

ORDINANCE NO. 2019-005

AN ORDINANCE OF THE CITY OF EAST BERNARD, TEXAS, PROVIDING FOR THE ORDERLY, SAFE AND HEALTHFUL DEVELOPMENT OF THE AREA WITHIN THE CITY AND WITHIN THE AREA SURROUNDING THE CITY AND TO PROMOTE THE HEALTH, SAFETY, MORALS AND GENERAL WELFARE OF THE CITY; ADOPTING DEFINITIONS; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000; AND PROVIDING FOR SEVERABILITY.

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WHEREAS, the Board of Aldermen of the City of East Bernard desires to adopt regulations and policies pertaining to the orderly development of the area within and around the city, as provided by Chapters 212 and 214 of the Texas Local Government Code; and

WHEREAS, the city finds there is a continuing need for the regulation of the orderly, safe, and healthful development of the area within the city and within the area surrounding the city and to promote the health, safety, morals and general welfare of the city; now, therefore,

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF EAST BERNARD, TEXAS:

SECTION 1. The facts, purpose, and recitations contained in the preamble of this Ordinance are found to be true and correct.

SECTION 2. IN GENERAL.

2-1. Authority.

A. This chapter is adopted under the authority of the constitution and laws of the state, including Chapter 25, Chapter 212, particularly subchapters A, B, C, E, and Z, and Chapter 214 of the Texas Local Government Code.

B. The Planning Commission of the City of East Bernard shall have the power and authority to approve plats for subdivisions within the corporate limits of the city and for a distance surrounding the corporate limits of the city within the extraterritorial jurisdiction of the city as authorized by Chapters 25, 212, and 214 of the Texas Local Government Code.

2-2. Purpose. The purpose of this chapter is to provide for the orderly, safe, and healthful development of the area within the city and within the area surrounding the city and to promote the health, safety, morals, and general welfare of the city.

In interpreting and applying the provisions of this Ordinance, the principles, standards, and requirements provided for herein shall be the minimum requirements for the platting and developing of subdivisions in the city and its extraterritorial jurisdiction.

2-3. Definitions. The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Any office referred to in this chapter by title means the person employed or appointed by the city in that position, or that person's duly authorized representative. Definitions not expressly prescribed in this chapter are to be construed in accordance with customary usage in municipal planning and engineering practices.

Alley means a minor unimproved public right-of-way, not intended to provide the primary means of access to abutting lots.

Applicant means the property owner, subdivider, and/or developer or the property owner's, the subdivider's, and/or the developer's designated agent who applies for a subdivision plat in order to divide or propose to divide land so as to constitute a subdivision.

Building setback line or building line means the line within a property defining the minimum horizontal distance between a building and the adjacent street line, measured from the applicable property line; provided however, if the lot is encumbered with a street right-of-way, such line shall be measured from the boundary line of such street right-of-way

Condominium subdivision shall mean those developments in which it proposed to partition land into individual lots and construct condominiums which may be individually owned.

Cul-de-sac means a street having only one outlet to another street, and terminated on the opposite end by a vehicular turnaround.

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

Design standards means any standards for construction, including, but not limited to any city ordinances, regulations and/or building codes, and county regulations and/or building codes, and any state regulations such as TxDot Standard Specifications.

Development means the new construction or the enlargement of any exterior dimension of any building, structure or improvement.

Duplex subdivision shall mean those developments in which it proposed to partition land into individual lots and construct duplexes which may be individually owned.

Engineer means a person duly authorized under state law to practice the profession of engineering.

Extraterritorial jurisdiction or *ETJ* means the city's extraterritorial jurisdiction as determined under Chapter 42 of the Texas Local Government Code.

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

Manufactured home or *HUD-code manufactured home* means a structure that is constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development; that is built on a permanent chassis; is designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities; is transportable in one or more sections; and in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet. A manufactured home includes the plumbing, heating, air conditioning, and electrical systems of the home. A manufactured does not include a recreational vehicle as defined by 24 C.F.R. Section 3282.8(g).

Mobile home means a structure constructed before June 15, 1976, that is built on a permanent chassis; is designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities; is transportable in one or more sections and when in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet. A mobile home includes the plumbing, heating, air conditioning, and electrical systems of the home.

Open space means private property under common ownership designated for recreation area, private park, play lot area, plaza area, or ornamental area open to general view and within the subdivision. Open space does not include streets, alleys, utility easements, and required building setbacks.

Patio home means a structure that is in a series of dwelling units designed for single-family occupancy and that is constructed on a lot that shall have a minimum area of six thousand (6,000) square feet and shall have a zero offset on one (1) side of the lot. However, a patio home shall not include a mobile home, manufactured housing, and/or travel trailer.

Pavement width means the portion of a street available for vehicular traffic; where curbs are laid, it is the portion between the face of curbs.

Planning Commission means the Planning Commission of the City of East Bernard. In the event no duly Planning Commission has been appointed, references to the Planning Commission shall be to the Board of Aldermen of the City of East Bernard.

Public utility means any entity, other than a municipality, that provides water, sewer, electricity, gas, or other utility service.

Setback means a distance from a curb, property line, or structure within which a building is prohibited.

Street means a public right-of-way, however designated, that provides vehicular access to adjacent land. Streets shall be categorized as arterial, collector, marginal-access, or minor streets as designated by the city's comprehensive plan or major street plan (thoroughfare plan).

- (1) An *access street* is a public street within or bounding a townhouse subdivision which serves a townhouse subdivision and other adjacent property, a patio home subdivision which serves a patio home subdivision and other adjacent property, a duplex subdivision which serve a duplex subdivision and other adjacent property, or a multi-family residential subdivision and other adjacent property.
- (2) An *arterial street* primarily provides vehicular circulation to various sections of the city.
- (3) A *boulevard street* is a divided four-lane (4-lane) street with a minimum fifteen-foot (15') wide median and minimum eighty-foot (80') right-of-way.
- (4) A *collector street* primarily provides circulation within neighborhoods, to carry traffic from minor streets to arterial streets, or to carry traffic through or adjacent to commercial or industrial areas.
- (5) A *duplex home* shall mean an attached residential building containing town (2) dwelling units designed for occupancy by not more than two (2) families.
- (6) A *duplex subdivision* means those developments in which it is proposed to partition land into individual lots and construct duplex homes.
- (7) An *interior street* is a public street not more than six hundred feet (600') long
 - a. that is located within a townhouse subdivision and designed to serve a limited area within the subdivision and shall not serve other properties outside the subdivision;
 - b. that is located within a patio home subdivision and designed to serve a limited area within the subdivision and shall not serve other properties outside the subdivision; or
 - c. that is located within a duplex subdivision and designed to serve a limited area within the subdivision and shall not serve other properties outside the subdivision.
- (8) A *marginal-access street* is a street which is parallel to and adjacent to an arterial street, which primarily provides access to abutting properties and protection from through traffic.

(9) A *minor street* is one used primarily for access to abutting residential property.

Subdivider means any person that owns the land sought to be subdivided and/or any agent of the property owner dividing or proposing to divide land so as to constitute a subdivision.

Subdivision means a division of any tract of land, situated within the corporate limits or ETJ of the city, into two or more parts for the purpose of laying out any subdivision of any tract of land or any addition to the city, or for laying out suburban lots, building lots, or any other lots, or to lay out any street, alley, park, or other parts of the tract intended for public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto. The term "subdivision" includes resubdivision; but does not include the division of land for agricultural purposes in parcels or tracts of five acres or more and not involving any new street, alley, easement of access, or public improvement.

Surveyor means a licensed state land surveyor or a registered public surveyor, as authorized by state statutes to practice the profession of surveying.

TxDot Standard Specifications means the Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges adopted by the Texas Department of Transportation in November 2014, and as may be amended.

Townhouse, row house, or condominium shall mean a structure which is one (1) of a series of dwelling units designed for single-family occupancy connected or immediately adjacent to each other. However, a townhouse, row house, or condominium shall not include a mobile home, manufactured housing and/or travel trailer.

Townhouse subdivision shall mean those developments in which it proposed to partition land into individual lots and construct townhouses which may be individually owned.

Utility easement means an interest in land granted to the city, to the public generally, and/or to a private utility corporation, for installing or maintaining utilities across, over or under private land, together with the right to enter on the land with machinery and vehicles necessary for the maintenance of the utilities.

2-4. Special Provisions.

A. No permit shall be issued for any development or any portion of a subdivision until a development plat or final plat has been submitted to and approved by the city and recorded with the county clerk.

B. The city nor any city official shall approve any plat of a subdivision within the city's corporate limits or ETJ that is required to be recorded with the county clerk unless the plat has been approved by the Planning Commission.

C. Any subdivision within the city and its ETJ shall conform to the provisions of this Ordinance, current design of the city, and other applicable ordinances and standards in effect at the time of the subdivision plat approval by the Planning Commission.

D. The city shall not repair, maintain, install, or provide any streets or public utility services in any subdivision for which a plat or replat is required.

E. The city shall not sell or supply any water service, sewerage service, or other city services within a subdivision for which a development plat or final plat has not been approved or filed for record, nor in which the standards contained or referred to in this chapter have not been complied with in full.

2-5. Subject Developments.

A. The provisions of the subdivision regulations of this Ordinance and the current design standards shall apply to the following forms of land subdivision and development activity:

- (1) The division of land into two (2) or more lots, tracts, reserves, sites, or parcels.
- (2) All subdivision of land which was outside the jurisdiction of the subdivision regulations of the city and which subsequently came within the jurisdiction of the subdivision regulations of the city through annexation or extension of the ETJ of the city.
- (3) The division of land previously subdivided or platted into tracts, sites, or parcels and not recorded that was subject to and not in accordance with adopted city subdivision regulations in effect at the time of such subdividing or platting.
- (4) The combining of two (2) or more contiguous tracts, lots, sites, or parcels for the purpose of creating one (1) or more legal lots.
- (5) The dedication or vacation, when no appropriation by use, entry, or improvement has been made, of streets, fire lanes, or alleys through any tract of land regardless of the area involved.
- (6) The vacation of a previously recorded subdivision plat.
- (7) Permanent public or semi-public spaces such as golf courses, recreational uses, institutional uses, schools, open spaces or park areas, and similar uses.
- (8) Any other development on an undeveloped or semi-developed site within the corporate limits or ETJ of the city.

B. In the event a reasonable question shall exist at any time as to whether a proposed division of land is subject to the provisions of this Ordinance, the Planning Commission is hereby vested with full power and authority to make such determination and the Planning Commission's decision shall be binding on the property owner.

2-6. Exemptions.

A. The provisions of this Ordinance shall not apply to:

- (1) Any subdivision, recorded or unrecorded which was in existence prior to August 16, 2004.
- (2) Land legally platted and approved prior to the effective date of this Ordinance, except as otherwise provided herein. However, all construction must conform to the current ordinances and design standards in effect at the time of construction.
- (3) Existing cemeteries complying with all state and local laws and regulations. Expansion of existing cemeteries and new cemeteries must comply with this Ordinance.
- (4) Divisions of land created by order of a court of competent jurisdiction.
- (5) Divisions of land into tracts greater than five (5) acres where each tract has access and no part of the tract is intended to be dedicated to public.
- (6) Two (2) or more adjoining lots or tracts of land within the city with common ownership where the owner of the lots or tracts intends to merge such lots or tracts into one (1) lot or tract to avoid creating a technical violation of the city's building and subdivision regulations relating building setback lines. This exemption only applies if (a) the joinder of the lots or tracts does not require or necessitate the dedication or removal of any public rights-of-way, public easements, or other public improvements and (b) the owner agrees, in writing on a form approved by the city and recorded in the real property records, that the merged lot or tract may not be divided in the future unless a subdivision plat authorizing such division has first been approved by the city and recorded in accordance with all applicable state laws and city ordinances governing plats and subdivision of land. The owner shall declare that any subsequent purchaser will be bound by the requirements of this exemption and record such declaration in the real property records.
- (7) A lot or tract of land within the city that does not have a subdivision plat filed of record or does not otherwise have a valid plat that may be filed of record, for which the owner seeks a building permit, certificate of occupancy, plumbing permit, electrical permit, utility tap, or any other permit or authority required or permitted under this Ordinance may avoid the necessity of recording a subdivision plat as required by this Ordinance,

so long as (a) the permit or other authority required or permitted by the city sought does not require or necessitate the dedication or removal of any public rights-of-way, public easements or other public improvements and (b) the owner agrees, in writing on a form approved by the city and recorded in the real property records, that the merged lot or tract may not be divided in the future unless a subdivision plat authorizing such division has first been approved by the city and recorded in accordance with all applicable state laws and city ordinances governing plats and subdivision of land. The owner shall declare that any subsequent purchaser will be bound by the requirements of this exemption and record such declaration in the real property records.

B. If platting is not required under this Ordinance, the city may, upon proper application and submission of such information as needed, authorize the issuance of building permits or site plan approval.

2-7. Conflicts. This Ordinance shall be deemed to be solely an ordinance governing the submission and approval of plats and subdivision of land, and nothing herein contained shall be deemed to modify, change, enlarge or repeal the provisions of any other ordinance of the city concerning buildings, building lines, or any other matter.

2-8. Duty of Applicant. It is the responsibility of the applicant for a subdivision plat, to obtain such information and/or documentation as shall be necessary to ensure that the application conforms to the provisions of this Ordinance and all other laws and ordinances. The applicant for a subdivision plat is encouraged to first confer with the city and obtain such written information as may be available from the city before making an application for subdivision plat approval and/or submitting any documents to the city for approval. The applicant shall be deemed for knowledgeable of all applicable law, ordinances, policies, and/or procedures as may be then promulgated by the city.

2-9. Application for Approval. Before a subdivision of any tract of land shall occur where the tract is divided into two (2) or more tracts to sell or develop into separate parcels, or before any permit for the erection or placement of a structure, or for any other reason as may be required by this Ordinance, the applicant shall apply in writing to the city for initial consideration by the Planning Commission for approval of the land subdivision. The application of the applicant shall conform to requirements of this Ordinance.

2-10. Penalties.

A. Any person, corporation, or entity violating any provisions of this Ordinance within the corporate limits of the city shall be guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000. Each day during which such violation shall exist or occur shall constitute a separate offense. Prosecution or conviction under this section shall never be a bar to any other remedy or relief available under local, state or federal law for violations of this Ordinance.

B. In accordance with Chapter 212 of the Texas Local Government Code, at the request of the Board of Aldermen, the city attorney may file an action in a court of competent jurisdiction to:

- (1) enjoin the violation or threatened violation by the applicant, owner, subdivider, and/or developer and/or the designated agent of such applicant, owner, subdivider, and/or developer of a requirement of this chapter; or
- (2) recover damages from the applicant, owner, subdivider, or developer and/or the designated agent of such applicant, owner, subdivider, and/or developer in an amount adequate for the city to undertake any construction or other activity necessary to bring about compliance with a requirements of this chapter.

SECTION 3. PROCEDURES AND REQUIREMENTS.

3-1. Variances.

A. The Planning Commission shall review and determine what action is required for the variance request. The Planning Commission may authorize a variance from these regulations when in its opinion undue hardship will result from requiring strict compliance. The applicant seeking the variance has the burden of proving that compliance would create a hardship. In granting a variance, the Planning Commission may prescribe conditions that it deems necessary or desirable to the public interest. Any conditions prescribed shall be deemed continuing and shall be recorded in the office of the county clerk either on the face of the subdivision plat or as an attachment thereto. The Planning Commission shall take into account the nature of the proposed use of land involved and existing uses of the land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such variance upon traffic conditions and upon public health, safety, convenience, and welfare in the vicinity. No variance will be granted unless the Planning Commission finds that an undue hardship exists. The following conditions must be present for consideration:

- (1) Special circumstances or conditions affecting the land involved exist such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the land.
- (2) The granting of the variance will not be detrimental to the public safety or welfare, or injurious to other property in the area.
- (3) The granting of the variance will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this Ordinance.
- (4) A more appropriate design solution exists which is not currently allowed in this Ordinance.

B. A variance may not be granted in such cases where the only evidence for the granting of the variance is the loss of a potential profit at the time of the lot development and build out. Economic hardship to the applicant seeking the variance, standing alone, shall not be deemed to constitute undue hardship.

C. The actions of the Planning Commission together with the specific facts on which such findings are based shall be incorporated in the official minutes of the Planning Commission meetings at which such variance is recommended or granted. Variances may be granted only when in harmony with the general purpose and intent of this Ordinance so that the public health, safety and welfare may be secured and substantial justice done. The Planning Commission may reach a conclusion that a hardship exists if it finds that:

- (1) The applicant complies strictly with the provisions of this Ordinance, and no other reasonable use of the property may be made except for the use that is proposed and recommended.
- (2) The hardship to which the applicant complains is one suffered by the applicant rather than by neighbors or the general public.
- (3) The hardship relates to the applicant's land, rather than personal circumstances.
- (4) The hardship is unique to the property, rather than one shared by many surrounding properties.
- (5) The hardship is not the result of the applicant's own actions or neglectful conduct.

D. In granting variances, the city may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties. All conditions imposed shall be (1) placed of record on the face of the subdivision plat or (2) be recorded by separate instrument and filed for record with the subdivision plat in the office of the county clerk.

E. A variance may, at the sole discretion of the Planning Commission, be issued for an indefinite duration or for a specified period of time.

F. All conditions imposed by the Planning Commission are enforceable in the same manner as any other applicable requirement of this Ordinance.

3-2. Pre-Application. Before submitting an application for subdivision plat approval, the applicant may contact the city to obtain information and assistance in land subdivisions before preparing a land plan or the preliminary plat and filing a formal application for approval with the city.

3-3. Land Plan Approval.

A. *Purpose.* The purpose of the land plan is to allow the Planning Commission to review the proposed major thoroughfare and collector street patterns, land use, environmental issues, conformance to the comprehensive master plan, the property's relationship to adjoining subdivisions or properties, and any developmental or infrastructure review as deemed necessary by the city.

B. *General requirements.* A land plan consisting of a general plan, master plan, and/or concept plan shall be submitted to the city secretary or designee for review by the Planning Commission prior to or in conjunction with the submission of any preliminary plat, except as noted below, for any tract of land over fifty (50) acres in size. If the city secretary or designee determines that an area less than fifty (50) acres contains unique features or is surrounded by existing or proposed subdivisions with potential limited access, a land plan may be required to be reviewed by the Planning Commission prior to the preliminary or final plat submittal. The decision of the city secretary or designee to require a land plan shall be deemed final and binding as a condition prerequisite to further review of the proposed subdivision plan.

While certain items may be required or supplied without requirement, recommendation of approval of a land plan by the Planning Commission to proceed is granted only for infrastructure, thoroughfare and collector street patterns, land use (not density or lot layout), environmental issues, conformance to the master plan, and relationship to adjacent properties. The Planning Commission cannot recommend approval beyond this scope.

C. *Partial development.* When the applicant proposes a phased or partial development, the land plan area shall include the entire property from which the initial or any subsequent phase is being subdivided. Where the applicant can demonstrate that natural or manmade features, such as creeks and thoroughfares, make the inclusion of the entire property in the land plan unnecessary to adequately review the proposed subdivision for compliance with all of the terms and provisions of this Ordinance, the applicant may request approval from the Planning Commission for a submission of a smaller land plan area. Boundaries such as thoroughfares (existing or proposed), creeks, political subdivisions, or other such natural or man-made features may be used to delineate the smaller land plan area.

D. *Plan not required.* A land plan shall not be required if the preliminary plat(s) contains sufficient information to provide for the proper coordination of development.

E. *Traffic impact analysis.*

- (1) Any land plan or subdivision plat involving a change to a thoroughfare plan or is seventy-five (75) acres or more in size must include with its application a traffic impact analysis in such format and under such procedures as the city secretary or designee may from time to time require or specify. Failure to provide a traffic impact analysis and/or traffic study or to meet any other requirements that may be imposed by the city

secretary or designee shall be grounds to deny the filing of any subdivision plat tendered or offered for filing.

- (2) The city secretary or designee or the Planning Commission may also require a traffic impact analysis to address:
 - a. increased traffic loadings on existing streets;
 - b. traffic patterns and street classifications within the proposed development; or
 - c. traffic control devices within the proposed development and on adjacent streets.

G. *Application.*

- (1) The land plan shall be accompanied by the completed application and appropriate fees at least fourteen (14) days prior to the Planning Commission meeting at which it is to be considered.
- (2) Two (2) copies of prints of the proposed subdivision, drawn on sheets at a size of twenty-four inches (24") by thirty-six inches (36") and twelve (12) copies of the print reduced to a size of eleven inches (11") by seventeen inches (17") shall be submitted. After an administrative review of the land plan, a revised submittal may be required. If required, the revised land plan shall be submitted seven (7) days prior to the Planning Commission meeting and shall include seven (7) copies of the plan drawn on sheets at a size of twenty-four inches (24") by thirty-six inches (36") and eleven (11) copies of the plan reduced to a size of eleven inches (11") by seventeen inches (17").

H. *Effect of approval.*

- (1) The recommendation by the Planning Commission to proceed in relation to the land plan shall not be deemed to grant or vest in the applicant any approvals or grants other than as specifically provided in this Ordinance and does not constitute approval of the subsequent plats within the plan boundaries.
- (2) The land plan recommendation does not exempt an applicant from meeting all ordinances in effect at the time of the recommendation and any and all amendments or newly-adopted ordinances after recommendation and prior to final plat approval, unless agreed to by the Planning Commission under a separate development or utility agreement.

I. *Duration of recommendation.* Unless agreed to by the Planning Commission under a separate development or utility agreement, the recommendation of a land plan shall be valid for a period of eighteen (18) months. Extension(s) may be approved by

the Planning Commission for up to an additional six (6) months for a total of two (2) years. Upon approval by the Planning Commission of a final plat of individual sections of the development, the land plan approval is automatically extended for an additional eighteen (18) months. However, unless agreed to by the Planning Commission under a separate development or utility agreement, the approval of a land plan shall not be valid for a combined period of more than five (5) years.

J. *Graphic requirements.* A land plan shall include the following requirements:

- (1) The plan shall be drawn to a scale of two hundred feet (200') to the inch or four hundred feet (400') to the inch and show a graphic scale indicating the scale at which the drawing is prepared.
- (2) A title block must be placed within the lower right corner of the land plan.
- (3) A vicinity or location map that delineates the location of the proposed subdivision with respect to major thoroughfares, freeways, water courses and ditches shall be located in the upper right corner of the drawing or map.
- (4) The land plan must show the proposed name of the development.
- (5) The the land plan must show the name and address of the applicant and the land planner, engineer, or surveyor responsible for the design or survey.
- (6) The land plan must include the date of the drawing.
- (7) The land plan must include the legal description of the tract according to the abstract and survey records of the county.
- (8) North arrow must be clearly indicated to the top or left of the plan.
- (9) The perimeter of the boundary must be drawn in a bold solid line.
- (10) The land plan must include the names of adjacent additions or subdivisions with respective recording information and/or owners of adjoining parcels of unplatted land with respective recording information.
- (11) The land plan must include the location, width and names of all existing or platted streets or other public rights-of-way within and/or adjacent to the tract.
- (12) The land plan must include existing permanent buildings.
- (13) The land plan must include railroad rights-of-way.
- (14) The land plan must show topography with contours at five-foot intervals.

- (15) The land plan must show existing drainage channels or creeks, and other important natural features.
- (16) The land plan must show existing pipelines, fee strips and easements.
- (17) The land plan must show adjacent political subdivisions and corporate limits.
- (18) The land plan must show applicable district boundaries.
- (19) The land plan must show proposed layout and width of proposed thoroughfares, collector streets and minor streets.
- (20) The land plan must designate tracts as lots or reserves in accordance with anticipated usage.
- (21) The land plan must include a table indicating the number of typical lot sizes and the percentages of each by phase or sections and total development.
- (22) The city shall be provided with an electronic file of the land plan in the format(s) designated by the city.

K. *Changes to land plan.* Changes to the land plan may accepted up through the platting procedures as long as the changes are minor and are not critical or greatly affect the configuration of thoroughfares and collector streets, drainage or other infrastructure, entrances, land uses, etc. The city secretary or designee will determine whether a change is minor or whether a new land plan is required.

3-4. Preliminary Plat.

A. *General requirements.* A preliminary plat of any proposed subdivision shall be submitted for Planning Commission review and approval in compliance with the schedule and requirements set forth in this Ordinance.

- (1) The preliminary plat, the completed application, and appropriate fees must be received by the city secretary or designee at least fourteen (14) days prior to the Planning Commission meeting at which it is to be considered.
- (2) Two (2) copies of prints of the proposed subdivision, drawn on sheets at a size of twenty-four inches (24") by thirty-six inches (36") and twelve (12) copies of the print reduced to a size of eleven inches (11") by seventeen inches (17") shall be submitted. After an administrative review of the preliminary plat, a revised submittal will be required. The revised preliminary plat shall be submitted nine (9) days prior to the Planning Commission meeting and shall include seven (7) copies of the plat drawn on sheets at a size of twenty-four (24) inches by thirty-six inches (36") and eleven (11) copies of the plat reduced to a size of eleven inches (11")

inches by seventeen inches (17"). An electronic copy of the revised plat in the format(s) required by the city shall also be submitted.

- (3) The preliminary plat shall show all designated land uses, lots or reserves, on the face of the plat in accordance with the approved land plan and all approved comprehensive, water, sewer, and thoroughfare plans.
- (4) The preliminary plat shall be prepared by a licensed professional engineer or a licensed professional land surveyor.
- (5) The preliminary plat shall include preliminary plans for the following:
 - a. water distribution system,
 - b. sewerage collection system; and
 - c. on-site and off-site drainage system.
- (6) Unless a different time is specified by the city secretary or designee, prior to final plat approval by the Planning Commission, the applicant shall furnish the city secretary or designee with copies of verification letters from the respective officers, individuals, and entities documenting that contact has been made, review has occurred, and the described activity has been successfully completed:
 - a. all applicable utility companies, including gas, electrical and telephone, stating that these companies have knowledge of the proposed subdivision, are currently negotiating the necessary service easements and have received the preliminary plat for the purpose of establishing easements; and
 - b. any other applicable district or entity with jurisdiction in the area verifying adequate capacities and applicable fees.

B. *Study and report.* The city secretary or designee shall initiate a study of the preliminary plat and give a written report to the Planning Commission before its consideration for recommendation. The applicant shall be provided, upon request, with a copy of this report prior to the Planning Commission meeting.

C. *Action by commission.* Following review of the preliminary plat and other material submitted, as well as discussions with the applicant on changes deemed advisable and the kind and extent of improvements to be made by landowner, the Planning Commission may act thereon as submitted, or modified, if found by the Planning Commission to be in full compliance with the terms and provisions of this Ordinance and in the best interest of the city in accordance with the requirements of law as follows:

- (1) Recommend approval.

- (2) Recommend approval contingent upon conditions, corrections, or changes to be made to the final plat.
- (3) Recommend disapproval.

D. *Effect of recommended approval.* Recommendation of a preliminary plat by the Planning Commission shall be deemed an expression of conditional recommended approval to the layouts submitted on the preliminary plat as a guide for the preparation of the final plat and the future installation of streets, water, sewer, and other required improvements and utilities and to the preparation of construction plans.

E. *Duration of recommended approval.* Recommendation of a preliminary plat shall be effective for one hundred eighty (180) days. The applicant who submitted the preliminary plat may request a one-time extension of the previously recommended preliminary plat. The request shall be made in writing on a prescribed form to the city secretary or designee at least thirty (30) days before the preliminary plat's expiration. The request shall state the reasons for the extension, the amount of time to reasonably accommodate the need, and acknowledgement that there are no additional extensions. The maximum extension shall not exceed one hundred eighty (180) days and must be justified as determined by the city secretary or designee. Only one (1) extension will be granted regardless of the amount of time for the extension or additional extensions requested.

F. *Commencement of work.* No construction work shall begin on the proposed improvements in the proposed subdivision prior to the approval by the Planning Commission and recording of the final plat. The applicant may at his own risk undertake certain ground excavations for clearing, grading, and drainage purposes. Any required permits shall be issued prior to commencement of work.

G. *Preliminary plat not required.* A preliminary plat shall not be required if the proposed subdivision meets the criteria as set forth for short form final plats.

H. *Additional requirements.* Any plat within the ETJ of the city shall also be subject to county platting requirements and the more restrictive requirements shall govern.

I. *Variances.* A variance request, if applicable and justifiable, shall be provided on the application form provided by the city.

J. *Graphic requirements.* Preliminary plats which do not include the following data and information will be considered incomplete and may not be accepted for submission by the city. The required copies or prints of the proposed subdivision shall include the following requirements:

- (1) The preliminary plat shall be drawn to a minimum scale of one hundred (100) feet to the inch. In cases of large developments which would exceed the dimensions of the sheet of one hundred feet (100') to the inch scale, preliminary plats may be two hundred feet (200') to the inch or a scale

approved by the city secretary. A graphic scale shall be shown on the plat.

- (2) A vicinity or location map that delineates the location of the proposed subdivision with respect to major thoroughfares, freeways, water courses and ditches shall be located in the upper right corner of the drawing.
- (3) The boundary lines, abstract lines, survey lines, corporate boundaries, district boundaries, existing or proposed highways, and streets shall be shown on the plat.
- (4) The name and location of all adjoining subdivisions or property owners shall be drawn to the same scale and shown in dotted lines adjacent to the tract proposed for subdivision in sufficient detail to show accurately the existing streets, easements and alleys and other features that may influence the layout of development of the proposed subdivision. Adjacent unplatted land shall accurately delineate property lines and owners of record.
- (5) The location and widths of all streets, alleys, railroads and easements existing or proposed within the subdivision limits, and the manner in which such streets, alleys and easements may eventually connect with those of the nearest existing subdivision shall be shown on the plat.
- (6) Proposed street names are suggested but not required. Street names are required at the time the final plat is approved.
- (7) The location of all existing property lines, existing lot and block numbers and date recorded; existing buildings; existing drainage facilities, utilities, and pipelines showing pipe sizes and capacities of sewer or water mains, gas mains, or other underground structures, whether public or private, easements of record; or other existing features within the area proposed for subdivision shall be shown on the plat. When appropriate, a separate submittal for utilities may be allowed by the city secretary or designee.
- (8) Proposed arrangement of lots (including lot and block numbers in accordance with a systematic, consecutive numbering arrangement) and proposed use of same and their relationship to streets, alleys, and easements in adjacent subdivisions shall be shown on the plat. Any nonresidential reserves shall also be shown.
- (9) The title under which the proposed subdivision is to be recorded; the name of the city, county, and state in which the subdivision is located; the name and complete address of the owner; and the name and complete address of the land planner, engineer, or registered professional land surveyor preparing the drawing shall be located in the lower right corner. The subdivision name shall not be duplicated, but phasing identification is allowed. The city secretary or designee shall determine if the proposed

subdivision identification will be in conflict with existing plats. The description of the property shall include the approximate acreage.

- (10) Sites, if any, to be reserved or dedicated for parks, playgrounds, schools, or other public use shall be shown on the plat.
- (11) North arrow, date, scale, and other pertinent data shall be oriented to the top of the sheet.
- (12) All physical features of the property to be subdivided, including location and size of all natural and artificial water courses, ditches, ravines, culverts, and bridges; one hundred (100) year flood plain according to Federal Emergency Management Agency information; the outline of major wooded areas or the location, species and sizes of major specimen trees of thirty inches (30") or greater in diameter; and other structures or features pertinent to subdivision shall be shown on the plat.
- (13) All preliminary plats shall be submitted in legible format on a good grade blue line or black line paper.
- (14) Location(s) of any existing structures to be retained shall be shown on the plat.
- (15) A copy of the proposed subdivision restrictions and/or covenants that are anticipated to be filed for record and will constitute encumbrances on the subject property shall be provided, if available.

3=5. Final Plat.

A. *General requirements.* The final plat and engineering construction drawings and specifications are required for any area in the city or its ETJ and shall meet the following requirements:

- (1) The final plat shall be in general conformance with the preliminary plat as recommended and shall incorporate all conditions, changes, directions, and additions recommended by the Planning Commission and if not directly incorporated, the terms or provisions thereof shall be inscribed on the face of the plat and/or set out on separate writing to be filed for record with the plat. The final approval of the plat shall be by the Planning Commission. If the subdivision is in the city's ETJ, it shall also be approved by the county commission. The final plat shall not be submitted for Planning Commission approval until detailed engineering construction plans have been submitted for approval by the city.
- (2) The final plat shall constitute only that portion of the approved preliminary plat which the applicant proposes to record and then develop. Such portion shall conform to all the requirements of the regulations of this Ordinance.

- (3) The final plat and construction plans shall be submitted for review at least twenty-six (26) calendar days prior to a regularly or specially scheduled Planning Commission meeting at which the plans are to be considered.
- (4) Two (2) copies of prints of the proposed subdivision on sheets at a size of twenty-four inches (24") by thirty-six inches (36") and drawn to a minimum scale of one hundred feet (100') to the inch and twelve (12) copies of the print reduced to a size of eleven inches (11") by seventeen inches (17") shall be submitted. The submittal shall include the following:
 - a. Completed application form;
 - b. Copies and reductions of the plat;
 - c. Transmittal letter;
 - d. Fees;
 - e. Tax certificates, in a form acceptable to the county clerk for plat recordation;
 - f. Title commitment of specific tract of land; and
 - g. Engineering construction plans.
- (5) All public utility easements shall be included as required for utility companies by the city.
- (6) The final plat (and any replats) shall be prepared by a registered professional land surveyor. After an administrative review of the final plat, a revised submittal may be required. If required, the revised final plat shall be submitted nine (9) days prior to the Planning Commission meeting and shall include seven (7) copies of the plat drawn on sheets at a size of twenty-four inches (24") by thirty-six inches (36") and eleven (11) copies of the plat reduced to a size of eleven inches (11") by seventeen inches (17"). An electronic copy of the revised plat in the format(s) required by the city shall also be submitted.

B. *Recommendation.* The city secretary or designee shall review the final plat for compliance with these regulations and make recommendation to the commission.

C. *Action by commission.* The Planning Commission will consider the final plat and the written recommendation and may take one (1) of the following actions:

- (1) Recommend approval.
- (2) Recommend approval contingent upon corrections or changes to be made to the plat.

- (3) Recommend disapproval.

D. *Effect of approval.* In the event the Planning Commission grants approval of a plat contingent upon corrections, the applicant shall submit the final plat with the required changes to the city secretary or designee for review and approval at least twelve (12) calendar days prior to a regularly or specially scheduled Planning Commission meeting. The submittal shall include the following:

- (1) Eleven (11) full-size (twenty-four inches (24") by thirty-six inches (36")) copies and reductions of the plat.
- (2) Resolution of any contingency items recommended by the commission.
- (3) Current title report for the specific tract.
- (4) Performance bonds, letter of credit for the cost of the public improvements, or assurance of completion of the public improvements.

E. *City Secretary review.* The city secretary or designee shall review the submittal for compliance with the regulations and recommendations of the Planning Commission and place the final plat on the Planning Commission agenda. Failure of the applicant to provide any of the required items may cause disapproval of the plat.

F. *Action by Planning Commission.* The Planning Commission shall take action on the plat within the time period specified by the filing date pursuant to subsection G. The action shall consist of:

- (1) Approval.
- (2) Approval, contingent upon corrections or changes to be made to the plat.
- (3) Disapproval of the plat.

G. *Filing date.* The filing date of an application for final plat approval with the Planning Commission shall be the date the Planning Commission recommends approval of the plat. However, if the Planning Commission recommends approval with contingencies, the plat will not be considered as "filed" until all contingencies have been met by the applicant. The city secretary or designee shall certify when contingencies have been addressed. The statutory thirty-day (30) time period shall begin when all contingencies and all submittal requirements have been completed as certified by the city secretary or designee.

H. *Resubmittal.* A substantial change to the approved final plat prior to recordation shall require resubmittal to the Planning Commission. With the approval of the city secretary or designee, minor changes including addition of easements, correction of clerical errors or omissions may be made prior to submittal for signature and recording.

I. *Duration of approval.* Recommendation for approval of the final plat by the Planning Commission is valid for one (1) year from the date of approval. Final approval by the Planning Commission shall expire if the plat is not recorded within such time. An extension of approval may be requested in writing at least thirty (30) days prior to the expiration date and submitted to the Planning Commission for consideration and approval.

J. *Construction plans.* Prior to the submittal of the final plat for Planning Commission approval, engineering construction plans showing paving and design details of streets, alleys, culverts, bridges, storm sewers, water mains, sanitary sewers, and other engineering details of the proposed subdivision shall be submitted to the city secretary or designee for review by the city engineer. One (1) copy shall be submitted with the final plat. Such plans shall be prepared by a registered professional engineer and shall conform to the current design standards, this Ordinance, and applicable state laws and ordinances adopted by the city.

K. *Commencement of work.* No construction work shall begin on the proposed improvements in the proposed subdivision prior to the approval and recordation of the final plat except as provided herein. The applicant may undertake certain ground excavations for grading and drainage purposes if required permits are issued. Any excavation prior to approval of the final plat shall be at the applicant's risk and any work done is to facilitate the applicant's schedule and does not imply approval of the work. Engineering and construction plans shall also be submitted according to the current design standards, this Ordinance, and applicable state laws and ordinances adopted by the city.

L. *Graphic requirements.* In addition to the graphic requirements for a preliminary plat, the final plat shall include the following:

- (1) All final plats shall be submitted on sheets no larger than twenty-four inches (24") by thirty-six inches (36") and to a scale not greater than one hundred feet (100) to the inch.
- (2) The exterior boundary of the subdivision shall be indicated by a distinct bold line and corner marked by individual symbols.
- (3) The length and bearing of all straight lines, and the radii, arc lengths, chord length, tangent length and central angles of all curves shall be indicated along the lines of each lot or in a curve or line table. The curve data pertaining to block or lot boundaries may be placed in a curve table showing curve number, radius, delta, arc length, chord length, and chord bearing.
- (4) The names and recording information of all adjoining subdivisions, all abutting lots, lot and block numbers, and other recorded information shall be shown.
- (5) Course and distance shall be shown.

- (6) The names, accurate location and widths of all adjacent streets, watercourses, railroads, alleys, easements, and city and utility district boundaries shall be shown.
- (7) Street names shall be shown and shall not duplicate existing street names in the city or the ETJ. Extensions of streets shall have the same name as the existing street. Similar spelling or pronunciations should be avoided to prevent confusion.
- (8) The location and dimension of any utility easement adjoining or abutting the subdivision or proposed within the subdivision shall be shown. It shall be the applicant's responsibility to coordinate with appropriate utility companies for placement of utility easements.
- (9) In all subdivisions and additions, sufficient permanent monuments shall be established at points to represent or reference boundary corners, angle points, and points of curvature or tangency along all street rights-of-way in the subdivision. Survey monuments shall be an iron rod or pipe not less than five-eighth inches (5/8") in diameter and thirty-six inches (36") long. Monuments shall be set flush with the top of the ground or curb. Each monument set by the surveyor shall include a cap with the surveyor's identification attached to it.
- (10) The final plat shall show a title block in the lower right corner of the sheet. The name of the subdivision, the name, address, and telephone numbers of the applicant and engineer or surveyor, the scale and location of the subdivision, and reference to original land grant or survey and abstract numbers shall be indicated. If more than one (1) page is required for the plat, the title block may be reduced in size on the subsequent sheets. The vicinity map is required on only one (1) sheet.
- (11) An owner's dedication block or acknowledgment shall be attached to and be a part of the final subdivision plat and shall contain a minimum of information as required by the city. The owner's statement shall be acknowledged before a notary public.
- (12) If the property is subject to a lien, a lien holder's certification, executed before a notary public must be attached to and be a part of the final subdivision plat.
- (13) A registered professional land surveyor must certify the plat.
- (14) The plat should include a plat approval block for the signature for the mayor or person designated by the Planning Commission and a place for the city secretary to attest such signature.
- (15) A plat approval block shall also be provided for the signatures of the chair (or vice chair) and secretary of the Planning Commission.

(16) Examples of the information required on the final plat meeting the requirements:

a. Owner's Acknowledgement Example

THE STATE OF TEXAS §

THE COUNTY OF WHARTON §

I (or we), {name(s) of owner(s) if individual(s) or name of president and secretary or authorized trust officer of a company or corporation} being officers of name of company or corporation, the owner(s) of the {number of acres} tract of land shown on this plat and designated herein as the {name of subdivision or development} subdivision to the City of East Bernard, Texas, and whose name is subscribed hereto, make and establish the subdivision and development plat of the property according to all lines, dedications, restrictions and notations on the plat and hereby dedicate to the use of the public forever, all streets (except those streets designated as private streets), alleys, parks, water courses, drains, easements, and public places shown thereon for the purposes and considerations therein expressed; and do hereby bind myself (or ourselves), my (or our) heirs and assigns to warrant and forever defend the title to the land so dedicated.

FURTHER, I (or we) do hereby dedicate for public utility purposes an unobstructed aerial easement five feet (5') in width from a plane twenty feet (20') above the ground level upward, located adjacent to all public utility easements shown hereon.

FURTHER, I (or we) do hereby declare that all parcels of land designated as lots on this plat are intended for the construction of {single-family residential dwelling units or townhouses or patio homes or duplexes or multi-family residential dwelling units thereon (or the placement of mobile homes)} and shall be restricted for same under the terms and conditions of such restrictions filed separately.

FURTHER, I (or we) do hereby covenant and agree that all of the property within the boundaries of this plat shall be restricted to prevent the drainage of any septic tanks into any public or private street, road or alley or any drainage ditch, either directly or indirectly.

[ADDITIONAL PARAGRAPHS TO BE ADDED AS NEEDED:]

(When streets within the plat are to be developed with open ditches)

FURTHER, I (or we) do hereby covenant and agree that all of the property within the boundaries of this plat shall be restricted to provide that drainage structures under driveways shall have a net drainage opening

area of sufficient size to permit the free flow of water without backwater and in no instance have a drainage opening of less than one and three quarters (1 3/4) square feet (24" diameter).

(When subdivision contains natural drainage ways such as bayous, creeks, gullies, ravines, draws or drainage ditches).

FURTHER, I (or we) do hereby dedicate to the public a strip of land twenty (20) feet wide on each side of the center line of any and all bayous, creeks, gullies, ravines, draws and drainage ditches located in said subdivision, as easements for drainage purposes. Wharton County or any other governmental agency shall have the right to enter upon said easement at any and all times for the purposes of construction and maintenance of drainage facilities and structures.

FURTHER, I (or we) do hereby covenant and agree that all of the property within the boundaries of this subdivision and adjacent to any drainage easement, ditch, gully, creek, or natural drainage way shall hereby be restricted to keep such drainage ways and easements clear of fences, buildings, excessive vegetation and other obstructions to the operations and maintenance of the drainage facility and that such abutting property shall not be permitted to drain directly into this easement except by means of an approved drainage structure.

(When the plat indicates building setback lines and public utility easements are to be established in adjacent acreage owned by the applicant).

FURTHER, I (or we) do hereby certify that I am (or we are) the owner(s) of all property immediately adjacent to the boundaries of the above and foregoing subdivision of {name of subdivision} where building setback lines or public utility easements are to be established outside the boundaries of the above and foregoing subdivision and do hereby make and establish all building setback lines and dedicate to the use of the public, all public utility easements shown in said adjacent acreage.

b. Execution of Owner's Acknowledgment Example

i. When owner is an individual or individuals

Witness my (or our) hand in the City of East Bernard, Texas, this {number} day of {month}, {year}.

(Signature of owners)
{Printed Name of Owners}

Before me, the undersigned authority, on this day personally appeared {name of owner(s)}, known to me to be the person(s) whose name is(are) subscribed to the foregoing instrument, and acknowledged to me that (s)he (they) executed the same for the purposes and considerations therein stated.

WITNESS my hand in the County of Wharton, Texas, this {number} day of {month}, {year}.

[SEAL]

(Signature of Notary Public)
{Printed Name of Notary Public}
Notary Public

ii. When owner is not an individual

In testimony whereof, the {name of company} has cause these presents to be signed by U{name of its president}, its president, thereunto authorized, attested by its secretary (or authorized trust officer), {name of secretary or authorized trust officer}, this {number} day of {month}, {year}.

Name of Company

(Signature of President)
{Printed Name, Title}

Attest: (Signature of secretary/trust officer)
{Printed Name, Title}

Before me, the undersigned authority, on this day personally appeared {name of owner}, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (s)he executed the same for the purposes and considerations therein stated and in the capacity therein and herein stated, and as the act and deed of said corporation.

WITNESS my hand in the County of Wharton, Texas, this {number}
day of {month}, {year}.

[SEAL]

(Signature of Notary Public)
{Printed Name of Notary Public}
Notary Public

c. Lienholder's Acknowledgment and Subordination Statement
(Holders of all liens against the property being platted must be a part of
the final plat or prepare separate instruments which shall be filed for
record with the plat.)

I (or we), {name of lien holder}, owner and holder of a lien(s)
against the property described in the plat known as {name of subdivision
plat}, said lien(s) being evidenced by instrument of record in the Clerk's
File No. (number(s)) of the real property records of Wharton County,
Texas, do hereby in all things subordinate our interest in said property to
the purposes and effects of said plat and the dedications and restrictions
shown herein to said subdivision plat and I (or we) hereby confirm that I
am (or we are) the present owner(s) of said lien(s) and have not assigned
the same nor any part thereof.

By: (Lien holder's Signature)
{Printed Name of Lien holder}

Before me, the undersigned authority, on this day personally
appeared {name of owner}, known to me to be the person whose name is
subscribed to the foregoing instrument, and acknowledged to me that
(s)he executed the same for the purposes and considerations therein
stated.

WITNESS my hand in the County of Wharton, Texas, this {number}
day of {month}, {year}.

[SEAL]

(Signature of Notary Public)
{Printed Name of Notary Public}
Notary Public

d. Planning Commission's Certificate

STATE OF TEXAS

§

CITY OF EAST BERNARD §

The above and forgoing Plat was approved by the Planning Commission of the City of East Bernard, this the {number} day of {month}, {year}.

(Signature of Chair or Vice-Chair)
Chair or Vice Chair

(Signature of Secretary _____)
Secretary

e. City Secretary's Certificate

STATE OF TEXAS §

CITY OF EAST BERNARD §

I, {name of city secretary}, city secretary of the City of East Bernard, Texas, do hereby certify that the forgoing Plat was filed in my office on the {number} day of {month}, {year}, at {hour}:{minute} am/pm.

(Signature of City Secretary) _____
City Secretary

f. County Clerk's Certificate

STATE OF TEXAS §

COUNTY OF WHARTON §

I, {name of County Clerk}, County Clerk of Wharton County, Texas, do hereby certify that the forgoing Plat was filed in my office on the {number} day of {month}, {year}, at {hour}:{minute} am/pm, in the Plat Records File Number of the Plat Records Slide No. _____ of the County of Wharton, Texas

(Signature of County Clerk) _____
County Clerk

g. Surveyor's Certificate

COUNTY OF WHARTON §

(Signature of Surveyor) _____
{Printed Name of Surveyor} _____
Texas Registration No. _____

- 2002984

M. *Additional requirements.* The final plat shall comply with the following additional requirements:

- (1) The subdivision plat boundaries shall be tied to existing monuments with coordinates using Texas State Plane Coordinate System, South Central Zone.
- (2) The city shall be provided with an electronic file of the final plat in the format(s) designated by the city.
- (3) A copy of the proposed subdivision restrictions and/or covenants that are anticipated to be filed for record and will constitute encumbrances on the subject property shall be provided.

3-6. Short Form Final Plats (combination Preliminary and Final Plat). The city secretary or designee may allow a final plat without the necessity of a preliminary plat (as required in Section 3-4 of this Ordinance) for currently platted property or replats if requested by the applicant.

A. *Fees.* Application fees for short form platting shall be paid to the city secretary at the time of application.

B. *Application requirements.* The final plat meets all of the conditions and requirements as outlined under the Texas Local Government Code, as amended, as well as the following:

- (1) No more than four (4) lots, tracts or reserves are included.
- (2) The area to be platted lies within an existing public street circulation system already approved by the Planning Commission.
- (3) The plat does not propose to vacate public street rights-of-way or easements.
- (4) The plat does not propose creation or extension of public rights-of-way.
- (5) The proposed development does not require any significant drainage improvements and, if contained wholly or partially within the one hundred (100) year flood plain, conforms to Federal Emergency Management Agency flood plain management rules.
- (6) The proposed development is consistent with the thoroughfare plan and creates no significant traffic congestion on the existing public street system.
- (7) The short form plat shall meet all of the requirements for a final plat in Section 3-5 of this Ordinance.

C. *Utilities.* The applicant must provide evidence that the proposed subdivision is adequately served by all existing utilities, including gas, water, sewer, electricity, etc., and is acknowledged as acceptable by the city engineer and utilities providers at the time the short form final plat is submitted.

D. If it is a replat, a public hearing must be held in accordance with the requirements of law for replats before final approval of the final plat.

3-7. Administrative (Minor) Plat. The administrative, or minor plat, as specified in the Texas Local Government Code, as amended, may be used in a limited manner in order to adjust property lines and/or easements as defined in the plat for the purpose of development flexibility. When requested by an applicant, the city secretary or designee, at his/her discretion, may allow an applicant to submit an administrative (minor) plat and follow such procedures.

A. *Fees.* Application fees for administrative platting shall be paid at the time of application.

B. *Application requirements.* The administrative (minor) plat must meet the following requirements:

(1) The plat is currently unplatted property, a replat, or amends a plat that meets the following conditions:

a. The plat involves four (4) or fewer lots.

b. All property after proposed adjustments has the required access on existing streets.

c. The plat does not require the creation of any new street or public right-of-way.

d. The plat does not require the extension or relocation of any utilities or municipal facilities.

e. The plat does not propose to eliminate or vacate public street rights-of-way or easements.

f. The plat does not include the creation of any new lots or lines.

(2) The plat shall meet all requirements of a short form final plat with the exception of only requiring approval of Planning Commission.

C. *Utilities.* The applicant must provide evidence that the proposed subdivision is adequately served by all existing utilities, including gas, water, sewer, electricity, etc., and is acknowledged as acceptable by the city engineer and public works director at the time the administrative final plat is submitted.

D. If it is a replat, a public hearing must be held in accordance with the requirements of law for replats before final approval of the final plat.

3-8. Vacating of Plat.

A. A plat or any part of a plat may be vacated by request of the owners of all the lots in the plat. In addition to the procedure outlined in Chapter 212, Texas Local Government Code, as amended, the submittal requirements for the vacation to the Planning Commission are the same as for approval of a final plat.

B. A vacated plat shall be approved by the Planning Commission. The Planning Commission may reject any vacation instrument which abridges or destroys any public rights in improvements, easements, streets, alleys, or similar public areas which are deemed by the Planning Commission necessary to serve the surrounding area.

C. An approved vacated plat must be recorded and operates to destroy the effect of the recording of the vacated plat and to divert all public rights to the streets, alleys, and other public areas laid out or described in the plat.

3-9. Replat.

A. A replat is a redesign of all or a part of a recorded plat or subdivision of land which substantially changes the elements of the plat and are subject to the same procedures as for a preliminary, final, or short form plat. The replat must be in accordance with Chapter 212 of the Texas Local Government Code. A public hearing shall be required before the Planning Commission on all residential replats when the previous plat is not vacated in compliance with the Texas Local Government Code.

B. All proposed replats which are governed by the provisions of Chapter 212 of the Texas Local Government Code must be submitted with the following items in addition to those required for a preliminary, final, or short form plat:

- (1) A written statement indicating intent to seek Planning Commission approval under the requirements of Chapter 212 of the Texas Local Government Code.
- (2) A current (not more than thirty (30) days old) title report, statement, opinion, title policy, certificate or letter from a title company authorized to do business in the State of Texas or from an attorney licensed as such in the State of Texas which indicates the name of the record owner of fee simple title for every piece of property required to be given written notice of such replat under the provisions of Chapter 212 of the Texas Local Government Code.
- (3) A certified list (not more than thirty (30) days old) of all owners of the property as such ownership appears on the last approved ad valorem tax rolls of either the city or county in which such property is located, who are required to be given written notice of such replat under the provisions of

Chapter 212 of the Texas Local Government Code. Certification for the purpose of this subsection shall be made by a title company authorized to do business in the State of Texas or an attorney licensed as such in the State of Texas.

- (4) One (1) stamped envelope addressed to each landowner indicated on either the title report or the tax roll list as required in subsection (3) above. Each envelope shall contain a copy of the required notice as set out in Chapter 212 of the Texas Local Government Code.
- (5) An affidavit in separate writing signed by all the owners of property within the proposed replat which attests that the proposed replat "does not attempt to alter, amend or remove covenants or restrictions."
- (6) The city secretary or designee will authorize the publication of the required notification of public hearing by the city secretary or designee after the Planning Commission establishes a date for the required public hearing.

C. If action on a residential replat application must be deferred because sufficient written protest has been submitted, the thirty (30)-day period during which the Planning Commission must take action is extended by the period of time necessary to verify the written protest.

D. The replat of a subdivision shall meet all the requirements for a new subdivision that may be pertinent, as provided for in this Ordinance. The replat shall show the existing property being re-subdivided. No preliminary plat shall be required on replats if waived by the city secretary or designee.

E. The title of the replat shall identify the documents as "Lots _____, being a replat of Lots _____ of Block _____ of the _____ Subdivision." A reason for the replat shall also be stated on the plat.

F. A partial replat of only the affected lots will be accepted when the conditions and/or opinions allowed by the amending plat procedure are not applicable.

3-10. Amending Plat. The amending plat procedure shall be in accordance with Chapter 212 of the Texas Local Government Code, as may be amended.

A. An amending plat shall meet all of the informational requirements set forth for a final plat.

B. Where an amending plat meets the requirements for an administrative plat as specified in this Ordinance, it does not require the review of the Planning Commission.

C. In no instance may an amending plat that creates more than four (4) lots be submitted.

3-11. Recordation. Following the approval of the Planning Commission, a plat shall follow the following procedures for recordation:

A. Within one (1) year following the approval of the final plat by the Planning Commission, the applicant shall submit the required number of originals to the city for signatures and recordation. The originals shall be on at least four (4) mirror interchangeable lens (MIL) camera positive matte finish (both sides) film. All signatures shall be clearly affixed in permanent black ink. All seals shall be affixed in permanent black ink or a raised seal.

B. A current title report for the specified tract and current tax certificate, in a form acceptable to the county clerk for plat recordation, shall be submitted and verified prior to the city signatures and seals being affixed on the plat.

C. If the subdivision is within the corporate limits of the city, the city shall record the plat in the county clerk's office. The applicant shall forward a check for the appropriate amount with the submittal of the originals for signatures. If the plat is in the ETJ, the plat originals shall be forwarded by the city to the county for approval and recordation. One (1) recorded original shall be returned to the city.

D. All requirements of applicable ordinances shall have been met.

E. The final plat shall not be submitted for recordation until detailed engineering plans have been approved by the city and/or the public improvements are complete. The approval of the plat and construction plans shall be valid for one (1) year, after which time the plans must be re-approved by the city, subject to current requirements before recordation.

F. The restrictive covenants shall be provided and the recording information shall be shown in a note on the plat.

G. An address map shall be provided. All addresses shall be coordinated with the appropriate utility company or the city.

SECTION 4. SUBDIVISION DESIGN REQUIREMENTS (STANDARDS).

Subsection 1: Generally.

4-1. General Requirements.

A. *City policy.* The Planning Commission shall require that all subdivisions of land developed in the city and within its ETJ adhere to and be governed by the policies that have been established for the provision and construction of underground utilities, street improvements, alleys or easements.

B. *General requirements.*

(1) *Water lines, sewer lines, and storm sewers.*

a. The applicant shall be required to construct, at the applicant's own expense, all water lines, sewer lines, storm sewer lines, drainage ditches, detention facilities, if required, and structures in accordance with the current design standards in effect at the time of construction. This shall include all engineering costs for design, layout, and construction supervision. Preliminary plans and layouts for all such utility lines shall be submitted by the applicant to the Planning Commission for study along with the submission of the preliminary plat of the subdivision. Final construction plans will be submitted by the applicant at the time of filing the final plat with the Planning Commission in the same number of copies as required of the subdivision plat.

b. The city will not participate in the cost of any of the underground utility lines or drainage facilities within the subdivision, except in the event of the requirement for oversize lines to serve land areas and improvements beyond the subdivision in question or to serve other subdivisions. Each installation of this character and the terms and extent of city participation will be considered individually upon the merits of each facility and the conditions involved.

c. Trunk lines of such systems to serve the subdivision under consideration will be considered upon each facility's individual merits for each subdivision.

(2) *Street improvements, curbs, gutters, pavement.*

a. The applicant shall be required to construct, at the applicant's own expense, concrete curb and gutter streets in accordance with current design standards in effect at the time of construction. This shall include all engineering costs for design, layout, and construction supervision. Preliminary plans for such improvements shall be submitted to the commission for study and for tentative approval before any work is started in the subdivision. Detailed construction plans, including plan and profile for each street, shall be filed with the submission of the final plat in the same number of copies as required of the final subdivision plat.

b. The city may participate in the cost of street surfacing and construction of arterial streets or thoroughfares in excess of the standard width and thickness of pavement for residential or service streets required to be constructed by the applicant.

c. Each street installation project will be considered by the city upon the individual merits of each project prior to construction.

d. Subdivisions abutting on main arterial shall have fences erected on the common property line with the public street right-of-way which shall be of wood or metal construction, not less than six feet (6') in height, and

shall be constructed of materials designed to prevent visual invasion by any person upon the public street right-of-way with any person or property located upon any part of the subdivision. The degree of visual blockage shall not be less than ninety percent (90%).

(3) *Alleys and easements.*

a. The city may require in a new subdivision twenty-foot (20') wide easements in lieu of alleys, except in certain cases as may be determined by the Planning Commission.

b. If an applicant desires to include alleys in a subdivision, the expense of development of the alleys shall be borne by the owner of the subdivision or the applicant, and the alleys shall be constructed in accordance with current design standards for city streets in effect at the time of construction.

c. All construction plans related to alleys and easements shall be submitted to the Planning Commission along with the final plat of the subdivision.

(4) *Water and sewer facilities; land subject to flooding and otherwise inhabitable.*

a. The Planning Commission may refuse to approve a plat when it is evident that adequate water and sewer facilities cannot be supplied within a reasonable time.

b. Land subject to flooding and land deemed by the Planning Commission to be uninhabitable shall not be platted for residential occupancy nor shall it be platted for such other uses as may aggravate the flood hazard or increase danger to health, safety, life, or property, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation and shall not produce unsatisfactory living conditions.

4-2. Signs in Residential Subdivisions.

A. *Generally not permitted.* Signs shall not be permitted in residential subdivisions, except as specifically authorized in this section. No person shall cause a sign to be erected, constructed, relocated, altered, repaired, or maintained until a special sign permit for such has been issued by the city secretary or designee, and the requisite fee paid, except as otherwise provided in this section.

B. *When permitted.* To identify a single-family residential development, two (2) detached identification signs may be constructed at each subdivision street entrance on opposite sides. A street intersection with an esplanade may also include a blade sign in

compliance with this section. For purposes of this section, a "blade sign" shall refer to as a sign placed in the median of a boulevard street.

C. *Definitions.*

- (1) For purposes of this section, the term "sign" shall refer to the area where graphics are displayed, including the immediate supporting structure.
- (2) For purposes of this section, the term "graphics" shall refer to the lettering and/or logos that will be attached to, engraved into, or otherwise affixed on a sign. The "graphics area" shall be measured by drawing a rectangle around the largest area of actual lettering and or logos and measuring the inside area.

D. *Application.* All applications for a special sign permit under this section shall include a drawing to scale of all proposed signs, all existing signs maintained on the premises and visible from the right-of-way, a drawing of the plat plan indicating the proposed location of the sign(s), and specifications. All applications for signs in the right-of-way shall contain a provision where the applicant shall hold the city harmless from any and all claims, demands or cause of action brought by anyone or any entity for damages either directly or indirectly relating to the placement or existence of the proposed sign in the right-of-way. The city secretary or designee may at any time in the appropriate case determine that there exists special circumstances and conditions necessitating the applicant provide the city with additional security or impose additional conditions determined necessary under the specific circumstances. The permit may also contain special conditions the city secretary or designee determines are necessary to insure compliance with this section or to protect the public and public property. It is unlawful for any person doing work under a permit to violate any special condition or other provision of the permit.

E. *Requirements.* Signs permitted under this section will be subject to the following minimum conditions and restrictions:

- (1) Building wall signs are prohibited.
- (2) Signs must be of masonry composition for permanent identification of a subdivision.
- (3) Blade signs shall not exceed three and one-half feet (3.5') in height above finished grade within a distance of fifteen feet (15') of the nose of the esplanade. Outside of this area, the height of the blade sign shall not exceed seven feet (7') in height above finished grade. Finished grade at a blade sign shall not exceed an elevation as determined by a 4:1 (horizontal:vertical) slope from the top of the curb.
- (4) Signs that are set back zero (0) to nine and ninety-nine hundredths (9.99) feet from the street right-of-way shall not exceed one hundred (100)

square feet in area and the graphics area shall not exceed fifty (50) square feet.

- (5) Signs that are set back ten (10) to nineteen and ninety-nine hundredths (19.99) feet from the street right-of-way shall not exceed three hundred (300) square feet in area and the graphics area shall not exceed eighty (80) square feet.
- (6) Signs that are set back over twenty feet (20') from the street right-of-way shall not have a specific limitation on area and shall be reviewed by the city secretary or designee, premised upon safety and the objectives of this section, but the graphics area shall not exceed one hundred (100) square feet.
- (7) The bottom of a sign shall not exceed a height of eighteen inches (18") above adjacent (natural) grade.
- (8) The sign shall not be illuminated except by reflective flood light type illumination without any flashing or intermittent lights. Lights which are not effectively shielded to prevent beams of light from being directed at any portion of the traveled way and/or brilliance as to cause glare, to impair vision, or which otherwise interfere with the driver's operation of motor vehicle, are prohibited. All lighting shall comply with Wharton County regulations and all other state, local, and federal regulations and requirements.
- (9) The sign shall meet the wind load requirements of the building code.
- (10) All signs shall be located in such a manner to (a) avoid conflicts with utility lines; (b) not encroach upon traffic visibility and appropriate sight distances necessary for the safe movement of traffic and pedestrians; and (c) any other related safety concerns as determined by the city secretary or designee.
- (11) All signs, trees, shrubs, flowers, grass, vegetation, ferns, watering systems, lighting systems, ornamental gates, columns, or other ornamental features, materials, and related landscaping denoting the entrance to a neighborhood or subdivision shall be maintained by the applicant or applicant's assignees, with any such assignment requiring prior authorization of the city secretary or designee.

F. *Suspension and revocation.* The city secretary or designee may suspend or revoke any permit issued under the provisions of this section whenever he shall determine that the permit is issued in error or on the basis of incorrect or false information supplied or whenever such permit was issued in violation of any of the provisions of this section or any other ordinance or the state or federal laws and regulations. Such suspension or revocation of the permit shall be effective when communicated in writing to the person to whom the permit is issued, the owner of the

sign facilities, or the responsible party of the premises upon which the sign is located. If a permit is revoked, the city may remove or cause to be removed the sign facilities without liability to the owner thereof. The city shall upon removal not be responsible for the storage and/or safe keeping of the sign facilities or remnants thereof and shall have no liability to preserve the same or to exercise reasonable care for the removed sign or parts thereof.

G. *Removal.* Any sign located in the public right-of-way may be temporarily or permanently removed, destroyed, or relocated at any time as determined by the city without compensation to the person owning or placing the sign.

H *Appeals.* The Planning Commission may consider appeals of the denial or revocation of any permit issued under the provisions of this section on the basis that such regulations and/or standards will, by reason of exceptional circumstances, aesthetics or surroundings, constitute a practical difficulty or unnecessary hardship. The appeal must be submitted in writing to the city secretary or designee within seventy-two (72) hours of the action being appealed. The Planning Commission, in addressing such appeal, may, in the interest of the public welfare and to ensure compliance with this section, establish conditions of operation, location, arrangement, proportionality scale, materials, and construction of any use for which a permit is authorized herein. In authorizing the location of any use listed for a special sign permit, the Planning Commission may impose such development standards and safeguards as the conditions and location indicate important to the welfare and protection of adjacent property from glare, offensive view, or other undesirable conditions. The revocation and appeal provisions in this section govern over any other conflicting provision in this Ordinance.

Subsection 2: Specific Requirements.

4-3. Streets.

A. *General requirements.* The arrangement, character, extent, width, grade, and location of all streets shall conform to the city thoroughfare plan and the current design standards. All streets shall be considered in their relation (1) to existing and planned streets or driveways, (2) to topographical conditions, to public safety, and (3) to the proposed uses of the land to be served by such streets. Unless required by the city, strips of land controlling access to or egress from other property, 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 for special improvements shall not be permitted in any subdivision. All streets shall be paved in accordance with the current design standards. All lots, tracts and reserves shall have frontage on an approved public right-of-way or access easement(s).

B. *Exception.* Rural streets for rural lots as provided in section 4-9 of this Ordinance (Lots, tracts, reserves) may be constructed in accordance with section 4-3, subsection R, provided that open side ditches used for drainage meet all applicable specifications provided by the city and the county. This exception applies only to areas

with existing, predominantly asphalt streets with open ditches for which rural streets are determined to be appropriate by the city engineer.

C. *Private streets.* Private streets or any similar privately maintained access ways are prohibited in single-family residential developments.

D. *Access.* Primary access through a mutual access easement in a commercial, townhome, or condominium development shall conform to all design and construction standards stated herein and in current design standards.

- (1) If the easement contains public utilities, including but not limited to water lines, sanitary sewer lines, storm sewer lines, electrical lines, or gas lines, the easement shall meet all of the requirements set forth for a public street, including but not limited to construction standards and width, curves, building lines, sight distance visibility and landscape maintenance requirements.
- (2) If the easement does not contain public utilities, then the easement shall meet the following requirements:
 - a. The minimum width of the easement shall be thirty feet (30').
 - b. The minimum pavement width shall be thirty feet (30'), back-of-curb to back-of-curb.
 - c. The geometry and construction standards shall meet all of the requirements for a public street, with the exception that asphalt surfacing shall not be permitted.
 - d. The pavement shall have a standard six-inch (6") reinforced concrete curb in accordance with the current design standards.
 - e. Access to the easement shall be via approved curb cuts with spacing in accordance with current design standards. No direct parking access shall be allowed to the easement.
 - f. Building setback lines and parking setbacks shall be measured from the property line.
 - g. The minimum parking setback shall be ten feet (10').

Any mutual access agreement between the property owner(s) and/or lessor(s) shall be submitted to the city for approval and filed of record with the county clerk's office and so noted on the plat prior to recordation of the plat. A note shall be placed on the plat defining the accessibility to the access easement by police, fire and emergency vehicles, utility operations and maintenance personnel.

E. *Streets not on plan.* When a street is not on the thoroughfare plan, the arrangement of streets in a subdivision shall:

- (1) provide for the continuation or appropriate protection of existing streets in surrounding areas; or conform to a plan for the neighborhood as adopted by the city to meet a particular situation where topographical or other conditions make continuance or conformity to existing streets impracticable;
- (2) provide for future access to adjacent vacant areas which will likely develop in the future; and
- (3) resolve alignment with existing right-of-way and driveway openings.

F. *Minor streets.* Minor residential streets shall be so designed that their use by through traffic will be discouraged.

G. *Geometric street design.* Standards for curvature, intersecting streets, and offset intersections shall comply with the current design standards.

H. *Street widths.* Street right-of-way widths shall be shown on the thoroughfare plan and shall be designed in accordance with the current design standards. Lane widths and median widths shall also be in accordance with the current design standards. Except as otherwise provided in this Ordinance for townhome and patio home subdivisions, all local streets not identified as collector streets or arterial streets in the thoroughfare plan shall have a minimum right-of-way width of sixty feet (60') and a minimum pavement width of thirty feet (30'), measured inside of curb to inside of curb. Should any pavement width in this Ordinance conflict with other design standards, the more restrictive provision will control.

I. *Half streets.* Half streets shall be prohibited, except when essential to the reasonable development of the subdivision in conforming to the other requirements of these regulations and the thoroughfare plan and where the Planning Commission finds it will be practical to require the dedication of the other one-half ($\frac{1}{2}$) when the adjoining property is subdivided. When a partial street has been platted previously along a common property line, the other portion of the street shall be dedicated. Construction of half streets and improvements made to all on-site facilities are defined in the current design standards.

J. *Cul-de-sacs.* A cul-de-sac street may be provided where the shape of a portion of the proposed subdivision or where the terrain of the land would make it difficult, uneconomical or unreasonable to plat with connecting streets. These cul-de-sacs shall be so arranged as to provide access to all lots and shall conform to the most current design standards.

K. *Dead end streets.* Dead end streets are temporary in nature and are not allowed except to provide for access to adjacent land areas. In no case shall a dead end street be more than two hundred fifty feet (250') in length or equal to one (1) lot

depth, whichever is greater. A temporary turnaround shall be provided and indicated on the plat and built in accordance with the design standards.

L. *Reserves.* A one-foot reserve shall be established along the side or the end of a street that abuts acreage tracts. A note shall be on the plat to define the one-foot reserve.

M. *New streets.* New streets which are extensions of existing streets shall bear the names of existing streets and shall be dedicated with appropriate transitions and widths.

N. *Street names.* No new street names shall be used which will duplicate or be confused with the names of existing streets. All street names shall demonstrate good judgment and character on behalf of the applicant based upon commonly accepted use of names and places. Street names shall be subject to the approval of the Planning Commission at the time of final plat approval.

O. *Points of access.*

(1) Single-family residential subdivisions, including townhome and patio home subdivisions, shall have an adequate number of access points to provide for an orderly and safe movement of vehicular traffic. The minimum number of points of access from said subdivisions shall be as follows:

a. Subdivisions with fifty (50) or fewer lots: one (1) point of access.

b. Subdivisions with fifty-one (51) to one hundred twenty-five (125) lots: two (2) points of access, or one (1) point of access if that access is via a boulevard street section with no lots having direct access to the divided boulevard street section serving as said access.

c. Subdivisions with one hundred twenty-six (126) to two hundred fifty (250) lot: two (2) points of access, with at least one (1) point of access via a boulevard street section of at least one hundred twenty feet (120') in length (end of median to end of median), with no lots having direct access to the boulevard street section serving as said access, and at least one (1) point of access being directly to a collector or major thoroughfare.

d. Subdivisions with more than two hundred fifty-one (251) lots: The number of access points shall be determined by the city; however, there must be at least two (2) points of access, with at least one (1) point of access via a boulevard street section of at least one hundred twenty feet (120') in length (end of median to end of median), with no lots having direct access to the boulevard street section serving as said access, and at least one (1) point of access being directly to a collector or major thoroughfare.

- (2) Multi-family residential subdivisions, including apartment and condominium subdivisions, shall have an adequate number of access points to provide for an orderly and safe movement of vehicular traffic including emergency vehicles. The minimum number of points of access from said subdivisions shall be as follows:

a. Subdivisions with fifty (50) or fewer dwelling units: one (1) point of access.

b. Subdivisions with fifty-one (51) to one hundred twenty-five (125) dwelling units: Two (2) points of access, or one (1) point of access if that access is via a boulevard street section with no dwelling units having direct access to the divided boulevard street section serving as said access.

c. Subdivisions with one hundred twenty-six (126) to two hundred (200) dwelling units: two (2) points of access, with at least one (1) point of access via a boulevard street section of at least one hundred twenty feet (120') in length (end of median to end of median), with no dwelling units having direct access to the boulevard street section serving as said access, and at least one (1) point of access being directly to a collector or major thoroughfare.

P. *Construction.* All streets dedicated within a subdivision in the city or its ETJ shall be constructed in accordance with paving widths and specifications as set forth in the current design standards of the city at the time at which the final plat is recorded.

Q. *Future streets.* When a tract of land is subdivided into parcels that are larger than normal building lots, such parcels shall be arranged to permit the opening of future streets and a logical ultimate resubdivision.

R. *Rural streets.* Rural streets may be provided in subdivisions where lots conform to the minimum requirements for rural lots (Section 4-9, G.(2), Rural Lots) in areas with existing predominantly asphalt streets with open ditches for which rural streets are determined to be appropriate by the city engineer. A rural street shall have a minimum seventy-foot (70') right-of-way with a twenty-eight-foot pavement, which may be asphalt or concrete, provided applicable city and county design standards are met. Curbs are not required and open road side ditches may be used for drainage. No parking shall be allowed along a rural street right-of-way.

S. *Design requirements.* All public roads or streets to be constructed in a platted subdivision shall be constructed in accordance with the following design requirements prior to the roads, streets, drainage, or other improvements being accepted by the Planning Commission for city maintenance.

- (1) *Easements.*

a. Main Arterial Streets or Roads: The city must be provided with sixty feet (60') wide minimum road easement for streets containing curb and gutter drainage.

b. The Planning Commission shall determine which streets or roads are main arterial and those which are not main arterial.

c. No dead-end roads or stub streets shall be allowed in a subdivision unless constructed with a cul-de-sac. In the event a subdivision is planned in progressive sections, the sale of property shall be restricted so that no lot or lots are to be sold within one hundred feet (100') from the end of any dead-end street or road unless the applicant provides property for use as a cul-de-sac in the event the development of the subdivision is discontinued.

(2) *Street and Road Requirements.*

a. Unpaved roads shall not be permitted in any portion of the subdivision development.

b. Curbed and guttered roads must be a minimum of thirty-two feet (32') wide from outside of curb to outside of curb. The base must be of compacted gravel, or equivalent, a minimum of six inches (6") in depth, which shall extend one foot (1') beyond the outside of the curb on each side. Refer to curb detail illustration for construction design.

c. The minimum requirement for asphaltic concrete shall be as follows:

i. Prime Coat – This item shall consist of an application of asphaltic material MC 30 on the completed flexible base course. Prime coat shall be applied at a rate of .25 of a gallon per square yard and at a temperature of 175° F. Items 300 and 310 of the TxDot Standard Specifications shall govern.

ii. Asphalt – This item shall consist of a one and one-half (1½) compacted HMA as indicated in Item 340 of the TxDot Standard Specifications.

d. Subgrade for all types of roads shall be accurately shaped prior to placing flexible base material thereon. All unstable or otherwise objectionable material shall be removed from the subgrade and replaced with approved material. All holes, ruts, and depressions shall be filled with approved material.

e. Soil tests conducted by a recognized private laboratory shall be performed to determine the plasticity index (P.I.) of the subgrade; soil conditions where twenty (20) or greater P.I. exists will require lime

stabilization at a minimum rate of five percent (5%) lime content of subgrade weight by volume. The material will be mixed to a minimum depth of six inches (6") with an approved mechanical pulvimixer. When the P.I. is less than five (5), suitable material shall be incorporated into the subgrade to raise the P.I. to a minimum of five (5). Subgrade shall be compacted ninety-five percent (95%) Standard Proctor density. All P.I. and Proctor tests shall be conducted by the laboratory and copies of all test results shall be provided to the city. Intervals, or number of tests required, shall be determined by subgrade condition and soil make-up. All costs related to laboratory tests shall be paid by the applicant.

- f. The base material may be either of the following:
 - i. The flexible base material shall be six inches (6") compacted and meet the requirements of Item 247, Type A or B of the TxDot Standard Specifications, where lime stabilization is required.
 - ii. The flexible base material shall be eight inches (8") compacted and meet the requirements Item 247, Type A or B of the TxDot Standard Specifications.
 - iii. Compaction to be accomplished by the use of approved and acceptable compaction equipment.
- g. All streets indicated on the plat are to be dedicated to the use of the general public or for the use of purchasers or owners of lots fronting thereon or adjacent thereto.
- h. All new liquid fuel, high pressure and low pressure gas lines shall be buried a minimum of sixty inches (60") below ditch grade, cased and vented.
- i. All cable television and telephone lines shall be buried a minimum of twenty-four inches (24") below the ditch grade.

4-4. Alleys.

A. Alleys may be allowed in commercial and industrial districts, except that the Planning Commission may require that definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the use proposed. Service alleys in commercial and industrial districts shall conform to the most current design standards or as may be established by the Planning Commission. An access easement may be substituted upon approval of the Planning Commission if the easement is also a fire lane easement.

B. Residential alleys may not be required, except that residential alleys may be required where alleys of adjacent subdivisions already platted would be closed or dead-ended by failure to provide alleys in the new subdivision. Residential alleys shall

conform to the most current design standards or as may be established by the Planning Commission.

C. Dead-end alleys shall be avoided where possible, but, if unavoidable, shall be provided with adequate turnaround at the dead end as determined by the Planning Commission.

D. Alleys may not exceed a maximum length of one thousand, four hundred feet (1,400') unless otherwise waived by the Planning Commission.

4-5. Easements.

A. All utility easements, including those for water, sewer, storm sewer, and fire lanes, shall be shown on the final plat.

B. Easements across lots or centered on or adjacent to rear or side lot lines shall be provided for utilities where necessary and shall be of such widths as may be reasonably necessary for the utility or utilities using same. It shall be the applicant's responsibility to determine appropriate easement widths as required by the current design standards.

C. Where a subdivision is traversed by a watercourse, ditch, drainage way, or channel, there shall be provided a storm water easement or drainage right-of-way conforming substantially with such course and of such additional width as may be designated by the city and/or the county drainage district, subject to determination using proper engineering considerations. Maintenance easements shall also be specified. Approved utilities are permitted within the drainage easement if specified and approved as drainage and utility easement.

D. Fire lane easements shall be specified on all multi-family subdivision and nonresidential subdivision plats and shall conform to the current design standards. The design and paving material in the fire lane shall conform to the current design standards.

4-6. Curb radii at intersections. Curb radii at street intersections shall conform to current design standards and property lines shall be adjusted accordingly.

4.7. Blocks.

A. The length, width, and shape of blocks shall be determined with due regard to:

- (1) provision of adequate building sites suitable to the special needs of the type of use contemplated and
- (2) needs for convenient access, circulation, control and safety of street traffic.

B. Lengths and widths shall be in conformance with the design standards. In general, intersecting streets determining the lengths and widths of the blocks shall be provided at such intervals as to serve cross-traffic adequately and to meet existing streets or customary subdivision practices.

- (1) Minimum block length shall be five hundred feet (500'); however, this standard may be varied in cases where physical barriers or property ownership creates conditions where it is appropriate that these standards be varied having due regard for connecting streets, circulation of traffic and public safety.
- (2) Maximum block length shall be twelve hundred feet (1,200'), except where no existing subdivision controls, the block length may increase to one thousand, four hundred feet (1,400').
- (3) When possible, the block width or depth shall allow two (2) tiers of lots, back-to-back, except when prevented by the size of the property or the need to back on an identified thoroughfare. When adjacent to a thoroughfare, the applicant may not double front lots

C. Blocks shall be numbered consecutively within the overall plat and shall be consistent with adjacent plats

4.8. Sidewalks. Sidewalks of a minimum width of five feet (5') of all-weather surface shall be required as follows:

A. *Arterial streets.* On the subdivision side of all arterial streets adjacent to the subdivision and not parallel to a marginal access street, including both sides of the street if the arterial street is inside the subdivision.

B. *Collector streets.* On the subdivision side of all collector streets adjacent to the subdivision if no adequate sidewalk exists on the opposite side of the street, including both sides of the street if the collector street is inside the subdivision.

C. *Commercial, industrial, public, and multi-family areas.* On the subdivision side of all non-residential subdivision streets.

D. *Exception.* Where street lighting is provided a minimum five foot (5') wide all-weather pedestrian path may be installed in place of the sidewalks required on one or both sides of the street.

4.9. Lots, tracts, reserves. Lots, tracts and reserves within the city, unless the Planning Commission may otherwise approve for cause, shall conform to the following minimum requirements:

A. Each residential lot, tract, or reserve shall front on and have access from a dedicated public street, however, such access may be provided from a private street or access easement where permitted by this Ordinance. Any residential lot, tract, or reserve having access only from an alley shall not be permitted. No residential lot shall have access to a major thoroughfare or collector street, except as permitted below:

- (1) The lot shall have a minimum frontage of one hundred seventy-five feet (175') if on a major thoroughfare or collector street;
- (2) The lot shall contain a minimum area of three (3) acres; and
- (3) The lot shall be provided access to the major thoroughfare or collector street via one (1) driveway only, having a maximum width of twenty feet (20), measured at the right-of-way line, and shall have a minimum radius of twenty-five feet (25) at the point of connection to the paving of the major thoroughfare or collector street. Access driveways shall be located:
 - a. greater than one hundred feet (100') from a street intersection as measured from the center of the driveway to the right-of-way line of the street intersecting the major thoroughfare or collector street; and
 - b. greater than sixty-five feet (65') from a property line as measured from the centerline of the driveway.

B. The width of a lot shall be measured at the front building line. Cul-de-sac and radial lots shall also meet additional specified minimum width requirements as measured at the property/right-of-way line using the chord or straight line distance.

C. The depth of the lot shall be measured as an average between the side lot lines from the property-line/right-of-way.

D. A lot size shall be computed inclusive of all easements. There shall be a minimum buildable area, exclusive of easements, for each lot to meet the requirements set forth herein.

E. Corner lots shall be increased in size whenever necessary so as to provide that any structure to be placed thereon shall conform to the building line requirements of each street.

F. No lots may be split by any jurisdictional boundary lines.

G. Residential lots, tracts or reserves shall conform to the following requirements:

- (1) Urban lots.

- a. Lot widths.
 - i. Single-family residential subdivisions of any size.
 - a) A minimum lot width of seventy feet (70').
 - b) Cul-de-sac/radial: Fifty feet (50') at the street right-of-way with a minimum width of sixty feet (60') at the front building line.
 - ii. Townhouse Subdivision: A minimum lot width of thirty-five feet (35').
 - iii. Patio home subdivisions:
 - a) A minimum lot width of fifty-five feet (55').
 - b) Cul-de-sac/radial: Forty-five feet (45') at the street right-of-way with a minimum width of fifty-five feet (55') at the front building line.
 - iv. Duplex Subdivision: A minimum lot width of eighty-five feet (85').
 - b. Lot size—Minimum.
 - i. Single-family subdivisions of any size.
 - a) The average area of all lots within each section shall be a minimum of seven thousand (7,000) square feet.
 - b) However, the minimum area of any lot shall not be less than six thousand, five hundred (6,500) square feet.
 - ii. Townhouse subdivision: The lot area shall be a minimum of three thousand, five hundred (3,500) square feet.
 - iii. Patio Home subdivision The lot area shall be a minimum of six thousand (6,000) square feet.
 - iv. Duplex subdivision: The lot area shall be a minimum of nine thousand, six hundred (9,600') square feet.
- (2) Rural lots. Rural lot subdivisions for single-family detached dwellings may be approved, provided that each lot within the proposed subdivision has an area of at least one (1) acre and said development conforms to applicable state law, and other applicable codes and ordinances of the city and the county.

H. Lot shapes. Single-family residences lots should be designed, so far as possible, with side lot lines being at right angles or radial to any adjacent street right-of-way line. Lots should have a depth to width ratio of 3 to 1. Key or flag lots will not be permitted.

I. All lots in a subdivision platted for single-family residences with both potable water and sewage disposal facilities provided by on-site units shall contain a minimum surface area of one and a half (1.5) acres of land. The one and a half (1.5) acre minimum size must be clear, free from any easements, roads, ponds, or lakes pursuant to state requirements for water well and septic systems, except that the minimum lot size may include front road easements only.

J. All lots in a subdivision platted for single-family residences served with public water systems and on-lot disposal of sewage shall contain a minimum surface area of one (1) acre.

K. All single-family residences in a platted subdivision served by both public water and public sewage disposal systems shall contain a minimum of seventy foot (70') frontage, one hundred foot (100') depth, and seven thousand (7,000) square foot surface area.

L. All lots for condominiums, townhouse, or other multi-family residential developments shall be reviewed by the city engineer and by the Planning Commission to ensure adequate property size for parking, fire protection, emergency vehicles, or other required services.

M. All mobile home or manufactured home lots shall conform to the same requirements as single-family residences contained herein. No new mobile home subdivision is allowed in the city limits or ETJ.

N. In addition to the minimum required in this section, all lots shall have the minimum requirements as outlined by Wharton County Policy "Rules of Wharton County, Texas for private Sewage Facilities."

O. All reserves shall be labeled with their appropriate use. Landscape and detention reserves may also be designated as utility easements. When the Planning Commission determines the proposed land use is essential to the signage of public facilities, the Planning Commission may require the intended use of the reserve to be specified.

P. All nonresidential and multi-family tracts or reserves shall front on a dedicated public street or dedicated access/fire lane easement. The design of driveways, access easements, and fire lanes shall conform to the current design standards.

Q. In no case shall a rectangular or irregularly shaped lot contain less than the minimum square footage as designated.

4.10. Building lines—Single-family residential lots. The minimum building setback lines shall be established for all single-family residential lots and so indicated on all subdivision plats as stipulated below:

- A. *Corner lots equal to or greater than fifty feet (50') in width:*
 - (1) Front Setback: twenty-five feet (25').
 - (2) Side Setback:
 - a. Minor Streets: fifteen feet (15').
 - b. Collector Streets: twenty feet (20').
 - c. Major Thoroughfares: twenty-five feet (25').
- B. *Corner lots less than fifty feet (50') in width:*
 - (1) Front Setback: twenty-five feet (25').
 - (2) Side Setback:
 - a. If the required right-of-way for the street does exist according to the city's Thoroughfare Plan, then five feet (5').
 - b. If the required right-of-way for the street does not exist, then five feet (5') plus the required right-of-way according to the city's Thoroughfare Plan.
 - c. Subsection (b) of this section does not apply to a lot within a townhouse subdivision as defined by this Ordinance.
- C. *Interior lots:*
 - (1) Front Setback: twenty-five feet (25').
 - (2) Side Setback: five feet (5').
- D. *Rear Setback:*
 - (1) If the rear property line does not abut a street: ten feet (10').
 - (2) If the rear property line abuts a street: twenty-five feet (25').
- E. *Carports, car covers, breezeways, and porte-cocheres.*

- (1) *Location.* Structures may be located outside of the building envelope (the area on a lot that is in compliance with the setback requirements of subsections A., B., C., and D. above) including but not limited to, structures, building height, decks, roof overhangs, porches, and driveways, subject to the following conditions:
- a. Carports must meet all single-family residential lot setbacks as described in subsections A., B., C., and D. above.
 - b. Structures shall not encroach upon or extend over a sidewalk.
 - c. Drainage from the structure shall not impact adjacent properties, public sidewalks, or a public right-of-way.
 - d. The canopy or roof structure (including overhang) shall not extend past the support posts by more than two feet (2') and in no case shall be closer than three feet (3') to the property line.
 - e. Carports and car covers (including trellises, arbors, and similar structures used for this purpose) shall be open on all sides unless backing and/or siding to the principal building.
 - f. Carports and car covers shall not encroach into easements unless written permission is granted from the owner or lessee of the easement and proof of such permission is provided to the city prior to the issuance of permits or clearances for such structures.
 - g. The roof, in terms of materials or colors and pitch, is constructed to appear as part of the original construction of the principal dwelling.
 - h. The materials or colors, including supporting posts and roof, are compatible with the principal dwelling.
 - i. Metal carports shall be painted to match the primary structure and be maintained in good repair.
 - j. On corner lots, garages and carports are only permitted where a driveway length of twenty feet (20') can be provided to satisfy the off-street parking requirements.
- (2) *Design.* Structures must
- a. have no less than fifty percent (50%) open space on all sides, except when abutting the principal building and applied to trellises, arbors, and similar structures.

b. be integrated with the principal building design when visible to the public right-of-way. This includes

- i. structural supporting elements and
- ii. roof materials, pitch, and design.

An administrative exception may be allowed if the roof is a trellis, arbor, or similar open-roof type structure.

(3) *Code compliance required.* Structures must:

- a. be firmly anchored in compliance with all building and fire codes and
- b. comply with all building, life safety, and fire code requirements when attached to the principal building or another accessory building.

(4) *Abrogation and greater restrictions.*

- a. The city has no duty to search for the existence of private restrictions or to administer or enforce any private restriction.
- b. It is not the intent of this section to interfere with, abrogate, or annul any private easement, covenant, deed restriction, or other agreement between private parties.
- c. When the provisions of this section impose a greater restriction that imposed by such private agreements, the provisions of this section shall control.
- d. When a private agreement imposes a greater restriction than that imposed by this section, the private agreement shall control.

F. *Special Exception.*

- (1) Upon written request of the property owner, the Planning Commission may grant a special exception to the provisions of this section.
- (2) The purpose of a special exception shall be to authorize a modification of standards applicable to development within the city, which is consistent with the overall intent of the Code, but that requires additional review to determine whether the development with the modifications is compatible with adjoining properties and the character of the neighborhood in which the development is proposed.

- (3) In granting a special exception under this article, the Planning Commission may impose such criteria and conditions as necessary to protect adjacent property owners.
- (4) *Application requirements.* An application for a special exception shall be accompanied by the following:
 - a. completed application form, as provided by the city secretary or designee;
 - b. a statement detailing the specifics of the site and other information deemed appropriate by the city secretary or designee; and
 - c. a site plan of the subject property.
- (5) *Application processing.*
 - a. The Planning Commission shall consider an application for a special exception.
 - b. The city secretary or designee send notice to each owner of real property located within two hundred feet (200') of the exterior boundary of the property in question by regular United States mail before the tenth (10th) day before the date on which the Planning Commission is to consider the special exception.
 - c. The city secretary or designee shall cause notice to be published in a newspaper of general circulation in the city before the tenth (10th) day before the date on which the Planning Commission is to consider the special exception.
 - d. The Planning Commission shall hold a public hearing and receive public comments regarding the special exception.

G. *Previous Subdivisions.* Lots in subdivisions platted prior to the effective date of this Ordinance shall not be required to meet the setback requirements in subsections A., B., C., and D., if the applicant can present information, and city staff can verify, that the proposed construction will have setbacks greater than or equal to the average setback on the same block or street as the subject property.

4-11. Building Lines—Commercial Lots. The minimum building setback lines shall be established for all commercial lots and so indicated on all subdivision plats as provided below:

- A. *Corner lots for commercial structures:*

- (1) Front Setback: twenty-five feet (25')
- (2) Side Setback:
 - a. Minor Streets: fifteen feet (15').
 - b. Collector Streets: twenty feet (20').
 - c. Major Thoroughfares: twenty-five feet (25').
- (3) A minimum building setback of thirty feet (30') shall be provided for all commercial structures up to fifty feet (50') in height on the side and rear of all corner lots that are adjacent to a residential use. An additional one foot (1') of setback shall be required for every additional one foot (1') in height of the commercial structure above fifty feet (50').
- (4) Side and rear setbacks for lots lines that are not adjacent to a street, thoroughfare, or residential use, shall be established in accordance with the most recently adopted version of the International Building Code.
- (5) The minimum building setback for the side and rear of all corner lots adjacent to a residential use shall be inclusive of one-half ($\frac{1}{2}$) the width of any adjacent platted and recorded public alley or easement, provided that:
 - a. The minimum width of the alley or easement is twenty feet (20').
 - b. The alley or easement is, and remains accessible, unenclosed, and unobstructed.

B. *Interior lots for commercial structures:*

- (1) A minimum building setback of twenty-five feet (25') shall be provided on the front of all interior lots that front upon minor streets, and collector streets, but thirty-five feet (35') shall be provided if the lot abuts a major thoroughfare.
- (2) A minimum building setback of thirty feet (30') shall be provided for all commercial structures up to fifty feet (50') in height on the side and rear of all interior lots when the side is adjacent to a residential use. An additional one foot (1') of setback shall be required for every additional one foot (1') in height of the commercial structure above fifty feet (50').
- (3) Side and rear setbacks for lots lines that are not adjacent to a street, thoroughfare, or residential use, shall be established in accordance with the most recently adopted version of the International Building Code.

C. *Variance procedure for lots of record.* Lawfully preexisting lots on the date of adoption of this Ordinance, which are of a size that strict compliance with the setback

requirements set forth in this section would create an undue hardship by significantly affecting the development of the tract for commercial purposes, are hereby entitled to seek a variance from the provisions hereof, as authorized under section 3-1 of this Ordinance.

4-12. Building Lines—Industrial Lots. The minimum building setback lines shall be established for all industrial lots and so indicated on all subdivision plats as provided below:

A. Corner lots for industrial structures:

- (1) Front Setback: twenty-five feet (25')
- (2) Side Setback:
 - a. Minor Streets: fifteen feet (15').
 - b. Collector Streets: twenty feet (20').
 - c. Major Thoroughfares: twenty-five feet (25').
- (3) A minimum building setback of sixty feet (60') shall be provided for all industrial structures up to sixty feet (60') in height on the side and rear of all corner lots that are adjacent to a residential use. An additional one foot (1') of setback shall be required for every additional one foot (1') in height of the commercial structure above sixty feet (60').
- (4) Side and rear setbacks for lots lines that are not adjacent to a street, thoroughfare, or residential use, shall be established in accordance with the most recently adopted version of the International Building Code.

B. Interior lots for industrial structures:

- (1) A minimum building setback of twenty-five (25') shall be provided on the front of all interior lots that front upon minor streets, collector streets, and major thoroughfares.
- (2) A minimum building setback of sixty feet (60') shall be provided for all industrial structures up to sixty feet (60') in height on the side and rear of all interior lots when the side is adjacent to a residential use. An additional one foot (1') of setback shall be required for every additional one foot (1') in height of the industrial structure above sixty feet (60').
- (3) Side and rear setbacks for lots lines that are not adjacent to a street, thoroughfare, or residential use, shall be established in accordance with the most recently adopted version of the International Building Code.

4-13. Street lights. Each subdivision shall have street lights installed with a maximum spacing of three hundred feet (300') between each light and arranged so that one (1) light is installed at every street intersection. The wiring shall be placed underground, and the light mounted on a steel standard. The light intensity of each lamp shall be a minimum of sixteen thousand (16,000) lumens, and the light shall be high pressure sodium vapor or light emitted diode (LED). Beginning from the date the lights are installed, each applicant will be required to pay to the city, an annual fee equal to the actual cost to the city for the upcoming year of installing and maintaining newly installed streetlights requested by such applicant. This annual fee shall be paid for three years and will be established by the city's power provider in the beginning of each year.

4-14. Subdivision—Unit of a larger tract. Where the proposed subdivision constitutes a unit of a larger tract owned by the applicant which is intended to be subsequently subdivided as additional units of the same subdivision, the preliminary and final plats shall be accompanied by a layout of the entire area showing the tentative proposed layout of streets, blocks, drainage, water, sewer, and other improvements for such area. The overall layout, if approved by the Planning Commission, shall be attached to and filed with a copy of the approved subdivision plat in the permanent files of the city. Thereafter, plats of subsequent units of such subdivisions shall conform to such approved overall layout, unless changed by the Planning Commission. However, except where the applicant agrees to such change, the Planning Commission may change such approved overall layout only when the Planning Commission finds:

A. that adherence to the previously approved overall layout will hinder the orderly subdivision of other land in the area in accordance with this Ordinance; or

B. that adherence to the previously approved overall layout will be detrimental to the public health, safety or welfare, or will be injurious to other property in the area.

4-15. Large-scale neighborhood development. The standards and requirements of the regulations contained in this Ordinance may be modified by the Planning Commission in the case of a plan and program of development of a new municipality, a complete large residential community of neighborhood units, or mass housing project, which contains adequate provisions for circulation, recreation, light, air, and service needs of the tract when fully developed and populated that is equal to or better than the detailed requirements of the regulations of this Ordinance and which also provides such covenants or other legal provisions as will assure conformity to the comprehensive master plan of the city.

4-16. Drainage Design. Prior to the submission of any plat of a proposed subdivision to the Planning Commission, a complete Engineering Report, Drainage Design, and Construction Drawings shall be prepared by a civil engineer who is licensed and registered in the State of Texas. The report, calculations, and construction drawings shall be submitted to the city secretary or designee for review and approval by the city engineer a minimum of fourteen (14) days prior to the requested date of action by the Planning Commission.

A. Drainage design shall be based on the following criteria:

- (1) A minimum slope of one and one-half percent (1½%) per hundred feet (100') of ditch length shall be constructed on all outfall ditches.
- (2) A minimum slope of three percent (3%) per hundred feet (100') shall be constructed for all curb and gutters.
- (3) All culverts under all dedicated roads shall be made of reinforced concrete to be installed as per approved engineering plan.

B. *Determination of Run-off.* Run-off from subdivisions will be determined by the "Rational Method," from the equation below based on a rainfall intensity of two and eight-tenths inches (2.8") per hour and a C factor based on total development of the proposed subdivision.

Q	=	CIA, where
Q	=	cubic feet per second
I	=	Intensity in inches per hour
A	=	Area in acreage
C	=	Run-off coefficient

C. Outfall ditches or constructed drainage ways shall enter at or above the grade of drainage channel. If necessary, drop or other type outfall structures shall be installed to prevent erosion. These structures shall be placed so as to not interfere with maintenance of the channel.

SECTION 5. TOWNHOUSE SUBDIVISIONS.

5-1. General Requirements. In addition to the general Procedures and Requirements set for in Section 3 and the general Subdivision Design Requirements set forth in Section 4 of this Ordinance, all intended development of a townhouse subdivision within the city or its ETJ shall also comply with the requirements in Section 5 of this Ordinance. Where the provisions of this section are more specific or conflict with other provisions of this Code, the provisions of this section shall apply.

5-2. Streets and Other Public Ways.

A. Interior streets shall have a minimum right-of-way width of sixty feet (60') and shall be developed with a minimum of a thirty-six foot (36') paving section (inside of curb to inside of curb) with concrete curb and gutter in accordance with the current design standards. For the purposes of this section, interior streets may be public or private streets.

B. Access streets shall have a minimum right-of-way width of sixty feet (60') and shall be developed with a minimum of a thirty-six foot (36') pavement section (inside of curb to inside of curb) with concrete curb and gutter in accordance with current design standards.

C. All townhouse subdivisions shall have direct access streets to at least one (1) dedicated and accessible public street having a right-of-way width of no less than sixty feet (60').

D. All townhouse lots shall have direct access to an interior street, an access street, or a rear access easement having a width of thirty-eight feet (38') and a twenty-eight foot (28') paving section (inside of curb to inside of curb). Dead-end access easements shall not be greater than two hundred feet (200') in length. All rear access easements shall not be dedicated as public rights-of-way, but shall be private rights-of-way and shall be privately maintained.

E. In the event private interior streets or private rear access easements are utilized in a townhouse subdivision, provisions shall be included in the restrictive covenants for such subdivision to ensure that adequate funding for the perpetual maintenance of such private streets and rear access easements.

5-3. Building Setback. The minimum building lines or setback lines shall be established for all townhouse lots and so indicated on all subdivision plats as stipulated below:

A. Front Setback:

- (1) If any property line abuts a major thoroughfare: thirty-five feet (35').
- (2) If the lot fronts or backs an access street: twenty-five feet (25').
- (3) If the lot sides an access street or upon a plat boundary: twenty-feet.

B. Side Setback:

- (1) No building setback lines shall be required on the sides of lots abutting interior streets, except where traffic safety or other factors necessitate the establishment of such setbacks.
- (2) The side building setback line shall be not not less than fifteen feet (15') where a side property line abuts an access street or plat boundary.

C. Rear Setback:

- (1) If the lot does not abut an access street: twenty feet (20').
- (2) If the lot abuts an access street: twenty-five feet (25').

D. Where townhouse lots and dwelling units are designed to face upon an open or common access court rather than upon a street, such open or common court shall be at least forty feet (40') wide and not more than two hundred feet (200') long, measured from the curb of the street upon which the court must open. Such court may not include vehicular drives or parking area in front of dwelling units.

5-4. Lots.

A. The minimum lot size shall be three thousand, five hundred (3,500) square feet.

B. The minimum lot width shall be thirty-five feet (35').

C. Dwelling units may be constructed up to side lot lines, and openings shall not face a side lot line unless the side wall of the dwelling unit is at least ten feet (10') from the side lot line.

D. The subdivision shall include two and one-half (2.5) parking spaces per townhouse lot. Garage parking spaces up to two (2) spaces per lot may be included in the total number of required spaces.

5-5. Utilities. All utilities, such as sanitary sewer, water, gas, telephone, television cable, and electrical, shall be placed underground.

SECTION 6. PATIO HOME SUBDIVISIONS.

6-1. General Requirements. In addition to the general Procedures and Requirements set forth in Section 3 and the general Subdivision Design Requirements set forth in Section 4 of this Ordinance, all intended development of a patio home subdivision within the city or its ETJ shall also comply with the requirements in Section 6 of this Ordinance. Where the provisions of this section are more specific or conflict with other provisions of this Code, the provisions of this section shall apply.

6-2. Streets and Other Public Ways.

A. Interior streets shall have a minimum right-of-way width of sixty feet (60') and shall be developed with a minimum of a thirty-six foot (36') paving section (inside of curb to inside of curb) with concrete curb and gutter in accordance with the current design standards.

B. Access streets shall have a minimum right-of-way width of sixty feet (60') and shall be developed with a minimum of a thirty-six foot (36') pavement section (inside of curb to inside of curb) with concrete curb and gutter in accordance with current design standards [TxDot Standard Specifications].

6-3. Lots.

A. The minimum lot size shall be six thousand (6,000) square feet.

B. The minimum lot width shall be fifty-five feet (55'). Cul-de-sac/radial lot width shall be a minimum of forty-five feet (45') feet at the street right-of-way with a minimum width of fifty-five feet (55') at the front building line.

C. Dwelling units may be constructed with a zero lot line clearance on only one (1) side of the lot. Doors shall not be installed in sides with zero lot line clearance.

D. Ten feet (10') must be maintained between sides of any two (2) dwelling units placed on adjacent lots.

E. Deed restrictions for zero-lot line clearance must provide a ten-foot (10') easement to the owner whose dwelling unit is on the property line for maintenance purposes.

F. The building setback line shall be not less than thirty-five feet (35') where any property line abuts a major thoroughfare.

G. The front building setback line shall be not less than twenty-five feet (25').

H. The building line on the side of a corner lot adjacent to a street other than a major thoroughfare shall not be less than fifteen feet (15').

I. The rear building setback line shall be not less than ten feet (10'), but if the rear property line abuts a street, the rear building setback line shall not be less than twenty-five feet (25').

G. Deed restrictions must provide that: "No autos, trucks, boats, campers, other trailers, or vehicles of any kind shall ever be left parked on the grass or yard except in paved off-street parking space for not more than seven (7) days as temporary parking incident to the contemporaneous use of such vehicle or object, nor shall same be left parked on any lot unless parked inside a garage."

6-4. Other Requirements.

A. A patio home subdivision shall contain no fewer than twenty (20) lots.

B. A patio home subdivision shall be located on no less than five (5) acres.

SECTION 7. DUPLEX SUBDIVISIONS.

7-1. General Requirements. In addition to the general Procedures and Requirements set forth in Section 3 and the general Subdivision Design Requirements set forth in Section 4 of this Ordinance, all intended development of a duplex subdivision within the city or its ETJ shall also comply with the requirements in Section 7 of this Ordinance. Where the provisions of this section are more specific or conflict with other provisions of this Code, the provisions of this section shall apply.

7-2. Lots.

- A. The minimum lot size shall be a nine thousand, six hundred (9,650) square feet.
- B. The minimum lot width shall be eighty feet (80').
- C. The minimum lot depth shall be one hundred twenty feet (120').
- D. **Setback.** The minimum building setback lines shall be established for all duplex lots and so indicated on all subdivision plats as stipulated below:

(1) Corner lots.

- a. Front Setback: twenty-five feet (25').
- b. Side Setback:
 - i. Minor Streets: fifteen feet (15').
 - ii. Collector Streets: twenty feet (20').
 - iii. Major Thoroughfares: twenty-five feet (25').
- c. Rear Setback: twenty-five feet (25').

(2) Interior lots.

- a. Front Setback: twenty-five feet (25')
- b. Side Setback: ten feet (10') each side of all interior lots fronting on minor and collector streets and thoroughfares.
- c. Rear Setback: twenty-five feet (25').

E. *On-site parking.* There shall be a minimum of four (4) on-site, covered parking spaces per duplex within the required building setback line requirements.

F. *Access restriction.* There shall be no driveway access permitted to any lot from a collector or street or thoroughfare street.

G. *Deed restrictions.* Deed restrictions must provide that: "No autos, trucks, boats, campers, other trailers, or vehicles of any kind shall ever be left parked on the grass or yard except in paved off-street parking space for not more than seven (7) days as temporary parking incident to the contemporaneous use of such vehicle or object, nor shall same be left parked on any lot unless parked inside a garage."

H. *Other provisions.*

- (1) There shall be no more than six (6) dwelling units per gross platted acre, including roadways, in a duplex subdivision.

- (2) Where a duplex structure is situated to face a common access area rather than upon a public or private street, the minimum dimension between structures facing said common access area shall be forty feet (40'). Common driveways shall have a paved width of at least eighteen feet (18').
- (3) A minimum building setback of twenty-five (25) feet shall be provided on the front and twenty (20) feet on the side of all corner lots where such lots side upon collector streets.

SECTION 8. MULTI-FAMILY RESIDENTIAL (APARTMENT) SUBDIVISIONS.

8-1. General Requirements. In addition to the general Procedures and Requirements set for in Section 3 and the general Subdivision Design Requirements set forth in Section 4 of this Ordinance, all intended development of a multi-family residential (apartment) subdivision within the city or its ETJ shall also comply with the requirements in Section 8 of this Ordinance. Where the provisions of this section are more specific or conflict with other provisions of this Code, the provisions of this section shall apply.

8-2. Application Requirements. In addition to the information otherwise required to be submitted for a development plat, a development plat that provides for the development of one or more multi-family residential buildings shall provide the following information:

- A. The number of separate buildings that will contain multi-family residential dwellings units.
- B. The location of the principal entrance to each multi-family residential building.
- C. The total number of dwelling units.
- D. An itemized listing of multi-family residential dwelling units indicating the number of bedrooms in each dwelling unit.

8-3. Private Street and Parking Standards.

A. A development plat that contains a multi-family residential building shall provide at least one private street. The private street shall remain clear at all times for emergency vehicle access. No parking shall be allowed within the private street for more than seven consecutive days. A private street shall comply with the following requirements:

- (1) The minimum right-of-way width for a private street shall be twenty-eight feet (28') which is coterminous with the pavement width measured from edge-to-edge across the surface of the pavement.

- (2) Intersections along private streets shall be a minimum of sixty-five feet (65') apart.
- (3) When a private street intersects with another private street at a ninety-degree (90°) angle, the private street shall provide a twenty-foot (20') radius at the intersection.
- (4) When a private street intersects with another private street at an angle less than ninety degrees (90°), but more than eighty degrees (80°), the private street shall provide a twenty-five-foot (25') radius at the intersection.
- (5) The centerline radius of a reverse curve on a private street shall not be less than sixty-five feet (65'). Reverse curves shall be separated by a tangent of not less than twenty-five feet (25').

B. Each development plat containing a multi-family residential development shall provide off-street parking spaces in accordance with the following schedule:

Unit Size	Parking Spaces Required Per Unit
Efficiency	1.5
One Bedroom	1.5
Two Bedrooms	2.0
Three Bedrooms	2.5

8-4. Height, Access, and Area Regulations.

- A. No building or structure shall exceed two (2) stories or thirty-five feet (35').
- B. There is no minimum lot with for multi-family lots.
- C. *Density.*
 - (1) No multi-family residential development shall contain more than fifteen (15) dwelling units per net platted acre if the building or structure is two stories. For a development with one-story multi-family dwelling buildings, the density shall not exceed seven (7) dwelling units per net platted acre. For a development with two-story or a combination of one- and two-story multi-family dwelling buildings, the density shall not exceed fourteen (14) dwelling units per net platted acre. The net platted acreage shall be the total platted acreage of the plat, less any acreage occupied by:
 - a. lakes or ponds (not for recreational purposes),
 - b. irrigation canals or drainage canals,

- c. public uses, or
 - d. utility easements.
- (2) There shall be no more than ten (10) dwelling units per building and no dwelling unit structure shall exceed two hundred feet (200') in length.
- (3) The total number of units shall not exceed two hundred (200) within a multi-family residential development. Multi-family residential developments may not be developed in stages or phases to circumvent this requirement.
- D. Each multi-family residential building shall be limited to not more than seven thousand (7,000) square feet per floor. Multi-family residential buildings shall be limited to two (2) floors, and shall not exceed thirty feet (30') in height above finished grade.
- E. Each multi-family residential building shall be separate and separated by a distance of at least thirty feet (30') from any other building.
- F. Access must be provided around the entire perimeter of all multi-family developments for emergency vehicles, including fire trucks, police cars, ambulances and garbage trucks. This access area must be paved and have a width of at least twenty feet (20'). Multi-family residential developments with less than ten (10) multi-family dwelling units are exempt from this requirement. Multi-family developments may not be developed in stages or phases to circumvent this requirement.
- G. Enclosed courtyards shall not be less than forty feet (40') in depth, width, or length.
- I. *Setbacks.* The minimum building setback lines shall be established for lots or tracts containing multi-family residential buildings, measured from the applicable property line; provided, however, if the lot is encumbered with a street right-of-way, such building line shall be measured from the boundary line of such street right-of-way.
- (1) Front Setback: thirty-five feet (35').
- (2) Side Setback:
- a. Interior lot:
 - i. for a one-story structure not to exceed fifteen feet (15') in height: thirty feet (30').
 - ii. for a two-story structure: fifty feet (50').
 - b. Minor Street: thirty feet (30').
 - c. Collector Street or Major Thoroughfare: thirty-five feet (35').

(3) Rear Setback:

a. Interior lot:

i. for a one-story structure not to exceed fifteen feet (15') in height: thirty feet (30').

ii. for a two-story structure: fifty feet (50').

b. Lot where the rear property line abuts an alley, minor street, collector street, or major thoroughfare: thirty feet (30') for each building abutting the alleyway.

J. Each dwelling unit within a multi-family residential development shall meet the following minimum square footage requirements:

(1) Each efficiency and one-bedroom unit shall have a minimum of area of six hundred (600) square feet.

(2) Each two-bedroom unit shall have a minimum area of nine hundred (900) square feet.

(3) Each three-bedroom unit shall have a minimum area of one thousand two hundred (1,200) square feet.

(4) No unit shall have four (4) or more bedrooms.

8-5. Open Space. A minimum of thirty percent (30%) of the net platted area shall be open green space. "Open green space" is defined as, and limited to, common areas of open green space with landscaping or open community recreational areas. Open green space does not include any areas specifically designated or used as building sites for multi-family residential buildings, buildings sites for utility or storage buildings, parking lots, garages, streets, or driveways within a multi-family residential development. The actual surface areas of open green space, such as common area lawns and landscaping, and community recreational areas, such as playgrounds, community swimming pools and surrounding paved deck area, community tennis courts, and other open common recreation areas, shall be considered in calculating the minimum requirement for open green space. Recreational facilities located within enclosed buildings shall not be considered open green space.

A. All multi-family residential developments shall provide at least three (3) of the following amenity items:

(1) Tennis courts (minimum two (2))

(2) Swimming pool

(3) Recreation/community center or room

- (4) Basketball court (full court)
- (5) Fitness center
- (6) Playground area

B. A basketball court or tennis court shall not occupy the same space to be counted as separate amenities.

8-6. Masonry Construction. At a minimum, seventy-five percent (75%) of the exterior walls of a multi-family residential development shall be constructed of masonry materials and shall contain an appropriate moisture barrier.

8-7. Screening. The following screening requirements shall apply to multi-family dwelling developments:

A. All refuse containers shall be screened.

B. An eight-foot (8') tall decorative masonry wall shall be constructed on the sides and rear of any multi-family dwelling development.

C. All walls shall be constructed of a solid masonry material of brick, decorative block or similar material. Similar material shall not include smooth face concrete masonry blocks or units. Masonry walls shall be erected on a concrete foundation of adequate strength and shall be not less than four inches (4") inches wider than the wall to be erected.

D. For security purposes, structurally sound gates complying with applicable codes shall be placed at all entrances to multi-family residential developments in a manner sufficient to restrict access to residents and authorized visitors. Master codes to the gates shall be provided to the Chief of Police and city secretary to provide for unrestricted access to police, fire and EMS emergency services and police routine patrol.

E. On-site management shall be present at all times.

8-8. Special Protective Requirements.

A. All multi-family residential buildings shall be constructed using one-hour fire-resistive materials in all walls, floors, ceilings, and attic separations.

B. All multi-family residential buildings shall contain a fire sprinkler system on all floors.

C. The use of wood shingle roofing and cedar shake siding materials is prohibited for use in multi-family residential buildings.

8-9. Lighting. Each multi-family residential development shall include lighting for all recreational areas, driveways, access streets, entrances, and exits.

8-10. Other Provisions. A site plan may be denied by the Planning Commission if the proposed multi-family residential development is within one half (1/2) mile of an existing multi-family residential development, resulting in undue concentration of multi-family developments as determined by the Planning Commission.

8-11. Utilities. All utilities such as sanitary sewer, water, gas, telephone, television cable, and electrical service shall be placed underground.

8-12. Exceptions.

A. Federally funded (example: U.S. Department of Housing and Urban Development, commonly referenced as "HUD") multi-family residential development projects that comply with HUD Section 811 regulations for such projects, which is restricted to housing for persons with physical disabilities, developmental disabilities, or chronic mental illness, shall be subject to the standard provisions set forth in this section, except the following requirements shall apply:

- (1) Density: Maximum density of seven (7) units per net platted acre.
- (2) Number of units: Maximum number of fifteen (15) units within a development.
- (3) Minimum development area: Two (2) acres.
- (4) Parking: Minimum of two (2) spaces per unit.
- (5) Building separation: Minimum building separation of eighteen feet (18').
- (6) Property line fencing: A fence, consisting of chain link, wrought iron, or wood panels, shall be required along the perimeter property lines. An opaque fence shall be required along any property line that is adjacent to a residential use, or property platted for residential use, at the time of development of the multi-family residential development.
- (7) Amenities: A minimum of one (1) of the following amenities shall be provided:
 - a. Tennis courts
 - b. Swimming pool
 - c. Recreation/community center or room
 - d. Basketball court
 - e. Fitness center

- f. Playground area
 - g. Open green space/play area
 - h. Gazebo
- (8) Size of units: Units shall be a minimum of five hundred (500) square feet.
 - (9) Maximum number of residents per unit: Three (3), with one (1) of those residents being at least eighteen (18) years of age or older.

SECTION 9. PARKLAND, PUBLIC SITES, AND OPEN SPACES.

9-1. Areas for Public Use. The applicant shall give consideration to suitable sites for parks, playgrounds, schools, and other areas for public use so as to conform to with the recommendations of the Planning Commission. Any provisions for schools, parks, and other public uses, shall be indicated on the preliminary plat.

9-2. School Sites. School sites for public schools shall be coordinated with the appropriate school district within whose jurisdiction the plat lies.

9-3. Public facilities. Public facilities such as fire stations, libraries, municipal, schools, county, and municipal utility district buildings shall be indicated on a plat. The location of these facilities shall be coordinated with the applicable governing body and in compliance with the comprehensive plan of the city.

9-4. Wetlands. If there are any areas previously designated which constitute wetlands by federal law, these areas shall be indicated on the plat and any restrictions on these areas shall be noted on the plat.

SECTION 10. PLANNED UNIT DEVELOPMENT.

10-1. Planned Unit Development. A planned unit development (PUD) promotes the development of a tract of land in a unified manner and may allow for deviation from the development standards in this Ordinance and in such other ordinances as may exist. Variances to the established criteria for lot widths, lot depths, building lines and location of open space may be considered for recommendation and approval as part of a PUD when the following requirements are met:

- A. All single-family residential lots shall front on a public street right-of-way.
- B. Provision shall be made for adequate separation between the fronts of buildings.
- C. Lot widths and depths shall be adequate for residential construction in accordance with established building codes.

D. Building setback lines shall be established to provide adequate off-street parking for each residential unit.

E. Provision shall be made for compensating open space with the PUD.

F. Justification shall be made for the design of the subdivision.

G. A finding shall be made that there is no negative impact on health, safety or welfare in the area.

SECTION 11. IMPROVEMENTS AND ACCEPTANCE OF THE SUBDIVISION.

11-1. Improvements.

A. The requirements of the subdivision regulations as set forth below are designed and intended to ensure that for all subdivisions of land within the scope of the subdivision regulations, all improvements as required herein are installed in a timely manner in order that:

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

B. The public improvements required by the city for the acceptance of the subdivision by the city shall include, but are not limited to the following:

- (1) Water and sewer facilities;
- (2) Drainage facilities;
- (3) Streets;
- (4) Street lights;
- (5) Street signs;
- (6) Traffic control devices required as part of the project and appurtenances to the above;
- (7) Public land or public park construction; and
- (8) Any other public facilities required as part of the proposed subdivision.

C. All aspects of the design and implementation of public improvements shall comply with applicable city codes and ordinances, including preparation and submittal of construction plans and construction inspection.

D. All subdivisions in the extraterritorial jurisdiction shall also be reviewed and approved by the county engineer's office and the county commission.

E. Prior to the final approval of construction of the streets and utilities, monumentation for the subdivision shall be in place for the perimeter, right-of-way corners, angle points, and points of curvature using an iron pipe or rod of not less than five-eighths inch (5/8") in diameter and thirty-six inches (36") long and set flush with finished grade or top of curb. Plat boundary corners shall be set and shall include a cap or tag with the surveyor's identification. Acceptance by the city shall be contingent upon proper documentation. All lot corner monuments shall be set prior to the issuance of a building permit or the beginning of principal building construction. The lot corner monuments shall be iron rods not less than one-half inch (1/2") in diameter and twenty-four inches (24") in length.

F. The city shall not issue any permits for construction within the subdivision, within the corporate limits, except permits to construct public improvements until such time as all public improvements of the subdivision have been constructed and accepted by the city or a certified check, performance bond or letter of credit is provided to and accepted by the city. A notation stating the above shall appear on each final plat.

G. Before considering the final plat of a subdivision located all or partially within the city and/or the ETJ, the Planning Commission must be satisfied that all public improvements required will be constructed in accordance with the current design standards requirements.

(1) The applicant shall, unless the Planning Commission has determined otherwise, guarantee these public improvements will be constructed in one (1) of the following ways:

a. Deposit a certified check with and payable to, the city in an amount equal to the cost to complete such public improvements, including the cost of remaining engineering and inspection services,

b. Furnish the city with a performance bond executed by a surety company authorized to do business in the State of Texas in an amount equal to the cost to complete such public improvements. The performance bond shall be subject to the approval of the city attorney and must be executed by a corporate surety in conformance to section 2253.021 of the Texas Local Government Code.

c. Furnish the city with a letter of credit payable by an acceptable financial institution to the city in a form approved by the city attorney, guaranteeing the payment of an amount equal to the cost to complete such public improvements. The letter of credit shall be irrevocable and

shall be for a term sufficient to cover the twelve (12) month period plus an additional thirty (30) calendar days and require only that the city present the issuer a letter signed by an authorized representative of the city certifying to the city's right to draw or collect funds under the specific terms of the letter of credit.

- (2) As an alternative to providing one (1) of the above financial securities, upon approval of the final plat by the Planning Commission and prior to it being signed by the Planning Commission members and before the final plat shall be allowed to be recorded in the plat records of the county, the applicant shall, within the time period for which the final plat has been approved by the city, construct all improvements as required by these subdivision regulations and provide a surety instrument guaranteeing their maintenance as required by this Ordinance. In the event that all public improvements have not been constructed at the time the applicant requests plat recordation, the applicant shall provide financial security as described in subsections (a), (b) or (c) above in the amount of the improvements not previously constructed. Before the Planning Commission grants this specific approval, the applicant must notify by letter to the city that the plat not be recorded in the deed records of the county until such public improvements are constructed or otherwise guaranteed.
- (3) In all instances, the original copy of the final plat without benefit of required signatures of city officials shall be held in escrow by the city secretary and shall not be released for any purpose until such time as the conditions of the approval are complied with.
- (4) Upon the requirements of this section being satisfied, the final plat shall be considered fully approved, except as otherwise provided for in these regulations. The original copy of the final plat shall be signed by the appropriate city officials and the city secretary shall cause said final plat to be filed in the plat records of the county, or forwarded to the county for final approval and recordation.
- (5) In the event that the applicant selects a performance bond or a letter of credit as the method for guaranteeing such improvements, such document shall be subject to the condition that the public improvements will be completed within twelve (12) months after approval of the final plat by the Planning Commission, unless a longer time shall be approved by the Planning Commission upon the determination that such longer time period would not be unreasonable. In the event that the required public improvements guaranteed by such performance and/or such letter of credit are not or will not be completed within the time specified by the Planning Commission, the Planning Commission shall have the authority to extend the time period within which the applicant shall complete the

public improvements, subject to the extension of the expiration date of the approval of the plat and the performance bond or letter of credit.

H. *Security.*

- (1) *Waiver of security.* The Planning Commission may waive all or a portion of the security requirements of this section if it finds that the public health, safety and general welfare will not be harmed by such waiver. The Planning Commission shall take into consideration the extent of public improvements to be installed, the likelihood that such improvements will be installed by the applicant within the twelve (12) month period, the impact that may result if such improvements are not timely installed, and the hardship to the applicant if the security requirements are imposed.
- (2) *Release of security.* As a portion of the public improvements are completed in accordance with the current design standards, the applicant may make application to the city secretary to reduce the amount of the original letter of credit, performance bond, or certified check. If the Planning Commission is satisfied that such portion of the public improvements has been completed in accordance with current design standards, the Planning Commission may reduce the amount of the letter of credit, performance bond or certified check by such amount that the City Planning Commission deems appropriate, so that the remaining amount of the letter of credit, performance bond, or certified check adequately insures the completion of the remaining public improvements.
- (3) *Determination of amount.* An engineer shall furnish estimates of the costs of engineering and construction of all required improvements to the city secretary who shall review the estimates in order to determine the adequacy of the guarantee instrument for insuring the construction of the required facilities.
- (4) *Coordination with county.* If the project is located in the extraterritorial jurisdiction and is subject to county bonding requirements, the applicant may provide the financial security conforming to the above requirements in the name of the county, provided that the current county regulations stipulate that the security will not be reduced or released without written approval by the city secretary, and provided that the instrument is transferable from the county to the city upon annexation.

I. Approval of final plats shall be deemed to have expired in subdivisions for which no assurances for completion have been posted or the improvements have not been completed within the period of one (1) year. In those cases where a surety instrument has been required and improvements have not been completed within the terms of said surety instrument, the city shall declare the surety to be in default and require that all the improvements be installed, unless extended under the provisions of this section.

J. The city shall inspect all required improvements to ensure compliance with city requirements and approved construction plans. When all required improvements have been satisfactorily completed, the city shall either accept, in writing, the improvements as having been satisfactorily completed, or shall issue a punch list to the applicant denoting items remaining to be completed. The city shall not accept dedications of required improvements nor release or reduce a performance bond or other assurance until such time as it determines that:

- (1) All improvements have been satisfactorily completed.
- (2) The required maintenance guarantee has been provided.
- (3) Any and all other requirements identified in this chapter or other city codes and ordinances have been satisfied.

K. Before the release of any instrument guaranteeing the construction of required subdivision improvements or the signing of the final plat where subdivision improvements were made prior to the filing of the final plat for recordation, the applicant shall furnish the city, if in the city limits, or the county, if in the extraterritorial jurisdiction, with a maintenance bond or other surety instrument to assure the quality of materials, workmanship and maintenance of all required improvements. The maintenance bond or other surety instrument shall be approved by the city attorney as to form, sufficiency, and manner of execution. The bond shall be in compliance with the current design standards. Whenever a defect or failure of any required improvement occurs within the period of coverage, the city may require that a new maintenance bond or surety instrument be posted for a period of one (1) full calendar year sufficient to cover the corrected defect or failure.

L. The specific final approval of the construction and acceptance of the improvements in a subdivision shall be in accordance with General Acceptance Procedures listed below:

- (1) When construction of the roads, streets, utilities, and drainage facilities is complete the project engineer should notify the City Secretary and request an inspection of the work. The following documents must be submitted for review and approval prior to the scheduled inspection date:
 - a. Development Engineer Affidavit of Construction Compliance.
 - b. Independent Testing Laboratory Report of Materials Compliance.
 - c. Contractor/Contractors Affidavit of Construction Compliance.
 - d. One complete set of Record Documents of all underground utilities, streets, and drainage improvements that have been constructed.
 - e. All public improvements that were required by the city.

- (2) The city engineer will inspect the improvements and issue a punch list of any deficiencies. The inspection shall document the existing condition of all roads, streets, bridges, driveway structures, sidewalks and pedestrian access structures, related roadside drainage facilities, signage and traffic control devices, and all other appurtenances related to a complete system of public roads, streets along with all related appurtenances must be in strict compliance with all federal, state, county and municipal regulations, codes, statutes, and policies in effect at the time of the request for acceptance. Conditions that will be notified on this inspection report will consist of, but not be limited to:
 - a. Curb and gutter roads: pavement cracks, pavement settlement, birdbaths, lack of joint sealing, spalling joints, other pavement irregularities, cracked curbing, missing curbing, dirt, trash, or other debris in right-of-way, broken, cracked, sunken or debris-filled storm sewer inlets, broken driveways or sidewalks.
 - b. Bridges, drainage structures, utilities, and all construction located within the road or street right-of-way or directly affecting the proper function of the system of public streets.
 - c. A complete system of signage and traffic control devices in compliance with the Texas Manual on Uniform Traffic Control Devices.
 - d. Any and all other items related to the safe operation and maintenance of a complete system of public streets and drainage.
- (3) After notification that all deficiencies have been corrected and a final inspection has been completed, the city engineer will issue a recommendation to the Planning Commission for the preliminary acceptance of construction and to establish the date of construction completion.
- (4) Final inspection should be scheduled within sixty (60) days of the initial inspection. A complete re-inspection and a new punch list may be required after the sixty (60) day period.
- (5) Upon approval of the Planning Commission, the bond for the roads and street and the bonds for the drainage facilities may be reduced as provided in this Ordinance.

M. *One-Year Maintenance Period.* To qualify for acceptance into the City Road Maintenance System, the roads or streets and subdivision drainage and retention systems must be maintained by the applicant for a minimum of one (1) year after the date of construction completion.

- (1) *Procedure for Acceptance into the City Road Maintenance System.*

- a. Requests for acceptance of roads and streets shall be directed to the city secretary by the applicant.
 - b. The city engineer will perform an inspection and develop and issue a composite list of deficiencies, if any. The inspection will cover all the items noted above for the construction completion inspection.
 - c. After any deficiencies are corrected, the city engineer will issue a recommendation to the City Planning Commission with road or street names and length, and bond number, amount, and bond release information.
 - d. Upon approval and recommendation of the city engineer, the Planning Commission will consider accepting road(s) into the City Road Maintenance System.
- (2) *Conditions of Acceptance.*
- a. Acceptance of the road(s) and street(s) into the City Road Maintenance System will only constitute acceptance of roads, streets, bridges, open ditch drainage and their related appurtenances. The city does not accept or assume maintenance, liability, or responsibility of sidewalks, utilities, storm sewer systems, or related construction located within public right-of-way.
 - b. Retention facilities will not be accepted for maintenance by the city.
- (3) *Release of Bond.*
- a. The bond will be released when the roads are accepted into the City Road maintenance System.
 - b. The bond will be released when the drainage facilities covered by such bonds have been inspected and approved.

11-2. Flood Damage Prevention. The lowest elevation of the first floor of all principal buildings is to be constructed at least two (2) feet above the one hundred (100) year floodplain. All public streets are to be designed such that the lowest top of curb elevation is equal to or above the one hundred-year floodplain elevation. The one hundred-year floodplain is considered to be the one hundred-year water surface elevation in the outfall channel or receiving stream designated to receive storm runoff from the proposed development. For levied areas subject to multiple outlet condition analysis conforming to the county's criteria, the aforementioned requirement is to be met for all conditions. Special consideration may be given to tracts containing natural aesthetic amenities within existing developed areas and served by existing outfall drainage facilities, where the addition of fill would result in the destruction of the amenities, and for which there is no other feasible method to meet the aforementioned criteria.

SECTION 12. ADDITIONAL PROVISIONS.

12-1. Map Update. The applicant shall submit to the city a digitized copy of the entire subdivision at a scale appropriate to update the city maps and subdivision map

12-2. Schedule of Fees. Fees shall be charged and paid by any applicant seeking any authority under this chapter. All fees must be paid at the time an application is made in accordance with the provisions of this Ordinance and shall be provided for in a schedule of fees established by the Planning Commission and available from the city secretary.

SECTION 13. REPEALER. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

SECTION 14. SEVERABILITY. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of this Ordinance be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part of provision hereof other than the part declared to be invalid or unconstitutional; and the Board of Aldermen of the City of East Bernard, Texas, declares that it would have passed each and every part of the this Ordinance notwithstanding the omission of any such part declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED on this 18th day of November, 2019.


Marvin Holub, Mayor

ATTEST:


Audrey Searcey, City Secretary

