

ORDINANCE NO. 04-15-25-B

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALDWELL, TEXAS, AMENDING ITS SUBDIVISION REGULATIONS ALSO KNOWN AS LAND DEVELOPMENT REGULATIONS AND ASSOCIATED PROCEDURES; REPEALING ALL ORDINANCES TO THE EXTENT THEY ARE IN CONFLICT; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Caldwell ("City") is a Texas General Law Municipality operating under the laws of the State of Texas; and

WHEREAS, the City is empowered by Chapter 212 of the Texas Local Government Code to establish subdivision regulations within the incorporated limits of the City; and

WHEREAS, the City has given appropriate and reasonable consideration to the subdivision regulations and found them most appropriate for the City; and

WHEREAS, the City Council of the City of Caldwell, Texas finds that the establishment of subdivision regulations as depicted in this Ordinance are compliant with the requisites of the state law, including Texas Local Government Code, and

WHEREAS, the City Council finds that the establishment of subdivision regulations is necessary for the orderly development of this community and represents the best interest of all citizens of the City of Caldwell, Texas and promotes the aesthetics, health, safety, general welfare and convenience of the people; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CALDWELL, TEXAS:

Section 1. The foregoing recitals are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section 2. Chapter 10 "Subdivision Regulations" of the Code of Ordinances of the City of Caldwell is hereby amended to read as follows:

Chapter 10 Land Development Regulations

ARTICLE 10.01 GENERAL PROVISIONS

Division 1. General

Sec.10.01.001 Short Title

- A. This ordinance shall be known and may be cited as “Subdivision Ordinance of the City of Caldwell, Texas”

Sec.10.01.002 Purpose and Applicability

- A. It is the purpose of this ordinance to promote sound planning in the development and subdivision of land, and to provide consistent rules, which protect the public health, safety, and welfare while allowing the legal platting of land. The regulations herein have been made after careful study of existing local conditions and the desirable future development of the City. It is not the desire or the intent of the City to regiment the design of subdivisions of property and its environs, but rather to recommend the utilization, to the fullest extent possible, of good, sound, modern subdivision planning principles.
- B. It is intended that as much freedom as possible be allowed for individual owners and subdividers in the design and ultimate development of new subdivisions so that they will contribute innovation, individuality, and character to the community's new residential neighborhoods and non-residential developments. At the same time, these rules are intended to assure that such development provides for:
 - 1. promotion of the health, safety, morals, or general welfare of the City and the safe, orderly, and healthful development of the City
 - 2. adequate major and secondary traffic thoroughfares and public facilities;
 - 3. minimum standards for public facilities
 - 4. a consistent and equitable pattern of development among neighboring parcels of land; and
 - 5. consistency with the City's adopted plans.
- C. The regulations contained within this ordinance are adopted under the authority of the constitution and laws of the State of Texas, including particularly Chapter 42, Chapter 212, and Chapter 242 of the Texas Local Government Code. Pursuant to the authority herein granted, the City Council extends to all of the area within its City limits and extraterritorial jurisdiction (ETJ), the application of all of the terms and provisions in this ordinance establishing rules and regulations governing plats and subdivisions of land.

Sec.10.01.003 Jurisdiction

- A. Except as provided in Article 10A.2 of this Chapter, any owner of land inside the corporate limits or the ETJ of the City wishing to subdivide such land shall submit to the Planning and Zoning Commission (P&Z) a plan of subdivision which conforms to the minimum requirements set forth in these regulations.
- B. No subdivision plat shall be filed or recorded and no lot in a subdivision inside corporate limits or the ETJ of the City shall be improved or sold until a final plat has been considered by the Planning and Zoning Commission (P&Z).
- C. No public services utilities and/or building permit shall be issued for the erection of any building in the City or within the City's ETJ on any piece of property other than the original building site or resubdivided lot in a duly approved and recorded subdivision or on an approved building site in accordance with the zoning regulations, without the written approval of a plat by the City Council in compliance with the provisions of this ordinance.

Sec.10.01.004 Definitions

For the purposes of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given in this section. When not inconsistent with the context, words used in the present tense include the future; words used in the singular number include the plural number; and words in the plural number include the singular number. The words "shall" and "will" are always mandatory, while the word "may" is merely discretionary.

Any term not expressly defined in this section shall be defined by a common planning definition from the American Planning Association's, A Planners Dictionary. The City Administrator or designee shall determine the appropriateness of a definition.

- Alley - A public right-of-way which provides a secondary means of vehicular access to abutting property and which is used primarily for vehicular traffic to the rear or side of properties which otherwise abut on a street.
- Alley, Private – A private way which provides a secondary means of vehicular access to abutting property and which is used primarily for vehicular traffic to the rear or side of properties which otherwise abut on a street.
- Block: A tract of land bounded by streets or a combination of streets and public parks, or corporate boundaries of the City.
- City: The City of Caldwell, Texas
- City Administrator: The City Administrator of the City of Caldwell, Texas or designee as appointed by the City Administrator.
- City Council: The City Council of the City of Caldwell, Texas
- City Engineer: A registered professional engineer employed or designated by the City to provide professional engineering services for and on behalf of the City.
- Cul-de-sac: A street having but one (1) outlet to another street, and terminated on the opposite end by a vehicular turn around.
- Dead End Street: A roadway, other than cul-de-sac, with only one (1) outlet.
- Development: Any manmade change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment.
- Dwelling Unit: A single housing unit providing complete independent living facilities for one or more persons living as a single housekeeping unit, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- Easement: An acquired privilege or right-of-way use which one (1) person, business, entity and/or public agency has across, over or under land of another person, business, entity and/or public agency.
- Extraterritorial Jurisdiction (ETJ): The ETJ of the City is the portion of the unincorporated area that is contiguous to the corporate boundaries of the City and not already in the incorporated area or ETJ of another City as set out in Texas Local Government Code.
- Lot: A physically undivided tract or parcel of land having frontage on a public street or other approved access and which is, or in the future may be, offered for sale, conveyance, transfer or improvements; which is designated as a distinct and separate tract; and/or, which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly recorded.
- Lot Area: The area of a lot between lot lines, including any portion of an easement which may exist within such lot lines.
- Lot Frontage: That part of a lot (a lot line) abutting on a street or approved access way; except that the ends of incomplete streets or streets without a turnaround, shall not be considered frontage.

- Lot Depth: The distance of a line connecting the midpoints of the front and rear lot lines, which line shall be at right angle to the front lot or radial to a curved lot line.
- Lot Width: The distance of a line (drawn perpendicular to the lot depth line) connecting the side lot lines at the building setback line or at a point no farther than thirty-five feet (35') from the front lot line.
- Lot, Corner: A lot which has an interior angle of less than 135 degrees at the intersection of two (2) street lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents of the curve at the points of the intersection of the side lot lines intersect at an interior angle of less than 135 degrees.
- Lot, Flag: A lot shaped and designed where the main building site area is set back substantially from the public roadway and access is limited to a narrow private drive. Flag lot shapes are often used to achieve minimal lot frontage on the roadway.
- Lot, Interior: A building lot other than a corner lot.
- Lot, Through: A lot having a frontage on two (2) nonintersecting streets as distinguished from a corner lot.
- Peak Hour Trips (PHT): The number of traffic units generated by and attracted to the proposed development during its heaviest hour of use, dependent on type of use.
- Permit: An official document or certificate issued by the authority having jurisdiction authorizing performance of a specified activity.
- Plat: The map, drawing or chart on which a subdivider's plan of a subdivision is presented and submitted for approval.
- Public Infrastructure: Infrastructure that is generally for public use to include but not be limited to improvements of the following: water system (including water distribution lines, fire hydrants, valves and associated devices), wastewater (including lines, manholes, and lift stations), drainage system (including drainage easements, channels, storm sewer lines and inlets and associated landscaping), sidewalks, and roadways.
- Right-of-Way: The right of passage acquired for or by the public through dedication, purchase or condemnation and intended to provide pedestrian and vehicular access to abutting lots, tracts or areas which may also be used for utilities and to provide for drainage ways.
- Road: See the definition of "Street".
- Street: A strip of land comprising the entire right-of-way (ROW) between the face of curbs and gutters and within the right-of-way, intended for use as a means of vehicular and pedestrian circulation to provide access to more than one (1) lot.
- Street, Collector: A roadway which collects traffic from local streets and connects within arterial streets.
- Street, Arterial: A designated principal traffic thoroughfare more or less continuous across the City, which is intended to connect remote parts of the City or areas adjacent thereto, and act as principal connecting street with State and Federal highways.
- Street, Private: Any street right-of-way not dedicated to public use.
- Street, Public: Any roadway for use of vehicular traffic dedicated to public use and/or owned, controlled and maintained by the City, a County, or the State.
- Street Width: The shortest horizontal distance between the lines which delineate the street.
- Subdivider or Developer: Are synonymous and include any person, partnership, firm, association, corporation (or combination thereof), or any officer, agent, employee, servant, or trustee thereof, who performs, or participates in the performance of, any act toward the subdivision of land within the intent, scope and purview of this ordinance.

- Subdivision: The division of any lot, tract or parcel of land into two (2) or more lots, tracts or parcels of land for the purpose, whether immediate or future, of sale or rebuilding development, situated within the City's corporate limits or ETJ. It also includes vacation and resubdivision of land or lots.
- Surveyor: A State licensed land surveyor or registered public surveyor, as authorized by the state statutes, to practice the profession of surveying.
- Utility Easement: An interest in land granted to the City, to the public generally, and/or to a private utility corporation, for installing utilities and appurtenances across, on, over, upon or under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.
- Visibility Triangle: Site visibility triangles shall be calculated and shown on the plan per AASHTO criteria. No fences, signage, or landscape that interferes with site visibility shall be permitted to be installed within the site visibility triangle.

Sec.10.01.005 Public Facilities Required

- A. The subdivider is responsible for all costs associated with, furnishing, installing, and constructing public facilities (including but not limited to, water and wastewater systems, streets, sidewalks, trails, and drainage facilities) necessary for the proper development of the subdivision according to the minimum standards adopted by the City.
- B. All required public facilities must be designed and constructed in accordance with the City's adopted technical manuals, and any other standards, specifications, and drawings the City may adopt. If the City does not have jurisdiction over a facility, the subdivider must design the facility according to the specification of the provider.

Sec.10.01.006 Rough Proportionality and Fair Share

- A. If the City requires as a condition of approval for a property development project that the property owner bear a portion of the costs of municipal infrastructure improvements through dedication of property to the City, the payment of impact fees, the payment of construction costs, or the payment of other infrastructure related costs authorized by applicable law, the property owner's portion of the costs may not generally exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by the City Engineer.
- B. A property owner who disputes the determination made by the City Engineer under Subsection A above must appeal within thirty (30) days to the City Council directly, or the City Engineer's determination is final. At the appeal, the property owner may present evidence and testimony under procedures adopted by the City Council. After hearing any testimony and reviewing the evidence, the City Council shall make the applicable determination as to the appeal within thirty (30) calendar days after the final submission of any testimony or evidence by the property owner.
- C. A property owner may appeal the determination of the City Council to a county or district court of the county in which the development is located within thirty (30) calendar days after the final determination by the City Council.

Sec.10.01.007 Reserved.

Division 2. Supplemental Regulations

Sec.10.01.008 Development Manual

- A. The Development Manual shall contain development application forms, required application materials, and application submittal deadlines. The Development Manual may be adopted and updated from time to time by Resolution approved by City Council. A copy of the current Development Manual and applicable materials are available on the city's website, printed copies are available upon request. Applicable fees are found in the City's adopted Fee Schedule.

Sec.10.01.009 Infrastructure Design Manual

- A. All public infrastructure shall be designed and constructed in accordance with this ordinance and the City of Caldwell Infrastructure Design Manual, as may be adopted and updated from time to time by ordinance, public hearing, and approved by the City Council, complying with all other applicable local, state, and federal requirements. Hereafter, this document shall be referred to as the "Infrastructure Design Manual." The City shall accept for public use only streets, alleys, water, wastewater, drainage, electrical, and other public infrastructure that comply with this ordinance and the Infrastructure Design Manual. A copy of the Infrastructure Design Manual shall be available upon request.

Sec.10.01.010 Conflicts Between Regulations

- A. In the event of a conflict between the requirements of this ordinance and State law, the requirements of State law shall apply.
- B. In the event of a conflict between the regulations contained within this ordinance and regulations or standards contained within any other ordinance, code or regulation of the City, the more restrictive regulation shall apply.
- C. In the event of a conflict between the regulations contained within this ordinance and the City's Infrastructure Design Manual, the requirements of this ordinance shall apply.

Sec.10.01.011 Violations and Penalties

- A. Any person, firm, or corporation who shall violate any of the provisions of this ordinance, or fails to comply therewith, or who shall violate or fail to comply with any order or regulation made hereunder, or who shall build any project or facility in violation of any detailed statement of specification or plans submitted and approved hereunder, or any certificate or permit issued hereunder, shall, for each and every violation and noncompliance respectively be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed two thousand dollars (\$2,000) or the appropriate legal maximum as determined by statute. Each and every day that such violation and/or noncompliance shall exist shall be deemed a separate offense. In case any person, firm, or corporation violates any of the provisions of this ordinance or fails to comply therewith, the City, in addition to imposing the penalties above provided may institute any appropriate action or proceedings in court to prevent, restrain, correct, or abate or to prevent any illegal act, conduct, business, or use in or about any land, and the definition of any violation of the terms of this ordinance as a misdemeanor, shall not preclude the City from invoking the civil remedies given it by law in such cases, but same shall be cumulative of and in addition to the penalties prescribed for such violation.

Sec.10.01.012 Validity

- A. The issuance or granting in error of a permit or approval of plans or plats, site designs, or specifications shall not be construed to be a permit for, or an approval of, a violation of any provision of this ordinance or any other City ordinance.

Sec. 10.01.013 Reserved.

ARTICLE 10.02 SUBDIVISION ORDINANCE

Division 1. Procedures and Applications

Sec.10.02.001 General

- A. The purpose of this section is to establish application procedures, internal review procedures, public notice and hearing procedures, and review criteria for the processing of applications and actions that affect the development and use of property subject to the jurisdiction of the City of Caldwell.
- B. The owner of a tract of land located within the City limits or ETJ who divides the tract in two (2) or more parts to lay out a subdivision of the tract, including an addition to the City, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended by the owner of the tract to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares parks or other parts to be maintained by the purchasers or owners of those lots must have a plat of the subdivision prepared. A division of a tract under this section includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. A division of land under this subsection does not include a division of land into parts greater than five acres, where each part has access, and no public improvement is being dedicated.

Sec.10.02.002 Initiation of application

- A. *Application submittal.* All development applications to be considered by any Board, Commission or Committee, or by the City Council shall be initiated by the filing of the application by the owner of the property on which the permit is applicable or by the owner's designated agent. In the event an application is submitted by a designated agent, the application must be accompanied by a written statement, signed by the owner, authorizing the agent to file the application on the owner's behalf.
- B. *Determination of application completeness.*
 - 1. All development applications shall be subject to a determination of completeness by the City Administrator or designee.
 - 2. No application shall be deemed complete and accepted for processing unless it is accompanied by all documents required by and prepared in accordance with the requirements of this ordinance and the Development Manual.
 - 3. The City Administrator or designee may from time to time identify additional requirements for a complete application that are not contained within but are consistent with the application contents and standards set forth in this ordinance.
 - 4. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this ordinance.
 - 5. Not later than the tenth (10th) business day after the date an application is submitted, the City Administrator or designee shall make a written determination whether the application constitutes a complete application. This shall include a determination that all information and documents required by the City for the type of permit being requested have been submitted. A determination that the application is incomplete shall be sent to the applicant within such time period by email to the address listed on the application or by United States mail at the address listed on the application with the date the application was submitted. The determination shall specify the documents or other information needed to complete the application and shall state that the application will expire if the documents or other information are not submitted within forty-five (45) calendar days

after the date the application was submitted.

6. An application filed on or after the effective date of this amended and restated ordinance shall be deemed complete on the eleventh (11th) business day after the application has been received, if the applicant has not otherwise been notified that the application is incomplete. For purposes of this section, the applicant shall be deemed to have been notified if the City has emailed or mailed a copy of the determination as provided in subsection B.6 above.
7. The processing of an application by any City employee is considered filed on the date the applicant submits the application, with all applicable documents, and other requirements met in this ordinance. However, this application may be denied for incompleteness within the forty-five (45) day period.
8. A development application shall be deemed to expire on the forty-fifth (45th) calendar day after the application is submitted to the City Administrator or designee for processing if the applicant fails to provide documents or other information necessary to meet the requirements of this ordinance or other requirements as specified in the determination provided to the applicant. Upon expiration, the application will be discarded, and a new application must be submitted.
9. No vested rights accrue solely from the submission of an application that has expired pursuant to this section, or from the submission of a complete application that is subsequently denied.

C. *Application for Letters of Certification*

1. *Certifying Departments.* - Prior to filing an application for Subdivision Plat, Master Development Plan, or Site Plan approval the applicant shall secure letters of certification as required by this ordinance. A request for letters of certification and required items shall be filed by the applicant with the following entities as required by the Development Manual:
 - a. Planning and Development Services Department
 - b. City Engineer
 - c. Public Safety Department
 - d. Public Works Department
 - e. Utilities Department
2. *Application Requirements.* Any request for a Letter of Certification shall be accompanied by an application prepared in accordance with the Development Manual.
3. *Completeness Review.* Upon receipt of a request for letters of certification, the City Administrator or designee shall preform a determination of application completeness pursuant to subsection C.4.
4. *Decision.* The following procedures shall apply to the issuance of a letter of certification:
 - a. After the City Administrator or designee has determined whether the request for letters of certification and required technical data is complete, each certifying department shall issue or deny a letter of certification within ninety (90) days. When a certifying department determines that the proposed plan, plat or any of the required accompanying data does not conform with the requirements of this ordinance or other applicable regulations, ordinances or laws, the applicant may at option revise any nonconforming aspects. If any data is revised and resubmitted, the certifying department/agency shall have up to thirty days (30) days from the latest date of submission to issue or deny a letter of certification.

- b. *Failure to Submit Letter of Certification.* If a letter of certification is not issued or denied within the time periods prescribed in subsection C.4.a. above, the same shall be deemed issued and the applicant may submit an application for master development plan, subdivision plat, or site plan approval, without submitting the letter of certification.
- 5. *Issuance Criteria.* The letter of certification request is a process for compiling a complete application for master development plan, subdivision, or site plan review. The City Administrator or designee, in considering action on a Letter of Certification request should consider the following criteria:
 - a. the certification request complies with all applicable regulations, ordinances and laws including but not limited to the Subdivision Ordinance, Code of Ordinances, Development Manual, Infrastructure Design Guidelines and Specifications.
A letter of certification does not authorize any subdivision or development activity, and any action by the certifying department shall constitute only a recommendation as to whether the activities subject to the request for letters of certification would comply with the applicable development requirements.
- 6. *Scope of Issuance.* A letter of certification does not authorize the development or subdivision of land. Upon receipt of all letters of certification, the applicant may submit an application for master development plan, subdivision plat, or site plan approval. Letters of certification shall remain valid for one (1) year from the date of issuance by the certifying department/agency. After that time period, new or updated letters of certification shall be required to file a proposed plat with the planning commission. Each new proposed plat to be filed will be required to obtain new letters of certification prior to application submittal.
- 7. *Amendments.* A letter of certification may be amended prior to filing an application for subdivision approval if the proposed amendment:
 - a. Does not increase the number of lots subject to the application.
 - b. Does not increase by more than five percent (5%) the lineal footage of roadways or the areas within the paved surface of the street right-of-way.
 - c. Does not reduce the amount of open space within the proposed subdivision.
- 8. *Recording Procedures.* A letter of certification is not recorded. A letter of certification shall be maintained by the applicant and presented with the proposed application for master development plan, subdivision plat, or site plan approval.
- D. *Application withdrawal.* Any request for withdrawal of an application must be submitted in writing to the City Administrator or designee. If notification is required for the application and has been properly given via publication in the newspaper and/or written notification to surrounding property owners, such application must be placed on the agenda. The staff representative shall notify the Board, Commission, Committee or the City Council of the request for withdrawal. Application fees are not refundable unless reimbursement is otherwise authorized by the City Administrator or designee.

Sec.10.02.003 Notice Requirements

- A. *Published Notice.* Whenever published notice of a public hearing before a Board, Commission, Committee or the City Council is required, the City Administrator or designee shall cause notice to be published in an official newspaper or a newspaper of general circulation in the City before the fifteenth (15th) day before the date set for the required hearing. Said notice shall set forth the date, time, place and purpose of the hearing as required under LGC section

211.006(a).

- B. *Written Notice.* Whenever written notice of a public hearing before a Board, Commission, Committee or the City Council is required, before the tenth (10th) day before the hearing date, the City Administrator or designee shall cause written notice to be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within two-hundred feet (200') of the exterior boundary of the property in question. Said notice shall set forth the date, time, place and purpose of the hearing as required under LGC section 211.007(c). The notice may be served by its deposit, properly addressed with postage paid, in the United States mail. If the property within two-hundred feet (200') of the property in question is located in territory within the City and is not included on the most recently approved municipal tax roll, notice to such owners shall be given by one (1) publication in an official newspaper or a newspaper of general circulation in the municipality at least fifteen (15) days before the date of the hearing. Failure of owners to receive notice of hearing shall in no way affect the validity of the action taken.
- C. *Posted Notice.* Whenever posted notice of a public hearing is required, notification signs shall be posted by the applicant a minimum of eleven (11) days prior to the scheduled public hearing and shall remain posted during the course of the public hearings, until such time that final action has been taken on the permit application. Signs shall be posted on the subject property and/or along public right-of-way in a format approved by the City Administrator or designee. The number of signs, size of signs and content to be placed on the signs shall be in accordance with the Development Manual.
- D. It shall be the responsibility of the applicant to periodically check sign locations to verify that signs remain in place and have not been vandalized or removed. The applicant shall replace any missing or defective signs within one (1) business day from the time that a City official notifies the applicant that the signs are missing. It is unlawful for a person to alter any notification signs, or to remove it while the case is pending. Removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements of this section.

Sec.10.02.004 Public Hearings

- A. *Public Hearing Required.* Whenever a public hearing is required, the City Administrator or designee shall establish the date, time and place of the public hearing and shall cause any notice required under section 10.02.003 of this ordinance to be prepared and made accordingly.
- B. *Conduct of Hearing.* Any person may appear at the public hearing and submit evidence, either individually or as a representative of an organization. Each person who appears at a public hearing shall state his or her name, address, and if appearing on behalf of an organization, state the name and mailing address of the organization for the record. Subject to the chairperson's inherent authority to conduct meetings, public hearings shall generally be conducted as follows.
 - 1. The City staff may present a description of the proposed project and a written or oral recommendation, if required. Any written recommendation shall be available to the public at the time that the agenda packet for the body conducting the hearing is compiled.
 - 2. The applicant may present any information it deems appropriate.
 - 3. Testimony in support of the application may be presented by any individual who expresses an interest in the proposed project.
 - 4. Testimony in opposition to the application may be presented by any individual who expresses an interest in the proposed project.
 - 5. At the discretion of the chairperson, the City staff and the applicant may respond to any statement by the public.

6. The body conducting the hearing may exclude testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious.
 7. At the sole discretion of the chairperson of the body conducting the hearing, an individual may be permitted to pose relevant questions to staff, the applicant or the body conducting the hearing, as directed by the chairperson.
 8. The public hearing shall be closed.
 9. The advisory body (i.e. Board, Commission or Committee) shall make a recommendation.
 10. The advisory body (i.e. Board, Commission or Committee) shall prepare a written report with its recommendations to the City Council.
- C. *Continuance of Hearing.* The body conducting the hearing may, on its own motion or at the request of any person, for good cause, continue the hearing to a fixed date, time and place. Except as required by the Texas Open Meetings Act or other applicable law, no notice shall be required if a hearing is continued. If a public hearing is closed, no further public testimony shall be taken.
- D. *Additional Rules.* The body conducting the hearing may adopt additional rules of procedure and may apply such additional rules to govern the public hearing which are not inconsistent with this section.
- E. *Joint Public Hearing.* Unless otherwise prescribed in this ordinance, whenever an application must be preceded by a public hearing both before an advisory body (i.e. Board, Commission and/or Committee) and before the City Council, the advisory body and the Council may conduct a joint public hearing and take action on the application in the following manner.
1. The City Council shall establish the date of the joint public hearing by motion at a regular or special meeting.
 2. The City Council shall cause notice of the joint public hearing to be provided as required by this ordinance and the Texas Open Meetings Act and, by a vote of two-thirds of its members, may prescribe the type of notice for the joint public hearing.
 3. The advisory body (i.e. Board, Commission and/or Committee) and the City Council shall be convened for the hearing and for any action to be taken on the petition or application.
 4. The advisory body (i.e. Board, Commission and/or Committee) and the City Council may take action on the application at the same meeting, provided that the City Council shall not take action until the written report and recommendation of the advisory body (i.e. Board, Commission and/or Committee) has been received.

Sec.10.02.005 Post-Decision Procedures

- A. *Notification Required.* Within ten (10) business days following final action on any Development Application, the appropriate City department shall provide written notification to the applicant of the decision of the Board, Commission, Committee or the City Council considering the request. If an application has been denied, the notification should include the reasons for denial as well as any information relating to reapplication procedures for the appropriate application.
- B. *Reapplication Following Denial.* Whenever any Development Application, with the exception of any plat application, is denied, a Development Application for all or a part of the same property shall not be accepted for filing for a period of six (6) months after the date of denial unless the subsequent application involves a proposal that is substantially different from the previously denied proposal or if the initial denial was considered by less than 100% of the members who could have been seated. For the purpose of this section, a request may be considered substantially different if the change is to a different zoning classification, there is a change in conditions relating to zoning principles of the property or surrounding properties or there is a change in the nature of the development of the property or surrounding properties.

The City Administrator or designee shall resolve any questions concerning the similarity of the reapplication. The final decision-maker may, at its option, waive the six (6) month waiting period if, after due consideration of the matter at a scheduled and posted meeting, it is determined that denial of the request was based upon erroneous or omitted information, or if substantial new information pertaining to the request is discovered.

- C. *Amendments and Revisions to Approved Application.* Unless otherwise expressly provided by this ordinance, any request to amend or revise an approved Development Application shall be considered a new application, which must be decided in accordance with the procedures governing the original application and the standards in effect at the time such new application is filed with the City.
- D. *Amendments Required.* Whenever a subsequent Development Application differs substantially from a previously approved Development Application to which the subsequent application must conform, the applicant shall submit an amended Development Application for the initial Development Application, which shall be decided prior to the subsequent application. The applicant's failure to comply with this section shall result in denial of the subsequent application.

Sec.10.02.006 Comprehensive Master Plan Amendment.

- A. *Applicability.* The Comprehensive Master Plan of the City reflects the long-term plan for growth and development of the City. The City Council may, from time to time, on its own motion, by request of the City Administrator or designee amend, supplement, change, modify or repeal the text of the Comprehensive Master Plan or may amend the boundaries shown on the Future Land Use Map, Master Thoroughfare Plan or any other applicable maps contained in the Comprehensive Master Plan. A property owner may submit an application requesting to amend the boundaries shown on the Future Land Use Map. Approved amendments to the Comprehensive Master Plan authorize a property owner to submit subsequent development applications consistent with the amendment.
- B. *Application Requirements.*
 - 1. *City Initiated.* Any request by the city for an amendment to the Comprehensive Master Plan shall not be required to complete the Planning Department Development Application.
 - 2. *Property Owner Initiated.* Any request submitted by a property owner for an amendment of the Future Land Use Map, Master Thoroughfare Plan or any other applicable maps contained in the Comprehensive Master Plan may be accompanied by an application for a zoning change consistent with requested Future Land Use Map amendment for land within the City limits, or by a Subdivision Master Plan, for land within the ETJ. Approval of an amendment to an element of the Comprehensive Master Plan shall require all subsequent development applications to be consistent with the approved amendments.
- C. *Processing of Application and Decision.*
 - 1. *Submittal.* An application requested by a property owner for an amendment to the Comprehensive Master Plan shall be submitted to the Planning Department. The City Administrator or designee shall review the application for completeness in accordance with Section 10.02.002. of this ordinance. The City Administrator or designee may, at its option, request a recommendation from any other City department or consultant. The City Administrator or designee shall notify the applicant of items requiring correction or attention before providing a recommendation on the application. After appropriate review, the City Administrator or designee shall forward a written recommendation to the Planning and Zoning Commission (P&Z) for consideration.
 - 2. *Notification Requirements.* An application for an amendment to the Comprehensive Master Plan or maps contained in the plan requires the following notification in

accordance with Section 10.02.003 of this ordinance:

- a. Written mailed notice prior to consideration by the Planning and Zoning Commission (P&Z) to amend the boundaries shown on the Future Land Use Map, Master Thoroughfare Plan or any other applicable maps contained in the Comprehensive Master Plan.; and
 - b. Published notice prior to consideration by the City Council for any city initiated request or property owner application.
3. *Commission recommendation.* The Planning and Zoning Commission (P&Z) shall hold a public hearing in accordance with the Texas Open Meetings Act and Section 10.02.004 of this ordinance and make a written recommendation within a staff report regarding a proposed amendment to the Comprehensive Master Plan to the City Council. The Planning and Zoning Commission (P&Z) may recommend approval, approval with conditions, or denial of the amendment.
 4. *Decision by City Council.* The City Council shall receive the written recommendation of the Planning and Zoning Commission (P&Z) regarding a proposed amendment to the Comprehensive Master Plan and shall hold a public hearing in accordance with the Texas Open Meetings Act and Section 10.02.004 of this ordinance. The City Council may vote to approve, approve with modifications, or deny the amendment.
- D. *Criteria for Approval.* The Planning and Zoning Commission (P&Z), in making its recommendation, and the City Council, in considering final action on an amendment to the Comprehensive Master Plan, should consider the following criteria:
1. The proposed amendment promotes the health, safety, or general welfare of the City and the safe, orderly, efficient and healthful development of the City;
 2. An amendment to the text is consistent with other policies of the Comprehensive Master Plan, taking into account the nature of any proposed map amendment associated with the text amendment;
 3. An amendment to the Future Land Use Map, Master Thoroughfare Plan or any other applicable maps contained in the Comprehensive Master Plan is consistent with the policies of the Comprehensive Master Plan that apply to the map being amended, taking into account the nature of any proposed land use associated with the map amendment;
 4. Any proposed amendment is consistent with the goals and objectives of the Comprehensive Master Plan;
 5. Any proposed amendment addresses circumstances that have changed since the last time the plan map or text was considered, implements plan policies better than the current plan map or text corrects a mapping error or addresses a deficiency in the plan; and
 6. Other criteria which, at the discretion of the Planning and Zoning Commission (P&Z) and City Council, are deemed relevant and important in the consideration of the amendment.

Sec.10.02.007 Development Agreements.

- A. *Applicability.* The purpose of a Development Agreement is to determine whether the City wishes to authorize a plan of development for land located within its ETJ, to prescribe land uses, environmental standards, development standards and public facilities standards governing development of the land for the term of the agreement, to provide for the delivery of public facilities to the property and to provide for annexation of the property to the City. A Development Agreement may be approved for land located in the ETJ of the City in accordance with LGC, Local Government Code § 212.172.
- B. *Application Requirements.*
 1. *Application Required.* Any application for a Development Agreement shall be

accompanied by an application prepared in accordance with the Development Manual.

2. *Accompanying Applications.* An application for a Development Agreement shall be accompanied by a preliminary plat prepared in accordance with section 10.02.014 of this ordinance. Approval of a preliminary plat as part of a Development Agreement shall meet the requirements for preliminary plat approval under section 10.02.014.

C. *Processing of Application and Decision.*

1. *Submittal.* An application for a Development Agreement shall be submitted to the City Administrator or designee. The City Administrator or designee shall review the application for completeness in accordance with section 10.02.002.
2. *Preparation and Negotiation of Development Agreement.* An application for a Development Agreement shall be prepared in accordance with LGC, Local Government Code § 212.172. After review by the City staff, the application and accompanying plans shall be transmitted to the office of the City Attorney for review. After appropriate review by all parties, a recommendation shall be forwarded to the Planning and Zoning Commission (P&Z) for review and recommendation. The City Council shall have the final authority for approval of a Development Agreement.
3. *Commission Recommendation.* The Planning and Zoning Commission (P&Z) shall hold a public hearing in accordance with the Texas Open Meetings Act and section 10.02.004 and make a written recommendation regarding a proposed Development Agreement to the City Council. The Planning and Zoning Commission (P&Z) may recommend approval, approval with conditions, or denial of the agreement. The Planning and Zoning Commission (P&Z) may, on its own motion or by request of the property owner, postpone consideration of the request to a certain date that is not more than thirty (30) calendar days after the date of the current consideration in order to review additional information or modifications which may have a direct bearing on the recommendation to the City Council.
4. *Decision by City Council.* The City Council shall receive the written recommendation of the Planning and Zoning Commission (P&Z) regarding a proposed Development Agreement and shall hold a public hearing in accordance with the Texas Open Meetings Act and section 10.02.004. The City Council may vote to approve, approve with conditions, or deny the Development Agreement. The City Council may, on its own motion or by request of the property owner, postpone consideration of the request to a certain date that is not more than thirty (30) calendar days after the date of the current consideration in order to review additional information or modifications which may have a direct bearing on the final decision. If the City Council approves the Development Agreement, it shall approve the agreement by appropriate action that authorizes the City Administrator to execute the agreement on behalf of the City following execution by the property owner. Unless otherwise specified by the City Council, the property owner shall accept the Development Agreement and accompanying preliminary plat within ten (10) working days after the date the City Council's action is adopted. If not executed by the property owner within such period, the Council's approval shall be deemed void.
5. *Recording Development Agreement.* The approved Development Agreement shall be recorded in the real property records of each county in which land subject to the agreement is located.

Sec.10.02.008 Utility Service Extension

- A. *Applicability.* A request for approval of a utility extension shall be required where a property owner seeks electric, water or wastewater services from the City for a proposed project that will be located within the City's ETJ at the time of the proposed extension and subsequent

development. Approval of a request for a utility extension authorizes the City to annex the property, and authorizes the property owner to submit development applications consistent with the capacity of the facilities to be extended, and upon approval of the applications, to construct extensions of the facilities in accordance with the terms of the approved utility service extension request.

B. *Application Requirements.*

1. *Application Required.* Any application for Utility Service Extension shall be accompanied by a completed Development Application.
2. *Accompanying Applications.*
 - a. An application for Utility Service Extension shall be accompanied by a request for voluntary annexation. The City may, at its option, elect to annex the property upon request or may delay the annexation until such time the City deems necessary to promote the health, safety or general welfare of the City and the safe, orderly, efficient and healthful development of the City.
 - b. An application for Utility Service Extension may be accompanied by an application for a Subdivision Master Plan prepared in accordance with section 10.02.004. A Subdivision Master Plan may not be approved until final approval of the Utility Service Extension by the City Council.

C. *Processing of Application and Decision.*

1. *Submittal.* A request for Utility Service Extension shall be submitted to the City Engineer. The City Engineer shall review the application for completeness in accordance with section 10.02.002 of this ordinance.
2. *Review and Processing of Request.* The City Engineer shall circulate the application among applicable City departments for review and recommendation. The City Engineer shall evaluate the request for consistency with the approval criteria and shall prepare a written recommendation to be forwarded to the City Council. The recommendation should include any comments received from other departments including, but not limited to, an analysis of the financial feasibility of extending services and any fiscal impacts on existing utilities from the extension.
3. *Decision by City Council.* The City Council shall receive the written recommendation of the City Engineer and shall decide whether to approve, approve with conditions, or deny the request for Utility Service Extension.

D. *Criteria for Approval.* The City Council, in considering final action on a request for Utility Service Extension, should consider the following criteria:

1. Whether the proposed development to be served by the extension is consistent with the Comprehensive Master Plan;
2. Whether the extension is proposed to be constructed in accordance with all applicable City ordinances, resolutions, regulations and standards;
3. Whether it is feasible to annex the property, and any intervening property which is needed for utility rights-of-way, into the City;
4. Whether the utility extension would compromise the City's ability to timely provide adequate water or wastewater facilities to property inside the City;
5. Whether the utility extension will lead to premature development that cannot be served efficiently and timely by roadway, drainage or park facilities;
6. Whether the utility extension is financially feasible given the proposed means of financing the extension;
7. Whether the utility extension will lead to significant degradation of water quality or other environmental resources, either from construction of the water or wastewater

improvements, development of the property owner's land, or development of other land that may be served through the extended facilities;

8. Whether the property owner proposes to extend wastewater facilities without utilizing City water facilities; and
9. The extent to which the proposed agreement promotes the health, safety or general welfare of the City and the safe, orderly, efficient and healthful development of the City.

Sec.10.02.009 Public Infrastructure Improvements, Construction Plans, and Improvements Agreement.

- A. *Applicability.* The provisions of this section apply to the review of plans for and the construction of any public infrastructure improvements.
- B. *Processing of Construction Plans and Decision.*
 1. *Submittal.* Construction plans shall be submitted to the City Administrator or designee prior to the construction of public infrastructure improvements. Submittal of construction plans shall be in accordance with the City's adopted standards and specifications.
 2. *Decision by the City Administrator.* The City Administrator or designee may approve, approve with conditions or deny the construction plans.
 3. *Criteria for Approval.* The City Administrator or designee, or City Council on appeal, shall apply the following criteria in making a decision on the construction plans:
 - a. The construction plans are consistent with the approved preliminary plat or the proposed final plat in the event that the public infrastructure improvements are in relation to a plat; and
 - b. The construction plans conform to all applicable regulations pertaining to the construction and installation of public infrastructure improvements.
 4. *Expiration.* The approval of construction plans shall remain in effect for two (2) years after the date the construction plans were approved by the City Administrator. If construction of the project has not commenced during the two (2) year period, approval of the construction plans shall expire. For public infrastructure improvements that are associated with a final plat, approval of the construction plans shall remain in effect for the time that approval of the final plat is in effect and shall expire when approval of the final plat expires, unless an extension is granted.
 5. *Extension.* At the written request of the property owner or their authorized agent, the expiration date for the approval of construction plans may be extended by the City Administrator or designee for a period not to exceed six (6) months.
- C. *Timing of Public Infrastructure Improvements.*
 1. *Completion prior to final plat recordation.* For public infrastructure improvements associated with a proposed subdivision or development, except as provided below, completion of the improvements shall be in accordance with the approved construction plans and shall occur before an approved final plat is recorded, unless the obligation to construct public infrastructure improvements has been deferred and an improvement agreement is executed.
 2. *Installation after final plat recordation.* The property owner or applicant may request to defer the obligation to construct and install one (1) or more public improvements to serve the associated subdivision until after final plat recordation. The request shall be submitted in writing and specify what is being requested for deferral. Deferral of the obligation to install public improvements if granted shall be conditioned on execution of a subdivision improvement agreement and provision of sufficient security. The City

Council, at their discretion, may approve or deny the request to defer installation of public infrastructure improvements.

3. *Off-Site Easements.* All necessary off-site easements required for installation of off-site public improvements to serve the subdivision or development shall be acquired by the subdivider or developer and conveyed solely to the City by an instrument approved by the City.

D. *Inspection and Acceptance of Public Infrastructure Improvements.*

1. *Inspections.* Inspection of the public infrastructure improvements shall be conducted by the City or its representatives. Construction shall be in accordance with the approved construction plans. Any significant change in design required during construction shall be subject to approval by the City Administrator or designee.
2. *Submission of as-built plans or record drawings.* The City shall not accept dedication of required public improvements until the applicant has submitted detailed "as-built" record drawings in accordance with City requirements. In addition, the applicant shall submit an electronic file, in the form of an Esri shapefile or georeferenced CAD file, of the required public improvements.
3. *Acceptance of improvements.* When the City Administrator or designee has determined that the public infrastructure improvements have been installed in accordance with the approved Construction Plans, the City Administrator or designee shall accept such improvements on behalf of the City. Acceptance of the improvements shall mean that the property owner has transferred all rights to all the public improvements to the City for use and maintenance. Upon acceptance of the required public improvements, the City Administrator or designee shall have a certificate issued to the property owner stating that all required public improvements have been satisfactorily completed.

E. *Maintenance and Warranty of Improvements.*

1. *Maintenance during construction.* The developer shall maintain all required public improvements during construction of the development.
2. *Bond.* The developer or owner shall covenant to warranty the required public improvements for a period of two (2) years following acceptance by the City of all required public improvements or following the date of plat recordation, whichever occurs later. A warranty bond shall be provided in the amount of 110% of the costs of the improvements for such period. All public improvements shall be bonded.

F. *Improvement Agreements.*

1. *Obligations under agreement.* Whenever public improvements to serve development are deferred until after recordation of the final plat, the property owner shall enter into an Improvement Agreement and provide adequate security as determined by the City Administrator.

The Improvement Agreement shall be subject to review and approval by the City Administrator and any other city department or consultant they deem necessary. The agreement shall contain the following provisions:

- a. covenants to complete the improvements be no later than two (2) years after approval of the final plat, unless otherwise stipulated in the terms and conditions of the Improvement Agreement;
- b. covenants to warranty the required public improvements for a period of two (2) years following acceptance by the City of all required public improvements, unless stated otherwise in the Improvement Agreement;
- c. covenants to provide a warranty bond in the amount of 20% of the costs of the improvements for such period, unless stated otherwise in the Improvement

Agreement;

- d. provisions for participation in the costs of the improvements by the City, if authorization has been obtained from the City Council, and a performance bond for such improvements from the contractor;
 - e. provisions for securing the obligations of the agreement in accordance with this ordinance; and
 - f. such other terms and conditions as are agreed to by the City and the property owner, or as may be required by this ordinance or other City regulations.
2. *Covenants to run with the land.* The Improvement Agreement shall provide that the covenants contained in the Agreement run with the land and bind all successors, heirs and assignees of the property owner. All existing owners and lienholders shall be required to execute the Agreement or provide written consent to the covenants contained in the Agreement.
- B. Security for Completion of Improvements.
1. *Security.* Whenever the property owner has entered into an Improvement Agreement to defer installation of public improvements, the property owner shall provide sufficient security for completion of the required public improvements. The security shall be in the form of a cash escrow, letter of credit, a performance bond or surety bond provided by a licensed surety company, or other security as approved by the City Administrator or designee.
 2. *Amount and acceptability.* The security shall be issued in the minimum amount of one-hundred twenty-five percent (125%) of the estimated cost of completion that is approved by the City Administrator or designee for the required public infrastructure improvements. The terms of the security agreement shall be subject to the approval of the City Administrator and the City Attorney.
 3. *Remedies.* Where an Improvement Agreement has been executed and security has been posted and required public improvements have not been installed in accordance with the terms of the agreement, the City may:
 - a. declare the Agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;
 - b. obtain funds under the security and complete the improvements itself or through a third party; or
 - c. assign its right to receive funds under the security to any third party, including a subsequent owner of the development in exchange for the subsequent owner's agreement and posting of security to complete the public infrastructure improvements.

Sec. 10.02.010 Reserved.

Division 2. Subdivisions

Sec.10.02.011 Pre-Consultation

- A. Prior to the official filing an application for approval of a proposed development, subdivision master plan, or subdivision plat, the subdivider, at option, may consult with and present a proposed plan for the subdivision to the City Administrator or designee for comments and advice on the procedures, specifications, and standards required by the City for the subdivision of land. At such a meeting the City Staff will be able to make any suggestions that would direct the proposed subdivision toward desirable objectives and possibly prevent unnecessary work and expense if objectives are not met. This step does not require a formal application or fee. No vesting shall occur under this subsection in accordance with this ordinance. The Pre-Consultation meeting required for application submittal are good for six (6) months, if the application is submitted after the six (6) months a new Pre-Consultation meeting will be required.

Sec.10.02.012 Certification of Exhibits

- A. *Applicability.* Prior to filing an application for a subdivision master plan or subdivision plat approval the applicant shall secure letters of certification as required by this ordinance and the Development Manual. A request for letters of certification and required items shall be submitted by the applicant as required by the Development Manual.
- B. *Application requirements.* Any request for a letter of certification shall be accompanied by an application prepared in accordance with the City's Development Manual.
- C. *Processing of application and decision.*
 1. *Submittal.* A request for a letter of certification shall be submitted to the City Administrator or designee. The City Administrator or designee shall review the application for completeness. The City Administrator or designee may request a review and recommendation from any other City department or consultant.
 2. *Decision by the City Administrator.*
 - a. After the City Administrator or designee has determined whether the request for letters of certification and required technical data is complete, each certifying department shall issue comments, approve or deny a letter of certification within forty-five (45) calendar days. When a certifying department determines that the proposed plan, plat or any of the required accompanying data does not conform with the requirements of this ordinance or other applicable regulations, ordinances or laws, the applicant may at option revise any nonconforming aspects. If any data is revised and resubmitted, the certifying department shall have up to thirty (30) calendar days from the latest date of submission to issue comments, approve or deny a letter of certification.
 - b. If a letter of certification is not issued, denied, or review comments issued within the time periods prescribed in subsection above, the same shall be deemed issued and the applicant may submit an application for subdivision master plan or subdivision plat, without submitting the letter of certification.
 3. *Scope of issuance.* A letter of certification does not authorize the development or subdivision of land. Upon receipt of all required letters of certification, the applicant may submit an application for subdivision master plan or subdivision plat approval. Letters of certification shall remain valid for one (1) year from the date of issuance by the certifying department. After that time period, new or updated letters of certification shall be required to file a subdivision master plan or subdivision plat application.
 4. *Amendments.* A letter of certification may be amended prior to filing an application for subdivision approval if the proposed amendment:

- a. Does not increase the number of lots subject to the application.
 - b. Does not increase by more than five percent (5%) the lineal footage of roadways or the areas within the paved surface of the street right-of-way.
 - c. Does not reduce the amount of open space within the proposed subdivision.
 - d. Does not alter or change the approved stormwater plan.
5. Letter of certification authorization. A letter of certification is not recorded. A letter of certification shall be maintained by the applicant and presented with the application for subdivision master plan or subdivision plat approval.

Sec.10.02.013 Subdivision Master Plan

A. *Applicability*

1. The provisions of this section are authorized under LGC Chapter 212 and shall be applicable to all areas within the City limits and throughout the City's ETJ. A Subdivision Master Plan is required to provide for review of certain developments for compliance with the Comprehensive Master Plan, this Code, any additional adopted plans (i.e. Water, Wastewater, Transportation, Drainage), the compatibility of land uses and the coordination of improvements within and among individual parcels of land or phases of development prior to approval of a preliminary or final plat.
2. *A subdivision master plan is required for any development meeting the following criteria:*
 - a. The property is undeveloped and is under one (1) ownership, and is greater than fifty (50) acres in size;
 - b. The proposed subdivision of land is to occur in phases;
 - c. The proposed subdivision will require off-site road, drainage or utility connections of improvements that will have a substantial impact or effect on other properties or developments; or
 - d. The property is part of a Development Agreement under section 10.02.007 of this ordinance.
3. If a preliminary plat encompasses the entire development and tract of land, a subdivision master plan will not be required.

B. *Application requirements.*

1. *Application Required.* Any request for a subdivision master plan shall be accompanied by an application prepared in accordance with the City's Development Manual.
2. *Accompanying Applications.* An application for a Subdivision Master Plan may be accompanied by an application for a Preliminary Plat for the first phase of development.

C. *Processing of application and decision.*

1. *Submittal.* An application for a subdivision master plan shall be submitted to the City Administrator or designee. The City Administrator or designee shall review the application for completeness in accordance with Section 10.02.002. The City Administrator or designee shall forward a copy of the proposed plan to other city department or consultant for review and recommendation. After appropriate review, the City Administrator or designee shall forward a written recommendation to the Planning and Zoning Commission (P&Z) for consideration.
2. *Decision by the Planning and Zoning Commission (P&Z).* The Planning and Zoning Commission (P&Z) shall receive the written recommendation of the City Administrator or designee and shall consider the proposed Subdivision Master Plan. The Planning and Zoning Commission (P&Z) shall act on the plat within thirty (30) days after the date a complete application is filed. The Planning and Zoning Commission (P&Z) may vote to

- approve, approve with conditions, or deny the proposed Subdivision Master Plan.
3. *Conditional approval and denial.* If the Commission conditionally approves or denies the subdivision master plan, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
 4. *Applicant response to conditional approval or denial.* After the conditional approval or denial of a subdivision master plan, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The Planning and Zoning Commission (P&Z) shall determine whether to approve or deny the applicant's previously conditionally approved or denied subdivision master plan no later than the fifteenth (15th) calendar day after the date the response was submitted.
 5. *Acceptance of Subdivision master plan.* Approval of a subdivision master plan by the Planning and Zoning Commission (P&Z) shall be deemed as an expression of the approval of the layout submitted on the master plan as a guide to the final design of streets, water, sewer and other required improvements and utilities and to the preparation of a preliminary plat in accordance with the requirements of the City.
- D. *Criteria for approval.* The Planning and Zoning Commission (P&Z), in considering final action on a subdivision master plan, should consider the following criteria:
1. the subdivision master plan is consistent with all city requirements including zoning requirements for the property or any development regulations approved as part of a development agreement;
 2. the proposed provision and configuration of roads, water, wastewater, drainage and park facilities are adequate to serve each phase of the subdivision;
 3. the schedule of development is feasible and prudent and assures that the proposed development will progress to completion within the time limits proposed;
 4. the location, size and sequence of the phases of development proposed assures orderly and efficient development of the land subject to the plan.
- E. *Expiration and Extension.*
1. *Expiration.* The approval of a subdivision master plan shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved, during which period the applicant shall submit and receive approval for a preliminary plat for any portion of the land subject to the subdivision master plan. If a preliminary plat has not been approved within the two (2) year period, the subdivision master plan approval shall expire and the plan shall be null and void.
- F. *Revisions to an approved subdivision master plan.*
1. *Minor changes.* Minor changes in the design of the subdivision subject to a subdivision master plan may be incorporated in an application for approval of a preliminary plat without the necessity of filing a new application for approval of a subdivision master plan. Minor changes shall include adjustment in street or alley alignments, lengths, and adjustment of lot lines that do not result in creation of additional lots, provided that such changes are consistent with any approved prior applications.
 2. *Amendments.* All other proposed changes to the design of the subdivision subject to an approved subdivision master plan shall be deemed major amendments that require submittal and approval of a new application for approval of a revised subdivision master plan before approval of a preliminary plat.

Sec.10.02.014 Preliminary Plat

A. *Applicability.*

1. The provisions of this section are authorized under LGC Chapter 212 and shall be applicable to all areas within the City's limits and throughout the City's ETJ. A preliminary plat is required to determine the general layout of the subdivision, the adequacy of public facilities needed to serve the intended development and the overall compliance of the land division with applicable City requirements.
2. A preliminary plat may be submitted for any phase of development consistent with an approved subdivision master plan. Where a subdivision master plan is not required and the area to be platted is part of a larger tract of land, the preliminary plat must encompass the entire tract of land under ownership of the subdivider and shall provide a preliminary layout of streets, lots, blocks, utilities and drainage for the larger tract. A final plat may be submitted for individual lots to be platted out of the larger parcel.

B. *Application requirements.*

1. *Application Required.* Any request for a preliminary plat shall be accompanied by an application prepared in accordance with the City's Development Manual.
2. *Accompanying Applications.* An application for a Preliminary Plat may be accompanied by an application for a Master Plan for the entire area to be platted or for any portion of the proposed Preliminary Plat.

C. *Processing of application and decision.*

1. *Submittal.* An application for a preliminary plat shall be submitted to the City Administrator or designee. The City Administrator or designee shall review the application for completeness in accordance with Section 10.02.002. The City Administrator or designee shall review the application for completeness in accordance with Section 10.02.002. The City Administrator or designee shall forward a copy of the proposed plan to other city department or consultant for review and recommendation.
2. *Preliminary Plat Approval.* The Planning and Zoning Commission (P&Z) shall receive the written recommendation of the City Administrator or designee and shall consider the proposed plat. The Planning and Zoning Commission (P&Z) must approve a preliminary plat that is required to be prepared in accordance with this section and that satisfies all applicable regulations of the City. The Planning and Zoning Commission (P&Z) may vote to approve with conditions or deny a preliminary plat that does not satisfy all applicable regulations of the City. The Planning and Zoning Commission (P&Z) shall act on the plat within thirty (30) calendar days after the date a complete application is filed, unless an extension is requested per Texas LGC 212.009(b-2).
3. *Conditional approval and denial.* If the Planning and Zoning Commission (P&Z) conditionally approves or denies the plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
4. *Applicant response to conditional approval or denial.* After the conditional approval or denial of a plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator is authorized to approve revisions required for conditional approval of the preliminary plat. The Planning and Zoning Commission (P&Z) shall determine whether to approve or deny the applicant's previously denied plat or conditionally approved, if forwarded to the Planning and Zoning Commission (P&Z) by the City Administrator or

- designee. Action shall be taken by the City Administrator or Planning and Zoning Commission (P&Z) no later than the fifteenth (15th) calendar day after the date the response was submitted.
5. *Acceptance of Preliminary Plat.* Approval of a preliminary plat by the Planning and Zoning Commission (P&Z) shall be deemed as an expression of the approval of the layout submitted on the plat as a guide to the final design of streets, water, sewer and other required improvements and utilities and to the preparation of a final plat in accordance with the requirements of this ordinance.
 6. *Appeal to the City Council.* Any decision to disapprove a plat made by the Planning and Zoning Commission (P&Z) may be appealed to the City Council.
- D. *Criteria for approval.* The Planning and Zoning Commission (P&Z), in considering final action on a preliminary plat, should consider the following criteria:
1. the plat is consistent with all zoning requirements for the property or any approved Development Agreement;
 2. the plat conforms to the general layout of the subdivision master plan (if applicable) and is consistent with the phasing plan approved therein;
 3. the proposed provision and configuration of roads, water, wastewater, drainage, and park facilities conform to the master facilities plans for the facilities, including without limitation the water facilities, wastewater facilities, transportation, drainage and other master facilities plans; and
 4. the proposed provision and configuration of roads, water, wastewater, drainage and park facilities, and easements and rights-of-way are adequate to serve the subdivision.
- E. *Expiration and extension.*
1. *Expiration.* The approval of a preliminary plat shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved, during which period the applicant shall submit and receive approval for a final plat for any portion of the land subject to the preliminary plat. If a final plat has not been approved within the two (2) year period, the preliminary plat approval, unless extended, shall expire and the plat shall be null and void.
 2. *Extension.* At the request of the property owners or their representative, the expiration date for approval of a preliminary plat may be extended by the Planning and Zoning Commission (P&Z) for a period not to exceed six (6) months. A preliminary plat is not subject to reinstatement following expiration.
- F. *Revisions to an approved preliminary plat.*
1. *Minor changes.* Minor changes in the design of the subdivision subject to a preliminary plat may be incorporated in an application for approval of a final plat without the necessity of filing a new application for approval of a preliminary plat. Minor changes shall include a revision to plat notes, a revision to street or alley lengths, scrivener's errors, adjustment of lot lines that do not result in the increase or creation of additional lots or additional acreage, or changes or clarifications to easements, provided that such changes are consistent with any approved prior applications.
 2. *Major Changes.* All other proposed changes to the design of the subdivision shall be deemed major changes which includes but is not limited to the reconfiguration of street or alley alignments, the addition of streets or alleys, an increase in the number of lots or acreage, the addition or revision of a unit previously approved by the preliminary plat, any change to the open space dedication requirement, changes to drainage. The City Administrator shall determine if a change is minor or major. Major changes shall require submittal of a revised subdivision master plan (if applicable) and preliminary plat which

is submitted and processed the same as a new subdivision master plan application and new preliminary plat application.

3. *Amendments.* All other proposed changes to the design of the subdivision subject to an approved Preliminary Plat shall be deemed major amendments that require submittal and approval of a new application for approval of a Preliminary Plat before approval of a Final Plat.

Sec.10.02.015 Final Plat

A. *Applicability*

1. The provisions of this section are authorized under LGC Chapter 212 and shall be applicable to all areas within the City's limits and throughout the City's ETJ. A final plat is required to assure that the division or development of the land subject to the plat is consistent with all standards of this ordinance pertaining to the adequacy of public facilities, that public improvements to serve the subdivision or development have been installed and accepted by the City or that provision for such installation has been made, that all other requirements and conditions have been satisfied or provided for to allow the plat to be recorded, and to assure that the subdivision or development meets all other standards of this ordinance to enable initiation of site preparation activities for any lot or tract subject to the plat. Approval of a final plat shall be required prior to any non-exempt division of land and prior to any site preparation activities for a lot or tract of land that requires installation of public improvements on or adjacent thereto.
2. A final plat may be submitted for any phase of development consistent with an approved preliminary plat.

B. *Application requirements.*

1. *Application Required.* Any request for a final plat shall be accompanied by an application prepared in accordance with the City's Development Manual.
2. *Accompanying Applications.* An application for a Final Plat shall be accompanied by a letter of approval from the City Engineer and/or the Director of Public Works approving the public infrastructure improvement construction plans showing details of streets, alleys, culverts, bridges, storm sewers, water mains, sanitary sewers and other engineering details of the proposed subdivision. Such plans shall be prepared by a registered professional engineer and shall conform to the standard specifications established by the City. Approval of any public infrastructure improvement plans is required prior to Final Plat application.

C. *Processing of application and decision*

1. *Submittal.* An application for a final plat shall be submitted to the City Administrator or designee. The City Administrator or designee shall review the application for completeness in accordance with Section 10.02.002. The City Administrator or designee shall forward a copy of the plat to other appropriate departments for review and recommendation.
2. *Final Plat Approval.* In accordance with LGC Section 212.0065, the City Administrator or designee may approve a final plat. The City Administrator or designee must approve a final plat that is required to be prepared in accordance with this section and that satisfies all applicable regulations of this code. The City Administrator or designee may approve with conditions or deny a final plat that does not satisfy all applicable regulations of this code. The City Administrator or designee may, for any reason, elect to present the plat for approval to the Planning and Zoning Commission (P&Z). The City Administrator or designee or Planning and Zoning Commission (P&Z), shall act on the plat within thirty (30) days after the date a complete application is filed, unless an

extension is requested per Texas LGC 212.009(b-2).

3. *Conditional approval and denial.* If the City Administrator or designee or the Planning and Zoning Commission (P&Z) conditionally approves or denies the plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
 4. *Applicant response to conditional approval or denial.* After the conditional approval or denial of a plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator or designee shall determine whether to approve or deny the applicant's response to the previously conditionally approved or denied plat. The City Administrator or designee may for any reason elect to present the applicant's response for approval to the Planning and Zoning Commission (P&Z). Action shall be taken by the City Administrator, or designee, or the Planning and Zoning Commission (P&Z) no later than the fifteenth (15th) day after the date the response was submitted.
 5. *Appeal to Planning and Zoning Commission (P&Z).* Any decision to disapprove a plat made by the City Administrator or designee may be appealed to the Planning and Zoning Commission (P&Z).
- D. *Criteria for approval.* The City Administrator or designee or the Planning and Zoning Commission (P&Z), in considering final action on a Final Plat, should consider the following criteria:
1. the Final Plat conforms to the approved Preliminary Plat, except for minor changes that may be approved without the necessity of revising the approved Preliminary Plat; and
 2. the final layout of the subdivision or development meets all standards for adequacy of public facilities contained in this code.
- E. *Expiration and Extension.*
1. *Expiration.* The approval of a Final Plat shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved by the City Administrator or designee or the Planning and Zoning Commission (P&Z), during which period the applicant shall submit any required revisions for approval and recordation of the plat. If the Final Plat has not been recorded within the two (2) year period, the Final Plat approval, unless extended, shall expire and the plat shall be null and void.
 2. *Extension.* At the request of the property owner or their representative, the expiration date for approval of a Final Plat may be extended by the City Administrator or designee for a period not to exceed six (6) months. A Final Plat is not subject to reinstatement following expiration.
- F. *Revisions following approval of final plat.*
1. *Minor Changes.* An applicant may make minor changes to an approved Final Plat to reflect changes arising from installation of public improvements thereafter, provided that the approved Final Plat has not been recorded and that approval of the revised Final Plat occurs prior to expiration of approval of the initial Final Plat application. The City Administrator or designee is authorized to approve minor changes to an approved Final Plat. If the approved Final Plat has been recorded, an amending plat or replat must be approved and recorded. Minor changes shall include a revision to plat notes, a revision to street or alley lengths, scrivener's errors, adjustment of lot lines that do not result in the increase or creation of additional lots or additional acreage, or

changes or clarifications to easements, provided that such changes are consistent with any approved prior applications.

2. *Major Changes.* Major changes include the reconfiguration of street or alley alignments, the addition of streets or alleys, an increase in the number of lots or acreage, the addition or revision of a unit previously approved by the Preliminary Plat, any change to the open space dedication requirement, changes to drainage, changes to flood plain data, and any other changes that may not be included herein as determined by the City Administrator or designee. Major changes shall require submittal of a revised Final Plat which is submitted and processed the same as a new final plat application.
3. *Amendments.* All other proposed changes to the design of the subdivision subject to an approved Final Plat shall be deemed major amendments that require submittal and approval of a new application for approval of a Preliminary Plat before approval of a Final Plat. Approval of major revisions to an approved Preliminary Plat shall occur prior to the date any approved Subdivision Master Plan would have expired for the same land.

G. *Recording Procedures.* After approval of a Final Plat and acceptance of required public improvements or execution of an Improvement Agreement pursuant to Section 10.02.009, the applicant may submit all necessary items to the City to record the plat in the County Land Records. Upon receipt of the plat recording submittal and notification of acceptance of required public improvements or execution of an Improvement Agreement, the City Administrator or designee shall sign the plat and shall promptly cause the plat to be recorded. If the final plat was forwarded to the Planning and Zoning Commission (P&Z), the City Administrator or designee shall procure the signature of the chair of the Planning and Zoning Commission (P&Z) on the plat and shall promptly cause the plat to be recorded. No Final Plat will be received for recording until all back taxes owed to the City have been paid in full and a certified copy of a Tax Certificate from the applicable school district and county tax office has been received for the subject property.

Sec.10.02.016 Minor Plat

- A. *Applicability.* The provisions of this section are authorized under LGC Chapter 212 and shall be applicable to all areas within the City's limits and throughout the City's ETJ. A minor plat may be submitted for approval where the proposed division of land involves four (4) or fewer lots fronting onto an existing street and not requiring the creation of any new street or the extension of municipal facilities.
- B. *Application Requirements.* Any request for a minor plat shall be accompanied by an application prepared in accordance with the City's Development Manual.
- C. *Processing of Application and Decision.*
 1. *Submittal.* An application for a minor plat shall be submitted to the City Administrator or designee. The City Administrator or designee shall review the application for completeness in accordance with Section 10.02.002. The City Administrator or designee shall forward a copy of the plat to other appropriate departments for review and recommendation.
 2. *Minor plat approval.* In accordance with LGC Section 212.0065, the City Administrator or designee may approve a minor plat. The City Administrator or designee may, for any reason, elect to present the plat for approval to the Planning and Zoning Commission (P&Z). The City Administrator or designee shall not approve with conditions or disapprove a minor plat and shall be required to refer any plat for which approval is refused to the Planning and Zoning Commission (P&Z). The City Administrator or designee or the Planning and Zoning Commission (P&Z) shall act on the plat within

thirty (30) days after the date a complete application is filed.

3. *Conditional Approval and Denial.* If the Commission conditionally approves or denies the plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
 4. *Applicant Response to Conditional Approval or Denial.* After the conditional approval or denial of a plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator or designee is authorized to approve revisions required for conditional approval of the Final Plat. The Planning and Zoning Commission (P&Z) shall determine whether to approve or deny the applicant's previously conditionally approved or denied plat no later than the fifteenth (15th) day after the date the response was submitted.
- D. *Criteria for approval.* The City Administrator or designee in considering final action on a minor plat should consider the following criteria:
1. the minor plat is consistent with all zoning requirements for the property, all other requirements of this code that apply to the plat, and any regulations contained in an approved Development Agreement;
 2. all lots to be created by the plat already are adequately served by all required City utilities and infrastructure; and
 3. the plat does not require the extension of any municipal facilities to serve any lot within the subdivision.
- E. *Expiration and Extension.*
1. *Expiration.* The approval of a minor plat shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved by the City Administrator or the Planning and Zoning Commission (P&Z). If the minor plat has not been recorded within the two (2) year period, the plat approval, unless extended, shall expire and the plat shall be deemed null and void.
 2. *Extension.* At the request of the property owners or their representative, the expiration date for approval of a minor plat may be extended by the Planning and Zoning Commission (P&Z) for a period not to exceed six (6) months. A minor plat is not subject to reinstatement following expiration.
- F. *Plat Recordation.* The property owner shall submit the approved minor plat and any other required items, to the City Administrator or designee, who shall cause the plat to be recorded in the property records of the county in which the land is located. No Minor Plat will be received for recording until all back taxes owed to the City have been paid in full and a certified copy of a Tax Certificate from the applicable school district and county tax office has been received for the subject property.

Sec.10.02.017 Amending Plat

- A. *Applicability.* The provisions of this section are authorized under LGC Chapter 212 and shall be applicable to all areas within the City's limits and throughout the City's ETJ. An amending plat may be filed in accordance with the procedures and requirements set forth in LGC section 212.016 and may be recorded and is controlling over the preceding plat without vacation of that plat and without notice and hearing, if the amending plat is signed and acknowledged by the owners of the property being replatted and is solely for one (1) or more of the following purposes:
1. to correct an error in a course or distance shown on the preceding plat;

2. to add a course or distance that was omitted on the preceding plat;
 3. to correct an error in a real property description shown on the preceding plat;
 4. to indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
 5. to show the location or character of a monument which has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
 6. to correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
 7. to correct an error in courses and distances of lot lines between two (2) adjacent lots if:
 - a. both lot owners join in the application for amending the plat;
 - b. neither lot is abolished;
 - c. the amendment does not attempt to remove recorded covenants or restrictions; and
 - d. the amendment does not have a materially adverse effect on the property rights of the other owners in the plat;
 8. to relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
 9. to relocate one or more lot lines between one or more adjacent lots if:
 - a. the owners of all those lots join in the application for amending the plat;
 - b. the amendment does not attempt to remove recorded covenants or restrictions; or
 - c. the amendment does not increase the number of lots;
 10. to make necessary changes to the preceding plat to create six (6) or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
 - a. the changes do not affect applicable zoning and other regulations of the municipality;
 - b. the changes do not attempt to amend or remove any covenants or restrictions; and
 - c. the area covered by the changes is located in an area that the Planning and Zoning Commission (P&Z) has approved, after a public hearing, as a residential improvement area;
 11. to replat one or more lots fronting on an existing street if:
 - a. the owners of all those lots join in the application for amending the plat;
 - b. the amendment does not attempt to remove recorded covenants or restrictions;
 - c. the amendment does not increase the number of lots; and
 - d. the amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- B. *Application Requirements.* Any request for an amending plat shall be accompanied by an application prepared in accordance with the City's Development Manual.
- C. *Processing of Application and Decision.*
1. *Submittal.* An application for an amending plat shall be submitted to the City Administrator or designee. The City Administrator or designee shall review the application for completeness in accordance with Section 10.02.002. The City Administrator or designee may, at option, forward a copy of the plat to other departments for review and recommendation.
 2. *Amending plat approval.* In accordance with LGC section 212.0065, the City Administrator or designee may approve an amending plat. The City Administrator or designee may, for any reason, elect to present the plat for approval to the Planning and Zoning Commission (P&Z). The City Administrator or designee shall not disapprove an

amending plat and shall be required to refer any plat for which approval is refused to the Planning and Zoning Commission (P&Z). The City Administrator or designee or the Planning and Zoning Commission (P&Z) shall act on the plat within thirty (30) days after the date a complete application is filed.

3. *Conditional Approval and Denial.* If the Commission conditionally approves or denies the plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
 4. *Applicant Response to Conditional Approval or Denial.* After the conditional approval or denial of a plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator or designee is authorized to approve revisions required for conditional approval of the Final Plat. The Planning and Zoning Commission (P&Z) shall determine whether to approve or deny the applicant's previously denied plat or conditionally approved, if forwarded to the Commission by the City Administrator or designee, no later than the fifteenth (15th) day after the date the response was submitted.
- D. *Expiration and Extension.*
1. *Expiration.* The approval of an amending plat shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved by the City Administrator or designee or the Planning and Zoning Commission (P&Z). If the amending plat has not been recorded within the two (2) year period, the plat approval, unless extended, shall expire and the plat shall be deemed null and void.
 2. *Extension.* At the request of the property owners or their representative, the expiration date for approval of an amending plat may be extended by the Planning and Zoning Commission (P&Z) for a period not to exceed six (6) months. An amending plat is not subject to reinstatement following expiration.
- E. *Plat Recordation.* The property owner shall submit the approved Amending Plat and any other required items, to the City Administrator or designee, who shall cause the plat to be recorded in the property records of the county in which the land is located. No Amending Plat will be received for recording until all back taxes owed to the City have been paid in full and a certified copy of a Tax Certificate from the applicable school district and county tax office has been received for the subject property.

Sec.10.02.018 Replat

- A. *Applicability.* The provisions of this section are authorized under LGC Chapter 212 and shall be applicable to all areas within the City's limits and throughout the City's ETJ. A replat is any plat that complies with LGC sections 212.014, 212.0145, and 212.015, as amended, which is generally submitted to replat a subdivision or part of a subdivision without vacation of the original plat. Replatting a portion of a recorded lot is not permitted. A replat does not itself constitute approval for development of the property.
- B. *Application requirements.* Any request for a replat plat shall be accompanied by an application prepared in accordance with the City's Development Manual.
- C. *Processing of application and decision.*
 1. *Submittal.* An application for a replat shall be submitted to the City Administrator or designee. The City Administrator or designee shall review the application for completeness in accordance with Section 10.02.002. The City Administrator or designee shall forward a copy of the plat to other appropriate departments for review and

recommendation. After appropriate review, the City Administrator or designee may forward a recommendation to the Planning and Zoning Commission (P&Z) for consideration, when applicable.

2. *Notification Requirements for Certain Replats.*

- a. *Applicability.* An application for a replat which is also accompanied by a waiver or variance request requires a public hearing and notice if:
 - i. during the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot; or
 - ii. any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.
- b. *Public hearing notice.* Notice of the public hearing shall be given at least sixteen (16) calendar days before the date of the public hearing by:
 - i. publication in an official newspaper or a newspaper of general circulation in the county in which the municipality is located
 - ii. Written notice with a copy of LGC Sec.10A. 212.015(c) attached, mailed to the owners of lots that are in the original subdivision and that are within two-hundred feet (200') of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested.

3. *Replat Approval.* In accordance with LGC Section 212.0065, the City Administrator or designee may approve a replat. The City Administrator or designee must approve a replat that is required to be prepared in accordance with this section and that satisfies all applicable regulations of this ordinance. The City Administrator or designee may approve with conditions or deny a replat that does not satisfy all applicable regulations of this ordinance. The City Administrator or designee may, for any reason, elect to present the plat for approval to the Planning and Zoning Commission (P&Z). The City Administrator or designee or Planning and Zoning Commission (P&Z), shall act on the plat within thirty (30) days after the date a complete application is filed.
 4. *Conditional Approval and Denial.* If the City Administrator or designee or the Planning and Zoning Commission (P&Z) conditionally approves or denies the plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
 5. *Applicant Response to Conditional Approval or Denial.* After the conditional approval or denial of a plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator or designee shall determine whether to approve or deny the applicant's response to the previously conditionally approved or denied plat. The City Administrator or designee may for any reason elect to present the applicant's response for approval to the Planning and Zoning Commission (P&Z). Action shall be taken by the City Administrator or designee or the Planning and Zoning Commission (P&Z) no later than the fifteenth (15th) day after the date the response was submitted.
 6. *Appeal to Planning and Zoning Commission (P&Z).* Any decision to disapprove a plat made by the City Administrator or designee may be appealed to the Planning and Zoning Commission (P&Z).
- D. *Criteria for Approval.* The City Administrator or designee or the Commission in considering final action on a replat should consider the following criteria:
1. the replat is consistent with all zoning requirements for the property, all other requirements of this code that apply to the plat, and any regulations contained in an approved Development Agreement;
 2. the replat is signed and acknowledged by only the owners of the property being replatted;
 3. a public hearing was held and parties in interest and citizens have had an opportunity to be heard, if applicable; and
 4. the replat does not attempt to amend or remove any covenants or restrictions.
- E. *Protests.* If the replat application meets the applicability requirements of Subsection C.2 above and is protested in accordance with this section, approval of the replat shall be presented by the City Administrator or designee to the Planning & Zoning Commission and shall require the affirmative vote of at least three-fourths ($\frac{3}{4}$) of the members of the Planning and Zoning Commission (P&Z) present at the meeting to be approved. For a legal protest, written instruments signed by the owners of at least twenty percent (20%) of the area of the lots or land immediately adjoining the area covered by the replat application and extending two-hundred feet (200') from that area, but within the original subdivision, must be filed with the Planning and Zoning Commission (P&Z) prior to the close of the public hearing. In computing the percentage of land area under this section, the area of streets and alleys shall be included.
- F. *Notification of approval for certain replats.* If a proposed replat does not require a variance

or waiver, the municipality shall, not later than the 15th calendar day after the date the replat is approved, provide written notice by mail of the approval of the replat to each owner of a lot in the original subdivision that is within two-hundred feet (200') of the lots to be replatted according to the most recent municipality or county tax roll. This subsection does not apply to a proposed replat if the Planning and Zoning Commission (P&Z) holds a public hearing and gives notice of the hearing in the manner provided by in subsection C.2.b. above.

1. The notice of a replat approval must include:
 - a. the zoning designation of the property after the replat; and
 - b. a telephone number and e-mail address an owner of a lot may use to contact the City about the replat.

G. *Expiration and extension*

1. *Expiration.* The approval of a replat shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved by the City Administrator or designee or the Planning and Zoning Commission (P&Z), during which period the applicant shall submit any required revisions for approval and recordation of the plat. If the replat has not been recorded within the two (2) year period, the plat approval shall expire and the plat shall be deemed null and void.
2. *Extension.* At the request of the property owners or their representative, the expiration date for approval of a replat may be extended by the City Administrator or designee for a period not to exceed six (6) months. A replat is not subject to reinstatement following expiration.

- H. *Plat Recordation.* After approval of a Replat Plat and acceptance of required public improvements or execution of an Improvement Agreement pursuant to Section 10.02.009, if applicable, the applicant may submit all necessary items to the City to record the plat in the County Land Records. Upon receipt of the plat recording submittal and notification of acceptance of required public improvements or execution of an Improvement Agreement, the City Administrator or designee shall sign the plat and shall promptly cause the plat to be recorded. If the final plat was forwarded to the Commission, the City Administrator or designee shall procure the signature of the chair of the Planning and Zoning Commission (P&Z) on the plat and shall promptly cause the plat to be recorded.

Sec.10.02.019 Vacating Plat

- A. *Applicability.* The provisions of this section are authorized under LGC Chapter 212 and shall be applicable to all areas within the City's limits and throughout the City's ETJ. A vacating plat does not itself constitute approval for development of the property.
- B. *Application Requirements.* Any request for vacating a plat shall be accompanied by an application prepared in accordance with the City's Development Manual.
- C. *Processing of Application and Decision*
 1. *Submittal.* An application for a vacating plat shall be submitted to the City Administrator or designee. The City Administrator or designee shall review the application for completeness in accordance with Section 10.02.002. The City Administrator or designee shall forward a copy of the plat to other appropriate departments for review and recommendation.
 2. *Vacating Plat Approval.* In accordance with LGC Section 212.0065, the City Administrator or designee may approve a vacating plat. The City Administrator or designee must approve a vacating plat that is required to be prepared in accordance with this section and that satisfies all applicable regulations of this code. The City Administrator or designee may approve with conditions or deny a vacating plat and/or replat that does

not satisfy all applicable regulations of this code. The City Administrator or designee may, for any reason, elect to present the plat for approval to the Planning and Zoning Commission (P&Z). The City Administrator or designee or Planning and Zoning Commission (P&Z), shall act on the plat within thirty (30) days after the date a complete application is filed.

3. *Conditional Approval and Denial.* If the City Administrator or designee or the Planning and Zoning Commission (P&Z) conditionally approves or denies the plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
 4. *Applicant Response to Conditional Approval or Denial.* After the conditional approval or denial of a plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator or designee shall determine whether to approve or deny the applicant's response to the previously conditionally approved or denied plat. The City Administrator or designee may for any reason elect to present the applicant's response for approval to the Planning and Zoning Commission (P&Z). Action shall be taken by the City Administrator or designee or the Planning and Zoning Commission (P&Z) no later than the fifteenth (15th) day after the date the response was submitted.
 5. *Appeal to Planning and Zoning Commission (P&Z).* Any decision to disapprove a plat made by the City Administrator or designee may be appealed to the Planning and Zoning Commission (P&Z).
- D. *Criteria for Approval.* The City Administrator or designee or the Planning and Zoning Commission (P&Z) in considering final action on a vacating plat should consider the following criteria:
1. the vacating plat is consistent with all zoning requirements for the property, all other requirements of this ordinance that apply to the plat, and any regulations contained in an approved Development Agreement;
 2. the vacating plat is signed and acknowledged by all owners of lots in the original plat.
- E. *Expiration and Extension.*
1. *Expiration.* The approval of a vacating plat shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved by the City Administrator or designee or the Planning and Zoning Commission (P&Z), during which period the applicant shall submit any required revisions for approval and recordation of the plat. If the vacating plat has not been recorded within the two (2) year period, the plat approval shall expire and the plat shall be deemed null and void.
 2. *Extension.* At the request of the property owners or their representative, the expiration date for approval of a vacating plat may be extended by the City Administrator or designee or the Planning and Zoning Commission (P&Z), if the request is forwarded by the City Administrator or designee, for a period not to exceed six (6) months. A vacating plat is not subject to reinstatement following expiration.
- F. *Recording Procedures.* After approval of a Vacating Plat and associated Replat, acceptance of required public improvements or execution of an Improvement Agreement pursuant to Section 10.02.009, if applicable, the applicant may submit all necessary items to the City to record the vacating plat and replat in the County Land Records. Upon receipt of the plat recording submittal and notification of acceptance of required public improvements or execution of an Improvement Agreement, the City Administrator or designee shall sign the plat and shall promptly cause the plat to be recorded. If the vacating plat and associated

- replat was forwarded to the Commission, the City Administrator or designee shall procure the signature of the chair of the Planning and Zoning Commission (P&Z) on the plat and shall promptly cause the plat to be recorded. No vacating plat and associated replat will be received for recording until all back taxes owed to the City have been paid in full and a certified copy of a Tax Certificate from the applicable school district and county tax office has been received for the subject property.
- G. The City, at its discretion, shall have the right to retain all or specific portions of road right-of-way or easements shown on the plat being considered for vacation. However, the City shall consider a request for vacating a plat upon satisfactory conveyance of easements or right-of-way in a separate legal document using forms provided by the City Attorney's office.

Sec.10.02.020 Plat Waivers

- A. *General.* The Planning and Zoning Commission (P&Z) may authorize waivers from the provisions of this ordinance when, in its opinion, undue hardship will result from requiring strict compliance. In granting a waiver, the Planning and Zoning Commission (P&Z) shall prescribe only conditions that it deems necessary or desirable to the public interest. In making their findings, the Planning and Zoning Commission (P&Z) shall take into account the nature of the proposed use of the land involved and existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such waivers upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity. Waivers shall not be granted unless the Planning and Zoning Commission (P&Z) finds:
1. That the granting of the waiver will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area; and
 2. That the granting of the waiver will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this ordinance. Such findings of the Planning and Zoning Commission (P&Z), together with the specified facts upon which such findings are based, shall be incorporated into the official minutes of the Planning and Zoning Commission (P&Z) meeting at which such waiver is granted. Waivers 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 justice done.
- B. *Timing.* Plat waivers shall be submitted prior to filing a plat application. The City will not issue a letter of certification for any proposed subdivision plat exhibits requesting a plat waiver until the requested waiver has been approved.
- C. *Application requirements.* Any request for a plat waiver shall be accompanied by an application prepared in accordance with the City's Development Manual.
- D. *Processing of application and decision.*
1. *Submittal.* An application for a plat waiver shall be submitted to the City Administrator or designee. The City Administrator or designee shall review the application for completeness. The City Administrator or designee may request a review and recommendation from any other city department or consultant. After appropriate review, the City Administrator or designee shall forward a written recommendation to the Planning and Zoning Commission (P&Z) for consideration.
 2. *Notification Requirements.* Public Hearing and Notice Requirements for a waiver requested for certain replats per LGC 212.015(a-1) may be required, as follows in Section 10.02.018.C.2.
 3. *Waiver Approval.* The Planning and Zoning Commission (P&Z) shall receive the written recommendation of the City Administrator or designee and shall consider the proposed plat waiver request. The Commission may vote to approve, approve with

conditions, or deny the plat waiver request. In addition to establishing a time period for execution of each granted waiver.

4. *Conditions.* In approving a plat wavier, the Commission may prescribe appropriate conditions that it deems necessary or desirable to the public interest.
 5. *Appeal to City Council.* Any decision of the Planning and Zoning Commission (P&Z) regarding waivers to the provisions of this ordinance may be appealed to the City Council. When considering an appeal, the City Council shall consider the same standards as the Planning and Zoning Commission (P&Z) as outlined above.
- E. *Criteria for Approval.*
1. The findings of the Commission, together with the specified facts upon which such findings are based, shall be incorporated into the official minutes of the Planning and Zoning Commission (P&Z) meeting at which such exception is granted.
 2. The Planning and Zoning Commission (P&Z) shall not authorize a waiver that would constitute a violation of a valid law, ordinance, code or regulation of the city.
- F. *Expiration.* Approved waivers shall expire twelve (12) months after approval if a plat application has not been filed with the City. If a plat application is filed before the waiver expires, the approved waiver shall be incorporated into the plat application and follow the same expiration timelines as the associated plat application.

Division 3. Minimum Design Standards

Sec.10.02.021 General Design Standards

- A. Conformity with Comprehensive Master Plan. All subdivisions shall conform to the Comprehensive Master Plan for orderly and unified development of streets, utilities, neighborhood design, and public land and facilities, as well as other provisions of this ordinance and other applicable ordinances, codes and regulations. Standards and design criteria contained herein and in the Infrastructure Design Guidelines and Specifications Manual represent minimum values considered necessary for the health, safety and welfare of the community. The design engineer and developer are required to meet or exceed the requirements of these standards by providing a more conservative design criteria. However, they shall not permit their design to fall below the standards of this ordinance. Where there is a conflict between the regulations contained within this ordinance and regulations or standards contained within any other ordinance, code or regulation of the City, the more restrictive regulation shall apply. Approval of plans and specifications by the City shall not be construed as relieving the design engineer/developer of responsibility for compliance with this ordinance, nor with any other local, county or state authority having jurisdiction.
- B. Achieving desirable neighborhood development. Residential subdivisions shall be designed to take advantage of the principles and general designs for neighborhood development as established by the Comprehensive Master Plan and the Planning and Zoning Commission (P&Z) in order to achieve the most advantageous development of the entire neighborhood unit in which the subdivision is located.
- C. Provision for future subdivision. All subdivisions shall be so arranged as to allow logical further subdivision and opening of future streets and shall coordinate with adjoining existing and/or future subdivisions.
- D. Standards for site improvements. All streets, alleys, sidewalks, utility installations and other site improvements required to be installed by the subdivider under the provisions of these regulations shall conform to the requirements of this ordinance and to the Infrastructure Design Guidelines and Specifications Manual or other approved agencies responsible for design, construction methods and standards, payments, refunds, credits and other financial arrangements.

Sec.10.02.022 Blocks

- A. The length, width and shape of blocks will be determined with due regard to:
 - 1. provisions of adequate building sites suitable to the special needs of the type of use contemplated (note that the City Council may require that the block and lot size bear reasonable relation to the planned use of the land);
 - 2. zoning requirements as to lot sizes and dimensions; and
 - 3. need for convenient access, circulation, control and safety of street traffic.
- B. In general, intersecting streets shall be used to determine the block lengths and widths, and shall be provided at such intervals as to serve cross traffic adequately, and to meet existing streets or customary subdivision practices.
- C. In general, block lengths along local or collector streets shall not exceed fourteen-hundred feet (1,400') or be less than five-hundred feet (500'), and along arterial streets shall not exceed eighteen-hundred feet (1,800') or be less than nine-hundred feet (900').
- D. A waiver to the standards of this section may be allowed in cases where physical barriers, property ownership or adjacent existing subdivisions create conditions where it is appropriate. The length may be increased or decreased to meet the existing conditions having due regard for connecting streets, circulation of traffic and public safety.

Sec.10.02.023 Lots

- A. Lot sizes and dimensions shall conform to the minimum requirements of the appropriate zoning district. The lot area shall be computed including all easements. Changes in the required lot sizes and dimensions may only be allowed through rezoning or through the granting of a plat waiver or a variance by a Board, Commission, Committee or the City Council. No lot shall be approved which does not meet the minimum requirements of the appropriate zoning district.
- B. In residential subdivisions not served by public sewer, the Planning and Zoning Commission (P&Z) shall require the developer to cause a percolation test to be made. In no case will the lot size in such subdivision be less than one-half acre (21,780 square feet). This is the responsibility of the County Environmental Department.
- C. Depth and width of properties laid out for commercial or industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
- D. Corner lots shall have sufficient width to permit the required building setback and proper orientation to both streets. Lots abutting crosswalks shall be treated as corner lots.
- E. Where a residential lot backs up to a railroad right-of-way, high pressure gas line, industrial area or any other land use which may have a dangerous effect on residential property, and where no marginal access street or other street is provided at the rear of such lot, an additional depth of twenty-five feet (25') shall be required. Where a lot sides to any of the above, an additional width of fifteen feet (15') shall be required. A planting screen or non-access easement of at least ten feet (10') shall be provided along the line of lots abutting a railroad right-of-way, high pressure gas line, industrial area or any other land use which may have a dangerous effect on residential property.
- F. Residential lots located on a cul-de-sac shall be at least fifty feet (50') wide at the building line.
- G. Residential lots shall be oriented to take advantage of topography; the best relationship to the overall design of the neighborhood; and to minimize the effects of any surrounding depreciating land uses.
- H. There shall be no residential lots facing directly upon a major street.
- I. All side lines of lots shall be perpendicular to straight street lines and radial to curved street lines except where a waiver to this rule will provide a better street and lot layout.
- J. Every lot shall be provided with adequate access to a public street, either by direct frontage on such street, or by public access easement approved by the Planning and Zoning Commission (P&Z). Rear and/or side driveway access to major streets shall be prohibited.
- K. Minimum front and side building setback lines at streets and crosswalks shall be shown on all plats and shall conform to the restrictions, if any, imposed on the subdivision by the subdivider, but in no event shall such setback lines be less than those required by the applicable zoning district. The front line setback shall be measured from the point where the public right-of-way ends to the front face to the building, covered porch, covered terrace or attached accessory building.

Sec.10.02.024 Monuments and Lot Markers

- A. Permanent survey reference monuments. Concrete monuments shall be placed at all block corners, angle points, points of curve, and all corners of boundary lines of the subdivision. A monument shall be made of an iron stake one-half (½") in diameter and twenty-four inches (24") long centered in concrete a minimum of six inches (6") in diameter and twelve inches (12") long. The iron stake should be left one-half inch above the concrete with a surveyors' aluminum or plastic cap, stamped with the surveyors' registered number or firm. Monuments

shall be identified on the plat with elevation and the elevation shall be stamped on top of the monument.

- B. Other markers. All other survey markers, such as lot corners, shall have an iron stake one-half inch ($\frac{1}{2}$ ") in diameter and twenty-four inches (24") long and shall be placed flush with the ground, or below ground, if necessary, in order to avoid being disturbed.
- C. Benchmarks. A minimum of two (2) benchmarks shall be established in each subdivision. Benchmarks shall be established on iron rods embedded in concrete monuments six inches (6") in diameter and set in the ground to a depth of three feet (3') and set to U.S. National Geodetic Survey datum. Using tops of manholes as a benchmark is not acceptable.
- D. Monument placement and verification. Monuments and lot markers shall be set immediately after completion of utility installations and street construction. Prior to acceptance of subdivision improvements by the City, the developer's surveyor or engineer shall certify that all monuments, benchmarks and markers are in place and correctly positioned.

Sec.10.02.025 Access Management

- A. Purpose. It is the intent of this section to prohibit the indiscriminate location and spacing of driveways while maintaining reasonable vehicular access to and from the public street system as well as reduce conflicting turning movements and congestion and thereby reduce vehicular accidents.
 - 1. All subdivision plats and site plans shall indicate proposed driveway locations and demonstrate compliance with this section.
- B. Driveway and Access. The arrangement, placement, spacing, width and return radii of all driveways connecting to a street, roadway or alley shall be constructed, provided, altered or repaired in accordance with requirements of the Public Works Specifications Manual. For all driveways connecting to a state roadway facility, the arrangement, placement, spacing, width, etc. shall be in accordance with TxDOT requirements.
- C. Residential Property.
 - 1. General Driveway Access Restrictions:
 - (a) Direct driveway access from residential lots onto arterial streets is discouraged.
 - (b) Driveway access onto arterial streets may be prohibited where alternative street access is available.
 - 2. Corner Lots: Residential lots located at street intersections with frontage on both an arterial street and a local or collector street shall provide driveway access from the local or collector street unless the applicant demonstrates that such access is not feasible due to topography, sight distance limitations, or other site-specific constraints.
 - 3. Design Standards: Driveways permitted to access arterial streets shall be designed to minimize turning movement conflicts and ensure adequate sight distances in accordance with applicable engineering standards.
- D. Commercial Property.
 - 1. Curb cuts for commercial driveway aprons shall not exceed forty feet (40') in width as measured at the ROW line, and the aggregate width of all curb cuts shall not exceed fifty percent (50%) of the parcel frontage.
 - 2. Where multiple driveway aprons are used for commercial property, the curb cuts shall be at least two hundred feet (200') apart on collector streets and four hundred feet (400') apart on arterial streets provided a minimum of fifty feet (50') of spacing as measured along the curb is available between all approaches, including curb cuts on adjacent properties.
 - 3. For parcels of commercial property, no curb cut will be permitted for any parking facility

which requires vehicles to enter a street in reverse.

- E. Curb Cuts in Curb Returns. No curb cut in curb returns will be permitted in the City.
- F. Shared and cross access.
 - 1. To facilitate access management and internal circulation, common access and cross access Easements are required between and across adjacent lots used, zoned, or planned for commercial and mixed-use fronting on any street section unless the City Administrator or designee authorizes an exemption due to site constraints. Industrial development is not required to provide cross access.
 - 2. The use of common driveways shall require the dedication of a joint-use public or private access easement on each affected property.
 - 3. Properties which do not share a common driveway straddling a property line shall provide cross access easements to facilitate the flow of traffic between adjacent properties. Cross access shall begin at a driveway and extend side to side to adjacent properties and must connect to existing access points on adjacent properties where they exist.
 - 4. The easement dedication shall be provided on the Final Plat when a public easement is used. Alternatively, a private access easement for access via neighboring property may be filed by separate instrument approved by the City Attorney with the County and a copy forwarded to the City. When a private access easement is used, it shall be filed prior to recordation of the Final Plat or prior to issuance of a Certificate of Occupancy, whichever comes first.
 - 5. The plat or easement instrument shall state that the easement shall be maintained by the property owner or a property owner's association.
 - 6. The easement shall encompass the entire width of the planned driveway and drive aisles.
- G. Adequate sight distance. Driveways are prohibited where adequate sight distance is not available for the established speed limit. The City Engineer may require sight distance information be prepared by a registered professional engineer to verify adequate sight distance is available for the proposed driveway location. The determination of sufficiency is at the sole discretion of the City Engineer.
- H. Waivers. Where the City Administrator or designee finds that extraordinary hardship may result from strict compliance with the regulations prescribed in this ordinance, the City Administrator or designee may vary the regulations so that substantial justice may be done and the public interest secured, provided that such waiver will not have the effect of nullifying the intent and purpose of this ordinance. In granting waivers and modifications, the City Administrator or designee may require such conditions as will, in judgment, secure substantially the objective of the standards or requirements so varied or modified. In the event the City Administrator or designee should disapprove a request for a waiver, the applicant may request an appeal to the Planning and Zoning Commission (P&Z).

Sec.10.02.026 Retaining Walls

- A. Retaining Wall Requirements. When property within or directly adjacent to a subdivision contains changes in elevation exceeding two and one-half feet (2.5') and the slope exceeds one unit vertical in two units horizontal, a retaining wall shall be required at the locations specified herein prior to the acceptance of the subdivision:
 - 1. Location A. The grade change roughly follows a side or rear lot line.
 - 2. Location B. The grade change is adjacent to a proposed building site boundary.
 - 3. Location C. The grade change is adjacent to a water course or drainage easement.
- B. Retaining Wall Design and Construction. All retaining wall design and construction shall be in compliance with the provisions of the Building Code of the City of Caldwell, and

shall be approved by the Code Official and/or City Engineer.

- C. Retaining Wall Maintenance. Retaining walls shall be maintained by the owner of the property where such retaining wall is located.
- D. Retaining walls shall not be constructed parallel to and within any portion of a utility easement.

Sec.10.02.027 Sidewalks and Trails

- E. Requirement. Sidewalks shall be required along both sides of all streets throughout the City as required by this ordinance. All lots must have access to sidewalks. Sidewalks are not required to be constructed along existing non-curbed streets when infill development takes place.
- F. Curb ramps. Curb ramps shall be provided at all street intersections at the time of street construction or reconstruction and shall comply with the provisions in the Federal Register 28, CFR part 36 Americans with Disabilities Act (ADA) and Texas Accessibility Standards (TAS) as amended from time to time.
- G. Location and width. Where sidewalks are required, they shall be installed in accordance with the Infrastructure Design Manual and shall be a minimum of five feet (5') in width. Sidewalks shall be placed parallel to the street for the entire frontage(s) of the lot and shall be located a minimum of two feet (2') behind the curb. The City Administrator or designee may allow for alternative sidewalk locations based on the existing character and development in the area.
- H. Limitation of Obstructions. All sidewalks must meet the minimum width, or at least ADA/TAS minimums, and shall not be obstructed including but not limited to: by mailboxes, street signs, utility poles, utility boxes, landscaping, etc.
- I. Timing of construction. Sidewalks shall generally be installed concurrently with the construction of the primary structure on a lot except on arterial class streets where they shall be installed concurrently with street construction. Curb ramps and sidewalks on non-buildable lots and shall be installed concurrently with street construction or prior to plat recordation if no street construction is required.
- J. Construction concurrent with street construction. If a street is constructed which shall have no residential lot access points, then sidewalks shall be installed concurrently with street construction.
- K. Corner Lot. Where sidewalks are installed on corner lots, sidewalks shall be installed along both street frontages and shall be extended to the curb with handicapped access ramps in accordance with current ADA and Texas Accessibility Standards (TAS). If one of the frontages is along a TXDOT ROW the sidewalks must comply with TXDOT standards and permits.
- L. Waiver or deferment of sidewalk installation. The City Administrator or designee may waive the requirements of this section where he/she finds that topographical conditions or other unique conditions exist which would preclude the construction of sidewalks. The City Council may defer the installation of sidewalks to a time deemed more appropriate. In the event that the installation of sidewalks is deferred, the developer shall enter into a subdivision improvement agreement with the City guaranteeing the installation of sidewalks.
- M. Hike and Bike Trails. The City recognizes the need for connectivity and adequate access to and from public parkland areas and to provide for safe bicycling and pedestrian transportation. Hike and bike trails shall be installed in accordance with the Public Works Specification Manual. Additionally, hike and bike trails shall conform to the requirements as set forth in the City's Parks Master Plan and the Master Thoroughfare Plan.

In-lieu of construction of sidewalks in accordance with this ordinance, the City may, at its

option, require construction of a hike and bike path adjacent to the street right-of-way. Any required hike and bike path shall be constructed in-lieu of the minimum sidewalk along one (1) side of the street.

Sec.10.02.028 Streets and Alleys

- A. General. All streets shall be designed in conformance with the provisions of this section except where prohibited by conditions of unusual topography and as varied by the commission. The design standards as set forth in table A shall be followed in the layout and design of major and minor streets. Pavement width shall be measured from curb face to curb face.
- B. Street layout. The street layout shall be arranged to conform with the City's thoroughfare plan and to achieve the most desirable development of the entire neighborhood unit with appropriate consideration of creeks, drainage channels, wooded areas and other topographical features, which lend themselves to special treatment. Permits must be obtained from TxDOT for driveways and streets accessing any state highway. The proposed location of driveways must comply with all applicable City and State safety requirements.
- C. Relation to adjoining streets. Adjoining areas shall be continued and tied into the street layout.
- D. Projection of streets or stub out. When adjoining properties are not yet subdivided, the arrangement of streets shall provide for the proper projection of streets into the adjoining unsubdivided areas and will be required to comply with the neighborhood pattern or generally conform to the adopted Comprehensive Plan and/or Master Thoroughfare Plan.
- E. Dead-end streets and cul-de-sacs.
 - 1. Dead-end streets greater than five hundred feet (500') in length as measured from the center of the intersection to the end of the pavement or center of the cul-de-sac, shall be prohibited. Short stubs projected to be continued in future subdivisions in conformance with Paragraph C of this section and not having any lots fronting the short stub are not required to have a cul-de-sac or temporary turn around at the end. All other dead-end streets shall end in a cul-de-sac or temporary turnaround meeting the requirements of paragraph E.2 below.
 - 2. Cul-de-sac streets shall not exceed six hundred feet (600') in length and shall have a turnaround of not less than one hundred twenty feet (120') in diameter of ROW and one hundred feet (100') in diameter of pavement in single-family residential areas, one hundred sixty feet (160') in diameter of ROW and not less than one hundred thirty feet (130') in diameter of pavement in multi-family, commercial, and industrial areas. The diameter may be modified upon approval of the Fire Chief and/or City Engineer.
- F. Private streets.
 - 1. Private streets within the City may be authorized providing all the following conditions are met:
 - a) A homeowner's association is established to maintain and upkeep all streets in a subdivision in accordance with the City's public street standards, to include the mowing of shoulders and rights-of-way, removal of weeds and unclogging of culverts.
 - b) Private streets are constructed in accordance with the City's standards for public streets.
 - c) The following "maintenance agreement" note will appear on the subdivision plat:
"Streets within this subdivision shall be constructed in accordance with the City of Caldwell public streets standards. The upkeep and maintenance to

include the mowing of shoulders and rights-of-way, removal of weeds and unclogging of culverts shall be the responsibility of the homeowner's association. The City of Caldwell is released from any liability for these streets. Periodic inspection by a public official who is authorized to enforce complaints about poor maintenance is permitted."

- d) Provide access for fire protection, ambulance, police, school bus, garbage service and other utility agencies.
- 2. One Residence. A private street or road serving only one (1) residence is exempt from construction and maintenance standards for public streets.
- 3. Ingress/Egress. Private streets shall connect directly to a public street or road.
- G. Alignment. The alignment of all streets shall conform to the Master Thoroughfare Plan and the requirements of the Infrastructure Design Manual.
- H. Intersections. The curb radius at street intersections shall conform to the specifications in the Infrastructure Design Manual.
- I. Street names and street numbers. Names of new streets shall not duplicate the names of existing streets within the City unless the new street is a continuation of or part of a future continuation of such existing street. Street names shall be chosen to avoid similarity or confusion with existing street names. A new street name shall not differ from an existing street name solely by the addition of a different auxiliary designation such as "avenue", "way", "boulevard", etc. Names of all new streets shall be subject to approval by the Planning and Zoning Commission (P&Z) and be coordinated on an area wide basis. Street names shall have prior approval of the United States Postal Service and Burleson County 911. Street addresses should also be coordinated with present existing addresses. The City will determine street numbers and advise the subdivider as to the street numbers.
- J. Construction standards. All streets shall be constructed with reference to base, surfacing, curbs, grades, horizontal curves and intersection curve radius in accordance with the standards prescribed in the Infrastructure Design Manual and any other applicable specifications of the City.
- K. Reserve areas are prohibited. There shall be no reserve areas controlling access to land dedicated or intended to be dedicated to public use.
- L. Half streets or adjacent streets.
 - 1. Where the proposed subdivision abuts upon an existing street or half street not conforming to the requirements of this ordinance, the subdivider shall be required to dedicate any additional right-of-way to meet the street width required.
 - 2. If new development of property that abuts city-maintained roads does not meet the design or width standards in this ordinance, the Developer shall be required to make the necessary dedication and improvements in conformance with this ordinance or any other applicable code of the city.
 - 3. The minimum dedication for any new street shall be equal to one-half ($\frac{1}{2}$) of the minimum right-of-way (ROW) for said street, but in no case shall be less than that required for the minimum pavement width and necessary external right-of-way for utilities and sidewalks.
 - 4. Improvements shall include right-of-way dedication, paving, curb and guttering, shoulder improvements, sidewalk, multi-use paths and/or hike/bike trails as determined by the City.
 - 5. The minimum construction of any new street shall be equal to one-half ($\frac{1}{2}$) of the minimum pavement width for said street or twenty-four feet (24'), whichever is greater. No new public street shall be constructed with less than twenty-four feet (24') of

pavement.

M. Alleys.

1. Limitations. Construction of alleys is limited to commercial and industrial districts and prohibited in residential areas unless it is part of an approved Planned Development District.
2. Commercial and Industrial Districts. Where provided, paved alleys not less than twenty-four feet (24') wide shall be provided in all commercial or industrial districts to assure adequate provision is made for service access, such as off-street loading, unloading and parking consistent with an adequate plan for the uses proposed. Alleys provided within commercial and industrial districts shall be privately owned and maintained.
3. Intersections and Turns. Alley intersections and sharp changes in alignment shall be avoided, but where two (2) alleys intersect, or an alley turns at an angle sharper than one hundred degrees (100°), a cut off of not less than ten feet (10') from the normal intersection of the property lines shall be provided and shall be designed.
4. Dead End Alleys. Dead end alleys are prohibited.
5. Construction Standards. All public alleys shall be constructed in accordance with the standards prescribed in the Infrastructure Design Manual.

N. Public accesses. All residential subdivisions shall have access to existing public streets in accordance with the minimum requirements of the City's adopted Fire Code. The extent and location of all accesses is subject to review and approval by the City. The City Council may grant a waiver to allow this requirement to be met through an access easement. The City Council shall not permit "island" subdivisions, lots or streets that would be surrounded by the flood water of a one hundred (100) year flood unless the area is accessible to high ground by at least one dedicated street elevated above the one hundred (100) year flood level.

O. Safety lanes (fire lanes).

1. All safety lanes shall comply with the City's adopted Infrastructure, Design, Standards, and Specifications Guidelines.

P. Street and traffic control signs.

1. All street signs in a new subdivision within the City limits and ETJ, including street name, speed limit, stop and yield signs, etc. shall be paid for by the developer, and shall be designed and installed in accordance with the Infrastructure Design Manual. Traffic control devices required within the subdivision shall be installed in accordance with the latest revision of the Texas Manual on Uniform Traffic Control Devices for Streets and Highways.
2. Any installation of speed control devices, such as speed bumps or humps, must also be approved by the Fire Chief or designee to determine potential impact to emergency response vehicles.
3. A required traffic control device must be fitted with traffic preemption compatible devices for activation by emergency vehicles.

Q. Roadway improvements

1. All street improvements shall meet the current requirements of this ordinance, but in no case shall be less than shown in the city's adopted infrastructure design guidelines and specifications details.
2. Typical sections identified in the Master Thoroughfare Plan may be modified by the City Administrator or designee based on drainage needs, traffic needs, site specific conditions, and other factors as part of the development review and approval process.
3. Islands in roadways. Islands in road rights-of-way will be considered on a case-by-case

basis. Islands shall provide a minimum of twenty feet (20') of pavement on each side of the island. All islands provided within street ROW shall be designated on the plat and shall be dedicated by the developer or its successors and/or assigns. A plat note shall be provided which identifies maintenance of islands as the responsibility of the developer or its successors and/or assigns. Any islands that are not maintained in accordance with this section may be removed by the City and shall be removed at the expense of the developer or its successors and/or assigns, after due notice and the written recommendation by the City Engineer or designee.

4. Medians. Medians are typically located at the approximate center of a city street or state right-of-way that is used to separate the directional flow of traffic.
- R. Drainage. The storm drainage for all streets shall be designed per the most current edition of the Infrastructure Design Manual and shall comply with the City's Stormwater Pollution Prevention and Drainage Plan requirements.
- S. Curb and gutter. Curbs and gutters shall be installed by the subdivider on both sides of all streets within or forming part of the boundary of the subdivision. Curb and gutter shall be constructed in accordance with the Infrastructure Design Standards, Specifications, and Details. The City Engineer may waive the requirements for construction of curb and gutter or may approve an alternative curb and gutter construction where developments result in an overall density of less than one (1) unit per one-half (½) acre.
- T. Streetlights.
 1. Developers shall furnish satisfactory easements for installation of services to street lights as required by the City and any applicable electric utility provider.
 2. Street light number, type and size shall be determined by the City and any applicable electric utility provider and shall conform to the requirements of the Infrastructure Design Standards, Specifications, and Details. Streetlights shall be designed to maximize the light directed toward the ground.
 3. The developer shall pay the cost of purchasing and installing all street lighting equipment and the cost of all street lighting services for a period of two (2) years or until such time as seventy percent (70%) of the buildings for which building permits have been issued are completed, whichever is sooner.
 4. A detailed lighting plan shall be submitted with the public infrastructure construction plans for review and approval by the City and any applicable electric utility provider. The lighting plan shall include:
 - a) Streetlight locations;
 - b) A description of lighting fixtures, including lamps, poles or other supports and shielding devices, which may be provided as catalog illustrations from the manufacturer;
 - c) Additional information as may be required by the City Administrator or designee;
 - d) Streetlights shall be located every three-hundred feet (300') (maximum) for local and collector roadways; every two hundred fifty feet (250') (maximum) on arterial roadways; placed at every street intersection; in all cul-de-sacs greater than two hundred feet (200') in length, and at neighborhood mailbox unit locations.

Sec.10.02.029 Traffic Impact Analysis

- A. Application requirements. Every application for development within the City or its ETJ shall be accompanied by a Traffic Impact Analysis (TIA) Determination Form provided in the Development Manual. The TIA Determination Form shall be utilized to determine the

- level of TIA required or if the development is eligible for a TIA waiver.
- B. TIA required. The threshold requirement for a TIA and the level of TIA required shall be based on a land use or combination of land uses that result in peak hour trips in accordance with the following:
 - 1. 100 or less peak hour trips generated – no TIA required
 - 2. 101 - 500 peak hour trips generated – Level 1 TIA required
 - 3. 501 – 1,000 peak hour trips generated – Level 2 TIA required
 - 4. 1,001 or more peak hour trips generated – Level 3 TIA required
 - C. TIA scope. If a TIA is required, the applicant shall meet with the City Administrator or designee to determine the scope for the study prior to beginning work on the TIA. The applicant shall be prepared, prior to the meeting with the City Engineer, to discuss potential intersections to be evaluated, data assumptions or any other information required by the City Engineer.
 - D. TIA Study Area. The study area required for the TIA shall be based on the level of the TIA required. The City Engineer may, at discretion, require additional area to be included in the study area if deemed necessary to provide adequate review of the transportation network. The following identifies the minimum acceptable study area:
 - 1. TIA Level 1 - The site area and the area within a one quarter ($\frac{1}{4}$) mile radius from the boundary of the site.
 - 2. TIA Level 2 - At the discretion of the City's engineer, the study area may be extended up to a maximum of one (1) mile radius from boundary of the site.
 - 3. TIA Level 3 - The site area and the area within a one (1) mile radius from the boundary of the site.
 - E. TIA contents. The TIA shall conform to accepted industry standards and shall include a detailed description of the area street network, a description of proposed land uses, the anticipated stages of construction, the anticipated completion date of the various phases of land development, and the trigger points requiring implementation of necessary improvements. The City Engineer may require any additional information necessary to ensure adequate review. The contents of the TIA shall be in conformance with the requirements of the Development Manual.
 - F. TIA revisions. It is recognized that the scope of the developer's plans may change from time to time. The monitoring reports may also demonstrate changes in the area street conditions and travel patterns within and around the City. Periodic updates to the TIA may be required to address these issues and identify changes to the level of service at study intersections and streets. These updates shall address modifications to the magnitude and timing of improvements recommended by the original TIA. Any TIA amendments must be acceptable to the City.

Sec.10.02.030 Water Utility

- A. Installation of water facilities. All lots, tracts or parcels on which development is proposed shall be connected to a public water system which has capacity to provide water for domestic use and emergency purposes, including adequate fire protection. The developer shall install adequate water facilities, including fire hydrants, in accordance with all applicable regulations of the State, the City and any other agency regulating public water systems.
- B. Fire Hydrants
 - 1. Fire hydrants are to be placed in the proper locations and in the quantity required by the standards in the Infrastructure Design Standards, Specifications, and Details.
 - 2. Any new fire hydrant is required to have a hydrant locator reflector (blue bump) installed

in the roadway perpendicular to the hydrant.

C. Individual wells

1. When a property with an individual well is annexed into the city limits or a water line is extended to the property the property will be required to connect to city water within 3 years.
2. New development shall not be served by an individual well within the city limits. If there is an existing well on the property then it may be used by the HOA for amenity/open space areas.
3. Agricultural zoned properties within the city limits can maintain an individual well.
4. Compliance with other regulations. Installation, operations and maintenance of individual wells shall comply with City standards, regulations of the TCEQ, any other applicable state rules and regulations, and applicable regulations of groundwater conservation districts. In the event of conflict among these regulations, whichever is the most stringent shall apply.

D. Alternative water sources. An alternative source of water within a development may be used for irrigation or other similar purposes, subject to City approval and the obtaining of all appropriate permits from the City, State and any other applicable agency. An alternative water source may not be used for potable water supply under any circumstances. The design and construction of water system improvements and alternative water sources shall comply with the rules and regulations of the City, State or any other applicable agency.

E. Extension of Lines. Extension of water lines shall be made along the entire frontage of the subdivision adjacent to a street or thoroughfare. If the subdivision is not adjacent to a thoroughfare, the extension of utilities shall be accomplished in such a manner as to allow future connections to said utilities by new subdivisions. If due to physical constraints, a new subdivision will never be constructed beyond the proposed subdivision, the City Administrator or designee may waive the requirement for adjacent utility line construction at the time of final plat approval and prior to construction of the subdivision.

F. Design and construction. All water facilities within a subdivision shall be designed and constructed to the standards as set forth by the water utility provider. Said facilities shall meet all state and federal regulations pertaining to approved public water systems including regulations regarding the preparation, submittal and approval of plans and specifications for water systems. Design of water facilities shall also be in conformance with all laws, policies, standards, rules and regulations for establishing the fire insurance key rate for the City.

Sec.10.02.031 Wastewater Utility

A. Wastewater collection and treatment required. All lots, tracts or parcels on which development is proposed shall be served by an approved means of wastewater collection and treatment.

B. Public wastewater connection. Any development occurring within two hundred fifty feet (250') of an existing or proposed public wastewater line shall extend and connect to the existing public facilities.

C. Alternative wastewater systems. When a subdivision is not required to connect to a public wastewater system due to distance or the granting of a plat waiver, an alternative wastewater system may be provided. The City Administrator or designee will make the final determination of the adequacy of the proposed system.

1. On-site sewage facilities (OSSF). The use of OSSF for the treatment and disposal of wastewater shall be subject to the approval of the City. The minimum lot area for residential subdivisions shall be one-half (½) acre (21,780 square feet). The minimum

lot area for non-residential subdivisions shall be one (1) acre. OSSF shall be installed on each lot concurrent with any development thereon and the design of such system and the method of installation shall conform in all respects to the standards and specifications of the City, County and State design criteria for OSSF.

- D. Extension of lines. All laterals and sewer mains installed within a subdivision must extend to the borders of the subdivision as required for future extensions of the collection system, regardless of whether such extensions are required for service within the Subdivision. If due to physical constraints, a new subdivision will never be constructed beyond the proposed subdivision, the City Administrator or designee may waive the requirement for adjacent utility line construction at the time of final plat approval and prior to construction of the subdivision.
- E. Design and construction. All wastewater facilities within a subdivision shall be designed and constructed to the standards as set forth by the wastewater utility provider. Said facilities shall meet all state and federal regulations pertaining to approved public water systems including regulations regarding the preparation, submittal and approval of plans and specifications for wastewater systems.

Sec.10.02.032 Electrical Utility

- A. Electricity required. All lots, tracts or parcels on which development is proposed shall be served by an approved means of electricity.
- B. Electrical connection. Any development occurring within five hundred feet (500') of an existing or proposed electrical line shall extend and connect to the existing public facilities.
- C. Alternative electrical service providers. When a subdivision is not within the City of Caldwell electrical service territory the subdivision shall be serviced by the other electric service provider.
- D. Design and construction. All electrical services within a subdivision shall be designed and constructed to the standards as set forth by the electrical utility provider and the City's adopted Electrical Code. Said facilities shall meet all City, state and federal regulations pertaining to approved public electrical systems including regulations regarding the preparation, submittal and approval of plans and specifications for electrical systems.

Sec.10.02.033 Drainage

- A. Areas within the jurisdiction of the city, subject to flood conditions or indicated by a floodplain prefix on the zoning district map, will not be considered for subdivision purposes, until adequate drainage has been provided.
- B. The physical design of the proposed subdivision or development shall conform to the minimum storm sewer, drainage and floodplain criteria and standards set forth in the City's Infrastructure Design, Specifications Guidelines, as amended; provided, however, that notwithstanding anything contained therein to be contrary, the Planning and Zoning Commission (P&Z) and/or the city council may require for a development plan approved by the City Council, that:
 - 1. Excepting construction associated with public infrastructure crossings or stormwater detention in the fully developed FEMA floodplain, the 100-year (hereinafter "one percent chance") floodplain must be kept in its natural state and that no construction or construction-related activity shall be allowed therein; or
 - 2. If such construction or construction-related activity is allowed, that there shall be zero increase in the one percent chance water surface elevation and zero increase in the water velocity on any property upstream, downstream or on the opposite bank and/or lot (if under different ownership) from the proposed construction or construction-related activity.

The one percent chance floodplain referred to herein is divided into two different component

areas identified as the "fully developed FEMA floodplain," and the "special flood hazard area (FEMA floodplain)," as such components are further described in this chapter.

C. Fully developed FEMA Floodplain.

1. The fully developed FEMA floodplain shall mean the special flood hazard area (FEMA floodplain) that would be inundated by the one percent annual chance (100-year) flood based on the most recent FEMA, FIRM study (i.e., fully developed flows).
2. No construction or construction-related activities and no structures or uses are allowed in the fully developed FEMA floodplain.
3. Exception: If such construction, construction-related activity, structure or use is allowed, there shall be zero increase in the fully developed water surface elevation and zero increase in the water velocity on any property that is upstream, downstream, or on the opposite bank and/or lot (if under different ownership) from the proposed construction or construction-related activity.
4. A hydraulic study must be provided by a licensed professional engineer for review by the City to verify conformance with the above-identified exception(s).
5. Any request for an exception must be presented to the City Council for their review and approval.

D. Special Flood Hazard Area (FEMA Floodplain).

1. The special flood hazard area (FEMA floodplain) is the land in the floodplain within the City subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the flood hazard boundary map ("FHBM"). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V. The special flood hazard area is known as the FEMA floodplain, which area is reflected within the flood insurance study and the boundaries shown on the City's flood insurance rate map ("FIRM") panels.
2. No construction or construction-related activities and no structures or uses are allowed in the special flood hazard area (FEMA floodplain).
3. Work within the FEMA floodway designated area is prohibited.
4. Exception: If such construction, construction-related activity, structure or use is allowed, there shall be zero increase in the one percent chance water surface elevation and zero increase in the water velocity on any property that is upstream, downstream, or on the opposite bank and/or lot (if under different ownership) from the proposed construction or construction-related activity.
5. Exception to the designated FEMA floodway: If such construction, construction-related activity, structure or use is allowed, there shall be zero increase in the one percent chance water surface elevation and zero increase in the water velocity on any property that is upstream, downstream, or on the opposite bank and/or lot from the proposed construction or construction-related activity. Only subdivisions platted after the effective date of this section are permitted to receive an exception for floodway reclamation. Subdivisions platted prior to the effective date of this section are ineligible to receive the floodway reclamation exception. Platted and re-platted lots and lots of record are ineligible to receive the floodway reclamation exception regardless of the plat or re-plat date.
6. A hydraulic study must be provided by a licensed professional engineer for review by the City to verify conformance with the above-identified exception(s) criteria.
7. Any request for an exception must be presented to the City Council for their review and approval. Upon approval of the exception by City Council, the applicant must provide the City a conditional letter of map revision (CLOMR) application. After City review of the

- CLOMR, the developer must submit the application to FEMA for FEMA's review and approval. No construction or construction-related activity may begin prior to receipt of FEMA's approval of the CLOMR and a City approved floodplain development permit.
8. Upon completion of the reclamation activity an as-built survey and a revised hydraulic model are to be provided to staff for review of conformance with the approved exception. Upon verification of compliance, a letter of map amendment (LOMR) application is to be submitted, by the developer, to FEMA for their review and approval.
 9. Prior to receiving FEMA's LOMR approval, any structure situated within the reclamation area or which has its foundation or footing affected by the fill placed within the reclamation area will not receive a building permit.
 10. Letter of compliance will be issued and the floodplain development permit will be closed.

Sec.10.02.034 Easements

- A. Utility easements. Utility easements including but not limited to water, wastewater, electrical, television, telephone/telecommunication, and natural gas shall be provided for the installation of utilities and appurtenances in accordance with the requirements of the City as determined by the City Engineer; however, an easement shall not normally be required along the rear of any lots served by a dedicated alley.
 1. All new utility installations and appurtenances, including but not limited to electrical, gas, television, and telephone/telecommunication, shall be placed underground. The City Administrator or designee may grant a waiver to allow above ground utility installation when underground placement is deemed impractical due to physical constraints.
 2. Placement, arrangement, and depth of utilities within such easements shall be in accordance with the Infrastructure Design Standards, Specifications, and Details.
- B. Drainage easements.
 1. When a proposed subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a drainage easement conforming substantially with the line for such watercourse. The easement for such watercourse shall be determined by good engineering practice and may require improvement or realignment to ensure proper drainage of stormwater. The drainage easement may include park or open space dedication of any floodplain or low area involving hazard if built upon.
 2. Drainage or storm water easements may be constructed as open earth channels or concrete drainage structures and shall be maintained by the developer or assigns.
- C. Other easements. Additional easements for utilities and appurtenances, infrastructure maintenance, and public safety may be required by the City Engineer. These additional easements include but are not limited to emergency access easements, sidewalk easements, utility easements, sight visibility easements, maintenance easements, and retaining wall easements.
- D. Adjoining Areas. When the City Administrator or designee finds that easements in areas adjoining proposed subdivisions are necessary to provide adequate drainage or to serve such subdivisions with utilities, or drainage the subdivider shall obtain such easements.

Sec.10.02.035 Parkland Dedication

- A. Purpose
 1. The purpose of this section is to provide for the adequate provision of parkland and open space to meet the needs of a growing City population; for improvements to existing parkland; for establishment, maintenance and operation of a Parkland Dedication Fund; establish requirements and procedures for governing required dedications of parkland or

improvements to existing parkland by subdividers of land; and for cash payments-in-lieu of land by subdividers of land in certain cases.

2. It is hereby declared by the City Council that recreational areas in the form of parks and open spaces are necessary and for the public welfare and that the only adequate procedure to provide for parkland and park improvements is by integrating such a requirement into the procedure for planning and developing property or subdivisions in the City, whether such development consists of new residential construction on vacant land or the addition of new dwelling units on existing residential land. It is the policy of the City to require subdividers of residential subdivisions and lots to provide for parkland and park facilities at the time of development approval in proportion to the need for such improvements created by the developments and in proportion to the benefits received from contribution of such facilities.
- B. Applicability. The parkland dedication and park development requirements of this section shall be applicable to every residential (single-family and multifamily) subdivision developed under the provisions of this ordinance, whether such subdivision consists of new residential construction on vacant land or the addition of new dwelling units on existing residential land, within the City limits.
- C. Parkland design requirements
 1. Usable land. At least twenty-five percent (25%) of proposed parkland dedication site shall be level, well drained and suitable for open play. Such land shall be located outside of any special flood hazard areas identified on the most recently approve FEMA FIRM map and shall not exceed five percent (5%) slope.
 2. Access. Access to parkland designated on a subdivision plat shall be provided by the dedication of at least two-hundred feet (200') of street frontage in a manner satisfactory to the City, preferably at the corner of two (2) intersecting streets. When the land abutting the designated parkland is developed, the subdivider of such abutting land shall furnish and pay for all paving of all abutting street frontage.
 3. Utilities. Water and wastewater connections shall be readily available at the park site with water and wastewater lines located along the street frontage. The applicant must demonstrate to the satisfaction of the City that sufficient utilities are available to serve the park.
 4. Drainage improvements. Any detention ponds and/or other drainage facilities to be constructed in areas that are to be dedicated as parkland must be designed and constructed to also allow for recreational use. The subdivider may be required to demonstrate that the design, placement and construction of such ponds meet the requirements of the City.
 5. Floodplain. Any land dedicated to the city under this section must be suitable for park and recreation uses. Consideration will be given to land that is in the floodplain or may be considered "floodable" even though not in the federally regulated floodplain as long as due to its elevation, it is suitable for park improvements.
 - a) Neighborhood park sites shall be adjacent to residential areas in a manner that serve the greatest number of users.
 - b) Neighborhood park sites shall be located in a manner where, if at all possible, the first consideration is that users are not required to cross arterial roadways to access them.
 6. Trails. Extensions of the city's trail network and trail linkages, other than extensions of the primary trail network as depicted in the comprehensive plan, shall be included in the calculation of the amount of park and recreational area dedicated pursuant to this division.

- a) Trail standards. Trails constructed within public or private open space and park and recreational areas, or trails providing access to such areas, shall conform to the following standards:
- b) General. Unless specified otherwise, all such trails shall be constructed of concrete and shall conform to the requirements of the Americans with Disabilities Act, as may be amended. Specifications for concrete, bollards and signs shall be provided by the City's parks and recreation division.
- c) Installation. The developer shall be responsible for the installation of trails.
- d) Shared Use Paths (SUPs). Are designated as multipurpose trails in the parks and trails plan shall be a minimum of twelve feet (12'); ten feet (10') if right-of-way constraints exist.
- e) Auxiliary trails. Walkways within open space areas not linking to a multipurpose trail shown in the parks and trails plan shall be a minimum of six feet (6') in width.
- f) Connector. All access walkways linking to the multipurpose trail network shown in the parks and trails plan shall be a minimum of six feet (6') in width.

D. Dedication and improvement

- 1. Land dedication. The subdivider of a residential (including multifamily) subdivision shall dedicate to the City developed improved parkland in the amount as established within the fee schedule adopted by the City Council. Parkland shall be shown on the final plat establishing a residential (including multifamily) subdivision and shall contain the dedication of an area of land for park purposes meeting the requirements set out in this section.
- 2. Development of areas smaller than two (2) acres. The development of park areas smaller than two (2) acres for public park purposes is deemed to be impractical. If fewer than two (2) acres are proposed to be created by a plat, then prior to filing the plat, the subdivider shall be required to pay to the City the applicable cash payment-in-lieu of land. No plat showing a dedication of less than two (2) acres for a public park shall be approved by the City Council.
- 3. Improvements. A subdivider dedicating parkland shall improve the public parkland with improvements approved by the City Administrator or designee. The minimum value for the improvements should be roughly proportionate to the amount the subdivider would be required to pay as fee-in-lieu for parkland development if they were not dedicating land. Design, specification, and construction of the improvements shall be subject to review and approval by the City. No final plat shall be recorded for any subdivision in which completion of the required improvements has not been accepted by the City unless a parkland improvement agreement has been approved and executed with an adequate financial surety provided.
- 4. The following requirements shall be met before land required to be dedicated pursuant to this division shall be accepted by the city. The developer or applicant shall meet with the City Administrator or designee to ensure compliance with the following requirements:
 - a) The owner and/or developer shall agree that no construction materials be disposed of or deposited within the park by its contractors, subcontractors, employees or agents at any time while the subdivision is being built. If materials are deposited or disposed of within the park, the owner and/or developer will be required to remove these materials within 72 hours of written notice by the city.
 - b) Each corner of the park land to be dedicated shall be marked with a permanent

monument consisting of three-fourths-inch iron pins set in concrete. These shall be located and identified on a recordable land survey completed by a land surveyor registered in the state and provided to the city by the owner and/or developer.

- c) Before the city accepts land, the developer shall clear and grade the land as approved; remove all trash, dead trees and other nonusable material; and spray with an approved herbicide to eliminate dangerous and undesirable plant materials, such as briars, poison ivy, bull nettles and similar undesirable plant materials. Before spraying is begun, the plant selection to be treated and herbicide shall be approved by the City Administrator or designee. The developer shall establish permanent grass by the appropriate methods dependent on season at the approval of the City Administrator or designee. Should the planting of rye grass be necessary during the winter months, the developer shall pay to the city an amount equal to the cost of permanent grass seed to be planted at the proper time as determined by the city.
- d) The developer shall provide for adequate drainage through the proposed park to eliminate standing water and health hazards, to be approved by the City Administrator or designee.
- e) A water main and any other utilities deemed appropriate by the city shall be stubbed to the park area of a size and location specified by the City Administrator or designee to provide for future utility needs of the park.
- f) Proper vehicle access shall be provided to enable tractors, trucks, and other similar vehicles to enter the park.
- g) Sidewalks shall be constructed adjacent to or on park land to provide contiguous walkways on all sides of the adjoining development, unless this requirement is waived by the city.
- h) Signage designating the area as parkland shall be supplied by the developer and/or owner and shall be designed and installed according to the specifications outlined in the city's adopted standard detail.
- i) Exceptions to the criteria contained in this section may be waived or modified by the city council.

E. Fee-in-lieu

- 1. Right to request waiver of dedication requirements. A subdivider obligated to make a dedication of land may request the City waive the required dedication of land, in whole or in part, and to accept a cash payment-in-lieu of land dedication. Any request for a waiver to the land dedication requirements shall be subject to review and approval by the City Administrator or designee. The City Administrator or designee may, for any reason, elect to present the waiver request for approval to the City Council.
- 2. Required fee-in-lieu of land dedication and improvements. Any subdivider who is required to make a cash payment-in-lieu of land dedication and improvements or who is granted a waiver in accordance with this ordinance, shall make a cash payment-in-lieu of land and improvements in accordance with this section. The amount of such cash payment-in-lieu of land shall be calculated by multiplying the number of dwelling units proposed to be established by the plat times the amount per dwelling unit as established in the fee schedule set from time to time by the City Council. A cash payment-in-lieu of land and improvements shall be made prior to the recordation of the final plat.

F. Neighborhood Park and Recreation Improvement fund.

- 1. The City shall reserve all fee-in-lieu of payments and any accrued interest from the fee-in-lieu of parkland dedication or fee-in-lieu of parkland improvement in a separate account

from the general funds of the City. This fund shall be known as the Neighborhood Park and Recreation Improvement Fund.

2. The City shall deposit sums collected as cash payments-in-lieu of land and cash payments-in-lieu of improvements in the Neighborhood Park and Recreation Improvement Fund. The City shall expend such funds collected for the acquisition of land or for the improvement of existing parks on a first in, first out basis.
3. The City shall maintain records detailing the receipts and expenditures for the Parkland Dedication Fund. All funds deposited as credit for fee-in-lieu of parkland dedication or improvement may be utilized for the acquisition of new parkland and/or the development of new or existing parkland within the City.

G. Parkland dedication procedure

1. Dedication procedures. The owner of property for a residential subdivision shall be required at final plat approval to dedicate parkland. Dedication of parkland shall be evidenced by a formal dedication on the plat to be recorded. The land so dedicated and conveyed shall not be subject to any reservations of record, encumbrances of any kind, or easements, which in the opinion of the City will interfere with or materially increase the cost of making such land available for parks or recreational purposes.
2. Right to accept/reject land. If the City determines that sufficient park area is already in the public domain within proximity of the proposed development, or if the recreation needs for the area would be better served by expanding or improving existing parks, the City has the right to accept the dedication or to refuse same and require a cash payment-in-lieu of land and improvements.
3. Development of Subdivision in Phases. If a subdivision is to be developed in phases and the final platting of the park area to be dedicated is to be included in a future phase, then the subdivider shall be required to enter into a Parkland Improvement Agreement and provide sufficient security for the land and improvements.

- H. Parkland Improvement Agreement. The property owner or applicant may request to defer the obligation to dedicate parklands and/or develop parklands until after a final plat recordation. The request shall be submitted in writing and specify what is requested for deferral. Deferral of the obligation to dedicate parkland and/or develop parklands shall be conditioned on execution of an Improvement Agreement and provision of sufficient security. The City Administrator or designee may approve or deny the request to defer obligations to dedicate parkland dedication and/or develop parklands. A Parkland Improvement Agreement may be required for phased subdivisions where the parkland dedication is placed in a future phase.

Section 3. If any provision of this Ordinance is illegal, invalid, or unenforceable under present or future laws, the remainder of this Ordinance will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Ordinance.

Section 4. This Ordinance shall be cumulative of all provisions of ordinances of the City except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

Section 5. This Ordinance shall be construed and enforced in accordance with the laws of the state of Texas and the United States of America.

Section 6. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 7. That all rights and privileges of the City and individual landowners are expressly saved as to any and all pending permits or violations of the provision of any ordinances repealed by this ordinance which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violation and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 8. This Ordinance shall be in full force and effect after its final passage and approval by the City Council, as duly attested by the Mayor and City Secretary, and any publication required by law.

PASSED AND APPROVED in substantial form, by the City Council of the City of Caldwell on this the 15th of April, 2025.

CITY OF CALDWELL, TEXAS

APPROVED

Janice Easter, Mayor

Attest:

Melissa Gonzalez, City Secretary