levels of public facilities and services for the health, safety, and general welfare of its citizens, and in accordance with these subdivision regulations, the City may require the dedication of easements and rights-of-way for or construction of on-site or off-site public infrastructure improvements for water, wastewater, street, drainage or park facilities to serve a proposed development, or require the payment of fees in lieu thereof. If adequate levels of public facilities and services cannot be provided concurrently with the schedule of development proposed, the City may deny the development until the public facilities and services can be provided, or require that the development be phased so that the delivery of facilities and services coincides with the demands for the facilities created by the development. The City may impose any conditions relating to the provision of public improvements specified by an ordinance or regulation establishing or amending the zoning for the property.

## (e) Property Owner's Obligation

## (1) Dedication and Construction of Improvements

In accordance with these subdivision regulations, and other applicable ordinances and regulations, the property owner shall dedicate all rights-of-way and easements for, and shall construct, capital improvements within the rights-of-way or easements for those water, wastewater, street, or drainage improvements needed to adequately serve a proposed development consistent with the applicable master facilities plans, whether the facilities are located on, adjacent to or outside the boundaries of the property being developed.

## (A) Adjacent Road Improvements

In the case of adjacent or abutting streets, the City may require that the entire right-of-way be dedicated and improved to City design standards if the project is approved and funded through a City Capital Improvement Plan (CIP) or a similar County adopted plan as dictated in [Texas House Bill 3699](#), depending on factors such as the impact of the development on the street, the timing of development in relation to the need for the street, and the likelihood that adjoining property will develop in a timely manner.

## (B) Substandard Road Improvements

Where an existing street that does not meet the City's right-of-way or design standards abuts a proposed development, the City may require the property owner to dedicate the right-of-way for a standard width, and to improve the street according to the dimensions and specifications in the applicable thoroughfare plan, depending on factors such as the impact of the development on streets and traffic, the timing of development in relation to the need for the thoroughfare, and the likelihood that adjoining property will develop in a timely manner.

## Sec. 9.02.004. Adequate Public Facilities Policy

## (2) Acquisition

Where the acquisition of any real property for right-of-way or easement purposes (or other public purposes) is necessary to serve the development and the real property is not owned or controlled by the developer, the developer must make a reasonable effort to negotiate the acquisition or purchase of the property, right-of-way or easement on behalf of the City.

- (A) A reasonable effort must, at a minimum, include an offer to secure the property, right-of-way or easement where the offer amount is equal to or greater than the appraised value of the property, right-of-way or easement to be acquired as determined in a written appraisal performed by a Texas certified General Real Estate Appraiser.
- (B) If the owner of the property sought to be acquired does not accept a developer's offer within 30 days, the developer may request in writing, on a form prepared by the City Attorney, that the City Council exercise available legal remedies to acquire the property. The City Council may take any action it deems appropriate in accordance with federal and state law.
- (C) The developer must pay for any necessary appraisal, all acquisition costs, and all legal fees necessary to acquire the property, and any eminent domain procedures shall be prosecuted by the City Attorney or the City Attorney's designee.

## (3) Facilities Impact Studies

The City may require that a property owner prepare a comprehensive traffic impact study, drainage study, sewer capacity study, water capacity study, or other public facilities study in order to assist the City in determining whether a proposed development will be supported with levels of public facilities and services necessary to meet the demand and offset the impact created by the development. The study shall identify, at a minimum, the adequacy of existing facilities and the nature and extent of any deficiencies, and the capital improvements needed to meet the adopted level of service assuming development at the intensity proposed in the development application. The study shall be subject to approval by the City Engineer. The City also may require, at the time of consideration of the approval of any subsequent permit that is part of the series of permits that is required for the completion of a project, an update of a public facilities study approved.

## (f) Timing of Dedication and Construction

## (1) Initial Provision for Dedication or Construction

The City shall require an initial demonstration that a proposed development shall be adequately served by public facilities and services at the time for approval of the first development application that portrays a specific plan of development, including but not limited to a petition for establishing a planned development zoning district, or other overlay zoning district; a petition for an annexation agreement or a subdivision development agreement; an application for a preliminary or final subdivision plat, or a preliminary or final development plat. As a condition of approval of the development application, the City may require provision for dedication of property, rights-of-way, or easements for, and construction of, capital improvements to serve the proposed development in a manner consistent with federal and state law.

## (2) Deferral of Obligation

The obligation to dedicate rights-of-way for or to construct one or more capital improvements to serve a new development may be deferred until approval of a subsequent phase of the subdivision, at the sole discretion of the City Manager, upon written request of the property owner, or at the City's own initiative. As a condition of deferring the obligation, the City may require that the developer enter into a subdivision

improvement agreement approved by City Council, specifying the time for dedication of property, rights-of-way, easements, or construction of capital improvements serving the development.

### Sec. 9.02.005. Jurisdiction

#### (a) Applicability

The provisions of these subdivision regulations shall apply to the following forms of land subdivision and development activity within the City limits and its extraterritorial jurisdiction:

- (1) The division of land into two or more tracts, lots, sites, or parcels;
- (2) All subdivisions of land, whether by metes and bounds division or by plat, that were outside the jurisdiction of these subdivision regulations in Collin County, Texas and that subsequently came within the jurisdiction of these subdivision regulations through annexation or extension of the city's extraterritorial jurisdiction;
- (3) The combining of two or more contiguous tracts, lots, sites, or parcels for the purpose of creating one or more legal lots in order to achieve a more developable site, except as otherwise provided herein;
- (4) When a building permit or other permit is required for the following uses:
  - (A) Construction of a new single-family or two-family dwelling unit(s);
  - (B) Additions that increase the square footage of an existing single-family or two-family home by more than 20% of its gross floor area;
  - (C) Construction of a new nonresidential or multiple-family structure;
  - (D) Additions that increase the square footage of an existing nonresidential or multiple-family building;
  - (E) Moving a residential dwelling unit or nonresidential structure onto a piece of property;
- (5) Tracts where any public improvements are proposed;
- (6) Development that requires a development plat to be submitted; and
- (7) Development that is governed by other City ordinances or regulations that reference and make applicable these subdivision regulations

#### (b) Exemption

The following types of subdivision do not require approval by the City of Anna; however, the City shall not extend utilities, provide access to public roads, or issue a certificate of occupancy for the development of any property that has not received final plat approval, except as otherwise provided by this ordinance.

- (1) Development of land legally platted and approved prior to the effective date of these subdivision regulations, except as otherwise provided for herein (construction of facilities and structures shall conform to design and construction standards in effect at the time of construction) and for which no re-subdivision is sought; or
- (2) Existing cemeteries complying with all state and local laws and regulations; or
- (3) Divisions of land created by order of a court of competent jurisdiction; or
- (4) Divisions of land created solely by the erection of one or more fences on otherwise undivided land; or
- (5) When a permit is requested for parcels, whether or not previously platted, for one or more of the following activities:

## Sec. 9.02.006. Pending Applications

- (A) Additions that increase the square footage of an existing single-family or two-family home by less than 20% of its gross floor area; or
  - (B) Construction of agricultural accessory buildings and residential accessory buildings smaller than 300 square feet, fences, and outdoor swimming pools; or
  - (C) Remodel or repair of a building that involves no expansion of the building footprint; or
  - (D) Moving a structure off a lot or parcel, or demolition of a structure; or
  - (E) Construction of a temporary field or sales office not exceeding 600 square feet, and located within the same property or development as the site under construction; or divisions of land created by the acquisition of property by the State of Texas or the City.
- (6) The division of land into two or more parts where all parts are larger than five (5) acres and where no new building or improvement is proposed and no required public improvement is to be dedicated.
- (7) The creation of a remainder of a tract caused by the platting of a portion of the tract provided the remainder is larger than 20 acres unless previously platted.

### Sec. 9.02.006. Pending Applications

All applications for plat approval, including for final plats, that are pending on the effective date of these subdivision regulations and have not lapsed or expired shall be reviewed under the regulations in effect immediately preceding the effective date of these subdivision regulations.

### Sec. 9.02.007. Determination of Vested Rights

(a) Purpose, Application, and Effect

(1) Purpose

The purpose of a vested rights petition is to determine whether one or more standards of these subdivision regulations should not be applied to a preliminary or final plat application by operation of state law, or whether certain plats are subject to expiration.

(2) Applicability

A vested rights petition may be filed with an application for a preliminary or final plat application. A vested rights petition also may be filed to prevent or determine the date of the expiration of certain plats.

(3) Effect

To the extent that a vested rights petition is granted, and as applicable, the plat application shall be decided in accordance with the standards specified in the order granting the petition based on prior subdivision requirements or development standards, or the approved plat otherwise subject to expiration shall be extended.

(b) Petition Requirements

(1) Who may petition

A vested rights petition may be filed by a property owner or the owner's authorized agents, including the applicant, with a preliminary or final plat application, or by the holder of a plat subject to expiration.

## (2) Form of Petition

The vested rights petition shall allege that the petitioner has a vested right for some or all of the land subject to the plat application under [Texas Local Government Code, Chapter 245](#) or successor statute, or pursuant to [Texas Local Government Code, Section 43.002](#) or successor statute, that requires the City to review and decide the application under standards in effect prior to the effective date of the currently applicable standards. The petition shall include the following information and documents:

- (A) A narrative description of the grounds for the petition;
- (B) A copy of each approved or pending development application that is the basis for the contention that the City may not apply current standards to the plat application that is the subject of the petition;
- (C) The submission date of the plat application, or of a development plan pursuant to which the plat was subsequently filed, if different from the completion filing date;
- (D) The date the project for which the application for the plat was submitted was commenced;
- (E) Identification of all standards otherwise applicable to the plat application from which relief is sought;
- (F) Identification of the standards that the petitioner contends apply to the plat application;
- (G) Identification of any current standards that the petitioner agrees can be applied to the plat application at issue;
- (H) A copy of any prior vested rights determination by the City involving the same land; and
- (I) Where the petitioner alleges that a plat subject to expiration should not be terminated, a description of the events, including any plat or other development applications on file that should prevent such termination.

## (3) Time for Filing Petition

A vested rights petition shall be filed with a plat application for which a vested right is claimed, except that the petition may be filed at any time before the date of expiration of a plat subject to expiration to prevent expiration or determine the date of expiration.

## (c) Processing of Petition and Decision

## (1) Delivery of Petition.

The petitioner shall file the petition with the Director of Development Services, who shall assess same for compliance with Subsection (b) of this section. A copy of the petition shall be forwarded to the City Attorney following acceptance.

## (2) Decision by City Council

The City Council shall decide the vested rights petition. The request must be accompanied by a waiver of the time for decision on the plat application imposed under these subdivision regulations pending decision by the Council, which shall stay further proceedings on the application. The Council shall decide the petition, after considering the Director of Development Service's report, within 30 calendar days of receipt of the notice of appeal.

## (d) Action on Petition and Order

## (1) Action on the Petition

The City Council may take any of the following actions on the vested rights petition:

## Sec. 9.02.007. Determination of Vested Rights

- (A) Deny the relief requested in the petition, and direct that the plat application shall be reviewed and decided under currently applicable standards;
- (B) Grant the relief requested in the petition, and direct that the plat application shall be reviewed and decided in accordance with the standards contained in identified prior subdivision regulations;
- (C) Grant the relief requested in part, and direct that certain identified current standards shall be applied to the plat application, while standards contained in identified prior subdivision regulations also shall be applied; or
- (D) For petitions filed to prevent or determine the date of the expiration of an approved plat, determine whether the approved plat should be terminated, or specify the expiration date or the conditions of expiration for such plat.

## (2) Order on the petition.

Each decision on the vested rights petition shall be memorialized in an order issued by the City Council identifying the following:

- (A) The nature of the relief granted, if any;
- (B) The approved or filed plat application(s) or other development application(s) upon which relief is premised under the petition;
- (C) Current standards that shall apply to the plat application for which relief is sought;
- (D) Prior standards that shall apply to the plat application for which relief is sought, including any procedural standards;
- (E) The statutory exception or other grounds upon which relief is denied in whole or in part on the petition;
- (F) For petitions filed to prevent or determine the date of the expiration of an approved plat, determine whether the approved plat should be terminated, and specify the expiration date or the conditions of expiration for the plat.

## (e) Criteria for Approval.

The City Council shall decide the vested rights petition based on the following factors:

- (1) The nature and extent of prior plat or other development applications filed or approved for the land subject to the petition;
- (2) Whether any prior vested rights determinations have been made with respect to the property subject to the petition;
- (3) Whether any prior approved applications for the property have expired or have been terminated in accordance with law;
- (4) Whether any statutory exception applies to the standards in the current subdivision regulations from which the applicant seeks relief;
- (5) Whether any prior approved plat or other development applications relied upon by the petitioner have expired;
- (6) For petitions filed to prevent or determine the date of the expiration of an approved plat, whether any of the events preventing expiration have occurred.

## (f) Application Following Relief Order

Following the City Council's final decision on the vested rights petition, the property owner shall conform the plat application for which relief is sought to such decision. If the plat application on file is consistent with the relief granted on the vested rights petition, no revisions are necessary. Where proceedings have been stayed on the plat application pending a decision by the City Council on the vested rights petition, proceedings on the application shall resume after the council's decision on the vested rights petition.

## (g) Expiration

Relief granted on a vested rights petition shall expire on occurrence of one of the following events:

- (1) The petitioner or property owner fails to submit a required revised plat application consistent with the relief granted within 30 days of the final decision on the petition;
- (2) The plat application for which relief was granted on the vested rights petition is denied under the criteria made applicable through the relief granted on the petition; or
- (3) The plat application for which relief was granted on the vested rights petition expires.

### Sec. 9.02.008. Interpretation; Conflict; Severability

## (a) Interpretation

In their interpretation and application, these subdivision regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare and shall be construed broadly to promote the purposes for which they are adopted.

## (b) Conflict with Other Laws

To the extent that these subdivision regulations promulgate standards or impose restrictions or duties that differ from those imposed by other City ordinances, rules, or regulations, the regulations that are most stringent or restrictive shall prevail.

## (c) Severability

If any part or provision of these subdivision regulations, or the application of these subdivision regulations to any person or circumstance, is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered, and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application that is judged to be invalid.

### Sec. 9.02.009. Saving Provision

These subdivision regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the City under any section or provision existing at the time of adoption of these subdivision regulations, or as vacating or annulling any rights obtained by any person, firm or corporation, by lawful action of the City except as shall be expressly provided in these subdivision regulations.

## Sec. 9.02.010. Waivers, Suspensions, Amendments

### (a) Generally

- (1) Where the City Council finds that undue hardships will result from strict compliance with a certain provision(s) of these subdivision regulations, or where the purposes of these regulations may be served to a greater extent by an alternative proposal, the City Council may approve a waiver, suspension, or amendment from any portion of these regulations so that substantial justice may be done and the public interest is secured, provided that the waiver, suspension, or amendment shall not have the effect of nullifying the intent and purpose of these regulations, and further provided that the City Council shall not approve a waiver/suspension unless it shall make findings based upon the evidence presented to it in each specific case that:
  - (A) Granting the waiver/suspension will not be detrimental to the public safety, health, or welfare, and will not be injurious to other property or to the owners of other property, and the waiver, suspension, or amendment will not prevent the orderly subdivision of other property in the vicinity;
  - (B) The conditions upon which the request for a waiver, suspension, or amendment is based are unique to the property for which the waiver, suspension, or amendment is sought, and are not applicable generally to other property;
  - (C) Because of the particular physical surroundings, shape and/or topographical conditions of the specific property involved, a particular undue hardship to the property owner would result, as distinguished from a mere inconvenience or increased expense, if the strict letter of these regulations is carried out;
  - (D) The waiver, suspension, or amendment will not in any manner vary the provisions of the zoning ordinance, Comprehensive Plan (as amended), or any other adopted plan(s) or ordinance(s) of the City; and
  - (E) An alternate design will generally achieve the same result or intent as the standards and regulations prescribed herein.
- (2) Such findings of the City Council, together with the specific facts upon which such findings are based, shall be incorporated into the official record of the City Council meeting at which a waiver, suspension, or amendment is considered.

### (b) Procedures

- (1) A petition for a waiver, suspension, or amendment shall be submitted in writing to the City Manager or the City Manager's designee by the property owner before the plat is officially filed and submitted for the consideration by the Commission. The petition shall state fully the grounds for the application, and all of the facts relied upon by the petitioner.
- (2) All waivers/suspensions shall be approved or disapproved by the Commission.
- (3) All waivers/suspensions shall have final approval or disapproval by the City Council.

### (c) Criteria for Waivers/Suspensions from Development Dedications.

Where the City Council finds that the imposition of any development dedication pursuant to these regulations exceeds reasonable benefit to the property owner, or is so excessive as to constitute confiscation of the tract to be platted, it may approve a full or partial, at its discretion, waiver/suspension to such requirements, so as to prevent such excess. In order to qualify for such a waiver/suspension, the property owner shall demonstrate that the costs of the dedication imposed pursuant to these subdivision regulations substantially exceeds the proportionality standards as outlined in Sec. 9.02.011 of these subdivision regulations.

## (d) Criteria for Waivers/Suspensions for Street Dedications.

Where the City Council finds that the imposition of any dedication or construction requirement for streets pursuant to these regulations exceeds reasonable benefit to the property to be platted, it may approve waivers/suspensions for such requirements so as to prevent such excess. In order to qualify for such a waiver/suspension, the property owner shall demonstrate that the costs of right-of-way dedication and construction of streets other than streets classified as local streets imposed pursuant to these regulations substantially exceeds the proportionality standards as outlined in Sec. 9.02.011 of these subdivision regulations.

## (e) Conditions on Approved Waiver/Suspension.

In approving a waiver/suspension, the City Council may require such conditions as will, in its judgment, secure substantially the purposes described in section Sec. 9.02.002 of these subdivision regulations.

## Sec. 9.02.011. Proportionality Appeal

## (a) Definitions

For the purposes of this section, the following terms, phrases, words, and their derivatives shall have the meanings given herein. Definitions not expressly prescribed herein are to be determined in accordance with customary usage in municipal planning and engineering practices. Words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural. The words “shall” and “must” are deemed as mandatory. The word “may” is deemed as permissive.

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

Public infrastructure improvement means a water, wastewater, street, drainage, or park facility that is a part of one or more of the City's public facilities systems.

## (b) Purpose, Applicability, and Effect.

## (1) Purpose

The purpose of a proportionality appeal is to assure that a requirement to dedicate, construct or pay a fee for a public infrastructure improvement imposed on a proposed plat as a condition of approval does not result in a disproportionate cost burden on the property owner, taking into consideration the nature and extent of the demands created by the proposed development on the City's public facilities systems.

## (2) Applicability

An appeal under this section may be filed by a property owner to contest any requirement to dedicate land, to construct improvements, or to pay development fees (other than impact fees adopted under [Texas Local Government Code Chapter 395](#)), for a public infrastructure improvement, which requirement is imposed under the City's subdivision regulations to a plat application pursuant to these subdivision regulations, whether the requirement is applicable under uniform standards, or is imposed pursuant to an individual evaluation of the proposed subdivision.

## (c) Proportionality Determination by City Engineer

Prior to a decision by the Commission on a preliminary plat application, or if no preliminary plat application is required, on a final plat application, the City Engineer (who, for the purposes of this Subsection (c), must be a licensed professional engineer) shall affirm that public infrastructure improvements being imposed as a

## Sec. 9.02.011. Proportionality Appeal

condition of plat approval is roughly proportionate to the demand created by the development on the City's public facilities systems, taking into consideration the nature and extent of the development proposed.

- (1) In making a proportionality determination, the City Engineer may rely upon categorical findings pertaining to on-site improvements; the proposed or potential use of the land; the timing and sequence of development in relation to availability of adequate levels of public facilities; impact fee studies or other studies that measure the demand for services created by the development and the impact on the City's public facilities systems; the function of the public infrastructure improvements in serving the proposed development; the degree to which public infrastructure improvements to serve the subdivision are supplied by other developments; the anticipated participation by the City in the costs of such improvements; any reimbursements for the costs of public infrastructure improvements for which the proposed development is eligible; or any other information relating to the mitigating effects of the public infrastructure improvements on the impacts created by the development on the City's public facilities systems.
- (2) Based upon the proportionality determination, the City Engineer shall affirm that the public infrastructure improvement requirements of the subdivision regulations do not impose costs on the developer for such improvements that exceed those roughly proportionate to those incurred by the City in providing public facilities to serve the development.
- (3) The City Engineer may promulgate any application requirements that may assist in making the proportionality determination required by this Section (c)

(d) Commission Determination

The Commission shall take into account the City Engineer's report concerning the proportionality of public infrastructure improvement requirements to be applied to a proposed conveyance, preliminary, or final plat application, as the case may be, in making its decision on the plat application, and shall identify any variation to the requirements that are to be included as conditions to plat approval.

(e) Appeals

(1) Who May Appeal

An appeal to the City Council under this Subsection (e) may be filed by a property owner or the applicant for a conveyance, preliminary, or final plat, in which a requirement to dedicate land for, construct or pay a fee, other than an impact fee, for a public infrastructure improvement has been applied or attached as a condition of approval, or as grounds for denying the plat application.

(2) Time for Filing and Request for Extension of Time

The appeal shall be filed in writing within 10 days of the date the Commission takes action to recommend applying the public infrastructure improvement requirement to the plat application. The appeal shall be filed with the City Manager and shall be forwarded to the City Council for consideration in conjunction with its deliberations on the plat application. The applicant may request postponement of consideration of the plat application by the City Council pending preparation of the study required by Subsection (4) below, in which case the applicant must officially withdraw the plat application from consideration.

(3) Form of Appeal

An appeal under this Subsection (e) shall allege that application of the standard or the imposition of conditions relating to the dedication, construction, or fee requirement (other than impact fees adopted under [Texas Local Government Code Chapter 395](#)) is not roughly proportional to the nature and extent of the impacts created by the proposed development on the City's public facilities systems, or does not reasonably benefit the proposed development.

## (4) Study Required

- (A) The appellant shall provide a study in support of the appeal that includes the following information within 30 days of the date of appeal, unless a longer time is requested:
- (B) Total capacity of the City's water, wastewater, street, drainage, or park system to be utilized by the proposed development, employing standard measures of capacity and equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the development. If the proposed development is to be developed in phases, such information also shall be provided for the entire development proposed, including any phases already developed.
- (C) Total capacity to be supplied to the City's water, wastewater, street, drainage, or park facilities system by the dedication of an interest in land, construction of improvements, or fee contribution. If the plat application is proposed as a phased development, the information shall include any capacity supplied by prior dedication, construction, or fee payments.
- (D) Comparison of the capacity of the City's public facilities system(s) to be consumed by the proposed development with the capacity to be supplied to such system(s) by the proposed dedication of an interest in land, construction of improvements, or fee payment. In making this comparison, the impacts on the City's public facilities system(s) from the entire development shall be considered.
- (E) The amount of any City participation in the costs of oversizing the public infrastructure improvement to be constructed in accordance with the City's requirements.
- (F) Any other information that shows the alleged disproportionality between the impacts created by the proposed development and the dedication, construction, or fee requirement imposed by the City.

## (f) Land in Extraterritorial Jurisdiction

Where the subdivision or the public infrastructure improvements are located in the extraterritorial jurisdiction of the City and are to be dedicated to a county under an interlocal agreement under [Texas Local Government Code Chapter 242](#), an appeal or study in support of the appeal shall not be accepted as complete for filing by the City Manager unless the appeal or study is accompanied by verification that a copy has been delivered to Collin County.

## (g) Decision

The City Council shall decide the appeal in conjunction with its decision on the plat application. The Council shall base its decision on the criteria listed in Subsection (h) of this section, and may take one of the following actions:

- (1) Deny the appeal, and impose the standard or condition on the plat application in accordance with the City Engineer's recommendation or the Commission's recommendation on the plat; or
- (2) Deny the appeal, upon finding that the proposed dedication, construction, or fee requirements are inadequate to offset the impacts of the subdivision on the public facilities system for water, wastewater, street, drainage, or park improvements, and either deny the plat application or require that additional public infrastructure improvements be made as a condition of approval of the application; or
- (3) Grant the appeal, and waive in whole or in part any dedication, construction, or fee requirement for public infrastructure improvements to the extent necessary to achieve proportionality; or
- (4) Grant the appeal, and direct that the City participates in the costs of acquiring land for or constructing the public infrastructure improvement under standard participation policies.

## Sec. 9.02.012. Payment Of All Indebtedness Attributable to a Specific Property

## (h) Criteria for Approval

In deciding an appeal under this section, the City Council shall determine whether the application of the standard or condition requiring dedication of an interest in land for, construction of, or payment of a fee for public infrastructure improvements is roughly proportional to the nature and extent of the impacts created by the proposed subdivision on the City's public facilities systems for water, wastewater, street, drainage or park facilities, and reasonably benefits the development. In making such determination, the Council shall consider the evidence submitted by the appellant, the City Engineer's report and recommendation, considering in particular the factors identified in Subsection (c) of this section, and, where the property is located within the City's extraterritorial jurisdiction, any recommendations from the County.

## (i) Action following Decision

If the relief requested under the proportionality appeal is granted in whole or in part by the City Council, the dedication, construction, or fee requirement initially recommended by the Commission as a condition of plat approval shall be modified accordingly, and the standards applied or the conditions attached to Commission's recommendation on the plat application shall be conformed to the relief granted. Thereafter, the appellant shall re-submit the plat application to the City Council within 90 days of the date relief under the appeal is granted, in whole or in part, showing conformity with the City Council's decision on the appeal.

## (j) Expiration of Relief

If an applicant for plat approval prevails on a proportionality appeal, but fails to conform the plat to the relief granted by the City Council within the 90-day period provided, the relief granted by the City Council on the appeal shall expire and:

- (1) The Council may extend the time for filing the revised plat application for good cause shown, but in any event, the expiration date for the relief granted shall not be extended beyond one year from the date relief was granted on the appeal.
- (2) If the plat application is modified to increase the number of residential units or the intensity of nonresidential uses, the responsible official may require a new study to validate the relief granted by the City Council.
- (3) If the plat application for which relief was granted is denied on other grounds, a new petition for relief shall be required on any subsequent application.

**Sec. 9.02.012. Payment Of All Indebtedness Attributable to a Specific Property**

No person who owes delinquent taxes, delinquent paving assessments, delinquent fees, or any other delinquent debts or obligations to the City, that are directly attributable to a piece of property, shall be allowed to receive approval for any plat or replat until the taxes, assessments, debts or obligations directly attributable to said property and owed by the property owner or a previous owner thereof shall have been first fully discharged by payment, or until an arrangement satisfactory to the City Manager has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that all taxes, assessments, debts, or obligations have been paid at the time of submission for any application for approval under these subdivision regulations. A tax certificate shall also be provided as required by Section 12.002 of the Texas Property Code.

**Sec. 9.02.013. Right To Deny Hearing and Plat**

The City may deny a hearing and any application pursuant to these subdivision regulations if the applicant does not submit all information and fees required by these subdivision regulations.

### Sec. 9.02.014. Misrepresentation of Facts

It shall be a violation of these subdivision regulations for any person to knowingly or willfully misrepresent, or fail to include, any information required by these subdivision regulations in any plat application or during any public hearing or meeting of the Commission or City Council. Such a violation shall constitute grounds for denial of the plat.

### Sec. 9.02.015. Diversity Of Ownership

Where the desirable development of a residential neighborhood, business park, commercial center, or other planned development is dependent upon coordination of diverse land ownership (i.e., separate tracts of land owned by more than one person), the Director of Development Services may require that an overall area or neighborhood study be prepared prior to and as an additional requirement and condition of the submission of any plat application so that individual subdivisions may be developed in harmony with one another and their environs in accordance with the comprehensive plan.

### Sec. 9.02.016. Definitions

For the purpose of these subdivision regulations, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). When words and terms are defined herein, and are also defined in another City ordinance, they shall be read in harmony unless there exists an irreconcilable conflict, in which case the definition contained in these subdivision regulations shall control. Definitions not expressly prescribed herein are to be determined in accordance with customary usage in municipal planning and engineering practices. If no such customary usage exists, the definition found within the latest edition of Webster's Dictionary shall be used. The word "shall" is always mandatory, while the word "may" is merely directory.

(1) Addition

See Division 1.Sec. 9.04.016(73) Subdivision (also known as "Addition").

(2) Administrative Officers or Officials

Any officer of the City referred to in these subdivision regulations by title—including but not limited to the Director of Development Services, City Manager, City Engineer, City Secretary, Fire Chief, Police Chief, Public Works Director, and Chief Building Official—shall be the person so retained in that position by the City, or his or her duly authorized representative.

(3) Alley

A minor public right-of-way not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties that derive primary access from a street. The length of an alley segment is to be measured from the right-of-way lines of the streets from which the alley is provided access, or from the center point of an intersection with another alley that connects to a street.

(4) Amended or Amending Plat

A revised plat correcting errors or making minor changes to a recorded plat pursuant to Section 212.016 of the Texas Local Government Code.

(5) Amenity

An improvement to be dedicated to the public or to the common ownership of the lot owners of the subdivision and providing an aesthetic, recreational, or other benefit, other than those prescribed by these subdivision regulations.

(6) Anna Code

The Anna City Code of Ordinances.

(7) Applicant

A person or entity who submits an application for an approval required by these subdivision regulations. Also sometimes referred to as "owner," "owner's agent," "developer," "subdivider," or other similar term.

(8) Application or Development Application

A written request for an approval required by these subdivision regulations.

(9) Approach Street

A street other than a perimeter street that provides access to and from an improved street.

(10) Assurance

Any form of security that is submitted to the City for the purposes of ensuring that adequate monies are available for the construction of improvements in relation to an approved plat, an approved construction plan, or both.

(11) Base Flood

The flood having a 1% chance of being equaled or exceeded in any given year. The base flood shall be determined by using a fully developed watershed and the City's Storm Drainage Design Manual criteria for a 100-year storm.

(12) Block Length or Street Length

For a residential subdivision, that distance measured along the centerline of the street from the intersection center point of one through street to the intersecting center point of another street, or to the midpoint of a cul-de-sac. The through street referred to above shall not be a cul-de-sac, a dead-end street, or a looped street, but shall be a street that clearly has two points of ingress from two different directions.

(13) Bond

Any form of an obligation undertaken by a surety acceptable to the City and in an amount and form satisfactory to the City.

(14) Building Setback Line

The line within a property defining the minimum horizontal distance between a building or other structure and the adjacent street right-of-way line, property line, a creek, or some other specific feature.

(15) Capital Improvements Program (CIP)

The official proposed schedule, if any, of all future public projects listed together with cost estimates and the anticipated means of financing each project, as adopted by City Council.

(16) City

The City of Anna, Texas unless otherwise expressly stated.

(17) City Attorney

Such attorney, or firm of attorneys, that has been specifically retained by the City to assist in legal matters. This term shall also apply if the City retains a person to perform the functions of City Attorney as an official City employee.

(18) City Council or Council

The duly elected governing body of the City of Anna, Texas.

(19) City Engineer

Such licensed professional engineer, or firm of licensed professional consulting engineers, that has been specifically employed by the City to assist in engineering-related matters. The City Manager may assign the duties of the City Engineer (as described in these subdivision regulations) to another City official whether or not licensed as a professional engineer.

(20) City Manager

The person holding the position of the City's chief executive officer (e.g., City Manager), as appointed by the City Council.

(21) City Standard Street

A street that meets or exceeds the minimum specifications for construction, street size, and right-of-way width in the City's subdivision regulations and design standards, and that is constructed to the ultimate configuration for the type of street it is designated for on the City's Thoroughfare Plan.

(22) Commission

The City of Anna's appointed Planning and Zoning Commission.

(23) Completion Filing Date

The date upon which a submitted application is determined or deemed completed, with all necessary forms, fees, plans, information, and copies submitted to the City in accordance with the City's application requirements for the purposes of a development application and is accepted by the City for filing. The completion filing date is not necessarily the same as the submission date (see "Submission Date").

(24) Comprehensive Plan or Master Plan

The Comprehensive Plan of the City and adjoining areas as adopted by the City Council, including all its revisions and plan elements (including, but not limited to, the future land use plan, thoroughfare plan, parks master plan, etc.). This plan indicates the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks, water and wastewater facilities, and other public and private developments and improvements.

(25) Contiguous

Lots are contiguous when at least one boundary line or point of one lot touches a boundary line, or lines, or point of another lot.

(26) Conveyance Plat

An interim plat recording the subdivision of property or defining a remainder of property created by the approval of a final plat for a portion of property, where approval of final development plans is not sought.

(27) County Plat Records

The plat records of Collin County.

(28) Cul-de-sac

A street having only one outlet to another street, and that terminates on the opposite end by a vehicular turnaround or “bulb.” The length of a cul-de-sac is to be measured from the intersection center point of the adjoining through street to the midpoint of the cul-de-sac bulb.

(29) Dead-end Street

A street, other than a cul-de-sac, with only one outlet.

(30) Design Standards

The collection of rules, regulations, criteria, standards, specifications, construction drawings, and general notes, including but not limited to those promulgated under the authority of these subdivision regulations, and other existing ordinances, including the design standards in Article 9.03 of this chapter and any applicable design standards and requirements in Chapter 4 of this code.

(31) Developer

The owner of land proposed to be developed as a residential or nonresidential subdivision, or the owner's authorized representative.

(32) Development

Any activity that requires the submission of a subdivision plat or the securing of a building permit.

(33) Development Plat

A plat governed by these subdivision regulations in accordance with Subchapter B of Chapter 212 of the Texas Local Government Code, as amended.

(34) Easement

Any area within, on, over, and/or under real property in which the City (and/or another entity, such as a franchised utility) has an interest involving a right of use of the property and/or right to exclude uses of the property—such as requiring removal of all or any part of any buildings, fences, trees, shrubs, or other improvements or uses that interfere with the lawful purpose of the holder of the easement—including but not limited to those required for provision of sidewalks, utility services, or access to property or equipment owned and/or maintained by the City.

(35) Director of Development Services

A person hired or designated by the City Manager to supervise or oversee the Planning Department of the City, and to exercise the authority of the Director of Development Services as mentioned in these subdivision regulations.

(36) Engineer

A person duly authorized and licensed under the provisions of the Texas Engineering Registration Act to practice the profession of engineering.

(37) Engineering Plans or Drawings

The maps or drawings accompanying a plat and showing the specific location and design of public improvements to be installed in the subdivision in accordance with the requirements of the City as a condition of approval of the plat.

(38) Escrow

A deposit of cash with the City in accordance with these subdivision regulations.

(39) Extraterritorial Jurisdiction (ETJ)

The area of land lying outside and adjacent to the corporate limits of the City over which the City has legal control as set forth in [Chapter 42 of the Texas Local Government Code](#).

(40) FEMA

The Federal Emergency Management Agency of the U.S. government.

(41) Final Plat (also "Record Plat" or "As-Built Plat")

The one official and authentic map of any given subdivision of land prepared from actual field measurement and staking of all identifiable points by a registered professional land surveyor (RPLS), with the subdivision location referenced to a survey corner, and with all boundaries, corners, and curves of the land division, and with all streets, rights-of-way, easements, dedications and other pertinent features, sufficiently described so that they can be reproduced without additional references. An amending plat and a replat are also final plats.

(42) Frontage

The side of a lot, parcel, or tract abutting a street right-of-way.

(43) Governing Body

The City Council of the City of Anna, Texas.

(44) Improved street

A street constructed to City standards or a City standard street.

(45) Land Planner

Persons, including registered professional land surveyors (RPLS) or engineers, who possess and can demonstrate a valid proficiency in the planning of residential, nonresidential, and other related developments, such proficiency often having been acquired by education in the field of landscape architecture or other specialized planning curriculum, or by actual experience and practice in the field of land planning, and who may be certified as a member of the American Institute of Certified Planners (AICP).

(46) Lot or Lot of Record

A divided or undivided tract or parcel of land having frontage on a public or private street, and that is, or may in the future be, offered for sale, conveyance, transfer, or improvement; and that is designated as a distinct and separate tract; and that is identified by a tract or lot number or symbol in a duly approved subdivision plat that has been properly filed of record at the county.

(47) Major Plat

Any plat not classified as a minor plat, including but not limited to subdivisions of more than four lots, or any plat that requires the construction of a new street (or portion thereof) or the extension of a municipal facility as required by this Article or any other City ordinance.

(48) Major Subdivision

A subdivision that cannot be approved by means of an application for a minor plat.

(49) Median Width

The width of the portion of a street median including the entire width of the median's curbs.

(50) Minor Plat

A subdivision resulting in four or fewer lots, provided that the plat does not create any new street or the extension of any municipal facilities to serve any lot within the subdivision.

(51) Minor Subdivision

A subdivision that may be approved by means of an application for a minor plat.

(52) Off-Site Facilities or Improvements

The facilities or improvements that are required to serve the site but that are not located within the boundaries of the plat or immediately adjacent to the property, and that may or may not be immediately required to serve the development to serve the development. These include oversizing for streets, sewer lines, water lines, and storm drainage facilities, as well as the excess capacity of facilities such as water storage tanks and wastewater treatment plants available for new development.

(53) On-Site Facilities or Improvements

The existing or proposed facilities or improvements constructed within the property boundaries of the plat, and the existing or proposed facilities required to be constructed or improved immediately adjacent to the property that are needed to serve the development. Facilities and improvements include, but are not limited to, streets, alleys, water lines, sewer lines, storm drainage facilities, sidewalks, screening devices, and curbs and gutters.

(54) Overlength Street (or Alley)

A street segment, or a cul-de-sac or alley segment, that exceeds the maximum length allowed by these subdivision regulations, as measured along the centerline of the street from the intersection center point of one through street, which shall not be a cul-de-sac or dead-end or looped street, to the intersecting center point of another through street or, in the case of a cul-de-sac, to the midpoint of the cul-de-sac. For an alley segment, the measurement shall be to the right-of-way lines of the streets from which the alley is provided access, including any alley turnouts, or from the center point of an intersection with another alley that connects to a street.

(55) Pavement Width

The width of the portion of a street that is available for vehicular traffic, combined with the width of any paved shoulder and—for streets with curbs—the width of the entire curb.

(56) Perimeter Street

Any existing or planned street that is adjacent to the subdivision or addition to be platted.

## (57) Person

Any individual, association, firm, corporation, governmental agency, political subdivision, or legal entity of any kind.

## (58) Planning Department

The City's department, and related employees, that has been specifically created and maintained by the City to assist in planning and zoning related matters. This term shall also apply to any official city employee in the Planning Department, including any practicing, professional land planner, administrative support, and/or firm of professional land planners.

## (59) Plat

A preliminary plat of a subdivision, a final plat of a subdivision, a development plat, or an amending plat or replat, as determined by the context.

## (60) Preliminary Plat

The graphic expression of the proposed overall plan for subdividing, improving, and developing a tract, showing in plain view the proposed street and lot layout, easements, dedications, and other pertinent features, with such notations as are sufficient to substantially identify the general scope and detail of the proposed development.

## (61) Property Owner (may also be known as "Subdivider" or "Developer")

Any person or firm, association, syndicate, general or limited partnership, corporation, trust, or other legal entity, or any agent thereof, that has sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these subdivision regulations. In any event, the term "property owner" shall be restricted to include only the owner(s) or authorized agent(s) of such owner(s), such as a developer, of land sought to be subdivided.

## (62) Public Improvements

Facilities, infrastructure, and other appurtenances, typically owned and maintained by the City (but not necessarily located upon City-owned property or right-of-way). Public improvements can be located on public property or upon private property in a public easement. Public improvements serve a public purpose in providing a needed service or commodity, such as wastewater collection and treatment and water storage and distribution, and protect the general health, safety, welfare, and convenience of the City's citizens, including efficiency in traffic circulation and access for emergency services. The term "public improvements" shall not include facilities or infrastructure of private providers of utility services other than water and wastewater, but shall be deemed to include facilities and infrastructure that the City would normally require of a development but that will be owned and maintained by an entity such as a homeowners' association, as in the case of private streets.

## (63) Recorded Final Plat

A final plat that has been duly recorded in the property records of Collin County, Texas.

## (64) Replatting or replat

The re-subdivision of any part or all of a block or blocks of a previously platted subdivision, addition, lot, or tract.

(65) Right-of-way or ROW

A parcel of land occupied, or intended to be occupied, by a street or alley. Where appropriate, “right-of-way” may include other facilities and utilities such as sidewalks; railroad crossings; electrical, communication, oil and gas facilities; water and sanitary and storm sewer facilities; street improvements; and any other special use. The use of right-of-way shall also include parkways and medians outside of the paved portion of the street. The usage of the term “right-of-way” for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way, and shall not be included within the dimensions or areas of such lots or parcels.

(66) RPLS

An acronym for registered professional land surveyor.

(67) Sign, Subdivision Entry

A specific monument sign located at the entry of a platted subdivision from a local, collector, or arterial street.

(68) Standard Street.

See “City Standard Street.”

(69) Street

That part of a right-of-way, whether public or private and however designated, that provides vehicular access to adjacent land and other streets and may include additional facilities for transportation of persons, utilities, drainage, and other street improvements. Streets may be of the following categories:

(A) Highway

The Highway classification is reserved for Major Highways that have consistent speeds of 55 mph or more and have, or are planned to have, frontage roads for access. The network formed is integrated and generally offers connections to areas outside the City and its extraterritorial jurisdiction. U.S. 75 and the Collin County Outer Loop are highways.

(B) Major Arterial

Major Arterial roads provide mobility to nearby areas outside the City while also providing access to major developments. These streets generally move high volumes of traffic through the City and provide access to the highway network. FM 455 (White Street), State Highway 5 (Powell Parkway), State Highway 121 (Sam Rayburn Highway), Ferguson Parkway, Rosemond Parkway, Leonard Avenue, and Mantua Drive are major arterial streets.

(C) Minor Arterial

Minor Arterials provide connections between major developments and neighborhoods and are best suited for roads with moderate speeds. Generally, these do not include streets that penetrate residential areas.

(D) Major Collector Street

A street classification that receives traffic from other collectors and distributes it to major activity centers. It may also feed through traffic to arterial streets, freeways, or expressways. Uses served include but are not limited to major educational facilities, concentrations of high density commercial,

regional commercial facilities, other concentrated commercial facilities, and industrial complexes. Some major collector streets are also arterial streets.

(E) Minor Collector Street

A street classification that carries traffic from residential streets to major collector streets. It typically serves uses such as medium and high density residential, limited commercial facilities, elementary schools, offices, and direct access to industrial parks.

(F) Local Road

A street classification that functions primarily to provide property access. They are normally short in length and compose the highest percentage of total street miles within the City. Local streets are designed to serve low traffic volumes. Through traffic movement should be discouraged.

(G) Downtown Street Types

Street classifications that reinforce a pedestrian-friendly environment and foster an enhanced sense of place within the Downtown area

(H) Private Street

A classification of streets that are owned and maintained by a homeowners' association or property owner's association, and that are not dedicated to the public.

(70) Street Improvements

Any street, together with all appurtenances required by City regulations to be provided with such street, and including but not limited to curbs and gutters, walkways (sidewalks), drainage facilities to be situated in the right-of-way for such street or thoroughfare, traffic-control devices, streetlights, and street signs, for which facilities the city will ultimately assume the responsibility for maintenance and operation.

(71) Street Length

The same as "Block Length."

(72) Subdivider

A person who, having an interest in land, causes it, directly or indirectly, to be divided into a subdivision; directly or indirectly, sells, leases, or develops, or offers to sell, lease or develop, or advertises for sale, lease or development, any interest, lot, parcel, site, unit, or plot in a subdivision; or engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development, a subdivision or an interest, lot, parcel, site, unit, or plot in a subdivision.

(73) Subdivision (also known as "Addition")

A division or re-division of any tract of land situated within the City's corporate limits or its extraterritorial jurisdiction into two or more parts, lots, or sites, for the purpose, whether immediate or future, of sale, division of ownership, or building development. "Subdivision" includes re-subdivisions of land or lots that are part of a previously recorded subdivision.

(74) Subdivision Improvement Agreement or SIA

A contract entered into by the applicant and the City, by which the applicant promises to complete the required public improvements within the subdivision or addition within a specified time period following final plat approval, and that may, to the extent expressed in the agreement, modify or alter the application of these subdivision regulations.

(75) Submission Date

The date when forms, fees, plans, information, and copies have been submitted to the Director of Development Services (or other employee authorized to receive applications) for the purposes of meeting requirements for a development application. The submission date is not the same as the completion filing date (see "Completion Filing Date").

(76) Substandard Street

An existing street that does not meet the minimum specifications in the City's standard street specifications, and which is not constructed to the ultimate configuration for the type of street it is designated for on the City's Master Thoroughfare Plan.

(77) Surveyor

A registered professional land surveyor (RPLS), as authorized by state statutes to practice the profession of surveying.

(78) SWPPP

An acronym for a storm water pollution prevention plan (as in a set of engineering construction plans).

(79) TCEQ

The Texas Commission on Environmental Quality or any successor agency of the State of Texas.

(80) Temporary Improvements

Improvements built and maintained by the developer that are needed to remedy a circumstance that is temporary in nature, such as a temporary drainage easement or erosion control device, that will be removed upon completion of the subdivision or shortly thereafter.

(81) Thoroughfare

A street classified as a highway, or any type of arterial, or collector roadway.

(82) U.S. Army Corps of Engineers

The civil engineering branch of the U.S. government.

(83) Yard

The open area between building setback lines and lot lines.

(84) Zoning Ordinance

The City's zoning regulations as codified in Article 9.04 of this code as amended as well as zoning ordinances not codified in this code that zone or rezone particular tracts of property.

Section 9.02.017 through Section 9.02.040. (Reserved)

## Division 2. PROCEDURES

### Sec. 9.02.041. Introduction and Procedural Overview

The Subdivision Regulations of the City of Anna is designed to prepare land for development. Prior to submission of applications, a pre-application meeting is required. The purpose of the meeting is to review potential subdivision design before formal submittal. City of Anna engineering and planning staff will discuss stormwater impacts of the proposed development.

The process for gaining subdivision approval depends on the size and complexity of the subdivision. Minor subdivisions, which are subdivisions of four or fewer lots requiring no public improvements, may be approved by staff in a one-step process. Approval of major plats may involve from one to three steps depending on the nature of development. In addition, remainders of tracts being subdivided and parcels smaller than five acres but not proposed for improvement or development may in some instances be approved in a one-step process under the conveyance plat provisions of the ordinance. Some types of subdivisions are not regulated under this ordinance. These exempt subdivisions include divisions of property where no part being created is smaller than 20 acres, certain forms of leaseholds, and divisions created by the action of a court of law. However, no property may be developed without an approved plat, unless exempt as stated in Section 9.02.003. The general process of subdivision approval is described below. This description does not substitute for the actual regulations contained in Sections 9.02.020 – 9.02.027.

(a) Major Subdivision Approval Process

The approval process for a major subdivision typically begins with the preparation of a concept plan. This plan establishes a general schematic for the site development, primarily focusing on vehicular access and circulation. Concept plans may be used to separate large properties into parts for phasing site planning and development. A concept plan may be as simple as a plan defining the location of arterial or collector streets shown on the City's Thoroughfare Plan. However, a concept plan may also show the preliminary layout of local streets and lots. Approval of a concept plan showing the proposed street and lot layout is required prior to the submittal of a preliminary plat for a residential subdivision. Concept plans may be used to define a phasing plan for the development of property. In this case, areas proposed for immediate development will be more detailed than future phases of the development. Concept plans for multi-phased projects may be amended and refined as subsequent phases are ready to proceed through the subdivision approval process.

The approval of a preliminary plat is the second step in processing a major subdivision. The preliminary plat must generally conform to the approved concept plan for the property. The preliminary plat is a detailed, fully dimensional plat and engineered plan for the subdivision. Following the approval of the preliminary plat by the Commission and Council and the release of the engineering plans by the City Engineer, the developer may begin construction of the site improvements. The preliminary plat may not be filed with the County Clerk, nor may lots be sold with preliminary plat approval.

The final stage of the subdivision process is approval of the final plat. Once the improvements have been constructed, inspected, and approved for acceptance by the City Engineer, the final plat may be presented to the Commission for approval. All corrections and alterations to the plat are made prior to approval, thus eliminating the reasons for most replats. If improvements have not been completed or if minor corrections are needed, the developer and the City may enter into a subdivision improvement agreement, with a Commission recommendation and subsequent Council approval, specifying the work remaining and providing necessary surety for future performance. This agreement can be approved concurrent with a final plat, thereby allowing the plat to be filed and lots sold. If the developer elects to do so, he could enter into a development agreement with the City for all improvements. This would only be appropriate for small subdivisions, however.

## Sec. 9.02.041. Introduction and Procedural Overview

## (b) Minor Subdivision Approval Process

The ordinance provides a one-step process for minor plats. A minor plat is defined as a subdivision of four or fewer lots not requiring any public improvements. Minor plats can be processed for either residential or nonresidential subdivisions. Minor plats can be approved by staff without any action by the Commission.

## (c) Conveyance Plats

The Subdivision Ordinance recognizes the need to subdivide and sell property without plans for its immediate development. In addition, a lot from a tract may be sold for development, leaving an unimproved remainder. A conveyance plat allows the recording of a subdivision without requiring the construction of public improvements. This alternative is an interim step in the subdivision process and may generally be used only where the parcels or lots being created are larger than five acres.

A conveyance plat is a boundary survey drawn as a plat. Easements, dedications, and reservations may be recorded on a conveyance plat. Engineering plans are not required to process a conveyance plat, unless the developer plans to construct limited improvements on the property. Development fees are not collected at the time of conveyance plat approval.

## (d) Review Time

Conveyance plats, preliminary plats, replats, and final plats will be acted on within 30 days of filing. All plats not acted upon within this period will be considered approved. Certain minor plats may be processed in a shorter period, since they only require staff approval. (Division 1.Sec. 9.04.001(e)). All other approvals require approval by the Planning & Zoning Commission or City Council.

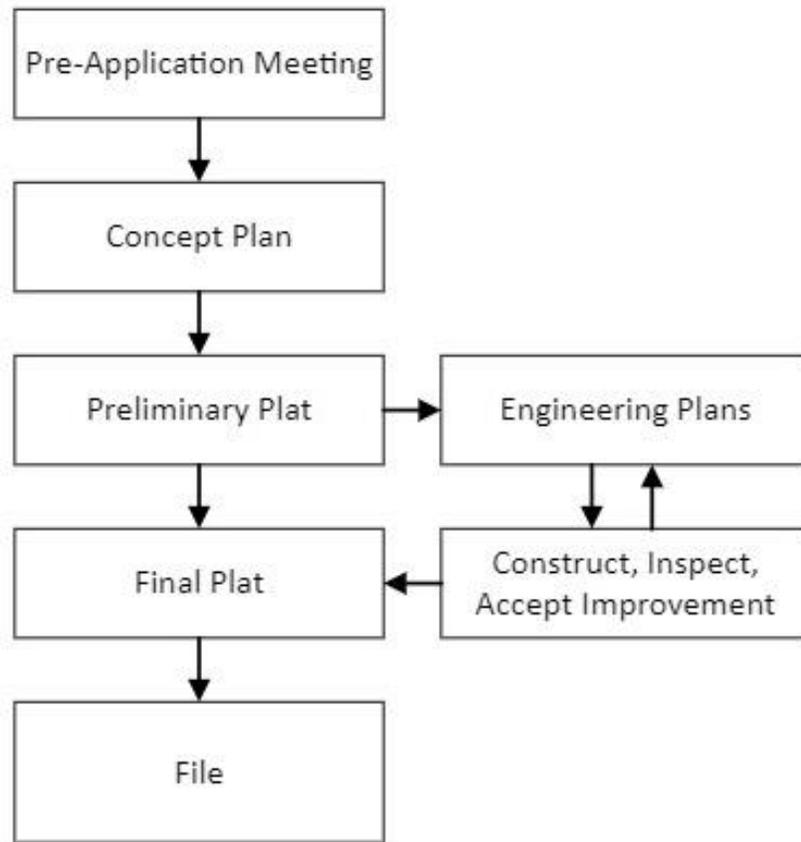
## (e) Plat Signature

For Minor Plat approvals the signature on the plat shall be that of the Director of Development Services. Plats approved by the Commission will be signed of the Commission Chair. Plats approved by the City Council will be signed by the City Mayor.

## (f) Appeals

The action of staff concerning a minor plat may be appealed to the City Council.

## SUBDIVISION PROCESS



### Sec. 9.02.042. General Requirements for Plats

(a) Zoning Requirements

- (1) A property within the City's corporate limits that is being proposed for platting or development must be properly zoned by the City prior to submission of a development application. In addition, the proposed development layout or subdivision design shown on the proposed plat must be in conformance with all standards and requirements prescribed in the zoning ordinance and these subdivision regulations.
- (2) Noncompliance with the requirements of the zoning district in which the subject property is located, or lack of the proper zoning, shall constitute grounds for denial of a development application.
- (3) Any development application submitted for approval by the City shall be in accordance with the City's Zoning Ordinance, if the property is located within the City's corporate limits. For property located within the City's corporate limits or extraterritorial jurisdiction, any development application shall be in accordance with the City's Comprehensive Plan, including all adopted water, sewer, storm drainage, future land use, park, recreation, open space, and thoroughfare plans. All plats shall be prepared by a registered professional land surveyor (RPLS).

## Sec. 9.02.042. General Requirements for Plats

## (b) Classification of Subdivisions and Additions.

(1) Before a plat relating to any tract of land is filed for record with the County Clerk, the property owner shall apply for and secure approval of the required subdivision plat from the Commission, in accordance with the following procedures, unless otherwise provided within these subdivision regulations. Subdivisions are classified as major or minor depending on the number of lots proposed and the extent of public improvements required.

(A) Minor subdivisions shall create no more than four lots and do not require the creation of a new street or the extension of municipal facilities. Minor subdivisions may be approved for residential and nonresidential properties. Conveyance plats may be approved under the procedure for minor subdivisions provided that they establish no more than four lots and do not require the creation of a new street or extend municipal facilities. Minor plat approval requires the submission of a final plat as described under Sec. 9.02.047 or the submission of a conveyance plat as described under Sec. 9.02.045. The Director of Development Services may approve minor plats or refer them to the Commission for their action, in accordance with Division 1. Sec. 9.04.001(e).

(B) Major subdivisions involve the creation of new streets, the extension of municipal facilities, or the creation of more than four lots. Major subdivisions may be approved for residential and nonresidential properties. Conveyance plats are considered major subdivisions if they create more than four lots or involve the creation of new streets or the extension of municipal facilities. The procedure for approving a major plat typically requires two steps: preliminary plat and final plat. A concept plan or preliminary site plan that contains sufficient information to provide for the proper coordination of the development may also be required.

(C) Except as otherwise permitted, the Commission's approval of a preliminary plat is required prior to the construction of public improvements on or for the property. The preliminary plat and the associated engineering plans for the property may be amended during construction, with only major changes requiring reapproval by the Council.

(D) Upon completion of the required public improvements, or the provision of a subdivision improvement agreement as described in the definitions, the owner may submit a corrected final plat for the development. Lots may be sold and building permits obtained after approval of the plat by the Commission and filing of the signed plat. The preliminary plat process may be omitted if the owner enters into a subdivision improvement agreement with the City and provides sufficient surety for all proposed public improvements. If the preliminary plat process is omitted, engineering plans must be submitted in conjunction with the final plat.

## (c) Submission Requirements for All Types of Plat Applications

In addition to the requirements outlined herein for each type of development application, the City may maintain separate policies and procedures for the submission and processing of applications including, but not limited to, application forms, checklists for information to be shown on plats, language blocks for plats, and other similar items. The forms and paperwork are available in the Planning Department. These policies and procedures may be amended from time to time by the Director of Development Services, and it is the applicant's responsibility to be familiar with, and to comply with, these policies and procedures.

## (d) Application Processing for All Types of Plats

## (1) Review of Plat for Completeness.

Every application for approval of a conveyance plat, minor plat, preliminary plat, final plat, or development plat shall be subject to a determination of completeness by the Director of Development Services. No application shall be accepted for processing unless it is accompanied by all materials and

information required by and prepared in accordance with the requirements of these subdivision regulations. The Director of Development Services from time to time may identify additional requirements for a complete application that are consistent with the application content requirements and related standards set forth in these subdivision regulations. The Director of Development Services may also promulgate a reasonable fee for review of the application for completeness not to exceed \$500.00.

(2) Incompleteness as Grounds for Denial.

The processing of an application by any City official or employee prior to the time the application is determined to be complete shall not be binding on the City as the official acceptance of the application for filing, and the incompleteness of the application if not cured in accordance with this section shall cause the application to expire. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of these subdivision regulations.

(3) Pre-Application Meeting

A property owner may request a pre-application meeting/pre-development meeting with the Planning Department for purposes of identifying requirements that are applicable to a proposed plat. The request shall be made in writing on a form prepared by the Planning Department and shall state that any proposed development concept discussed at the pre-application meeting/pre-development meeting is not intended as a plan of development or application for any type of approval.

(4) Time for Making a Determination

Following submission of a plan of development or plat application, the Director of Development Services shall make a determination in writing whether the plan or application constitutes a complete application for a conveyance plat, preliminary plat, replats, or a final plat not later than the 12th business day after the date the application is submitted. If the Director of Development Services determines that an application is incomplete, the written determination shall specify the documents or other information needed to complete the application and shall state the date the application will expire if the documents or other information is not provided.

(5) When Deemed Complete

An application for approval of a plat application filed shall be deemed complete on the 12th business day after the application has been received if the applicant has not been notified that the application is incomplete in accordance with this section.

(6) Time for Completing Application

If an applicant is timely notified that an application is incomplete, and the applicant fails to submit all materials and any other information specified in the Director of Development Services written determination on or before the 19th day after the application is submitted to the Director of Development Services for processing the application in accordance with his or her written notification, the application will be deemed to have expired and it will be returned to the applicant together with any accompanying documents. Thereafter, a new application for approval of the plat must be submitted. The City may retain any fee paid for reviewing the application for completeness.

In accordance with the Texas Local Government Code Chapter 212, the municipal authority responsible for approving plats shall approve, approve with conditions, or disapprove a plan or plat within thirty (30) days after the date the plan or plat is filed.

## Sec. 9.02.042. General Requirements for Plats

## (7) Sequence of Applications

Notwithstanding any other provision of these subdivision regulations to the contrary, an application for a conveyance plat, preliminary plat, or final plat shall not be considered complete unless accompanied by a copy of the Zoning Ordinance or other certification verifying that the proposed use, lot sizes and lot dimensions for which the application is submitted are authorized by the zoning district in which the property is located.

## (8) Vested Rights

No vested rights accrue solely from the filing of an application that has expired pursuant to this section, or from the filing of a complete application that is subsequently denied. No vested rights accrue based on a filing that does not provide fair notice of the project and the nature of the permit sought.

## (e) Submission Procedures and City Review Process for All Types of Plats

## (1) Submission Timing

In order to provide the City with adequate time to review plat applications for compliance with these subdivision regulations, an application for approval of any plat shall be submitted to the Director of Development Services during an application submission window that is at least 25 calendar days, but no more than 30 calendar days prior to the Commission regular meeting at which it is to be considered. The Director of Development Services may establish a deadline for the submission of plat applications that falls within the application submission window. Submission of an application outside the application submission window or after the application submission deadline, shall be grounds for denial of approval of the plat, unless the applicant agrees in writing that the date of filing of the plat shall be deemed to have occurred not more than 29 days prior to the next regular meeting of the Commission that follows a determination by the Director of Development Services that the application is complete.

## (2) Submission Materials

The application shall include the following materials, which shall be submitted to the Director of Development Services (or such persons authorized by the planning department to accept applications) for review in order for the application to be deemed complete.

- (A) A written application form that bears the original signature(s) of the property owner(s) of the subject property.
- (B) The appropriate submission fee.
- (C) The appropriate number of full-size sets as stated on the application form (available at the planning department) of full-size folded prints of the plat, as required by the City's current development review policies and requirements, and one black-and-white reduction of the plat. The size and number of these prints and reductions shall be determined by the Director of Development Services.
- (D) A copy of any applicable development agreement pertaining to the subject property.
- (E) If an application for approval of a final plat, a tax certificate from the Collin County tax assessor-collector showing that all taxes have been paid on the subject property, and that no delinquent taxes exist against the property, as shown in the Collin County deed records. Documentation shall also be included that shows no delinquent assessments, fees, or other debts or obligations to the City and which are directly attributable to the subject property.

- (F) An engineer's summary report which describes, in as much detail as necessary, the following:
- (i) The overall nature and scope of the proposed development, including zoning of the property, proposed use(s) and acreage of each proposed use, minimum lot sizes, average lot size, widths, and depths, number of lots to be created, and special amenities or facilities that will be included in the development;
  - (ii) How the property will be served with required utilities and services;
  - (iii) How storm water drainage will be handled; and
  - (iv) An itemization and description of any waivers/suspensions from provisions of these subdivision regulations that will be sought.

- (G) Construction plans prepared by a professional engineer for all of the infrastructure and site improvements required to serve the development (required only with the final plat application).

If located within the City's ETJ, letters shall also be provided from each of the applicable utility service providers, including water, wastewater, gas, electricity, telephone, cable TV, and solid waste, verifying their ability to provide an adequate level of service for the proposed development.

- (H) Proof of land ownership as required in Subsection (f) of this section.

(3) Other Submission Requirements

- (A) All plat drawings and other corresponding plans and drawings, including engineering plans and landscape and screening plans, shall be drawn to a standard engineering scale of no more than 100 feet to the inch (1" = 100'). In cases of large developments which would exceed the dimensions of the sheet at 100-foot scale, plats may be on multiple sheets and in a format that will be acceptable for eventual filing at Collin County. If there are multiple sheets, then a key sheet is required.
- (B) Other applicable information and materials may be deemed appropriate by the City, and therefore may be required by the City. Such materials must also be submitted for an application to be determined as complete.
- (C) All of the materials and plans specified within this Subsection (e) shall be submitted to the Director of Development Services for review in order for the application to be deemed complete.

(4) City Staff Review

Upon official submission of an application for plat approval, the City shall commence technical review of the development proposal by forwarding a copy of the application and plat to appropriate personnel from various City department and may include representatives of the Anna Independent School District (AISD), franchised utility companies, and TXDOT.

- (A) City staff shall review the plat application and shall ascertain its compliance with these and other applicable City regulations.
- (B) Following City staff review of the plat and supporting documents, and following discussions with the applicant on any revisions deemed advisable and the kind and extent of improvements to be installed, the applicant shall re-submit additional copies of the corrected plat (and engineering plans, if applicable) to the planning department no later than seven days prior to the Commission meeting (or other deadline established by the planning department) for final staff review.

(5) Re-Submission and Scheduling

- (A) Failure to re-submit corrected copies of the plat and other application materials (including engineering plans, if applicable) back to the City in time for adequate review prior to the Commission

## Sec. 9.02.042. General Requirements for Plats

meeting shall be cause for the Planning Department to forward the plat application to the Commission as it was originally submitted rather than the corrected version of the plat unless the applicant agrees in writing that the date of filing of the plat application shall be deemed to have occurred not more than 29 days prior to the next regular meeting of the Commission that follows a determination by the Director of Development Services that the application is complete. In accordance with Chapter 212 of the Texas Local Government Code, the applicant is limited to one thirty (30) day extension.

- (B) If, upon re-submission of the corrected plat to the City, the Director of Development Services determines that the application does not comply with the technical requirements of the subdivision regulations, the plat application may be subject to expiration or denial in accordance with these subdivision regulations.
- (C) After the plat has been scheduled on an agenda (or at any time prior), the applicant may request, in writing, to withdraw official filing of the plat in order to allow the applicant more time to correct deficiencies, address concerns, or otherwise improve the plat pursuant to these subdivision regulations. After receipt of the request, the City may delay action on the plat until 30 days after the applicant officially re-files the plat.

(6) Action by the Commission

All major plat applications that have not expired shall be reviewed by the Commission and upon finding that the plat is in complete conformance with the provisions of these subdivision regulations and with all other applicable regulations of the City, the Commission shall approve the plat.

- (A) The Commission shall review each plat application and shall take action to either approve the plat application or approve the plat application subject to certain conditions, or vote to deny the plat application, within 30 calendar days following the completion filing date.
- (B) The Commission shall approve or deny the plat application by a simple majority vote of the Commission members present and voting.
- (C) If the Commission denies a plat application, the commission shall state such disapproval and the reasons therefor. The Commission's decision to deny a plat may be appealed to the City Council by the applicant or by the City Manager.

(f) Proof of Land Ownership

The City requires proof of land ownership prior to approval of any development application involving real property. Along with the application submission, the applicant shall provide evidence that he/she is the owner of record of the subject land parcel or parcels, or is the property owner's authorized agent. The Planning Development department shall have the authority to determine what document(s) the City will require to prove ownership, such as a letter of title guarantee from a licensed attorney, title policy, title commitment, or some other documentation that is acceptable to the City Attorney. If ownership cannot be conclusively established prior to the meeting date on which the development application will be heard, the City shall have the authority to deny the application on the basis of protecting the public interest. All owners and other persons, including any lienholders, whose consent is necessary to the effective dedication of the plat shall sign the owner's certificate before a final plat is filed for record with the County Clerk.

(g) Conveyance Plat Expiration

An approved conveyance plat shall expire and shall thereafter be deemed null and void if the conveyance plat has not been recorded as required in Sec. 9.04.044(c)(5)(A) within six months from the date of the

Commission's approval of the conveyance plat. Upon expiration, a new conveyance plat application shall be required to be submitted, subject to requirements in effect at the time the new application is filed with the City.

(h) Preliminary Plat Expiration and Extension

(1) Expiration

An approved preliminary plat shall expire and shall thereafter be deemed null and void if a final plat application for all the land subject to the preliminary plat has not been approved within two years from the date of the Commission's approval of the preliminary plat. Any subsequent expiration of the final plat shall also result in expiration of the preliminary plat for the same land. Upon expiration, or upon denial of a timely submitted request for extension of plat approval, a new preliminary plat application shall be required to be submitted, subject to requirements in effect at the time the new application is filed with the City.

(2) Extension

The Commission may extend a preliminary plat for a period not to exceed one year on the written request of the applicant. The request must be filed before the preliminary plat expires and must document the reasons for the extension. In determining whether to grant a request, the Commission shall take into account the reasons for the requested extension, the ability of the applicant to comply with any conditions attached to the original approval, whether extension is likely to result in timely completion of the project, and the extent to which any newly adopted regulations should be applied to the proposed development. In granting an extension, the Commission may impose such conditions as are needed to assure that the land will be developed in a timely fashion and that the public interest is served, including compliance with one or more newly adopted development standards.

(i) Construction Plans Expiration and Extension

(1) Expiration

Approved construction plans (and engineering plans, if required) for public improvements shall be valid for a period of two years from the date of final plat approval after which they shall expire and shall be deemed null and void. Upon expiration, or upon denial of a timely submitted request for extension of the approval of the construction plans, new construction plans shall be submitted, subject to requirements in effect at the time the construction plans are filed with the City.

(2) Extension

The City Council may extend the approval of construction plans (and engineering plans, if required) for public improvements for a period not to exceed one year on the written request of the applicant. The request must be filed before the construction plans expire and must document the reasons for the extension. In determining whether to grant a request, the Council shall take into account the reasons for the requested extension, the ability of the applicant to comply with any conditions attached to the original approval, whether extension is likely to result in timely completion of the project, and the extent to which any newly adopted regulations should be applied to the proposed development. In granting an extension, the Commission and Council may impose such conditions as are needed to assure that the land will be developed in a timely fashion and that the public interest is served, including compliance with one or more newly adopted development standards.

## Sec. 9.02.043. Expiration Of Permits, Generally, Dormant Projects, and Exemptions from Vesting

## (j) Plat Expiration and Extension

## (1) Expiration

An approved final plat shall expire and shall thereafter be deemed null and void if the final plat has not been recorded as required in Sec. 9.04.046(i) within six months from the date of the Commission's approval of the final plat. Upon expiration, or upon denial of a timely submitted request for extension of plat approval, a new preliminary plat application shall be required to be submitted, subject to requirements in effect at the time the new application is filed with the City.

## Sec. 9.02.043. Expiration Of Permits, Generally, Dormant Projects, and Exemptions from Vesting

## (a) Expiration of Individual Permits

If, after approval of any individual permit, no progress has been made towards completion of the project within two years of the approval of the permit, the permit shall expire and become null and void except to the extent otherwise expressly provided for in these subdivision regulations.

## (b) Dormant Project

A project shall become dormant and expire and all permits previously issued in connection with the project shall be null and void if, on the fifth anniversary of the date the first permit application was filed, no progress has been made towards completion of the project. The phrase "progress towards completion of the project" or similar phrase as used in this section includes the activities constituting such progress as set forth in [Texas Local Government Code Section 245.005](#).

## (c) Effect of Expiration or Dormant Project

Following the expiration of a permit or a project, any new application shall be a wholly new and separate permit or project as compared with the dormant project that expired, and shall be subject to the regulations, rules, ordinances, and other laws in effect at the time of filing of the new application and shall further be subject to the assessment of new fees to the fullest extent permitted by law.

## (d) Projects, Permits, and Other Activities that never Vest Rights

Notwithstanding any other provision of these subdivision regulations or other City rules, regulations or ordinances, the following are exempt from and not affected by any claim to vested rights:

- (1) A permit that is at least two years old, is issued for the construction of a building or structure intended for human occupancy or habitation, and is issued under laws, ordinances, procedures, rules, or regulations adopting only:
  - (A) Uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; or
  - (B) Local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons;
- (2) The City's zoning regulations that do not affect landscaping or tree preservation, open space or park dedication, property classification, lot size, lot dimensions, lot coverage, or building size or that do not change development permitted by a restrictive covenant required by the City;
- (3) Regulations for sexually oriented businesses;
- (4) Fees imposed in conjunction with development permits, including but not limited to impact fees;

- (5) Regulations for annexation that do not affect landscaping or tree preservation or open space or park dedication;
- (6) Regulations for utility connections;
- (7) Regulations to prevent imminent destruction of property or injury to persons from flooding that are effective only within a floodplain established by a federal flood control program and enacted to prevent the flooding of buildings intended for public occupancy;
- (8) Construction standards for public works located on public lands or easements; or
- (9) Regulations to prevent the imminent destruction of property or injury to persons if the regulations do not:
  - (A) Affect landscaping or tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage, building size, residential or commercial density, or the timing of a project; or
  - (B) Change development permitted by a restrictive covenant required by a municipality.

### Sec. 9.02.044. Conveyance Plats

#### (a) Purpose

A conveyance plat may be used solely for the purpose of subdividing land and the recording of same, or recording a single existing lot or parcel created by other means. A conveyance plat may be used to convey the property or interests therein; however, a conveyance plat does not constitute approval for development of the property and is not intended for immediate development. A conveyance plat is an interim step in the subdivision and development of land.

#### (b) Applicability

Conveyance plats may be used in lieu of a final plat to record the subdivision of property in the following instances:

- (1) To record the remainder of a tract larger than five (5) acres created by the final platting of a portion of the property provided that the remainder is not intended for immediate development.
- (2) To record the subdivision of property into parcels five (5) acres or smaller in size that are not intended for immediate development, and where all public improvements exist prior to approval and minimum frontage requirements are met. All public rights-of-way must be dedicated and all abutting streets and utilities must be installed and accepted by the City. Installation of onsite improvements may be deferred, in accordance with Division 1. Sec. 9.04.004(f)(2), if development of other tracts is not affected.

#### (c) Application Procedure and Requirements

##### (1) Pre-Application Meeting

Before preparing the conveyance plat, the applicant shall schedule an appointment for a pre-application meeting with the staff of the Planning and Engineering Departments. The purposes of the pre-application meetings are to review the proposed development with regard to stormwater impacts, to discuss the procedures for approval of the plat and the requirements as to general layout of streets and/or reservations of land, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing services; and to discuss application procedures and submittal requirements.

(2) Application Requirements

The Director of Development Services may establish—not inconsistent with this Article—forms and standards with regard to the content, format, and graphics for conveyance plats. The proposed conveyance plat shall show information as specified on a form or packet provided by the Planning Department.

(3) Standard for Approval

(A) Access

All tracts, parcels, lots, or sites created by a conveyance plat shall have frontage and access to an existing or proposed public street or an existing standard street meeting City construction standards and accessing the existing City street system.

(B) Reservation of Rights-of-Way

Conveyance plats must provide for the reservation of future rights-of-way of planned roadways. Right-of-way reservation acknowledges the future obligation to dedicate right-of-way for public thoroughfares and streets specified on the City's Thoroughfare Plan or on an approved concept plan. Reservation of right-of-way does not grant any right or interest in the property to the City or other entity. The final alignment may be adjusted upon final platting in order to meet engineering design standards.

(C) Dedication of Rights-of-Way

Dedication of right-of-way shall be required where a conveyance plat is used to record the remainder of a tract created by the final platting of a portion of the property. The required right-of-way dedication shall be limited to that which is necessary to provide access to the property proposed for final plat approval and to complete turn lanes, intersections, and transitions in road pavement width resulting from development of the property proposed for final plat approval.

(4) Approval Procedure

A conveyance plat meeting all the requirements of the City shall be placed on the consent agenda of the Commission. Conveyance plats shall be approved provided they comply with all appropriate ordinances and the Comprehensive Plan. The Commission must approve, conditionally approve, or deny a conveyance plat no later than thirty (30) calendar days following the official submission date. If denied, the Commission shall provide a written explanation of the reason for denial. If the Commission fails to approve or deny the application within thirty (30) calendar days following the official submission date, the conveyance plat shall be deemed approved. A conveyance plat qualifying as a minor plat shall be reviewed and acted upon by the Director of Development Services, or by the Commission and Council if deferred by the Director, in accordance with Division 1. Sec. 9.04.001(e).

(5) Signing and Filing

(A) After the approval of the conveyance plat by the Commission, and the correction of the conveyance plat if required by the Commission, the property owner shall be responsible for filing the plat with the applicable County. The property owner may request a delay of filing the approved conveyance plat for up to six (6) months following the date of approval. Any conveyance plat which has not been filed with the County within six (6) months following the date of approval shall be void. Prior to filing with the County, the property owner may withdraw and void a conveyance plat. Any conveyance plat withdrawn and/or voided, must be later resubmitted as a new project under then-current regulations and procedures and reapproved by the Commission and filed with the County. Prior to filing, the

Mayor shall endorse approval of the conveyance plat. One (1) copy of the recorded conveyance plat shall be returned to the Director of Development Services within seven (7) calendar days following its filing at the applicable county. Failure to record the conveyance plat and to submit a copy of the recorded plat to the Planning Department, within the respective time frames above, shall be deemed a violation pursuant to Sec. 9.04.042(g) of these regulations. The City shall have the right, but not the obligation, to cause an approved conveyance plat to be recorded with the applicable County.

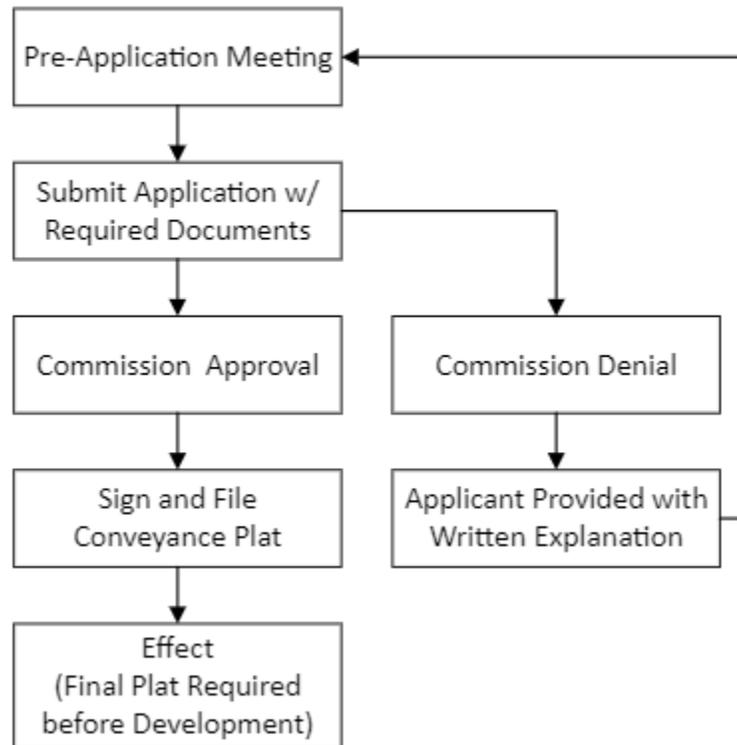
- (B) No final plat processed and approved in association with a conveyance plat shall be filed without the concurrent filing of the associated approved conveyance plat.

(6) Effect

- (A) Conveyance plat approval and acceptance by the City does not relieve the owner from obligations, including fees, required by other sections of this or other ordinances of the City pertaining to the improvement of the property or extension of services as required to make the property suitable for development.
- (B) Neither reservation nor dedication of rights-of-way shall relieve the property owner from obligations for street construction or assessments associated with public street improvement programs. Easements for access, utilities, and drainage may be recorded on conveyance plats.
- (C) Final Platting Requirements
  - (i) No building permits shall be issued nor permanent utility service provided for land which has only received approval as a conveyance plat. Notwithstanding the above, the Director of Development Services and City Engineer may authorize temporary building permits, temporary occupancy permits, and temporary utility service.
  - (ii) A conveyance plat may be superseded by a preliminary plat or final plat in total or in part through compliance with the procedures and requirements of this ordinance.

(d) Conveyance Plat Approval Process

### CONVEYANCE PLAT PROCESS



### Sec. 9.02.045. Preliminary Plats

(a) Purpose

The purpose of the preliminary plat is to allow the Commission to evaluate the proposed plat for conformity with requirements and conditions identified at the time of concept plan, preliminary site plan, or conveyance plat approval and to evaluate construction plans for public improvements or to provide adequate security for construction of the same.

(b) Applicability

A preliminary plat is required for all major subdivisions prior to the construction of public improvements. If a preliminary plat is omitted, a final plat shall be required in conformance with Sec. 9.02.046.

(c) Generally

The applicant shall prepare a preliminary plat which shall include a utility layout and plans for the construction of the subdivision and all associated public improvements, together with other supplementary materials as required by these subdivision regulations or by the City.

## (d) Preliminary Plat Contents, Generally

The Director of Development Services may establish—not inconsistent with this Article—forms and standards with regard to the content, format, and graphics for preliminary plats. The proposed preliminary plat shall show information as specified on a form or packet provided by the Planning Department.

## (e) Approval, Generally

Approval of a preliminary plat by the Commission shall be deemed general approval of the street and lot layout shown on the preliminary plat, and shall not constitute acceptance or approval of the final plat.

## (f) Application Procedure, Requirements, and Information Required upon or with Preliminary Plat

The Director of Development Services may establish—not inconsistent with this Article—forms and mandatory standards with regard to the content, format, and graphics for preliminary plats. The applicant shall file for approval of a preliminary plat, which conforms substantially with the concept plan, preliminary site plan, or conveyance plat submitted by the applicant. The plat shall be prepared by or under the supervision of a registered public surveyor in the State of Texas and shall bear his/her seal, signature, and date on each sheet. The payment of all applicable fees shall be required at the time of submission.

## (1) Pre-Application Meeting

Before preparing the preliminary plat, the applicant shall schedule an appointment and meet with the staff of the Planning and Engineering Departments. The purposes of the pre-application meetings are to review the proposed development with regard to stormwater requirements (see Sec. 9.02.041; to discuss the procedures for approval of the plat and the requirements as to general layout of streets and/or reservations of land, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing services; and to discuss application procedures and submittal requirements.

## (2) Timing of Public Improvements

## (A) After approval of;

- (i) The preliminary plat by the Commission;
- (ii) Construction/Engineering plans by the City Engineer; and
- (iii) Following procurement of all applicable permits from other appropriate agencies (such as TxDOT, railroad authorities, TCEQ, U.S. Army Corps of Engineers, FEMA and/or Collin County), the applicant shall cause a contractor(s) to install or construct the public improvements in accordance with the approved plans and the City's design standards and at the applicant's expense.

(B) The applicant shall employ professional engineers, professional registered land surveyors or other professionals as necessary to design, stake, supervise, perform, and complete the construction of such improvements, and shall cause his/her contractor to construct the said improvements in accordance with any approved construction plans and engineering plans, and with the City's design standards, and any other applicable agency's design standards. To the extent of any direct conflict between the foregoing requirements, the approved construction plans and engineering plans shall prevail.

(C) If the project will require a FEMA revision to a flood insurance rate map or other submittal required under the National Flood Insurance Program, or if the project otherwise triggers review under the City's flood damage prevention regulations set forth in this code at Article 4.12, then the application must be reviewed for compliance with said standards and requirements prior to approval of the final

plat and prior to any construction activities (including but not limited to grading, clearing, grubbing, brush removal, etc.) on the site.

(3) Approval Procedure

After review of the preliminary plat, the report and recommendations of the Director of Development Services concerning the preliminary plat and the application, the report and recommendation of the City Engineer on the construction plans, and any exhibits submitted at a public meeting, the applicant shall be advised of any required changes and/or additions. The Commission shall approve or disapprove the preliminary plat. One (1) copy of the proposed preliminary plat shall be returned to the owner with the date of approval, conditional approval or disapproval, and the reasons therefore accompanying the plat. If the Commission disapproves the proposed preliminary plat, the applicant may execute an appeal in the manner prescribed in Division 1. Sec. 9.04.011(e)

(4) Effect of Approval

Approval of a preliminary plat by the Commission constitutes authorization for the City Engineer to release construction plans subject to his/her final approval and for the City Engineer to authorize for the property owner to commence grading of the site and construction of such public improvements as are required by the Commission. Approval of a preliminary plat also authorizes the property owner, upon fulfillment of all requirements and conditions of approval, to submit for approval an application for final plat approval. Upon release of the construction plans, the City Engineer may, upon request of the applicant, issue a certificate indicating the construction plans have been released and construction of the improvement is thereafter authorized. Additional certificates may be issued by the City Engineer authorizing the construction of private utilities on a phased schedule. The certificate shall read as follows:

“The preliminary plat for (insert name of the subdivision or addition) as approved by the City of Anna Commission on (insert date of approval) is authorized for use with engineering plans for the construction of public improvements as approved by the City Engineer. A final plat shall be approved by the Commission upon the completion of all public improvements or the provision of a subdivision improvement agreement under the terms of the Subdivision Ordinance and submission of a final plat in compliance with Sec. 9.02.046 of the Subdivision Ordinance of the City of Anna.”

Zoning regulations that affect exterior appearance of a single-family house or the landscaping of a single-family lot and that are adopted after approval of a preliminary plat for a single-family residential development, shall not apply for a period of two (2) years following the latter of the date of plat approval or the date of the acceptance of public improvements related to the plat.

(5) Lapse of Preliminary Plat Approval

The approval of a preliminary plat shall be effective for a period of two (2) years following the date that the preliminary plat is approved by the Commission, at the end of which time the applicant must have submitted and received approval for a final plat. If a final plat is not submitted and approved within two (2) years, the preliminary plat approval shall be null and void, and the applicant shall be required to submit a new plat for review subject to the then-existing zoning restrictions and subdivision regulations.

(g) Standards for Approval

No preliminary plat shall be approved by the Commission unless the following standards have been met:

- (1) The plat substantially conforms with the approved concept plan, preliminary site plan, or conveyance plat.
- (2) The construction plans have been reviewed by the City Engineer.
- (3) Provision for installation and dedication of public improvements has been made.

- (4) The plat conforms to applicable zoning and other regulations.
- (5) The plat meets all other requirements of these regulations.

(h) Construction Plan Procedure and Requirements

(1) General Application Requirement

Construction/Engineering plans shall be prepared by or under the supervision of a professional engineer or architect registered in the State of Texas as required by state law governing such professions. Plans submitted for review by the City shall be dated and bear the responsible engineer's or architect's name, serial number, and the designation of "engineer," "professional engineer," or "P.E." or "architect" and an appropriate stamp or statement near the engineer's or architect's identification, stating that the documents are for preliminary review and are not intended for construction. Final plans acceptable to the City shall bear the seal and signature of the engineer or architect and the date signed on all sheets of the plans. Public works construction in streets, alleys, or easements that will be maintained by the City shall be designed by a professional engineer registered in the State of Texas.

(A) Engineering Plans

The applicant shall submit the required number of sets of the complete engineering or construction plans that have been approved by the City Engineer for all streets, alleys (if any), storm sewers and drainage structures, water and sanitary sewer facilities, screening and retaining walls, landscaping, and irrigation, and any other required public improvements for the area covered by the preliminary plat. Engineering plans shall be in conformance with the design standards and with the requirements set forth within these subdivision regulations. The engineering plans shall also contain any plans deemed necessary to show or document compliance with any other applicable codes and ordinances of the City that are related to development of a land parcel. The engineering plans shall show information as specified on an application form or packet provided by the City Engineer.

(2) Construction Plan Review Procedure

Copies of the construction plans, and the required number of copies of the plat shall be submitted to the City Engineer for final approval. The plans shall contain all necessary information for construction of the project, including screening walls, permanent BMPs, and other special features. All materials specified shall conform to the Engineering Construction Standards of the City. Each sheet of the plans shall contain a title block including space for the notation of revisions. This space is to be completed with each revision to the plan sheet and shall clearly note the nature of the revision and the date the revision was made. The City Engineer will release the plans for construction, after approval of the preliminary plat by the Commission and payment of all inspection fees. Upon such release, each Contractor shall maintain one set of plans, stamped with City release, on the project at all times during construction. This procedure shall also apply to approval of a final plat, if a preliminary plat is omitted. (Also see Sec. 9.02.046)

(3) Failure to Commence Construction

If construction has not commenced within one (1) year after approval of the plans, resubmittal of plans may be required by the City Engineer for meeting current standards and engineering requirements.

(i) Revisions to Approved Preliminary Plat

- (1) Minor revisions to the preliminary plat are commonly required before the final plat is approved. Such minor revisions may include slight enlargement or shifting of easements or lot lines, addition of private or franchise utility easements, correction of bearings or distances, correction of minor labeling errors, addition of erroneously omitted informational items and labels, etc., and such revisions may be

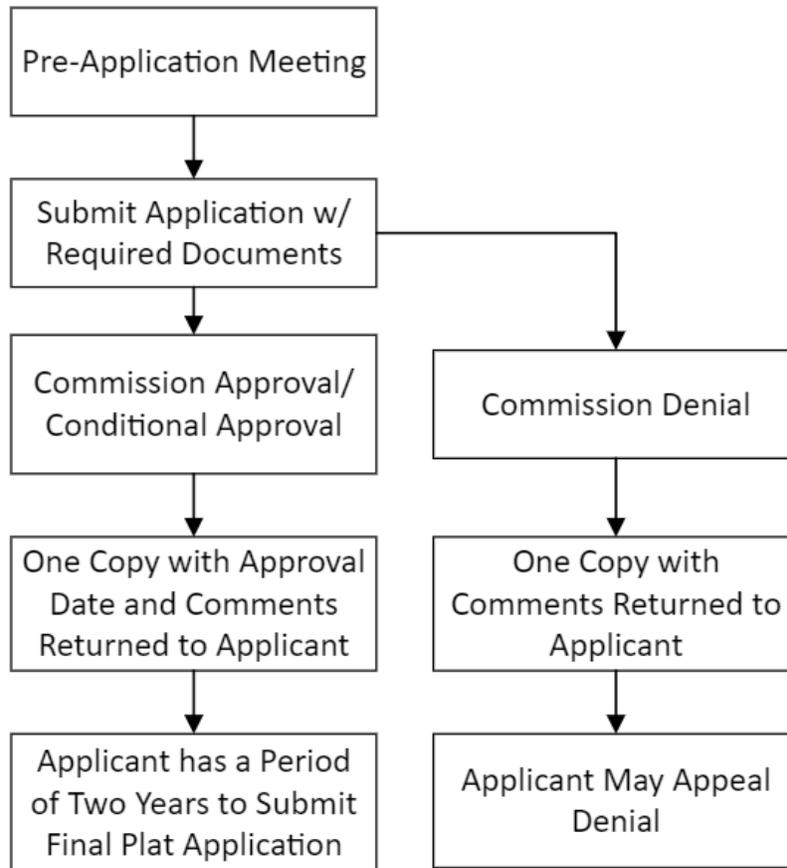
## Sec. 9.02.045. Preliminary Plats

delineated on the final plat without having to re-approve the preliminary plat. Whether or not revisions are “minor” in nature shall be determined by the Director of Development Services and/or City Engineer.

- (2) Major revisions, if required, such as obvious reconfiguration of lot lines or easements, relocation of driveways or access easements or fire lanes, any modification to the perimeter or boundary of the property, and relocation or addition or deletion of any public improvement (including corresponding easement), shall necessitate re-submission and re-approval of the plat as a “revised preliminary plat”. The procedures for such re-approval shall be the same as for a preliminary plat. If an application for a revised preliminary plat expires due to failure to submit a complete application, or if the revised preliminary plat is complete, and considered by the Commission and is denied, the previously submitted preliminary plat(s) shall also be deemed to have been denied thus necessitating submission of a new application governed by the regulations, rules and other laws in effect at the time of the submission of the new application.

Preliminary Plat Approval Process Flowchart<sup>1</sup>

### PRELIMINARY PLAT PROCESS



(a) <sup>1</sup> Waiver Procedures

- (1) A petition for a waiver, suspension, or amendment shall be submitted in writing to the City Manager or the City Manager's designee by the property owner before the plat is officially filed and submitted for the consideration by the Commission. The petition shall state fully the grounds for the application, and all of the facts relied upon by the petitioner.
- (2) All waivers/suspensions shall be approved or disapproved by the Commission.
- (3) All waivers/suspensions shall have final approval or disapproval by the City Council.

## Sec. 9.02.046. Final Plats

- (a) A final plat for minor subdivisions may be approved by the Director of Development Services in accordance with Division 1.Sec. 9.04.001(e). The final plat shall be in accordance with the preliminary plat, as approved, and shall incorporate all applicable conditions, changes, directions, and additions imposed by the Commission upon the preliminary plat. The final plat shall not be submitted prior to approval of the preliminary plat (when required).
- (b) Only final plat applications that include the required data, completed application form, submission fee, number of copies of the plat, record drawings, approved engineering construction plans, and other required information will be considered complete, shall be accepted for filing by the City, and shall be scheduled on a Commission agenda. Incomplete final plat applications will not be accepted for filing and will not be scheduled on a Commission agenda until the proper information is provided to City staff.
- (c) Information Required upon or with Final Plat

The Director of Development Services may establish—not inconsistent with this Article—forms and standards with regard to the content, format, and graphics for final plats. The proposed final plat shall show information as specified on a form or packet provided by the Planning Department.

- (d) Standards for Approval

No final plat shall be approved by the Commission unless the following standards have been met:

- (1) The plat substantially conforms with the approved preliminary plat, as revised if revisions were a necessary condition for approval, and other studies and plans, as applicable; and
- (2) The plat and accompanying documents conform to these subdivision regulations, the comprehensive plan, and applicable zoning, subdivision and any other applicable codes or ordinances of the City that are related to development of a land parcel.
- (3) Required public improvements have been constructed and are ready to be accepted, and/or an improvement agreement has been accepted by the City, providing for the subsequent completion of improvements.
- (4) Provision has been made for adequate public facilities under the terms of this ordinance.

- (e) Timing of Public Improvements

- (1) When all of the public improvements have been constructed and a request is made for acceptance of same by the City, the City Engineer shall confirm that the public improvements have been completed in accordance with the approved plans and specifications and with all applicable City standards and regulations, and shall confirm receipt by the City of the required maintenance bond. In determining compliance, the City Engineer shall obtain from the applicant: one sealed set of “as-built” or “record drawing” and a digital copy of all plans (in a format as determined by the City Engineer); a signed letter bearing sealed certification by the design engineer confirming the contractors' compliance with these subdivision regulations, and with all City construction standards set forth in the design standards and other applicable City design documents; and certification signed by the property owner before a notary that all dedications required for the public improvements have been fully conveyed. After said materials are received, and the City Engineer confirms compliance as set forth above, the City Engineer shall inform the City Manager of same and the City Manager shall receive and accept for the City the title, use, and maintenance of the public improvements.

- (A) The Commission may require that all public improvements be installed, offered for dedication, and ready for acceptance by the City prior to the approval of the final plat by the Commission and signing of the final plat.

The Commission may permit or require the deferral of the construction of public improvements if in its judgment, deferring the construction would not result in any harm to the public, or offer significant advantage in coordinating the site's development with adjacent properties and offsite public improvements. Any required public improvement(s) approved for deferred construction must be provided for prior to the approval of the final plat. (See Division 1.Sec. 9.04.004(f)(2).)

- (B) If the Commission does not require that all public improvements be installed, offered for dedication and accepted by the City prior to the signing of the final plat by the Chairman, it shall require that the applicant execute an improvement agreement and provide security for the agreement as provided in Section 9.02.018. This Subdivision Improvement Agreement will require final Council approval.

- (C) This procedure shall also apply to the approval of a final plat if the preliminary plat is omitted.

(f) Approval Procedure

After review of the final plat, the Director of Development Services shall place the final plat for consideration on the agenda of a public meeting of the Commission. Minor plats may be approved by the Director of Development Services or referred to the Commission in accordance with Division 1.Sec. 9.04.001(e). In the event of disapproval, reasons for disapproval shall be stated. One (1) copy of the final subdivision plat shall be returned to the applicant with the date of approval, conditional approval, or disapproval noted on the final plat, and, if the final plat is disapproved, the reasons for disapproval accompanying the final plat.

(g) Effect of Approval and Acceptance of Improvements

As soon as is practical after the final plat has been approved by the City for recordation in accordance with Subsection (d) of this section, or, alternatively, approved for recordation because the subdivider has provided sufficient security in accordance with Division 6 of this Article, the Director of Development Services or designee shall direct the applicant to file the final plat to be recorded with the Collin County Clerk. No conveyance or sale of any portion or lot of the property may occur until after the final plat is approved by the Commission and duly recorded by the applicant. It is the applicant's responsibility to confirm that the final plat has been duly recorded, and an applicant's failure to confirm same is at the applicant's sole risk.

(h) Revisions to Approved Final Plat prior to Filing at the County

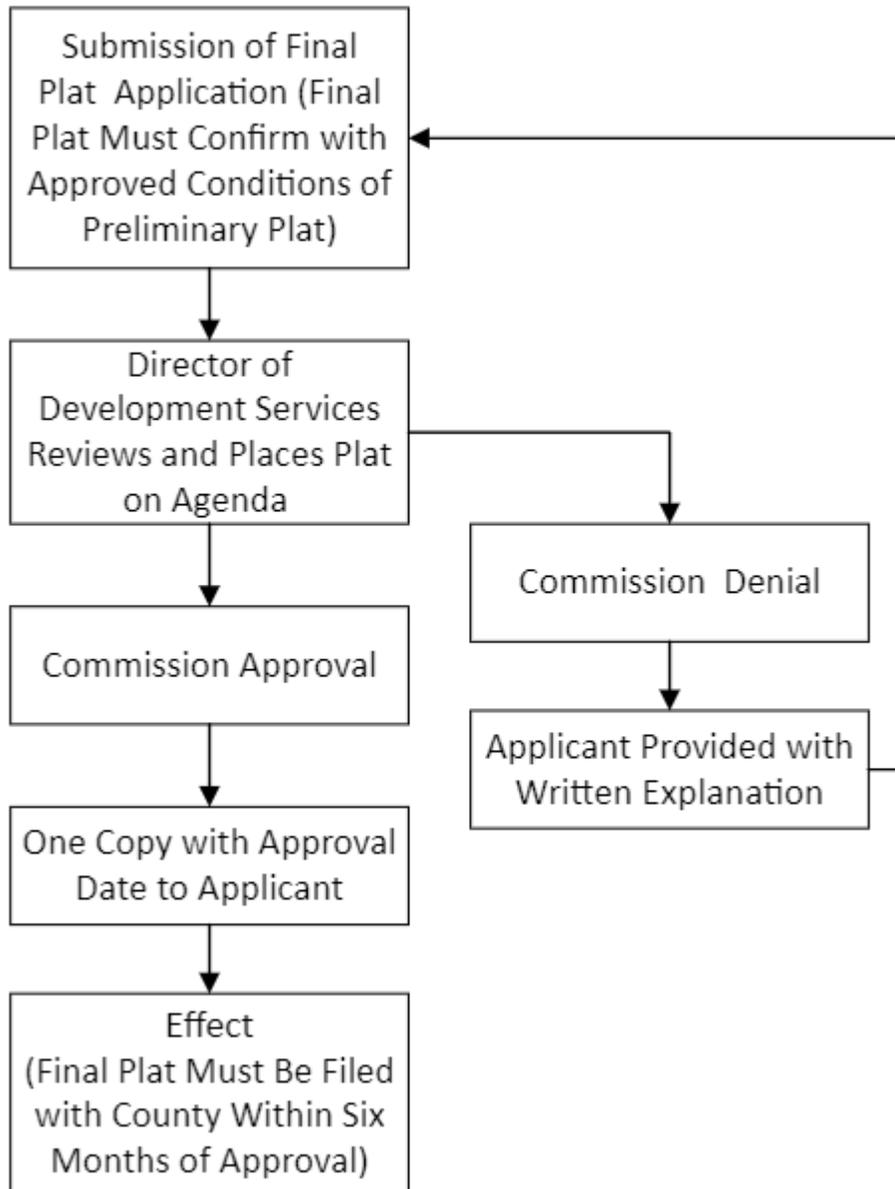
- (1) Occasionally, minor revisions are needed before the final plat can be recorded. Minor revisions such as correction of bearings or distances, correction of minor labeling errors, addition of erroneously omitted informational items and labels, etc., may occur on the record plat prior to filing it without the Commission having to re-approve the final plat. Whether or not revisions are "minor" in nature shall be determined by the Director of Development Services. Major revisions, such as obvious corrections or reconfiguration of lot lines or easements, relocation of driveways or access easements or fire lanes, any modification to the perimeter or boundary of the property, and relocation or addition or deletion of any public improvements (including corresponding easement), shall necessitate re-submission and re-approval of the plat as a "revised final plat" unless otherwise approved by the Director of Development Services, as applicable. The procedures for such re-approval shall be the same as for a final plat. If an application for a revised final plat expires due to failure to submit a complete application, or if the revised final plat is complete, and considered by the Commission and is denied, the previously submitted final plat and any preliminary plat(s) shall also be deemed to have been denied thus necessitating submission of a new application governed by the regulations, rules and other laws in effect at the time of the submission of the new application.

- (2) Subsequent to final plat approval by the Commission, the applicant shall return signed and notarized copies of the final plat, as approved, along with any other required documents and fees necessary for filing the plat with the County Clerk, to the Planning Department within 45 calendar days following approval, in accordance with requirements established by the City; or if construction of any public improvement is required prior to the filing of a final plat, the owner or developer shall return signed and notarized copies of the final plat, as approved, along with any other required documents and fees necessary (including current documents required to show proof of ownership as outlined in Sec. 9.04.042(f) to the Planning Department before said public improvements will be accepted by the City and before said final plat will be recorded with the County Clerk.
  - (3) All easements shall be included on the final plat, including the recording information for those easements that are filed or recorded as separate instruments, as required by utility companies and the City prior to filing the final plat.
- (i) Lapse of Final Plat Approval

The approval of a final plat shall be effective for a period of six (6) months following the date that the final plat is approved by the Commission, at the end of which time the applicant must have recorded the final plat with the County Clerk. If the applicant has not met the requirements for recording of the final plat with the County Clerk within six (6) months, the final plat approval shall be null and void, and the applicant shall be required to submit a new plat for review subject to the then existing zoning restrictions and subdivision regulations. No Certificate of Occupancy or Change of Occupancy permit will be allowed for the property until the applicant has recorded the final plat with the County Clerk.

(j) Final Plat Approval Process Flowchart

### FINAL PLAT PROCESS



## Sec. 9.02.047. Development Plats

(a) Authority

This section is adopted pursuant to the Texas Local Government Code, Chapter 212, Subchapter B, Sections 212.041 through 212.050, as amended.

(b) Applicability.

For purposes of this section, the term “development” means the construction of any building, structure, or improvement of any nature (residential or nonresidential), or the enlargement of any external dimension thereof. This section shall apply to any land lying within the City or within its extraterritorial jurisdiction in the following circumstances:

- (1) The development of any tract of land that has not been platted or replatted prior to the effective date of these subdivision regulations, unless expressly exempted herein; or
- (2) The development of any tract of land for which the property owner claims an exemption from the City's subdivision regulations, including requirements to replat, which exemption is not expressly provided for in such regulations; or
- (3) The development of any tract of land for which the only access is a private easement or street; or
- (4) The division of any tract of land resulting in parcels or lots each of which is greater than five acres in size, and where no public improvement is proposed to be dedicated or constructed.

(c) Exceptions

No development plat shall be required where the land to be developed has received final plat, conveyance plat or replat approval prior to the effective date of these subdivision regulations or a final plat, conveyance plat, or replat has been filed in accordance with these subdivision regulations.

(d) Prohibition on Development

No development shall commence, nor shall any building permit be issued, for any development or land division subject to this section, until a development plat has been approved by the Commission.

(e) Standards of Approval

The development plat shall not be approved until the following standards have been satisfied:

- (1) The proposed development conforms to all City plans, including but not limited to, the Comprehensive Plan, utility plans, and applicable capital improvements plans;
- (2) The proposed development conforms to the requirements of the Zoning Ordinance (if located within the City's corporate limits) and these subdivision regulations;
- (3) The proposed development is adequately served by public facilities and services, parks, and open space, to the extent necessary based on the nature of the development, and in conformance with City regulations;
- (4) The proposed development will not create a safety hazard on a public street (such as by not providing adequate on-site parking or vehicle maneuvering space for a restricted-access/gated entrance);
- (5) Appropriate agreements for acceptance and use of public dedications to serve the development have been tendered; and

(6) The proposed development conforms to the design and improvement standards contained in these subdivision regulations and in the City's design standards, and to any other applicable codes or ordinances of the City that are related to development of a land parcel.

(f) Conditions

The Commission may impose such conditions on the approval of the development plat as are necessary to ensure compliance with the standards in Subsection (e) of this section.

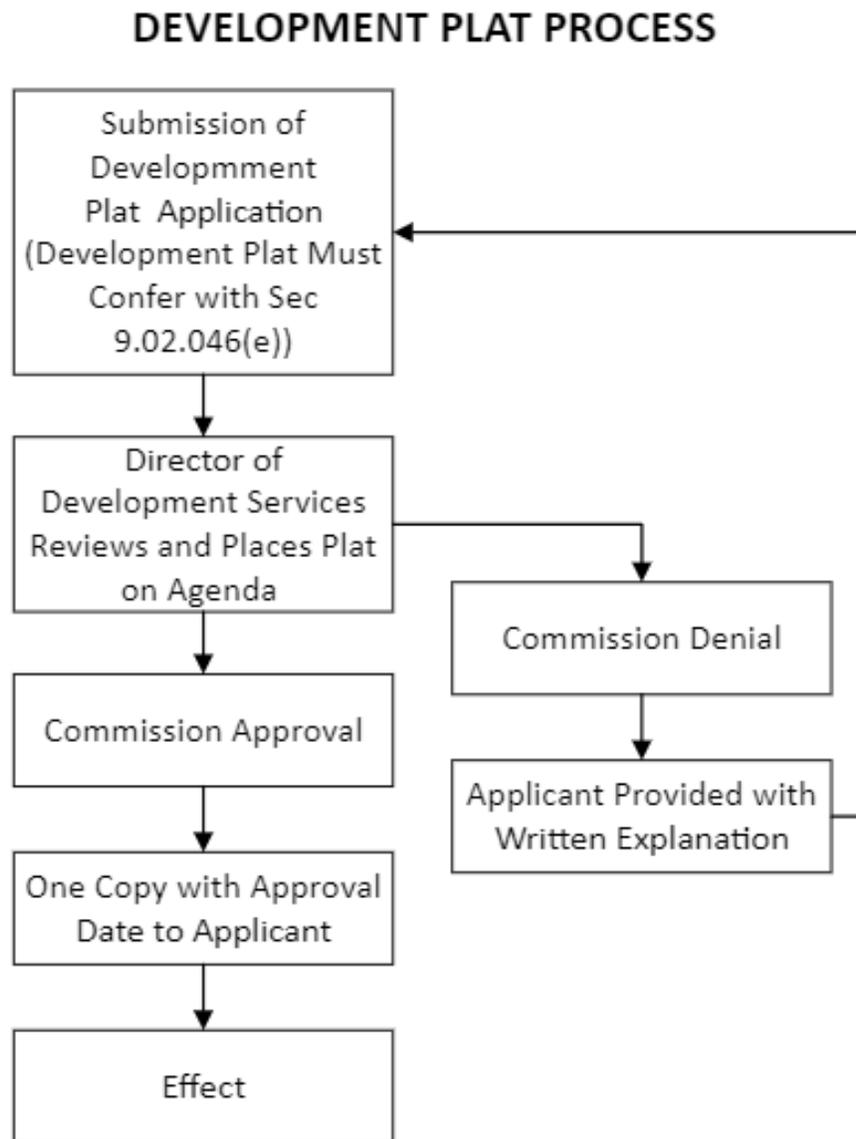
(g) Approval Procedure

The application for a development plat shall be submitted to the City in the same manner as a final plat, and shall be approved, conditionally approved, or denied by the Commission and in a similar manner as a final plat.

(h) Submittal Requirements

The Director of Development Services may establish—not inconsistent with this Article—forms and standards with regard to the content, format, and graphics for development plats. The proposed development plat shall show information as specified on a form or packet provided by the Planning Department.

(i) Development Plat Approval Process Flowchart



## Sec. 9.02.048. Replatting

### (a) Replat Required

Unless otherwise expressly provided for herein, a property owner who proposes to replat any portion of an already approved and filed final plat, other than to amend or vacate the plat, must first obtain approval for the replat under the same standards and by the same procedures prescribed for the final platting of land by these subdivision regulations. All improvements shall be constructed in accordance with the same requirements as for a construction or final plat, as provided herein.

### (b) Replatting without Vacating Preceding Plat.

A replat of a final plat or portion of a final plat may be recorded and is controlling over the preceding plat without vacation of that final plat if the replat:

- (1) Is signed and acknowledged by only the owners of the property being replatted;
- (2) Is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard by the Commission; and
- (3) Does not attempt to amend or remove any covenants or restrictions previously incorporated in the final plat.

### (c) Previous Requirements or Conditions of Approval which are still Valid.

In addition to compliance with Subsection (b) of this section, a replat without vacation of the preceding plat must conform to the requirements of this Subsection (c) if: (i) during the preceding five years, any of the area to be replatted was limited by a zoning classification to residential use for not more than two residential units per lot; or (ii) any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.

- (1) Notice of the public hearing required under Subsection (b) of this section shall be given before the 15th calendar day before the date of the hearing by publication in an official newspaper or a newspaper of general circulation in Collin County. Notice of the public hearing shall also be given by written notice before the 15th calendar day before the date of the hearing, with a copy or description of any requested waivers/suspensions, sent to the property owners, as documented on the most recently approved ad valorem tax roll of the City, of lots that are in the original subdivision and that are within 200 feet of the lot(s) to be replatted. In the case of a subdivision in the extraterritorial jurisdiction, the most recently approved county tax roll shall be used. The written notice may be delivered by depositing the notice, properly addressed with appropriate postage paid, in a post office or postal depository within the boundaries of the City.
- (2) If the replat requires a waiver/suspension as defined in Sec. 9.02.010 of this Article, and if the property owner(s) of 20% or more of the total land area of lots to whom notice is required to be given under Subsection (1), above, file with the City a written protest of the replatting before or at the public hearing, then approval of the replat will require the affirmative vote of at least 3/4 of the members present of the Commission. For a legal protest, written instruments signed by the owners of at least 20% of the total land area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, but within the original subdivision, must be filed with the City prior to the close of the public hearing. In computing the percentage of land area subject to the "20% rule" described above, the area of streets and alleys shall be included.
- (3) Compliance with Subsection (2) above is not required for approval of a replat for any part of a preceding plat if the area to be replatted was designated or reserved for other than single- or two-family (i.e.,

duplex) residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat. For example, for a replat involving nonresidential property, a public hearing must be held, pursuant to Subsection (2) above, but notice of the hearing does not have to appear in the newspaper and written notices do not have to be mailed to individual property owners within 200 feet of the subject property.

(d) Adding or Deleting Lots

Any replat that adds or deletes lots must include the original subdivision and lot boundaries. If a replat is submitted for only a portion of a previously platted subdivision, the replat must reference the previous subdivision name and recording information, and must state on the replat the specific lots which have changed along with a detailed “purpose for replat” statement.

(e) Vacation of Plat

If the previous plat is vacated as prescribed in Section 212.013 of the Texas Local Government Code, as amended, and as provided in Sec. 9.02.050 of this Article, a public hearing is not required for a replat of the area vacated. It would, instead, be submitted as a new subdivision plat and reviewed accordingly.

(f) Approval Requirements

The replat of the subdivision shall meet all the requirements for a final plat for a new subdivision that may be pertinent, as provided for herein, including requirements that pertain to infrastructure, such as streets and utilities. Approval of a revised preliminary plat may be required prior to the approval of a replat if the replat necessitates the construction of public infrastructure or requires amendments to previously approved infrastructure construction plans.

(g) Title of Replat

The title shall identify the document as a “Final Plat” of the “\_\_\_\_\_ Addition, Block \_\_\_\_\_, Lot(s) \_\_\_\_\_, Being a Replat of Block \_\_\_\_\_, Lot(s) \_\_\_\_\_ of the \_\_\_\_\_ Addition, an Addition to the City of Anna, Texas, as recorded in Volume/Cabinet \_\_\_\_\_, Page/Slide \_\_\_\_\_ of the Plat Records of Collin County, Texas”.

(h) Application for Replat

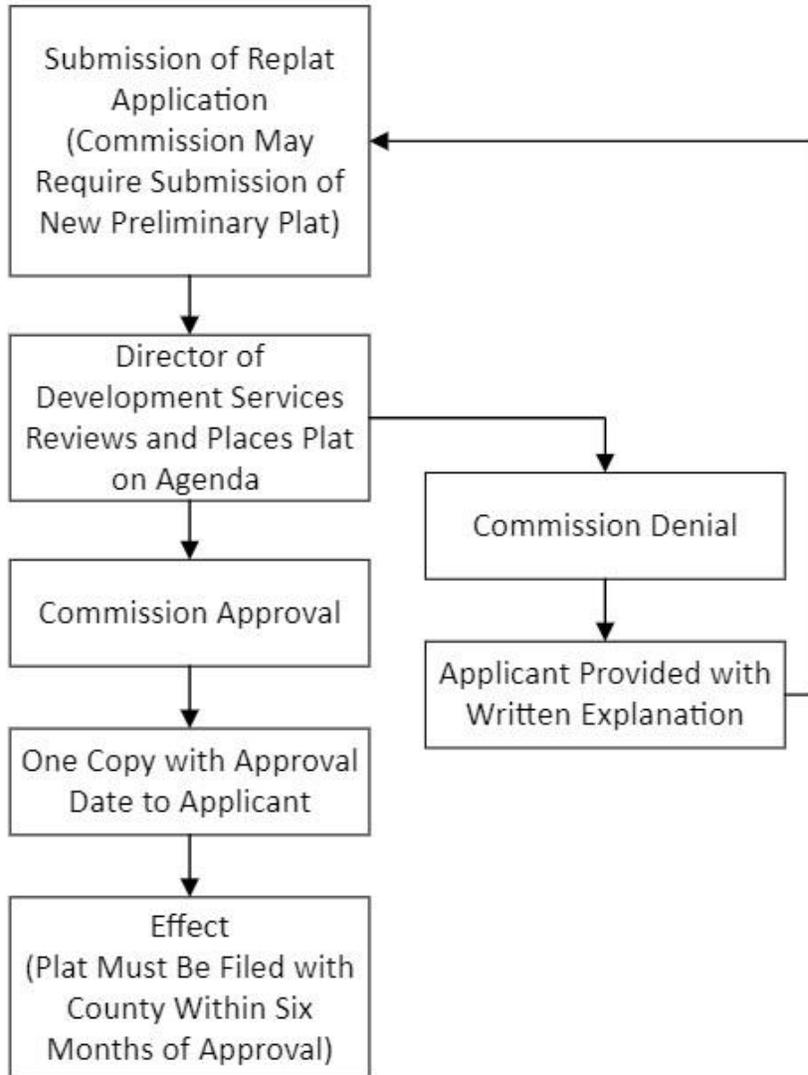
An application submittal for a replat shall be the same as for a final plat, and shall be accompanied by the required number of copies of the plat, a completed application form, the required submission fee (per the City's current fee schedule), and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property. The replat shall also bear a detailed “purpose for replat” statement that describes exactly what has been changed on the plat since the original (or previous) plat was approved by the City and filed at the County. A copy of all application materials for a replat shall be simultaneously submitted to the Planning Department for review in the same manner as for a final plat, or the application shall be deemed incomplete.

(i) Recording of Replat

The replat shall be recorded at the County in the same manner as prescribed for a final plat, and approval of a replat shall expire if all filing materials are not submitted to the Planning Department and if the replat is not recorded within the time period specified for a final plat.

(j) Replat Approval Process Flowchart

### REPLAT PROCESS



## Sec. 9.02.049. Amending Plats

(a) An amending plat shall meet all of the informational, procedural, and relevant submission requirements set forth for a final plat.

(b) Submittal

A copy of all application materials for an amending plat shall be simultaneously submitted to the Director of Development Services for review in the same manner as for a final plat, or the application shall be deemed incomplete.

(c) Permitted Purposes

An amending plat may be recorded and is controlling over the preceding or final plat without vacation of that plat, if the plat being amended is signed by the applicants only and if the plat being amended is for one or more of the purposes set forth in this section. The procedures for amending a plat shall apply only if the sole purpose of amending the plat is to achieve at least one of the following:

- (1) Correct an error in a course or distance shown on the preceding plat;
- (2) Add a course or distance that was omitted on the preceding plat;
- (3) Correct an error in a real property description shown on the preceding plat;
- (4) Indicate monuments set after the death, disability, or retirement from practice of the engineer or registered professional land surveyor (RPLS) responsible for setting monuments;
- (5) Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
- (6) Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
- (7) Correct an error in courses and distances of lot lines between two adjacent lots if:
  - (A) Both lot owners join in the application for amending the plat;
  - (B) Neither lot is abolished;
  - (C) The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and
  - (D) The amendment does not have a material adverse effect on the property rights of the owners in the plat;
- (8) Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
- (9) Relocate one or more lot lines between one or more adjacent lots if:
  - (A) The owners of all those lots join in the application for amending the plat;
  - (B) The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and
  - (C) The amendment does not increase the number of lots; or
- (10) Make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:

- (A) The changes do not affect applicable zoning and other regulations of the City;
  - (B) The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and
  - (C) The area covered by the changes is located in an area that the Commission has approved, after a public hearing, as a residential improvement area;
- (11) Replat one or more lots fronting on an existing street if:
- (A) The owners of all those lots join in the application for amending the plat;
  - (B) The amendment does not attempt to remove or modify recorded covenants or restrictions or easements;
  - (C) The amendment does not increase the number of lots; and
  - (D) The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- (d) No Requirement for Notice or Public Hearing
- Notice, a public hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.
- (e) Title
- The amending plat shall be entitled and clearly state that it is an “Amending Plat,” and it shall include a detailed “Purpose for Amending Plat” statement that describes exactly what has been changed on the plat since the original (or previous) plat was approved by the City and filed at the County. It shall also state the specific lots affected or changed as a result of the amending plat, and shall include the original subdivision plat boundary.
- (f) Procedure
- Other than noted above, the procedure for approval of plat amendment(s) shall be the same as for a final plat.
- (g) Recordation
- The amending plat shall be recorded with the County Clerk in the same manner as prescribed for a final plat, and approval of an amending plat shall expire if all required recording filing materials are not submitted to the City and if the amending plat is not recorded within the time periods specified for a final plat.

### Sec. 9.02.050. Plat Vacation

- (a) By Property Owner
- The property owner of the tract covered by a plat may vacate, upon approval by the Commission and City Council, the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat.
- (b) By All Lot Owners
- If some or all of the lots covered by the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.
- (c) Criteria

The Commission shall approve the petition for vacation on such terms and conditions as are in accordance with Section 212.013 of the Texas Local Government Code (as amended), and as are reasonable to protect the public health, safety, and welfare. As a condition of vacation of the plat, the Commission may direct the petitioners to prepare and seek approval of a revised final plat in accordance with these subdivision regulations such that the property is not without a plat.

(d) Effect of Action

On the execution and recording of the vacating instrument, the vacated plat shall have no effect. Regardless of the Commission's action on the petition, the property owner will have no right to a refund of any monies, fees, or charges paid to the City nor to the return of any property or consideration dedicated or delivered to the City except as may have previously been agreed to by the Commission.

(e) City-Initiated Plat Vacation

(1) General Conditions

The City Council, on its motion and following a public hearing on the matter, may vacate the plat of an approved or recorded subdivision or addition when:

- (A) Construction on the improvements required for the development have not been completed within two years following the date the plat was approved by the City;
- (B) No lots within the approved plat have been sold within five years following the date that the plat was approved by the City;
- (C) The property owner has breached a subdivision improvement agreement (see Division 6) and the City is unable to obtain funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by property owner or its successor; or
- (D) The plat has been of record for more than five years and the City determines that the further sale of lots within the subdivision or addition presents a threat to public health, safety or welfare, except that the vacation shall apply only to lots owned by the property owner or its successors.

(2) Procedure

After review and approval by the Commission, and upon any motion of the City Council to vacate the plat of any previously approved subdivision or addition, in whole or in part, the City shall publish notice in a newspaper of general circulation in the City before the 15th day prior to the date of the public hearing at which the plat vacation shall be heard by the City Council. The City shall also provide written notice to all property owners within the subdivision or addition. The notice shall state the time and place for a public hearing before the Council on the motion to vacate the subdivision or addition plat. The Council shall approve the plat vacation only if the criteria and conditions cited above are satisfied.

(3) Record of Plat Vacation

If the City Council approves vacating a plat, the City shall cause a copy of the plat vacation instrument to be recorded in the office of the County Clerk of Collin County along with an exhibit showing a drawing of the area or plat vacated. The County Clerk shall write legibly on the vacated plat the word "Vacated" and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded. If the City Council vacates only a portion of a plat, it shall cause a revised final plat drawing to also be recorded that shows that portion of the original plat that has been vacated and that portion that has not been vacated. Upon the execution and recording of the vacating instrument the vacated plat (or the vacated portion of the plat) has no effect.

## Sec. 9.02.051. Minor Plats

(a) Submission Requirements

A minor plat shall meet all of the informational and relevant submission requirements set forth for a final plat.

(b) Application Materials

A copy of all application materials for a minor plat shall be simultaneously submitted to the Planning Department for review in the same manner as for a final plat, or the application shall be deemed incomplete.

(c) No Requirement for Notice and Public Hearing

Notice, a public hearing, and the approval of other lot owners are not required for the approval of a minor plat.

(d) Title

The minor plat shall be entitled and clearly state that it is a "Minor Plat."

(e) Recordation

The minor plat shall be recorded in the same manner as prescribed for a final plat, and approval of a minor plat shall expire if all required recording filing materials are not submitted to the City and if the minor plat is not recorded within the time periods specified for a final plat.

Section 9.02.052 through Section 9.02.080. (Reserved)

## Division 3. SUBDIVISION DESIGN STANDARDS

### Sec. 9.02.081. Streets

(a) Conformance With City's Policies and Regulations.

The construction, arrangement, character, extent, width, grade and location of all streets shall conform to the City's comprehensive plan and design standards, and shall be considered in their relation to the following, whether the streets are within the City, [or] within its ETJ area:

- (1) Existing and planned streets or driveways;
- (2) Topographical conditions (the street layout shall, to the greatest extent possible, be sited and aligned along natural contour lines, and shall minimize the amount of cut and fill on slopes in order to minimize the amount of land area that is disturbed during construction);
- (3) Public safety; and
- (4) Their appropriate relation to the proposed uses of the land to be served by such streets.

(b) Residual Strips.

Reserve or residual strips of land controlling access to or egress from other property, or to or from any street or alley, or having the effect of restricting or damaging the adjoining property for subdivision purposes, or which will not be taxable or accessible [assessable] for improvements shall not be permitted in any subdivision unless such are required by the City in the public interest (such as to enhance public safety or other public interest). All streets shall be constructed in accordance with these subdivision regulations and with the City's design standards.

(c) Adequacy Of Streets and Thoroughfares.

(1) Responsibility for adequacy of streets and thoroughfares.

The property owner shall ensure that the subdivision is served by adequate streets and thoroughfares, and shall be responsible for the costs of rights-of-way and street improvements, in accordance with the following policies and standards, and subject to the City's cost participation policies on oversized facilities.

(2) General Policy.

Every subdivision shall be served by improved streets and thoroughfares adequate to accommodate the vehicular traffic to be generated by the development. Proposed streets shall provide a safe, convenient and functional system for traffic circulation; shall be properly related to the City's thoroughfare plan, other portions of the comprehensive plan and any amendments thereto, and any street classification system.

(3) Street Network

New subdivisions shall be supported by a street network having adequate capacity, ingress/egress, and safe and efficient traffic circulation.

(4) Approach Streets and Access

All subdivisions must have at least two points of vehicular access, and must be connected via improved streets (streets that meet the City standards) to the City's improved thoroughfare and street system by one or more approach streets of such dimensions and improved to such standards as required herein. All residential subdivisions, with the exception of multifamily dwellings and single-unit or duplex unit park

developments, shall provide no less than one entrance for each 50 lots including stubs for future development and in no case shall have more than 150 lots for each connection to an existing street.

(A) Required Improvements

Requirements for dedication of right-of-way and improvement of approach streets shall comply with section 9.02.082 of this article.

(B) Points of Access Defined and Related Requirements

“Two points of vehicular access” shall be construed to mean that the subdivision has at least two improved street entrances accessing the subdivision from the City’s improved thoroughfare system.

- (i) For nonresidential subdivisions and multifamily developments, cross access provided through an existing or future adjacent lot may count as one entrance if approved by the Director of Development Services.
- (ii) For residential subdivisions, the Commission may, at their discretion and upon a finding that such will not compromise public safety or impede emergency access, accept a single, median-divided entrance from the City’s improved thoroughfare system which provides at least two routes to the interior of the subdivision. For example, the entrance street is not a dead- end or cul-de-sac, and it does not create a “bottleneck” allowing only one emergency route into the interior of the subdivision. Residential lots may not front onto any median-divided entrances, and residential driveways may not be accessible to median divided entryways.
- (iii) Dimensions associated with a median divided entryway shall be built in general accordance with Diagram B of Division 9 of this article.
- (iv) All residential subdivisions will designate a primary entrance which must meet the base requirements listed below in addition to meeting a required 20-point total from the list of approved, additional point features located in Table 2 and Table 3 of division 9 of this article. (See diagram B for examples.)
  - a. The primary entrance for a residential subdivision must have a median divided entryway and have a minimum entryway length of one typical, residential lot depth from the community plus the minimum 20-foot landscape buffer/common area lot depth. In terms of subdivisions with a range of lot sizes, the median, typical lot depth will be required.
  - b. Primary subdivision entrances are prohibited from terminating at a “T-intersection” unless it terminates on an approved option from Table 2 in division 9 of this article, or on the base requirement of green space equal to one typical (or median) residential lot. It is prohibited for the T-intersection to terminate into a residential home lot.
- (v) Secondary subdivision entrances are required to have subdivision signage except when the secondary entrance is from another residential subdivision. An additional 15-point total for the first 200 dwelling units plus 5 points for every 50 dwelling units over 200 must be met by adding upgraded secondary entrance features or features within the subdivision found in Table 4 and Table 5 of division 9 of this article.
- (vi) As part of the zoning request or community’s first phase preliminary plat submittal, an exhibit showing compliance with the Neighborhood Point Totals (from Tables 2, 3, 4, and 5 of division 9 of this article) for the overall community shall be provided and approved for compliance by the Director of Development Services.

(vii) As part of the Engineering Plan submittal for residential subdivisions, detailed information showing compliance with the Neighborhood Point Totals located within Tables 2, 3, 4, and 5 of division 9 of this article shall be provided on the landscape plan and approved for compliance by the Director of Development Services prior to final approval of the engineering plans.

(viii) For the purpose of this section multifamily dwellings and single unit or duplex unit park developments are not considered residential developments.

(C) Street Openings to Adjoining Properties

Subdivision design shall provide for a reasonable number and reasonable locations of street openings to adjoining properties. Such an opening shall occur at least every 1,000 feet or in alignment with abutting subdivision streets along each boundary of the subdivision.

(D) Adequate Emergency Access

The subdivision shall be designed to provide adequate emergency access for public safety vehicles.

(5) Off-Site and Adjacent Improvements Based on Traffic Impact Analysis (TIA)

(A) If in the opinion of the City Engineer or Director of Development Services, sufficient vehicular access and street capacity approaching and adjacent to the subdivision is not available to serve the proposed subdivision, the City may require the developer provide a traffic impact analysis of the proposed development. Such TIA when required shall be submitted to the City as part of the preliminary plat application.

(B) Where a traffic impact analysis demonstrates the need for off-site facilities or improvements to existing adjacent facilities, the developer shall make such improvements to adjacent streets, off-site collector and arterial streets and intersections as are necessary to mitigate traffic impacts generated by the development consistent with section 9.02.082 of this article.

(6) Street Dedications

(A) Dedication of Right-of-Way

The developer shall dedicate all rights-of-way required for existing or future streets, and for all required street improvements, including perimeter streets and approach streets, as shown in the comprehensive plan and as required by the design standards or by other valid development plans approved by City Council.

(i) In the case of perimeter streets, 1/2 of the total required right-of-way width for such streets shall be dedicated, unless the proposed development is on both sides of the street, or unless there is some other compelling reason to require dedication of more than half of the right-of-way width (such as avoiding the infringement upon or demolition of existing structures, avoiding crossing a creek or floodplain or some other obstacle, or other similar circumstance).

(ii) When the proposed development is on both sides of the street, the full right-of-way width shall be dedicated.

(iii) In cases where construction of only one-half the street is deemed impractical or unsafe, more than 1/2 of the required width shall be dedicated and the full street shall be constructed by the developer.

## (B) Perimeter Streets

Where an existing improved half-street is adjacent to a new subdivision or addition, the other half of the right-of-way shall be dedicated and improved by the developer of the new subdivision or addition in accordance with section 9.02.082 of this article.

## (C) Slope Easements

The dedication of easements, in addition to dedicated rights-of-way shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall be no steeper than three feet horizontal run to one-foot vertical height, or a 3:1 slope.

## (7) General Construction

All improvements required to be constructed by these subdivision regulations shall be constructed to City standards and within rights-of-way as required by the thoroughfare plan and these subdivision regulations, and in accordance with the design standards and other City standards as may be from time to time amended or adopted.

## (8) Intersection Improvements and Traffic-Control Devices

Intersection improvements and traffic-control devices shall be installed as may be required by the City for traffic safety and efficiency.

## (9) Phased Development

Where a subdivision is proposed to occur in phases, the applicant, in conjunction with submission of the concept plan, shall provide a schedule of development.

## (A) Intended Plan of Development and Dedication of Rights-of-Way

The schedule shall set forth the intended plan of development and dedication of rights-of-way for streets and street improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision.

## (B) City Determination

The City shall determine whether the proposed streets and street improvements are adequate pursuant to standards herein established, and may require that a traffic impact analysis be submitted for the entire project or such phases as the City determines to be necessary to decide whether the subdivision will be adequately served by streets and thoroughfares.

## (10) Private Streets

New subdivisions may be constructed with private streets that meet or exceed the specifications set forth in the design standards for similar public streets. The construction of private streets shall be subject to standard City inspections. Any private street subdivisions that were in existence (i.e., platted of record at the county) on the effective date of these subdivision regulations shall be allowed to remain as private street subdivisions provided that the conditions of the private streets and the maintenance thereof continues to meet or exceed City standards, and provided that a viable homeowners' association (HOA) or other similar organization continues to exist to maintain the private streets and all appurtenances. The City will not assist in enforcing deed restrictions. The City may periodically inspect private streets, and may require the HOA or other responsible organization to make any repairs necessary to ensure efficient emergency access and to protect the public health, safety, convenience and welfare.

(A) Private Streets: Construction and Maintenance Cost

The City shall not pay for any portion of the cost of constructing or maintaining a private street.

(B) Private streets: Traffic-Control Devices

All private traffic-control devices and regulatory signs shall conform to the Texas Manual of Uniform Traffic Control Devices, as amended, and to City standards.

(C) Private Streets: Restricted Access

The entrances to all private streets shall be clearly marked with a sign, placed in a prominent and visible location, stating that the streets within the subdivision are private, and that they are not maintained nor regularly patrolled by the City. All restricted access entrances shall be manned 24 hours every day, or they shall provide a reliable, alternative means of ensuring access into the subdivision by the City, by emergency service providers, and by other utility or public service providers, such as postal carriers and utility companies, with appropriate identification. The method to be used to ensure City and emergency access into the subdivision shall be approved by the City's fire department and by any other applicable emergency service providers. If the homeowners' association (HOA) fails to maintain reliable access as required herein, the City may enter the private street subdivision and remove any gate or device which is a barrier to access at the sole expense of the HOA.

(D) Private Streets: Waiver of Services

Certain city services may not be provided for private street subdivisions. Among the services which may not be provided include routine law enforcement patrols, enforcement of traffic and parking regulations, and preparation of accident reports. Depending upon the characteristics of the development and upon access limitations posed by the design of entrances into the subdivision, other services (such as sanitation) may also not be provided.

(E) Private Streets: Petition to Convert to Public Streets

The homeowners' association (HOA) may petition the City to accept private streets and any associated property as public streets and right-of-way upon written notice to all association members and upon the favorable vote of a majority of the membership. However, in no event shall the City be obligated to accept said streets as public. Should the City elect to accept the streets as public, then the City has the right to inspect the private streets and to assess the lot owners for the expense of needed repairs concurrent with the City's acceptance of the streets. The City shall be the sole judge of whether repairs are needed. The City may also require, at the association's or the lot owners' expense, the removal of any guard houses, access control devices, landscaping or other aesthetic amenities located within the street right-of-way or within any other common area. The City may also require the dedication of additional street right-of-way.

(F) Private Streets: Hold Harmless

The homeowners' association (HOA), as owner of the private streets and appurtenances, shall release, indemnify, defend and hold harmless the City, any other governmental entity, and any public utility entity for damages to the private streets that may be occasioned by the reasonable use of the private streets by same, and for damages and injury (including death) arising from the condition of the private streets, out of any use of access gates or cross-arms, or out of any use of the subdivision by the City or governmental or utility entity.

## (d) Required Components of Traffic Impact Analysis (TIA)

Whenever a TIA is conducted, the following elements shall be included:

## (1) General Site Description.

The TIA shall include a detailed description of the street network within one mile of the site, a description of the proposed land uses, the anticipated states of construction, and the anticipated completion date of the proposed land development. This description, which may be in the form of a map, shall include the following items:

- (A) All major intersections;
- (B) All proposed and existing ingress and egress locations;
- (C) All existing street widths and rights-of-way; and
- (D) All existing traffic signals and traffic-control devices.

## (2) Proposed Capital Improvements

The TIA shall identify any changes to the street network within one mile of the site that are proposed by any government agency or other developer. This description shall include the above items as well as any proposed construction project that would alter the width or alignment of streets affected by the proposed development.

## (3) Street Impact Analysis

## (A) Trip Generation

For the proposed use, items required to determine trip generation shall be based upon the trip generation rates contained in the most recent edition of the Institute of Transportation Engineers' Trip Generation book, or shall be based upon data generated by actual field surveys of area uses comparable to the proposed use and approved by the City. The following items shall be required to determine trip generation:

- (i) Average weekday trip generation rates (trip ends);
- (ii) The average weekend trip generation rates (for uses other than residential or institutional);
- (iii) The highest average a.m. and p.m. hourly weekday trip generation rates; and
- (iv) The highest hourly weekend generation rates (for uses other than residential or institutional).

## (B) Trip Distribution

Within the study area identified in subsection (d)(1) of this section (General site description), the distribution of trips to arterial and collector streets shall be in conformity with accepted traffic engineering principles, taking into consideration:

- (i) The land use categories of the proposed development;
- (ii) The area from which the proposed development will attract traffic;
- (iii) Competing developments (if applicable);
- (iv) The size of the proposed development;
- (v) Development phasing;
- (vi) Surrounding existing and anticipated land uses, population and employment;

- (vii) Existing and projected daily traffic volumes; and
- (viii) Existing traffic conditions identified pursuant to subsection (d)(1) of this section.

(4) Adequacy Determination

The street network included within the TIA shall be considered adequate to serve the proposed development if existing streets identified as arterials and collectors are basically satisfactory to good progression of traffic and can accommodate the following:

- (A) The existing service volume; and
- (B) The service volume of the proposed development; and
- (C) The service volume of approved but un-built developments holding valid, unexpired building permits.

(5) Intersection Analysis

(A) Level of Service Analysis

For intersections within the street TIA area described in subsection (d)(1) of this section (General site description), a level of service analysis shall be performed for all arterial-to-arterial, arterial-to-collector, collector-to-arterial, and collector-to-collector intersections, and for any other pertinent intersections identified by the City. Also, level of service analyses will be required on all proposed site driveway locations for all nonresidential developments.

- (i) The City may waive analysis of minor intersections and site driveway locations within the TIA's one-mile radius.
- (ii) The level of service analysis shall be based upon the highest hourly average a.m. or p.m. peak weekday volume or highest average hourly peak weekend volume as determined from a two-day survey of weekday volumes and, where necessary, a one-day survey of weekend volumes.
- (iii) The level of service analysis shall take into consideration:
  - a. Lane geometry;
  - b. Traffic volume;
  - c. Percentage of right-hand turns;
  - d. Percentage of left-hand turns;
  - e. Percentage (and typical size) of trucks;
  - f. Intersection width;
  - g. Number of lanes;
  - h. Signal timing and progression;
  - i. Street grades;
  - j. Pedestrian and bicycle flows;
  - k. School routes;
  - l. Number of accidents; and
  - m. Peak hour factor.

## (B) Adequacy Analysis

The intersections included within the TIA shall be considered adequate to serve the proposed development if existing intersections can accommodate:

- (i) The existing service volume;
- (ii) The service volume of the proposed development; and
- (iii) The service volume of approved but un-built developments holding valid, unexpired building permits.

## (e) Arrangement of Streets Not Shown on the Thoroughfare Plan

For streets that are not shown on the City's comprehensive plan, such as local residential streets, the arrangement of such streets within a subdivision shall:

- (1) Provide for the continuation or appropriate projection of existing streets from or into surrounding areas;
- (2) Conform to a plan for the neighborhood approved or adopted by the City to meet a particular situation where topographical or other conditions make continuance or conformity to existing streets impractical;
- (3) Provide for future access, such as by stubbing streets for future extension, to adjacent vacant areas which will likely develop; and
- (4) Not conflict in any way with existing or proposed driveway openings, including those on the other side of an existing or planned median-divided arterial, in which case new streets shall align with such driveway openings such that median openings can be shared.

## (f) Discouraging Through Traffic in Residential Development

- (1) Wherever the right-of-way width of a collector or residential street must transition to a greater or lesser width, such transition shall occur along the front, side or rear lot lines of adjacent lots (for a reasonable distance) and shall not occur within the street intersection itself. In other words, the right-of-way width shall be the same on both sides of the street intersection.
- (2) Direct vehicular access from single-family or two-family residential lots onto any type of street other than a local street is prohibited, except for residential collector streets provided that neither side of the street runs along the vehicle-accessible side(s) of a lot(s) for a combined linear distance exceeding 20% of the total centerline length of the street. Such calculations shall be submitted with the preliminary plat application, thereby verifying that lots fronting onto a collector street do not exceed this allowed percentage.

## (g) Residential Subdivision Abutting or Containing an Existing or Proposed Arterial Street

Where a residential subdivision abuts or contains an existing or proposed arterial street, the City may require marginal access streets, reverse frontage lots (lots which back onto the arterial), or such treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

## (h) Reserve Strips Prohibited

Reserve strips controlling access to streets shall be prohibited, except where their control is required by the City.

(i) Centerline Offsets

Intersecting, undivided streets with centerline offsets of less than 150 feet shall be prohibited. Intersecting streets onto an existing or future divided street shall be configured such that the centerline offset will accommodate the appropriate median opening and left-turn lanes (with required transition and stacking distances) on each divided street, and shall be aligned with any existing or proposed streets or driveways on the opposite side of the divided street (in order to share the median opening).

(j) Degree Required for Intersections

A street intersection with a major thoroughfare shall be at a 90-degree angle and shall be tangent for at least 100 feet. All other street intersections shall be laid out so as to intersect as nearly as possible at a 90-degree angle or radial to the centerline of the intersecting street for the full right-of-way width of the intersecting street, and tangent to the intersecting street for at least 50 feet. No street shall intersect at an angle that is less than 80 degrees.

(k) Spacing of Intersections

Intersections of arterial streets shall be at least 800 feet apart.

(l) Street Section Requirements

(1) Typical street sections shall be based upon projected traffic volume, existing soil conditions, and drainage condition and requirements. Street right-of-way widths, pavement widths, and median widths shall be as shown on the comprehensive plan, in the City's design standards, and shall specifically be as specified in Division 9, Table 1.

(2) Open-ditch streets shall have a right-of-way width and pavement width as required in the design standards. Open-ditch streets may be approved only within a single-family subdivision where all lots within the subdivision are one acre or larger. Approval by the Commission and City Council of open-ditch streets is not mandatory but rather discretionary.

(m) Street Loading Requirements

Refer to the City's design standards.

(n) Half-Streets

(1) Unless otherwise provided within these subdivision regulations, only full-width streets shall be constructed. If the exceptions outlined herein are applicable, the construction of half-streets shall comply with section 9.02.082 of this article.

(2) Construction of half-streets shall be prohibited, except:

(A) When essential to the reasonable development of the subdivision in conforming with the other requirements of these subdivision regulations and the thoroughfare plan;

(B) Where the City makes a determination that there is no immediate need to be gained by constructing the full street section since no access from the street will be needed by the subdivision in question; or

(C) Where the City determines that it would be more practical, or cost effective, to delay construction of the other half of a street until the adjoining property is developed.

(3) Whenever a partial street has been previously platted along a common property line, the other portion of the street right-of-way shall be dedicated such that the right-of-way is increased to the street's ultimate planned width.

## (o) Maximum and Minimum Length of Block or Street Segments

The maximum length of any block or street segment, including a looped street, shall be 1,200 feet and the minimum length of any block or street segment shall be 400 feet, as measured along the street centerline and between the point(s) of intersection with other through streets. A cul-de-sac or dead-end street shall not be considered a through street. The block length is not measured along the side of a block that does not include the front of any lot.

## (p) Maximum and Minimum Length of Cul-De-Sac Streets

A cul-de-sac street shall not be longer than 600 feet and be a minimum of 400 feet, and at the closed end a cul-de-sac shall have a turnaround bulb with an outside pavement diameter of at least 80 feet and a right-of-way diameter of at least 100 feet. The length of a cul-de-sac shall be measured from the centerline of the intersecting street to the center point of the cul-de-sac bulb.

## (q) City Council Waivers/Suspensions of Overlength Streets or Cul-De-Sacs

The City Council may approve waivers/suspensions (procedures for which are outlined in section 9.02.010 of this article) for overlength streets or cul-de-sacs, whether temporary or permanent, upon considering the following:

- (1) Alternative designs;
- (2) The effect of overlength streets upon access, congestion, delivery of municipal services, and upon convenience to residents of the subdivision in traveling to and from their homes; and
- (3) Means of mitigation, including additional mid-block street connections, limitation on the number of lots to be served along an overlength street segment or cul-de-sac, points of emergency access, and additional fire protection measures.

## (r) Dead-End Streets

- (1) No dead-end streets shall be approved, except where no other alternative is available, and unless such dead-end streets are provided to connect with future streets on adjacent land (i.e., the dead-end street is a stub-out street).
- (2) In the case of dead-end streets which will eventually be extended into the adjacent subdivision, no more than one lot (per side) can front onto the dead-end street stub unless a temporary turnaround bulb (with the appropriate temporary street easement) is provided at the end.
- (3) A temporary dead-end street shall not exceed the maximum allowed length of a normal cul-de-sac and the temporary turnaround bulb must be constructed like a cul-de-sac, as provided in subsection (p) of this section. The City Engineer may authorize the use of asphalt or other durable paving material than concrete for the arc, or "wing," portions of the temporary turnaround bulb in order to minimize the cost of removing those portions when adjacent development occurs.
- (4) A note shall be placed on the final plat clearly labeling any temporary dead-end streets (if any) that will at some point be extended into the adjacent property.
- (5) Signage shall be placed at the end of the constructed street stub, such as on the barricade, also stating that the street will be extended in the future. Signage and related lettering must be large enough to be legible by a person with normal vision at a 20-foot distance.
- (6) Any required temporary turnaround easements shall be shown on the final plat along with their appropriate recording information, if they are off-site or are established by separate instrument.

(s) New Streets Extending Existing Streets

New streets which extend existing streets shall bear the names of the existing streets, and shall be dedicated at equal or greater right-of-way widths than the existing streets for an appropriate transition length, if applicable.

(t) Driveway Access - Residential and Nonresidential

(1) Residential Driveways

Residential driveway cuts shall not be allowed on streets that are larger than a neighborhood or residential collector street (60-foot right-of-way). Residential driveways shall be at least 30 feet from any intersection. Rear and side driveway access to collector and thoroughfare streets shall be prohibited.

(2) Nonresidential Driveways – Number

The maximum number of nonresidential driveway cuts permitted shall not exceed the following, according to the nonresidential lot size:

- (A) One driveway cut for lot frontages of 100 feet or less;
- (B) Two driveway cuts for lot frontages of 101 feet to 400 feet or less;
- (C) Three driveway cuts for lot frontages of 401 feet to 600 feet;
- (D) Four driveway cuts for lot frontages greater than 600 feet.

(3) Nonresidential Driveways – Separation

The minimum separation between driveways shall not be less than the following distances:

- (A) Fifty (50) feet on local streets;
- (B) Ninety (90) feet on neighborhood collector streets;
- (C) One hundred (100) feet on divided and undivided collector streets.
- (D) One hundred and twenty (120) feet on arterial streets;
- (E) One hundred (100) feet or a distance equal to 60% of the lot frontage (whichever is less) on any type of street from a through-street intersection.

(4) Nonresidential Driveways - Shared Access

Shared access driveways may be required by the City in order to ensure public safety access by providing mutual/common access to a median opening, to minimize the number of driveway cuts on streets, thereby maintaining street mobility, and to facilitate traffic flow between adjacent lots. (See division 9, diagram A.)

- (A) A shared mutual access easement(s) for a driveway(s) may be required between adjacent lots fronting on an arterial or collector street, as designated on the comprehensive plan (as the street exists or is planned to be improved in the future).
- (B) The location and dimensions of such easement(s) shall be determined by the Director of Development Services.
- (C) Such easements shall be noted on the preliminary plat and final plat.

## (5) Nonresidential Driveways - Cross Access Internal Driveways

Cross access easements for internal driveways may be required by the City in order to minimize the number of driveway cuts on streets, thereby maintaining street mobility, and to facilitate traffic flow between adjacent lots. (See division 9, diagram A.)

(A) A cross access easement(s) for an internal driveway(s) may be required between adjacent lots.

(B) The location and dimensions of such easement(s) shall be determined by the Director of Development Services.

(C) Such easements shall be noted on the preliminary plat and final plat.

## (6) Driveways (Residential and Nonresidential) on TxDOT Streets

All driveway cuts on streets and highways maintained by the Texas Department of Transportation (TxDOT) (e.g., state roads, highways) shall meet the requirements of TxDOT's Access Management Manual (as may be amended) and roadway design manual (as may be amended), as applicable for the spacing and design of the driveway, unless city standards are more stringent, in which case city standards shall be met.

## (7) Maintenance Agreements

An agreement that provides for the perpetual maintenance of a shared driveway, cross access internal driveway, or any other common facility is required and must be filed at the time of final plat approval. All agreements are subject to review and approval by the City Attorney.

## (8) Driveway Construction

All driveways that access streets or highways owned or maintained by the city shall be constructed in accordance with the driveway design standards outlined in the City's design standards. Notwithstanding any other provisions of this article or the design standards, rear and side residential driveway access to expressways, arterials and any type of collector streets shall be prohibited.

## Sec. 9.02.082. Perimeter and Approach Streets

## (a) Policy and Purpose

- (1) It is the policy of the City that the developer or subdivider of a subdivision within the City or its extraterritorial jurisdiction shall be responsible for the dedication of right-of-way and the construction or improvement of appropriate portions of perimeter and approach streets which are necessitated by and attributable to that subdivision. The policy is based on the view that the developer of a subdivision should provide access and transportation facilities necessary to serve the new subdivision and that the perimeter and approach streets will provide access to and from the subdivision, thus increasing the marketability, utility, and ultimately the value of the property within the subdivision. The developer may be reimbursed for part of the cost of providing this access in accordance with this section.
- (2) The purpose of this section is to establish responsibilities for the dedication of rights-of-way and the construction of street improvements on streets directly abutting and/or providing access to property undergoing the process of subdivision under laws and regulations of the City. This section is designed to be used in conjunction with the comprehensive plan to ensure an orderly development plan for the growth of the community and to ensure compatibility of street systems and the development of public works infrastructure necessary to support new growth and development.

(b) Requirement for Dedication and Construction of Perimeter Streets

(1) Dedication Requirement

- (A) A subdivider shall dedicate a portion of the right-of-way for perimeter streets sufficient for the type of street that is reflected in the City's comprehensive at that location.
- (B) The subdivider shall dedicate those portions of the right-of-way lying between the centerline of the perimeter street and the nearest property line of the subdivided property. If a subdivision borders only one side of a perimeter street, the subdivider is responsible for dedicating right-of-way needed for the one-half of the street right-of-way that is contiguous to the subdivider's property. If a subdivider owns a tract of land that is bordered by a perimeter street on more than one side, the subdivider is responsible for dedicating appropriate right-of-way for the entire width of the perimeter street.

(2) Additional Right-of-Way

When a subdivider is required to dedicate right-of-way for a perimeter street or to construct perimeter street improvements, the City may require the subdivider to dedicate right-of-way for ancillary drainage improvements and to construct necessary supporting drainage improvements.

(3) Required Paving/Construction

Minimum width of a two-lane thoroughfare section shall be 25 feet.

(c) Specific Perimeter Street Requirements

(1) Local Streets

When development occurs adjacent to a perimeter street that is not designated as an arterial or collector street on the comprehensive plan, the developer shall comply with the following requirements:

(A) Existing Street

If the local street adjacent to the subdivision is not already built to City standards, the developer shall, at the option of the City, prior to acceptance of the subdivision by the City:

- (i) Dedicate any additional right-of-way or easements needed for the street and other public improvements directly adjacent to the developer's side of the existing street and right-of-way; and
- (ii) Install, reinstall, or upgrade any street paving curb, gutter, drainage, sidewalks, signage, lighting, or other improvements as determined necessary by the Director of Development Services or City Engineer.

(B) Perimeter Street Fee for Existing Street

If the perimeter street was constructed by a prior developer under the provisions of a subdivision improvement agreement that allows for reimbursement (see section 9.02.202(i)), then the current developer shall be charged a perimeter street fee equal to the reimbursement amount described in the prior subdivision improvement agreement. The current developer shall pay this fee to the City before acceptance of the subdivision by the City.

(C) No Existing Street; Developer Responsibility for Construction

If the local street adjoining the development has not been constructed, or is in such condition that complete reconstruction is, in the opinion of the City Engineer or as determined by a traffic impact analysis necessary, the developer must construct a complete city standard street with curb, gutter,

drainage facilities, sidewalks, and signage in conformance with city standards. The initial developer is required to construct a complete street because it is impractical and unsafe to build only one-half of a two-lane street. The developer is responsible for all construction, engineering, testing, and inspection costs.

(2) Collector Streets

When development occurs adjacent to a perimeter street, which is designated as a major collector or minor collector street in the comprehensive plan, the developer shall comply with the following requirements:

(A) Existing Street

If the minor or major collector street adjacent to the subdivision is not already built to city standards, the developer shall:

- (i) Dedicate any additional right-of-way or easements needed for other public improvements directly adjacent to the developer's side of the existing street surface and right-of-way; and
- (ii) Install, reinstall, or upgrade any street paving, curb, gutter, drainage, sidewalks, signage, lighting, or other improvements as determined by the necessary by the Director of Development Services or City Engineer.

(B) Perimeter Street Fee for Existing Street

If the perimeter street was constructed by a prior developer under the provisions of a subdivision improvement agreement that allows for reimbursement (see section 9.02.202(i)), then the current developer shall be charged a perimeter street fee equal to the reimbursement amount described in the prior subdivision improvement agreement. The current developer shall pay this fee to the City before acceptance of the subdivision by the City.

(C) No Existing Street; Developer Responsibility for Construction

If the perimeter street adjoining the development is proposed to be a major or minor collector street, and the street has not been constructed or is in such condition that complete reconstruction is, in the opinion of the City Engineer or as determined by a traffic impact analysis necessary, the developers along each side of the street must construct at least two complete lanes with curb, gutter, signage, drainage and sidewalk facilities in conformance with city standards. The developer is responsible for all construction, engineering, testing, and inspection costs. Construction of the street or portion of the street, as required by the City, must be completed prior to acceptance by the City of the subdivision adjacent to the perimeter street.

(d) Requirement for Dedication and Construction of Approach Streets

(1) Non-Availability of Approach Street Access

If sufficient vehicular access approaching the subdivision is not available to serve the proposed subdivision as determined by the City Engineer or a traffic impact analysis, the developer must:

- (A) Discontinue development until an adequate approach street has been installed providing access to and from an improved street/thoroughfare;
- (B) Petition the City Council to expedite the construction or expansion of an approach street serving the proposed subdivision under its regular capital improvement program; or

## Sec. 9.02.083. Alleys

- (C) Construct or expand the approach street in order to provide required access to the proposed subdivision. The developer will be responsible for all costs associated with the construction of necessary approach streets, including, but not limited to engineering, surveying, testing, easement preparation easement and right-of-way acquisition, and inspection.

- (e) Escrow Funds

- (1) Established

The City shall establish an escrow fund for the deposit of all perimeter street fees. A separate escrow fund shall be established for each street constructed by the developer. All monies received from subsequent developments or subdivisions for pro-rata reimbursements shall be deposited into the specific escrow fund established. Funds in a specific escrow account shall be used only for the project for which the particular escrow fund was established.

- (2) When City May Take Possession of Funds

In the event that the City collects a perimeter street fee under the terms of this section and the original developer no longer exists or cannot reasonably be located, the City may, after a period of six months, take possession of the funds and use them to make general street improvements in the City.

- (f) Deadlines and Adjustments

- (1) Time For Payment or Construction

All construction or escrow and payment of funds by a developer as required in this section shall be due and payable prior to acceptance of the subdivision by the City. Fees or construction requirements shall be paid for all property that is final platted at time of construction of the subdivision.

- (2) Adjustment

The City Council may, in appropriate cases and based upon specific facts presented, authorize an adjustment, offset or waiver of any construction or fee payment requirements under this section where it is determined that such requirements place an unreasonable burden on the development, [or] do not bear a rough proportionality to the requirements necessary to serve the development or offset the impact of the development. All such requests for adjustments shall comply with the requirements in section 9.02.011 of this article.

## Sec. 9.02.083. Alleys

- (a) Application of Standards

The standards for alleys within this section shall be applicable to any alleys provided or constructed by a developer in any development in the City or its ETJ.

- (b) Residential Alleys

In residential districts, alleys shall be parallel, or approximately parallel, to the frontage of the street. Alleys in residential districts shall provide a minimum of 20 feet of right-of-way and 15 feet of pavement.

- (c) Nonresidential Alleys

Service alleys in nonresidential districts shall have a minimum right-of-way width of 20 feet and a pavement width of 15 feet.

## (d) General Design Standards for Alleys

## (1) Pavement

Alleys shall be paved in accordance with the City's design standards and construction standards that are in effect at the time the preliminary plat application is officially submitted and deemed a complete application.

## (2) Turnouts and Street Entrances

Alleys shall have adequate turnouts and street entrances such that vehicular traffic flow is continuous and efficient. Where a temporary dead-end alley situation is unavoidable, a temporary turnaround bulb having a minimum radius of 40 feet or a turnout onto a street, either of which will need a temporary easement for street or alley purposes, shall be provided as determined by the Director of Development Services; in such case, the developer shall pay for and post a sign that meets City specifications at the entrance denoting the dead-end alley.

## (3) Maximum Length and Waivers/Suspensions

Alleys shall not exceed a maximum length of 800 feet, as measured along the centerline of the alley and between intersections with other alleys or entrances onto streets (at the right-of-way line of the street at the alley entrance). The City Council may approve waivers/suspensions for overlength alleys upon consideration of the following:

(A) Alternative designs;

(B) The effect of overlength alleys upon access, congestion, delivery of municipal services, and upon convenience to residents of the subdivision in accessing rear driveways and in driving around to the front of their homes; and

(C) Means of mitigation, including but not limited to additional mid-block alley turnouts, limitation on the number of lots to be served along a single alley segment, points of access, and additional fire protection measures.

## (4) Intersections

Alley intersections shall be perpendicular and at a 90-degree angle or radial to the intersecting alley centerline for the full alley right-of-way width. Intersection pavement design shall be of sufficient width and inside radius to accommodate waste collection and emergency vehicles. Intersections shall be three-way wherever possible, and four-way intersections shall be avoided. No alley intersection serving more than four directions shall be allowed.

## Sec. 9.02.084. Easements

## (a) Width of Easements

## (1) Utility

The minimum width for utility easements shall be in accordance with the standards outlined in the design standards and shall be adequate for the installation and maintenance of utilities that are likely to be located in the easement.

## (2) Drainage

The minimum width for City drainage easements shall be as required by the Director of Development Services and City Engineer.

(3) Storm Drainage or Floodway

Where a subdivision is traversed by a watercourse, drainageway, or channel, there shall be provided a storm drainage easement or right-of-way conforming substantially with such course and of such additional width as may be designated by the Director of Development Services and City Engineer, subject to determination according to proper engineering considerations. The required width shall conform to the requirements set forth by the Federal Emergency Management Agency (FEMA), the U.S. Army Corps of Engineers, and/or the City. Parallel streets or parkways are encouraged adjacent to certain portions of creeks or drainageways to provide maintenance access and/or public access and visibility into public open space or recreation areas. Utilities may be permitted within a drainage or floodway easement only if approved by the Director of Development Services, City Engineer, and any other applicable entity requiring the drainage or floodway easement.

(4) Other

The width of easements for other utility providers, such as for gas, electric, telephone, or cable television, shall be as required by that particular entity. It shall be the developer's responsibility to determine appropriate easement widths required by other utility companies.

(b) Location of Easements

Easements shall be located to accommodate the optimal design (as determined by the City) of the various utility and drainage systems that will serve the subdivision, and shall be provided in locations to accommodate any public purpose deemed necessary to protect the public health, safety, and welfare. In residential subdivisions, where alleys are not provided, a minimum 10-foot wide utility easement shall be provided along the front of all lots, adjacent to and flush with the street right-of-way line for the potential placement of utility facilities.

(c) Computation of Lot and Buildable Area

A lot's area shall be computed inclusive of all easements. However, there shall be a minimum buildable area, exclusive of required easements, buffer zones, and setbacks for each lot. The minimum buildable area shall be an area one half of the required minimum lot size. If the City disputes the buildable area of any lot, the developer shall submit verification in writing that the buildable area is adequate for the type of housing product (or nonresidential building) proposed for that lot. Final approval of the allowed buildable area for any lot shall be by the City.

(d) On-Site Easements Shown on Plat

For new development, all necessary on-site easements and off-site easements shall be established on the plat and not by separate instrument, and they shall be labeled for a purpose, such as for franchised public utilities. Other examples include, but are not limited to, the following: a drainage easement, which is dedicated to the City for a drainage structure; an access easement, which is dedicated to the public for unrestricted access purposes; a fire lane easement, which is dedicated to the City and its fire suppression and emergency medical service providers for access purposes; and an electrical, gas, or telephone easement which is dedicated to the specific utility provider that requires the easement.

(e) Visibility of Easements

(1) Type of Intersection

Whenever an intersection of two or more public rights-of-way occurs, a triangular visibility area shall be created. The visibility easement for each type of intersection shall be as follows:

(A) Intersection of two arterial streets: 40 feet from the intersection right-of-way;

- (B) Intersection of a collector or local street onto an arterial street: 25 feet from the intersection right-of-way;
- (C) Intersection of two collector or local streets (or one of each): 25 feet from the intersection right-of-way; and
- (D) Intersection of two alleys: 20 feet from the intersection right-of-way.
- (E) Intersections larger than local to local intersections: Visibility easements shall be based on the sight visibility triangles based on stopping sight distance. (Diagram C of division 9 of this article)

(2) Fixed Items

The maximum height of fences, walls, signs, and other similar fixed items shall be thirty (30) inches within the visibility easement.

(3) Landscaping

All landscaping (and any other fixed feature) within the triangular visibility area shall be designed to provide unobstructed cross-visibility at a level between thirty (30) inches and ten (10) feet. Trees adjacent to this visibility area shall be trimmed in such a manner that no limbs or foliage extend into the cross-visibility area. Landscaping, except grass and low ground cover, shall not be located closer than three (3) feet from the edge of any street pavement.

## Sec. 9.02.085. Blocks

(a) Determination

The length, width and shapes of blocks shall be determined with due regard to the following:

- (1) Provision of adequate building sites suitable to the special needs of the type of use contemplated;
- (2) Zoning requirements as to lot sizes, setbacks and dimensions (if within the City's corporate limits); and
- (3) Needs for convenient access, circulation, control and safety of street traffic and for pedestrians or bicyclists traveling to a public park or school site or other facility within or close to the neighborhood.

(b) Lengths and Widths

Intersecting streets, which determine the lengths and widths of blocks, shall be provided at such intervals as to serve cross-traffic adequately, to provide adequate fire protection, and to conform to customary subdivision practices. Where no existing subdivision or topographical constraints control, block lengths shall be in accordance with section 9.02.081(o) of this article. However, in cases where physical barriers or property ownership creates conditions where it is appropriate that these standards be varied, the length may be increased (through issuance of a waiver/suspension by the City Council) or decreased to meet the existing conditions having due regard for connecting streets, circulation of traffic and public safety.

### Sec. 9.02.086. Sidewalks.

(a) Provided In Residential and Nonresidential Areas

- (1) Pedestrian concrete walkways (sidewalks) not less than the following width shall be provided along both sides of newly constructed streets as follows:

Street Type	Sidewalk Width
Arterial	6 feet
Divided and undivided collector	6 feet
Neighborhood collector	6 feet
Local residential	6 feet

- (2) Construction standards for sidewalks shall be as set forth in the City's design standards.

(b) Provided Along Perimeter Streets

- (1) All sidewalks along a perimeter street are considered part of the overall development's required public improvements. A certificate of occupancy will not be issued for any lot within the subdivision until the required sidewalks are in place or appropriate surety is provided.
- (2) The cost and provision of any perimeter sidewalks, such as along major thoroughfares, may be escrowed as a part of a subdivision improvement agreement, if approved by the City Council. The City has the right to refuse escrow and to require paving of the sidewalks if, in its sole opinion, immediate provision of the sidewalks is necessary for safe pedestrian circulation or if it would otherwise protect the public health, safety, convenience or welfare.

(c) Pedestrian Access

The City may require, in order to facilitate access from the streets and streets to schools, parks, playgrounds or other nearby streets, perpetual unobstructed easements of up to 15 feet in width. The improved pedestrian surface that provides such access must be within the easement.

### Sec. 9.02.087. Lots

(a) Requirements of the Zoning District if Applicable

Lots shall conform to the minimum requirements of the established zoning district, if located within the City's corporate limits.

(b) Minimum Frontage on A Public Street

Each lot on a subdivision plat shall front onto a dedicated, improved public street, unless platted as an approved private street subdivision in accordance with these subdivision regulations. All lots shall have a minimum of 40 feet of frontage along the property line of a dedicated, improved street unless other provisions have been authorized under Article 9.04 or an approved planned development district.

(c) Irregularly Shaped Lots

Irregular-shaped lots shall have sufficient width at the building line to meet lot width and frontage requirements of the appropriate zoning district (if within the City's limits). Such lots shall also provide a reasonable building pad without encroachment into front, side, or rear yard setbacks or into any type of easement. Also, the rear width shall be sufficient to provide access for all necessary utilities, including access for driveways when alleys are present (minimum 20-foot alley frontage). In general, triangular, severely elongated or tapered, "flag" or "panhandle" lots shall be avoided, and the City reserves the right to disapprove any lot which, in its sole opinion, will not be suitable or desirable for the purpose intended, which is an

obvious attempt to circumvent the purpose and intent of lot configuration or lot width minimums, or which is so oddly shaped as to create a hindrance to the logical lot layout of surrounding properties.

(d) Side Lot Lines

Side lot lines shall be at 90-degree angles or radial to street right-of-way lines to the greatest extent possible. The City reserves the right to disapprove any lot which, in its sole opinion, is shaped or oriented in such a fashion as to be unsuitable or undesirable for the purpose intended, or that is not appropriately oriented toward its street frontage.

(e) Double Frontage Lots

Residential subdivisions with double frontage lots shall be avoided, except where they may be essential to provide separation from arterial or collector streets, or to overcome a specific disadvantage or hardship imposed by topography or other factors. Where lots have double frontage, appropriate building setback lines shall be established for each street side, and rear yard screening shall be provided in accordance with Section 9.02.167 of this Article. Except as provided within this subsection, residential lots shall not back onto any residential street or collector street within a residential area or neighborhood, and shall not have more than 1/2 of their perimeter boundaries along streets.

(f) Residential Corner Lots

- (1) Corner lots with a width less than 65 feet are to be at least five feet wider than the average of interior lots in the block. Corner lots with a width less than 75 feet adjacent to an arterial or collector roadway (rights-of-ways greater than 60 feet) shall be at least 15 feet wider than the average of interior lots in the block.
- (2) Where corner lots are key lots, the corner lot shall have a front building line on both streets, unless said key lot is separated from other lots by a dedicated street or alley.
- (3) Where corner lots are also double frontage lots, consideration shall be given to providing adequate width and depth to ensure that adequate site visibility is provided at the rear corner intersection.

(g) Residential Lot Depth

- (1) No lot shall be platted less than 100 feet in depth unless located within the Mixed Density Residential (MD) district, the Downtown (DT) district, or districts where minimum lot depth is N/A.
- (2) Lots facing or backing on arterial or collector roadways (rights-of-way greater than 60 feet), shall be at least 10 feet deeper than the average depth of lots facing on the local streets within the development. This depth is in addition to the minimum 20-foot-wide landscape buffer requirement for residential developments when adjacent to arterial and collector roadways.

(h) Computation of Lot and Buildable Area

A lot's area and buildable area shall be computed as outlined in Section 9.02.084(c).

## Sec. 9.02.088. Building Lines

(a) Platting

Front building lines shall be shown on all plats (i.e., all types) for all lots.

(b) Requirements in City

For property that is within the City, building lines shall be consistent with the zoning ordinance requirements for the district in which the development is located and with any other applicable City ordinance.

## Sec. 9.02.089. Utility Services Not Provided by City

## (c) Requirements in Extraterritorial Jurisdiction

For property that is within the City's extraterritorial jurisdiction, the minimum front building line for all lots (residential or nonresidential) shall be 25 feet.

**Sec. 9.02.089. Utility Services Not Provided by City**

## (a) Meanings

For the purposes of this section of the code, the following terms, phrases, words, and their derivatives shall have the meanings given herein. Definitions not expressly prescribed herein are to be determined in accordance with customary usage in municipal planning and engineering practices. Words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural. The word "shall" is deemed as mandatory. The word "may" is deemed as permissive.

## Feeder or feeder/lateral line

means high voltage supply electric lines carrying more than 69,000 volts that emanate from substations used to distribute power through an area to an unspecified number of customers.

## Lateral lines

means those electric or telephone lines used to distribute service from a feeder line to a single subdivision. These electric lines are normally connected to a feeder line through a sectionalizing device such as a fuse.

## Service lines

means those lines used to connect between the utility's system or lateral lines and the end user's meter box.

## Utility services

means the facilities of any person, firm or corporation providing electric, natural gas, telephone, cable television, internet, or any other such item or service for public use approved but not provided by the City.

## (b) Provision For Utility Services

(1) All subdivision plats and engineering plans submitted to the City for approval shall provide for utility services such as electrical, gas, telephone and cable television utility lines, including lateral or service distribution lines, and wires to be placed underground. Feeder and other major transmission lines may remain overhead within the appropriate easements. There shall be provided at street intersections underground conduits as approved by the City Engineer for utility public road right-of-way crossings. There shall be no other utility road crossings except as authorized by the Public Works Director or City Engineer. No utilities except those of the City may be installed in the rights-of-way of public roads except as provided in the City's regulations governing management of public rights-of-way set forth in article 10.03 of this code.

## (2) Feeder Lines

(A) An applicant shall endeavor and, whenever practical, the City shall require that feeder lines are placed away from major or minor collectors or arterials, as shown on the comprehensive plan.

(B) Whenever practical, feeder lines which are to be placed overhead shall not be placed along both sides of the street right-of-way.

(3) Utility Companies

- (A) The locations, widths and configurations of easements for any utility service provider other than the general utility easements dedicated to the City shall be determined, approved and acquired (if necessary) by the applicable utility service provider.
- (B) Each of the utility companies shall be responsible for developing administrative policies, criteria for easement size, and cost reimbursement procedures for the installation and extension of their underground utilities.
- (C) Nothing herein shall prohibit or restrict any utility company from recovering the difference in cost of overhead facilities and underground utilities from the developer in accordance with the provisions of such utility's approved tariff.
- (D) No utility company shall be required or permitted to begin construction of underground facilities unless and until the 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.

(c) Electrical and Telephone Support Equipment

All electrical and telephone support equipment, including amplifiers and switching devices necessary for underground installations, shall be pad- or ground-mounted, or shall be placed underground and not overhead, unless the subdivision is served from perimeter overhead electrical facilities.

(d) Temporary Overhead Lines And Facilities

Temporary construction service may be provided by overhead electric lines and facilities without obtaining a waiver/suspension or special exception, provided that when the underground utility service to any portion of a subdivision is completed, such overhead electric lines and facilities are promptly removed.

(e) Existing Facilities

Nothing in this section shall be construed to require any existing facilities in place prior to the effective date of these subdivision regulations to be placed underground.

(f) Metering

The metering for utilities such as water, gas and electricity shall be located on the individual lots to be served, not grouped together in a centralized location(s), such as "gang-box" style metering stations, unless specifically authorized by the Public Works Director.

(g) Inspection By the City and Conformance with City Standards

All utility installations shall be subject to inspection by the City, and shall be in conformance with any applicable City ordinance (including the design standards and management of public rights-of-way) related to their placement within public rights-of-way, within easements, or elsewhere in the City (including on private property).

(h) Location of Utilities Within Easements and Rights-of-Way

The City may designate or assign locations for the installation of utilities within easements or rights-of-way dedicated to the City.

(i) Required Utilities

No building permit shall be issued until all lots within any subdivision shall have readily available electricity, and telephone service.

## Sec. 9.02.090. Water and Wastewater Facility Design

### (a) Connections for Water

All new subdivisions shall be connected with the City's water system or other public water supply system approved by TCEQ. The water system shall be capable of providing water for health and emergency purposes, including fire protection. The design and construction of water system shall comply with the following standards:

- (1) Applicable regulations of the Texas Commission on Environmental Quality (TCEQ).
- (2) Standards in the City's design standards.
- (3) Fire protection and suppression standards in accordance with the City's policies and ordinances including fire code adopted by the City.

### (b) Connections for Wastewater

- (1) All new subdivisions shall be served by a wastewater collection and treatment system authorized and permitted by the TCEQ, except as provided below. The design and construction of the wastewater system improvements shall be in accordance with the standards in the City's design standards, and in accordance with TCEQ standards.
- (2) On-site sewage facilities such as septic or aerobic systems may be permitted by the Commission and City Council in subdivisions where each lot is one acre or more in area, if the subdivision is 1,000 feet or more from a connection to a wastewater collection system. The approval of an on-site sewage disposal facility by the Commission and City Council is not mandatory but rather discretionary.
- (3) Exceptions to the lot size regulations in subsection (2) above may be approved by the Commission and City Council for properties existing on the effective date of these subdivision regulations that are less than one acre, and for residential cluster or conservation developments that group residential properties in the proposed subdivision closer together and that preserve at least 1/2 of the land in the subdivision for open space, recreation or agriculture.

### (c) Subdivider Responsibilities

The subdivider shall be responsible for the following:

- (1) Phasing of development or improvements in order to maintain adequate water and wastewater services;
- (2) Extensions of utility lines (including any necessary on-site and off-site lines) to connect to existing utility mains of adequate capacity;
- (3) Providing and/or procuring all necessary easements for the utilities (whether on-site or off-site);
- (4) Providing proof to the City of adequate water and wastewater service;
- (5) Providing for future expansion of the utilities if such will be needed to serve future developments, subject to the City's oversize participation policies (refer to sections 9.02.004 and 9.02.011 and section 9.02.202(c) of this article for information on adequate facilities and proportionality of developer participation), if applicable;
- (6) Providing all operations and maintenance of the private utilities, or providing proof that a separate entity will be responsible for the operations and maintenance of the utilities;
- (7) Providing all fiscal security required for the construction of the utilities;
- (8) Obtaining approvals from the applicable utility providers if other than the City; and

(9) Complying with all requirements of the utility providers, including the City.

(d) Location of Lines

Extension of water and wastewater lines shall be made along the entire frontage of the subdivision adjacent to a street or thoroughfare in rights-of-way or dedicated easements.

(1) If the subdivision is not adjacent to a thoroughfare, the extension of utilities shall be accomplished in such a manner as to allow future connections to said utilities by new subdivisions.

(2) If new subdivisions are not likely to be developed beyond the proposed subdivision (due to physical constraints), the Director of Development Services and City Engineer may waive the requirement for adjacent utility line construction at the time of preliminary plat approval and prior to construction of the subdivision.

(3) The City shall determine the location and routing of water and sewer extensions and shall retain the authority to reject any extension not deemed to be in the best interest of the City.

(e) Utilities Not Specified

Installation, operations and maintenance of utilities not specifically referenced herein shall comply with regulations of the TCEQ and with any other applicable state rules and regulations, whichever is the most stringent.

(f) Dead-End Water Lines

(1) Dead-end water lines should be avoided, but when deemed necessary, they should be extended to, and then through, the property sought to be subdivided.

(2) All dead-end water lines shall be valved and provided with a valve and fire hydrant located at the extreme end of the line instead of the blow-off mechanism for their flushing, in accordance with current City standard specifications.

(g) Payment of Pro-Rata Charges

Where the proposed subdivision would abut and utilize an existing water main and/or sanitary sewer main of the City, the developer shall pay to the City any applicable "pro-rata" charge per requirements of the City or previous pro-rata agreement.

## Sec. 9.02.091. Storm Water Collection and Conveyance Systems

(a) Drainage System Generally

(1) Drainage improvements shall accommodate runoff from the upstream drainage area and shall be designed to prevent overloading the capacity of the downstream drainage system or adversely impacting either upstream or downstream properties.

(2) The City may require the phasing of development, the use of control methods such as retention or detention, or the construction of off-site drainage improvements in order to mitigate the impact of the proposed development.

(3) No storm water collection system shall be constructed unless it is designed in accordance with this section and with the City's design standards by a licensed professional engineer, and unless it is reviewed and approved by the City Engineer.

(4) All plans submitted to the City Engineer for approval shall include a layout of the drainage system together with supporting calculations for the design of the system.

## Sec. 9.02.091. Storm Water Collection and Conveyance Systems

## (b) Drainage Easements Clear

Drainage easements shall be kept clear of all obstructions, such as but not limited to, fences, buildings, trees and shrubs, or other structures or improvements which in any way endanger or interfere with the construction, maintenance, or operation of any drainage system.

## (c) Off-Site Drainage

- (1) The property owner to be developed shall be solely responsible for all storm drainage flowing on or from the property owner's property. This responsibility includes the drainage directed to that property by prior development as well as drainage naturally flowing through the property by reason of topography.
- (2) Adequate consideration shall be given by the property owner in the development of property to determine how the discharge leaving the proposed development will affect downstream property. As part of any application by a property owner for development that will affect downstream property, the property owner shall furnish the City with a letter signed by a Texas professional engineer stating that the development as designed will not damage downstream property due to the development's impact on off-site drainage.
- (3) On lots or tracts of three acres or more where storm water runoff has been collected or concentrated, it shall not be permitted to drain onto adjacent property except in existing creeks, channels or storm sewers, unless proper drainage easements or notarized letters of permission from the affected property owner are provided.

## (d) Cross-Lot Drainage Prohibited

Drainage between residential lots is the responsibility of the affected property owner(s). Property owners are required to drain surface runoff from an individual lot to a public right-of-way or to an underground drainage system contained in a public easement and will not be allowed to surface drain onto another lot. The City Manager shall have the discretion to allow modifications to the lot-to-lot drainage requirements where adherence to these requirements would be in conflict with other City ordinances and/or regulations.

## (e) Erosion And Sedimentation Control

All erosion and sedimentation controls shall conform to the design standards and the current National Pollution Discharge Elimination System (NPDES) regulations.

## (f) Changing Existing Ditch, Channel, Stream or Drainageway

No person, individual, partnership, firm or corporation shall deepen, widen, fill, reclaim, reroute or change the course or location of any existing ditch, channel, stream or drainageway without first obtaining written permission of the City Engineer and any other applicable agency (such as FEMA or the U.S. Army Corps of Engineers) having jurisdiction. The City Engineer may require preparation and submission of a CLOMAR, LOMR, other appropriate map revision or flood study for a proposed development if there are concerns regarding storm drainage on the subject property or upstream or downstream from the subject property. The costs of such study, if required, shall be borne by the developer.

## (g) Siting Of Lots and Building Sites

In order to help reduce storm water runoff, and resulting erosion, sedimentation and conveyance of nonpoint source pollutants, the layout of the street network, lots and building sites shall, to the greatest extent possible, be sited and aligned along natural contour lines, and shall minimize the amount of cut and fill on slopes in order to minimize the amount of land area that is disturbed during construction.

## (h) Approval

Lots in any proposed subdivision shall not be approved until drainage facilities adequate to prevent flooding have been installed or necessary arrangements made for such installation as required under these subdivision regulations.

## (i) Issuance of Building Permits

On any lot designated by the City Engineer as requiring completion or partial completion of drainage improvements prior to building construction, no building permits shall be issued prior to a release authorized by the Director of Development Services.

## Sec. 9.02.092. Extension of Service of Utilities and Pro-Rata Agreements

## (a) Definitions

For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

**Associated Facility**

An apparatus or improvement that is used in conjunction with a water or wastewater line that provides water or wastewater service to a tract of land, regardless of where the associated facility is located. The term includes but is not limited to a lift station, a force main, a pump station, a storage tank, or an addition to an existing facility that increases the capability of the existing facility to provide water or wastewater service.

**Developer**

The person, business, corporation or association responsible for the development of a lot, parcel or tract, and includes the property owner or subdivider.

**Oversize or Oversizing**

With reference to a water or wastewater line or an associated facility, means an increase in the size or capacity of the line or associated facility above the standard size, including fire flow requirements, that is necessary to provide complete utility service to a particular development. With respect to any associated facility, "oversize" or "oversizing" means the size or capacity in excess of the size or capacity that would otherwise be necessitated by the particular development as determined by the City Engineer.

**Pro-Rata Fee**

A charge made against a lot, tract or parcel for the purpose of reimbursing the City or a developer a proportionate share of the service extension costs for extending a water or wastewater line and associated facilities that serve the property against which the charge is made.

**Service Extension**

A water or wastewater line or an associated facility that is necessary to extend water or wastewater service from a major City transmission main or collection main to a tract of land and across the tract or frontage of the tract to a point determined by the City Engineer to be consistent with further service extensions of the City, provided that the extension does not extend beyond the property boundaries of the tract.

**Service Extension Application**

A request in writing to the City for extension of water or wastewater service to a development.

## Sec. 9.02.092. Extension of Service of Utilities and Pro-Rata Agreements

**Service Extension Contract**

A legal document that defines the responsibilities and requirements of the entity requesting a service extension and the City with regard to the service extension. A service extension contract may be required at the sole discretion of the City.

**Service Extension Costs**

The total costs of any off-site service extension, as initially determined by the City's engineer, including but not limited to costs of land/easement acquisition, design and construction costs, and any permitting or administrative fees required for such extension, but not including amounts expended solely for oversizing.

**Standard Size**

With respect to a water or wastewater line, the standard size means an eight-inch diameter line. With respect to any associated facility, the standard size is the size or capacity needed to serve a particular development as determined by the City Engineer.

**Water or Wastewater Line**

A necessary appurtenance to a water distribution or wastewater collection system. The term includes a valve, manhole, connection, air release, diversion, and other equipment necessary to make the water distribution or wastewater collection system operable in compliance with the design criteria and standards of the City.

**(b) Responsibilities of Developer; Application**

- (1) The developer shall extend all water and wastewater lines and associated facilities needed to connect the development or land use with the City's approved water distribution system and wastewater collection system. The developer shall further extend all lines across the property currently being developed or to the point on such property from which such lines will be extended to serve adjoining land as determined by the City. As a condition of acceptance of water or wastewater lines, the City may require conveyance of an easement across the property currently being developed as well as other contiguous property owned by the developer for purposes of future extension of the water or wastewater lines. All initial service extension costs and all initial costs of oversizing, shall be borne by the developer or property owner, subject to reimbursement from proceeds of pro-rata fees or cost participation pursuant to subsections (j) and (k) of this section. Requests for extension of water and wastewater lines shall be as provided for in this section.
- (2) A service extension application is required to:
  - (A) Connect a tract of land to the existing City system; or
  - (B) Provide utility service to a tract of land if an existing line or associated facility is unsuitable or insufficient to provide service to the tract.
- (3) A developer or property owner must submit an application for a service extension to the City Engineer.
- (4) An application for a service extension must:
  - (A) Include a general description of the location, size, and capacity of the service extension; and
  - (B) If within the City's ETJ, be accompanied by an irrevocable petition to the City for voluntary annexation at such time and under such conditions as deemed appropriate by the City.
- (5) If either water or wastewater service is to be provided by an entity other than the City, the application must be accompanied by evidence of a commitment from the other entity to provide the other required service. The evidence must be in the form of:

- (A) A contract with the entity;
  - (B) A letter from the entity; or
  - (C) The minutes of the relevant meeting of the governing body of the entity.
- (c) Administrative Approval
- (1) The City Manager may approve an application or contract for a service extension if:
    - (A) The requested service extension does not include a request for establishment of pro-rata fees or cost participation by the City; and
    - (B) The City Manager determines that sufficient capacity exists or will be available to meet the projected demands of the development or land use to be served.
  - (2) If a requested service extension includes a request for establishment of pro-rata fees or cost participation by the City, or if the City Manager does not determine that sufficient capacity exists or will exist, the application must be processed under subsections (l) and (m) of this section and requires a service extension contract.
- (d) Construction Standards; Submission of Construction Plans
- (1) After a service extension application or service extension contract has been approved, an applicant must submit the construction plans for needed improvements to the City Engineer for review and approval of the size, capacity, and routing of the improvements.
  - (2) The City Engineer may approve the size, capacity, or routing of an improvement only if it complies with generally accepted engineering practices and each applicable City requirement.
  - (3) Water and wastewater lines shall be oversized where needed to provide capacity to other existing or new developments in the area to be served in order to avoid duplication of facilities, in conformity with the City's generally accepted engineering practices.
  - (4) The location and size of all water and wastewater lines necessary to serve land to be developed shall be in accordance with the City's generally accepted engineering practices and in accordance with the City's subdivision regulations.
  - (5) When an existing water or wastewater line provides service to a proposed development, the developer shall pay all applicable pro-rata fees pursuant to subsection (m) or (o) of this section for the water line or wastewater line before extension of or connection to such main is made.
- (e) Submission of Additional Information
- An applicant for a service extension shall provide information determined by the City Engineer to be necessary to demonstrate that construction of the service extension complies with the requirements of the City.
- (f) Expiration of Approval
- (1) Unless extended under subsection (2) or (3), the approval of a service extension application remains valid until the latest of:
    - (A) The date on which the preliminary plat expires for the property to be served by the service extension; or
    - (B) The second anniversary of the date on which the service extension application was approved, if on or before that date:
      - (i) A preliminary plat for the property to be served has not been approved; and

## Sec. 9.02.092. Extension of Service of Utilities and Pro-Rata Agreements

- (ii) Construction of the service extension has not begun; or
    - (C) The date established in the service extension contract.
  - (2) If construction of a service extension begins before the approval expires under subsection (1), the City Manager may extend the approval of a service extension for the period of time estimated to be necessary to complete construction of the service extension.
  - (3) Under this section, if the approval of a service extension requires a service extension contract:
    - (A) Construction of the service extension shall not begin until fiscal security is posted or money is deposited in compliance with subsection (g) of this section; and
    - (B) The service extension approval is extended until construction of the service extension is complete and the City accepts the lines and associated facilities constructed under the contract.
- (g) Fiscal Security
  - (1) For construction contracts administered by the City, fiscal security in an amount approved by the City Engineer to be equal to 100% of the estimated service extension costs and 100% of the costs of any oversizing, must be deposited in cash with the City prior to entering into a construction contract.
  - (2) For construction contracts administered by a party other than the City, the fiscal security must be posted prior to the execution of a construction contract and must be in the form of:
    - (A) An irrevocable letter of credit that has a minimum term of three years and is acceptable to the City;
    - (B) A performance bond; or
    - (C) A cash deposit.
- (h) Hardship Policy for Extension to Single Dwelling Unit
  - (1) The City may, at its expense and in its sole discretion, upon written request of a property owner, extend a water or wastewater line of a size determined by the City to serve a single dwelling unit if funds are available to pay the cost of installing the line and the extension meets the standards in subsection (2).
  - (2) The person requesting the extension must demonstrate that:
    - (A) A substantial hardship would result if the extension is not made;
    - (B) Denial of the extension would result in potential water quality degradation; and
    - (C) The extension is necessary to provide like benefits as normally provided to similarly served property.
  - (3) The City may require that the property owner making the request share in the service extension costs, and that the property owner grant all necessary easements to continue line extensions to serve adjoining land.
  - (4) This policy has no application to circumstances in which multiple connections are requested or necessary to serve existing or proposed development, or in which the City determines to initiate construction of a water or wastewater line or associated facility that serves multiple users. This policy may not be invoked to finance serial connections to lots in an existing subdivision.
- (i) Eligibility for Pro-Rata Fees

A developer that agrees to construct a water or wastewater line or an associated facility that on acceptance will become part of the City's water and wastewater system and which supplies capacity to other existing or new developments, and that is not a facility or a portion of a facility included on the capital improvements plan for water or wastewater facilities, may apply to the City to establish pro-rata fees to be paid by other

users of the facilities and to reimburse the developer a proportional amount of the service extension costs. The developer also may apply for cost participation by the City for the costs of oversizing water or wastewater lines or associated facilities in excess of the standard size.

(j) Calculation of Pro-Rata Fees

- (1) The amount of the cost reimbursement for an extension, if any, shall be computed as the off-site length of a water or wastewater line that has been extended by a developer multiplied by the then-current average cost, per linear foot, of the service extension costs, as determined by the City Engineer. The amount of the pro-rata fee based upon such computation shall be established for each side of the line to which connections are to be made. For mains that can be connected to from both sides, the fee for each side shall be equivalent to 1/2 of the average linear foot cost referenced above, multiplied by the length of the water or wastewater line on or abutting the property being charged. For mains that can be connected to from one side only, the fee shall be equivalent to the average linear foot cost referenced above, multiplied by the length of the line on or abutting the property being charged.
- (2) In the alternative, the developer may apply for a different cost reimbursement formula, based upon engineering cost estimates of the service extension costs agreed upon in writing by the City Manager and the applicant, and verified in a study provided by the applicant approved by the City Engineer. The study shall aggregate the costs of associated improvements where feasible. The City may establish guidelines for eligible costs to administer the policy in this section. The amount of the pro-rata fee shall be that calculated in the approved study. The study shall contain the following minimum elements:
  - (A) Identification of the area and all properties to be served by the water or wastewater lines or associated facilities to be installed;
  - (B) Identification of the costs of the facilities to be installed;
  - (C) Apportionment of the costs of the facilities to be installed among lots, tracts or parcels to be served by the improvements, based upon capacity to be utilized by such properties, using accepted engineering standards and practices;
  - (D) Calculation of the maximum amount of the costs which are to be reimbursed to the developer or property owner, net of costs attributable to the developer's or property owner's utilization of capacity of the lines or associated facilities; and
  - (E) Calculation of a pro-rata fee to be charged per unit of land that is to be connected to the water or wastewater lines or associated facilities.
- (3) In making the initial determination of appropriate pro-rata fees under subsection (1) or (2), above, the City Engineer shall certify in writing that the amount of the pro-rata fee is roughly proportionate to the impact that the properties to be charged will have on the City's water and wastewater utility system.
- (4) After construction of off-site improvements by a developer that are subject to reimbursement from pro-rata fees, but before the City's acceptance of such improvements, the City Engineer may request, and the developer shall be required to promptly supply, verifiable proof of the actual costs expended as to all such off-site improvements. If the actual costs to complete such improvements—including but not limited to costs of land/easement acquisition, design and construction costs, and any permitting or administrative fees required for such extension, but not including amounts expended solely for oversizing—are less than the City Engineer's initial determination of the service extension costs under subsection (1) or (2), above, then the amount of pro-rata fees as relates to those improvements shall be decreased to correspond to said actual costs.

## Sec. 9.02.092. Extension of Service of Utilities and Pro-Rata Agreements

## (k) Cost Participation for Oversized Lines

The City may participate in the reasonable construction costs of oversizing water or wastewater lines that exceed the standard size of a water or wastewater line, and/or associated facilities. The developer initially shall be responsible for the entire cost of the oversized facilities. City oversize participation shall be in accordance with this section and any applicable provisions of the City's subdivision or other regulations. The City in its sole discretion shall determine the amount of any cost participation based on engineering estimates of the costs attributable to the increase in the size of lines exceeding the standard size, taking into consideration the degree to which the need for such oversizing is created by the development for which service extension is being requested. In no event may the City be required to participate in the costs of oversize facilities pursuant to this section if there are no funds available for such purposes.

## (l) Contract Required

- (1) The applicant for approval of a service extension must request the establishment of pro-rata fees or cost participation in writing at the time the applicant applies to the City Manager for approval of the service extension. If the applicant for approval of a service extension requests establishment of pro-rata fees or cost participation, a written service extension contract is required.
- (2) The service extension contract shall include at a minimum the pro-rata fee and cost participation, if any, approved by the City, the duration of the right to collect pro-rata fees, and provisions for forfeiture of such fees to the City in the event they are not collected by the contracting party, his or her successor-in-interest, or assignee.
- (3) An executed service extension contract may be assigned by the party requesting service extension with the written consent of the City, which shall not be unreasonably withheld.

## (m) Review and Approval; Collection of Pro-Rata Fees

- (1) The City Manager shall review each request for cost reimbursement from pro-rata fees or cost participation for oversizing lines.
- (2) The City Manager shall formulate his or her recommendation concerning the cost reimbursement from pro-rata fees or cost participation for oversizing lines, which shall address each of the following minimum criteria:
  - (A) The line to be extended has not been included on the impact fee capital improvements plan for that category of capital improvement;
  - (B) The size of each proposed line or facility complies with the generally accepted engineering practices and other planning criteria of the City and final design and routing will comply with the technical standards;
  - (C) Any alternative study proposing pro-rata fees fairly apportions the extension costs among prospective users of the facilities to be installed;
  - (D) The proposed line or facility is a reasonable extension or addition to the water and wastewater utility system; and
  - (E) Funds for participation in the costs of oversizing lines are available from an identified source of funds or funds will be available to meet the proposed payment schedule.
- (3) The City Manager shall forward his recommendation on pro-rata fees and cost participation, together with the proposed service extension contract, for decision by the City Council.
- (4) Upon approval of the request for reimbursement from pro-rata fees, any developer or user of property with frontage along the off-site portion of the water or wastewater line or of property that is identified in

the approved fee study thereafter that connects to or utilizes the capacity of the water or wastewater line or associated facility for which a pro-rata fee has been established shall pay the applicable fee. Pro-rata fees shall be collected by the City from the developer or user before approval of the engineering plans for the development required to pay the fee, or before connection to the water or wastewater line for which the fee has been established, whichever first occurs.

(n) Conditions

- (1) A developer constructing a water or wastewater line or an associated facility that is eligible for cost reimbursement from pro-rata fees or cost participation for oversizing may not receive cost reimbursement payment for the line or facility unless the entity complies with each requirement or regulation of the City relating to:
  - (A) The public advertising of the line or facility;
  - (B) The bidding on the line or facility;
  - (C) A performance or payment bond for the line or facility; and
  - (D) A warranty on the line or facility.
- (2) The developer constructing the line or facility is not entitled to receive a cost reimbursement payment from pro-rata fee proceeds or cost participation for oversizing lines until the entity submits documentation showing the entity's compliance with each requirement described by subsection (1) and the line or facility is accepted in writing by the City.

(o) Payments to Developer

- (1) For projects subject to a service extension contract approved by the City by April 1 of any year, the City shall pay the developer holding the extension contract any eligible cost reimbursement for oversizing, without interest, within 60 days of completion and acceptance of the project by the City, but no earlier than the following September 1.
- (2) For projects for which a service extension contract is approved by the City after April 1 of any year, the City shall pay the developer holding the extension contract any eligible cost reimbursement for oversizing, without interest, for a completed and accepted project within 60 days of completion and acceptance of the project by the City but no earlier than September 1 of the next calendar year.
- (3) For a period of 15 years following the City's acceptance of the water line, wastewater line, or associated facility, the developer shall be entitled to reimbursement from the proceeds of the pro-rata fees established pursuant to this section, up to the maximum amount of the reimbursement established in the approved extension contract. The City may deduct 2% of the amount of pro-rata fees collected from the amount of the fees reimbursed to the developer as an administration fee.
- (4) Pro-rata fees which have been collected pursuant to the service extension contract shall be paid to the developer annually no later than October 1 of each year, until the term of the agreement expires.
- (5) The City may establish one or more pro-rata fee accounts for purposes of administering the policies of this code. The City shall deposit all pro-rata fees collected pursuant to this division into such account(s). Expenditures from such accounts shall be earmarked solely for reimbursement of developers for the installation of water lines or wastewater lines or associated facilities for which pro-rata fees have been established pursuant to this division.
- (6) It shall be the responsibility of the service extension contract holder or his assignee to provide to the City in writing current contact information. The City will mail reimbursement payments to the last contact of record reflected on its books. In the event that the service extension contract holder or his assignee has

## Sec. 9.02.092. Extension of Service of Utilities and Pro-Rata Agreements

not collected pro-rata payments or cost participation in oversize lines sent to the contact of record for a period of one year from the date such payments are due pursuant to this section, such accrued amounts shall become the funds of the City for purposes of expenditure on cost participation for oversizing lines or other system improvements in the City's sole discretion.

## (p) Pro-Rata Fees for City Projects

- (1) The City may initiate capital projects from time to time involving construction of water or wastewater lines or associated facilities, and may seek to recoup its costs through establishment of pro-rata fees.
- (2) Prior to establishing fees, the City shall either compute fees based upon a per average linear foot formula similar to the formula described in subsection (j)(1) of this section or pursuant to a study that satisfies the requirements of subsection (j)(2) of this section. The City Council shall establish pro-rata fees based upon the front footage formula or alternative study.
- (3) Following establishment of pro-rata fees by the City Council, the developer or user of property with property frontage on the extended water or wastewater line or of property that was identified in the approved pro-rata fee study thereafter that connects to or utilizes the capacity of the water or wastewater line or associated facility for which a pro-rata fee has been established shall pay the applicable fee. Pro-rata fees shall be collected by the City from the developer or user before approval of the engineering plans for the development required to pay the fee, or before connection to the water or wastewater line for which the fee has been established, whichever first occurs.
- (4) Pro-rata fees established under this section may be collected for a period of 15 years following final construction by the City of the water line, wastewater line, or associated facility.

§ 9.02.093 through § 9.02.130. (Reserved)

## Division 4. PUBLIC SITES AND OPEN SPACES

### Sec. 9.02.131. Areas for Public Use

- (a) The applicant shall give consideration to suitable and adequate sites for schools, parks, playgrounds, and other areas for public use or service so as to conform with the recommendations contained in the City's comprehensive plan, including the park master plan, and other applicable plans. Any provision for parks or other public facilities shall require approval by the City Council.
- (b) A minimum of five (5) parking spaces will be required at major, neighborhood focal points that are for public use (such as but not limited to pools, amenity centers, parks, and playgrounds). If the major features are adjacent to each other, they can share a parking lot with a minimum of eight (8) parking spaces instead of ten (10).

### Sec. 9.02.132. Protection of Drainage and Creek Areas

- (a) Natural Preservation Required

All creeks and drainage channels shall be preserved and protected in their natural condition wherever possible, unless significant storm drainage improvements are required by the City in these areas. All development adjacent to creeks and drainage channels shall be in accordance with the City's design standards, and with any other City policies or ordinances related to aesthetics or public access or enjoyment of creeks and waterways.

- (b) Definitions and methodology for determining the floodway management area (FMA).

- (1) The definitions for "floodway" and "floodway fringe" shall correspond to those set forth by the Federal Emergency Management Agency (FEMA).
- (2) For the purposes of these subdivision regulations, the floodway management area (FMA) will correspond to the floodway, as defined by FEMA, or as may be modified pursuant to a flood study that is approved by FEMA.
- (3) For purposes of the National Flood Insurance Program, the concept of a floodway is used as a tool to assist the local community in the aspect of floodplain management. Under this concept, the area of the 100-year flood is divided into a floodway and floodway fringe. The floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment in order that the 100-year flood may be carried without substantial increases in flood heights as defined by FEMA. The area between the floodway and boundary of the 100-year flood is termed the floodway fringe. The floodway fringe is the area which can be reclaimed for development in accordance with rules and regulations established by FEMA and the City's flood damage prevention regulations set forth in article 4.12 of this code.

- (c) Areas Where an FMA is Required

- (1) The FMA is intended to apply to a creek or channel which is to remain open or in its natural condition unless otherwise approved by the City. East Fork Trinity River, Whites Creek, Hurricane Creek, Throckmorton Creek, Slayter Creek, Sweetwater Creek, Brinlee Creek, Sister Grove Creek, Wolf Run Creek, Elm Creek, Pilot Grove Creek and their related tributaries and streams and all other drainage areas or regulated floodways as referenced on the applicable floodway and flood boundary map (flood insurance rate map, or FIRM) shall be included in the FMA.
- (2) If FEMA does not specify a floodway and a base flood elevation in a regulated zone in any of the creeks or their tributaries, it shall be the developer's responsibility to establish and identify the FMA. The

## Sec. 9.02.132. Protection of Drainage and Creek Areas

determination shall be made by a licensed professional engineer and approved by the City Engineer or the designated floodplain administrator.

(3) Where improvements to a drainage area are required by other ordinances of the City for the purpose of safety or other reasons related to drainage, those ordinances shall also be observed.

(4) The creek shall remain in its natural state unless improvements are permitted or required by the City due to the pending development of properties adjacent to or upstream of the required improvements.

(d) Ownership and maintenance of the FMA

(1) The area determined to be the FMA shall be designated on the preliminary plat. Accurate locations of the FMA, both horizontally and vertically, shall be established on the preliminary plat and prior to site construction. At the City's option, the FMA shall be protected by one of the following methods:

(A) Dedicated to the City subject to approval by the City Council.

(B) As easement(s). Creeks or drainageways on tracts which have private maintenance provisions, can be designated as the FMA by an easement to the City on the preliminary plat (with the appropriate plat language, as required by the City). Subdivisions with platted single-family or two-family lots may designate the FMA by easement provided there are adequate maintenance provisions (such as by a mandatory homeowners' association or a public improvement district), but no lots or portions of lots may be platted in the easement unless specifically allowed by the City. The area designated as FMA may be identified by a tract number.

(C) Certain recreational uses normally associated with or adjacent to flood prone areas (no structures allowed in the FMA), such as golf courses or certain types of parks. The uses allowed shall be in conformance with the zoning ordinance, if the subdivision is located within the City, and shall require approval by the City Council.

(2) Prior to acceptance of any drainage way as an FMA by the City, the area shall be cleared of all debris and brush (except for trees) and placed in a maintainable state. Floodway management areas dedicated to the City shall be left in a natural state except those areas designated for active recreational purposes and unless storm drainage requirements do not permit this to occur.

(e) Design Criteria

The following design criteria shall be required for development adjacent to the FMA:

(1) Adequate access shall be provided to and along the FMA for public and/or private maintenance. An unobstructed area a minimum of 20 feet wide with a maximum 5:1 slope (five feet horizontal to one foot vertical), the length of the floodway shall be provided adjacent to or within the FMA. On the opposite side of the drainage area, an unobstructed area a minimum of five feet in width shall be provided. If ownership is to the centerline of the drainage channel, then the subdivider shall only be required to provide adequate access to one side.

(A) Lots in a single-family, PD single-family, or duplex residential zoning district shall not be platted within the FMA.

(B) If lots back or side onto an FMA, at least two reasonable points of access to the FMA, each a minimum of 20 feet in width, shall be provided. Streets, alleys and open-ended cul-de-sacs may qualify as access points if designed such that they are navigable by maintenance vehicles (e.g., alleys must be 20-foot width).

(2) All areas of the FMA shall be accessible from the access points.

- (3) Lots used for multifamily dwellings may be platted in the FMA if the FMA is identified as an easement and is maintained as open space for use by the residents, and provided that access to the FMA is possible by City maintenance vehicles, should that need arise.
- (4) If the FMA is to be public park land, then adequate public access and good public visibility shall also be provided to all portions of it.
- (5) Public streets may be approved in the FMA by the City if they conform to applicable engineering standards.
- (6) Linear public streets may be required to be constructed adjacent to some (or all) portions of the FMA to allow access for maintenance or recreational opportunities, and/or to allow increased visibility into creek areas for public safety and security purposes.
- (7) Alternate designs to facilitate equal or better access may be permitted if approved by the City.

(f) Altered Drainage Channels

Drainage channels which have been previously altered and are not in a natural condition can be exempted from an FMA and this section at the discretion of the Commission and City Council and upon recommendation by the City staff except that any such alteration shall cause the developer to prepare an application for any appropriate letter of flood map revision.

(g) Conflicts

In the event of any conflict between any regulation or requirement in this section and any regulation or requirement in the City's flood damage prevention regulations set forth in this code at article 4.12, or other applicable regulation or requirement, the most restrictive regulation or requirement shall govern.

### Sec. 9.02.133. Public Improvement Districts

(a) Applicability

When a proposed subdivision includes public improvements, such as screening walls, recreation facilities, open space, flood management areas, landscaped entry features and/or medians, or other public amenities that primarily benefit the properties within the subdivision, the developer shall submit with the preliminary plat application, a petition for the creation of a public improvement district (PID) that meets the criteria outlined in chapter 372 of the Local Government Code.

(b) Petition

- (1) The PID petition shall include all properties within the subdivision and may include additional properties similarly benefited by the public improvements.
- (2) The City Council may approve or deny or take any other lawful action related to a petition requesting creation of a public improvement district.
- (3) The City Council may deny any plat or development plan or application that proposes to designate, create, or construct public improvements such as screening walls, recreation facilities, open space, flood management areas, landscaped entry features and/or medians, or other public amenities that primarily benefit the properties within the subdivision, that are not included in a public improvement district.

(c) Assessments

Any PID or PID assessment shall:

## Sec. 9.02.134. Property Owners' or Homeowners' Associations

- (1) Include funding to cover any administrative and legal cost incurred by the City related to the creation and general administration of the PID.
- (2) Include funding to pay for the perpetual maintenance of the public improvements.

**Sec. 9.02.134. Property Owners' or Homeowners' Associations****(a) Applicability**

- (1) When a subdivision contains either common private property or other private improvements which are not intended to be dedicated to the City for public use, such as private streets, a private recreation facility or open space, or other private amenities, a property owners' or homeowners' association agreement, consistent with state and other appropriate laws, must be submitted with the preliminary plat application and approved by the City Attorney.
- (2) The conditions, covenants and restrictions (CCRs) and the association documents, such as the articles of incorporation and association bylaws, shall be submitted to the City for review and approval along with the preliminary plat application, and shall be filed of record at the county prior to final plat approval in order to ensure that there is an entity in place for long-term maintenance of these improvements.
- (3) Said documents must, at a minimum, include provisions which allow the City to take over the maintenance of common property using association funds, including private streets and private recreation facilities, if such action becomes necessary for any reason, including nonperformance or inaction by the association.
- (4) Provisions shall also be included which would convey ownership of the private streets (if any) and all other common areas to the City, and which would allow the City to remove any improvements or amenities from the common areas and sell any buildable land area, as residential lots, to recoup the City's expenses for maintenance or demolition of the improvements.
- (5) Any monies that remain after the City has recovered all of its expenses shall be retained for future maintenance or upgrading of the streets, common areas (if any remain), screening walls, or other improvements within the subdivision.
- (6) These provisions are not intended to allow the City to profit in any way from taking over the association's responsibilities or funds; they are only intended to allow the City to recoup its actual incurred expenses such that the general public, the taxpayers of the City, does not have to bear these costs.

**(b) Membership**

A property owners' or homeowners' association shall be an incorporated nonprofit organization operating under recorded land agreements through which:

- (1) Each lot owner within the described land area is automatically a mandatory member; and
- (2) Each lot is automatically subject to a charge for a proportionate share of the expenses for the property owners' or homeowners' association's activities, such as maintenance of common open spaces or private streets, or the provision and upkeep of common recreational facilities.

**(c) Legal Requirements**

- (1) In order to ensure the establishment of a proper property owners' or homeowners' association, including its financing, and the rights and responsibilities of the property or homeowners in relation to the use, management and ownership of common property, the plat, dedication documents, covenants, and other recorded legal agreements must:

- (A) Legally create an automatic membership, nonprofit property owners' or homeowners' association;
  - (B) Place title to the common property in the property owners' or homeowners' association, or give definite assurance that it automatically will be so placed within a reasonable, definite time;
  - (C) Appropriately limit the uses of the common property;
  - (D) Give each lot owner the right to the use and enjoyment of the common property;
  - (E) Place responsibility for operation and maintenance of the common property in the property owners' or homeowners' association;
  - (F) Place an association charge on each lot in a manner which will both ensure sufficient association funds and which will provide adequate safeguards for the lot owners against undesirable high charges;
  - (G) Give each lot owner voting rights in the association; and
  - (H) Identify land area within the association's jurisdiction including the following:
    - (i) Property to be transferred to public agencies;
    - (ii) The individual residential lots;
    - (iii) The common properties to be transferred by the developer to the property owners' or homeowners' association; and
    - (iv) Other parcels.
- (2) Any governmental authority or agency, including the City and the county, their agents, and employees, shall have the right of immediate access to the common elements at all times if necessary for the preservation of public health, safety and welfare. Should the property owners' or homeowners' association fail to maintain the common elements to City specifications for an unreasonable time, not to exceed 90 days after written request to do so, then the City shall have the same right, power and authority to enforce the association's rules and to levy assessments necessary to maintain the common elements. The City may elect to exercise the rights and powers of the property owners' or homeowners' association or its board, or to take any action required and levy any assessment that the property owners' or homeowners' association might have taken, either in the name of the property owners' or homeowners' association or otherwise, to cover the cost of maintenance (or the possible demolition, if such becomes necessary to preserve public safety or to ease maintenance burden) of any common elements.
- (3) The property owners' or homeowners' association must register a contact person with the planning department and shall notify the City of any change in said contact person. Such contact person must be authorized to receive and distribute information to the board of directors of the property owners' or homeowners' association.
- (d) Protective Covenants
- (1) Protective covenants shall be developed which, among other things, shall make the property owners' or homeowners' association responsible for the following:
    - (A) The maintenance and operation of all common property;
    - (B) The enforcement of all other covenants;
    - (C) The administration of architectural controls (if included); and
    - (D) Certain specified maintenance of exterior improvements of individual properties (if included).

## Sec. 9.02.135. Park Land Dedication &amp; Development

(2) The City is not responsible (i.e., has no jurisdiction) for enforcing protective covenants or deed restrictions.

(e) Dissolution

The association may not be dissolved without the prior written consent of the City Council.

(f) Amendment of Documents

No portion of the association documents pertaining to the maintenance of screening walls, private streets and alleys, and associated assessments, may be amended without the written consent of the City Council.

## Sec. 9.02.135. Park Land Dedication & Development

(a) Park Access

(1) General Requirements

Parks should be easy to access and open to public view so as to benefit area development, enhance the visual character of the City, protect public safety, and minimize conflict with adjacent land uses. The following guidelines should be used in designing parks and adjacent development:

- (A) Where physically feasible, parks should be bounded by streets or by other public uses (e.g., a school, library, or recreation center).
- (B) Where residential lots must directly abut a park, lots should be oriented to side and not back to the park. In this instance, cul-de-sac and looped streets should be used to access the lots and park (see illustrations). Residential lots should back to a park only when the site's physical character (e.g., shape, topography, drainage) does not reasonably permit an alternative design or the layout of the subdivision complements the use of the park (e.g., lots backing to a golf course).
- (C) A proposed subdivision adjacent to a park may not be designed to restrict reasonable access to the park from other area subdivisions. Street connections to existing or future adjoining subdivisions may be required to provide reasonable access to parks.
- (D) Where a nonresidential use must directly abut a park, the use must be separated by a screening wall or fence and landscaping. Access points to the park may be permitted by the Commission if public benefit is established.
- (E) Alleys may abut a park, but they should not be designed to encourage their use as means of vehicular, bike, or pedestrian travel to the park. If the property line of the parkland does not abut a dedicated street or sidewalk connection within 500 feet of a looped alley, a minimum 10'-wide pedestrian access easement or additional 10' right-of-way shall be required adjacent to the alley to provide a sidewalk connection from the street to the park land. Construction of a sidewalk in this easement is eligible for development fee reimbursement if connecting to an existing trail or a trail being constructed by the developer.
- (F) Streets abutting a park (Park Access Street) shall be built in accordance with the Anna Design Standards and the standards of this ordinance; however, the City may require any residential street built adjacent to a park to be constructed to collector width to ensure access, to provide parking, and to prevent traffic congestion.
  - (i) When park land is acquired, the City shall reserve sufficient land to provide fifty (50) percent of the right-of-way for abutting streets.

- (ii) The cost of constructing residential streets (pavement width 31 feet) and alleys abutting a park shall be the responsibility of the developer.
- (iii) The City may choose to reimburse the developer up to fifty (50) percent of the cost of construction of the portion of any Park Access Street greater in width than a local residential street if funds are available. Said reimbursement shall be considered as part of a Subdivision Improvement Agreement or Development Agreement, considered for approval by the City Council.
- (iv) The City Council, upon recommendation from the Planning & Zoning Commission, may choose to add the Park Access Street to the City of Anna Master Thoroughfare Plan if it meets the minimum criteria for a collector or arterial road. All collector and arterial roads in the City of Anna Master Thoroughfare Plan are eligible for roadway impact fee reimbursement in accordance with State Law.
- (v) In all cases, the City shall approve the proposed street alignment fronting on City parks.

(b) Park Land Dedication

(1) Purpose

The purpose of this section is to provide recreational areas and amenities in the form of neighborhood parks as a function of subdivision development in the City. This section is enacted in accordance with the home rule powers of the City, granted under the Texas Constitution and statutes of the State of Texas, including, without limitation, Texas Local Government Code, [Section 51.071](#) et seq. and [Section 212.001](#) et seq.

(2) Necessary Procedure

It is hereby declared by the City Council that recreational areas, in the form of neighborhood parks and related amenities and improvements, are necessary and in the public welfare, and that the only adequate procedure to provide for this is by integrating such a requirement into the procedure for planning and developing property of a residential subdivision in the City, whether such development consists of new construction on previously vacant land or rebuilding and redeveloping existing residential areas.

(3) Park Purposes

Neighborhood parks are those parks providing a variety of outdoor recreational opportunities and within convenient distances from a majority of the residences to be served thereby, the standards for which are set forth in the City's Comprehensive Plan including the Parks Master Plan. The neighborhood parks shown on the official City Parks Master Plan shall be prima facie evidence that any park located therein is within such a convenient distance from the majority of residences to be served thereby. The cost of the neighborhood parks should be borne by the ultimate residential property owners who, by reason of the proximity of their property to such parks, shall be the primary beneficiaries of such facilities. Therefore, the following requirements are adopted to effect such purposes.

(c) General Requirement

Dedication of Land and Payment of Park Development Fee.

(1) Dedication of Land Based on Dwelling Units

Prior to a plat being filed with the County Clerk of Collin County, Texas for a development of a residential area within the City or ETJ and in accordance with City ordinances, such plat shall contain a clear fee simple dedication of one acre of land for each 50 proposed dwelling units. As used in these subdivision

## Sec. 9.02.135. Park Land Dedication &amp; Development

regulations, a “dwelling unit” means each individual residence, including individual residences in a multifamily structure, designed and/or intended for inhabitation by a single family.

(2) Plat Requirement

Any proposed plat submitted to the City for approval shall show the area proposed to be dedicated under this section. The required land dedication of this section may be met by a payment in lieu of land where permitted by the City or required by other provisions in these subdivision regulations.

(3) Impractical Size

The City Council declares that development of an area of less than five acres for neighborhood park purposes is impractical. Therefore, if fewer than 250 dwelling units are proposed by a plat filed for approval, the City Council may require the developer to pay the applicable cash in lieu of land amount, as provided in Subsection (d) below.

(4) Park Development Fee

In addition to the required dedication of land, as set forth above, there shall also be a park development fee paid to the City as a condition of plat approval. Such park development fee shall be set from time to time by ordinance of the City Council and shall be sufficient to provide for the development of amenities and improvements on the dedicated land to meet the standards for a neighborhood park to serve the area in which the Subdivision is located. Park development fees are found in Appendix A of this code. Such fee shall be paid at the time of application for a building permit.

(5) Option to Construct

In lieu of payment of the required park development fee, a developer shall have the option to construct the neighborhood park amenities and improvements. All plans and specifications for the construction of such amenities and improvements must be reviewed and approved by the City Manager, or applicable designees. The developer shall financially guarantee the construction of the amenities and improvements, and the City must approve same, prior to the filing of a plat in the case of platted subdivisions. Once the amenities and improvements are constructed, and after the City has accepted such amenities and improvements, the developer shall dedicate by plat such amenities and improvements to the City.

(6) Right to Accept, Reject or Require Payment

In instances where land is required to be dedicated, the City shall have the right to accept or reject the dedication after consideration of the recommendation of the Parks Advisory Board and to require a cash payment in lieu of land in the amount provided herein, if the City determines that sufficient park area is already in the public domain for the area of the proposed development, or if the recreation potential for that area would be better served by expanding or improving existing neighborhood parks.

(7) Siting of parks

When two or more developments are necessary to create a neighborhood park of sufficient size in the same area, the Director of Development Services, at the time of preliminary plat approval, will work with the developers to define the optimum location of the required dedication within the respective plats. Once a park site has been determined, adjacent property owners who develop around the park site shall dedicate land and cash to the existing site unless otherwise determined by the City Council.

## (d) Cash in Lieu of Land

## (1) Requirement

A developer responsible for land dedication under these subdivision regulations shall be required, at the City Council's option, to meet the dedication requirements in whole or in part by a cash payment in lieu of land, in the amount set forth below. Such payment in lieu of land shall be made prior to filing of the final plat for record.

## (2) Fee

The cash payment in lieu of land dedication shall be met by the payment of a fee set from time to time by ordinance of the City Council sufficient to acquire neighborhood park land. Cash payment fees in lieu of land dedication are found in the fee schedule in Appendix A of this code. Such fees shall be paid by the developer prior to filing of the final plat for properties located within the ETJ.

## (3) Park Development Fee

A cash payment in lieu of land dedication, as set forth in this section, does not relieve the developer of its obligation to pay the park development fee set forth in Subsection (c)(4) above. The cash payment in lieu of land dedication is in addition to the required park development fee.

## (4) City Purchase of Land

The City may from time to time decide to purchase land for parks in or near the area of actual or potential development. If the City does purchase park land in a park service area, subsequent park land dedications for that zone shall be in cash only, the calculation of which is set forth above. (Such cash payment is in addition to the payment of the required park development fee.)

## (e) Park Development Fund

(1) All funds collected by this dedication process or collected under Subsection (d)(4) above will be deposited into the City's Park Development Fund and used for parks and recreation purposes related to the following:

- (A) Land acquisition;
- (B) Capital improvements;
- (C) Planning, engineering, and design of parks and recreation facilities;
- (D) Construction of new parks and recreation facilities;
- (E) Rehabilitation and modernization of existing park and recreation facilities;
- (F) Maintenance and equipment for new parks and recreation facilities;
- (G) Maintenance and equipment for existing, and recently rehabilitated and modernized parks and recreation facilities;
- (H) Long-range planning for land, facilities, recreation, and related programs;
- (I) Feasibility studies, market studies, and economic impact analysis relating to parks and recreation projects and programs; or
- (J) Creation, planning, management, administration, operation, marketing, and promotion of events and recreational activities.

(2) Except as may relate to the staffing of the Parks and Recreation Department or the creation, planning, management, administration, operation, marketing, and promotion of parks, park facilities, park

## Sec. 9.02.135. Park Land Dedication &amp; Development

amenities, park funding and development, events, and recreational activities, amounts deposited into the Parks Development Fund shall not be used for staffing and daily operation. All expenditures from said fund will adhere to the City's procurement policies and practices.

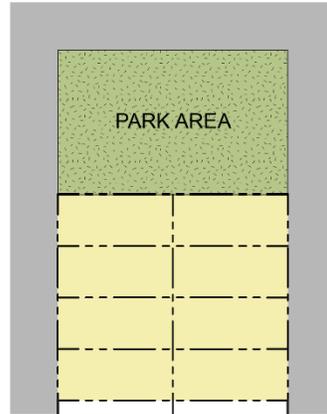
## (f) Additional Requirements and Definitions

- (1) Any land dedicated to the City under these subdivision regulations must be suitable for park and recreation uses. The following characteristics of a proposed area, which may be grounds for refusal of any plat, are generally unsuitable:
  - (A) Any area primarily located in the 100-year floodplain unless the area is part of the trail system shown on the City's most current Trail Master Plan.
  - (B) Any areas of unusual topography or slope which renders the area unusable for organized recreational activities.
- (2) Drainage areas may be accepted as part of a park if the channel is to remain, more or less in its natural state or constructed in accordance with City Engineering standards, if:
  - (A) No significant area of the park is cut off from access by such channel;
  - (B) Not less than five acres of the site is above the 100-year floodplain; or
  - (C) The dedication is in excess of 10 acres, not more than 50% of the site should be included in the 100-year floodplain.
- (3) Each park must have ready access to a public street.
- (4) Unless provided otherwise herein, an action by the City shall be by the City Council, after consideration of the recommendations of the Parks Advisory Board.
- (5) Parks are defined in Section 9.04.081(e)(11) of the Zoning Ordinance.

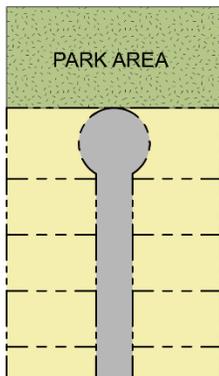
## PARK ACCESS



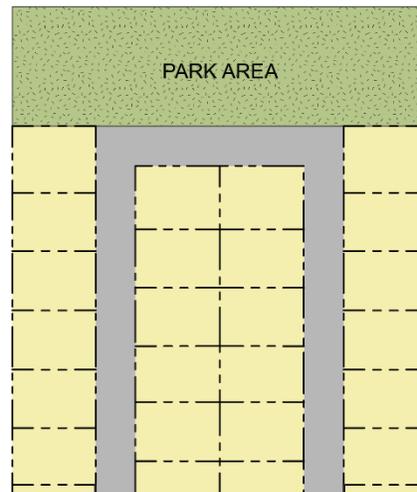
**COLLECTOR STREET**



**LOOP STREET**



**CUL-DE-SAC**



**LOOP STREET**

§ 9.02.136 through § 9.02.160. (Reserved)

## Division 5. IMPROVEMENTS REQUIRED PRIOR TO ACCEPTANCE OF SUBDIVISION

### Sec. 9.02.161. Improvements, In General

(a) Purpose

The requirements as set forth below are designed and intended to ensure that, for all subdivisions of land within the scope of these subdivision regulations, all improvements as required herein are installed properly and:

- (1) The city can provide for the orderly and economical extension of public facilities and services;
- (2) All purchasers of property within the subdivision shall have a usable, buildable parcel of land; and
- (3) All required public improvements are constructed in accordance with city's design standards.

(b) Adequate Public Facilities Policy

The land to be divided or developed must be served adequately by essential public facilities and services. No plat shall be recorded unless and until adequate public facilities exist or provision has been made for water facilities, wastewater facilities, drainage facilities, electricity and street facilities which are necessary to serve the development proposed, whether or not such facilities are to be located within the property being platted or off-site. Wherever the subject property adjoins undeveloped land, or wherever required by the city to serve the public good, utilities shall be extended to adjacent property lines to allow connection of these utilities by adjacent property owners when such adjacent property is platted and/or developed.

(c) Public Improvements Required

Public improvements that are required by the city for the acceptance of the subdivision by the city shall include the following:

- (1) Water and wastewater facilities;
- (2) Storm water drainage, collection and conveyance facilities;
- (3) Water quality, erosion and sedimentation controls;
- (4) Streets;
- (5) Streetlights;
- (6) Street signs;
- (7) Alleys (if provided);
- (8) Sidewalks, including ADA approved ramps at street intersections and other appropriate locations;
- (9) Screening and/or retaining walls (where required);
- (10) Traffic-control devices required as part of the project; and
- (11) Appurtenances to the above, all designed and constructed in accordance with ADA standards, if applicable, and any other public facilities required as part of the proposed subdivision.

(d) Compliance Required

All aspects of the design and implementation of public improvements shall comply with the city's current design standards and any other applicable city codes and ordinances, including preparation and submittal of

engineering plans and construction inspection. The construction of all of the improvements required in these subdivision regulations shall conform to the city's design standards, and to any other applicable city ordinance, rule, policy, or regulation.

(e) Utility Lines

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 the street or alley pavement, they shall be installed to a point at least three feet beyond the edge of the pavement.

## Sec. 9.02.162. Monuments

(a) Block Corner Monuments

Monuments consisting of 5/8" diameter steel rods 24" long and set flush with the top of the ground shall be placed at all corners of block lines, the point of intersection of alley and block lines, and at points of intersections of curves and tangents of the subdivision. Each block corner monument shall be marked in a way that is traceable to the responsible RPLS or associated employer.

(b) Lot Corner Monuments

Lot corner monuments shall be placed at all lot corners (except corners which are also block corners), consisting of iron rods or pipes of a diameter of not less than 5/8 inch and 24 inches in length, and set flush with the top of the ground.

(c) Curve Point Markers

In addition, curve point markers shall be established of the same specifications as lot corners.

(d) View Between Monuments Obstructed

Where, due to topographic condition, permanent structures, or other conditions, the view is obstructed between any two adjacent monuments, intermediate monuments shall be so set as to assure a clear view between adjacent monuments.

(e) Installed Prior to Acceptance and Filing

All required block, lot, and curve monuments shall be installed prior to the final acceptance of the subdivision by the city and prior to filing the plat at the county.

(f) Precision and Error of Closure

All survey work around the boundary area, as well as within the subdivision, [shall] satisfy the following precision requirements and otherwise comply with Texas Admin. Code, Title 22, Chapter 138, Subchapter E, as applicable:

- (1) The actual relative location of corner monuments found or set within the corporate limits of the city shall be reported within a positional tolerance of 1:10,000 + 0.10 feet.
- (2) The actual relative location of corner monuments found or set within the extraterritorial jurisdiction of the city shall be reported within a positional tolerance of 1:7,500 + 0.10 feet.
- (3) The actual relative location of corner monuments found or set in all rural areas outside the corporate limits and extraterritorial jurisdiction of the city shall be reported within a positional tolerance of 1:5,000 + 0.10 feet.

## Sec. 9.02.163. Streetlights

- (4) Areas, if reported, shall be produced, recited, and/or shown only to the least significant number compatible with the precision of closure.
- (5) Survey measurement shall be made with equipment and methods of practice capable of attaining the tolerances specified by these standards.
- (6) Positional tolerance of any monument is the distance that any monument may be mislocated in relation to any other monument cited in the survey.

## (g) Subdivisions Containing 5 Acres or More

A subdivision containing five acres or more shall have at least two monuments set by the RPLS, if not already existing, for two corners of the subdivision, and such monuments shall be located at opposite ends (or at widely separated corners) of the subdivision and clearly shown on the final plat prior to filing at the county. The final plat shall also show clear ties to existing monuments in the vicinity of the subdivision.

**Sec. 9.02.163. Streetlights**

## (a) Streetlights

Streetlight locations and installations shall be coordinated by the subdivider with the power company and the city. Street lighting shall conform to the latest edition of the Illuminating Engineering Society Handbook. Streetlights shall be as manufactured by Kim Standards or a comparable streetlight approved by the Public Works Director. Streetlights shall be installed a maximum distance of 600 feet apart, at intersections, and at the ends of cul-de-sacs. The subdivider shall pay for the electricity used by the streetlights until building permits are issued for 80% of the lots, after which time the city shall pay for the cost of electricity used.

**Sec. 9.02.164. Street Names and Signs**

## (a) Review and Approval Required

Street names must be submitted to the city for review and approval in accordance with the city's guidelines for the naming of streets.

## (1) Preliminary Plat

Proposed street names shall be submitted for review as a part of the preliminary plat application, and shall become fixed at the time of approval of the preliminary plat.

## (2) Final Plat

On the final plat, street names shall not be changed from those that were approved on the preliminary plat unless special circumstances have caused the major realignment of streets or a proposed street name(s) is discovered to have already been used elsewhere in the city (or some other similar eventuality). If additional street names are needed for the final plat, then they must be submitted for review and approval by the city, along with the final plat application. A fee may be established by the city for the changing of street names after approval of the preliminary plat.

## (b) Streets Named for Corporations/Businesses Prohibited

The names of corporations or businesses shall not be used as street names, unless approved by the city council.

## (c) List of Street Names Maintained

The city will maintain a list of existing street names that are essentially “reserved” names that have been previously been approved on a preliminary plat, and will update the list as new streets are platted.

(d) Duplication and Similarities Prohibited

New street names shall not duplicate existing street names either literally or in a subtle manner (for example, Smith Street vs. Smythe Street; Oak Drive vs. Oak Place vs. Oak Court vs. Oak Circle; Lantern Way vs. Land Tern Way; Cascade Drive vs. Cascading Drive); shall not be so similar as to cause confusion between names (for example, Lakeside Drive vs. Lake Side Drive vs. Lake Siding Drive).

(e) New Streets Extending Existing Street

Any new street that extends an existing street shall bear the name of the existing street.

(f) Street Names Related to Intersections

Streets crossing other streets shall bear the same name on both sides of the intersection, wherever practical, unless otherwise approved by Commission and City Council.

(g) Street Sign Installation

Street signs shall be installed by the subdivider at all intersections within or abutting the subdivision. Such signs shall be of a type approved by the city and shall be installed in accordance with standards of the city. Traffic signs shall be furnished in accordance with the latest Texas Manual on Uniform Traffic Control Devices.

(h) Timing of Installation

Street name signs shall be installed in accordance with the city’s guidelines before final acceptance of the subdivision by the city.

## Sec. 9.02.165. Street and Alley Improvements

(a) Facilities Constructed by Developer

All facilities, such as internal streets and alleys, existing or proposed streets located immediately adjacent to the property, perimeter streets, and approach streets that are required to be constructed or improved in order to adequately serve the development, shall be constructed by the developer at the developer’s expense, unless otherwise allowed by these subdivision regulations.

(b) Construction and Design

All streets and alleys shall be constructed using reinforced concrete paving with integral curb and gutter, unless otherwise approved by the city, and shall conform in width and section to the thoroughfare plan of the city. All street design and construction shall conform to the city’s design standards.

(c) Paving Standards

The developer shall construct all streets and alleys according to the minimum street and alley paving standards contained within the design standards.

(d) Accessibility for Physically Challenged Persons

In addition to the above-mentioned minimum standards, barrier-free ramps for physically challenged persons shall be constructed at all street corners, driveway approaches, appropriate mid-block crosswalks, and in locations where accessible parking spaces are provided. All barrier-free ramps and other accessibility considerations shall comply with the Highway Safety Act, as currently amended, and with the Americans With Disabilities Act (ADA), as amended.

## Sec. 9.02.166. Retaining Wall Requirements, Construction Regulations, and Design Criteria

## (e) Signs and Barricades

All signs and barricades shall be in conformity with the design standards, with ADA standards, and with specifications for uniform traffic-control devices, as adopted by the city, by Collin County, by the Texas Department of Transportation, and by the Texas Department of Public Safety, as applicable.

## Sec. 9.02.166. Retaining Wall Requirements, Construction Regulations, and Design Criteria

## (a) Retaining Wall Requirements

In general, the use of retaining walls shall be minimized, wherever possible, through minimal and balanced cut and fill on property. When property within or directly adjacent to a subdivision contains changes in elevation exceeding 2.5 feet and the slope exceeds one unit vertical in two units horizontal, a retaining wall shall be required at the following locations prior to the acceptance of the subdivision:

## (1) Follows a Side or Rear Property Line

The grade change roughly follows a side or rear lot line.

## (2) Adjacent to a Building Site Boundary

The grade change is adjacent to a proposed building site boundary.

## (3) Adjacent to a Watercourse or Drainage Easement.

The grade change is adjacent to a watercourse or drainage easement.

## (b) Retaining Wall Design and Construction

All retaining wall design and construction shall be in compliance with the provisions of the design standards of the City, and shall be approved by the Director of Development Services and/or City Engineer.

## (c) Retaining Wall Maintenance

Retaining walls shall be maintained by the owner of the property where such retaining wall is located or HOA as designated by the recorded final plat and/or applicable declarations, covenants and/or deed restrictions. If an HOA is designated and is later dissolved ownership reverts back to the owner of the property.

## (d) Not in a Utility or Drainage Easement

Retaining walls shall not be constructed within any portion of a utility or drainage easement, unless approved by the City Engineer or the Director of Development Services.

## Sec. 9.02.167. Screening and Landscaping Construction Regulations, Requirements, and Design Criteria

## (a) Screening

## (1) Required

Screening shall be required where subdivisions are platted so that the rear yards of single-family or two-family residential lots meet the following:

- (A) Lots are adjacent to a street with a right-of-way width greater than a residential neighborhood collector street (60 feet or greater in right-of-way width on the comprehensive plan);

- (B) Lots are adjacent to a four-lane collector street;
- (C) Lots are separated from a street by an alley; or
- (D) Lots back up to a collector or residential street.

(2) Developer Provided Screening

The developer shall provide (at his/her expense) a minimum six-foot tall masonry screening wall, or some other alternative form of screening, if approved by Commission and Council, according to this section.

- (3) All screening shall be adjacent to the right-of-way or property.
- (4) All forms of screening shall conform to the requirements of city ordinances and policies that govern visibility easements.
- (5) Any required screening device that is wholly or partially destroyed or damaged shall be replaced or repaired with the same materials and shall be finished such that its appearance is restored to how it was before being destroyed or damaged.

(6) Screening Alternatives

Screening shall be provided in accordance with, and shall be constructed to, standards and criteria as set forth in the city's design standards and other related city code(s) and policy(s).

- (A) An alternative form of screening, in lieu of the six-foot tall masonry wall, may be approved by the Commission and Council along with the preliminary plat. The developer shall submit drawings/renderings with the preliminary plat sufficient for the Commission and Council to make a decision to approve or deny the proposed alternative.
- (B) Such possible alternatives include the following:
  - (i) Living/landscaped screen with decorative metal (e.g., wrought iron) fence sections with masonry columns;
  - (ii) A combination of embankments and living/landscaped screening, either with or without a decorative metal or "WoodCrete" type of fence with masonry columns;
  - (iii) A combination of embankments, decorative masonry retaining walls (no taller than six feet in height where facing or visible to a public street) and living/landscaped screening, either with or without a decorative metal or "WoodCrete" type of fence with masonry columns; or
  - (iv) Some other creative screening alternative may be approved if it meets the spirit and intent of this section, if it is demonstrated to be long-lasting and generally maintenance-free, and if the Commission and Council finds it to be in the public interest to approve the alternative screening device.
- (C) Any required screening device shall be, or shall achieve, at least six feet in height and at least 90% opacity within three years of initial installation/planting.
- (D) Any landscaping used to achieve the purpose of required screening shall be equipped with an underground irrigation system with appropriate double-check valve(s), automatic controller(s), and automatic moisture and freeze sensors. Trees used for overstory screening shall be on a separate bubbler irrigation system that can be programmed to provide deep-watering of trees at intervals that may differ from the rest of the irrigation system.
- (E) The use of wood or other privacy fences immediately behind or abutting an alternative screening device that utilizes living screening elements (i.e., landscaping), embankments, retaining walls and/or

## Sec. 9.02.167. Screening and Landscaping Construction Regulations, Requirements, and Design Criteria

open (i.e., non-opaque) fence sections shall not be permitted due to the creation of a “no man’s land” and subsequent maintenance nuisance in the area between the two devices/fences, and due to the detrimental visual appearance of this type of arrangement.

- (F) Any alternative form of screening in lieu of the masonry wall shall be located in a maintenance easement and shall be included in a public improvement district in accordance with section 9.02.133 of this article.

(7) Maintenance Easement Required

A wall/screening maintenance easement at least five feet in width shall be dedicated on the private lot side and adjacent to the entire length of the screening wall or device.

(8) Timing of Installation

The screening wall/device shall be installed prior to final acceptance of the subdivision (or appropriate surety shall be provided, per division 6 of this article).

(9) Landscape Screening

All plants (e.g., trees, shrubs and ground cover) shall be living and in sound, healthy, vigorous and growing condition, and shall be of a size, fullness and height that is customary for their container or ball size, as per the latest edition of the “American Standard for Nursery Stock,” by the American Association of Nurserymen, as may be amended.

(10) Properly Engineered

All masonry, wrought iron, steel or aluminum screening wall or fence plans and details must be designed and sealed by a licensed professional engineer, and must be approved by the city engineer.

- (A) Masonry walls shall be in accordance with the city’s design standards within the design standards [sic].
- (B) Decorative metal fencing shall be solid stock, not tubular, and shall have masonry columns at a minimum spacing of 40 feet on center unless otherwise approved.

(11) Height

The height of required screening devices, including spans between columns, shall be a minimum of six feet and shall be no more than eight feet tall. Decorative columns, pilasters, stone caps, sculptural elements, and other similar features may exceed the maximum eight-foot height by up to two feet for a total maximum height of 10 feet for these features, provided that such taller elements comprise no more than 10% of the total wall length in elevation view. Features that are taller than 10 feet in height shall require Commission and Council approval on the landscaping/screening plans submitted with the preliminary plat.

(12) Maintenance

All screening walls shall be maintained by a homeowners’ association as described in section 9.02.134 or included in a public improvement district in accordance with section 9.02.133 of this article.

(b) Subdivision Identification Signs

- (1) Subdivision identification signs are permitted at the entrance of single-family residential subdivisions which are bisected by one or more streets. Such subdivisions must have 10 or more platted lots.
- (2) Subdivision identification signs may be free-standing or may be incorporated on a screening wall located in an appropriate easement. Any screening wall on which a subdivision identification sign has been

incorporated shall also meet the requirements of this section, as well as general screening wall requirements located in other sections of these subdivision regulations.

- (3) The maximum size of a subdivision identification sign shall be 32 square feet per sign with a maximum height of six feet unless an alternative design is otherwise approved by the city council.
- (4) A subdivision identification sign shall be included in a public improvement district in accordance with section 9.02.133 of this article.
- (5) Signs may be located at each corner of an intersection of an entrance street or within the median of a divided street, but shall not be located in within visibility easements.
- (6) The design of the subdivision identification sign shall be in accordance with the city's design standards, as applicable.
- (7) The design of the subdivision identification sign (including any related screening wall) shall be reflected on materials/plans submitted along with the preliminary plat and the engineering plans, and shall be approved by the city.

(c) Landscaping

All landscaping shall be in conformance with the city's landscape regulations, as amended.

(d) Signage

All signage shall be in conformance with the city's sign regulations as amended.

(2008 Code, pt. III-A, art. 5, sec. 7)

## Sec. 9.02.168. Water and Wastewater Requirements

(a) Installation

The installation of all water and wastewater lines shall be in conformance with section 9.02.090 of this article. The design and construction of the water system and sanitary sewer system shall be in conformance with the city's master plans for water and wastewater facilities, the design standards, and construction plans, and shall be approved by the city engineer.

(b) Provision for Water and Wastewater Required

No final plat shall be approved for any subdivision within the city or its extraterritorial jurisdiction until the applicant has made adequate provision for a water system and a sanitary sewer system of sufficient capacity to adequately provide service to all tracts and lots within the area to be subdivided.

(c) Safe Water Supply and Fire Protection

Water system mains of sufficient size and having a sufficient number of outlets to furnish adequate and safe domestic water supply and to furnish fire protection to all lots shall be provided.

(d) Water And Wastewater Mains to Property Line

Water and wastewater mains shall extend to the property line in order to allow future connections into adjacent undeveloped property unless otherwise authorized by these subdivision regulations.

(e) Utilities to Property Line of Each Lot

Services for utilities shall be made available to the property line of each lot in such a manner as will minimize the necessity for disturbing the street pavement and drainage structures when connections are made.

(f) Fire Protection

Fire protection shall be provided in accordance with sections 9.02.089 and 9.02.090 of this article, with the city's design standards, and with any other city policy or ordinance pertaining to fire protection or suppression.

- (1) The fire chief or his/her designee shall have the authority to approve the locations and placement of all fire hydrants, fire lanes, and easements in accordance with the adopted fire code. He or she may, at his or her discretion, modify fire hydrant spacing or fire lane placement based upon special design or distance circumstances.
- (2) Vertical construction (i.e., any building construction above foundation/slab level) shall not commence until all required fire lanes are properly installed and accepted by the city, nor until all fire hydrants have been installed, inspected, tested and accepted by the city.

## Sec. 9.02.169. Storm Drainage and Water Quality Controls

(a) Adequate Storm Sewer System Required

An adequate storm sewer system consisting of inlets, pipes and other underground structures with approved outlets shall be constructed where runoff of storm water and the prevention of erosion cannot be accomplished satisfactorily by surface drainage facilities.

(b) Areas Subject to Flood Conditions or Storm Water Retention

Areas subject to flood conditions or inadvertent storm water retention, such as standing or pooling water, as determined by the city engineer, will not be considered for development until adequate drainage has been provided.

(c) Design

The criteria for use in designing storm sewers, culverts, bridges, drainage channels, and other drainage facilities shall conform to sections 9.02.090 and 9.02.091, as applicable, of this article and the design standards.

(d) Proper Functioning Required Prior to Expiration of Maintenance Bond

The developer shall ensure that all drainage improvements within public easements or rights-of-way are functioning properly prior to the expiration of the maintenance bond.

(1) Responsibility

The developer shall be responsible for removing any significant build-up of sediment or debris from drainage improvements, with the exception of back-lot and side-lot drainage swales, through the 24th month of the required two-year maintenance bond for the applicable facilities.

(2) City Inspection

The city shall inspect the improvements to determine any maintenance or correction of deficiencies at the conclusion of this period.

- (e) Storm water pollution prevention plan (SWPPP). An SWPPP shall be provided for storm water discharge in accordance with Texas Pollutant Discharge Elimination System (TPDES) general permit, TXR150000, and/or Environmental Protection Agency (EPA) regulations. This shall include the assumption of responsibility of said pollution prevention system, including the design and implementation of said system, complete in place. Moreover, when it comes to SWPPP, the contractor has the sole authority, responsibility and control over

plans and specifications of the said SWPPP only and can make changes to those specifications for the entire project as he deems necessary or needed to remain in compliance with the Texas Commission on Environmental Quality (TCEQ) and/or EPA regulations. When site stability is achieved in accordance with the SWPPP, the developer shall remove the control apparatuses, devices, and systems and remove accumulated silt and debris.

§ 9.02.170 through § 9.02.200. (Reserved)

## Division 6. REQUIREMENTS FOR ACCEPTANCE OF SUBDIVISIONS BY CITY

### Sec. 9.02.201. Withholding City Services and Improvements Until Acceptance

(a) General Policy

The City hereby defines its policy to be that the City will withhold all City services and improvements of any type until all required improvements are properly constructed according to the approved engineering plans and to City standards, and until such public improvements are dedicated to and accepted by the City. This policy of withholding includes subdivision improvements as well as lot improvements.

(1) Subdivision Improvements

Subdivision improvements include street maintenance, extension of City services from any subdivision or property, and all street, utility, storm drainage and other public improvements.

(2) Lot Improvements

Lot improvements include retaining walls, grading, and improvements required for proper lot drainage and prevention of soil erosion.

### Sec. 9.02.202. Guarantee of Public Improvements

(a) Developer's Guarantee

Before final acceptance of a subdivision located all or partially within the City or its extraterritorial jurisdiction, the City must be satisfied that all required public improvements have been constructed in accordance with the approved engineering plans and with the requirements of these subdivision regulations.

(b) Subdivision Improvement Agreement and Guarantee

The City Manager may waive the requirement that the applicant complete and dedicate all public improvements prior to final acceptance of the subdivision, and may permit the developer to enter into a subdivision improvement agreement by which the developer covenants to complete all required public improvements no later than two years following the date upon which the remainder of the subdivision is accepted. The City Manager may also require the developer to complete or dedicate some of the required public improvements prior to final acceptance of the subdivision, and to enter into a subdivision improvement agreement for completion of the remainder of the required improvements during such two-year period. The subdivision improvement agreement shall contain such other terms and conditions as are agreed to by the developer and the City.

(c) Subdivision Improvement Agreement Required for Oversize Reimbursement

The City may participate in the oversizing of water and sewer facilities required to serve the land areas and improvements beyond the subdivision. The City shall require a subdivision improvement agreement pertaining to any public improvement for which the developer shall request reimbursement from the City for oversize costs. The City Manager, subject to available funds in the budget approved by the City Council, has the authority to approve such an agreement. The City Manager is authorized to sign a subdivision improvement agreement on behalf of the City under this subsection (c).

(d) Security

Whenever the City permits an applicant to enter into a subdivision improvement agreement, it shall require the applicant to provide sufficient security, covering the completion of the public improvements. The security shall be in the form of cash escrow or, where authorized by the City, a performance bond or letter of credit or other security acceptable to the City Manager and the City Attorney, as security for the promises contained in the subdivision improvement agreement. Security shall be in an amount equal to 110% of the estimated cost of completion of the required public improvements and lot improvements. The City Engineer shall review and approve the cost estimates provided by the developer. Any security instrument, including a bond, letter of credit, or escrow agreement shall be subject to the review and approval of the City Engineer and the City Attorney.

(e) Performance Bond

(1) Requirements

If the City Council authorizes the applicant to post a performance bond as security for its promises contained in the subdivision improvement agreement, the performance bond shall comply with the following requirements:

- (A) All performance bonds must be in the forms acceptable to the City Engineer and the City Attorney;
- (B) All performance bonds must be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," as published in Circular 570, as may be amended, by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury;
- (C) All performance bonds must be signed by an agent, and must be accompanied by a certified copy of the authority for him or her to act;
- (D) All performance bonds shall be obtained from surety or insurance companies that are duly licensed or authorized in the State of Texas to issue performance bonds for the limits and coverage required.

(2) Additional Surety

If the surety on any performance bond furnished by the applicant is declared bankrupt, or becomes insolvent, or its right to do business is terminated in the State of Texas, or the surety ceases to meet the requirements listed in Circular 570, the developer shall, within 20 calendar days thereafter, substitute another performance bond and surety, both of which must be acceptable to the City.

(3) Withholding Until Improvements or Other Surety

The City may withhold building permits, certificate of occupancy permits or utility connections until such improvements are completed or other surety is provided to the City.

(f) Letter of Credit

If the City Manager authorizes the applicant to post a letter of credit as security for its promises contained in the improvement agreement, the letter of credit shall:

- (1) Be irrevocable;
- (2) Be for a term sufficient to cover the completion, maintenance and warranty periods, but in no event less than two years; and
- (3) Require only that the City present the issuer with a signed draft and a certificate signed by an authorized representative of the City certifying to the City's right to draw funds under the letter of credit.

(g) Reducing Amount of Surety

As portions of the public improvements are completed in accordance with the design standards and the approved engineering plans, the applicant may make written application to the City to reduce the amount of the original security. If the City is satisfied that such portion of the improvements has been completed in accordance with City standards, the City Manager (or designee) may cause the amount of the security to be reduced by such amount that he or she deems appropriate, so that the remaining amount of the security adequately insures the completion of the remaining public improvements.

(h) Escrow Policies and Procedures for Streets

(1) Request for Escrow

Whenever these subdivision regulations require a property owner to construct a street or thoroughfare, the property owner may petition the City to construct the street or thoroughfare, usually at a later date, in exchange for deposit of escrow as established in this section.

- (A) The basis of such petition shall be the existence of unusual circumstance(s), such as a timing issue due to pending street improvements by another agency such as TxDOT or Collin County that would present undue hardships or that would impede public infrastructure coordination or timing.
- (B) If more than one street or thoroughfare must be constructed in order to meet adequacy requirements for streets, the City Manager (or designee) may prioritize streets for which escrow is to be accepted and require the deposit of all funds attributable to the development in escrow accounts for one or more of such affected streets.
- (C) The City Council shall review the particular circumstances involved, and shall determine, at its sole discretion, whether or not provision of escrow deposits will be acceptable in lieu of the property owner's obligation to construct the street or thoroughfare with his or her development.

(2) Escrow deposit with the City

Whenever the City Council agrees, under these subdivision regulations, to accept escrow deposits in lieu of construction by the property owner or developer of the street or thoroughfare, the property owner or developer shall deposit in escrow with the City an amount equal to costs of the following:

- (A) Administration;
- (B) Advertisements;
- (C) Bidding;
- (D) Contingency;
- (E) Testing;
- (F) Design;
- (G) Construction;
- (H) Permits;
- (I) Reviews and approvals;
- (J) Inspections;
- (K) Any additional land acquisition; and
- (L) An appropriate (and realistic) inflation factor to ensure that the actual "future dollar" costs will be covered when actual construction occurs in the future.

(3) Determination of Escrow Amount

The amount of the escrow shall be determined by using the maximum comparable “turn-key” bid price of construction of the street or thoroughfare improvements (including the items listed in subsection (2) above). Such determination of the escrow amount shall be made as of the time the escrow is due hereunder, and shall be subject to the review and approval of the City Manager (or designee) and the City Engineer. The escrow amount shall be paid prior to release (approval) of engineering plans by the City Engineer. The obligations, responsibilities, and related liability of the property owner shall become those of the property owner’s transferees, successors and assigns.

(4) Use of Escrow

Escrowed amounts, along with any interest accrued on such amount, may be used for the purposes outlined in subsection (2) above in order to undertake construction of the facilities that are required as part of the development for which the escrow was submitted.

(5) Termination of Escrow

Escrows, or portions of escrowed amounts, which have been placed with the City under this section and which have been held for a period of 10 years from the date of such payment or agreement, in the event that the City has not authorized the preparation of plans and specifications for construction of such street facilities for which the escrow was made, shall, upon written request, be returned to the property owner, along with its accrued interest. Such return does not remove any obligations of the property owner for construction of the required facilities if a building permit has not been issued on the subject lot or if a new building permit is applied for.

(6) Refund

If any street or highway for which escrow is deposited is constructed by a party other than the City, or is reconstructed by another governmental authority at no cost to the City, the escrowed funds and accrued interest shall be refunded to the property owner or applicant who originally paid the escrow amount after completion and acceptance of the public improvements. In the event that a portion of the cost is borne by the City and the other portion of the cost by another party or governmental authority, the difference between the property owner’s actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.

(7) Interest Limitation

If money is refunded within six months of deposit, only the principal shall be refunded. Monies returned after this date will be refunded with 1/2 of its accrued interest.

(i) Subdivision improvement agreements for perimeter and approach streets.

(1) Perimeter and Approach Streets

If a perimeter or approach street is required to be constructed under section 9.02.082 of this article, the developer and the City may enter into a subdivision improvement agreement that provides for the future reimbursement to the developer as new development occurs along the section of the perimeter or approach street constructed by the developer. Such reimbursement shall not exceed one-half the cost per linear foot of constructing the perimeter or approach street and related improvements multiplied by the number of linear feet of the perimeter or approach street adjacent to the new development. The developer who constructed the street shall submit copies of contracts to the City to establish the cost of the project that is subject to reimbursement.

(2) Time Period for Reimbursement

## Sec. 9.02.203. Temporary Improvements.

If the City collects a perimeter street fee as provided for in section 9.02.082 of this article, within 10 years of the acceptance of the street by the City, it shall pay the collected amount to the developer who originally constructed the street as soon as practicable after receipt of the funds as required under the terms of a subdivision improvement agreement authorized by this subsection (i). At the expiration of the 10th year, a developer is no longer entitled to receive reimbursement.

## (3) Impact Fee Credit

Unless otherwise agreed to in a written agreement concerning impact fees or other development fees, a developer who installs an approach street under the provisions of a subdivision improvement agreement may pursuant to the provisions of the agreement, receive credit for costs associated with the installation of the approach street against any street impact fees that may be lawfully assessed against the developer for that portion of the approach street constructed.

## (4) Oversizing

When required for the proper and orderly growth of the City, the City Council may require a developer to install an approach street larger than necessary to support the specific development subject to the terms of a subdivision improvement agreement. If the developer is required to install an approach street larger than necessary to serve the specific development, the developer may, subject to the provisions of a subdivision improvement agreement, be reimbursed by the City for the difference in cost between the cost of installing the oversized street and the cost of installing a street meeting minimum City standards required for the type of street required to serve the development.

## (A) Credit for Development Fees.

The City may, pursuant to the terms of a subdivision improvement agreement, compensate the developer for the difference in cost mandated by oversizing by crediting up to 50% of development fees charged against any portion or phase of the development.

## (j) Transfer of credit.

Upon written request from the developer, credit for development fees may be transferred from the current development project to subsequent development projects, subdivisions or phases undertaken by the developer. Such transfers must be approved by the City Council.

**Sec. 9.02.203. Temporary Improvements.**

## (a) Responsibility

The applicant shall build and pay for all costs of temporary improvements required by the City, and shall maintain those temporary improvements for the period specified by the City. Prior to construction of any temporary facility or improvement, the applicant shall file with the City a separate improvement agreement and escrow or, where authorized, a letter of credit, in an appropriate amount for temporary facilities, which agreement and escrow or letter of credit shall ensure that the temporary facilities will be properly constructed, maintained and removed.

## (b) Temporary Easement

Any temporary public improvement (e.g., a temporary cul-de-sac, alley turnout, drainage swale, erosion control device, etc.) shall be placed within an easement established specifically for that purpose. The recording information of the instrument establishing the temporary easement shall not be shown on the final plat unless the easement is a permanent easement for the subdivision prior to approval of the final plat. A

temporary easement for a required public improvement shall not be abandoned without the City Manager's written consent.

### Sec. 9.02.204. Failure to Complete Improvements

#### (a) Improvement Agreement Executed and Security Posted

In those cases where an subdivision improvement agreement has been executed and security has been posted, and the required public improvements have not been installed within the terms of the agreement, the City may:

- (1) Declare the agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;
- (2) Suspend any previously authorized building construction activity within the subdivision until the public improvements are completed, and record a document to that effect for the purpose of public notice;
- (3) Obtain funds under the security and complete the public improvements itself or through a third party;
- (4) Assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision for which public improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete the public improvements on the property; or
- (5) Exercise any other rights or remedies available under the law.

### Sec. 9.02.205. Acceptance of Dedication Offers

#### (a) Acceptance

Acceptance of formal offers for the dedication of streets, public areas, easements or parks shall be by written authorization of the City Manager. The approval by the Commission and City Council of a preliminary or final plat shall not, in and of itself, be deemed to constitute or imply the acceptance by the City of any public improvements required by the plat. The City may require the plat to be endorsed with appropriate notes to this effect.

### Sec. 9.02.206. Maintenance Guarantee

#### (a) Maintenance Bond

- (1) A subdivider shall furnish a good and sufficient maintenance bond issued by a reputable and solvent corporate surety, in favor of the City, to indemnify the City against and guarantee the costs of any repairs which may become necessary to any part of the construction work performed in connection with the subdivision, arising from defective workmanship or materials used therein, for a full period of two years from the date of final acceptance of the entire project or a phase of the project if the City elects to accept a particular phase before the entire project is completed. A separate maintenance bond must be furnished for work done under each contract for each part of such construction work unless otherwise authorized by the City. Final acceptance will be withheld until said maintenance bond is furnished to and approved by the City Attorney. The maintenance bond shall have attached thereto a copy of the construction contract for such improvements and such other information and data necessary to determine the validity and enforceability of such bond. When the bond has been examined and approved, the City Attorney shall so specify in writing to the City's development department. No permits shall be issued by the building inspector of the City on any piece of property other than an original or a re-

## Sec. 9.02.207. Construction Procedures

subdivided lot in a duly approved and recorded subdivision or on a lot of separate ownership of record prior to the approval of any required maintenance bond.

- (2) The City Manager may waive the requirement for a maintenance bond for projects with a construction cost of \$5,000.00 or less.

### Sec. 9.02.207. Construction Procedures

(a) Site Development Permit

A site development permit is required from the City prior to beginning any site development-related work in the City or its extraterritorial jurisdiction which affects erosion control, storm drainage, vegetation or tree removal, or a floodplain.

(b) Pre-Construction Conference Prior to Affecting Grading, Vegetation and/or Trees.

The City shall require that all contractors participating in the construction meet for a pre-construction conference to discuss the project prior to release of a site development permit and before any filling, excavation, clearing or removal of vegetation and any trees that are larger than six-inch caliper. All contractors shall be familiar with, and shall conform with, applicable provisions of the City's landscape and tree preservation regulations and any other applicable ordinances or regulations.

(c) Conditions Prior to Authorization

Prior to issuing a site development permit, the Director of Development Services shall be satisfied that the following conditions have been met:

- (1) The final plat has been approved by the Commission (and any conditions of such approval have been satisfied);
- (2) All required engineering plans and documents are completed and approved by the City Engineer;
- (3) All necessary off-site easements and dedications required for City-maintained facilities and not shown on the plat have been conveyed to the City, such as by filing of a separate instrument, with the proper signatures affixed;
- (4) All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of approval of the Public Works Director, and at least one set of these plans shall remain on the job;
- (5) A complete list of the contractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times must be submitted to the City; and
- (6) All applicable fees must be paid to the City.

(d) Nonpoint Source Pollution Controls and Tree Protection

All nonpoint source pollution controls, erosion controls, and tree protection measures and devices shall be in place, to the City Engineer's satisfaction, prior to commencement of construction on any property.

### Sec. 9.02.208. Inspection and Acceptance of Public Improvements

(a) General procedure

- (1) (The subdivider shall provide inspection service through his/her engineer to ensure that construction is being accomplished in accordance with the plans and specifications approved by the City Engineer.

- (A) The subdivider shall notify the public works director 48 hours prior to commencement of construction. This notice shall give the location and date of the start of construction.
  - (B) The City shall have the right to inspect any construction work being performed to ensure that it is proceeding in accordance with the intent of the provisions of these subdivision regulations.
  - (C) Any change in design that is required during construction should be made by the licensed professional engineer whose seal and signature are shown on the plans. Another engineer may make revisions to the original engineering plans if so authorized by the owner of the plans, and if those revisions are noted on the plans or documents. All revisions shall be approved by the City Engineer.
  - (D) If the City Engineer finds, upon inspection, that any of the required public improvements have not been constructed in accordance with the approved construction plans, the City's standards and/or the design standards, then the developer shall be responsible for completing and correcting the deficiencies (at his/her expense) such that they are brought into conformance with the applicable standards.
- (2) Testing laboratory services will be arranged by the City and paid for by the developer. It shall be the responsibility of Public Works Director (or designee) to coordinate the scheduling of all required tests with the testing laboratory. Testing shall be conducted in accordance with the procedures set forth in design standards for like work at the frequency specified thereon as directed by the City Engineer.
- (b) Letter of Satisfactory Completion
- (1) The City will only deem required public improvements satisfactorily completed when the applicant's engineer or RPLS has certified to the City Engineer (through submission of detailed sealed "as-built," or record, drawings of the property) drawings that indicate all public improvements and their locations, dimensions, materials and other information required by the City Engineer, and when all required public improvements have been completed.
    - (A) The "as-builts" shall also include a complete set of sealed record drawings of the paving, drainage, water, sanitary sewer and other public improvements, showing that the layout of the lines and grades of all public improvements are in accordance with engineering plans for the plat, and showing all changes made in the plans during construction, and containing on each sheet an "as-built" stamp bearing the signature and seal of the licensed professional engineer and the date.
    - (B) One reproducible drawing of the utility plan sheets containing the as-built information shall also be submitted.
    - (C) The developer's engineer and/or RPLS shall also furnish the City with a copy of the approved final plat and "as-built" engineering plans, in such a digital format (on disk) that is compatible with the City CAD system.
  - (2) When the requirements of subsection (1) above have been met to the Director of Development Services' and City Engineer's satisfaction, and when a maintenance bond has been received and approved as required in section 9.02.206 of this article, the City Manager shall issue a letter of satisfactory completion.
- (c) Effect of Acceptance
- Acceptance of the development shall mean that the developer has transferred all rights to all the public improvements to the City for use and maintenance, subject to the two-year maintenance bond (see section 9.02.206 of this article).

(2008 Code, pt. III-A, art. 6, sec. 8; Ordinance 862-2020 adopted 6/23/20)

## Sec. 9.02.209. Issuance of Building Permits and Certificates of Occupancy

### (a) Building permit

- (1) A building permit shall only be issued for a lot, building site, building or use after the lot or building site has been officially recorded by a final plat approved by the Commission and filed for record at Collin County, and after all public improvements, as required by these subdivision regulations, have been completed.
- (2) Notwithstanding the above, a permit may be issued as outlined below, provided that an agreement providing sufficient security (see section 9.02.202 of this article) is approved by the City Manager for the completion of all remaining public improvements.

#### (A) Building "Foundation-Only" Permit.

A building "foundation only" permit may be issued for a nonresidential or multifamily development. However, the building permit shall not be issued and building construction shall not be allowed to surpass the construction of fire protection improvements. In other words, the building shall not proceed above the slab level until all required fire lanes have been completed, and until all water lines serving fire hydrants have been completed, inspected and tested.

#### (B) Possible Release of Lots

The City Manager may release some residential building permits for not more than 10% of the lots within a new residential subdivision, provided that all public improvements have been completed for that portion of the development including those required for fire and emergency protection. No lot may be sold nor title conveyed until the final plat has been recorded with the Collin County clerk.

### (b) Certificate of Occupancy

A certificate of occupancy shall only be issued for a building or the use of property after a final plat has been approved by the Commission and recorded with the Collin County clerk, and after all subdivision improvements have been completed. Notwithstanding the above, a certificate of occupancy may be issued provided that an agreement providing sufficient security (see section 9.02.202 of this article) is approved by the City Manager for the completion of all remaining public improvements, and provided that the structure is safely habitable in accordance with the City's building codes. No lot may be sold nor title conveyed until the final plat has been recorded with the Collin County clerk.

§ 9.02.210 through § 9.02.240. (Reserved)

## Division 7. FILING FEES; PLAT RE-SUBMISSION AND CONSTRUCTION INSPECTION FEES

### Sec. 9.02.241. Schedule of Fees and Re-Submission Requirements

(a) Fee Schedule

All submissions required under these subdivision regulations shall be accompanied by the payment of fees in accordance with the current development fees schedule as set forth in article A.3000 of the fee schedule in appendix A of this code and any other applicable fees. The development fee schedule shall be as approved by the City Council and may be changed from time to time by the City Council. It is the applicant's responsibility to obtain and comply with the City's current fee schedule and submission requirements.

(b) Purpose

Such fees shall be collected for the purpose of defraying the costs of administrative, clerical, engineering, review, inspections, and testing necessary to properly review and investigate plats and subdivision construction.

(c) No Refund

Such fees shall be imposed and collected on all applications for approval of any type of plat, regardless of the action taken by the Commission and/or City Council thereon. The commission shall take no action until all required fees have been paid. The required fees shall not be refunded should the plat be disapproved.

(d) Re-Submission Fees

Re-submission of revised applications (such as preliminary plats) having substantial changes shall, at the discretion of the Director of Development Services, require complete reapplication and payment of fees.

(e) Expiration Of Application

Should a development application expire, or should it be denied by the Commission or the City Council, then that application ceases "pending" status and the application, and its corresponding series of development approvals and permits, shall be deemed null and void. Any future application for any type of development approval for that property shall be considered a new application, and shall be accompanied by new application materials, including new submission fees, and shall conform to all applicable City ordinances in effect at the time of submission of the new application.

(f) Recordation Fees

Recordation of plats with the Collin County clerk shall be the responsibility of the applicant.

(g) Construction Inspection Fee

(1) A construction fee as provided in the fee schedule in appendix A to this code shall be paid to the City prior to the construction of any facilities. The subdivider shall submit to the City Engineer an estimate of construction costs. The City Engineer shall either approve or disapprove the estimate and send a copy of said approval or disapproval to subdivider and City. If the estimate is disapproved, the City Engineer shall consult with subdivider and attempt to negotiate an acceptable estimate. If such negotiations are unsuccessful, the subdivider may appeal to the City Council to resolve the dispute. Construction shall not begin until the City Engineer has approved the estimate or in the alternative the City Council has approved the estimate, and the associated fees have been paid.

## Sec. 9.02.260. Enforcement; Violations; Penalties

- (2) The subdivider shall submit to City documentation showing actual cost of construction when construction is completed. If actual cost is less than the original estimate, the City shall refund the appropriate amount. If the actual construction cost is greater than the original estimate, the subdivider shall pay to the City the appropriate amount, based on the amount established in the fee schedule in appendix A to this code.

§ 9.02.242 through § 9.02.260. (Reserved)

## Division 8. ENFORCEMENT; VIOLATIONS; PENALTIES

### Sec. 9.02.260. Enforcement; Violations; Penalties

In addition to all other remedies and relief available to the City by law or in equity for a violation of these subdivision regulations, the following non-exclusive forms of relief shall be available to the City:

- (1) Violations and Penalties

Any person who violates any of these regulations for lands within the corporate boundaries of the City shall be subject to a fine in accordance with the general penalty provided in section 1.01.009 of this code per day, or the highest amount authorized under law, whichever is lower, with each day constituting a separate violation.

- (2) Civil Enforcement

Appropriate civil actions and proceedings may be maintained in law or in equity to prevent unlawful construction, to recover damages, to impose additional penalties, [or] to restrain, correct or abate a violation of these regulations, whether such violation occurs with respect to lands within the corporate boundaries of the City or within the City's extraterritorial jurisdiction. These remedies shall be in addition to the penalties described above.

- (3) Withholding of Subdivision Acceptance

Pursuant to the provisions of division 6 of this article, the City may refuse to grant final acceptance of a subdivision that does not fully and completely comply with all terms and conditions of these subdivision regulations including, but not limited to, the refusal to issue building permits and certificates of occupancy, and the refusal to connect the property to City utilities and services.

## Division 9. TABLES AND DIAGRAMS

### Sec. 9.02.261. Tables and Diagrams

TABLE 1				
Type	Designation	R.O.W.	Pavement Width	Median Width
Expressway	E	150' – 500'	NA	NA
Arterial	A	120'	2 @ 36'	26'
Major or minor collector, divided	C2D	90'	2 @ 24'	20'
Major or minor collector, undivided	C2U	80'	48'	None
Residential collector	C	60'	36'	None
Local collector	R	50'	31'	None

<b>TABLE 2. NEIGHBORHOOD POINT SYSTEM - PRIMARY ENTRY POINT OPTIONS**</b>	
Water feature *Must be lit at night with a minimum of 15' wide and 8' tall	1 point per side of entry street
Significant floral focal point on both sides of entry street *Minimum of 1,000 square feet and maintained by the HOA	2 points max
Any structure integrated as subdivision identification that exceeds 15' in height	3 points per side of entry 2 additional points if an archway is incorporated
Art or sculptures *Minimum height of 8'	2 points
Landscaping*** in median for the divided entry *Maintained by the HOA	5 points max 1 point for every 1,000 square feet
For every 5' increase in depth past the required 20' landscape buffer	1 point *5-point max
Additional trees planted along a street 60' or greater in width. Trees may be clustered.	2 points for every 10 additional ornamental trees or shrubs or 5 additional shade trees
Additional landscaping*** or features above and beyond the requirements *Must be annual and increased quality *Additional upgrades per the discretion of the Director of Development Services	2 points

\* All items are subject to the discretion and approval of the planning director.

\*\* Items within this section can count toward the Primary Entrance or within the subdivision, but not both.

\*\*\*Landscaping for points shall consist of a combination of the following but not include sod/turf:

1. Mulched landscape bed;
2. Flowering perennials;
3. Shrubs;
4. Low ornamental grasses at least one foot (1') in height; and/or
5. Landscaping rock including but not limited to pea gravel, lava rocks, and river rocks.

<b>TABLE 3. NEIGHBORHOOD POINT SYSTEM - PRIMARY ENTRANCE TERMINATION OPTIONS**</b>	
Common area lot or public park at the entry	Based on the typical (median) residential lot 1 full lot = 2 points 2 full lots or greater = 4 points
Amenity center *Minimum of 3,000 sq. ft.	5 points max *3 points base with 1 point per additional 1,000 sq. ft.
Roundabout with a minimum of 2,000 square feet of landscaping*** *Must match the primary entrance landscaping and maintained by the HOA	5 points max 2 points base with 1 point per additional 1,000 square feet
Water feature *Must be lit at night with a minimum of 15' wide and 8' tall	3 points
Gazebo	3 points max 1 point for every 100 square feet
Boulevard with enhanced landscaping*** with seasonal color *Maintained by the HOA	5 points max 1 point for every 1,000 square feet
Sculpture or other artistry *Must be lit at night	2 points

\*All items are subject to the discretion and approval of the Director of Development Services.

\*\* Items within this section can count toward the Primary Entrance or within the subdivision, but not both.

\*\*\*Landscaping for points shall consist of a combination of the following but not include sod/turf:

1. Mulched landscape bed;
2. Flowering perennials;
3. Shrubs;
4. Low ornamental grasses at least one foot (1') in height; and/or
5. Landscaping rock including but not limited to pea gravel, lava rocks, and river rocks.

<b>TABLE 4. NEIGHBORHOOD POINT SYSTEM - SECONDARY ENTRANCE SUBDIVISION FEATURES**</b>	
Divided secondary entry	1 point
Roundabout at the secondary entrance	1 point
Addition and maintenance of seasonal landscaping*** at the secondary entrance on a common area lot including a divided median or roundabout. *Maintained by the HOA and must correspond with the main entry and neighborhood landscaping	5 points max 1 point for every 1,000 square feet
Extended secondary entry length *Minimum ½ lot length. No additional points for additional length past the minimum.	1 point
Additional landscaping*** throughout the length of the extended drive *Maintained by the HOA and must correspond with the main entry and neighborhood landscaping	5 points max 1 point for every 1,000 square feet
Common area lot or public park at the terminus of secondary entrance	Based on the typical (median) residential lot ½ lot = 1 point 1 full lot = 2 points 2 full lots or greater = 4 points

\*All items are subject to the discretion and approval of the Director of Development Services.

\*\* Items within this section can count toward the Primary Entrance or within the subdivision, but not both.

\*\*\*Landscaping for points shall consist of a combination of the following but not include sod/turf:

1. Mulched landscape bed;
2. Flowering perennials;
3. Shrubs;
4. Low ornamental grasses at least one foot (1') in height; and/or
5. Landscaping rock including but not limited to pea gravel, lava rocks, and river rocks.

<b>TABLE 5. NEIGHBORHOOD POINT SYSTEM - SECONDARY ENTRANCE AND INTERIOR SUBDIVISION FEATURES</b>	
Off-street parking spaces and dedicated on-street parking spaces adjacent to park land *5 additional parking spots at major, neighborhood focal points	2 points for every 5 spaces in addition to required parking
Pools and amenities *Per the discretion of the Director of Development Services	1 point per playing court, child play lot (minimum 2,000 square feet), fitness center/weight room, 2,000 square feet of surface water of a pool
Splash pad *Minimum of 3 fixtures per 1,000 sq. ft. and maintained by the HOA	4 points max 2 points base with 1 point for every additional 1,000 sq. ft. and 3 fixtures
Dog park *Minimum of 1 acre, with one dog waste station for every ¼ acre and maintained by the HOA	1 point base with 1 point for every additional acre, 5-acre max
For every 1,000 ft. of walking trail *Minimum of 8ft. wide with one bench and trash can per 1,000 ft. Trash to be maintained by the HOA	2 points
Additional bench and trash can in common areas *To be maintained by the HOA	1 point
Amenity center *Minimum of 3,000 sq. ft	5 points max *3 points base with 1 point per additional 1,000 sq. ft.

\* All items are subject to the discretion and approval of the Director of Development Services

\*\* Items within this section can count towards the Primary Entrance or within the subdivision, but not both.

DIAGRAM A. SHARED ACCESS DRIVEWAY AND CROSS ACCESS INTERNAL DRIVEWAY

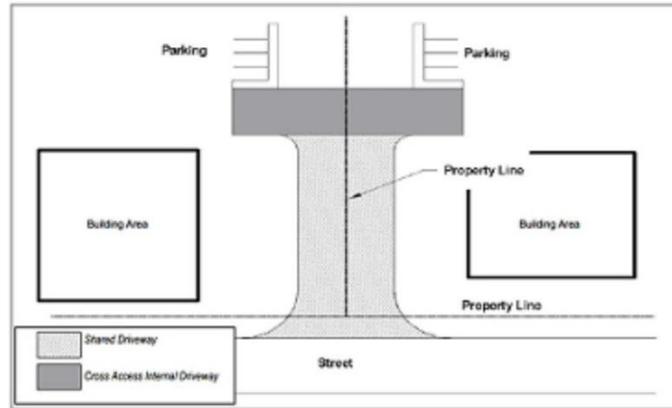


DIAGRAM B. EXAMPLES OF THE PRIMARY SUBDIVISION ENTRY FEATURES WITH POINTS

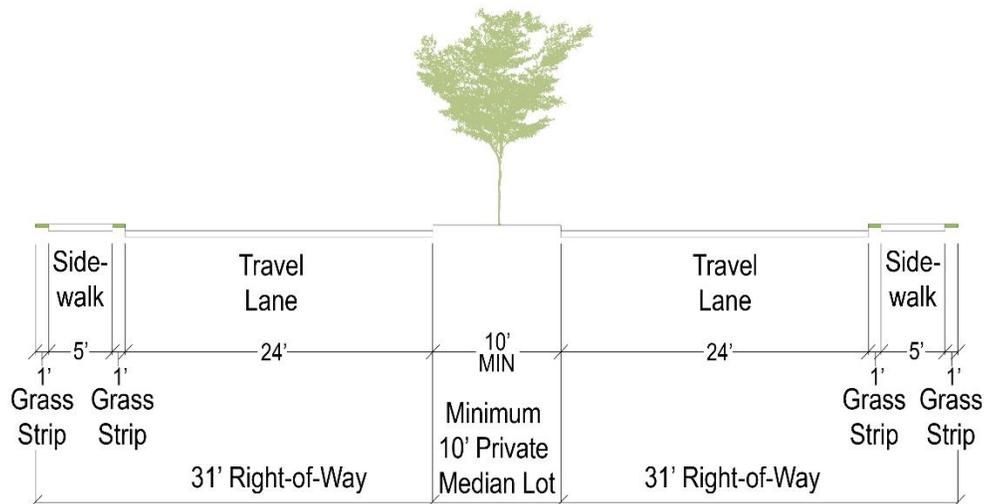
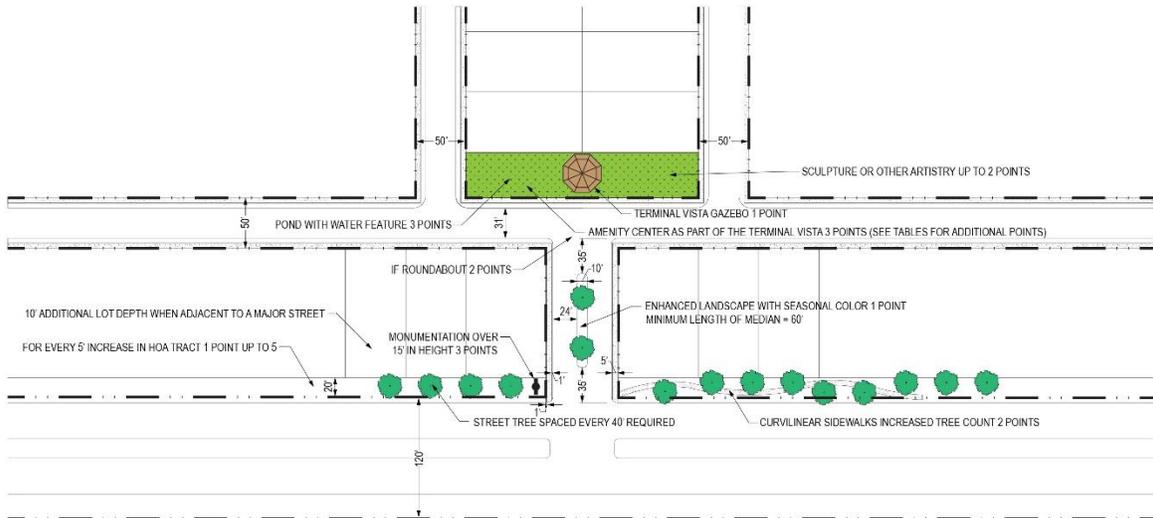
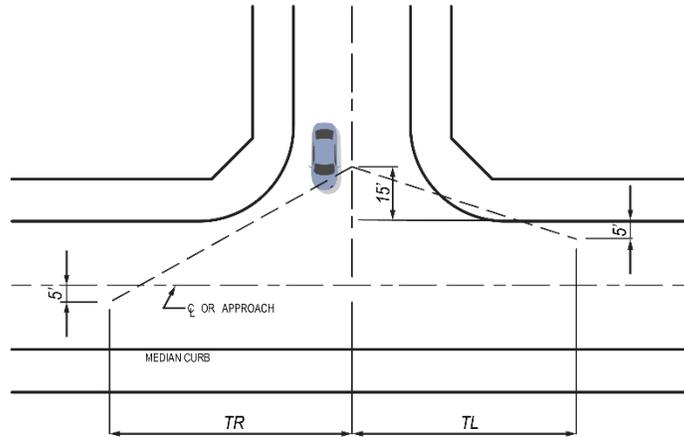


DIAGRAM C. VISIBILITY EASEMENT WITH SIGHT VISIBILITY TRIANGLES



**TABLE 9**  
 MINIMUM SIGHT DISTANCE FOR  
 A CAR AT AN INTERSECTION

MPH	T
30	110 + 200 = 310
35	130 + 250 = 380
40	130 + 325 = 475
45	165 + 400 = 565
50	190 + 475 = 665

(AASHTO P138, BRAKE REACTION DISTANCE + STOPPING SITE DISTANCE)