

**City of Lorena, Texas
Subdivision Ordinance**

Ordinance No.2015-0618-01

Amended: 7-16-2018

Amended: 8-19-2019

Amended: 6-21-2021

Amended: 6-19-2023

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ARTICLE 1 – GENERAL

SECTION 1.01 AUTHORITY

This ordinance is adopted under the authority of the Constitution and laws of the State of Texas, including Chapter 212 of the Texas Local Government Code as amended.

SECTION 1.02 PURPOSE AND POLICY

A. Generally. These subdivision regulations are designed and intended to achieve the following purposes and shall be administered so as to achieve the following purposes:

1. To promote the health, safety, morals and general welfare of the community and the safe, orderly and healthful development of the City;
2. To establish adequate policies and procedures to guide development of the City and its extraterritorial jurisdiction;
3. To provide for the establishment of minimum specifications for construction and engineering design criteria for public works improvements to maintain land values, reduce inconveniences to residents of the area, and to reduce related unnecessary costs to the City for correction of inadequate facilities that are designed to serve the public;
4. To ensure that development of land and subdivisions shall be of such nature, shape and location that utilization will not impair the general welfare;
5. To ensure against the dangers of fires, floods, erosion, landslides, or other such menaces;
6. To preserve the natural beauty and topography of the City and to ensure appropriate development with regard to these natural features;
7. To realistically and harmoniously relate new development of adjacent properties;
8. To provide the most beneficial circulation of traffic throughout the City, having particular regard to the avoidance of congestion in the streets and highways, and pedestrian traffic movements; and to provide for the proper location and width of streets;
9. To ensure that public facilities for water supply, drainage, disposal of sanitary and industrial waste, and parks are available for every building site and with adequate capacity to serve the proposed development before issuance of a certificate of occupancy or release of utility connections or final inspection within the boundaries of the plat;
10. To assure that new development adequately and fairly participates in the dedication and construction of public works improvements that are necessitated by or attributable to the development or that provide value or benefit that makes the development feasible;
11. To help prevent pollution, assure the adequacy of drainage facilities, control storm water runoff, safeguard the water table, and encourage the wise use and management of natural resources throughout the City and its extraterritorial jurisdiction in order to preserve the integrity, stability, and beauty of the community and the value of the land; and
12. To provide for open spaces through the most efficient design and layout of the land, while preserving the land use intensity as established in the Zoning Ordinance of the City.

- B. **Policy.** To carry out the purposes hereinabove stated, it is the policy of the City to guide and regulate the subdivision and development of land in such a manner as to promote orderly growth both within the City, and where applicable, within its extraterritorial jurisdiction.
- C. **Disapproval.** Proposed plats or subdivisions which do not conform to the policies and regulations shall be denied, or, in lieu of denial, disapproved conditioned on conformance with conditions.
- D. **Nexus.** There shall be an essential nexus between the requirement to dedicate rights-of-way and easements and/or to construct public works improvements in connection with a new subdivision and the need to offset the impacts on the City's public facilities systems created by such new development.
- E. **Compliance with Federal Regulations.** The applicant is responsible for compliance with applicable federal regulations which may apply to a development, including any required permits or approvals from the United States Army Corps of Engineers, the Environmental Protection Agency and the Texas Commission on Environmental Quality.

SECTION 1.03 ADEQUATE PUBLIC FACILITIES

- A. **Generally.** Land proposed to be subdivided must be served adequately by essential public facilities and services, including water and sanitary sewer facilities, roadway and pedestrian facilities, drainage facilities and park facilities. An application for a plat or development may be denied unless adequate public facilities necessary to support and serve the development exist or provision has been made for the facilities, whether the facilities are to be located within the property being platted or offsite.
- B. **Dedication.** It is necessary and desirable to provide for dedication of rights-of-way and easements for public works improvements to support new development at the earliest stage of the development process.
- C. **Mitigation.** The City desires to assure that impacts of new development are mitigated through contributions of rights-of-way, easements and construction of capital improvements, and that a new development be required to contribute not more than its proportionate share of such costs.
- D. **Conformance.** Proposed public works improvements serving new development shall conform to and be properly related to the public facilities elements of the City's adopted Comprehensive Plan, other adopted master plans for public facilities and services, and applicable capital improvements plans, and shall meet the service levels specified in such plans.

SECTION 1.04 MINIMUM STANDARDS

- A. **Generally.** The standards established in this Ordinance for dedication and construction of public works improvements are based upon engineering studies and historical usages and demands by different categories of development. These regulations identify certain minimum requirements and sizes for utilities, roadways, parks and other facilities that the City Council has determined to be necessary in order to provide the minimum level of service necessary to protect or promote the public health, safety, and welfare and to assure the quality of life currently enjoyed by the citizens of Lorena. It is the intent of these regulations that no development occurs until and unless these minimum levels of service are met. Therefore, each subdivision in the City shall be required to dedicate, construct and/or upgrade required facilities and infrastructure to a capacity that meets these minimum levels.
- B. **Basis for Standards.** For each category of public infrastructure, a minimum standard of infrastructure, and in some cases, service level, has been developed based upon historic studies and construction projects of the City and other cities. These minimum standards take into consideration the soil conditions and topographic configuration of the City, and other historical use and performance experiences of the City that reflect the

minimum level of facilities and services that must be built to meet the health, safety and welfare of the citizens of Lorena.

- C. **Denial If Adequate Levels Not Met.** In order to maintain prescribed levels of public facilities and services for the health, safety and general welfare of its citizens, the City may require the dedication of easements and rights-of-way for or construction of on-site or off-site public works improvements for water, sanitary sewer, road, drainage or park facilities to serve a proposed development, or require the payment of fees in lieu thereof. If adequate levels of public facilities and services cannot be provided concurrent with the schedule of development proposed, the City may deny the subdivision until the public facilities and services can be provided, or require that the development be phased so that the availability and delivery of facilities and services coincides with the demands for the facilities created by the development.
- D. **Reimbursement.** Whenever the City Council determines that levels of service in excess of these minimum standards are necessary in order to promote the orderly development of the City, the owner shall qualify for reimbursement for any costs in excess of the minimum levels of service through City participation, to the extent funds are available by a pro rata reimbursement agreement or other means adopted by the City.

SECTION 1.05 ADEQUACY OF SPECIFIC FACILITIES

- A. **Water.** 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 fire protection. Minimum fire flow pressures shall be as required by the City. Additional standards and requirements are defined in Article 8 hereof.
- B. **Wastewater.** All lots, tracts or parcels on which development is proposed shall be served by an approved means of wastewater collection and treatment. The City Engineer shall be responsible for determining the approved means of wastewater collection and treatment. The City may require the phasing of development and/or improvements in order to maintain adequate wastewater capacity. Additional standards and requirements are defined in Article 8 hereof.
- C. **Streets and Thoroughfares.**
 - 1. New development within the City must be supported by an adequate network of thoroughfares. Thoroughfares are an essential component of the City's street network and are necessary to accommodate the continuing growth and development. It is necessary and desirable to obtain rights-of-way for off-site, abutting and internal thoroughfares to support new development at the time of platting or development of the land. The City desires to assure both that development impacts are mitigated through contributions of thoroughfare rights-of-way and improvements and that a subdivision contribute not more than its fair share of thoroughfare costs.
 - 2. Proposed roads shall provide a safe, convenient and functional system for vehicular, bicycle and pedestrian circulation and shall be properly related to the applicable thoroughfare plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development. Additional standards and requirements are set forth in Article 7 hereof.
- D. **Drainage.** Drainage improvements serving new development shall be designed to prevent overloading the capacity of the downstream drainage system. The City may require the phasing of development, the use of control methods such as retention or detention or the construction of off-site drainage improvements, in order to mitigate the impacts of the proposed subdivision. Drainage improvements serving new development shall accommodate runoff from the entire upstream drainage area and shall be designed to prevent overloading

the capacity of the downstream drainage system. Additional standards and requirements are defined in Article 8 hereof.

SECTION 1.06 ENFORCEMENT

- A. **Building Permits.** Except as provided in Section 2.01, no permit for building, construction, repair, or plumbing or electrical work on any tract shall be issued until the approval and filing of a plat in the county plat records.
- B. **Utility Service.**
 - 1. The City shall be under no obligation to furnish any public utilities or allow any City services unless and until a plat meeting all rules, regulations, and requirements of this Ordinance has been approved and filed in the county plat records.
 - 2. A person commits an offense if the person provides water or sewer service to any lot or tract of land or any part thereof unless and until a plat of such tract of land meeting the requirements of subsection 1 has been filed of record with McLennan County.
- C. Any person, firm or corporation who violates any provision of this Ordinance shall be guilty of a misdemeanor and shall be liable for a fine up to five hundred dollars (\$500.00) per offense. Each day of violation constitutes a separate offense upon conviction.
- D. In addition to pursuing the penalties and fines provided above, the City may bring additional legal action to insure compliance with this Ordinance, including injunction, abatement or other appropriate action or proceeding

SECTION 1.07 DEFINITIONS

- A. **General Rules.** For the purpose of this Ordinance, the following rules shall be applied in constructing, interpreting, or otherwise defining the terms and provisions hereof:
 - 1. Words used in the present tense shall include the future, words used in the singular number shall include the plural number and words used in the plural shall include the singular.
 - 2. The word "shall" is mandatory and the word "may" is permissive.
 - 3. The phrase "used for" shall include the phrases, "arranged for", "designed for", "intended for", and "occupied for", and shall apply exclusively to physical uses.
- B. **Definitions.** For the purpose of this Ordinance, certain words or terms applicable hereto are defined as hereinafter provided. Words and terms used in this Ordinance, but not defined in this Ordinance shall have the meanings ascribed thereto in the Zoning Ordinance of the City. Words and terms defined in both ordinances shall be read in harmony unless there exists an irreconcilable conflict, in which case the definition contained in this Ordinance shall control.

Acreage, Gross – The acreage included within the boundary of a subdivision.

Acreage, Net – The acreage included within the boundary of a particular subdivision, but excluding all public rights-of-way.

Adequate Public Facilities – Facilities determined to be capable of supporting and servicing the physical area and designated intensity of the proposed subdivision as determined by the City and based upon specific levels of service.

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Administrative Official – The City Manager, or the City Manager's designated representative, authorized to enforce and administer the terms of this Ordinance.

Administratively Complete: An application for a preliminary plat, replat or final plat shall be considered administratively complete upon the occurrence of all of the following: (1) the City staff and the City Engineer have determined that the application for a preliminary plat, replat and/or final plat meets all requirements of applicable City ordinance so that it may be reviewed by the Planning and Zoning Commission or City Council; (2) the preliminary plat, replat and/or final plat has been placed on a duly posted agenda for the Planning and Zoning Commission or City Council; and (3) the Planning and Zoning Commission or City Council has taken action on the preliminary plat, replat and/or final plat.

Alley – A public or private right-of-way which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

Applicant – The owner of land proposed to be subdivided or the owner's authorized representative.

Base Flood or 100-year Flood – The flood having a one (1%) percent chance of being equaled or exceeded in any given year.

Block – A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shore lines of waterways, or boundary lines of municipalities.

Bond – Any form of security, other than a cash deposit, to be used as surety or as a guarantee in an amount and form satisfactory to the City.

Build – To erect, convert, enlarge, reconstruct, restore, or alter a building or structure.

Building – Any structure which is built for the support, shelter or enclosure of persons, animals, chattels, or moveable property of any kind.

Building, Line – A line, generally parallel to a lot line or street right-of-way, located the required distance to provide the minimum yards established by the Zoning Ordinance, as amended, to limit the area in which buildings are permitted.

Building, Main – A building in which the principal use of the lot on which it is situated is conducted. In a residential district, any dwelling shall be deemed to be a main building on the lot on which it is situated.

Building Setback Line – The line on a plat delineating the nearest point to which a building or other structure may be located to a street line, alley line or building lot line.

Certified Planner – A member in good standing of the American Institute of Certified Planners.

City – The City of Lorena, Texas.

City Engineer – A person appointed to serve as City Engineer or authorized to act in such capacity.

Commission or Planning and Zoning Commission – The Planning and Zoning Commission of the City.

Common Area – A private lot(s) established, owned and maintained by a homeowners' association or a property owners' association.

Comprehensive Plan – A series of planning documents intended to guide the growth and development of the City and its adjoining areas including, but not limited to, the City's Comprehensive Land Use Plan, Thoroughfare Plan, Master Water Plan, Master Wastewater Plan, and Parks/Trail Master Plan.

Council – The City Council of the City.

County Plat Records – The plat records of McLennan County, Texas.

Cul-De-Sac – That street or part of a street having one common entry and exit and no other entry and/or exit.

Curvilinear Design – Any street segment which is designed with a degree of curvature not less than 3° 30' and not greater than 22° 55', and which shall offset a minimum distance of thirty (30) feet, said offset being measured perpendicular to the initial tangent line of the curve.

Density, Gross – The number of dwelling units per gross acre.

Density, Net – The number of dwelling units per net acre.

Design Standards – The documents (Design Criteria & Improvements) adopted by the City that establish the minimum criteria for the design of public works improvements.

Developer – The owner of land proposed to be subdivided or developed, or the developer's representative. A subdivider is a developer.

Development – Any activity that requires the submission of a plat or the securing of a building permit, or any manmade change to real estate, including, but not limited to, construction of a building or structure, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials. A subdivision is a development.

Easement – A grant of one or more of the property rights by the property owner to; and/or for; the use by the public, a corporation, or another person.

Easement, Common Access – An easement intended to provide shared access to and from a development. It may be public or private.

Easement, Drainage – (Abbreviated D.E., typically D. + U.E. when combined with utility easements) an easement for the purpose of the overland or underground transfer of storm water.

Easement, Emergency Access – An easement for the purpose of ingress, egress, access, and passage to and across private property for police, fire and other governmental vehicles and personnel.

Easement, Maintenance and Access – An easement for the purpose of accessing and maintaining private structures located adjacent to a common lot line, typically used along the "zero lot line" property lines within a subdivision.

Easement, Pedestrian Access – An easement for the purpose of pedestrian ingress, egress and passage to and across private property.

Easement, Private – An easement granted by a property owner to a specified person, group of persons or entity in, on, across, over, or under property for a specified use or uses.

Easement, Public – An easement granted to the public or governmental agency in, on, across, over or under property for a specified use or uses.

Easement, Screening – An easement granted to a homeowners' or property owners' association for the construction and perpetual maintenance of a screening device along the perimeter of a subdivision.

Easement, Utility – An easement for the installation, maintenance, and operation of water, sewer, electric, telephone, cable, gas, and other similar utilities.

Engineer – A person who has been licensed and registered by the Texas State Board of Registration for Professional Engineers to engage in the practice of engineering in this state and listed in State Records as "Civil".

Escrow – Money placed in the possession of the City to guarantee the performance of an obligation.

Exaction Requirement – A requirement imposed as a condition of approval for a plat or other permit to accomplish the following:

1. Dedicate an interest in land for a public works improvement;
2. Construct a public works improvement; or
3. Pay a fee in lieu of constructing a public works improvement.

Extraterritorial Jurisdiction – The unincorporated area, not a part of any other municipality, which is contiguous to the corporate limits of the City of Lorena, the outer boundaries of which are measured from the extremities of the corporate limits of the City outward for such distances as prescribed in Chapter 42 of the Texas Local Government Code, as amended, according to the total population of the City and by interlocal agreements with surrounding cities.

Feeder Line – an electrical line that emanates from an electrical substation or hub for distribution throughout a local area.

Filing Date – The Filing Date means the date a preliminary plat, replat or final plat is considered by the City to be administratively complete and is heard by either the Planning and Zoning Commission or City Council.

Floodway – The channel of a watercourse and the adjacent floodplain that must be reserved to convey the base flood without cumulatively increasing the base flood elevation more than a designated height.

Floodplain – Any land area inundated by the base flood.

Frontage – That side of a lot, parcel, or tract abutting a street right-of-way and ordinarily regarded as the frontal orientation of the lot.

Lateral Line – An electrical line that emanates from a feeder line and is used for distribution to smaller areas of consumers, and is usually connected to a feeder line through a sectionalizing device such as a fuse or disconnection switch.

Local Residential or Minor Street – A public thoroughfare which is intended primarily to serve as access to residential property within a neighborhood interior or limited residential district and is not aligned or located to attract other than limited local traffic movements.

Lot – A parcel of land whose boundaries have been established by a recorded plat which is recognized as a separate legal entity for transfer of title.

Marker – A permanent iron rod generally used on lot corners, points of curvature and tangency.

Monument – A permanent concrete survey monument generally used on subdivision property corners adjacent to public.

Non-Residential Subdivision – A subdivision developed primarily for non-residential uses.

Off-Site – Any premises not located within the area of the property to be platted.

Owner – A person who has a fee simple title in land, or a person acting on behalf of or through authority granted by the owner.

Person – Any individual or group of individuals, general or limited partnership, joint venture, unincorporated association, any corporation, or governmental or quasi-governmental entity.

Plan for Development – A plan outlining the proposed use(s) of a tract or tracts of land, which provides the City fair notice of the intended project and the nature of the permit sought. It includes an application for approval of a plat or an application for approval of a zoning change or site plan which contains, at a minimum, a graphic depiction or sketch of the tract and describes the proposed uses of land and their location within the tract(s) and the general layout of streets and parks or other open spaces. It does not include any information or exhibit presented to (1) City staff for the purpose of seeking information regarding the applicable regulations or (2) the Commission or City Council unless the information or exhibit is required to be submitted with the permit application.

Plat – A plan or map of a subdivision of land showing all the essential dimensions and other information essential to comply with the plat standards of this Ordinance. A plat may be a preliminary plat, final plat, replat, amending plat, minor plat or development plat.

Plat, Amending – A plat which meets the requirements as set forth in Section 212.016 of the Texas Local Government Code.

Plat, Final – A plat which substantially conforms to the approved preliminary plat if required, and contains all or a portion of the property within the approved preliminary plat. A final plat as referred to in this Ordinance may also refer to replats, amending plats, and minor plats.

Plat, Minor – A plat which includes four or fewer lots and that fronts an existing street, and that does not require the creation of any new street or any public improvements.

Plat, Preliminary – The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Commission and City Council for approval.

Plat, Vacation – A plat that meets the requirements as set forth in Section 212.013 of the Texas Local Government Code, as amended.

Public Facilities System – With respect to water, sanitary sewer, roadway, drainage or parks, the facilities owned or operated by or on behalf of the City to provide services to the public, including existing and new developments and subdivisions. The public facilities system includes improvements to roads owned by the County or the State to the extent such improvements are necessitated by and attributable to a proposed development or subdivision.

Public Works Improvement or Public Improvement – A water, sanitary sewer, roadway, drainage or park facility that is intended to be dedicated to become a part of one or more of the City's public facilities systems.

Replat – A plat which revises currently platted lots or combines platted and unplatted property.

Residential Subdivision – A subdivision developed primarily for residential uses as enumerated in the City's Zoning Ordinance.

Retaining Wall – A structure constructed and erected between lands of different elevations to protect structures and/or prevent erosion by retaining or restraining lateral forces of soil or other materials.

Right-of-Way – (Abbreviated as ROW) Land conveyed by plat, or other legal instrument, to the public ownership and use for roadways, utilities and other public improvements. Land dedicated as right-of-way shall be owned by the City, whereas land dedicated by easement is owned by the land owner with a right of use given to the City.

Roadway – The traveled portion of a street upon which vehicles traverse and circulate, to include the area from back-to-back of the outer curb lines, or where curbs do not exist, said roadway includes the traveled area from the outer edges of the surfaced and prepared portion of the roadway, excluding shoulders, etc.

Service Line – An electrical line which, through a transformer, supplies electricity to a customer's service entrance.

Street – All property which is contained within fixed boundaries commonly referred to as right-of-way (ROW) lines, for the primary purpose of vehicular movement and circulation, and in which traveled roadways exist, along with various service utilities and sidewalks for pedestrian circulation.

Street, Arterial – A through street designed for the movement of heavy traffic volume, intended to carry traffic from collector streets to state/county highways.

Street, Internal – Generally a street whose entire width is contained within a development.

Street, Minor Collector – A street which is local in character and use but due to its configuration within the development, serves as a collector of local streets, thereby connecting them to a collector street.

Street, Perimeter – A street which abuts a development or one whose width lies partly within a development and partly without.

Street, Private – A street that is privately owned and maintained and that is not dedicated to the public for general use and maintenance.

Street, Residential – A street which is continuous through several districts and is intended as a connecting street between residential districts and a collector street providing access to major streets, business districts or places of employment.

Subdivide – The act or process of creating a subdivision.

Subdivider – A person who subdivides or seeks to subdivide land into two or more lots or to construct a structure on land that has not been platted.

Subdivision – The division of a tract or parcel of land situated within the City or the City's extraterritorial jurisdiction into two or more parts for the purpose of sale, lease or development. A division of a tract includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. A subdivision includes a replat and a one-lot subdivision of a tract which has not been previously platted. A division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated, shall not constitute the subdivision of land.

Surveyor – A person registered as a registered professional surveyor or licensed professional land surveyor by the Texas Board of Land Surveying.

System-Related Facility – A public works improvement or expansion that is for the use or benefit of the overall water, sanitary sewer, roadway, drainage, or park facilities systems, as applicable. A system-related facility has capacity larger than needed to serve a single new development and exceeds the minimum standards required. A system-related facility may include a public works improvement that is reflected in the capital improvement plan or the Comprehensive Plan. A system-related facility may be located off-site, within the development site, or on the perimeter of the development site.

Thoroughfare Plan – The master plan of major and secondary streets and highways which is a part of the City's Comprehensive Plan and adaptations, amendments or supplements thereto as adopted by the City Council.

Tract – All contiguous property in common ownership.

Transmission Line – An electrical line operated at a nominal voltage of 60,000 volts or higher that brings electricity from a generating plant to an electrical substation.

Utility – A company providing electrical, telephone, cable television, or cable- or wire-based data transmission services within the City.

Utility Provider – A person that provides a public or private utility or service to the general public, including but not necessarily limited to a municipal water, sewer or drainage utility, electric company, telephone company, natural gas company and a cable television provider.

Zoning Ordinance –The Comprehensive Zoning Ordinance of the City of Lorena.

SECTION 1.08 JURISDICTION

- A. **Applicability.** Subject to the provisions of this section, the regulations of this Ordinance shall apply to all land within the corporate limits and extraterritorial jurisdiction of Lorena.
- B. **Utilities.** The City shall be under no obligation to extend utilities beyond the limits of the area for which the City has a Certificate of Convenience and Necessity (CCN) from the Texas Commission on Environmental Quality or its successor. For property located within the City's CCN, the City shall extend utilities per the City's utility extension policy.

SECTION 1.09 GRADING PERMIT

- A. **Offense.** A person commits an offense if the person clears, grades, fills, dredges, and constructs public streets, utilities, or storm water or other improvements which may affect adjacent or surrounding properties without first obtaining a grading permit.
- B. **Application.** Application for the permit shall be made on a form furnished by the Administrative Official and shall be submitted with a fee, which shall be established by the City Council. The permit application shall describe the property and the nature of the development, and shall be accompanied by construction plans and specifications adequate to describe the improvements. The plans shall show the existing contours and the proposed contours in either one inch or two inch vertical intervals. All plans accompanying permits for any work within a floodplain shall be certified by an engineer.
- C. **Plans.** The site grading plans shall demonstrate the following:
 1. The work will not have any appreciable change in the site drainage characteristics or shall show the site modification and any mitigation measures necessary to accommodate the change;
 2. The grading will not adversely affect adjacent property owners;
 3. The grading will, to the extent possible, preserve trees and unique natural features (natural creeks, rock outcrops, karst features, etc.) in the site grading area such that the applicant demonstrates a valid reason for the removal of any protected trees, along with a description on how existing protected trees will be protected from damage during construction;
 4. That provision has been made for temporary and permanent erosion control measures; and
 5. All required federal and state approvals have been obtained.

The Administrative Official shall issue the permit when all conditions of this Ordinance have been satisfied.

D. **Post Grading Maintenance.** A person commits an offense if the person owns or develops property for which a grading permit has been issued and fails to maintain all temporary erosion control devices, as specified in the approved storm water pollution plan and grading permit, until permanent erosion controls have been established and approved by the City.

ARTICLE 2 – GENERAL PLATTING REGULATIONS

SECTION 2.01 PLATTING REQUIRED; EXCEPTIONS

A. **Generally.** Platting is required for the following purposes:

1. To create a building site and obtain a building permit on a single lot or tract;
2. To subdivide a lot or tract into two or more parcels for development of the parcels;
3. To combine lots or tracts; and
4. To amend a plat.

B. **Exemptions.** The following land divisions are exempt from the requirements of these regulations:

1. Sale, inheritance, or gift of land by metes and bounds description, of a tract of land upon which no improvements, development, subdivision or alteration is intended;
2. Use of existing cemeteries complying with all State and local laws and regulations;
3. A division of land created by order of a court of competent jurisdiction; and
4. A division of land that results in the creation of two or more parcels, each of which is greater than five acres, when each parcel has direct access to an existing public street, and no dedication of public facilities is required.

C. **Exceptions for Alterations.** No construction shall commence upon a tract prior to the recordation of a plat of the tract in the county plat records, except that a building permit may be issued on an unplatte tract within the City for any of the following purposes:

1. Residentially developed property not exceeding five (5) acres in size may obtain a building permit for additions to the main structure if such addition does not exceed fifty (50%) percent of the main structure;
2. Adding an accessory building or structure on an unplatte residentially developed lot provided a primary structure exists on the unplatte lot;
3. Restoring any residential building or structure on an unplatte residentially developed lot, destroyed by fire, explosion, or any other casualty or an Act of God where the extent of the destruction is not more than fifty (50%) percent of the current value of the structure; or
4. Replacement of a mobile home previously legally permitted and used or occupied as a residential dwelling with a HUD-code manufactured home.

SECTION 2.02 PRELIMINARY PLAT REQUIRED.

A. **Generally.** Approval of a preliminary plat is required for any proposed subdivision within the City which proposes five (5) or more lots or proposes any public works improvements prior to approval of a final plat. When subdividing a tract which proposes four (4) or fewer lots, the owner may elect to submit an application for approval of a final plat or a minor plat without obtaining approval of a preliminary plat. Any re-subdivision of existing platted lots shall require the submittal and approval of a replat or an amending plat.

B. **Inside City.** Within the City limits, a plat may be approved in two stages: a preliminary plat and a final plat.

C. **Within ETJ.** Within the extraterritorial jurisdiction of the City, only a final plat is authorized, unless the land to be platted is subject to an approved developer's or development agreement, in which case a preliminary plat may be authorized by the agreement.

SECTION 2.03 PLAT VACATION

A. **General Requirements.** The following must be submitted with any request to vacate a plat:

1. A complete plat vacation application form, as provided by the City, signed by all owners and identifying the plat to be vacated.
2. A non-refundable plat vacation processing fee in the amount established by City Council.
3. The signatures of approval of all representatives of all utilities serving the subdivision must be on the vacating instrument.
4. If improvements have been constructed within the area of an easement, the easement must be dedicated by separate instrument prior to the recording of the plat vacation.

B. **Submission to Council.** The request shall be placed before the Commission. Upon approval, it will be forwarded to the City Council for action.

C. **Effect of Plat Vacation.** Upon the execution and recording of the vacation instrument, the vacated plat or portion thereof shall have no effect.

SECTION 2.04 REPLAT

A. **Requirements.** A replat of a subdivision is controlling over the preceding plat without vacation of the plat if the plat:

1. Is signed and acknowledged by only the owners of the property being replatted;
2. Is approved by the City Council after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard;
3. Does not attempt to amend or remove any covenants or restrictions; and
4. When applicable, in compliance with subsection b. below.

B. **Replat for Residential Lots.** If any of the proposed property to be replatted, within the immediate preceding five (5) years, was limited by any interim or permanent zoning classification to residential use for not more than two residential units per lot, or if any lot in the approved subdivision was limited by deed restriction to residential use for not more than two residential units per lot, notice of the public hearing shall be given in accordance with state law.

C. **Note on Plat.** A replat shall contain a note describing the purpose of the change or modification framed in a bold line so as to be distinctly visible on the face of the plat.

D. **Process.** The application process, approval process, criteria for approval, and recordation of a replat shall comply with the processes as provided for a final plat, as applicable.

SECTION 2.05 MINOR PLATS

A. **Applicability.** An application for approval of a minor plat may be filed only when all of the following circumstances apply:

1. The proposed division results in four or fewer lots;
2. All lots in the proposed subdivision front onto an existing public street and the construction or extension of a street or alley is not required; and
3. The plat does not require any ROW dedication and/or the extension of any municipal facilities or public improvements to serve any lot within the subdivision.

B. **Criteria for Decision.** The Administrative Official, or the City Council on appeal, shall decide whether to approve, conditionally approve or deny the minor plat application based upon the following criteria:

1. The minor plat application is consistent with all zoning requirements for the property and all other requirements of this Ordinance;
2. All lots to be created by the plat already are adequately served by all required utilities and services, and
3. The plat does not require the extension of any municipal facilities or public improvements to serve any lot within the subdivision.

SECTION 2.06 AMENDING PLATS

An amending plat may be submitted in accordance with Texas Local Government Code 212.016, as amended and may be approved by an Administrative Official so long as the plat is in accordance with Texas Local Government Code and no dedication of ROW is required. Any corrections or conditions not listed in the statutory criteria for an amending plat will require full resubmittal of the plat and will be treated as a replat.

ARTICLE 3 – EASEMENT DEDICATIONS AND ROUGH PROPORTIONALITY

SECTION 3.01 EASEMENTS

A. Generally.

1. Easements for drainage, walkways, access and other comparable purposes shall generally be located along the side or rear or front lot lines and/or drainage flow lines and shall be labeled "Drainage Easement", "Pedestrian Access Easement", "Common Access Easement", "Maintenance and Access Easement", "Emergency Access Easement" or other specifically appropriate labeling on the final plat.
2. Unless otherwise recommended by the City Engineer, easements for all other public utilities shall be located within public rights of way (ROW) or front lot lines and shall be labeled "Utility Easement" on the final plat.
3. Unless otherwise recommended by the City Engineer, the developer shall dedicate a fifteen (15) foot general utility easement along the front lot line of each lot and any side lot line that is adjacent to a street. Easements shall be larger when the City Engineer determines necessary special conditions warrant.
4. To facilitate access from roads to schools, parks, playgrounds, the City may require perpetual unobstructed access easements for pedestrian or bicycle traffic.
5. Easements dedicated on the plat shall be deemed dedicated to the public and to the City unless specified otherwise.
6. Private streets shall be labeled as "Emergency Access and Utility Easements" in order to facilitate access for police, fire and other public safety and governmental vehicles and personnel and franchise utility and solid waste disposal vehicles and personnel.
7. The width of easements for utility providers other than the City, such as for water, gas, electric, telephone, cable television, or internet, shall be as required by that particular entity. It shall be the applicant's responsibility to determine appropriate easement widths required by other utility companies.
8. Wherever possible, easements shall be centered along front lot lines rather than across the interior or rear of lots.
9. Easements shall be dedicated as specified in the Zoning Ordinance. If necessary for the extension of water or sewer mains, storm drainage or other utilities, easements of greater width may be required along lot lines or across lots. In all cases, easements shall connect with easements already established in adjoining property to facilitate placement of utilities.

B. **Drainage Easement or Right-of-Way.** Where a subdivision is traversed by a watercourse, drainage way or channel, there shall be provided a storm drainage easement conforming substantially with such course and of such additional width as may be designated by the City Engineer, according to proper engineering considerations. The required width shall, under normal conditions, be measured from the centerline of creeks, ditches or drainage channels, conform to the requirements set forth by the Federal Emergency Management Agency (FEMA), the U.S. Army Corps of Engineers, and/or the City and shall be sufficient to accommodate the 25-year flood return elevation.

1. Utilities may be permitted within a drainage or floodplain easement only if approved by the City Engineer.
- C. **Drainage Piping Requirement.** Any drainage piping that is to be dedicated to the City shall be in an easement with a minimum width of the structure (i.e., pipe diameter or box width) plus fifteen (15) feet.
- D. **On-Site Easements.** All necessary on-site easements shall be established on the plat and not by separate instrument, and they shall be labeled for the specific purpose, and to the specific entity if other than the City, for which they are being provided.
- E. **Offsite Easements.** Any necessary easements not shown on the plat shall be procured by separate instrument, in a form approved by the City Attorney, and shall be the developer or property owner's responsibility. If the developer cannot obtain a required offsite easement, then the developer may request that the City assist in the acquisition of the easement. The developer must make an offer in writing, based on the fair market value of the easement, to the property owner from whom the easement is being sought. All costs of obtaining the easement shall be the responsibility of the developer or property owner and the City must be reimbursed for any costs incurred including its attorney's fees, condemnation award and any fees or expenses of litigation whether at the trial or the appellate level or both.
- F. **Common Access Easements and Cross Access Easements.** To reduce the congestion created by a number of drives along streets while maintaining adequate access to developments, the City may require that "common access easements" or "cross access easements" be dedicated at the corners of lots not intended for low-medium density residential developments when adjacent to lots of a similar use. These easements will typically be sixteen (16) feet in width and thirty-five (35) feet in length but may vary given the shape of the particular tract and traffic patterns.
- G. **Floodplain Easement.** In addition to the provision set forth in Ordinance No. 08-0616-01, as amended, "Flood Damage Prevention", Floodplain easement requirements are as follows:
 1. The 100-year floodplain shall be delineated and cited on the plat. Floodplain easements shall be provided along natural drainage ways and lakes or reservoirs. Floodplain easements shall encompass all areas beneath the water surface elevation of the 25-year flood, plus such additional width as may be required to provide ingress and egress to allow maintenance of the banks and for the protection of adjacent property as determined and required by the City Engineer.
 2. Modification of existing drainage courses shall only be done using methods and procedures compliant with Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), Texas Commission on Environmental Quality (TCEQ), U.S. Army Corps of Engineers and Texas Parks and Wildlife policies, as applicable.
 3. The City of Lorena shall maintain areas within floodplain easements. Maintenance of floodplain areas outside of floodplain easements shall be the responsibility of the property owner.
 4. The City shall have the right to have the ingress and egress for the purpose of performing maintenance work or to alleviate any undesirable conditions that may occur within floodplain easements.

SECTION 3.02 DEDICATION REQUIREMENTS

- A. **Division of Property.** Every owner of property which an application for approval of a development has been submitted shall be required to dedicate to the City that portion of such property as is necessary for the orderly

development of streets, roadways, thoroughfares, utilities, drainage improvements, or other public purposes. Such dedication requirements shall be a prerequisite to plat approval.

- B. **Effect of Approval/Disapproval on Dedication.** The approval of a plat is not considered an acceptance of any proposed dedication and does not impose on the City any duty regarding the maintenance or improvement of any dedicated parts until the City makes an actual appropriation of the dedicated parts by entry, use, or improvement. The disapproval of a plat is considered a refusal by the City of the offered dedication indicated on the plat.
- C. **Dedication and Construction of Improvements.** The developer shall dedicate all rights-of-way and easements for, and shall construct capital improvements within the rights-of-way or easements for those water, wastewater, road or drainage improvements needed to adequately serve a proposed development consistent with the applicable master facilities plans, whether the facilities are located on, adjacent to or outside the boundaries of the property being developed.
- D. **Facilities Impact Studies.** The City may require that a developer prepare a comprehensive traffic impact study, drainage study or other public facilities study to assist the City in determining whether a proposed development will be supported with adequate levels of public facilities and services concurrent with the demand for the facilities created by the development. A study shall identify at a minimum the adequacy of existing facilities and the nature and extent of any deficiencies, and the capital improvements needed to meet the adopted level of service assuming development at the intensity proposed in the development application. The study shall be subject to approval by the City Engineer. The City also may require, at the time of approval of a subsequent development application, an update of a public facilities study approved in connection with a prior development application.
- E. **Timing of Dedication and Construction.**

Deferral of Obligation. The obligation to dedicate rights-of-way for, or to construct one or more public works improvements to serve a new development may be deferred until approval of a subsequent phase of the subdivision, upon written request of the property owner, or at the City's own initiative. As a condition of deferring the obligation, the City shall require that the subdivider enter into a developer's agreement, specifying the time for dedication of rights-of-way for or construction of capital improvements serving the development.

SECTION 3.03 ROUGH PROPORTIONALITY DETERMINATION

- A. **Determination.** Prior to a decision on an application for approval of a plat or permit for which an exaction requirement is required as a condition of approval, the City Engineer shall affirm that each exaction requirement to be imposed as a condition of plat or permit approval is roughly proportionate to the demand created by the development on the City's public facilities systems, taking into consideration the nature and extent of the development proposed. In making this determination, the City Engineer may consider the following:
 - 1. Categorical findings and recommendations of the Heart of Texas Council of Governments in developing standard specifications for public works improvements;
 - 2. The proposed and potential use of the land;
 - 3. The timing and sequence of development in relation to availability of adequate levels of public facilities systems;

4. Impact fee studies, traffic impact studies, drainage studies or other studies that measure the demand for services created by developments and the impact on the City's public facilities system;
5. The function of the public works improvements in serving the proposed subdivision or development;
6. The degree to which public works improvements necessary to serve the proposed subdivision are supplied by other developments;
7. The anticipated participation by the City in the costs of necessary public works improvements;
8. The degree to which acceptable private infrastructure improvements to be constructed and maintained by the developer will offset the need for public works improvements;
9. Any reimbursements for the costs of public works improvements for which the proposed subdivision is eligible; and/or
10. Any other information relating to the impacts created by the proposed subdivision or development on the City's public facilities systems.

B. **Affirmation.** Based upon the proportionality determination, the City Engineer shall affirm that the exaction requirements of this Ordinance or other ordinance requiring the permit, as applied to the proposed subdivision or development, does not impose costs on the applicant for public works improvements that exceed those roughly proportionate to the impact of the proposed subdivision or development.

C. **Additional Information.** The City Engineer may require that the applicant, at its expense, submit any information or studies that may assist in making the proportionality determination.

SECTION 3.04 ROUGH PROPORTIONALITY APPROVAL

A. **Generally.** An applicant for an approval of a plat or permit which imposes an exaction requirement as a condition of approval may file an appeal to contest any exaction requirement, other than impact fees, imposed as a condition of approval or in which the failure to comply is grounds for denying the application.

B. **Purpose.** The purpose of a proportionality appeal is to assure that an exaction requirement imposed on a proposed development as a condition of approval does not result in a disproportionate cost burden on the developer, taking into consideration the nature and extent of the demands created by the proposed development on the City's public facilities systems.

SECTION 3.05 APPEALS PROCEDURE

A. **Requirements for Appeal.** An applicant seeking approval of a plat or any other type of permit or zoning for which an exaction requirement is imposed shall file a written appeal with the City Secretary within ten (10) days of the date the Commission or other City official takes action applying the exaction requirement. The applicant shall submit eight (8) copies copies of the appeal. A separate appeal form shall be submitted for each exaction requirement for which relief is sought. The City Secretary shall forward the appeal to the City Council for consideration.

B. **Postponement of Action on Plat.** The applicant may request postponement of consideration of the applicant's plat application by pending preparation of the study required by subsection d, in which case the applicant shall also waive the statutory period for acting upon a plat for the time necessary for the City Council to decide the appeal.

- C. **Basis for Appeal.** The appeal shall allege that application of the exaction requirement is not roughly proportional to the nature and extent of the impact created by the proposed subdivision or development on the City's public facilities systems and does not reasonably benefit the proposed subdivision or development.
- D. **Study Required.** The applicant shall submit to the City Engineer three (3) copies of a study in support of the appeal that includes, with respect to each specific exaction requirement appealed, the following information, within thirty (30) days of the date of appeal:
 1. Model of the subdivision's water, sanitary sewer, roadway, drainage, or park system, as applicable, from the point of connection to the existing public system, employing standard measures of capacity and equivalency tables relating the type of development proposed. Impacts on the existing public system will be reviewed by the City to determine if system upgrades are necessary. If the proposed subdivision is to be developed in phases, such information also shall be provided for the entire development, including any phases already developed;
 2. Comparison of the capacity of the applicable City utility to be consumed by the proposed subdivision or development with the capacity to be supplied to such systems by the proposed exaction requirement. In making this comparison, the impacts on the City's public facilities systems from the entire subdivision shall be considered;
 3. Comparison of the capacity of the applicable City public facilities systems to be consumed by the proposed subdivision or development with the capacity to be supplied to such systems by the proposed exaction requirement. In making this comparison, the impacts on the City's public facilities systems from the entire subdivision shall be considered;
 4. The amount of any City participation in the costs of oversizing the public works improvements to be constructed by the applicant in accordance with the City's requirements;
 5. Comparison of the minimum size and capacity required by City standards for the applicable public facilities systems to be utilized by the proposed subdivision or development with the size and capacity to be supplied by the proposed exaction requirement; and
 6. Any other information that shows the alleged disproportionality between the impacts created by the proposed development and the exaction requirement imposed by the City.
- E. **Evaluation.** The City Engineer shall evaluate the appeal and supporting study and shall make a recommendation to the City Council based upon the City Engineer's analysis of the information contained in the study and utilizing the same factors considered by the Engineer in making the original proportionality determination.

SECTION 3.06 CITY COUNCIL DECISION

- A. **Appeal Hearing.** After the applicant certifies to the City Secretary that all evidence has been submitted, the City Secretary shall schedule the appeal on an agenda of a meeting of the City Council, and shall cause the applicant to be notified, at the address given on the appeal form, of the date and place at which the Council will consider the appeal. The City Council shall endeavor to decide the appeal within thirty (30) days of the date of final submission of any evidence by the applicant. The applicant shall be allotted time to present his appeal at the City Council meeting and may introduce other testimony and shall be allotted thirty (30) minutes to present testimony in support of the appeal. The City Council shall endeavor to base its decision on the criteria listed in Section 3.03.a and Section 3.05.d.
- B. **Action.** The City Council may:

1. Deny the appeal and impose the exaction requirement in accordance with the City Engineer's recommendation or the Commission's decision on the plat or other development application; or
2. Grant the appeal, and waive in whole or in part an exaction requirement to the extent necessary to achieve proportionality; or
3. Grant the appeal, and direct that the City participate in the costs of acquiring land for or constructing the public works improvement.

C. **Factors.** In deciding an appeal, the City Council shall determine whether application of the exaction requirement is roughly proportional to the nature and extent of the impact created by the proposed subdivision on the City's public facilities systems for water, sanitary sewer, roadway, drainage, or park facilities, as applicable, and reasonably benefits the subdivision. In making such determination, the Council shall consider:

1. The evidence submitted by the applicant; and
2. The City Engineer's report and recommendation, considering in particular the factors identified in Sections 3.03.a and 3.05.d.

D. **Additional Information.** The City Council may require the applicant or the City Engineer to submit additional information that it deems relevant in making its decision.

E. **Modification.** The applicant shall not be deemed to have prevailed in the event that the City Council modifies the exaction requirement.

SECTION 3.07 ACTION FOLLOWING DECISION OF CITY COUNCIL

- A. **Decision to Modify.** If the City Council finds in favor of the applicant and waives the exaction requirement as a condition of plat approval, or modifies the exaction requirement to the extent necessary to achieve rough proportionality, the applicant shall resubmit the plat application to the Commission within thirty (30) days of the date the City Council takes action, with any modifications necessary to conform the plat with the City Council's decision. If the applicant fails to conform the plat to the City Council's decision within the thirty (30) day period provided, the relief granted by the City Council on the appeal shall expire.
- B. **Decision to Waive.** If the City Council finds in favor of an applicant for any other permit and waives the exaction requirement as a condition of permit approval, or modifies the exaction requirement to the extent necessary to achieve rough proportionality, the applicant shall resubmit the permit application to the responsible official within thirty (30) days of the date the City Council takes action, with any modifications necessary to conform the application with the City Council's decision. If the applicant fails to do so, the relief granted by the City Council shall expire.
- C. **Denial of Appeal.** If the City Council denies the appeal and the applicant has executed a waiver of the statutory period for acting upon a plat, the City shall place the plat application on the agenda of the Commission within thirty (30) days of the City Council's decision.
- D. **Additional Dwelling Units.** If the plat application is modified to increase the number of residential dwelling units or the intensity of non-residential uses, the City Engineer may require a new study to validate the relief granted by the City Council.
- E. **New Appeal Required.** If the plat application for which relief was granted is denied on other grounds, a new appeal shall be required on any subsequent application.

SECTION 3.08 APPEAL OF CITY COUNCIL DECISION

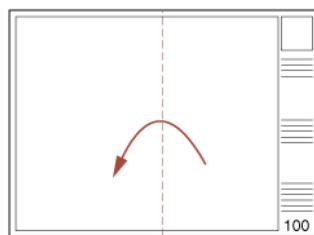
An applicant may appeal the decision of the City Council to the County or District Court of the county in which the development is located within thirty (30) days of the date that the Council issues its final decision.

ARTICLE 4 – REQUIREMENTS FOR PLAT SUBMITTAL

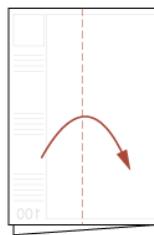
SECTION 4.01 SUBMITTAL

- A. **Pre-application Conference.** A property owner or applicant may request a pre-application conference with the Administrative Official for purposes of identifying requirements that are applicable to a proposed plat. The conference between a developer and City staff is intended to be of mutual benefit to the developer and the community by determining the suitability and type of development of a tract of land. This step also involves considerable planning which precedes actual preparation of the preliminary plat. The request shall be made in writing on a form prepared by the Administrative Official and shall state that any proposed development concept discussed at the pre-application conference is not intended as a plan for development or application for plat approval. If the request for the meeting is to present a plan for development or application presenting a plan for development or plat that describes the property, the proposed uses for the property and the permit which is sought, the Administrative Official shall process the plan or application unless the applicant executes a form that the plan is submitted only for the purpose of requesting information and is not intended to constitute an application.
- B. **General Development Plan.** The applicant shall prepare a general development plan for all subdivisions of five (5) lots or greater which will require public infrastructure improvements, or the tract initially proposed for platting is only a portion of a larger landholding of the development; or the tract is complicated by unusual physical, utility, land use, ownership, or other conditions. The general development plan shall include:
 - 1. The arrangement and correlation of street pattern, particularly collector streets and major street system, to provide good traffic circulation throughout the neighborhood and impact on existing streets.
 - 2. The general location and size of school sites, park and recreation areas, and other public areas.
 - 3. The location of shopping centers, multi-family residential, and other land uses.
 - 4. The proposals for water, sewer, drainage and retention/detention systems in relation to master plans where they exist for these facilities.
 - 5. The proposals for service as furnished by private utility companies.
 - 6. A summary of uses by type, number, and acreage.
 - 7. Identification of any flood prone areas and general proposals for such areas.
- C. **Processing of General Development Plan.** The Administrative Official shall process the general development plan as an application unless the applicant executes a form that the plan is submitted only for the purpose of requesting information and is not intended to constitute an application. A preliminary plat may not be submitted until the City has accepted the General Development Plan.
- D. **Application.** An applicant shall submit a written application for plat approval to the Administrative Official on forms prepared by the City, together with all required documents, such as studies, drawings, exhibits, or other ordinance requirements, in sufficient size and number as required by the Administrative Official, and any reasonable information requested by the Administrative Official to assist the City in its review of the application. The owner, applicant, or other authorized agent shall sign the application. Proof of agency shall be submitted by affidavit signed by all owners. The City may require evidence of fee simple title to the property.

E. Preparation and Reproductions. Each plat shall be prepared by an engineer or surveyor, trained and experienced in subdivision design. In addition to prints, the applicant shall also provide final plats in .pdf format. It shall be the responsibility of the applicant to verify the number of prints and mylars required for all submittals. A mylar of the final plat to be recorded bearing all appropriate signatures shall be submitted to the City for its records. Large format documents submitted for review shall be printed in landscape format with the title block located on the lower right corner. All large format documents shall be folded in the following manner:



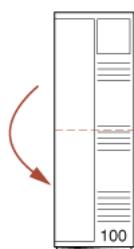
Step 1: Fold the drawing in half so that the content is concealed inside the fold.



Step 2: Fold the top leaf back over itself, which will be 1/4 of the original width.



Step 3: Fold the bottom leaf back under the top leaves. You now have an accordion folded sheet that is 1/4 the width of the full sheet and full height.



Step 4: Fold the top half of the sheet under the bottom half.

Step 5: For extra-large drawings, the drawing can be folded in half again.



F. **Fees.** The applicant shall consent in the application to be responsible for payment of legal and engineering and any other professional fees incurred by the City in connection with the processing of the application. Approval of the final plat or minor or amending plat shall be conditional until the applicant has paid the fees or has given security such as posting a deposit or bond.

SECTION 4.02 COMPLETENESS DETERMINATION

A. **Requirements for Processing Applications.** Every application for approval of a plat or plan for development shall include the following:

1. A completed application form signed by the owner or the owner's authorized agent;
2. Every item, study and document required by this Ordinance or other applicable ordinances for the type of plat being submitted, or required for a plan for development;
3. An application for approval of a plat or plan for development for property located within the City shall be accompanied by a copy of the zoning ordinance or other certification verifying that the proposed use for which the application is submitted is authorized by the zoning district in which the property is located;
4. A plat or plan for development application must conform to the zoning regulations applicable to the property at the time of the application, except as otherwise provided herein; and
5. An agreement to pay all fees incurred with the review and processing of the application, and a deposit, if payment has not been timely made for previous applications.

B. **Proper Zoning Required.** If a zoning change is contemplated for the property, the zoning change must be completed before the approval of any preliminary plat of the property. The City Council shall not approve a plat or plan for development which does not comply with the zoning requirements until any available relief from the Board of Adjustment has been obtained.

C. **Additional Requirements.** The Administrative Official and the City Engineer may from time to time identify additional requirements for applications that are not contained within but are consistent with the application contents and standards set forth in this Ordinance.

D. **Incomplete Application.** The processing of an application by any City employee prior to the time the application is determined to be administratively complete shall not be binding on the City as the official acceptance of the application for filing.

E. **Expiration of Application.** An application for approval of a plat or plan for development shall be deemed to expire on the forty-fifth (45th) day after the application is submitted to the Administrative Official for processing

if the applicant fails to provide documents or other information necessary to meet the requirements of this Ordinance as specified in the determination provided to the applicant.

F. **Denial of Application.** No vested rights accrue solely from the filing of an application that has expired pursuant to this section, or from the filing of a complete application that is subsequently denied.

SECTION 4.03 PRELIMINARY PLAT SUBMITTAL REQUIREMENTS

- A. **Applicability.** A preliminary plat must be prepared and approved for all subdivisions within the corporate limits of the City which do not meet the requirements for a minor plat or amending plat. A preliminary plat is neither authorized nor required in the City's extraterritorial jurisdiction, unless expressly authorized by an agreement between the City and the developer.
- B. **Submission.** The developer shall prepare and submit copies of the preliminary plat to the Administrative Official in the quantity as is determined, from time to time by the Administrative Official. An application lacking required documentation or information shall be returned to the applicant as provided by Section 4.02.
- C. **Phasing.** The preliminary plat shall be submitted on the entire tract proposed to be subdivided, regardless of whether the applicant intends to final plat only a portion of the tract. Any phasing must be shown on the preliminary plat. Any portion of a final plat that developed in sections or phases must correspond to the sections or phases on the preliminary plat. In the event the developer chooses to submit a final plat that does not agree with the phasing plan contained on an approved preliminary plat, the Administrative Official may require the preliminary plat must be resubmitted with amended phasing indicated.
- D. **Required Information.** The preliminary plat shall contain the following information:
 1. The case number in the lower left hand corner of the plat. (The case number shall be provided by staff after the first submittal.)
 2. North arrow, graphic and written scale in close proximity. The preferred scale is one inch = 100 feet.
 3. Appropriate title, i.e., "Preliminary Plat", to include subdivision name, which shall not duplicate that of another subdivision, City, county, state, survey and abstract, total gross acreage, number of lots and date of preparation.
 4. Name and address and phone number and email address of record owner(s), and subdivider, if different. Note volume and page of current deed record ownership.
 5. Name, address and phone numbers and e-mail addresses of engineer, planner, and/or surveyor responsible for preparing the plat.
 6. Name of record owner and corresponding deed record volume and page for all adjacent unplatted tracts within one hundred (100) feet, to include owners across any adjacent ROW.
 7. All adjacent platted property within one hundred (100) shown in dashed lines, labeling lot and block numbers, subdivision name, street names and plat record reference.
 8. Location of City limit lines and/or extraterritorial jurisdiction lines.
 9. Existing zoning noted on this tract and adjacent tracts and any proposed zoning labeled as such with appropriate setback lines.
 10. All existing easements on or adjacent to this tract shown and labeled as to type and size.

11. The location of existing or approved street intersections on the perimeter of the subdivision or within one hundred (100) feet of the perimeter.
12. Legal description of the land to include the current owner's deed record reference, survey and abstract, county, state, point of beginning tied to survey corner or previously filed subdivision corner, or USGS monument.
13. Graphic depiction of all boundary lines shown in heavy lines with deed record dimensions or field surveyed dimensions if available. These should match legal description.
14. Existing ROW shown, labeled and dimensioned, i.e. public streets, highways, alleys, private drives, railroads, etc.
15. Permanent structures and uses within the subdivision that will remain.
16. Lots and blocks labeled with numbers in consecutive order.
17. Drainage, utility and pedestrian access easements labeled and dimensioned.
18. The proposed uses of the property and the proposed location of the uses on the tract(s) including uses to be dedicated for schools, parks, open spaces and other public uses, showing acreage.
19. Approximate flood plain and floodway limits shown.
20. The location and width of the proposed streets, roads, lots, alleys, easements, widening of existing thoroughfares, and other features, and their location in relation to platted streets, alleys and easements in adjacent subdivisions for a distance of 100 feet beyond the boundaries of the tract shall be shown consistent with the Thoroughfare Plan or other adopted plan for roads and streets.
21. Present physical features on the tract, including natural and artificial watercourses, ditches, ravines, culverts, and bridges.
22. A topographical map with contour intervals not greater than two feet with all elevations shown thereon tied to the City datum plane.
23. Profiles and cross sections of proposed streets and roads sufficient to ascertain that the preliminary plat proposals will function in accordance with the standards of the City.
24. A complete and corrected preliminary water and sewer layout. This may be combined with the drainage study and should show all intended easements and other information required by the Design Standards.
25. The following certifications shall be placed on the preliminary plat:
 - a. Reviewed for Preliminary Approval:

Planning & Zoning Commission Chairman

Date

Attest:

City Secretary

Date

b. Approved for Preparation of Final Plat:

Mayor, City of Lorena

Date

Attest:

City Secretary

Date

c. A preliminary plat application shall be accompanied by a written statement signed by the subdivider stating the developer will comply with all City requirements in the proposed subdivision and all such proposals shall conform to or exceed the standards for such improvements prescribed by the City.

d. A certification that all City taxes and fees have been paid.

E. **Preliminary Drainage Study.** The applicant shall submit a preliminary drainage study with the preliminary plat. A preliminary drainage study may also be required by the City when reviewing a use other than the current land use. Approval of the preliminary plat may be contingent on the acceptability of the solutions proposed by the preliminary drainage study. The preliminary drainage study shall be prepared, signed, sealed and dated by an engineer. The City may waive the requirement of the preliminary drainage study or may waive certain requirements where the City Engineer determines the impact of the proposed development does not necessitate the review.

F. **Preliminary Water and Sewer Utility Plans.** The applicant shall submit a preliminary water and sewer utility plan. This plan shall indicate the general location and approximate sizes of all existing and proposed public water and sanitary sewer utilities, including offsite facilities and/or oversized mains. The proposed water and sanitary sewer lines shall be designed in accordance with the requirements established by the Design Standards. The City Engineer may waive all or a portion of the requirements for the study when, in the Engineer's opinion, the impact of the proposed development does not necessitate the review.

G. **Traffic Impact Analysis.** For developments consisting of a minimum of two hundred (200) dwelling units (residential) or generating two-thousand (2,000) or more "one-way" trips per day (non-residential), the applicant shall submit a traffic impact analysis as required by Section 7.10 to determine the traffic generated by the proposed subdivision and to demonstrate adequacy of the adjacent roadway systems. The City Engineer may waive all or a portion of the requirement for the analysis depending upon the size and potential impact of the proposed subdivision and the traffic to be generated.

SECTION 4.04 REVISED PRELIMINARY PLAT

When, in the opinion of the Administrative Official, a final plat deviates substantially from the approved preliminary plat, the applicant must obtain approval of a revised preliminary plat prior to the submission of a final plat. If an owner proposes substantive changes to a preliminary plat after the City Council has approved it, a revised preliminary plat shall be prepared, processed and approved before preparation of the final plat.

SECTION 4.05 FINAL PLAT - SUBMITTAL REQUIREMENTS

A. **Purpose.** The purpose of a final plat is to assure that the division or development of the land subject to the plat is consistent with all standards of this Ordinance, zoning regulations, and all other applicable ordinances,

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.

- B. **Applicability.** Approval of a final plat shall be required prior to any non-exempt subdivision of land and prior to any site preparation or grading activities for a lot or tract of land that requires installation of public improvements on or adjacent thereto. A final plat application shall not be required for any land division that may be approved through the minor plat procedures.
- C. **Effect.** Approval of a final plat authorizes the Administrative Official to record the plat upon completion of public improvements or posting of security, and authorizes the subdivider to install any public improvements under approved construction plans.
- D. **Application.** After obtaining approval or conditional approval of a preliminary plat and if required, fulfilling all requirements of the preliminary plat approval, the applicant may submit an application for approval of a final plat. The final plat shall be accompanied by a completed application and shall be in accordance with all Ordinance requirements.
- E. **Phases.** A final plat may include all or only a portion of the area of the approved preliminary plat. If a final plat is approved in sections or phases, each final plat of each section is to carry the name of the entire subdivision, but is to be distinguished from each other section by a distinguishing letter, number or subtitle designating the Phase. Block numbers shall run consecutively throughout the entire subdivision, even though such subdivision may be finally approved in sections.

SECTION 4.06 FINAL PLAT – REQUIRED FORMAT AND INFORMATION

- A. **Sheet Size.** All final plats, replats, amending plats, and minor plats shall be drawn on a sheet size of eighteen (18) inches by twenty-four (24) inches. In addition to County submission requirements, one (1) full size mylar and one (1) full size paper copy shall be submitted, including four paper copies photographically reduced to eight-and-a-half (8½) inches by eleven (11) inches after obtaining original signatures for filing in the county records. Where more than one sheet is needed, an index showing the entire subdivision shall be added to the first sheet or provided on a sheet of its own to be filed with the plat. The applicant shall submit copies of the final plat in pdf format.
- B. **Scale.** The permissible scale: one (1) inch = one hundred (100) feet. In cases of large developments which would exceed the dimensions of the sheet at one hundred foot (100) scale, plats may be on multiple sheets or to another known engineering scale, as approved by the Administrative Official and in a format that will be acceptable for eventual filing at McLennan County.
- C. **Requirements.** The final plat shall contain or be accompanied by the following information:
 1. Should more than one sheet be required for the layout, there shall be included a key map showing the entire subdivision, drawn at a smaller scale, with block number and street names. The key map is to be included upon the first sheet or presented separately as a cover sheet the same size as the large-scale sheet.
 2. The names, addresses, phone numbers, and e-mail addresses of the owner and, if different, the subdivider and of the surveyor and/or engineer responsible for preparing the plat.
 3. The name of the subdivision and adjacent subdivisions, the names of streets (to conform whenever possible to existing street names) and numbers of lot and blocks, in accordance with alphabetical block arrangements and numerical lot arrangement, with accurate dimensions in feet and decimals fractions of feet, with the length of radii and of arcs of all curves, all angles, and with all other

engineering information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points.

4. An accurate boundary survey and description of the property, with bearings and distances referenced to survey lines and established subdivisions, and showing the lines of adjacent lands and the lines of adjacent streets and alleys, with their width and names. Streets, alley and lot lines in adjacent subdivisions shall be shown in dashed lines.
5. The case number, as provided by the staff, shall be shown in the lower left hand corner of the plat.
6. North arrow, graphic and written scale in close proximity.
7. Location map showing location of tract by references to existing streets or highways.
8. Appropriate title, i.e., "final plat", to include subdivision name, City, County, State, Survey and Abstract, total gross acreage, number of lots, and date of preparation.
9. Name of record owner and corresponding deed record volume and page for all adjacent un-platted tracts within one hundred (100) feet, to include owners across any adjacent ROW.
10. All adjacent platted property within one hundred (100) feet shown in dashed lines, labeling lot and block numbers, subdivision name, street names and plat record reference.
11. Location of City limit lines and/or extraterritorial jurisdiction lines, all survey lines with survey names labeled.
12. All existing easements on or adjacent to the tract shown and labeled as to type and size with dimensional ties to property corners and centerline or boundary dimensions and bearings.
13. The locations, street names and dimensional centerline references to existing or approved street intersections on the perimeter of the subdivision or within one hundred (100) feet of the perimeter.
14. Point of beginning labeled on plat.
15. Two boundary corners geo-referenced by state plane coordinates in accordance with Section 10.03. (Monumentation)
16. Street ROW and ROW centerline dimensioned with bearings, all streets having street names as approved by preliminary plat or names dissimilar from any existing street names.
17. Physical features relative to the property boundary, including survey markers, and existing encroachments.
18. The location and dimensions of all drainage and utility easements and pedestrian access easements.
19. All building setback lines (on all streets) labeled or noted per the appropriate zoning.
20. Lots to be dedicated for public use labeled as such, i.e. schools, parks, open spaces, etc., showing acreage and calculated perimeter dimensions, and the entity responsible for maintenance. Also show any private uses in same manner.
21. Calculated dimensions of all lots, street ROW, easements, or common area lots, etc. All curve data should be labeled including delta, radius, length and tangent. All lots must meet the minimum lot width, depth, and area requirements of the zoning district.

22. Floodplain limit shown and labeled. Floodway limit shown and labeled with dimensional ties to all lot corners.
23. Minimum finish floor elevations shown on all lots impacted by drainage easements or intended to be filled. Finish floor note shown on plat.
24. For amending plats or replats, certification signed by all owners concerning deed restrictions shown.
25. Sight triangle note shown on the face of the plat, if applicable.
26. Driveway access limitation note provided, if applicable.
27. The following note shall appear on the face of the plat: "Selling a portion of any lot within this addition by metes and bounds is a violation of state law and City ordinance and is subject to fines and withholding of utility services and building permits."
28. For collector or arterial streets which have limited or no individual access, the following note may be required on the face of any plat intended to be filed in the county plat records. "No lot within this addition shall be allowed driveway access onto _____ Street".
29. Temporary paved turn-arounds which meet the requirements of the Design Standards are to be provided at ends of streets more than one lot deep that will be extended in the future. The following note should be placed on the plat: "Cross-hatched area is temporary easement for turn-around until street is extended [insert direction] in recorded plat."
30. An application of a final plat shall be accompanied with the following documentation in order for the plat to be officially approved and recorded:
 - a. Completed Developer's Agreement, if applicable;
 - b. Certificate of taxes paid from the City Tax Collector;
 - c. Certificate of taxes paid from the McLennan County Tax Collector;
 - d. Certificate of taxes paid from the School District Tax Collector, as applicable; and
 - e. Any proposed or existing deed covenants/restrictions; and
 - f. Approval blocks in the form required by Section 4.07.

D. **Prerequisite to Approval.** Unless otherwise permitted by this Ordinance, no final plat shall be accepted for review unless a preliminary plat has been approved and is currently valid.

SECTION 4.07 FINAL PLAT DEDICATION, STATEMENTS, AND WAIVERS

- A. **Requirements.** The final plat shall contain a statement of dedication, signed and acknowledged by the owner or owners and by all other parties who have a mortgage or lienhold interest in the property, showing all restrictions, reservations, and/or easements, if any, to be imposed and reserved in connection with the addition.
- B. **Certificate of Dedication.** The plat shall contain a certificate of dedication of all streets, public highways, alleys, parks and other land intended for public use, signed by the owner or owners and by all other parties who have mortgage or lien interests in the property and acknowledged before a notary public. All deed restrictions that are to be filed with the plat shall be shown or filed separately. The certificate of dedication shall be substantially in the following form:

1. Individual Owner(s).

STATE OF TEXAS

COUNTY OF _____

I (we) the undersigned owner(s) of the land shown on this plat, and designated herein as the _____ addition to the City of Lorena, Texas, and whose name is subscribed hereto, hereby dedicate to the use of the public forever all rights-of-way, streets, alleys, parks, water courses, drains, easements and public places thereon shown for the purpose and consideration therein expressed. I (we) further certify that all other parties who have a mortgage or lien interest in the _____ addition have been notified and signed this plat.

I (we) further acknowledge that the dedications and / or exactions made herein are proportional to the impact of the subdivision upon the public services required.

Owner for _____

STATE OF TEXAS

COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein stated.

Given upon my hand and seal of office this _____ day of _____, 2_____.

Notary Public in and for the State of Texas

My Commission Expires:

2. Lienholder's Ratification.

STATE OF TEXAS

COUNTY OF _____

Whereas (Lien Holder Name), acting by and through the under signed, its duly authorized agent, is (are) the lien holder(s) of the property described hereon, does (do) hereby ratify all dedications and provisions of this plat as shown.

(typed name of authorized agent, title, Lien Holder)

Before me, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and consideration expressed and in the capacity therein stated and as the act and deed of said _____.

Given upon my hand and seal of office this _____ day of _____, 2 ____.

Notary Public in and for the State of Texas

My Commission Expires:

If no liens exist, add the following statement to the end of the plat dedication:

There are no liens against the property.

Corporate or partnership dedication.

STATE OF TEXAS

COUNTY OF _____

Whereas _____, acting by and through the under signed, its duly authorized agent, is the sole owner of a tract of land situated in the _____ Survey, Abstract _____, County of _____, according to the deed recorded in Volume ____, Page ____, Deed Records, _____ County, Texas, and more particularly described as follows:

[Insert legal description here]

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That, _____ by and through the undersigned, its duly authorized agent, does hereby adopt this plat designating the hereinabove described property as _____, an addition to the City of Lorena, McLennan County, Texas, and I (we) do hereby dedicate the rights of way, (alleys, parks) and easements shown thereon to the public's use unless otherwise noted.

WITNESS my (our) hand(s) at Lorena, McLennan County, Texas this the _____ day of _____, 2_____.

STATE OF TEXAS

COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared _____, _____ of _____ a corporation (partnership, JV) known to me to be the person(s) whose name(s) subscribed to the above and foregoing instrument, and acknowledged to me that he/they executed the same for the purpose and consideration expressed and in the capacity therein stated and as the act and deed of said corporation (partnership, JV).

Given upon my hand and seal of office this _____ day of _____, 2_____.

Notary Public in and for the State of Texas

My Commission Expires:

C. **Surveyor Certificate.** The plat shall contain the following certification by a surveyor to the effect that the plan represents a survey made by him, and that all the necessary survey monuments are correctly shown thereon:

This is to certify that I, _____, a Registered Professional Land Surveyor of the State of Texas, have prepared this plat of the above subdivision from an actual survey on the ground; and that all monuments for lot corners, angle points, and points of curvature shown thereon as "set" were placed under my personal supervision in accordance with the Subdivision Ordinance of the City of Lorena.

(print name), Surveyor

Texas R.P.L.S. No. _____

Date: _____

(seal)

D. **Utility Easement Restriction Statement.** The plat shall contain the following statement:

"Any public utility, including the City of Lorena, shall have the right to remove all or part of any building, fences, trees, shrubs, other growths or improvements which in any way endanger or interfere with the construction, maintenance, or efficiency of its respective systems on any of the easements shown on the plat: and any public utility, including the City of Lorena, shall have the right at all times of ingress and egress to and from and upon said easements for the purpose of construction, reconstruction, inspection, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity at any time of procuring the permission of anyone."

E. **Public Open Space Easement Restriction Statement.** The following full statement of restrictions shall be placed in the dedication instrument or on the face of the plat:

"No structure, object or plant of any type may obstruct vision from a height of thirty (30) inches to a height of ten (10) feet above the top of the curb, including, but not limited to buildings, fences, walks, signs, trees, shrubs, cars, trucks, etc., in the public open space easement as shown on the plat."

F. **Drainage and Floodplain Easement Restriction Statement.** The following statement shall be placed in the Dedication Instrument or on the face of the plat:

"No construction or filling, without the written approval of the City of Lorena, shall be allowed within a drainage easement or a floodplain easement, and then only after detailed engineering plans and studies show that no flooding will result, that no obstruction to the natural flow of water will result; and subject to all owners of the

property affected by such construction becoming a party to the request. Where construction is permitted, all finished floor elevations shall be a minimum of one (1) foot above the 100 year flood elevation."

- G. **Waivers.** The final plat shall contain a waiver of claim for damages against the City occasioned by the establishment of grades or the alteration of the surface of any portion of existing streets and alleys to conform to the grades established in the subdivision.
- H. **Approvals.** The following approval blocks shall be executed after final approval:

H. Approvals. The following approval blocks shall be executed after final approval:

1. I hereby certify that the above and foregoing plat of _____ Addition to the City of Lorena, Texas, was approved by the City Council of the City of Lorena on the _____ day of _____, 2_____.

This approval shall be invalid unless the approved plat for such addition is recorded in the office of the County Clerk of _____, County, Texas, within two (2) years from said date of final approval. Said addition shall be subject to all the requirements of the Subdivision Regulations of the City of Lorena.

WITNESS OUR HAND, this _____ day of _____, 2____.

City Secretary

2. The following approvals shall be placed on a final plat, in a manner that will allow the filing of the certificates by the proper party.

Recommended for final approval:

Chairman

Planning & Zoning Commission

Date

Attest:

City Secretary

Date

Approved:

Mayor, City of Lorena, Texas

Date

Attest:

City Secretary

Date

3. The following approvals shall be placed on an amending or minor plat:

Approved:

City Administrator

Attest:

City Secretary

SECTION 4.08 CONSTRUCTION PLANS FOR PUBLIC IMPROVEMENTS

A. **Generally.** The applicant shall submit construction plans and profile sheets for all public works improvements for review with the application for approval of the final plat. Incomplete plans shall be returned to the applicant. Design Standards of the City in effect at the time of submission of the plat shall be used, subject to the approval of the City Engineer.

B. **Specifically.**

1. Construction plans and profiles shall be prepared by an engineer and drawn on eleven (11) inch by seventeen (17) inch sheets, and shall include a cover sheet with index, general site layout and required calculations.
2. Each sheet shall include north point, scale, and date. Bench mark description to sea level datum shall be included with the plans.
3. Each sheet shall show the seal and signature of the engineer who prepared the plans and shall include the following, unless specifically approved otherwise by the Administrative Official:

- a. A plan and profile of each street with top of curb grades shown. Scale shall be one (1) inch = forty (40) feet horizontally, and one (1) inch = four (4) feet vertically; one (1) inch = twenty (20) feet horizontally, and one (1) inch = four (4) feet vertically; or one (1) inch = fifty (50) feet horizontally, and one (1) inch = five (5) feet vertically.
- b. The cross-section of proposed streets, alleys, and sidewalks showing the width and type of pavement, base and sub-grade, and location within the right-of-way. These plan-profiles shall show the existing ground and the proposed grade at five (5) points of cross section; that is, at the center line, the back-of-curb lines, and the property lines.
- c. A plan and profile of proposed sanitary sewers, with grades and pipe sized indicated and showing locations of manholes, clean-outs, and other appurtenances, and a cross section of embedment.
- d. A plan of the proposed water distribution system showing pipe sizes and location of valves, fire hydrants, fittings and other appurtenances, with a section showing embedment.
- e. A plan to scale of all areas contributing storm water runoff or drainage within and surrounding the proposed subdivision. Such plan shall indicate size of areas, storm frequency and duration data, amounts of runoff, points of concentration, and other data necessary to adequately design drainage facilities for the area. This should analyze upstream and/or downstream impacts to ensure that the development does not adversely affect upstream or downstream properties..
- f. A plan and profile showing size and location of proposed storm sewers, showing hydraulic data, pipe grades and sizes, manholes, inlets, pipe connections, culverts, outlet structures, bridges, and other structures.
- g. Profile views of individual improvements shall have no more than two improvements on one sheet unless specifically approved by the City Engineer.

C. **Responsibility.** The purpose of the City review is to assure conformance to City policies and standards. However, the City review is limited to facts as presented on submitted plans. The City takes no project engineering responsibility. The engineer certifying the plans is the engineer responsible for the accuracy and completeness of the documents submitted for review and actual construction.

D. **Corrections.** The City reserves the right to require plan corrections when actual conditions in the field which are found to be contrary to or omitted from the previously submitted plan.

E. **Approval.** If construction plans are approved, the plans shall be marked "approved" and one set shall be returned to the applicant, and at least two sets shall be retained in the City's files. The developer shall provide additional sets of the approved plans to the City, as specified by the City Engineer, for use during construction. A full set of the City-approved and stamped construction plans must be available for inspection on the job site at all times.

F. **Revisions.** If the conditions of approval require revision(s) to the construction plans, one set shall be marked with objections noted (on the plans themselves and/or in memo format) and returned to the applicant for correction, whereupon the applicant's engineer shall correct the plans as requested and resubmit them for decision. A properly revised set of construction plans shall be submitted to the City Engineer within thirty (30) working days of receipt of the notice of the City's Engineer's decision.

SECTION 4.09 MINOR PLAT SUBMITTAL REQUIREMENTS

- A. **Requirements.** When a tract of land has not been previously platted and recorded, the subdivider may elect to combine the preliminary and final plats of a subdivision and submit an application for approval of a minor plat if the tract:
 - 1. Involves four or less lots;
 - 2. Is to be subdivided without change of street location, ROW dedication, or without substantial effect on City services, drainage or adjacent properties; and
 - 3. Does not require the extension of municipal facilities.
- B. **Name.** A minor plat may bear the name of the original survey and abstract number in which said property is located as an Addition. It is subdivided into numbered lots out of that survey.
- C. **Information.** An application for approval of a minor plat shall contain the information required by Section 4.06 unless the Administrative Official determines additional information is necessary to ascertain whether sufficient public infrastructure exists.

SECTION 4.10 AMENDING PLAT SUBMITTAL REQUIREMENTS

- A. **Purpose.** An amending plat is a plat which is solely for one or more of the following purposes:
 - 1. To alter the interior lot line or change building setback lines for purposes of a more buildable area without increasing the number of lots;
 - 2. To correct an error in course or distance;
 - 3. To add any course or distance that was omitted;
 - 4. To correct an error in the description of the real property;
 - 5. To indicate monuments set after death, disability or retirement from practice of the engineer or surveyor charged with responsibility for setting monuments;
 - 6. To show location or character of any monument which has been changed in location or character or was incorrectly shown;
 - 7. To correct scrivener or clerical error or omission; may include, but are not limited to lot numbers, acreage, street names and identification of adjacent recorded plats;
 - 8. To correct error in course or distances of lot lines between two (2) adjacent lots where both lot owners join in the proposed revision and neither lot is abolished but does not attempt to remove recorded covenants or restrictions;
 - 9. To relocate a lot line in order to cure an encroachment of a building improvement on a lot line or an easement;
 - 10. To relocate lot lines where all owners join in the application for the plat amendment provided that the amendment does not attempt to remove recorded restrictions or covenants or change the number of lots;
 - 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. **Note on Plat.** Amending plats shall contain a note describing the correction, framed in a bold line so as to be distinctly visible on the face of the plat.

C. **Requirements.** All requirements of Sections 4.02 and 4.06 shall be satisfied for submittal of an application for approval of an amending plat and the following minimum certification shall be added to the owner's dedication on all amending plats: "This plat does not increase the number of lots or alter or remove existing deed restrictions or covenants, if any, on this property."

D. **Conditions.** No conditions except those pertaining to the accuracy or clarity of the face of the plat or the provision of adequate utilities or payment of delinquent fiscal charges shall be added as a condition of filing an amending plat and no changes may be shown other than as specified in this Ordinance.

SECTION 4.11 REPLAT SUBMITTAL REQUIREMENTS

- A. **Generally.** The Administrative Official may require the applicant to submit a revised preliminary plat prior to City approval of a replat involving four (4) or more lots. In addition, a final drainage study may be required if determined necessary by the City Engineer.
- B. **Waiver.** The Administrative Official may waive the requirement for a revised preliminary plat when the replat is without significant change of street location, and without substantial effect on City services, drainage or adjacent properties.
- C. **Requirements.** An application for approval of a replat shall include all information required by Section 4.02 and, if applicable, Section 4.06, and the following minimum certification: "This plat does not alter or remove existing deed restrictions or covenants, if any, on this property." This statement shall also be included in the owner's dedication on all replats.

ARTICLE 5 – PROCEDURES FOR PLAT APPROVAL

SECTION 5.01 GENERAL PROVISIONS

- A. **Authority for Approval of Minor and Amending Plats.** The Administrative Official is authorized to approve all minor plats and amending plats. The filing date of a minor plat or amending plat is the date on which the applicant receives the City's initial comments on the minor plat or amending plat. An applicant who is dissatisfied with the decision of the Administrative Official may request that the plat be referred to the Commission, and then the Council, for decision. If such a request is made, the filing date shall be in accordance with Subsection (F) of this Section.
- B. **Recommendation of Commission.** The Commission shall review and recommend approval, approval with conditions or disapproval on all preliminary plats, replats and final plats.
- C. **Approval by City Council.** The City Council shall receive a recommendation from the Commission on each preliminary plat, final plat and replat and shall then make a final decision as to the approval, approval with conditions or disapproval of these plats.
- D. **Conformance.** All preliminary plats, final plats and replats shall substantially conform to any concept plan or plan for development or planned development plan approved in accordance with the requirements of the Zoning Ordinance, as well as all other applicable Ordinances, including but not limited to the Comprehensive Plan and all standards for adequacy of public facilities, where applicable. No final plat shall be approved until the City has received a Letter of Approval from the City Engineer confirming their approval of water and wastewater construction plans. Further, a final plat shall conform to the approved preliminary plat except for minor changes authorized under Subsection (G) of this Section.
- E. **Plat Review and Conditional Approval or Disapproval.** In the event the Commission or Council conditionally approves or disapproves a preliminary plat, final plat or replat, the Commission or Council shall provide an applicant a written statement of the conditions for the conditional approval or reasons for disapproval, in accordance with Section 212.0091 of the Texas Local Government Code, as amended. After the conditional approval or disapproval of a preliminary plat, final plat or replat, an applicant may submit to the Commission or Council a written response that satisfies each condition for the conditional approval or remedies each reason provided for the disapproval, in accordance with Section 212.0093 of the Texas Local Government Code, as amended. In the event the Commission or Council receives such a response from an applicant, the Commission or Council shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved plat not later than the 15th day after the date the response was submitted, in accordance with Section 212.0095 of the Texas Local Government Code, as amended.
- F. **Filing Date.** The thirty (30) day period for approval, approval with conditions or disapproval of a plat, as established in Chapter 212 of the Texas Local Government Code, as amended, shall be the date the plat application is heard by either the Planning and Zoning Commission or City Council. Pursuant to Section 212.009(b-2) of the Texas Local Government Code, as amended, upon application in writing by an applicant, the Commission or City Council may approve one (1) Extension of the 30-day action requirement; however, such Extension shall not to exceed 30 additional days.
- G. **Minor Changes to Preliminary Plat.** 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. Any substantial deviation in street layout or alignment, lot size or configuration, utility and/or drainage layout, or easements shall require submittal for consideration of a new

preliminary plat. 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.

SECTION 5.02 EXPIRATION OF PLATS

- A. **Preliminary Plat.** Approval of the preliminary plat expires three (3) years after the approval date. For a phased subdivision, any part of the preliminary plat which has not been final platted shall expire after one year from the completion of the previous phase if a new phase is not started.
- B. **Other Plats.** A final plat, replat, amending or minor plat which has not been recorded in the County Records within two (2) years from the date of approval shall expire.
- C. **Re-submittal.** Upon the expiration of a plat, unless the City makes a determination that the applicant has made progress, as that term is defined by Section 5.03, the applicant must resubmit an application for approval, including payment of a fee and complete the review process.
- D. **Extension and Reinstatement Procedure.**
 1. Not later than sixty (60) days prior to the lapse of approval for a preliminary or final plat, the property owner may petition the City Council to extend or reinstate the approval. The petition shall be considered at a public meeting of the City Council.
 2. In determining whether to grant such request, the City Council shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval, the extent to which the property owner agrees to abide by newly adopted subdivision regulations, and any changed conditions in the surrounding area which would make an extension undesirable. The City Council shall extend its approval of the plat, or deny the request. In the event the City Council denies extension of the preliminary or final plat, the property owner must submit a new application for approval.
 3. The City Council may specify a shorter time for lapse of the extended plat that is applicable to original approvals, but shall not extend the period that a preliminary or final plat approval is valid to more than one year from the date the original approval expires.

SECTION 5.03 PROJECT EXPIRATION

A project shall expire on the fifth anniversary of the date the application for the first permit application for the project was filed with the City if no progress has been made towards completion of the project. For purposes of this Section, "project" means an endeavor over which a regulatory agency exerts its jurisdiction and for which one or more permits are required to initiate, continue, or complete the endeavor. A project shall expire on the fifth anniversary of the date the application for the first permit for the project was filed with the City if no progress has been made towards completion of the project. Progress towards completion of the project shall include any one of the following:

- A. An application for a final plat or plan for development is submitted to a regulatory agency.
- B. A good-faith attempt is made to file with a regulatory agency an application for a permit necessary to begin or continue towards completion of the project.
- C. Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located.

- D. Fiscal security is posted with a regulatory agency to ensure performance of an obligation required by the regulatory agency.
- E. Utility connection fees or impact fees for the project have been paid to a regulatory agency.

SECTION 5.04 SECTION 5.04-5.07 RESERVED

SECTION 5.08 MINOR PLAT PROCESSING

All minor plats will be accepted for review in accordance with Section 4.02, plat review comments generated and a copy of this review given to the applicant. It will be the applicant's responsibility to revise the plat as needed to receive approval from City Staff. Upon approval of a minor plat, the Administrative Official and City Secretary shall attest to the approval of the plat by signing the plat. If the plat complies with Section 5.10 hereof, the Administrative Official will file the plat in accordance with this Ordinance. If the plat does not meet the requirements of this Ordinance, the Administrative Official shall deny the plat.

SECTION 5.09 AMENDING PLAT PROCESSING

- A. **Generally.** An amending plat will be accepted for review in accordance with Section 4.02. After an application for approval of an amending plat has been determined to be complete, the Administrative Official shall forward the application to other City departments for review to determine whether the application complies with applicable Ordinances. The Administrative Official shall, within a reasonable time, generate plat review comments, notify the applicant of same. It is the applicant's responsibility to revise the application to meet the requirements of the Ordinance.
- B. The Administrative Official shall take action upon the application. Upon approval, the Administrative Official shall sign the plat. If the plat meets the requirements of Section 5.10 hereof, the Administrative Official will record the plat. If the plat does not meet with requirements of this Ordinance, the Administrative Official shall deny the plat.
- C. **Alternative.** Should any of the conditions imposed pursuant to this Ordinance prove unacceptable to the applicant, the applicant may submit an application for a replat. An amending plat may be submitted and processed as a replat.

SECTION 5.10 RECORDING OF PLAT

- A. **Requirements.** For a plat to be recorded after approval, all conditions of approval must be satisfied, including, but not limited to, the following:
 1. All required fees shall be paid, including park dedication, if required and tree replacement fees.
 2. All plats shall be provided in an electronic format approved by the Administrative Official.
 3. All covenants required by ordinances shall be reviewed and approved by the City.
 4. On-site easements and rights-of-way shall be properly described and noted on the plat.
 5. Off-site easements and rights-of-way shall be dedicated by the respective owners, approved by the City and filed of record with the county.
 6. All required abandonments of public rights-of-way or easements that must be approved by the City Council and the abandonment ordinance numbers shall be shown on the plat.

7. Original tax certificates showing that all taxes are paid, as well as a statement from the City that no outstanding monies are owed to the City shall be presented from each taxing unit with jurisdiction of the real property.
8. A copy of the ownership and dedication statement from the plat shall be submitted on separate letter or legal size paper, executed before a notary public, with all original signatures.
9. A copy of the executed developer's agreement, if one was required to be executed, shall be submitted.
10. For proposed improvements that have yet to be constructed, the required financial assurance and contractor's proof of insurance for any proposed public improvements.
11. Monumentation required by Section 10.03.
12. For proposed improvements that have yet to be constructed, evidence of approval of any necessary permits from the Texas Department of Transportation, any utility district, the U.S. Army Corps of Engineers, or any other state or federal agency shall be submitted.
13. Any lienholder of the property to be platted must execute a statement on the plat or a separate instrument subordinating the lienholder's interest to the plat and the dedications thereon.

B. **Proof of Ownership.** The applicant shall furnish the City proof of ownership, covering the platted area dedicated to the City. The documents shall reflect that the applicant has fee simple title to the property to be dedicated with no encumbrances except for those liens for which consents have been filed and shall be updated to the date the City Engineer releases the plat to be filed with the county clerk.

C. **Recording.** Within fourteen (14) days after plat approval and compliance with all stipulations of approval and the requirements of this Section, the City shall record the plat in the county plat records. The final plat shall not be returned or released to the developer until recorded.

D. **Original Signatures on Mylar.** All revisions to the plat shall be made prior to running the black-line mylars which are to be signed by the owner, notary, surveyor, and City representatives. The City will then obtain signatures of the appropriate City representatives.

E. **Special Filings.** In the event that the applicant requests a special filing with the County, a check payable to the City shall be submitted to the City Secretary in the amount of the appropriate fee and expenses. Fees for special filings of plats shall be set by the City Council.

ARTICLE 6 – PUBLIC WORKS IMPROVEMENTS

SECTION 6.01 GENERAL STANDARDS

- A. **Documents.** Design and construction of public works improvements must conform to the standards, criteria, and requirements of the following, as they may from time to time be amended by those responsible for their promulgation:
 1. The Thoroughfare Plan;
 2. The Texas Uniform Traffic Control Device Manual;
 3. The Standard Specifications for Construction, City of Waco
 4. The City of Lorena Design Criteria & Improvements (Design Standards), as amended;
 5. The American Association of State Highway Transportation Officials Design Manual;
 6. The Texas Health Code;
 7. The Master Drainage Plan, as applicable;
 8. The Flood Damage Prevention Ordinance;
 9. The Integrated Storm Water Standards; and
 10. All other codes and ordinances of the City.
- B. **Design Expiration.** If the construction of public works improvements is not completed within three (3) years from the preliminary plat approval date, then the infrastructure must be redesigned using the most current Design Standards.

SECTION 6.02 COMMON AREAS

An area retained in private ownership but intended for the benefit of the owners of lots in the plat must be shown as a common area and a separate lot on the plat. A home owners or property owners association which meets the requirements of Section 10.05 must be approved for the area before the final plat is recorded.

SECTION 6.03 FIRE AND POLICE ACCESS

- A. **Generally.** The layout design of a plat must take into consideration the provision of adequate fire and police access.
- B. **Water supply.** Provisions must be made for the extension of water lines and the appropriate placement of fire hydrants as required by the fire department before approval of the final plat.

SECTION 6.04 TIMING OF PUBLIC WORKS IMPROVEMENTS

- A. **Deeds in Escrow.** As a condition of final plat approval, the City Council may require the property owner to deposit deeds in escrow describing by metes and bounds street rights-of-way, park land, and easements required by these regulations, conveying such rights-of-way, park land and easements to the City, pending acceptance of improvements by the City and recordation of the final plat. In the event the property owner fails to complete the public works improvements, and the improvements are deemed necessary for the preservation of the public health and safety, the City may compel the delivery and recording of the deeds in order to complete the improvements as required.

B. **Installation after Final Plat Approval.** The City Council on request of the applicant may defer the obligation to install one or more public improvements to serve the development until after final plat approval. The request shall be submitted with an application for preliminary approval. If the developer elects not to file for preliminary approval, public works improvements shall be installed after approval of the final plat. In either case, deferral of the obligation to install public improvements shall be conditioned on execution of a development agreement and sufficient surety to secure the obligations defined in the agreement.

SECTION 6.05 SANITARY WASTE COLLECTION ACCESS

Each non-residential development that has a refuse facility or location for solid waste collection containers shall provide for safe and convenient access.

SECTION 6.06 RETAINING WALLS

A. **Material.** All retaining walls shall be constructed of inorganic material such as masonry, brick or stone. Timbers, railroad ties, or wood materials are prohibited.

B. **Plans required.** Plans for a retaining wall must be reviewed and approved by the City Engineer. The review shall verify the following:

1. That the retaining wall does not encroach on an adjoining property without the consent of the adjoining owner;
2. That the wall is constructed of a permitted material; and
3. The wall is not constructed within a utility easement or without a written waiver or consent from the utility company holding rights to the easement.

C. **Inspection Required.** A certificate of occupancy will not be issued until the retaining wall is constructed, been inspected by the City and the requirements of this Ordinance have been satisfied.

SECTION 6.07 FISCAL ASSURANCE

A. **Performance Bonds; Escrow Agreement.** If the developer requests that building permits be issued for construction on lots within the development prior to completion and acceptance of all public works improvements, and the Administrative Official determines that permits should be issued, the following requirements shall apply:

1. A performance bond meeting the requirements of Chapter 2253, Texas Government Code, will be submitted in an amount of not less than the value of the public works improvements, as determined by the City Engineer, to insure completion of all improvements; or
2. If the cost of completing the public works improvements at the time the building permits are requested is one hundred thousand (\$100,000) dollars or less, as determined by the City Engineer, cash money in the amount of the cost of completing the improvements, as determined by the City Engineer, may be deposited with a bank as escrow agent pursuant to an escrow agreement, the form and provisions thereof to be approved by the City Attorney, to insure completion of the improvement.

B. **Model Home.** The Administrative Official may authorize construction of a model home in a subdivision without completion of the public works improvements.

C. **Payment Bond; Assurance of Payment.** Prior to acceptance by the City of any improvements, the developer shall provide one of the following assurances:

1. A payment bond meeting the requirements of Chapter 2253, Texas Government Code, in an amount of not less than one hundred (100%) percent of the approximate total cost of the contract, guaranteeing the full and proper protection of all claimants supplying labor and material for the construction of the improvements, in the form approved by the City and by a surety authorized to do business in Texas; or
2. If the total contract amount of all public works improvements is fifty thousand (\$50,000) dollars or less, as determined by the City Engineer, or the improvements, regardless of the contract amount, are for a one-lot development, the owner and contractor may, in lieu of furnishing a payment bond, agree to pay and satisfy all claims, liens, charges and encumbrances arising from construction of the public works improvements and furnish a written affidavit signed by the developer, in a form provided by the City Attorney, stating the following:
 - a. All charges, accounts and claims for labor performed and material furnished in connection with the improvements have been paid in full; and
 - b. There are no unreleased recorded liens filed against the improvements or land to which they are affixed that are to be dedicated to the public.
- D. **Amount and Acceptability.** The security shall be issued in the amount of one hundred twenty- 125% of the cost estimate approved by the City Engineer for all public improvements associated with the subdivision. The bonds must be issued by a Best-rated surety company that is duly authorized to transact business in the State of Texas; however, the City retains the right to reject any surety company regardless of such company's qualifications or authorization to do business in Texas if the company does not have a resident agent and/or surety does not meet the requirements of Art. 7.19-1 of the Texas Insurance Code. The security shall be subject to the approval of the City Attorney.

SECTION 6.08 MAINTENANCE AND WARRANTY OF IMPROVEMENTS.

- A. **Maintenance During Construction.** The property owner shall maintain all required public works improvements during construction of the development.
- B. **Warranty after Construction.** The developer shall covenant to warranty the required public works improvements for a period of two (2) years following issuance of a letter of acceptance by the City of all required public improvements and shall provide a maintenance bond or irrevocable letter of credit in the amount of the cost to construct the improvements guaranteeing the maintenance and good condition of the improvements, ensuring the repair and replacement of all defective work due to faulty materials and workmanship that appear within a period of one (1) year from the date of acceptance of the improvements by the City. Any such bonds must be issued by a Best-rated surety company that meets the requirements of Section 6.07.d. Any such irrevocable letter of credit must be, in form and content, acceptable to the City and any such letter must be issued by a federally insured banking institution.

SECTION 6.09 INSPECTION AND ACCEPTANCE OF PUBLIC IMPROVEMENTS.

- A. **Inspections.** Construction inspection shall be supervised by the City Engineer. Construction shall be in accordance with the approved construction plans. Any significant change in design required during construction shall be made by the developer's engineer, and shall be subject to approval by the City Engineer. If the City Engineer finds upon inspection that any of the required public works improvements have not been constructed properly and in accordance with the approved construction plans, the property owner shall be responsible for completing and/or correcting the public improvements.

- B. **Fees.** The developer shall submit a fee of four (4%) percent of the costs of the public works improvements to reimburse the City its administrative costs, inspection, and review fees. Fees shall be based on an opinion of probable cost prepared by the developer's engineer and reviewed and accepted by the Administrative Official.
- C. **Submission of Record Drawings.** The City shall not accept dedication of required public improvements until the applicant's engineer has certified to the City Engineer, through submission of a detailed record drawing or survey plat of the property and any off-site easements, the location, dimensions, materials, and other information establishing that the public improvements have been built in accordance with the approved construction plans. Each record drawing sheet shall show all changes made in the plans during construction and on each sheet there shall be an as-built stamp bearing the signature of the engineer and date. Required formats include:
 - 1. One (1) full-size mylar set twenty-two (22) inches by thirty-four (34) inches sheet size); and
 - 2. Electronic drawing in autocad and PDF format of the final plat and water, wastewater and storm drainage layouts.
- D. **Acceptance of Improvements.** When the developer has certified to the City that the public works improvements have been completed in accordance with the plans and applicable ordinances, the City Engineer shall determine whether the public improvements have been installed in accordance with the approved construction plans and Design Standards and applicable ordinances. If so, the City Engineer 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 works improvements to the City for use and maintenance. The City Engineer may accept dedication of a portion of the required public works improvements, provided adequate surety has been given for the completion of all of other improvements. Upon acceptance of the required public improvements, the City Engineer shall issue a certificate to the property owner stating that all required public improvements have been accepted.
- E. **Disclaimer.** Approval of a preliminary or final plat by the City Council shall not constitute acceptance of any of the public improvements required to serve the subdivision. No public improvements shall be accepted for dedication by the City except in accordance with this Section.
- F. **Acceptance of Improvements for Land in Extraterritorial Jurisdiction.** Where the facilities to be constructed under the development agreement are located within the City's extraterritorial jurisdiction and are to be dedicated to the County in which the land is located, the City Engineer shall inform the county that the public improvements have been constructed in accordance with approved construction plans and are ready for acceptance by the County.

ARTICLE 7 – STREET AND RIGHT-OF-WAY REQUIREMENTS

SECTION 7.01 GENERAL

- A. **Thoroughfare Plan.** The streets of a proposed development shall conform to the general intent of the Thoroughfare Plan. The City's Engineer shall determine final alignment and related right-of-way dedications.
- B. **Continuity of Street Systems.** Proposed streets for a subdivision shall be effectively related to the present and future street system and development of the surrounding area. Any proposed streets shall provide for appropriate continuation or completion of any existing streets, whether constructed or dedicated, which project to the limits of a proposed subdivision or are adjacent to the subdivision.
- C. **Substandard Street Improvements.** Where an existing thoroughfare that does not meet the City's right-of-way or design standards abuts a proposed subdivision, the City may require that the entire right-of-way be dedicated and/or improved to the City's Design Standards, based upon factors including the impact of the proposed development on the road, safety to the traveling public, conditions and life expectancy of the road, the impact of the proposed subdivision on other roads, the timing of this development in relation to need for improving the road, the impact of the traffic on the road and City's roadway system as a whole. Any required improvements to substandard streets shall be limited to the effective frontage of the proposed development for half the width of the required roadway section.
- D. **Layout.** The street layout shall be in conformity with a plan for the most advantageous development of the entire neighborhood areas. Whenever the proposed development contains or is adjacent, or parallel to a railroad right of way or a major thoroughfare or freeway, provision shall be made for a street approximately parallel to and on each side of such right of way to provide reasonable use of the intervening land.
- E. **Participation in Costs of Improvements.** The City may participate in the costs of improvements required by this Section in order to achieve proportionality between the traffic impacts created by the proposed development and the obligation to provide adequate roadways. The construction of improvements and the provisions for participation in costs by the City shall be included in a developer's agreement.

SECTION 7.02 STREET AND DRIVEWAY ACCESS

- A. **Access.** To insure adequate access to each subdivision, there should be at least two (2) points of ingress and egress to the City's improved thoroughfare system for developments of more than thirty (30) units. The City may require that more than two access points be constructed if the configuration, number of lots, or other consideration creates the need for the additional access points. "Two (2) points of vehicular access" shall be construed to mean that the subdivision has at least two (2) road entrances accessing the subdivision from the City's improved thoroughfare system. In cases where the shape of the land does not allow for two (2) points of ingress or egress, a single median divided entrance with a minimum length of two hundred (200) feet may be allowed, if petitioned for and approved by City Council.
- B. **Limitations on Driveway Access.**
 - 1. To minimize traffic hazards created by numerous intersections along major thoroughfares, where a residential subdivision will abut on or contain an existing or proposed arterial street, the street shall be designed so that direct vehicular access from any residential lot to such arterial street is prohibited. Where other means of access are not available or permitted, private easements for access shall be provided when approved by the Council. The street system should be designed to

allow a minimum of individual access drives to collector streets or constructed to a wider alternative section to allow for individual access drives.

2. Streets shall be designed to conform to existing or proposed driveway openings (including those on the other side of an existing or planned median-divided arterial, in which case new streets shall align with such driveway openings such that median openings can be shared).
3. To the greatest extent possible, the number of lots fronting along residential collector streets shall be minimized in order to ensure adequate traffic safety and efficiency. No more than twenty percent (20%) of the total centerline length of a collector street may have residential lots fronting onto the collector on each side of the street without constructing to a wider alternative section.
4. If, in the opinion of the City Engineer, traffic safety concerns so necessitate, the Engineer may require a residential subdivision to be designed to provide rear entry access from a private access easement.
5. For collector or arterial streets which have limited or no individual access, the following note may be required on the face of any plat intended to be filed in the county plat records. "No lot within this addition shall be allowed driveway access onto _____ Street".

C. **Reserved Strips.** The reservation of private ownerships of strips of land at the end of or alongside proposed or existing streets intended solely or primarily for the purpose of controlling access to property not included in the development is prohibited.

D. **Half-Streets.** Half-streets are prohibited except where essential to the reasonable development of the subdivision in conformance with other requirements of this Ordinance and where the City Council finds it will be practicable to obtain dedication when the adjoining land is platted.

E. **Emergency Access.** Each subdivision shall be designed to provide adequate emergency access for public safety vehicles.

SECTION 7.03 RIGHT-OF-WAY REQUIREMENTS

- A. **Generally.** The applicant shall be required to dedicate right-of-way as shown in the Thoroughfare Plan, or as required in this section for all streets, or parts thereof, within or at the perimeter of the subdivision. Such roadways are shown on the City's Comprehensive Plan and all affected areas being platted are required to conform to this plan. The design speeds, right-of-way and pavement widths, street classifications, drive lanes, edge lanes, median requirements and center turn lanes shall be as set forth in the Design Standards, as amended and Thoroughfare Plan. The street classifications are as follows: Freeway, Arterial, Collector, Residential (Local).
- B. **Additional Right-of-Way.** Additional right-of-way may be required for the following purposes:
 1. At intersections where adjacent property is zoned for commercial, industrial, or other high intensity use to provide free right turns, center turn lanes, or other beneficial alignments intended to alleviate existing or potential traffic congestion; or
 2. To eliminate street intersection offsets, as determined by the City Engineer; or
 3. When necessitated by one or more of the factors set forth in Section 7.01.
- C. **Slope Easements.** The dedication of easements, in addition to dedicated rights-of-way shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes

shall be no steeper than three feet (3) horizontal run to one foot (1) vertical height, or a three-to-one (3:1) slope.

SECTION 7.04 STREET DESIGN STANDARDS

- A. **Curvilinear Design Requirements.** Curvilinear streets will be required in at least twenty (20%) percent of the streets in residential subdivisions as measured by street centerline length. Horizontal curve design must be such that safe travel through the curve can be anticipated at the design speed for the roadway. In no case shall the centerline horizontal curves be less than as shown in the Design Standards.
- B. **Design Speed.** Streets should be designed for a maximum speed based upon their classification, as set forth in Section 7.03a.
- C. **Intersections.**
 - 1. All thoroughfares shall be continuous or in alignment with existing streets, unless variations are deemed advisable by the Commission and City Council upon consideration of the City Engineer's recommendation.
 - 2. Off-center street intersections (in which intersections are closer than two hundred (200) feet for thoroughfares or one hundred twenty five (125) feet for residential streets) shall not be approved except in unusual cases.
 - 3. More than two (2) streets intersecting at one point shall be avoided except where it is impractical to secure a proper street system otherwise. Where several streets converge at one point, setback lines, special rounding or cutoff of corners and/or a traffic circle may be required to insure safety and facility of traffic movement.
 - 4. No street shall intersect any other street at an angle of less than seventy-five (75) degrees.
 - 5. The number of minor or local street offsets shall be minimized but, when approved, shall be offset a minimum distance of one hundred twenty-five (125) feet on center lines. At the intersection of two collector and/or arterial streets, no offsets are permitted.
 - 6. Acute angle intersections approved by the City Engineer are to have twenty-five (25) feet or greater radii at acute corners.
- D. **Hierarchy of Street Pattern.**
 - 1. Where a development will abut or contain an existing or proposed arterial street, a plan shall be approved which would provide a minimum number of intersections along each arterial street.
 - 2. Arterial streets should be intersected only by other arterial streets or collector streets rather than minor streets.
 - 3. There shall be a minimum of two thousand (2,000) feet between intersections of arterials and/or collector streets.
 - 4. There shall be no median break at intersections of arterial streets and/or collector streets, and they must be at an interval of six hundred (600) feet or greater.
 - 5. Street layout shall provide for continuation of collector streets in areas between thoroughfares.

6. Local streets shall extend to the tract boundary to provide future connection with adjoining unplatted lands.
7. Collector streets may intersect arterial streets upon specific approval of the City Engineer and the Administrative Official.
8. Residential or local streets should be planned to serve only local traffic.

E. **Horizontal Alignment and Vertical Alignment.** Horizontal and vertical alignment shall be in accordance with the Design Standards. Reverse circular curves having a common tangent shall be separated by a tangent section in accordance with the minimum tangents set forth in the Design Standards.

F. **Street Cross Slopes.** For drainage, all streets shall have a cross slope. Cross slopes shall be as defined in the City's Design Standards.

G. **Street Drainage.**

1. Topographic maps with contour intervals of two (2) feet (or less) and details of existing drainage structures and watercourses shall be submitted along with calculations for all watersheds affecting areas of the proposed storm drain design. Drainage design shall be computed as noted in the drainage section of this Ordinance. Maps showing the delineation and flow from each drainage area must be included in the plans along with all hydraulic calculations. Street and drainage profiles shall show the location of the hydraulic grade line.
2. No streets shall be designed or constructed to a grade less than established in the Design Standards.

H. **Curb Radii.** Radii at street intersections shall not be less than twenty (20) feet for residential streets and thirty (30) feet for thoroughfare streets. If necessary, property lines shall be adjusted accordingly.

I. **Variations.** If existing topographic features prohibit the reasonable use of the above-specified design requirements, the City Engineer may approve a variation. A request for the variation must be made in writing to the City and must include an accurate topographic map of the area in question showing the proposed design.

J. **Cul-de-Sacs.**

1. A maximum number of twenty-nine (29) dwelling units are permitted on a cul-de-sac street permanently designed as such.
2. The length of the cul-de-sac should not exceed six-hundred (600) feet or be less than one hundred and fifty (150) feet in length. However, density of development, topography, lot sizes and other significant factors will be weighed in determining the length of a cul-de-sac street.

K. **Block Lengths.** Residential blocks shall not be longer than one thousand (1,000) feet. Five hundred (500) feet is the desirable minimum. Conditions of topography, surrounding platted subdivisions or circulation requirements may dictate further study of the block length. Extremely short block lengths should be avoided as well to eliminate the potential for increased traffic congestion created by too many intersections.

L. **Dead-End Streets.**

1. Dead-end streets shall be permitted only where a future extension or connection is to be made. Street stubs shall be provided into adjacent property at a minimum of one thousand (1,000) feet

apart. If adjacent property is undeveloped and a street must terminate temporarily, the right-of-way must extend to the boundaries of the plat.

2. Barricades and other traffic controls shall be installed by the developer at dead ends as required by the Design Standards.
3. In the event that dead end streets either dedicated or constructed are not to be extended, permanent turn around facilities shall be constructed by the developer not extending such street. Appropriate provisions shall be made for access to adjoining undeveloped land.
4. Temporary paved turn-arounds which meet the requirements of the Design Standards are to be provided at ends of streets more than one lot deep that will be extended in the future. The following note should be placed on the plat:

“Cross-hatched area is temporary easement for turn-around until street is extended [insert direction] in recorded plat.”

SECTION 7.05 DEFERRAL OF OBLIGATION.

- A. **Generally.** Upon request of the applicant, the obligation to dedicate or improve thoroughfare rights-of-way or to make intersection improvements imposed on a subdivision application may be deferred to a later stage of the development process. As a condition of deferring the obligation to dedicate rights-of-way for or to improve thoroughfares, which deferral shall be in the sole discretion of the City, the City shall require the developer to execute a developer's agreement specifying the amount and timing of the rights-of-way dedication or improvements to thoroughfares.
- B. **Options.** Whenever the proposed development's share of the costs of a thoroughfare or traffic control improvement needed to mitigate traffic generated by the subdivision is less than one hundred (100%) percent, the City in its sole discretion, may participate in the excess costs for one or more improvements, or aggregate the costs of improving multiple thoroughfares or intersections identified in the traffic impact analysis, and require improvements to only some of the thoroughfares or intersections affected by the development.

SECTION 7.06 PAVING REQUIREMENTS

- A. **Streets.** All streets shall be constructed and paved to City standards and within right-of-way as required by the Thoroughfare Plan and in accordance with the City's Design Standards, as may be amended from time to time. All streets, public and private, excluding residential areas where lot size is three-quarters (3/4ths) of an acre or larger, shall include curb and gutter drainage with enclosed underground conduit and meeting the following requirements:
 1. Soil samples for determining the plasticity of the natural soils will be taken at locations specified by the Project Engineer and approved by the City Engineer.
 2. The pavement width and materials shall be as required in the Design Standards as may be adopted and amended from time to time.
- B. **Parking Lots.** Parking lots shall be constructed of concrete a minimum of five (5) inches in thickness and shall have curbs and adequate outfall for drainage.

SECTION 7.07 PRIVATE STREETS

- A. **Generally.** The City shall not approve a development with private streets unless the requirements of this section are satisfied. If approved, a homeowner's or property owner's association is responsible for the cost of maintenance of private streets.
- B. **City Services.** The City has no obligation to maintain private streets. Depending on the characteristics of the subdivision, the City may not provide certain other services, such as routine police patrols, enforcement of traffic and parking ordinances, and preparation of accident reports.
- C. **Maintenance Standards.** Maintenance, amenities, and landscaping of private streets shall conform to the same standards regulating the maintenance, amenities, and landscaping of public streets.
- D. **Retention of Easements.** The developer shall dedicate a utility, drainage, and emergency access easement in private streets for the City and other utility companies for the following purposes:
 - 1. To provide unrestricted use of the property for utilities and their maintenance;
 - 2. To extend easement rights to all utility providers including cable companies operating within the City;
 - 3. To provide the City with the right of access for any purpose related to the exercise of a governmental service or function, including but not limited to fire and police protection, inspection and code enforcement; and
 - 4. To permit the City to remove any vehicle or obstacle within the private street lot that impairs emergency access.
- E. **City Assumption of Maintenance.** The covenants of the deed restrictions shall provide that if the homeowner's association, its successors or assigns, fails or refuses to adequately maintain private streets and related appurtenances, the City shall have the right, but not the obligation, to assume temporarily the duty of performing the association's maintenance obligations at any time after the expiration of sixty (60) days after receipt by the association, its successors or assigns of written notice from the City specifying the nature and
 - 1. Upon assuming maintenance obligations, the City shall have the right to collect, when they become due, the assessments levied by the homeowner's association for the purposes of repairing and maintaining the private streets and related appurtenances, and if necessary, the City shall have the right to enforce the payment of delinquent assessments in the manner set forth in the association's documents.
 - 2. The City shall also have the right to levy an assessment upon each lot on a pro rata basis for the cost of such maintenance, which assessment shall constitute an assessment lien upon the lot against which each assessment is made.
 - 3. Under no circumstances shall the City be liable to the association or any lot owner or their respective heirs, successors or assigns for negligent acts or omissions relating in any manner to maintaining, improving and preserving the private streets and related appurtenances.
- F. **Access Restrictions.**
 - 1. Each entrance to a private street shall be marked with a sign stating that it is a private street.
 - 2. Either a guard house or an access control device such as a gate or cross arm shall be constructed at each entrance.

3. All restricted access entrances shall be manned twenty-four (24) hours every day, or an alternative means shall be provided of ensuring access to the subdivision by the City and other utility service providers with appropriate identification.
4. If the association fails to maintain reliable access as required to provide City services, the City shall have the right to enter the subdivision and remove any gate or device which is a barrier to access at the sole expense of the association.

G. Restricted Access Entrance Design Standards. Private streets which have access controlled by a gate, cross arm, or other access control device shall conform to the following requirements:

1. The street must have a minimum uninterrupted pavement width of twenty-four (24) feet at the location of the access control device.
2. If an overhead barrier is used, it shall have a minimum height above the road surface as required by the Fire Code for fire lanes.
3. The design of all gates, cross arms and access control devices, including automatic opening systems and manual backup systems, shall be approved by the Fire Department before installation.
4. The gates, cross arms, and access control devices shall be tested and accepted by the Fire Department before being put into operation;
5. Gate designs may incorporate one or two gate sections to meet the required minimum width of twenty-four (24) feet.
6. If the entrance incorporates a median, guard shack, or similar structure that necessitates a divided gate arrangement, the gate and street pavement widths may be reduced if approved by the Fire Department. This approval shall be contingent upon the subdivision having a second approved means of access, but in no case shall any single gate or street pavement have a clear opening of less than fifteen (15) feet.

H. Visitor Entrance Design Standards. At least one entrance to a subdivision with private streets shall be equipped for visitor access. In addition to the above Restricted Access Entrance Design Standards, the visitor entrance shall be equipped with a call or code box located at least fifty (50) feet from the boundary of the subdivision to provide for visitors calling in an automobile queuing. A turn-around space with a minimum outside radius of thirty (30) feet shall be located between any call or code box and the access control device to allow vehicles denied access to safely exit onto public streets in a "head out" position. A sign shall be erected next to the edge of such turn around space to prohibit vehicle parking in such space. A residents' entrance used in combination with a visitor entrance shall comply with the requirements of this subsection.

SECTION 7.08 SIDEWALKS

A. Requirements Generally. Sidewalks will be required to be constructed on both sides of the street for developments adjacent to all collectors and arterials. This shall include the dedication of necessary right-of-way or pedestrian access easement and the construction of sidewalks according to the specifications provided herein.

B. Requirements for Non-Residential Subdivisions.

1. The developer or builder of a non-residential subdivision shall install sidewalks along the tract being developed adjacent to all arterial and collector streets, including all development adjacent to Interstate 35, as per Texas Department of Transportation requirements. Sidewalks shall be

constructed either one (1) foot from the property line within the street ROW or within a dedicated sidewalk easement and shall extend along the street frontage including the side of corner lots and block ends. When, in the opinion of the Administrative Official, a non-residential development is located in an area to which sidewalks would not provide a benefit to the public, the requirement for sidewalks to be dedicated and constructed may be waived.

2. Sidewalks shall be constructed in parking areas to assure safe pedestrian access from parking spaces to structures and shall be constructed so as to assure uninterrupted connections between existing pedestrian walkways.
3. Each developer and/or builder of a non-residential subdivision shall construct sidewalks at the time of construction of the development. In those circumstances where a sidewalk would impact the construction of driveways and access walks, the sidewalks shall be constructed before the City's final building inspection. A certificate of occupancy will not be issued until required sidewalks are in place.
4. Construction plans shall show the location of all proposed sidewalks and shall state at what stage of the project they will be constructed.

C. **Sidewalk Specifications.** All sidewalks shall be at least four (4) feet wide within a residential subdivision and at least five (5) feet wide in a nonresidential subdivision and along thoroughfares and major collectors. Sidewalks shall be constructed on both sides of the street. Sidewalks shall be constructed in accordance with the requirements of the Design Standards.

D. **Americans with Disability (ADA) Access Ramps.**

1. An ADA access ramp shall be constructed at any point a proposed sidewalk intersects a street with the exception of walks leading from the street to the door of a residence. If there is no sidewalk, provisions shall be made for an ADA ramp at each corner of an intersection. Access ramps must be constructed with a maximum one (1) inch wide expansion material between the street and ramp flush with the finish grade.
2. Care shall be taken to ensure a uniform grade meeting ADA requirements on the ramp, free of sags and short grades.

E. **Maintenance.**

1. It shall be the duty and obligation of the owners and occupants of real property abutting upon sidewalks, at their own cost and expense, to maintain and keep the sidewalks bordering their property level and free of depressions, excavations, elevations, inconsistencies, obstacles, obstructions or encroachments, natural or artificial, above or below ground level, or which overlap, impinge upon, or appropriate any part of the sidewalk area or the space eight (8) feet above it.
2. Any damage done to a sidewalk by the City or a City-hired contractor shall be repaired by the City or contractor.
3. Any damage done to a sidewalk by a utility shall be repaired by the utility.

SECTION 7.09 STREET APPURTENANCES

A. **Generally.** The cost and installation of the following items are the responsibility of the developer and are required at the time the infrastructure improvements are constructed:

1. Street lights, where required.
2. Traffic signals.
3. Traffic signs and street name blades.
4. Pavement markings.
5. Temporary traffic control devices for use during construction.

B. **Street Lights.** Any new development in the City shall provide street lights. The developer is responsible for engineering, material, installation, and activation of street lights as required by the approved street lighting plans. All plan approvals and construction scheduling must be coordinated through the Administrative Official.

C. **Traffic Signals.** When the area being platted adds a driveway or street approach to an existing signal, the signal hardware must be modified to serve the development. The developer is responsible for engineering, material, and construction of the upgrade to the existing signal.

D. **Traffic Signs and Street Name Blades.** The developer shall supply, erect, and install all of the required traffic signs and street name blades as determined by the City Engineer. All signs must be specific to the neighborhood development, in accordance with the adopted Design Standards. The developer is responsible for supplying all necessary posts, hardware, and concrete to complete the sign assembly installation.

E. **Specialty Signs and Lighting.** Specialty lighting and signs shall not be approved unless provision is made for maintenance by a homeowner's or property owners association.

F. **Pavement Markings.** The developer shall install pavement markings necessary to serve the property being platted in accordance with the approved plans.

G. **Traffic Control During Construction.** The developer is responsible for installing and maintaining all necessary barricades, temporary signs, pavement transitions, and pavement markings to safely convey traffic through the construction area in accordance with the Texas Uniform Traffic Control Device Manual, State Department of Highways and Public Transportation, and the Barricades Manual of the City. The owner is also responsible for the removal of all barricades, temporary signs, pavement transitions, and pavement markings.

H. **Speed Humps.** Speed humps shall not be permitted on City streets without approval of the City Council.

SECTION 7.10 TRAFFIC IMPACT ANALYSIS REQUIRED

A. **When Required.** Every application for a proposed development that generates traffic in excess of two thousand (2,000) average daily trips based upon the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual, or with respect to an application which the City Engineer determines that the characteristics of the proposed subdivision necessitate analysis, shall be accompanied by a traffic impact analysis based on the ITE Manual, prepared by the developer at the developer's expense in accordance with standard transportation engineering practices. The analysis shall be prepared for purposes of determining the adequacy of the road network to serve the proposed subdivision, and whether off-site road dedication and improvements should be made to mitigate the effects of the proposed subdivision.

B. **Requirement for Update.** An updated traffic impact analysis shall be submitted by the applicant with each final plat submitted for approval if, in the opinion of the City Engineer, the final plat changes significantly (i.e. add lots, modifies or adds street connections, etc.) from the approved Overall Development Plan.

- C. **Analysis.** The traffic impact analysis shall determine (1) trips to be generated by the proposed subdivision; (2) assignment of such trips to the road network analyzed; (3) the capacity of affected thoroughfares before and after the proposed subdivision; (4) specific recommendations for thoroughfare improvements and traffic control modifications needed to mitigate the traffic from the proposed subdivision and (5) the subdivision's proportionate share of the costs of such improvements and modifications.
- D. **City Evaluation and Action.** The City shall evaluate the adequacy of the applicant's traffic impact analysis. Based upon such evaluation, the City shall determine (1) whether the application may be approved in the absence of dedication of rights-of-way or construction of improvements to each affected thoroughfare and (2) the extent of the applicant's obligations to make such dedications or improvements.

SECTION 7.11 ALLEYS

Alleys or loading courts are prohibited.

ARTICLE 8 – WATER, SEWER, AND DRAINAGE IMPROVEMENTS

SECTION 8.01 WATER AND SEWER IMPROVEMENTS

- A. **Policy.** It is the policy of the City that all water and sewer improvements within, adjacent to, servicing, or being impacted by any proposed subdivision or development be regulated by the City. City sewer and water services are only provided to properties within the area of the City's certificate of convenience and necessity and within the City.
- B. **Controlling Ordinance.** All requirements related to water and sewer improvements which are within, adjacent to, servicing or otherwise being impacted by any proposed development are described in the Design Standards, as amended.
- C. **Minimum Size.** The minimum pipe size of all water and sewer mains shall be six (6) inches in diameter and shall conform to the Design Standards, as amended. Water mains eight (8) inches or larger in diameter shall be looped.
- D. **Adequate Water for Domestic Use and Fire Protection.**
 - 1. It shall be the policy of the City to ensure that all future developments within the City and its extraterritorial jurisdiction shall be provided with the water in sufficient volume and pressure for domestic use and fire protection. Where the land to be platted lies within the extraterritorial jurisdiction of the City and the City is not the water supplier, the Council may grant a waiver to the requirement for adequate fire protection if it finds that (1) the proposed development will meet the land development rules and regulations of the county in which the property is located; (2) the development is to be served solely by on-site sewage disposal systems; and (3) water lines and other water facilities serving the site are designed and sized to carry future fire flows under the City's criteria and meets all City Design Standards.
 - 2. Fire Hydrants with valves shall be installed at each street intersection and at a minimum of five hundred (500) feet spacing in any residential zoning and three hundred (300) feet spacing in all other zones. Additional fire hydrants shall be placed as necessary such that all ground portions of all buildings in the subdivision can be reached with a normal three hundred (300) foot lay of fire hose. In most instances, commercial buildings will be required to have fire suppression systems and fire spigots in addition to the normal fire hydrants.
 - 3. The approval of a plat by the City does not constitute any representation, assurance or guarantee by the City of the adequacy and availability of water for domestic use and fire protection to the property within the boundaries of the subdivision.

SECTION 8.02 EXTENSION OF WATER AND SANITARY SEWER MAINS

- A. **Required Extensions.** All new subdivisions and developments shall be required to extend across the full width of the subdivision or lot in such an alignment that it can be extended to the next property. The developer shall furnish, install, construct, or extend at his own expense, water and sanitary sewer distribution facilities necessary for the proper development of the subdivision.
- B. **Impact.** Properties which are served by water and sanitary sewer at the time of application for plat approval shall not be required to install additional facilities unless the current lines are not of adequate capacity to serve the proposed development; in which case the developer will be required to install adequate facilities.

C. Adequate Water System.

1. No application shall be approved unless the developer demonstrates that there will be a sufficient volume and pressure for domestic use and fire protection to serve the subdivision concurrent with development. The water system serving the subdivision must be deemed adequate under the rules and regulations and the fire flow regulations contained in the Design Standards.
2. The developer shall demonstrate that the water system serving the development, other than approach mains to connect the development to the water distribution system will be adequate to serve the development at the time of preliminary plat approval. The approach main shall be extended to serve the entire subdivision subject to a subdivision prior to the time of final plat approval for the second phase of the plat unless the extension is part of a funded capital improvement project that the City has initiated consistent with its adopted capital improvements plan for water facilities.
3. The owner of each lot shown on a plat within the City or its extraterritorial jurisdiction shall be required to connect to the City's water system if there is a connection to a main less than two hundred (200) feet from the property line.

D. Adequate Wastewater System.

1. No application shall be approved unless the developer demonstrates that there will be an adequate wastewater system to serve the subdivision concurrent with development. The wastewater system serving the subdivision shall be deemed adequate under the rules and regulations of the Texas Commission on Environmental Quality, the Texas Department of Health, and City Ordinances, as the same may be amended from time to time or the City of Lorena, as may be applicable.
2. The owner of each lot shown on a plat within the City or its extraterritorial jurisdiction shall be required to connect to the City's wastewater system if there is a connection to a main less than two hundred (200) feet from the property line.
3. Where the City is not collecting the sewage, the developer shall provide assurances that wastewater mains shall be extended to serve the subdivision prior to the time of final plat approval for the second phase of a subdivision.
4. The developer shall demonstrate that the wastewater system serving the development, other than approach mains to connect the development to the sanitary sewer collection system, will be adequate at the time of preliminary plat approval. Onsite sewage systems shall conform to the rules of the TCEQ, Texas Department of Health, County of McLennan, and applicable City Ordinances, as the same may be amended from time to time.

E. Water and Sanitary Sewer Line Locations.

1. Along State Highways, water and sanitary sewer lines are required to be constructed on both sides of the roadway. New lines crossing existing streets shall be placed by boring. A casing shall be required under arterial and collector roadways. Open cut excavation will not be allowed to cross existing streets, unless approved in advance and in writing by the City Engineer.
2. All public water and sanitary sewer lines located on private property shall be centered in an easement. Lines shall not be located under paved surfaces where possible.

F. Adequacy Where Utility Connection Not Required.

Where the installation of sanitary sewer facilities is not proposed or required, the size of the subdivided lots shall meet the minimum lot size standards of the zoning district in which the land is located, and the City's minimum lot size requirements for individual disposal facilities for land inside City limits, and the minimum lot size requirements for individual disposal facilities for McLennan County. The lot shall be of sufficient size for individual disposal facilities, including the necessary lateral lines, and the developer shall install individual disposal devices for each lot at the same time improvements are erected thereon. Any such individual sewage disposal system shall be constructed in accordance with the state health department specifications and subject to the approval of the City.

SECTION 8.03 OVERSIZED WATER AND SANITARY SEWER MAINS

In order to provide appropriate capacity for reasonably anticipated development in a drainage basin or service area, the City Engineer, with the approval of the City Council, may require a developer to install a utility line or system improvement larger than necessary to support the development. The size of the facilities required to serve the development shall be determined by the City Engineer. The City may compensate the developer for the difference in cost mandated by oversizing by pro rata agreement or City participation. Upon written request of the developer, credit for development fees may be transferred from the current development project to subsequent development projects, subdivisions or phases undertaken by the developer.

SECTION 8.04 DRAINAGE IMPROVEMENTS

- A. **Generally.** An adequate storm sewer system consisting of inlets, pipes, channel improvements or grading, driveway adjustments, or other underground structures with approved outlets shall be constructed where runoff of storm water and the prevention of erosion cannot be accomplished satisfactorily by surface drainage facilities. Areas subject to flood conditions or inadvertent storm water retention, such as standing or pooling water, as established by the City Engineer, will not be considered for development until adequate drainage has been provided. Drainage systems, including all conveyances, inlets, conduits, structures, basins, or outlets used to drain storm water, must be designed and constructed to promote the health, safety, and welfare of the property owner and the public. Adequate provision must be made for the acceptance, collection, conveyance, detention, and discharge of storm water runoff drainage onto, through, and originating within the subdivision. Storm water must be discharged in an acceptable form and at a controlled rate so as not to endanger human life or public or private property. No final plat approval may be issued until proper provision has been made for drainage.
- B. **Design Criteria.** The criteria for use in designing storm sewers, culverts, bridges, drainage channels, and drainage facilities shall conform to the Design Standards. In no case shall drainage areas be diverted artificially to adjacent properties or across roadways. All storm drainage facilities must be designed and constructed to safely drain a 100-year return frequency flood as outlined in the Design Standards, as amended. Paved streets and alleys, ditches, and swales may be used for emergency overflow capacity in parallel with enclosed systems provided the requirements of the Design Standards.
- C. **Lot to Lot Drainage.** Storm water drainage from one lot onto another shall not be allowed unless such does not pose any harm or inconvenience to the downstream property owner(s), unless specifically approved by the City Engineer, and unless the necessary off-site drainage easement is procured on the affected properties, or if applicable, letters of permission from the property owner have been obtained and approved by the City.
- D. **Developer Responsibilities.** The developer shall ensure that all drainage improvements within public easements or rights-of-way are functioning properly prior to the expiration of the maintenance bond. The developer shall be responsible for removing any significant build-up of sediment or debris from drainage improvements, with the exception of backlot and side lot drainage swales, at the eleventh month of the second

year for the required two-year maintenance bond for the applicable facilities. The City shall inspect the improvements to determine any maintenance or correction of deficiencies at the conclusion of this period.

- E. **Layout Requirements.** To reduce storm water runoff, and resulting erosion, sedimentation and conveyance of nonpoint source pollutants, the layout of the street network, lots and building sites shall, to the greatest extent possible, be sited and aligned to minimize the amount of cut and fill on slopes, and shall minimize the amount of cut and fill on slopes in order to minimize the amount of land area that is disturbed during construction. All erosion and sedimentation controls shall conform to the Design Standards.
- F. **Runoff.** No proposed development shall be constructed which impedes or constricts runoff from an upstream watershed.
- G. **Floodplain.** Unless in compliance with Ordinance No. 08-0616-01, "Flood Damage Prevention Ordinance", land subject to flooding, as designated in a FEMA 100 year floodplain, shall not be platted for residential occupancy, nor shall it be platted for such other uses as may increase danger to health, life or property or aggravate the flood hazard. Lots may be platted which include designated floodplain; however, the lot must contain sufficient buildable area outside of the designated floodplain, based on current zoning requirements.
- H. **Detention and Retention Ponds.** Detention or retention ponds shall be required to limit the peak rate of discharge for the design storm events stated below to pre-development rates or rates which will not cause an increase in flooding or channel instability downstream when considered in conjunction with ultimate watershed development and downstream drainage capacities. The pond shall meet the following requirements:
 - 1. Outlet structures shall be staged to prevent any increase at the 5, 10, 25, 50 and 100 year flow levels. Outflow structures should be well maintained and unobstructed. Provisions for maintenance shall be included with plat or deed covenants.
 - 2. Unless approved by the Council, the pond shall remain the property of the developer or homeowners association, and shall not be the direct responsibility of the City.
 - 3. The pond shall be landscaped, designed and constructed to meet the requirements of the Design Standards. The pond shall be sealed and aerated.
- I. **Channels.** Open ditches may be used to carry surface runoff in areas in which enough width is available to accommodate the required section. Capacity of ditches shall be calculated by Manning's formula, or other method approved by the City Engineer. Ditches shall be constructed of sufficient size to carry the intended runoff. The side slopes of all ditches shall be no steeper than four feet (4) horizontal run to one foot (1) vertical height, or a four to one (4:1) slope.
- J. **Finished Floors (Pad Sites).** The site grading plan and all construction shall be such that building pads for structures shall drain away at a minimum of five (5%) percent grade in all directions from the structure for at least ten feet (10) from the edge of structure, then a minimum two (2%) percent grade in all directions for the next forty feet (40), unless proper walls, ditches, or underground drainage systems are used to capture and convey 100-year runoff away from the building. In any area in which localized building flooding appears to be a concern, the applicant shall set a minimum finish floor elevation and show such on the grading plans.
- K. **Design Methods.** The determination of design discharge of storm drainage water shall be accomplished in accordance with the following criteria:
 - 1. The Rational Method ($Q = CIA$) shall be used on small watersheds of two hundred (200) acres or less.

2. Unit hydrographic techniques shall be used for areas greater than two hundred (200) acres.

The City Engineer prior to the completion of calculations shall approve the technique and data to be used for the determination of the design discharge. A complete set of all detailed calculations must be submitted to the City Engineer for approval prior to the completion of the plans for the drainage system.

- L. **Funding.** The owner or developer shall fund and construct all storm drainage outfalls necessary to safely and adequately drain the development.
- M. **City Participation.** The City may provide new public drainage outfalls and public drainage system upgrades to serve existing and future developments through specific items in the capital improvement bond programs.
- N. **Creeks and Drainage Areas.** All creeks and drainage areas shall be preserved and protected in their natural condition wherever possible, unless significant storm drainage improvements are required by the City in these areas. All development adjacent to creeks and drainage areas shall be in accordance with the City's Design Standards, and with any other City policies or ordinances related to public access or recreational use of waterways. Sheet flow into drainage channels or creeks shall be limited to non-erosive velocities as determined in the Design Standards.
- O. **Bridges.** Bridges or culverts shall be constructed at all street locations where flow patterns cross the street and are not intercepted by an underground storm sewer system or appropriate concrete valley gutter. (Note: Valley gutters on public streets shall not be used to convey more than 10 cfs based on a 100-year event.) Bridges and culverts must accommodate the 100-year design flows based on fully developed upstream conditions and be designed to accommodate the needed driving lanes for cross traffic along with any safety end treatment, protective offsets, guardrail, signs and/or lighting.

SECTION 8.05 WATER AND SEWER PRO RATA

- A. **Purpose.** The purpose of this section is to establish responsibilities for the extension of water and sewer mains and other public utility improvements into the various utility basins located within the limits of the City and its extraterritorial jurisdiction, to provide a procedure for acquiring necessary easements and rights-of-way, and to establish responsibilities for paying for the cost of constructing the water and sewer improvements, preparing the engineering and survey work necessary to design and install the water and sewer improvements and the cost of inspecting any and all construction undertaken pursuant to this section.
- B. **Developer's Responsibilities.**
 1. In the event that a development proposal is submitted which will require the use of a public water and/or sewer system, and no such public system has yet been extended into the area where the proposed development is located, it will be the responsibility of the developer to comply with the terms and conditions of this section in order to ensure the immediate availability of service.
 2. It is, and shall remain, the responsibility of each developer to tie his or her development project into the water or sewer main serving that specific utility basin or service area. Should a lift station and/or force main be required in order to utilize a proposed off-site service location, such lift station and/or force main shall be installed at the developer's cost. In order to promote economic development, the City may participate in construction of water and sewer mains and infrastructure, provided that the City may share in pro rata reimbursement.
- C. **Determination of System Availability.**

1. When a developer plans to undertake a specific development project within the City or its extraterritorial jurisdiction and the development will require service through a public water and/or sewer system, it will be the responsibility of the developer to contact the City Engineer to determine system availability. The developer will advise the City Engineer in writing of the specific location of his development, the total size of the development in acreage, living units and/or square feet of commercial or industrial space, the type of development and land use to occur within the subdivision, estimated amount of flows, if available; and the approximate time when public utilities will be required. The information may be incorporated into a preliminary plat or development plan application submitted to the Administrative Official.
2. The City Engineer shall review the City's current water and sanitary sewer system and determine whether service is currently available to the development. If service is available through an existing main, the City Engineer shall identify the point on that main where the development will be permitted to tie into the system and will advise the developer in writing of the location where a tie-in will be permitted. The City Engineer shall support such written notice with such map exhibits as are necessary to clearly delineate the point of tie-in.
3. In the event that a connection to an existing utility main is possible, the City Engineer will determine if the utility main has been installed by the City or whether it was installed by a prior developer under the approach main extension policies of this section. In the event that the utility main was installed by the City and the City is not entitled to pro rata reimbursement under the terms of this Section, the developer will be advised that there will be no pro rata reimbursement charge to tie into the utility main. The developer will be responsible for the entire cost of the service line connecting his development to the utility main. In the event that the City is due pro rata, the developer shall pay the pro rata charge into the pro rata escrow account of the City, prior to making a tie-in to the system.
4. If the utility main or a portion of the utility system serving the development was installed by a prior developer under the approach main extension policy outlined in this section, the City Engineer will advise the developer of his pro rata share of costs for connection to this line. The developer shall pay the pro rata charge into the pro rata escrow account of the City prior to making a tie-in to the system.

D. **Construction of Approach Mains.** If the City Engineer should determine that utility service to a proposed development is not available he shall notify the developer in writing. In this situation, the developer must select among the following alternatives:

1. Discontinue his proposed development until such time as a utility system has been installed within the drainage basin or service area;
2. Petition the City Council to expedite the construction of a utility system capable of serving the proposed development; or
3. Install the necessary utilities to the point necessary to serve the development. The developer will be responsible for all costs associated with the installation of necessary utilities, including but not limited to engineering, attorney's fees, surveying, testing, easement preparation, easement acquisition, construction and inspection. The public utilities must be designed and constructed to City standards and specifications as the City Engineer determines to be applicable. The developer may install the public utilities or may contract with the City to secure construction of the utilities by the City. All financial arrangements, including any necessary bonding, shall be completed prior to the execution of a developer agreement. In the event that a developer elects to pursue this alternative, he will be

eligible to receive a pro rata reimbursement, for a period of ten (10) years from the execution of the pro rata agreement, from developers who tie into these specific utilities.

E. Pro Rata Cost Allocation Where Public Utilities are Financed by Initial Developer.

1. If a public utility system is installed within a service area by a developer, each subsequent development within the utility basin or service area which ties into the public utility system shall pay a pro rata share of the cost of the utility system installed by the initial developer. If the City installs a public utility system, the City Council may require each subsequent development within the utility basin or service area which ties into the public utility system to pay a pro rata share of the cost of the utility system. The pro rata fee shall be paid prior to connection to the utility system, or before approval of the final plat, whichever occurs first. The pro rata fee for each subsequent development seeking service shall be determined on a cost per acre basis by calculating the proportional area of the new development to the total area within the utility basin or service area served by the public utility system, multiplied by the total cost of the public utility system installed by the initial developer. The total cost of the utilities shall include construction, engineering, attorney's fees, surveying, testing, easement preparation, easement acquisition, and inspection costs.
2. Provided the City collects the funds, the initial developer shall be entitled to a rebate of the pro rata charge against subsequent developers for a period of ten years following completion and acceptance of the utilities. At the expiration of the tenth year, the developer will no longer be entitled to receive any reimbursement.

F. Management of Escrow Account.

1. The City shall establish an escrow account in the water/sewer fund for the deposit of all pro rata payments. A separate escrow account shall be established for each public utility system constructed by an initial developer. All pro rata fees received from subsequent developments or subdivisions in that drainage basin or service area shall be deposited in that specific escrow account.
2. At least once each year, on or about January 30, the Administrative Official, shall inventory each escrow account to determine what percentage of those monies is allocable to reimbursable oversizing costs owed by the City as determined under Section 1 hereof. This allocation shall be determined in the same proportion that the cost of the oversized line bears to the cost of the line size that is necessary to serve the development. For other utility system improvements, the allocation shall be determined in the same proportion that the cost of the oversized improvements bear to the cost of the minimum improvements required by City ordinances to serve the development, as determined by the City Engineer. Upon completion of such inventory, the Administrative Official shall transmit all escrow funds due and owing to the initial developer. Upon payment of these funds, the City will receive a credit for the amount of money allocable toward its reimbursable oversizing requirements.
3. The developer shall be responsible for providing to the City, and maintaining with the City, an accurate current address. When escrowed funds are available for disbursement, the City shall notify the developer at the address on file with the City. If the developer fails to withdraw the funds within six (6) months, the funds shall be forfeited to the City's water and sewer fund.
4. At no time shall the developer be entitled to receive reimbursement for a sum greater than the initial cost of the public utilities less the pro rata share of capacity of that utility system that would have been attributable to the initial development for its proportionate share of capacity in the system.

SECTION 8.06 FIRE HYDRANTS AND FIRE LANES

- A. **Generally.** Fire hydrants with valves shall be installed at each street intersection and at a minimum of five hundred (500) feet spacing in any residential subdivision and three hundred (300) feet spacing in all other zones. Additional fire hydrants shall be placed as necessary such that all ground portions of all buildings in the subdivision can be reached with a normal three hundred (300) foot lay of fire hose. In most instances, commercial buildings will be required to have fire suppression systems and fire spigots in addition to the normal fire hydrants.
- B. **Specifications.**
 - 1. Fire hydrants shall be Mueller, Waterous or other equal model approved by the City Engineer. All fire hydrants shall include a line valve between the fire hydrant and the water main.
 - 2. Where possible, fire hydrants shall be located not further than fifteen (15) feet from a street or fire lane.
 - 3. Fire lanes shall not be narrower than twenty-four (24) feet.
 - 4. Blue pavement reflectors, meeting the criteria of the fire department, shall be installed at the center of the street(s) adjacent to each fire hydrant location.
- C. **Blocking.** Fire hydrants, valves and pipe ends shall be blocked with unreinforced concrete (at least two thousand five hundred (2,500) psi) as shown in the City's standard water details. If blocking for a particular situation is not given in the City details, then the Heart of Texas Council of Governments details shall be met. In no instance shall rocks be in contact with the pipe or fittings.

ARTICLE 9 – ELECTRIC UTILITY REQUIREMENTS

SECTION 9.01 UNDERGROUNDING REQUIRED

- A. **Generally.** All electric lateral and service lines throughout the interior of residential subdivisions shall be placed underground and in dedicated easements. This provision does not require the underground installation of transmission lines or of feeder lines placed along the perimeter of a subdivision.
- B. **Appurtenances.** Wherever electric lateral and service lines are required to be placed underground, lines carrying telephone service, data transmission, cable television, and street lighting shall also be placed underground.
- C. **Supporting Structures.** Within the interior of residential subdivisions, all electrical, telephone, data transmission, or cable television support equipment necessary for underground installation, including transformers, amplifiers, switching devices, etc., shall be pedestal- or pad-mounted, or shall be placed underground.

SECTION 9.02 OWNER TO BEAR COST

- A. **Responsibility.** The developer shall arrange to reimburse the utility company for the difference in cost between the installation of such service and the installation of equivalent overhead service in accordance with the provisions of the utility's tariff, if any.
- B. **Arrangement for Payment.** No utility shall be required to begin construction of underground facilities unless and until the owner has made arrangements satisfactory to the utility company for the payment of the difference between the cost of overhead facilities and underground facilities.

SECTION 9.03 EXCEPTIONS TO UNDERGROUND REQUIREMENT

- A. **Temporary Service.** Temporary service during construction may be provided by overhead utility lines and facilities prior to activation of the underground service. Following activation of the underground permanent service, the temporary overhead service shall be removed within forty-five (45) days.
- B. **Existing Facilities.** Nothing in this article shall be construed to require any existing overhead facilities to be placed underground or to prohibit the upgrading, reconstruction or reconductoring of any existing overhead facilities with overhead construction.

ARTICLE 10 – MISCELLANEOUS REQUIREMENTS

SECTION 10.01 LOTTING REQUIREMENTS

- A. **Fronting Street.** Each lot shall abut on a public street or a private street. Private streets will be allowed only if approved by the Commission and the City Council and if the standards set forth in this Ordinance are met.
- B. **Minimum Size.** All lots that are not served by a public or quasi-public community sewer system, shall contain a minimum lot area as required by McLennan County to support a private septic tank and leach field.
- C. **Double Fronted Lots.** Double fronted residential lots shall not be allowed. However, lots which are backed up to an arterial street shall be allowed when there is no access allowed from these lots to the arterial street. Access may also be limited to collector streets for lots which have double frontage. Where lots have double frontage, building set back lines shall be established for each street frontage. Setbacks shall be defined as per the Zoning Ordinance with the front of the lot established on the street with the lesser classification. If both streets are of the same classification, the Administrative Official shall determine which street is designated as the front of the lot.
- D. **Side Lot Lines.** All side lot lines shall be perpendicular to the right-of-way lines or radial in the case of a cul-de-sac or curvilinear design.
- E. **Corner Lots.** All corner lots within the City shall have setback lines on both streets as required by the Zoning Ordinance.
- F. **Setback.** All lots within the extraterritorial jurisdiction of the City shall have a minimum twenty (20) foot building setback line from all streets adjacent to the lot.
- G. **Conformance with Zoning Ordinance.** All lots within the City shall meet the requirements of the Zoning Ordinance or where applicable, the requirements in an approved development agreement for a subdivision within the extraterritorial jurisdiction of the City.
- H. **Irregular-Shaped Lots.** Irregular-shaped lots shall have sufficient width at the building line to meet lot width and frontage requirements, and shall provide a building pad without encroachment into front, side or rear yard setbacks or into any type of easement. The rear lot width shall be sufficient to provide access for all necessary utilities, including access for driveways and solid waste collection.
- I. **Prohibited Lots.** Triangular, greatly elongated or tapered, “flag” or “panhandle” lots are prohibited.
- J. **Lots Backed onto Street.** A residential lot shall not back onto any residential street or collector street within a residential area or neighborhood, and shall not have more than one-half of its perimeter along streets.
- K. **Access Limitation.** Residential lots shall not have direct access onto thoroughfare streets, except as provided in Section 7.02b1, and direct access from residential lots shall be permitted on collector streets only where design conditions do not permit any other possibility.

SECTION 10.02 SIGHT TRIANGLE REQUIREMENT

- A. **Restriction.** There shall be no tree, shrub, plant, sign, soil, fence, retainer wall or other view obstruction having a height greater than two (2) feet within the sight triangle. This height shall be measured above a line drawn between the top of curb or edge of pavement of both streets at the point where the referenced line intersects the top of curb or edge of pavement. The sight triangle shall be the triangle made by extending twenty-five feet along each property line from the property corner at an intersection.

- B. **Exception.** This restriction shall not apply to trees within the triangle having a diameter of less than twelve (12) inches when such trees are trimmed at all times so that no branch or growth is less than nine (9) feet above the above referenced measurement line.
- C. **Plat Notation.** All final plats which depict intersections of public right-of-way shall have the following statement on the face of the plat prior to filing in the county plat records. "The owners of all corner lots shall maintain sight triangles in accordance with the City's Subdivision Ordinance."

SECTION 10.03 MONUMENTS AND MARKERS

- A. **Permanent Survey Reference Monuments.** Concrete monuments, eight (8) inches in diameter and twelve (12) inches long, shall be placed on all boundary corners which are along existing dedicated right-of-way at the perimeter of the subdivision. A five-eighth (5/8) inch diameter iron rod having a minimum length of eighteen (18) inches shall be placed flush with the top and at the center of the concrete monument. The monuments shall be set at such an elevation that they will not be disturbed during construction and the top of the monument shall be flush with or just below the finished ground elevation.
- B. **Installation of Monuments.** Monuments shall be installed before the recording of the final plat. The developer may install monuments after the recording of the final plat and after completion of improvements provided the developer furnishes the City a letter of assurance certifying the monuments will be installed as required. All monuments shall be installed prior to acceptance of the subdivision.
- C. **Monuments in Streets.** When placing of monuments in streets is postponed, adequate ties to the boundary line shall be shown on the plat in order that monuments may be correctly located and installed following the paving of streets.
- D. **Benchmark Monuments on Headwalls.** A brass cap approximately two (2) inches in diameter shall be placed on top and at one end of all culvert headwalls within or at the perimeter of the development. Prior to acceptance of the subdivision, the subdivider's surveyor shall provide a letter certifying the elevation of the brass cap (NGVD 1929).
- E. **Monument Verification.** Prior to acceptance of public works improvements by the City, the developer's surveyor or engineer shall certify that all monument and markers are in place and correctly positioned
- F. **Markers.** Lot markers shall be iron pins not less than one half (1/2) inch in diameter and not less than eighteen (18) inches long and shall be set flush with the ground at each corner lot.
- G. **Corners.** All lot corners shall be set prior to the acceptance of the public improvements and shall be marked in a way that is traceable to the responsible registrant or associated employer.

SECTION 10.04 DIGITAL DATA REQUIREMENTS

Prior to acceptance of the subdivision, the developer shall provide a digital computer file or files of the subdivision containing the coordinate geometry for the subdivision boundaries, lot lines, right-of-way, street centerlines and easements in a format and on media compatible with the City system (autocad, .DWG and .PDF).

SECTION 10.05 HOMEOWNERS' OR PROPERTY OWNERS' ASSOCIATIONS

- A. **Applicability.** When a development contains common areas, entry features, screening walls, open space or other improvements not intended to be dedicated to the City for public use, a homeowners' or property owners' association shall be created, and the duties and responsibilities shall be established in a declaration consistent with state laws.

B. Dedication.

1. The common areas shall be shown on the final plat as separate lots, along with an adequate form for dedication. This dedication form shall include language which saves the title to common area properties for the benefit of the homeowners' or property owner's association and expresses a definite undertaking by the developer to convey the common properties to the homeowners' association.
2. All facilities, structures, improvements, systems, areas or grounds to be operated, maintained and/or supervised by an association, other than those located in public easements or rights-of-way or public parks dedicated to the City, shall be dedicated by easement or deeded in a fee simple ownership interest to such association.

C. **Responsibilities.** The mandatory property owner's or homeowners' association shall be responsible for the continuous and perpetual operation, maintenance and/or supervision of landscape systems, features or elements located in parkways, common areas, between screening walls or living screens and adjacent curbs or street pavement edges, adjacent to drainage ways or drainage structures, or at subdivision entryways.

D. **Legal Requirements.** To assure the establishment of a permanent homeowners' or property owners' association, including its financing and the rights and responsibilities of the owners in relation to the use, management and ownership of common areas or common property, the plat, dedication documents, covenants, and other recorded legal agreements must provide for the following:

1. Creation of an automatic membership, nonprofit homeowners' or property owners' association;
2. Placement of title to the common property in the homeowners' or property owners' association or definite assurance that it automatically will be so placed within a reasonable, definite time;
3. Appropriate limitation of the uses of the common property;
4. Imposition of an association charge or assessment on each lot in a manner which will assure sufficient association funds to maintain the common property or improvements;
5. The grant to each owner voting rights in the association;
6. Identification of the land area within the association's jurisdiction including, but not limited to, the following:
 - a. The property to be transferred to public agencies;
 - b. The individual lots;
 - c. The common properties to be transferred by the developer to the association; and
 - d. Other parcels;
7. Protective covenants which, shall make the association responsible for the maintenance and operation of all common property, and include provisions for assessments, to be enforced by lien;
8. Definitions of terms;
9. An initial term of the agreements, covenants and restrictions establishing the association for a 25-year period and automatic renewal for successive ten-year periods, and provide that the association may not be dissolved without the prior written consent of the City;

10. The amendment of any portion of the association's agreements, covenants or restrictions pertaining to the use, operation, maintenance and/or supervision of any facilities, structures, improvements, systems, areas or grounds that are the responsibility of the association only with the prior written consent of the City; and
11. An indemnification holding the City harmless from any and all costs, expenses, suits, demands, liabilities or damages, including attorney's fees and costs of suit, incurred or resulting from the City's removal of any landscape systems, features or elements.

E. **Procedure.** The developer shall submit the Articles of Incorporation of the homeowners' or property owners' association, its bylaws, and the restrictive covenants to the Administrative Official for approval along with the final plat. Prior to filing the plat, the developer shall create an incorporated nonprofit homeowners' association, and record covenants which meet the requirements of Subsection d.

SECTION 10.06 DEVELOPER'S AGREEMENT

A. **When required.** A developer's agreement is required to be executed in the event public works improvements are required, when the developer requests a waiver or credit of fees, credits for prior or proposed improvements or dedications, requests a pro rata arrangement, or dedicates park land to the City.

B. **Generally.**

1. No earthwork, grading, utility, street, or drainage improvement construction or any public or private improvements shall be allowed until the developer receives approval of the appropriate plat and the City executes a developer's agreement with the developer.
2. The City Administrator is authorized to execute a developer's agreement in the form approved by the City Council unless the agreement provides for one or more of the following:
 - a. Financial participation by the City;
 - b. Waiver of fees; or
 - c. Credits for prior or proposed improvements or dedications.

If the developer's agreement includes any of the foregoing provisions, the agreement must be approved by City Council.

C. **Terms of Agreement.** The developer's agreement shall be on a form prepared by the City and shall contain, at a minimum, the following provisions:

1. Covenants to complete the public improvements in accordance with City ordinances within two years from final plat approval;
2. Covenants to warranty the improvements for a period of two years following acceptance by the City;
3. Covenants to provide performance, payment and maintenance bonds;
4. 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, with the City as an obligee;
5. Provisions for securing the obligations of the agreement;
6. Insurance and indemnification requirements; and

7. Such other terms and conditions as are agreed to by the developer and City.
- D. **Cost Estimates.** The costs in the developer's agreement shall be based on cost estimates thereof, prepared by the developer's engineer and reviewed by the City Engineer.
- E. **Covenants to Run with the Land.** The developer's 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 lienholders shall be required to execute the agreement or provide written consent to the covenants contained in the agreement.

SECTION 10.07 VARIANCES

- A. **Generally.** The Commission may recommend and the City Council may authorize a variance from these regulations when, in its opinion, extraordinary hardship will result from requiring strict compliance.
- B. **Request.** The applicant seeking a variance shall submit to the Administrative Official a written request stating the justification for such variance, accompanied by engineering data or other evidence supporting the applicant's request for relief. The Commission may recommend and the City Council may grant a variance in conjunction with the application for approval of the plat. The applicant bears the burden of proof to demonstrate that a variance to the standards applicable to a development application should be granted.
- C. **Evidence.** The Commission and City Council may require engineering studies and displays from the applicant to support the request for a variance. The decision of the Council shall be final.

SECTION 10.08 FACTORS TO CONSIDER.

The City Council shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed development, and the probable effect of the requested variance upon traffic conditions, City services, and upon the public health, safety, convenience and welfare, and whether:

- A. The requirement places an unreasonable burden on the development and does not bear a rough proportionality to the requirements necessary to serve the development; or
- B. Hardships or practical difficulties will result from strict compliance with these regulations, and/or the purpose of these regulations may be served to a greater extent by an alternative proposal; and
- C. The conditions upon which the request for a variance is based are unique to the property and are not applicable to other properties, or the tract has severe topographical conditions or unique environmental qualities worthy of protection.

Financial hardship, alone, to the applicant shall not be deemed to constitute unreasonable burden or hardship.

SECTION 10.09 AUTHORITY TO IMPOSE CONDITIONS.

The City Council may impose conditions relating to the variance as will, in its judgment, substantially secure the objectives of the standards or requirements to which the variance was granted.

SECTION 10.10 WAIVERS FOR PLANNED DEVELOPMENT DISTRICTS.

The Commission may recommend and the City Council may modify the standards and requirements of this Ordinance in the case of an application including an approved planned development district. Such departures from the standards specified may be made only when the Council finds that the plan provides for convenience and safe access, adequate space for recreation, provision for light and air, and offers all essential utility services and necessary public and other

facilities, and is in conformance with all provisions of any ordinances which specifically apply to a planned development district.

SECTION 10.11 PARKLAND DEDICATION

- A. **Purpose.** This Section is to provide dedication of park land and/or fees in lieu for neighborhood or community park facilities in accordance with the City's Comprehensive Plan and Park Master Plan as amended.
- B. **Neighborhood and Community Parks.** Neighborhood and community parks provide for a variety of outdoor recreational opportunities that are within convenient distances from the majority of residences to be served thereby.
- C. **Application.** These requirements shall apply to subdivision plats on residentially zoned land which is to be used for residential purposes. Developers shall dedicate park land or pay fees in lieu as required by this Ordinance.
- D. **Dedication of Land.** At the City's discretion, developers shall dedicate park land for each residential subdivision plat, at a minimum of one (1) acre of land per one hundred (100) of projected subdivision population. Population shall be calculated based upon two point eight (2.8) persons per dwelling unit.
- E. **Fees in Lieu of Dedication.** At the City's discretion, payment of fees in lieu of park land dedication may be required. The amount of such payment shall be equal to the fair market value of the land that would be required to be dedicated for park land according to this Ordinance.
- F. **Fair Market Value Determined.** The fair market value of the base land to be dedicated shall be calculated as determined on the most recent appraisal made by the McClellan County Central Appraisal District of all or part of the property being subdivided at the time of preliminary plat approval. If there is no preliminary plat required, then at the time of final plat approval. If the Developer/Owner objects to the fair market value determination, the Developer/Owner at his own expense, may obtain an appraisal by a State of Texas certified real estate appraiser, mutually agreed upon by the City and the Developer/Owner.
- G. **Use of Fees.** Parkland dedication fees paid in lieu of land dedication will be deposited in a fund referenced to specific future neighborhood or community parks or existing neighborhood or community parks as identified on the City's Comprehensive Plan or Parks Master Plan as amended. Funds deposited into a particular park fund may only be expended for land or improvements within that particular future or existing neighborhood or community park.
- H. **Accounting of Fees.** The City shall account for all fees in lieu of land and all development fees paid under this Section with reference to the individual plat(s) involved. Any fees paid for such purposes must be expended by the City within ten (10) years from the date received by the City for acquisition and/or development of a neighborhood or community park as required herein. Such funds shall be considered to be spent on a first-in, first-out basis. If not expended, the landowners of the property on the expiration of such period shall be entitled to a prorated refund of each sum, computed on a square footage of area basis. The owners of such property must request such refund within one (1) year of entitlement, in writing, or such right shall be barred.
- I. **Minimum Acreage.** Unless otherwise determined by the City, the minimum park land dedication that will be accepted by the City shall be three (3) acres.
- J. **Usable Park Land.** Any land dedicated to the City for park purposes in accordance with this ordinance shall be appropriate for neighborhood or community park purposes as determined by the Administrative Official.