

Town of Prosper Subdivision Ordinance



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Table of Contents

Section 1. General Provisions.....	3
1.01. Title.....	3
1.02. Authority.....	3
1.03. Purpose.....	3
1.04. Applicability	4
1.05. Documents Comprising Subdivision Rules.....	5
1.06. Compliance Required with Town Plans and Ordinances	5
1.07. Public Improvements Required	6
1.08. General Plat Requirements.....	6
1.09. Special Provisions, Enforcement, and Violations.....	7
1.10. Summary of the General Subdivision Procedure.....	8
Section 2. Development Review Bodies.....	11
2.01. Town Council	11
2.02. Planning & Zoning Commission	11
2.03. Town Manager.....	11
2.04. Director of Development Services	12
2.05. Deputy Director of Engineering Services	12
2.06. Director of Public Works.....	12
Section 3. Application Submittal and Processing Procedures.....	13
3.01. Pre-Application Meeting.....	13
3.02. General Application Processing	14
3.03. 30-Day Time Frame for Plat Approvals.....	15
3.04. Processing, Action, and Notification Following Subdivision Application Decision	16
3.05. Public Hearings for Replat Applications.....	16
3.06. Amendments and Expiration to Approved Subdivision Applications	17
Section 4. Platting Requirements.....	19
4.01. General Subdivision and Platting Procedures.....	19
4.02. Pre-Application Meeting.....	19
4.03. Sketch Plan	19
4.04. Preliminary Plat	20
4.05. Final Plat	24
4.06. Minor Plat	28
4.07. Replat.....	30
4.08. Amending Plat	32
4.09. Conveyance Plat	34
4.10. Plat Vacation.....	35
Section 5. Construction Plans & Procedures.....	37
5.01. Construction Plans.....	37
5.02. Pre-Construction Meeting	40
5.03. Construction Release	40
5.04. Construction of Public Improvements	40
5.05. Inspection, Maintenance, and Acceptance of Public Improvements	41
5.06. Security for Completion of Public Improvements	44



Section 6. Subdivision Design Standards..... 45

- 6.01. General Standards45
- 6.02. Adequate Public Facilities46
- 6.03. Streets.....46
- 6.04. Private Streets and Gated Subdivisions53
- 6.05. Alleys.....57
- 6.06. Sidewalks58
- 6.07. Lots59
- 6.08. Blocks.....60
- 6.09. Survey Monuments and Lot Markers61
- 6.10. Access Management.....62
- 6.11. Easement Dedication63
- 6.12. Water Utility64
- 6.13. Wastewater Utility.....65
- 6.14. Drainage and Stormwater66
- 6.15. Development Criteria Along Creeks, Drainage Ways and Floodplain.....71
- 6.16. Residential Development Criteria Along Major Creeks73
- 6.17. Retaining Wall Construction74
- 6.18. Residential Thoroughfare Screening.....75
- 6.19. Homeowners’ or Property Owners’ Associations.....80
- 6.20. Park Land Designs, Dedications, and Fees82
- 6.21. Franchise Utilities88

Section 7. Subdivision Relief Procedures 91

- 7.01. Petition for Subdivision Waiver91
- 7.02. Subdivision Proportionality Appeal95
- 7.03. Subdivision Vested Rights Petition98

Section 8. Definitions..... 99

- 8.01. Usage and Interpretation99
- 8.02. Words and Terms Defined99



Section 1. General Provisions

1.01. Title

This Ordinance and subsequent regulations of the Town of Prosper, Texas, shall be known as, and may be cited and referred to as the "Subdivision Ordinance".

1.02. Authority

This Subdivision Ordinance and subdivision regulations are adopted pursuant to the authority granted by the U.S. Constitution, the Texas Constitution, and the laws of the State of Texas, specifically including Chapter 212 of the Texas Local Government Code (LGC), as amended.

1.03. Purpose

These regulations shall be administered so as to achieve the following specific purposes:

A. Specific Purposes of the Subdivision Regulations

1. Promote the health, safety and general welfare of the community within the Town's corporate limits and Extraterritorial Jurisdiction (ETJ);
2. Establish orderly policies and procedures to guide development of the Town and ETJ;
3. Provide for the establishment of minimum specifications for construction and engineering design criteria for public infrastructure, reduce inconveniences to residents of the area, and to reduce related unnecessary costs to the Town for correction of inadequate facilities that are designed to serve the public;
4. Ensure that development of land and subdivisions shall be of such nature, shape and location that utilization will not impair the general welfare;
5. Protect against the dangers of fires, floods, erosion, landslides, or other such menaces;
6. Coordinate new development realistically and harmoniously with existing development;
7. Protect and conserve the value of land throughout the Town;
8. Provide the most beneficial circulation of vehicle and pedestrian traffic throughout the Town, and to provide for the proper location and width of streets;
9. Establish reasonable standards of design and procedures for the development and redevelopment, provide for the orderly layout and use of land;
10. Ensure proper legal descriptions and documentation of subdivided land;
11. Ensure public facilities with sufficient capacity to serve the proposed subdivision are available for every building site, and to provide public facilities for future development;
12. Ensure the adequacy of drainage facilities; and encourage the wise use and management of natural resources throughout the Town in order to preserve the integrity, stability, and beauty of the community;
13. Preserve natural characteristics of the Town and of the Town and ensure appropriate development with regard to natural features such as, topography, vegetation, etc.;
14. Ensure that new development adequately and fairly participates in the dedication and construction of Public Improvements and infrastructure that are necessitated by or attributable to the development; and
15. Address other needs to ensure the creation and continuance of a healthy, attractive, safe and efficient community that provides for the conservation, enhancement and protection of its citizen and natural resources.



1.04. Applicability

A. General

It is hereby declared to be the policy of the Town to consider the subdivision and development of land as subject to the control of the Town in order to carry out the purpose of the Comprehensive Plan, other Town codes, and to promote the orderly, planned, efficient and economical development of the Town.

B. Subdivision and Development of Land Policies

1. Land shall not be subdivided or developed until proper provision has been made for drainage, water, wastewater, transportation and other facilities required by these regulations.
2. All public and private facilities and improvements shall be of at least the capacity necessary to adequately serve the development and shall conform to and be in accordance with the Comprehensive Plan and the Design Standards and Specifications.
3. These regulations shall supplement, and facilitate the enforcement of, provisions and standards contained in the zoning regulations and building codes adopted by the Town where applicable.

C. Requirement to Plat

Platting is required for the following purposes:

1. To create a building site on a single lot or tract;
2. To construct or enlarge any exterior dimension of any building, structure, or improvement on land without an existing Plat, in association with a Building Permit Application.
3. To subdivide land to divide a lot or tract into two or more parcels;
4. To combine lots or tracts;
5. To amend a Plat; or
6. To correct errors on an approved and recorded Plat.

D. Plat Required

Subdivision Plats Required under LGC 212 Subchapter A

1. In accordance with LGC Section 212.004, the owner of a tract of land located within the Town's corporate limits or in the Extraterritorial Jurisdiction (ETJ) who divides the tract in two (2) or more parts to lay out a subdivision of the tract, including an addition to a municipality, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts must have a Plat of the subdivision prepared.
2. A division of a tract under this subsection includes any division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method.
3. A division of land under this subsection does not include a division of land into parts greater than five (5) acres, where each part has access to a public road or Right-of-Way and no Public Improvement is required.



E. Extraterritorial Jurisdiction (ETJ)

1. Subdivision Regulations Extend into the ETJ

Subdivision Regulations as they now exist or may hereafter be amended, are hereby extended to all of the area lying within the ETJ of the Town and the rules and regulations within said Subdivision Regulations governing Plats and Subdivision of land shall be applicable to such area within said ETJ from and after the date of final passage of this Subdivision Ordinance.

2. Subdividing

No person shall subdivide or plat any tract of land within the ETJ of the Town except in conformance with the provisions of these Subdivision Regulations.

F. Exemptions to the Requirement to Plat

The following are exemptions to the platting requirements in 1.04.C:

1. Use of existing cemeteries complying with all State and local laws and regulations; and
2. Dedication of an easement or Right-of-Way by a separate document recordable in the County records if approved by the Town.

1.05. Documents Comprising Subdivision Rules

The provisions of this Subdivision Ordinance, the standards governing constructed facilities applicable to Plats in other portions of the Town's Code of Ordinances, and the technical standards contained in the Design Standards and Specifications constitute the subdivision rules of the Town, which apply to Applications for Plat approval.

1.06. Compliance Required with Town Plans and Ordinances

Compliance with all Town ordinances pertaining to the subdivision and development of land, and the transportation plan of the Comprehensive Plan (where applicable), shall be required prior to approval of any Application pursuant to this Subdivision Ordinance. All such ordinances and the Comprehensive Plan shall be construed to mean those documents as they exist or may be amended. It is the property owner's responsibility to be familiar with, and to comply with, Town ordinances, the Comprehensive Plan, and the provisions of this Subdivision Ordinance.

A. Applicable Town Codes, Ordinances, and Plans

Applicable Town codes, ordinances, and plans with which all Applications must comply include, but are not limited to, the following.

1. Comprehensive Plan (including all associated maps and plans);
2. Zoning Ordinance;
3. Parks, Recreation, and Open Space Master Plan or Ordinances;
4. Building Codes;
5. Drainage System Design Requirements;
6. International Fire Code;
7. Engineering Documents including the Design Standards and Specifications and other development-related engineering standards;
8. Stormwater Quality and Land Disturbance Requirements;
9. Other Applicable portions of the Town's Code of Ordinances; and
10. Federal, State, and local environmental regulations, provided however that the Town shall not be liable for the non-enforcement of the same.



1.07. Public Improvements Required

A. Subdivider's Responsibility

1. The subdivider shall furnish, install and/or construct the Public Improvements (water and wastewater systems and the street and drainage facilities) necessary for the proper development of the Subdivision.
2. All such facilities shall be designed and constructed in accordance with the Town's Design Standards and Specifications, and any other standards, specifications, and drawings as may be hereafter adopted, approved by the Town Council and placed on file in the office of the Town Secretary.

B. Facilities Sizing

1. Where determined to be necessary by the Deputy Director of Engineering Services, the facilities shall be sized in excess of that required by this Subdivision Ordinance or the Design Standards and Specifications to provide for future growth and expansion.
2. The Town Council shall have the authority to participate in the difference between the cost of the facility as sized and the additional cost of the upsized facility as determined by the Deputy Director of Engineering Services and in accordance with the requirements of this Subdivision Ordinance and/or the Design Standards and Specifications.
3. See Section 6.02.C Rough Proportionality and Fair Share Policy Statement for more details.

C. Development Agreement

1. Cases that Require a Development Agreement
 - a. When any of the required Public Improvements will be postponed and constructed after Final Plat recordation, a Development Agreement is required.
 - b. When the Town participates in the cost of any Public Improvements, a Development Agreement is required.
2. Development Agreements shall be based upon the requirements of this Subdivision Ordinance, and shall provide the Town with specific authority to complete the Public Improvements required in the Development Agreement in the event of failure by the developer, and to recover the full costs of such measures.
3. The Development Agreement shall be a legally binding agreement between the Town and the Subdivider and shall specify the individual and joint responsibilities of both the Town and the Subdivider.
4. For more information regarding Development Agreements, see 5.06 Security for Completion of Public Improvements.

1.08. General Plat Requirements

A. Development Application

The Town shall have the authority to prepare standard Development Applications that outline specific submission requirements. All submittals shall conform to the requirements within the appropriate Development Application.

B. Application Fees

All Application fees shall be paid according to the Fee Schedule.

C. Zoning Regulations

All zoning regulations of the Town shall be adhered to for development under this Subdivision Ordinance for property located within the Town's corporate limits.



D. Phased Development

1. If a property is to be developed in phases, then a Sketch Plan shall be submitted either at the Pre-Application Meeting or with the Preliminary Plat Application, if no Pre-Application Meeting is held.
2. For phased development, the Sketch Plan shall cover the original property in its entirety and shall clearly show the number of phases. Any neighboring properties under the same ownership shall also be included on the Sketch Plan.
3. Phased developments shall coordinate with the surrounding land use plan, any Planned Development concept plan or master plan, and existing developments.
4. Each phase shall submit a Preliminary Plat and Final Plat. However, nonresidential developments shall be exempt from submitting a Preliminary Plat and shall submit a Preliminary Site Plan and/or Site Plan in accordance with the Zoning Ordinance as it currently exists or may be amended.
5. If the developer elects to include multiple phases on a preliminary plat, then each phase shall only submit a final plat as long as the preliminary plat is still valid.

E. Drainage

If provisions are necessary for drainage facilities on the unplatted future phases of the development, then the Plat shall include separate instruments for off-site drainage needs and shall include appropriate notes and descriptions providing the Town the appropriate permissions and approvals needed for access and for maintaining and improving the drainage system.

1.09. **Special Provisions, Enforcement, and Violations**

A. Provisions

1. Plat Filing Requirement
 - a. A Subdivision Plat shall not be filed or recorded until it has been approved by the Town and all Public Improvements have been inspected and preliminarily approved by the Town or otherwise provided for by a Development Agreement, and any such actual recording shall be void unless such approval shall be endorsed on the face of the Plat as hereinafter provided.
 - b. The above paragraph 1.09.A.1.a shall not apply to a Minor Plat, Conveyance Plat, or an Amending Plat.
2. Wastewater (Sanitary Sewer) Collection System Requirement (Septic Tanks/OSSFs)
 - a. No new permit shall be issued by Collin or Denton County or the Town for any septic tank on any lot within two hundred feet (200') of an existing or proposed wastewater line without connection to the Town's facilities.
 - b. All existing septic tanks must comply with Texas Administrative Code, (Title 30, Part 1, Chapter 285), On-Site Sewage Facilities and/or the current State of Texas rules and regulations regarding private sewage facilities.
 - c. No permit shall be issued by the Collin or Denton County Health Department or by the Town for the installation of septic tanks upon any lot in a subdivision for which a Final Plat has not been approved and filed for record, or upon any lot in a subdivision in which the standards are contained herein, referred to herein, or applicable under State or Federal Law have not been complied with in full.
3. Final Plat Required for Building Permits or Certificates of Occupancy
 - a. Residential Development: No Building Permits, except those specifically to be used as model homes, shall be issued by the Town for any structure on a lot in a Subdivision for which a Final Plat has not been approved and filed for record, nor for any structure on a lot within a Subdivision that the



standards contained herein or referred to herein have not been complied with in full. Model permits can only be issued in accordance with the Town’s Early Model Home Permit Policy.

- b. Non-residential Development: No certificates of occupancy shall be issued by the Town for any structure on a lot in a Subdivision for which a Final Plat has not been approved and filed for record.
- 4. Selling or Transferring Lots Prohibited Until Completion
No lot in any subdivision shall be sold or transferred until the Plat is approved and recorded, and all the standards, specifications or requirements contained or referred to herein have been complied with in full.
- 5. Services Prohibited to Subdivision Until Completion
For a residential subdivision, no person or entity including the Town itself shall sell or supply any utility service such as water, gas, electricity, telephone, cable, communication or wastewater service within a Subdivision for which a Plat has not been approved or filed for record, nor in which the standards contained herein or referred to herein have not been complied with in full, unless that utility is being provided to a model home.
- 6. Compliance with Standards Required
The Town shall not authorize any other person nor shall the Town itself be required to repair, maintain, install or provide any streets or public utility services in any Subdivision for which the standards contained herein or referred to herein have not been complied with in full.
- 7. Dedications
 - a. Refusal or denial of a Plat by the Planning & Zoning Commission shall be deemed a refusal by the Town to accept the offered dedications shown thereon.
 - b. Approval of a Plat shall not impose any duty upon the Town concerning the maintenance or improvement of any such dedicated until final acceptance by the Town.

B. Enforcement

On behalf of the Town, the Town Attorney may institute appropriate action in a court of competent jurisdiction to enforce the provisions of this Subdivision Ordinance or the standards referred to herein with respect to any violation thereof that occurs within any area subject to all or a part of the provisions of this Subdivision Ordinance.

C. Violations and Fines

Any person, firm or corporation, who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of the Subdivision Ordinance shall be fined not more than \$500.00 for each violation. Each day that a violation is permitted to exist shall constitute a separate offense, and any action seeking fines may allege a time span of violations and shall not be required to file a separate cause of action for each day of the same violation.

1.10. Summary of the General Subdivision Procedure

Any owner or Developer of any lot, tract, or parcel of land located within the corporate limits of the Town or within its Extraterritorial Jurisdiction (ETJ) who wishes to subdivide such land shall conform to the following procedure.

A. General Overview of the Platting Process

- 1. Pre-Application Meeting
- 2. Preliminary Plat Submittal and Approval (Residential Development Only)
- 3. Final Plat Submittal and Approval, with Construction Plans Submitted Concurrently
- 4. Approval of Construction Plans



5. Construction of Improvements
6. Final Inspection and Submission of Final Acceptance Documents
7. Signature and Filing of the Final Plat
8. Town Acceptance of Improvements (Letter of Final Acceptance)

B. Detailed Steps

The detailed steps within each phase of the Subdivision development procedure are covered in this subsection, Section 4, Section 5, and Section 6.



Figure 1: General Overview of the Platting Process



Section 2. Development Review Bodies

2.01. Town Council

A. Responsibilities

Table 1 is a summary of the Town Council’s responsibilities within the Subdivision Ordinance.

Table 1: Town Council Responsibilities	
4.04.J.4.b	Approving/Denying an Appeal of the Commission’s Decision on a Preliminary Plat Extension
4.05.O.4.b	Approving/Denying an Appeal of the Commission’s Decision on a Final Plat Extension
4.10.D	Approving/Denying a Plat Vacation
7.01.J	Approving/Denying an Administrative Waiver Appeal
7.01.C.2	Approving/Denying a Council Waiver
7.02.C.3	Approving/Denying a Subdivision Proportionality Appeal

2.02. Planning & Zoning Commission

A. Responsibilities

Table 2 is a summary of the Planning & Zoning Commission’s responsibilities within the Subdivision Ordinance.

Table 2: Planning & Zoning Commission Responsibilities	
4.04.F	Approving/Denying a Preliminary Plat
4.04.J.4.a	Approving/Denying an Appeal of the Director of Development Services’ Decision on a Preliminary Plat Extension
4.05.O.4.a	Approving/Denying an Appeal of the Director of Development Services’ Decision on a Final Plat Extension
4.05.H	Approving/Denying a Final Plat
4.06.H.1.	Approving/Denying a Deferral to the Commission of a Minor Plat Decision
4.07.H	Approving/Denying a Replat
4.09	Approving/Denying a Conveyance Plat
4.07.H.2.b.i	Approving/Denying a Deferral to the Commission of a Minor Replat Decision
4.08.H.1	Approving/Denying a Deferral to the Commission of an Amending Plat Decision
7.01.J	Recommending an Administrative Waiver Appeal
7.01.H.3.a	Recommending a Council Waiver

2.03. Town Manager

A. Responsibilities

Table 3 is a summary of the Town Manager’s responsibilities within the Subdivision Ordinance.

Table 3: Town Manager Responsibilities	
6.20.H.8	Refunds of Park Improvement Fees



2.04. Director of Development Services

A. Responsibilities

Table 4 is a summary of the Director of Development Services’ responsibilities within the Subdivision Ordinance.

Table 4: Director of Development Services Responsibilities	
4.04.E	Reviewing a Preliminary Plat
4.04.J	Approving/Denying a Preliminary Plat Extension
4.05.O	Approving/Denying a Final Plat Extension for Approved but not Filed Plats
4.04.K.3	Approving/Denying a Determination of Minor or Major Preliminary Plat Amendments
4.05.G	Reviewing a Final Plat
4.06.G	Approving/Deferring a Minor Plat
4.07.H	Reviewing a Replat
4.07.H.2.b	Approving/Deferring a Minor Replat
4.08.G	Approving/Deferring an Amending Plat
4.09	Reviewing a Conveyance Plat
4.10.C	Recommending a Plat Vacation
7.01.C.1	Approving/Denying an Administrative Waiver (as applicable)

2.05. Deputy Director of Engineering Services

A. Responsibilities

Table 5 is a summary of the Deputy Director of Engineering Services’ responsibilities within the Subdivision Ordinance.

Table 5: Deputy Director of Engineering Services Responsibilities	
5.01	Approving/Denying Construction Plans
5.01	Approving/Denying an Extension of Construction Plans beyond Expiration Date
5.03	Approving a Construction Release
5.06.B.2	Approving Escrow
5.06.C	Approving the Estimated Cost and Security Approval
7.01.C.1	Approving an Administrative Waiver (as applicable)
7.02.C	Recommending a Subdivision Proportionality Appeal

2.06. Director of Public Works

A. Responsibilities

Table 6 is a summary of the Director of Public Works’ responsibilities within the Subdivision Ordinance.

Table 6: Director of Public Works Responsibilities	
5.02	Conducting a Pre-Construction Meeting
5.05.A	Approving Inspection of Public Improvements



Section 3. Application Submittal and Processing Procedures

3.01. Pre-Application Meeting

A. Purpose

1. The Pre-Application Meeting is intended to allow for the exchange of non-binding information between the Applicant and Town Staff to ensure that the Applicant is informed of pertinent Town development regulations and processes.
2. The Pre-Application Meeting provides an opportunity for the Applicant and Town Staff to discuss major development considerations such as utilities, roadways, drainage concerns, Comprehensive Plan elements, specific neighborhood characteristics, and historic information.
3. This exchange of information is intended to promote an efficient and orderly review process.

B. Pre-Application Meeting before the Submission of Plans and Applications

1. Prior to formal submittal of any required plan or Application, the Applicant is encouraged to consult with the Director of Development Services, the Deputy Director of Engineering Services, and any other pertinent Town Staff in order for the Applicant to become familiar with the Town's development regulations and the development process.
2. At the Pre-Application Meeting, the Applicant may be represented by his/her land planner, engineer, surveyor, or other qualified professional.
3. Pre-Application Meetings are encouraged for all Plat Applications, see Sections 4.04 through 4.10.
4. Pre-Application Meetings do not vest a permit, application or other type of development approval, pursuant to Chapter 245, LGC.

3.02. General Application Processing

A. Initiation of Application

1. Initiation by Owner or Owner's Agent
 - a. Unless provided by this Subdivision Ordinance, any petition or Application may be initiated only by the property owner, owner of interest in the land, or by the owner's designated agent.
 - b. If the Applicant is a designated agent, the Application shall include a written statement from the property owner authorizing the agent to file the Application on the owner's behalf.
 - c. The Responsible Official may require submission of documents, such as an affidavit from the owner, to provide evidence of ownership or agency.
2. Initiation by Town Manager

The Town Manager can initiate an Application on Town-owned property authorized under this Subdivision Ordinance.

B. Waiver of Application Information

The Responsible Official may initially waive the submission of any information in the Application and accompanying materials that are not necessary due to the scope and nature of the proposed activity.



C. Universal Application Contents

1. Application Forms Generally

The Town is hereby authorized to prepare Application Forms that include information requirements, checklists, architectural or engineering drawing sizes, Applicant contact information, and any other information necessary to show compliance with Town codes.

2. All Application Forms are available from the Director of Development Services.

D. Application Forms

1. The Director of Development Services shall create, manage, and update Application Forms for all Development Applications authorized under 3.02.C.1.

2. The Director of Development Services may develop a "Development Manual" that is a policy document for the public to reference.

E. Application Fees

1. Every Application shall be accompanied by the prescribed fees set forth in the adopted Fee Schedule.

2. The prescribed fee shall not be refundable.

3. The Fee Schedule may be amended from time to time by the Town Council.

F. Payment of all Indebtedness Attributable to the Subject Property

1. No Application shall be accepted or reviewed for completeness for a property on which delinquent taxes, assessments, any fees, or is otherwise indebted to the Town for the Subject Property until the taxes, assessments, debts, or obligations shall have been first fully discharged by payment, or until an arrangement has been made for the payment of such debts or obligations.

2. It shall be the Applicant's responsibility to provide evidence or proof that all taxes, fees, etc. have been paid, or that other arrangements have been made for payment of said taxes, fees, etc.

G. Modification of Applications

1. Modifications Requested by the Town

Should the Town require revisions to an Application and the Applicant makes all requested revisions and resubmits that Application to the Town at least fourteen (14) calendar days in advance of the original Application decision date, then the Application shall be decided on that original decision date in accordance with this Subdivision Ordinance.

2. Modifications not Requested by the Town

In all other instances (e.g., when the Applicant chooses to submit a revised Application of his/her own accord because of a change in development decisions), submittal of a modified Application shall be treated as a new Application with regards to review time periods.

H. Action by Responsible Official

1. Circulate and Compile Comments

After an Application has been determined to be complete, the Responsible Official may circulate all applicable application materials to all other administrative officials and departments whose review is required for a decision on the Application and shall compile the comments and recommendations of the officials.



2. Decision Rendered, If Applicable

The Responsible Official shall render a decision in the time prescribed for the Application, if the official is the Decision-Maker for the Application.

3. Forward Application and Provide Notification

a. In cases where the Responsible Official is not the Decision-Maker, the Responsible Official shall forward the Application for review to any advisory board/commission and the final Decision-Maker, and shall prepare a report to such board or commission, or to the Town Council, including the compilation of any comments and recommendations by other administrative officials.

b. The Responsible Official also shall prepare required notices and schedule the Application for decision within the time and in the manner required by this Subdivision Ordinance and as otherwise may be required by law.

I. Recommendation by Advisory Board

Unless otherwise prescribed within this Subdivision Ordinance, an advisory board that is required to offer a recommendation to the Decision-Maker shall recommend one of the following:

1. Recommend approval;
2. Recommend approval with conditions; or
3. Recommend denial.

J. Action by the Decision-Maker

1. The Decision-Maker for the Application shall approve or deny the Application within the time prescribed by this Subdivision Ordinance.
2. Unless otherwise prescribed by law or Town Charter, where the Decision-Maker is a board, commission or the Town Council, the Application shall be decided by majority vote of a quorum of the members of the board, commission or the Town Council.

3.03. 30-Day Time Frame for Plat Approvals

(Ord. 19-57; 8-27-19)

A. Right to 30-Day Action for Plat Applications Begins on the Official Submission Date

The statutory 30-day time frame for Plat approvals, established by Chapter 212 of the Texas Local Government Code, shall commence on the Official Submission Date.

B. Extension of Right to 30-Day Action

Pursuant to Section 212.009(b-2) of the Texas Local Government Code, as amended, upon application in writing by the applicant, the Commission or Town Council may approve one (1) Extension of Right to 30-Day Action, such Extension not to exceed 30 additional days.

3.04. Processing, Action, and Notification Following Subdivision Application Decision

A. Action by the Responsible Official

1. The Responsible Official for an Application shall initiate internal (i.e., Town) review and assessment of the Application.
2. The Responsible Official shall also, to the extent possible, work with the Applicant by advising on and communicating revisions that may be necessary to bring the Application into compliance with Town regulations in preparation for consideration by the appropriate Decision-Maker.



B. Decision

The Decision-Maker for the Application shall approve or deny the Application within the time period prescribed by these Subdivision Regulations.

C. Notification of Decision

If requested, the Town shall provide notice following the date of a decision on an Application. The use of electronic mail (email) shall be proper notice.

D. Notification of Appeal

If requested, the Town shall provide notice of appeal proceedings to the Applicant. The use of electronic mail (email) shall be proper notice.

3.05. Public Hearings for Replat Applications

A. Setting the Hearing

1. When the Responsible Official determines that an Application is complete and that a public hearing is required by Section 4.07.C Public Hearing and Notice Requirements or by State law, the official shall schedule the public hearing and if required by Section 4.07.C shall cause notice of such hearing to be prepared and made in accordance with State law.
2. The time set for the public hearing shall conform to the time periods required by Section 4.07.C (Replat) and by State law.

B. Conduct of the Hearing

1. The public hearing shall be conducted in accordance with State law.
2. Any person may appear at the public hearing and submit evidence, either individually or as a representative of an organization.

C. Record of Proceedings

The Town shall record the hearing proceedings using standard municipal record-keeping procedures.



3.06. Amendments and Expiration to Approved Subdivision Applications

A. Amendments/Revisions to an Approved Subdivision Application

Unless another method is expressly provided by these Subdivision Regulations, any request to amend or revise an approved Application shall be considered a new Application, which must be decided in accordance with the procedures governing the original Application and the standards in effect at the time such new Application is filed with the Town.

B. Expiration of an Approved Subdivision Application

1. Subdivision Application Expiration – Two (2) Years

Unless otherwise expressly provided by these Subdivision Regulations, an approved Application shall automatically expire two (2) years following the approval date of the Application (see 5.01.F Expiration Date for Construction Plans for expiration of Construction Plans), and shall become null and void.

2. Applications with No Time Limit

If no time limit for satisfaction of conditions is specified in the decision on the Application or in the regulations governing, the time shall be presumed to be two (2) years following the date the Application was approved.

3. Applications with Vested Right

Unless a different date is determined pursuant to and upon review of a vested rights petition, an Application approved prior to the effective date of these Subdivision Regulations shall expire in accordance with the terms of the regulations in effect at the time the Application was filed.

4. Effect of Expiration

A new Application must be submitted for consideration and approval subject to regulations in effect at the time the new Application is filed.



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Section 4. Platting Requirements

4.01. General Subdivision and Platting Procedures

A. Plats Required for Land Subdivision

A Final Plat or Minor Plat shall be approved prior to any land division that is subject to these regulations and prior to commencement of any new development.

B. Replats and Amending Plats

1. Replat

A Replat, in accordance with State law and the provisions of Section 4.07 Replat, shall be required any time a platted, recorded lot is further divided or expanded, thereby changing the boundary and dimensions of the property.

2. Amending Plat

In the case of minor revisions to recorded Plats or lots, an Amending Plat may also be utilized if in accordance with Section 4.08 Amending Plat.

C. Zoning

1. Conformance with Existing Zoning

All Applications for land within the Town's corporate limits shall be in conformance with the existing zoning on the property.

2. Request to Rezone Prior to Platting

- a. If an Applicant seeks to amend the zoning for property, the request to rezone the property shall be submitted and approved prior to acceptance of an Application for filing of a Plat, unless otherwise provided below.
- b. The Applicant may request approval from the Director of Development Services to submit an Application simultaneously with the zoning change request, in which case the Application for the zoning amendment shall be acted upon first, provided that the Application is accompanied by a properly executed Waiver of Right to 30-Day Action (due to the additional time frame necessary to advertise and process zoning Applications).

3. Zoning Ordinance Site Plan Approval

Where Site Plan approval is required by the Zoning Ordinance, as it currently exists or may be amended, prior to development, no Final Plat shall be approved until a Site Plan has been approved for the land subject to the proposed Plat.

4.02. Pre-Application Meeting

See Section 3.01 Pre-Application Meeting.

4.03. Sketch Plan

A. Purpose

The purpose of a Sketch Plan shall be to serve as a non-binding visual aid to the Applicant and to the Town during the Pre-Application Meeting (Section 3.01). The Sketch Plan shall be used to identify major development considerations such as utilities, roadways, drainage concerns, Comprehensive Plan elements, specific neighborhood characteristics, and historic information.



B. Sketch Plan for the Pre-Application Meeting

1. A Sketch Plan shall be prepared by the Applicant. The Applicant shall provide a Sketch Plan a minimum of 48 hours prior to a scheduled Pre-Application Meeting.
2. The Sketch Plan shall show the entire property ownership and any approved Planned Development (PD) zoning district's concept plan.

C. Sketch Plan Standards

The Sketch Plan shall be a freehand pencil sketch or computer drawn sketch to approximate scale and shall show the following elements:

1. Street layouts and/or common access driveways,
2. Lots,
3. The boundaries of the original property in its entirety,
4. Proposed improvements,
5. Proposed/permanent stormwater Best Management Practices (BMP) detention and/or retention locations as applicable, and
6. Other significant features, as requested by the Town.

4.04. Preliminary Plat

A. Purpose

The purpose of a Preliminary Plat shall be to determine the general layout of the subdivision, the adequacy of public facilities needed to serve the intended development, and the overall compliance of the land division with applicable requirements of these Subdivision Regulations.

B. Applicability

Unless listed below as an exception (4.04.C), no subdivision of land shall be allowed without proper submittal, approval, and adoption of a Preliminary Plat.

C. Exceptions

1. An approved Preliminary Plat is not required when a Minor Plat is submitted (refer to 4.06 Minor Plat).
2. An approved Preliminary Plat is not required for nonresidential development.

D. Accompanying Applications

1. Preliminary and Other Types of Plans

An Application for a Preliminary Plat shall be accompanied by the following, in accordance with the Town's Development Manual:

- a. A Preliminary Plat Application Form, which can be obtained in the Development Manual;
- b. Preliminary Drainage Plan (Section 6.14.J);
- c. Preliminary Utility Plan (Section 6.12.C); and
- d. Other plans, if deemed necessary, for thorough review by the Director of Development Services or the Deputy Director of Engineering Services, such as a Planned Development Master Plan.

Approval of each plan shall be separate and in accordance with this 4.04 Preliminary Plat.



2. Proof of Ownership Required

The Applicant shall furnish one of the following with the Application to the Town:

- a. A current title commitment issued by a title insurance company authorized to do business in Texas,
- b. A title opinion letter from an attorney licensed to practice in Texas,
- c. A tax certificate from the County in which the property is located, or
- d. Some other acceptable proof of ownership, identifying all persons or entities having an ownership interest in the property subject to the Preliminary Plat, including all lienholders.

E. Review by Director of Development Services

The Director of Development Services shall:

1. Initiate review of the plat and materials submitted as specified in the Development Manual;
2. Make available Plats and reports to the Commission for review; and
3. Upon determination that the Application is ready to be acted upon, schedule the Preliminary Plat for consideration on the agenda of the next available meeting of the Planning & Zoning Commission.

F. Action by the Planning & Zoning Commission

(Ord. 19-57; 8-27-19)

The Commission shall:

1. Review the Preliminary Plat Application, the findings of the Director of Development Services, and any other information available. From all such information, the Commission shall determine whether the Preliminary Plat conforms to these Subdivision Regulations.
2. Act within thirty (30) calendar days following the Official Submission Date, unless the Applicant has submitted a Waiver of Right to 30-Day Action, as outlined in 3.03.B. and Section 212.009(b-2) of the Texas Local Government Code, as amended. If a timely decision is not rendered by the Commission, the Preliminary Plat, as submitted, shall be deemed approved by the Commission.
3. Take one of the following actions:
 - a. Approve the Preliminary Plat;
 - b. Approve the Preliminary Plat with conditions; or
 - c. Disapprove the Preliminary Plat.
4. In the event the Commission conditionally approves or disapproves a Preliminary Plat, the Commission shall provide the 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, the applicant may submit to the Commission 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 receives such a response from the applicant, the Commission 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.

G. Criteria for Approval

The following criteria shall be used by the Commission to determine whether the Preliminary Plat shall be approved or denied:



1. All Plats must be drawn to conform to the zoning regulations currently applicable to the property. If a zoning change for the property is proposed, then the zoning change must be completed before the approval of any Preliminary Plats/Final Plats;
2. No Plat or Replat may be approved that leaves a structure located on a remainder subdivided lot;
3. The proposed provision and configuration of Public Improvements including, but not limited to, roads, water, wastewater, storm drainage, electric, park facilities, open spaces, habitat restoration, easements and Right-of-Way that are adequate to serve the development, meet applicable standards of these Subdivision Regulations, and conform to the Town's adopted master plans for those facilities;
4. The Preliminary Plat has been duly reviewed by applicable Town staff;
5. The Preliminary Plat conforms to design requirements and construction standards as set forth in the Design Standards and Specifications;
6. The Preliminary Plat is consistent with the Comprehensive Plan, except where application of the Plan may conflict with State law;
7. The proposed development represented on the Preliminary Plat does not endanger public health, safety or welfare; and
8. The Preliminary Plat conforms to the Development Services' subdivision Application checklists.

H. Effect of Approval

1. Approval of a Preliminary Plat shall allow the Applicant to proceed with the development and platting process by submitting Construction Plans (5.01) and a Final Plat (4.05).
2. Approval of the Preliminary Plat shall be deemed general approval of the subdivision's layout only, and shall not constitute approval or acceptance of Construction Plans or a Final Plat.

I. Expiration

1. Two-Year Validity

- a. The approval of a Preliminary Plat shall remain in effect for a period of two (2) years following the date of approval, during which period the Applicant shall submit and receive approval for Construction Plans and a Final Plat for the land area shown on the Preliminary Plat.
- b. If Construction Plans and a Final Plat Application have not been approved within the two (2) year period, the Preliminary Plat shall expire.

2. Relationship to Construction Plans

A Preliminary Plat shall remain valid for the period of time in which approved Construction Plans are valid (5.01.F Expiration Date for Construction Plans).

3. Portion of Preliminary Plat

All portions of the Preliminary Plat that do not have an approved Final Plat prior to expiration or any extension shall become void. A new Preliminary Plat application shall be submitted and processed.

4. Void If Not Extended

If the Preliminary Plat is not extended as provided in 4.04.J Preliminary Plat Extension, it shall expire and shall become null and void.

J. Preliminary Plat Extension

A Preliminary Plat may be extended for a period not to exceed one (1) year beyond the Preliminary Plat's initial expiration date. A request for extension shall be submitted to the Director of Development Services in writing at least thirty (30) calendar days prior to expiration of the Preliminary Plat, and shall include



reasons why the Preliminary Plat should be extended. The request shall also note the anticipated date for submitting a Final Plat application.

1. Decision by the Director of Development Services
 - a. The Director of Development Services will review the extension request and shall approve or deny the extension request within thirty (30) calendar days following the date of the request.
 - b. Should the Director of Development Services fail to act on an extension request within thirty (30) calendar days, the extension shall be deemed to be approved.
2. Considerations

In considering an extension, the Director of Development Services shall consider whether the following conditions exist:

 - a. A Final Plat has been submitted and/or approved for any portion of the property shown on the Preliminary Plat;
 - b. Construction Plans have been submitted and/or approved for any portion of the property shown on the Preliminary Plat;
 - c. Construction, which includes the installation of public improvements, is occurring on the subject property;
 - d. The Preliminary Plat complies with new ordinances that impact the health, safety and general welfare of the community; and/or
 - e. If there is a need for a park, school or other public facility or improvement on the property.
3. Conditions
 - a. In granting an extension, the Director of Development Services may impose such conditions as are needed to ensure that the land will be developed in a timely fashion and that the public interest is served.
 - b. Any extension may be predicated upon compliance with new development regulations and/or the modification of vested rights.
4. Appeal of the Denial of a Preliminary Plat Approval Extension
 - a. Appeal of the Director of Development Services' Decision on a Preliminary Plat Extension
 - i. The denial of an extension by the Director of Development Services may be appealed to the Commission.
 - ii. A written request for such appeal shall be received by the Director of Development Services within fourteen (14) calendar days following the denial.
 - iii. The Commission shall hear and consider such an appeal within thirty (30) calendar days following receipt of the appeal request by the Director of Development Services.
 - b. Appeal of the Commission's Decision on a Preliminary Plat Extension
 - i. The denial of an extension by the Commission may be appealed to the Town Council.
 - ii. A written request for such appeal shall be received by the Director of Development Services within fourteen (14) calendar days following the denial.
 - iii. The Town Council shall hear and consider such an appeal within thirty (30) calendar days following receipt of the appeal request by the Director of Development Services.
 - iv. The decision of the Town Council is final.



K. Amendments to Preliminary Plats Following Approval

1. Minor Amendments to Preliminary Plats

- a. Minor amendments to the design of the subdivision may be incorporated into an Application for Final Plat approval without the necessity of filing a new Application for re-approval of a Preliminary Plat.
- b. Minor amendments may only include minor adjustments in street or alley alignments, lengths and paving details and minor adjustments to lot lines that:
 - i. Do not result in creation of additional lots or any non-conforming lots, and
 - ii. Are consistent with approved prior Applications.
- c. Any increase to the size of a property shown on a Preliminary Plat, or increase to the density of single-family residential lots shown on a Preliminary Plat, shall not be considered minor amendments.

2. Major Amendments to Preliminary Plats

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 (including new fees, new reviews, etc.) before approval of Construction Plans and/or a Final Plat.

3. Determination of Minor or Major Preliminary Plat Amendments

The Director of Development Services shall make a determination of whether proposed amendments are deemed to be minor or major, thereby requiring new submittal of a Preliminary Plat.

4.05. Final Plat

A. Purpose

The purpose of a Final Plat is to ensure that:

- 1. The proposed Subdivision and development of the land is consistent with all standards of these Subdivision Regulations pertaining to the adequacy of public facilities,
- 2. Public Improvements to serve the Subdivision or development have been installed and accepted by the Town, or that provision for such installation has been made, and
- 3. All other Town requirements and conditions have been satisfied or provided for to allow the Final Plat to be recorded.

B. Applicability

Unless listed below as an exception (4.05.C), no subdivision of land shall be allowed without proper submittal, approval, and adoption of a Final Plat.

C. Exceptions

A Final Plat is not required when a Minor Plat is submitted (refer to 4.06 Minor Plat).

D. Proof of Ownership Required

- 1. The Applicant shall furnish with the Application to the Town either a current title commitment issued by a title insurance company authorized to do business in Texas, a title opinion letter from an attorney licensed to practice in Texas, or some other acceptable proof of ownership, identifying all persons having an ownership interest in the property subject to the Final Plat.



2. The Final Plat shall be signed by each owner, or by the representative of the owners authorized to sign legal documents for the owners and lienholder, effectively denoting that they are consenting to the platting of the property and to the dedications and covenants that may be contained in the Final Plat.

E. Accompanying Applications

1. A Final Plat Application Form, which can be obtained from the Director of Development Services.
2. For nonresidential development, a Preliminary Site Plan for the entire development and a Site Plan for each lot shall be required with the Final Plat Application.
3. An Application for a Final Plat shall be accompanied by Construction Plans.
4. Approval of the Final Plat and Construction Plans shall be separate and in accordance with this Section 4.05 Final Plat and with Section 5.01 Construction Plans.

F. Prior Approved Preliminary Plat

1. The Final Plat and all accompanying data shall conform to the approved Preliminary Plat, or as the Preliminary Plat may have been amended per Section 4.04.K Amendments to Preliminary Plats Following Approval, if applicable, incorporating all conditions imposed or required, if applicable.
2. Final Plats for nonresidential developments are exempt from having an approved Preliminary Plat.

G. Review by Director of Development Services

The Director of Development Services shall:

1. Initiate review of the plat and materials submitted,
2. Make available Plats and reports to the Commission for review, and
3. Upon determination that the Application is ready to be acted upon, schedule the Final Plat for consideration on the agenda of the next available meeting of the Commission.

H. Action by Planning & Zoning Commission

(Ord. 19-57; 8-27-19)

The Commission shall:

1. Review the Final Plat Application, the findings of the Director of Development Services, and any other information available. From all such information, the Commission shall determine whether the Final Plat conforms to these Subdivision Regulations.
2. Act within thirty (30) calendar days following the Official Submission Date, unless the Applicant submits a Waiver of Right to 30-Day Action, as outlined in 3.03.B. and Section 212.009(b-2) of the Texas Local Government Code, as amended. If a timely decision is not rendered by the Commission, the Final Plat, as submitted, shall be deemed approved by the Commission.
3. Take one of the following actions:
 - a. Approve the Final Plat;
 - b. Approve the Final Plat with conditions; or
 - c. Disapprove the Final Plat.
4. In the event the Commission conditionally approves or disapproves a Final Plat, the Commission shall provide the 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 Final Plat, the applicant may submit to the Commission 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 receives such a response from the applicant, the Commission



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.

I. Final Plat Criteria for Approval

The following criteria shall be used by the Commission to determine whether the Final Plat shall be approved or denied.

1. The Final Plat conforms to the approved Preliminary Plat except for minor amendments that are authorized under Section 4.04.K Amendments to Preliminary Plats Following Approval and that may be approved without the necessity of revising the approved Preliminary Plat;
2. All conditions imposed at the time of approval of the Preliminary Plat, as applicable, have been satisfied;
3. The final layout of the Subdivision or development meets all standards for adequacy of public facilities contained in this Subdivision Ordinance;
4. The Plat conforms to design requirements and construction standards as set forth in the Design Standards and Specifications; and
5. The plat conforms to Director of Development Services' subdivision Application checklists and Subdivision Ordinance regulations.

J. Procedures for Final Plat Recordation after Approval and Conditional Acceptance of Improvements or Financial Guarantee of Improvements

1. Number of Copies of the Final Plat and Applicant Signatures

Contained within the Final Plat Application, the Applicant shall provide the required number of signed and executed copies of the Final Plat for filing with the County (in the County's required format).

2. Town Signatures

After approval of the Final Plat by the Commission, the Director of Development Services shall procure the appropriate Town signatures.

K. Effect of Recordation

The recordation of a Final Plat:

1. Supersedes any prior approved Preliminary Plat for the same land.
2. Authorizes the Applicant to seek issuance of a Building Permit and sell or transfer lots.

L. Revisions Following Recording/Recordation

Revisions may only be processed and approved as a Replat, Minor Replat, or Amending Plat, as applicable.

M. Signature Blocks

The Director of Development Services shall develop and maintain wording for Final Plat signature blocks. This wording shall be made available to the general public via the Town's development manual or similar type document.



N. Expiration of Approved but not Filed Plat

1. Two-Year Validity

- a. The approval of a Final Plat shall remain in effect for a period of two (2) years following the date of approval, during which period the Applicant shall submit and receive approval for Construction Plans for the land area shown on the Final Plat.
- b. If Construction Plans have not been approved within the two (2) year period, the Final Plat shall expire.

2. Relationship to Construction Plans

A Final Plat shall remain valid for the period of time in which approved Construction Plans are valid (5.01.F Expiration Date for Construction Plans).

3. Void If Not Extended

If the Final Plat is not extended as provided in 4.05.O Final Plat Extension for Approved but not Filed Plats, it shall expire and shall become null and void.

4. Approved Final Plats that have been Filed (Recorded with the County) shall not expire.

O. Final Plat Extension for Approved but not Filed Plats

A Final Plat may be extended for a period not to exceed one (1) year beyond the Final Plat's initial expiration date. A request for extension shall be submitted to the Director of Development Services in writing at least thirty (30) calendar days prior to expiration of the Final Plat, and shall include reasons why the Final Plat should be extended.

1. Decision by the Director of Development Services

- a. The Director of Development Services will review the extension request and shall approve or deny the extension request within thirty (30) calendar days following the date of the request.
- b. Should the Director of Development Services fail to act on an extension request within thirty (30) calendar days, the extension shall be deemed to be approved.

2. Considerations

In considering an extension, the Director of Development Services shall consider whether the following conditions exist:

- a. Construction Plans have been submitted and/or approved for any portion of the property shown on the Final Plat;
- b. Construction, including the installation of public improvements, is occurring on the property;
- c. The Final Plat complies with new ordinances that impact the health, safety and general welfare of the community; and/or
- d. If there is a need for a park, school or other public facility or improvement on the property.

3. Conditions

- a. In granting an extension, the Director of Development Services may impose such conditions as are needed to ensure that the land will be developed in a timely fashion and that the public interest is served.
- b. Any extension may be predicated upon compliance with new development regulations and/or the Applicant waiving any vested rights.

4. Appeal of the Denial of a Final Plat Approval Extension



- a. Appeal of the Director of Development Services’ Decision on a Final Plat Extension
 - i. The denial of an extension by the Director of Development Services may be appealed to the Commission.
 - ii. A written request for such appeal shall be received by the Director of Development Services within fourteen (14) calendar days following the denial.
 - iii. The Commission shall hear and consider such an appeal within thirty (30) calendar days following receipt of the appeal request by the Director of Development Services.
- b. Appeal of the Commission’s Decision on a Final Plat Extension
 - i. The denial of an extension by the Commission may be appealed to the Town Council.
 - ii. A written request for such appeal shall be received by the Director of Development Services within fourteen (14) calendar days following the denial.
 - iii. The Town Council shall hear and consider such an appeal within thirty (30) calendar days following receipt of the appeal request by the Director of Development Services.
 - iv. The decision of the Town Council is final.

4.06. Minor Plat

A. Purpose

The purpose of a Minor Plat is to simplify divisions of land under certain circumstances as outlined in Texas Local Government Code Section 212.0065.

B. Applicability

An Application for approval of a Minor Plat may be filed only in accordance with State law, when all of the following circumstances apply:

- 1. The proposed division results in four (4) 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 to meet the requirements of these Subdivision Regulations; and
- 3. Except for Right-of-Way widening and easements, the plat does not require the extension of any municipal facilities to serve any lot within the Subdivision.

C. Application Requirements

The requirements for the submittal of a Minor Plat shall be determined by the Director of Development Services on the Application Form.

D. Additional Requirements

To be considered a Minor Plat, the following requirements must also be met:

- 1. The proposed Plat shall be for the Subdivision of one (1) tract into four (4) or fewer lots.
- 2. The person, firm or corporation presenting the proposed Plat shall dedicate all easements and Right-of-Way as required elsewhere in these regulations.
- 3. Private wells and private wastewater treatment facilities (septic tanks) that meet the current TCEQ health standards shall be considered adequate when existing public water and wastewater lines are not within two hundred (200) feet of the proposed Plat.



E. Minor Plat Criteria for Approval

The following criteria shall be used to determine whether the Application for a Minor Plat shall be approved or denied:

1. The Minor Plat is consistent with all zoning requirements for the property (unless a Right-of-Way dedication causes lot to become nonconforming), any approved Development Agreement (if applicable), and all other requirements of these Subdivision Regulations that apply to the Plat;
2. All lots to be created by the plat already are adequately served by improved public street access and by all required Town utilities and services and by alleys, if applicable;
3. The ownership, maintenance, and allowed uses of all designated easements have been stated on the Minor Plat; and
4. Except for Right-of-Way widening and easements, the plat does not require the extension of any municipal facilities to serve any lot within the subdivision.

F. Review by Director of Development Services

The Director of Development Services shall initiate review of the plat and materials submitted.

G. Action by Director of Development Services

(Ord. 19-57; 8-27-19)

Authority to approve a Minor Plat is delegated to the Director of Development Services. The Director of Development Services shall:

1. Determine whether the Minor Plat meets the Subdivision Regulations.
2. Act within thirty (30) calendar days following the date of the Town's initial submission of comments to the Applicant, unless the Applicant submits a Waiver of Right to 30-Day Action as outlined in 3.03.B.
3. Take one of the following actions:
 - a. Approve the Minor Plat; or
 - b. Defer, for any reason, the Minor Plat to the Commission for consideration prior to expiration of the required 30-day approval period unless a Waiver of Right to 30-Day Action is submitted in accordance with 3.03.B.
 - c. Defer, due to lack of approval, the Minor Plat to the Commission for consideration. The Director of Development Services cannot disapprove the Minor Plat and shall be required to refer any Minor Plat that he or she cannot approve to the Commission within the statutory 30-day time frame for Plat approvals.

H. Deferral of Decision of a Minor Plat Application

1. Deferral to the Commission of a Minor Plat Decision

Per Section 4.06.G.3.b or 4.06.G.3.c, if the Director of Development Services defers the Minor Plat Application to the Commission, the Commission shall consider the Application at a regular meeting no later than thirty (30) calendar days after the date on which the Director of Development Services deferred the Application to the Commission. The Commission shall, upon simple majority vote, take one of the following actions:

- a. Approve the Minor Plat;
- b. Approve the Minor Plat with conditions; or
- c. Deny the Minor Plat.



- I. Procedures for Minor Plat Recordation Following Approval
The procedures for recordation of a Minor Plat shall be the same as the procedures for recordation of a Final Plat, as outlined in Section 4.05.J Procedures for Final Plat Recordation after Approval.
- J. Revisions Following Approval
Revisions may only be processed and approved as a Replat, Minor Replat, or Amending Plat, as applicable.

4.07. Replat

- A. Purpose
The purpose of a Replat is to re-subdivide any part or all of a Recorded Plat.
- B. Applicability
(Ord. 19-57; 8-27-19)
 - 1. A Replat of all or a portion of a recorded Plat may be approved in accordance with State law without vacation of the recorded Plat, if the Replat:
 - a. Is signed and acknowledged by only the owners of the property being replatted;
 - b. Is approved by the Commission; and
 - c. Does not propose to amend or remove any covenants or restrictions previously incorporated in the Recorded Plat.
- C. Public Hearing and Notice Requirements
(Ord. 19-57; 8-27-19)
Notice of a Public Hearing is only required for a residential Replat and shall be given in accordance with Section 3.05 Public Hearings for Replat Applications and TLGC 212.015. See specific notice and hearing requirements for Certain Replats in Section 4.07.D.2 Notice and Public Hearing Requirements for Residential Replats.
- D. Additional Public Hearing and Notice Requirements for Residential Replats
 - 1. Applicability of Residential Replats
Pursuant to Texas Local Government Code Chapter 212.015, a Replat without vacation of the preceding Plat must conform to the requirements of this Section 4.07.D Additional Public Hearing and Notice Requirements for Residential Replats if:
 - a. During the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot; or
 - b. Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.
 - 2. Notice and Public Hearing Requirements for Residential Replats
Notice of the required public hearing shall be given before the fifteenth (15th) calendar day before the date of the hearing by:
 - a. Publication in an official newspaper or a newspaper of general circulation in the applicable Town or unincorporated area (as applicable) in which the proposed Replat property is located; and
 - b. Written notice, with a copy of Section 212.015(c) of the Texas Local Government Code (as amended) attached, forwarded by the Town to the owners of lots that are in the original Subdivision and that are within two hundred feet (200') of the lots to be replatted, as indicated on the most recently published county tax roll upon which the Replat is requested. The written notice may be delivered



by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the Town.

3. Protest

- a. If the Replat Application is accompanied by a waiver petition (per 7.01 Petition for Subdivision Waiver) and is protested in accordance with this Section 4.07.D.3 Protest), approval of the Replat shall require the affirmative vote of at least three-fourths of the voting members of the Commission present at the meeting.
- b. For a legal protest, written instruments signed by the owners of at least twenty percent (20%) of the area of the lots or land immediately adjoining the area covered by the Replat Application and extending two hundred feet (200') from that area, but within the original Subdivision, must be filed with the Commission prior to the close of the public hearing.
- c. The area of streets and alleys shall be included in the area computations.

E. Application Requirements

The Application for a Replat of a Subdivision shall meet all Application requirements of a Final Plat. The Applicant shall acknowledge that the Replat will not amend or remove any covenants or restrictions previously incorporated in the recorded Plat.

F. Partial Replat Application

If a Replat is submitted for only a portion of a previously platted subdivision, the Replat must reference the previous Subdivision name and recording information, and must state on the Replat the specific lots which are being changed along with a detailed "Purpose for Replat" statement.

G. Criteria for Approval

1. The Replat of the Subdivision shall meet all review and approval criteria for a Final Plat.
2. The Replat document shall be prepared by a Texas Registered Professional Land Surveyor.

H. Replat Review and Approval

1. Replat

The review and approval processes for a Replat shall be the same as the review and approval processes for a Final Plat (except for the special public hearing and notice requirements described in Section 4.07.C Public Hearing and Notice Requirements).

2. Minor Replat

- a. Pursuant to Texas Local Government Code 212.0065, a Replat involving four (4) or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities may be approved by the Director of Development Services in accordance with this Section 4.07 Replat.
- b. Prior to the Director of Development Services taking action on a proposed Minor Replat, the Commission shall hold at least one public hearing thereon. Otherwise, the review and approval process shall be the same as 4.06 Minor Plat, including:
 - i. Deferral to the Commission of a Minor Replat Decision.
- c. The Director of Development Services cannot disapprove the Minor Replat and shall be required to refer any Minor Replat that the Director of Development Services refuses to approve to the Commission within the statutory 30-day time frame for Plat approvals.



I. Effect

Upon approval of the Application, the Replat may be recorded and is controlling over the previously recorded Plat for the portion replatted.

4.08. Amending Plat

A. Purpose

The purpose of an Amending Plat shall be to provide an expeditious means of making minor revisions to a recorded Plat consistent with provisions of State law.

B. Applicability

The procedures for an Amending Plat shall apply only if the sole purpose of the Amending Plat is to achieve one or more of the following Purposes:

1. Error Corrections or Administrative Adjustments

- a. Correct an error in a course or distance shown on the preceding Plat.
- b. Add a course or distance that was omitted on the preceding Plat.
- c. Correct an error in a real property description shown on the preceding Plat.
- d. Indicate monuments set after the death, disability or retirement from practice of the engineer or surveyor responsible for setting monuments.
- e. Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding Plat.
- f. Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving Plats, including lot numbers, acreage, street names, lot frontage, and identification of adjacent recorded Plats.
- g. Correct an error in courses and distances of lot lines between two adjacent lots if:
 - i. Both lot owners join in the Application for amending the Plat;
 - ii. Neither lot is abolished;
 - iii. The amendment does not attempt to remove recorded covenants or restrictions; and
 - iv. The amendment does not have a material adverse effect on the property rights of the other owners in the Plat.

2. Relocate Lot Lines

- a. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement.
- b. Relocate one or more Lot Lines between one or more adjacent lots if:
 - i. The owners of all those lots join in the Application for amending the Plat;
 - ii. The amendment does not attempt to remove recorded covenants or restrictions; and
 - iii. The amendment does not increase the number of lots.



3. Replatting
 - a. Replat one or more lots fronting on an existing street if:
 - i. The owners of all those lots join in the Application for amending the Plat;
 - ii. The amendment does not attempt to remove recorded covenants or restrictions;
 - iii. The amendment does not increase the number of lots; and
 - iv. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- C. Certificates of Correction

Certificates of Correction are prohibited.
- D. Application Requirements

The requirements for the submittal of an Amending Plat shall be determined by the Director of Development Services on the Application Form.
- E. Notice Not Required

The approval and issuance of an Amending Plat shall not require notice, hearing or approval of other lot owners.
- F. Review by Director of Development Services

The Director of Development Services shall initiate review of the plat and materials submitted.
- G. Action by Director of Development Services

(Ord. 19-57; 8-28-19)
Authority to approve an Amending Plat is delegated to the Director of Development Services. The Director of Development Services shall:

 1. Determine whether the Amending Plat meets the Subdivision Regulations.
 2. Act within thirty (30) calendar days following the date of the Town's initial submission of comments to the Applicant, unless the Applicant submits a Waiver of Right to 30-Day Action as outlined in 3.03.B.
 3. Take one of the following actions:
 - a. Approve the Amending Plat; or
 - b. Defer, for any reason, the Amending Plat to the Commission for consideration prior to expiration of the required 30-day approval period unless a Waiver of Right to 30-Day Action is submitted in accordance with 3.03.B.
 - c. Defer, due to lack of approval, the Amending Plat to the Commission for consideration. The Director of Development Services cannot disapprove the Amending Plat and shall be required to refer any Amending Plat that he or she refuses to approve to the Commission within the statutory 30-day time frame for Plat approvals.

- H. Deferral of Decision on an Amending Plat Application
 1. Deferral to the Commission of an Amending Plat Decision

Per Section 4.08.G.3.b, if the Director of Development Services defers the Amending Plat Application to the Commission, the Commission shall consider the Application at a regular meeting no later than thirty (30) calendar days after the date on which the Director of Development Services deferred the Application to the Commission. The Commission shall, upon simple majority vote, take one of the following actions:

 - a. Approve the Amending Plat;



- b. Approve the Amending Plat with conditions; or
- c. Deny the Amending Plat.

4.09. Conveyance Plat

A. Purpose

- 1. The purpose of a Conveyance Plat is to subdivide land and to provide for recordation of same, for the purpose of conveying (*i.e.*, selling) the property without developing it.
- 2. A Conveyance Plat may be used to convey the property or interests therein; however, a Conveyance Plat does not constitute approval for any type of development on the property.

B. Applicability

A Conveyance Plat may be used in lieu of a Final Plat to record only the subdivision of property in the following instances:

- 1. Remainder Tract
 - a. To record the remainder of a tract that is created by a Final Plat, provided that the remainder is not intended for immediate development, and
 - b. The remainder of a tract that was involved in a Final Plat must be larger than five (5) acres.
- 2. Inheritance or Holding Tract

To record the subdivision of property into parcels, five (5) acres or smaller in size, that are not intended for immediate development, provided all required Public Improvements exist to the Town’s current standards prior to approval and minimum frontage requirements are met.

- a. All public Right-of-Way must be dedicated, contingent that alignments have been determined.
- b. Installation of on-site improvements may be delayed if development of other tracts is not affected. All easements shall be dedicated to allow subdivided lot within the conveyance plat access to public infrastructure and/or drainage ways from the parent tract, if applicable.

C. Review and Consideration

Unless otherwise specified within this Section 4.09 Conveyance Plat for specific requirements for a Conveyance Plat, a Conveyance Plat shall be processed and approved using the same timing and procedures, including recordation, as specified for a Final Plat; refer to Section 4.05 Final Plat.

D. Concurrent or Prior Filing of a Final Plat

No Final Plat processed and approved in association with a Conveyance Plat shall be filed without the concurrent or prior filing of the associated approved Conveyance Plat for the remainder of the subject property.

E. Conveyance Plat Requirements

- 1. No building or development permits shall be issued nor permanent utility service provided for land that has only received approval as a Conveyance Plat; a Final Plat must be filed for building and development permits and for utility service.
- 2. A Conveyance Plat may be superseded by a revised Conveyance Plat or a Final Plat in total or in part through compliance with the procedures and requirements of these regulations.
- 3. A Preliminary Site Plan or Sketch Plan may be required by the Town to ensure all Conveyance Plat tracts and remainder tracts have adequate access to public utilities and infrastructure.



F. Standards for Approval

1. Access

- a. All lots created by a Conveyance Plat must have frontage and access to an existing or proposed public street, defined in the Comprehensive Plan, or an existing standard street meeting Town construction standards and accessing the existing Town street system.
- b. All lots created by a Conveyance Plat must provide points of access as required by this Subdivision Ordinance.

2. Dedication of Right-of-Way

Dedication of Right-of-Way shall be required in accordance with the Town requirements.

G. Effect of Approval

1. Development on the Property Prohibited

The approval of a Conveyance Plat authorizes conveyance of the lot(s) created thereon, but does not authorize any type of development on the property.

2. Future Development Requires Compliance

The Applicant and future owner(s) of the property remain obligated to comply with all provisions in this Subdivision Ordinance upon future development of the property including, but not limited to, all requirements for platting, required Public Improvements, utility extensions, street improvements or assessments, Right-of-Way and easement dedications, and all other requirements in these regulations.

4.10. Plat Vacation

A. Purpose

The purpose of a Plat Vacation is to provide an expeditious means of vacating a recorded Plat in its entirety, consistent with provisions of State law.

B. Initiation of a Plat Vacation

1. By Property Owner

The property owner of the tract covered by a Plat may submit an Application to vacate the Plat at any time before any lot in the Plat is sold.

2. By All Lot Owners

If lots in the Plat have been sold, an Application to vacate the plat must be submitted by all the owners of lots in the Plat.

3. By Town Council

If the Town Council, on its own motion, determines that the Plat should be vacated in the interest of and to protect the public's health, safety and welfare; and:

- a. No lots within the approved Plat have been sold within five (5) years following the date that the Final Plat was approved by the Town; or
- b. The property owner has breached a Development Agreement, and the Town is unable to obtain funds with which to complete construction of Public Improvements, except that the vacation shall apply only to lots owned by the property owner or its successor; or
- c. The Plat has been of record for more than five (5) years, and the Town Council determines that the further sale of lots within the Subdivision or addition presents a threat to public health, safety and



welfare, except that the vacation shall apply only to lots owned by the property owner or its successors.

C. Review and Recommendation by the Director of Development Services

The Director of Development Services shall:

1. Initiate review of the Plat Vacation Application and materials submitted; and
2. Recommend action on Plat Vacation to the Town Council.

D. Action by the Town Council

The Town Council shall:

1. Review the Plat Vacation Application, the findings of the Director of Development Services, and any other information available. From all such information, the Town Council shall make a finding as to whether or not the plat should be vacated.
2. Take one of the following actions:
 - a. Approve the Plat Vacation; or
 - b. Deny the Plat Vacation.
3. The Town Council's decision on a Plat Vacation shall be final.

E. Procedures for Recordation Following Approval

1. If the Town Council adopts a resolution vacating a plat in whole, it shall record a copy of the resolution in the County Clerk's Office.
2. If the Town Council adopts a resolution vacating a plat in part, it shall cause a revised Final Plat to be recorded along with the resolution that shows the portion of the original plat that has been vacated and the portion that has not been vacated.

F. Effect

1. On the execution and recording of the vacating instrument, the previously filed plat shall have no effect.
 - a. Regardless of the Town Council's action on the petition, the property owner(s) or Developer will have no right to a refund of any monies, fees or charges paid to the Town nor to the return of any property or consideration dedicated or delivered to the Town except as may have previously been agreed to by the Town Council.
2. The Plat is vacated when a signed, acknowledged instrument declaring the Plat vacated is approved and recorded in the manner prescribed for the original Plat.
3. The Town Council, at its discretion, shall have the right to retain all or specific portions of road Right-of-Way or easements shown on the Plat being considered for vacation. However, the Town Council shall consider Plat Vacation upon satisfactory conveyance of easements and/or Right-of-Way in a separate legal document using forms provided by the Town Attorney's office.



Section 5. Construction Plans & Procedures

5.01. Construction Plans

A. Purpose

To require that Public Improvements be installed to serve a development in accordance with all Subdivision Regulations.

B. Submitting Plans

Plans shall be submitted in accordance with Director of Development Services' requirements, as provided in the related Application Form. Incomplete Construction Plans shall not be accepted and such plans shall be returned to the Applicant.

C. Responsible Official and Decision Authority for Construction Plans

1. Review and Approval Action

The Deputy Director of Engineering Services shall be the Responsible Official for review and approval of Construction Plans.

2. Outside Review

If an outside consultant is contracted to review Construction Plans, then the Applicant shall reimburse the Town for the review fees.

3. Decision-Maker Options

In this capacity, therefore, the Deputy Director of Engineering Services shall approve or deny the Construction Plans.

D. Criteria for Approval

The Deputy Director of Engineering Services shall approve Construction Plans if:

1. The Construction Plans are consistent with the approved Final Plat; and
2. The Construction Plans conform to the subject property's zoning and any planned development (PD) standards (including zoning development standards), and to the standards for adequate public facilities, contained in these Subdivision Regulations and all other applicable Town codes.

E. Effect

Approval of Construction Plans authorizes the Applicant to:

1. Schedule a Pre-Construction Meeting (5.02); and
2. Apply for Construction Release (5.03).

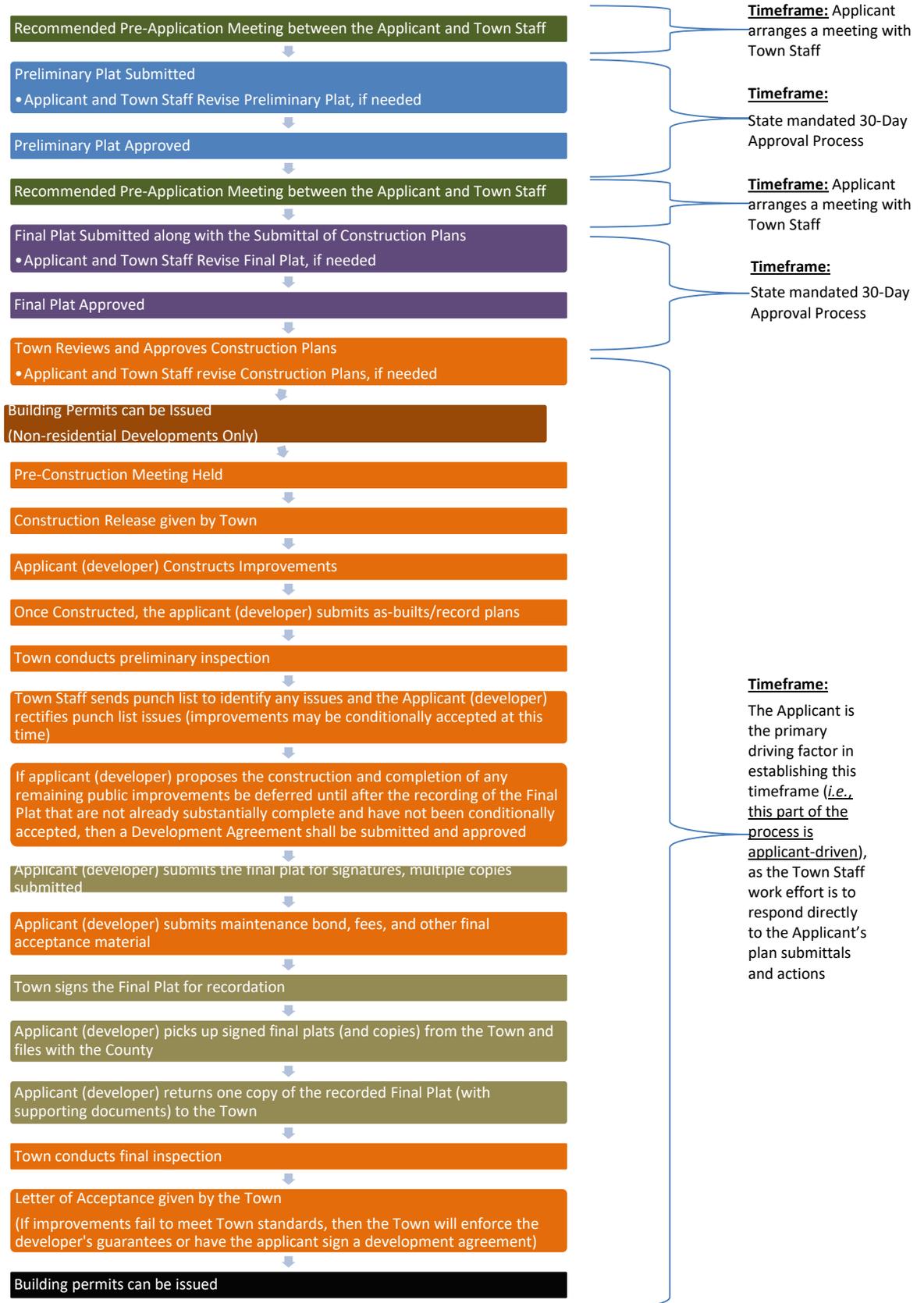


Figure 2: Detailed Overview of the Platting Process



F. Expiration Date for Construction Plans

The approval of Construction Plans shall remain in effect for a period of one (1) year from the date of approval as determined in writing from the Deputy Director of Engineering Services, or the duration in which the Final Plat is valid, or for the duration of construction of the project, provided that progress or development of the project continues to be demonstrated, unless the Construction Plans are extended in accordance with Section 5.01.G Extension of Construction Plans beyond Expiration Date.

G. Extension of Construction Plans beyond Expiration Date

1. General

- a. Construction Plans may be extended for a period of six (6) additional months beyond the expiration date.
- b. A request must be made in writing to the Deputy Director of Engineering Services for such extension prior to expiration of the plans, and shall include reasons why the plans should be extended.

2. Decision by the Deputy Director of Engineering Services

- a. The Deputy Director of Engineering Services will review the extension request, and shall approve or deny the extension request within thirty (30) calendar days following the date of the extension request.
- b. Should the Deputy Director of Engineering Services fail to act on an extension request within thirty (30) calendar days, the extension shall be deemed to be approved.

3. Consideration

The Deputy Director of Engineering Services may extend Construction Plans approval for a period of six (6) additional months beyond the expiration date if:

- a. A Final Plat has been submitted, approved or filed of record for any portion of the property shown on the Construction Plans;
- b. The Construction Plans comply with new ordinances (*i.e.*, ordinances that have been adopted after approval of the original Construction Plans) that impact the health, safety and general welfare of the Town; or
- c. Demonstrable forward progress has been made to proceed with construction or required improvements.

4. Conditions

In granting an extension, the Deputy Director of Engineering Services may impose such conditions as are needed to ensure that the land will be developed in a timely fashion and that the public interest is served. Any extension may be predicated upon compliance with new development regulations and/or the Applicant waiving any vested rights.

5. Total Extension

A second six (6) month extension may be requested using the same process outlined above.



5.02. Pre-Construction Meeting

A. Notice

The Applicant shall receive written notice from the Deputy Director of Engineering Services that Construction Plans have been approved and that the project is eligible for a Pre-Construction Meeting.

B. Requirement

The Applicant shall be responsible for contacting the Public Works Department requesting a Pre-Construction meeting date and time, and notifying all participants of the meeting.

C. Purpose

1. Discussion of Procedures

The purpose of the Pre-Construction Meeting is to discuss administrative, communication, and operating procedures for project construction prior to Construction Release or issuance of a Building Permit.

2. Review of Criteria

A list of typical inspection items, procedures, and acceptance criteria for items in public Right-of-Way and easements will also be furnished to the Applicant.

D. Effect

Following the Pre-Construction Meeting and upon approval of the Construction Plans and full compliance with all pre-construction requirements, the Deputy Director of Engineering Services shall authorize a Construction Release, allowing the Applicant to commence with construction of the project.

5.03. Construction Release

1. Requirements for a Construction Release

a. Upon approval of the Construction Plans, receipt of all required documentation, fees (if applicable), and after the Pre-Construction Meeting with Town staff, the Deputy Director of Engineering Services shall release the plans for construction if all Town requirements pertaining to construction have been met.

b. The Construction Release shall remain in effect for a period of one (1) year from the date of issuance, or for the duration of construction of the project, provided that progress or development of the project continues to be demonstrated.

2. Construction Release Expiration and Extension

Expiration, and possible extension, of the Construction Release shall be the same as for the Construction Plans (see Sections 5.01.F and 5.01.G).

5.04. Construction of Public Improvements

A. Phased Development

If the development is being platted and constructed in phases, improvements shall be completed as platted areas are approved and phases are constructed.

B. Easements for Utility Providers

1. The Applicant is responsible for contacting all utility providers prior to beginning construction, and for securing all necessary easements for same prior to Final Plat recordation.



2. The Applicant's engineer shall provide the Deputy Director of Engineering Services with written certification that all necessary easements are secured for the various utility providers, and such easements shall be shown on the Final Plat with the recording information for each.

C. Off-Site Easements

1. All necessary off-site easements required for installation of required off-site Public Improvements to serve the development shall be acquired by the Applicant prior to the Pre-Construction Meeting (see Section 5.02 Pre-Construction Meeting).
2. Off-site easements shall be conveyed and recorded at the County by an instrument approved by the Town.
3. If the property on which the off-site easement is required has been platted, a separate instrument shall be required to dedicate the easement.
4. The Applicant shall be responsible for the acquisition of all required off-site easements. If the Applicant is unable to acquire the necessary off-site easements, the Applicant may request assistance from the Town. The Applicant shall provide the Town with easements or Right-of-Way survey documents and exhibits, documentation, including evidence of a reasonable offer made to the affected property owner. Upon receiving a written request for assistance, the Town may, at its option, acquire these easements either through negotiations, or in appropriate situations through eminent domain proceedings.
5. The Applicant shall reimburse the Town for the costs of acquiring the necessary easements including but not limited to attorney fees and costs.

D. Timing of When Public Improvements are Constructed

1. Public Improvements Completed Prior to Final Plat Recordation

Unless developed in accordance with Section 5.04.D.2 (below), completion of all required Public Improvements shall occur prior to Final Plat recordation (see Figure 2 for a visual depiction of the platting process).

2. The Developer may request that Public Improvements be completed after Final Plat Recordation, with a Development Agreement approved by the Town
 - a. An Applicant may elect to construct Public Improvements after Final Plat recordation.
 - b. The construction of Public Improvements after Final Plat recordation shall be conditioned on the execution of a Development Agreement and provision of security.

5.05. Inspection, Maintenance, and Acceptance of Public Improvements

A. Inspection of Public Improvements

1. Inspection, Timing, and Contact

- a. The Director of Public Works shall inspect the construction of improvements while in progress, as well as upon completion.
- b. The Applicant, or Applicant's contractor, shall maintain contact with the Director of Public Works during construction of improvements.
- c. Inspections shall be conducted during normal business hours, Monday through Friday, except as noted below.
- d. Inspection During Non-Business Hours
 - i. Public works inspections may be conducted at times other than normal working hours with prior approval from the Director of Public Works in accordance with the Non-Business Hours Inspection Policy.



2. Conformance with Construction Plans
 - a. Construction shall be in accordance with the approved Construction Plans.
 - b. Any significant change in design required during construction shall be made by the Applicant's engineer, and shall be subject to approval by the Deputy Director of Engineering Services.
 - c. Once construction is complete, preliminary as-built/record plans shall be submitted to the Deputy Director of Engineering Services.
3. Corrections to Public Improvements
 - a. If the Director of Public Works finds, upon inspection, that any of the required Public Improvements have not been constructed properly and in accordance with the approved Construction Plans, the Applicant shall be responsible for completing and/or correcting the Public Improvements to bring such into compliance.
 - b. The Town will provide the Applicant with a punch list of any issues the Applicant must rectify in order for the Public Improvements to be in accordance with the approved Construction Plans and Town standards.
4. Final Inspection

Once preliminary inspection issues have been rectified, then the Applicant may schedule a final inspection with the Director of Public Works.

B. Public Works Inspection Fees

1. Fee Standards
 - a. The Developer will be charged an inspection fee for a percentage of the cost of the Public Improvements to be dedicated to the Town. Fire lanes shall be charged at a percentage of the cost of construction. These fees are established in the Town's Fee Schedule.
 - b. The Developer may be charged an additional inspection fee to reimburse the Town the actual inspection cost if the Town is required to have third party inspections of the public infrastructure in each Subdivision or development.
2. Cost for Construction
 - a. The Developer shall submit to the Town an itemized cost for construction of the Public Improvements to be dedicated to the Town and upon which the Maintenance Bond and inspection fees will be based. The itemized construction breakdown shall be prepared and sealed by the design engineer of record.
 - b. The cost of construction shall be reviewed and approved by the Deputy Director of Engineering Services.

C. Maintenance during Construction

The Applicant shall maintain all required Public Improvements during construction of the development.

D. Maintenance Bond

1. Per requirements established and maintained by the Deputy Director of Engineering Services, the Developer shall furnish, or cause their contractors to furnish, maintenance bonds to the Town for Public Improvements for a period of two (2) years from the date of acceptance by the Town (see 5.05.G.3 Letter of Final Acceptance for acceptance dates).
2. The maintenance bond or other surety shall be a good and sufficient bond executed by a corporate surety approved by the Town in an amount equal to the total cost of said improvements and guaranteeing their maintenance for two (2) years from the date of Final Plat approval or acceptance of the related Public Improvements (if the Public Improvement is accepted after Final Plat approval).



3. Maintenance bonds shall be in a form acceptable to the Town Attorney.

E. Submission of Record Drawings

1. The Town shall not accept the dedication of required Public Improvements until the Applicant's engineer has certified to the Deputy Director of Engineering Services, through submission of detailed Record Drawings of the project, that the Public Improvements have been built in accordance with the approved Construction Plans.
 - a. The submission of detailed Record Drawings of the project shall be approved by the Town.
 - b. Recorded off-site easements shall be submitted with the Record Drawings.
 - i. Any off-site easements shall follow Town standard form and shall be submitted to the Deputy Director of Engineering Services for review prior to obtaining signatures.
 - ii. Off-site easements shall be recorded at the appropriate County prior to filing of plat.
2. Applicable Record Drawings shall be submitted to the Town before a Plat is recorded.
3. Each record drawing sheet shall show all changes made in the Construction Plans during construction, and on each sheet, there shall be a "record" stamp bearing the signature of the engineer and date, which shall be maintained by the Director of Public Works.
4. Digital files of all the Record Drawings shall be submitted by the Applicant in AutoCAD and Adobe PDF formats, as required by the Town.

F. Submission of a Development Agreement if Public Improvements are to be Completed after Final Plat Recordation

If there are any Public Improvements that the Applicant wishes to defer constructing until after the Final Plat recordation, then the Applicant shall submit a Development Agreement to the Town for consideration.

G. Acceptance or Rejection of Improvements by the Director of Public Works

1. Responsible Official

The Director of Public Works is responsible for accepting completed subdivision improvements intended for dedication to the Town.

2. Final Inspection

After completion of all improvements, franchise utilities, grading, and erosion control, the Director of Public Works and other designated representatives (as applicable) will perform a final inspection before recommending acceptance to the Deputy Director of Engineering Services.

3. Certificate of Final Acceptance

If all improvements are completed, inspected, tested (if applicable), and determined by the Town to be in conformance with Subdivision Ordinance and with the Town's design standards and all inspection fees have been paid, then the Town shall issue a Certificate of Final Acceptance to the Applicant, thereby notifying the Applicant of the Town's acceptance of any proposed dedications (including Right-of-Way and Public Improvements) offered on the Final Plat.

- a. Dedication and acceptance language shall be a separate document and recorded with the Final Plat.

4. Meaning of Acceptance

Acceptance of the Improvements shall mean that the Applicant has transferred all rights to all of the Public Improvements to the Town for title, use, and maintenance. This shall not release the Developer from the maintenance bond (see Section 5.05.D Maintenance Bond for more information).



5. Rejection

The Deputy Director of Engineering Services shall reject those Improvements that fail to comply with the Town’s standards and specifications. The Town shall enforce the guarantee provided by agreement(s) (if applicable) and shall require the Applicant to execute a Development Agreement to ensure the Public Improvements are built.

H. Acceptance Disclaimer

1. Approval of a Preliminary Plat or Final Plat by the Commission, or Construction Plans by the Deputy Director of Engineering Services, shall not constitute acceptance of any of the Public Improvements required to serve the Subdivision or development.
2. No Public Improvements shall be accepted for dedication by the Town except in accordance with this Section.

5.06. Security for Completion of Public Improvements

A. Standard Security

1. Surety, Performance, and Payment Bonds
 - a. When any of the required Public Improvements will be constructed after approval and recordation of the Final Plat, the Applicant shall guarantee proper construction of such postponed improvements and payment of all claimants supplying labor and materials for the construction of the improvements, in accordance with the Town’s standards and with these Subdivision Regulations, by a bond executed by a surety company holding a license to do business in the State of Texas, and acceptable to the Town, on the form provided by the Town.
 - b. The surety, performance, and payment bonds shall be approved as to form by the Town Attorney.

B. Alternative Security

1. Irrevocable Letter of Credit (ILOC)

An irrevocable letter of credit (ILOC) may be accepted and approved as to form by the Town Attorney.
2. Escrow

At the discretion of the Deputy Director of Engineering Services, escrow may be allowed as a security for completion.

C. Estimated Cost and Security Approval

1. Security shall be issued in the amount of one hundred twenty-five percent (125%) of the cost to construct and complete all required Public Improvements to the Town’s standards as estimated by the Applicant’s professional engineer, and as approved by the Deputy Director of Engineering Services.
2. Security shall be subject to the review and approval of the Town Attorney.
3. The Applicant shall reimburse the Town for all related legal costs for review (this reimbursement shall be paid in full prior to filing of the Final Plat).



Section 6. Subdivision Design Standards

6.01. General Standards

A. Conformance to Plans and Codes

Design and construction of Public 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. Comprehensive Plan including all associated maps and plans;
2. Zoning Ordinance and Zoning Map;
3. The Transportation and Thoroughfare Plans;
4. Design Standards and Specifications;
5. Parks, Recreation & Open Space Master Plan;
6. Federal, State and Local Environmental Regulations;
7. The Texas Manual on Uniform Traffic Control Devices (TMUTCD);
8. Approved Standard Specifications for Construction of Public Works;
9. American Association of State Highway Transportation Officials Design Manual;
10. Texas Health Code;
11. Texas Water Code;
12. Master Drainage Plans;
13. Floodplain Ordinance;
14. Stormwater Ordinance;
15. Stormwater Management Plan;
16. All adopted Building and Fire Codes with local amendments; and
17. All other codes and ordinances of the Town.

B. Observation of Construction Work for Public Improvements

1. All construction work, such as street grading, street paving, storm sewers, sanitary sewers or water mains performed by the owner, developer, or contractor, shall be subject to observation during construction by the proper authorities of the Town.
2. All construction work, as mentioned above, shall be constructed in accordance with the specifications approved by the Town Council and in accordance with the provisions of "Standard Specifications For Public Works Construction" prepared by the North Central Texas Council of Governments, which is on file in the Town Hall.



6.02. Adequate Public Facilities

A. Services Required

Land proposed for development in the Town, and in the Town's Extraterritorial Jurisdiction (ETJ) shall be served adequately by essential public facilities and services, including, but not limited to, water distribution facilities, wastewater collection facilities, roadway and pedestrian facilities, and storm drainage facilities.

B. Approval Timing

Land shall not be approved for final platting or development unless and until adequate public facilities necessary to serve the development exist or provision has been made for such facilities, whether the facilities are to be located within the property being developed or off-site.

C. Rough Proportionality and Fair Share Policy Statement

1. The Town desires that a new development project contribute its fair and proportional share of such costs.
2. There is a direct correlation between the increased demand on public facilities that is created by a new development, and the Town's requirements to dedicate Right-of-Way and Easements and to construct a fair and proportional share of Public Improvements that are necessary to offset such impacts such that new development does not negatively affect the Town as a whole.
3. A fair and proportional share shall be determined as the level or standard of service that is required to adequately serve a new development.
4. Standards relating to the dedication or construction requirements shall be roughly proportional (see definition Proportionality/Proportional Share) to the nature and extent of the impacts created by the proposed development on the Town's water, wastewater, storm drainage, parks or roadway system.
5. See 7.02 Subdivision Proportionality Appeal for proportionality approval procedures.

6.03. Streets

A. Adequate Streets

1. The property owner shall ensure that the Subdivision is served by adequate streets and shall be responsible for the costs of Right-of-Way and street improvements, in accordance with the following policies and standards.
2. Additional Right-of-Way may be required at some street intersections to accommodate turn lanes, utilities, sidewalks, traffic control devices and/or sight distances.

B. General Requirements

1. Streets must be designed in coordination with the Comprehensive Plan, existing and proposed streets, the terrain, streams, and other physical conditions.
 - a. The arrangement of streets must provide for the continuation of streets between adjacent properties when the continuation is necessary for the safe and efficient movement of traffic and for utility efficiency.
 - b. The arrangement, character, extent, pavement width, Right-of-Way width, grade and location of each street shall be considered in its relationship to the Comprehensive Plan, to existing and planned streets, topographical conditions, public safety and convenience, and its relationship to the proposed uses of land to be served by such street.
2. Whenever a tract to be subdivided abuts any part of any street so designated on the Comprehensive Plan, or where a street designated on the Comprehensive Plan crosses any part of the tract to be subdivided, such part of the proposed public street shall be platted, the Right-of-Way shall be dedicated,



consistent with the location as indicated on the Comprehensive Plan, and the requirements contained within these regulations.

3. The reservation in private ownership of strips of land (e.g., reserve strips) at the end or adjacent to proposed or existing streets and intended solely or primarily for the purpose of controlling access to property not included in the Subdivision shall be prohibited.
4. Half streets shall be prohibited on residential and collector roadways.
5. Streets shall be named to provide continuity with existing streets.
6. Names of new streets shall not duplicate or cause confusion with the names of existing streets.

C. Design and Construction

Design and construction shall conform to specifications included within these Subdivision Ordinance regulations as well as those included within the Design Standards and Specifications.

1. The arrangement and location of all proposed streets shall conform to the Comprehensive Plan.
2. Where streets are not shown within the Comprehensive Plan, the arrangements of streets in a Subdivision shall:
 - a. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas;
 - b. Conform to a plan for the neighborhood approved or adopted by the Town to meet a particular situation where topographical or other conditions make continuation of or conformance to an existing street impracticable; and
 - c. Be laid out so that they shall intersect, as nearly as possible, at right angles.
3. Street layout shall provide for continuation of Collector Streets in areas between Thoroughfares.
4. Streets should be platted to allow two tiers of lots between streets when possible.
5. Residential streets shall be laid out so that their use by through traffic shall be discouraged.
6. All streets shall be designed to coordinate with existing streets in adjoining Subdivisions.
 - a. Centerline offsets, where unavoidable, shall be no closer than one hundred thirty-five (135) feet.
 - b. Greater centerline offsets as may be required by the Deputy Director of Engineering Services shall be planned where necessary for traffic safety.
7. To encourage lower motor vehicle speeds through residential neighborhoods, local residential streets shall be designed to avoid straight sections in excess of 800 feet in length and residential collector streets shall be designed to avoid straight sections in excess of 1,200 feet in length unless upon a staff recommendation, the Planning & Zoning Commission finds that there is no other reasonable alternative.
 - a. Refer to the Design Standards and Specifications for additional design features to encourage lower vehicle speeds (traffic calming).
8. Street grades shall conform to specifications included within the Design Standards and Specifications.
9. To ensure adequate access to each Subdivision, there should be at least two (2) points of ingress and egress, except that cul-de-sacs shall be permitted in conformance with Section 6.03.G Cul-de-Sacs and Dead-End Streets (below).
 - a. The Planning & Zoning Commission may require that more than two access points be constructed if the configuration, number of lots, or other consideration creates the need for additional access points.
10. Residential lots shall not front Thoroughfare or Collector streets.



11. Residential roadways shall not directly connect to Thoroughfares. Residential roadways must connect to or transition from a collector or a subdivision entry roadway which shall connect to Thoroughfares.
12. Driveways or alley pavement cuts to single-family or two-family uses shall not be allowed on Thoroughfares.
13. Where single-family uses abut an existing or proposed Thoroughfare, the Plat or dedication instrument will provide:
 - a. Lots to side onto the Thoroughfare with a non-access restriction on the Thoroughfare side, or
 - b. Reverse frontage with screening and containing a non-access restriction along the rear property line, or
 - c. Lots with screened rear alleys, or
 - d. Other treatment as may be necessary or required for adequate protection of adjoining properties, after taking into consideration the proposed method of off-street parking and maneuvering that will prevent the necessity of backing into the Thoroughfare.

D. Street Right-of-Way Dedication

1. Any Subdivider laying out and constructing new streets or whose Subdivision includes any portion of or is adjacent to an existing street shall dedicate sufficient Right-of-Way in accordance with the following conditions:

a. New Streets

New streets shall be provided where there is not an existing street, roadway, or passage.

i. Internal Streets

Internal streets shall be designed and provided in accordance with the current Town Ordinances and standards and be consistent with the Town’s Comprehensive Plan or Transportation Plan.

ii. Perimeter Streets

- (a) When a proposed residential or nonresidential Subdivision is developed abutting an existing or planned Thoroughfare or Collector Street, the Developer shall dedicate sufficient Right-of-Way within the Subdivision.
- (b) If the planned thoroughfare is determined by the Deputy Director of Engineering Services to be constructed, then the thoroughfare shall extend to the limits of the Subdivision.
- (c) The Developer shall enter into a Development Agreement to outline reimbursement of the planned thoroughfare.

b. Existing Streets

i. Cases Where Existing Right-of-Way does not Meet Minimum Town Standards

Where Subdivisions are adjacent to existing streets and the Right-of-Way widths of those existing streets are less than the minimum Right-of-Way standards found in section 6.03.F Street Design Criteria, the Developer is required to dedicate on the plat the Right-of-Way width required adjacent to the land being platted to bring the existing street to the Right-of-Way width as set out in this Subdivision Ordinance according to the following:

(a) Both Sides of an Existing Street Abut a Subdivision:

One hundred (100) percent of the Right-of-Way necessary to bring the street into conformance with subsection 6.03.F Street Design Criteria for a local or collector street, whichever is needed to serve the development, when the Subdivision abuts both sides of the existing street; or



(b) One Side of an Existing Street Abuts a Subdivision:

Up to fifty (50) percent of the Right-of-Way, after factoring in existing prescriptive Right-of-Way and ownership limits, necessary to bring the streets into conformance with section 6.03.F Street Design Criteria for a local or collector street, whichever is needed to serve the development, when the Subdivision abuts only one side of the existing street.

ii. Cases Where Additional Right-of-Way is Needed above the Minimum Standard

Streets may currently exist by reasons of Plat, metes and bounds description, general description or by prescription. If the existing geometrical configuration does not address safety, design, topography, and traffic management considerations, then the Town may require the dedication of additional Right-of-Way to address such.

(a) Adjacent to a platted Subdivision:

- (i) The Right-of-Way dedication shall be based upon the distance from the platted Subdivision boundary.
- (ii) Reasonable geometric adjustments will be made to accommodate safety, design, topography, and traffic management considerations.

(b) Along a Right-of-Way described by a metes and bounds or a general written description:

- (i) The Right-of-Way dedication shall be based upon the geometric centerline of the Right-of-Way as described.
- (ii) Reasonable geometric adjustments will be made to accommodate safety, design, topography, and traffic management considerations.
- (iii) All existing Right-of-Way dedication within the Subdivision shall be converted from "separate instrument" to a platted Right-of-Way by being a part of the Final Plat.

(c) Along a prescriptive Right-of-Way:

- (i) The Right-of-Way dedication shall be based upon the apparent centerline of the existing pavement or of the travel way if unpaved.
- (ii) Reasonable geometric adjustments will be made to accommodate safety, design, topography, and traffic management considerations.
- (iii) The Developer shall indicate on the Preliminary Plat and Final Plat property lines and features that identify prescriptive Right-of-Way.
- (iv) These features may include fences, borrow ditches, utility lines, drainage improvements, limits of plowed or improved fields, etc.
- (v) All existing prescriptive Right-of-Way dedications within the Subdivision shall be converted from prescriptive to a platted Right-of-Way by being a part of the Final Plat unless applicant can demonstrate that they have no legal authority to dedicate the prescriptive Right-of-Way on the Final Plat.

2. The Director of Development Services may grant an Administrative Waiver reducing the Right-of-Way standards found in section 6.03.F Street Design Criteria up to five (5) feet to accommodate development in existing neighborhoods (e.g., an existing street does not meet the current standard) or if unusual circumstances exist on the property or on adjacent property that make it difficult to comply with the Right-of-Way standard.

E. Street Classification Descriptions

1. Thoroughfares

- a. Thoroughfares carry traffic from one urban area to another and serve the major activity centers of urbanized areas.
- b. Thoroughfares are used for longer urban trips and carry a high portion of the total traffic with a minimum of mileage.
- c. Existing and proposed Thoroughfares are designated on the Transportation Plan.



- 2. Collector Streets
 - a. Collector Streets carry traffic from Local Streets to Thoroughfares.
 - b. Uses served would include medium and high density residential, limited commercial facilities, some small offices and as direct access within industrial parks.
- 3. Local Streets
 - a. Local Streets distribute traffic to and from residences.
 - b. Local Streets are short in length and non-continuous to discourage through traffic.
 - c. A Local Street is a street used primarily for access to abutting property, especially residential areas. Local Streets also provide secondary or minor access and circulation to community facilities (school, parks, etc.) and other traffic generators such a commercial and industrial areas.

F. Street Design Criteria

All dedicated streets shall conform to the Comprehensive Plan and Street Design Criteria as found in the Design Standards & Specifications.

G. Cul-de-Sacs and Dead-End Streets

- 1. Cul-de-sacs
 - a. A cul-de-sac street shall not exceed six hundred (600) feet in length, unless approved by the Planning & Zoning Commission in one of the following cases.
 - i. If the street is zoned or used for single-family residential development and no more than sixteen (16) single-family lots are created along the street.
 - ii. If the land zoned or used for nonresidential development for specific reasons of topography, engineering design or limited nonresidential use intensity. In no case shall a cul-de-sac longer than 1,200 feet be allowed.
 - b. A cul-de-sac street shall be platted and constructed with a paved cul-de-sac at the closed end having a turnaround with a minimum outside paving diameter of at least eighty (80) feet and a minimum street Right-of-Way diameter of at least one hundred (100) feet.
- 2. Dead-End Streets
 - a. Dead-end streets are prohibited unless the street design meets the above cul-de-sac requirements or unless the street is intended to be extended in the future and the dead-end design is only temporary in nature.
 - b. If a temporary dead-end street is permitted, turnaround pavement meeting the dimensions listed for cul-de-sacs in Paragraph 6.03.G.1 Cul-de-sacs (above) and a temporary turnaround easement meeting the dimensions listed for the Right-of-Way in Paragraph 6.03.G.1 shall be provided on the Plat.
 - i. The portion of the temporary turnaround easement lying outside of the street Right-of-Way shall be designated on the Final Plat that shall denote a temporary easement.

In the event that the temporary dead-end street (as approved and shown on the Final Plat) is extended in the future, the portions of the temporary turnaround easement shall revert back to the lot(s) abutting the temporary turnaround easement.
- 3. Drainage Improvements
 - Provisions shall be made for adequate storm drainage at the ends of dead-end streets.



4. Barricades
 - a. Barricades and other traffic controls shall be installed by the Developer at dead-ends in accordance with Town specifications.
 - b. Barricades and other traffic control signs and markings shall be maintained by the Developer or Homeowners' or Property Owners' Association.
- H. Construction Responsibilities
1. Local Street and Alley Construction

The Developer shall, at the Developer's cost and expense, pay for constructing all local streets and alleys within the Developer's Subdivision.
 2. Collector Street Construction

The Developer shall, at the Developer's cost and expense, pay for constructing all Collector Streets within the Developer's Subdivision.
- I. Street and Alley Requirements
1. General Requirements
 - a. As a minimum, a street must be designated to safely provide two-way traffic for passenger, delivery, emergency, utility, and maintenance vehicles.
 - b. If the Town determines that streets greater than the minimum standard are required, the Town will conduct investigations, studies, and calculations to determine the infrastructure requirements.
 - i. If the Developer proposes to construct no greater than the minimum standard of infrastructure, it will be the responsibility of the Applicant to submit to the Town engineering investigations, studies, and calculations in support of constructing the minimum standard.
 2. Local Streets, Collector Streets, and Alleys
 - a. Local street paving shall be in conformance with the Comprehensive Plan and Street Design Criteria as found in the Design Standards & Specifications.
 - b. Collector Street paving shall be in conformance with the Comprehensive Plan and Street Design Criteria as found in the Design Standards & Specifications.
 - c. Alley paving shall be in conformance with 6.05 Alleys.
- J. Street Name and Traffic Control Signs
1. Street name and all required traffic control signs shall be furnished and installed by the Developer for all areas, intersections within or abutting the Subdivision.
 2. Street name signs shall be of a type approved by the Town and include the block number.
 3. Street name signs and traffic control signs shall be installed in accordance with the prescribed type currently in use by the Texas Manual on Uniform Traffic Control Devices.
- K. Curbs: Barrier Curbs and Mountable Curbs
1. Barrier Curbs, as shown in the Design Standards and Specifications, shall be required for all developments, except for the following cases:
 - a. For single-family, duplex, or multifamily, Mountable Curbs developments are permitted.
 - b. Mountable Curbs may be permitted along Private Streets within an approved Private Street Development.



2. All curbs shall conform to the Design Standards and Specifications governing the placement and construction for curbs.

L. Street Openings to Adjoining Properties

1. Residential subdivision plat design shall provide for a reasonable number and location of street openings to adjoining properties. Such openings shall occur at least every nine hundred (900) feet or in alignment with abutting subdivision streets along each boundary of the subdivision.
2. The Deputy Director of Engineering Services may approve an Administrative Waiver if one the following conditions are met:
 - a. If the adjacent area is already developed and does not have street connections;
 - b. If the adjacent area is zoned as a nonresidential or multifamily district; or
 - c. If the adjacent area has significant constraints to development, such as drainage ways, railroads, highways, etc.

M. Street Lighting

1. Lighting Plan Required

Street light plans will be reviewed as part of the submittal of the Construction Plans.

2. Design

- a. The following standards shall apply to all Thoroughfares:
 - i. Streetlights shall be placed in the medians, with spacing not to exceed three hundred (300) feet and no closer than one hundred fifty (150) feet depending on median breaks and intersections.
 - ii. Luminaries shall be Town approved standard.
- b. The following standards shall apply to all Commercial Collector Streets:
 - i. Luminaries shall be approved Town standard.
 - ii. Collector lighting shall be installed prior to final acceptance by the Town. Where property lines bisect collectors longitudinally, each Developer is equally responsible for their fair share of the cost of fully developed lighting. If the Commercial Collector Street is shown on the Comprehensive Plan the Developer can receive reimbursement through a Development Agreement.
- c. The following standards shall apply to all Residential Streets:
 - i. Luminaries shall be approved Town standard unless upgraded options are approved by staff.
 - ii. Light locations shall typically be at intersections and at mid-block if the block length is greater than six hundred (600) feet. Cul-de-sacs, six hundred (600) feet, measured from centerline of street to center point of cul-de-sac, shall have a light installed at the street intersection and at the beginning of the bulb or at the top of the bulb. Other locations may be required as deemed necessary by the Deputy Director of Engineering Services. Lights shall not be closer than one hundred fifty (150) feet.
 - iii. Subdivisions bounded by arterials shall have common type of luminaries. Streetlights shall be installed prior to final acceptance by the Town.

3. Cost

- i. Cost of installation of street lighting shall be borne by the Developer.



- ii. The initial cost of installation, operation, and maintenance for the first year shall be paid by the Developer to the Town. Maintenance and operation after this period shall be provided by the Town, unless the lights are on private streets.
4. Exemptions

The following are exempt:

 - i. Temporary lighting approved in writing by the Deputy Director of Engineering Services.
 - ii. Where existing or phased subdivisions were under construction prior to the effective date of this Ordinance, the continued use of currently approved lighting will be permitted. When divided by collector sized streets the lighting standards contained in this Ordinance will be required.
 - iii. Lighting luminaries in existence on the effective date of this Ordinance shall be exempt from these standards and shall be considered legally non-conforming. Such fixtures may be repaired, maintained and/or replaced.

6.04. Private Streets and Gated Subdivisions

A. Applicability

1. Within the Town's corporate Limits

Within the Town's corporate limits, Private Streets and gated subdivisions for new development shall be developed in accordance with the Zoning Ordinance as it exists or may be amended.

2. Within the Extraterritorial Jurisdiction (ETJ)

Private Streets are allowed in the ETJ subject to the formation of a Homeowners' or Property Owners' Association.

B. General

1. Requirements

Subdivisions with Private Streets and gated communities shall meet the following requirements:

- a. The general provisions of this Subdivision Ordinance and other Town Codes as they relate to development, streets, and utilities will apply.
- b. A vehicular turn around shall be provided at entry gates to allow vehicles that have been denied entry the ability to exit without having to back up.
- c. All plans concerning private subdivisions are subject to review and approval by the local fire department.
- d. The definition of a "subdivision" and "street", as contained in this Subdivision Ordinance, will apply to all subdivisions or streets, whether public or private.

2. Authority Maintained by Town

- a. All streets, gates, and other fire protection features, signage, and equipment are subject to periodic inspection by the Town and must be repaired immediately if found to be in a condition of disrepair or inadequate for public access.
- b. The Town shall have the right to enter the subdivision and disable, open, or remove any gate, device, or other feature that impedes or controls vehicle access at the sole expense of the developer or Homeowners' or Property Owners' Association.
- c. Access shall be provided for sanitation trucks.



3. Owner's Responsibility

The person or corporation in control of the property is responsible for, and liable for, any violations of this private road requirement. This includes, but is not limited to, the developer, property owner, the Homeowners' or Property Owners' Association and its officers, if applicable, or others who may own or exercise control over the property.

4. Private Street Lot

Each Private Street and alley must be constructed within a separate lot owned by the Homeowners' or Property Owners' Association.

- a. Each lot must conform to the Town's standards for design of a public street and alley right-of-way. An easement covering the street lot shall be granted to the Town providing unrestricted use of the property for utilities and the maintenance of the same. This right shall extend to all utility providers including telecommunication, telephone and cable companies, operating within the Town.
- b. The easement shall also provide the Town 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. The easement shall permit the Town to remove any vehicle or obstacle within the street lot that impairs emergency access.

5. Construction and Maintenance Costs

The Town shall not pay for any portion of the cost of constructing or maintaining a Private Street.

6. Plans and Inspections

An applicant for a proposed subdivision with Private Streets must submit to the Town the same plans and engineering information required to construct public streets and utilities. Requirements pertaining to inspection and approval of improvements prior to Final Plat approval shall apply. Fees charged for these services shall also apply. The Town may periodically inspect private streets and require repairs necessary to ensure emergency access.

7. Waiver of Services

The Final Plat, property deeds and Homeowners' or Property Owners' Association documents shall note that certain Town services shall not be provided on private streets. Among the services that will not be provided are the following:

- a. Routine police patrols.
- b. Enforcement of traffic and parking ordinances and preparation of accident reports.
- c. Depending on the characteristics of the proposed development, other services may not be provided.

8. Signs

All private traffic regulatory signs shall conform to the Texas Manual of Uniform Traffic Control Devices.

9. Indemnification Language for the Final Plat

The Final Plat shall contain the following language:

- a. Whereby the Homeowners' or Property Owners' Association, as owner of the Private Streets and appurtenances, agrees to release, indemnify, defend and hold harmless the Town, any governmental entity and public utility:
 - i. For damages to the private street occasioned by the reasonable use of the private street by the Town, governmental entity of public utility;



- ii. For damages and injury (including death) arising from the condition of said Private Street;
 - iii. For damages and injury (including death) arising out of the use by the Town, governmental entity or public utility of any restricted access gate or entrance; and
 - iv. For damages and injury (including death) arising out of any use of the subdivision by the Town, governmental entity or public utility. Further, such language shall provide that all lot owners shall release the Town, governmental entities and public utilities for such damages and injuries.
- b. THE INDEMNIFICATIONS CONTAINED IN THE ABOVE LANGUAGE APPLY REGARDLESS OF WHETHER OR NOT SUCH DAMAGES AND INJURY (INCLUDING DEATH) ARE CAUSED BY THE NEGLIGENT ACT OR OMISSION OF THE TOWN, GOVERNMENTAL ENTITY OR PUBLIC UTILITY, OR THEIR REPRESENTATIVE OFFICERS, EMPLOYEES OR AGENTS.

C. Gates

1. Each gate installation in a gated community must conform to the following provisions:
 - a. Fire Department Approval Required
 - i. Each gate installation must be approved by the Fire Department that serves the proposed subdivision prior to installation.
 - ii. The installation must be completed and tested prior to the Town's acceptance of the subdivision.
 - b. Gate Openings and Clearances
 - i. Gate design may incorporate one or two gate sections to meet the required minimum gate width of twenty-four (24) feet.
 - c. If a gate design incorporates any overhead obstruction, the obstruction must be a minimum of fourteen (14) feet above the finished road surface.
2. Setback Required

Approach and departure areas on both sides of a gated entrance must provide adequate setbacks and proper alignment to allow free and unimpeded passage of emergency vehicles through the entrance area.
3. Gates to be Constructed in Agreement with Fire Department Guidelines

An automatic gate installation must conform to the design and performance guidelines established by the Fire Department.
4. Good Working Order Required
 - a. All components of the gate system must be maintained in an approved operating condition, with all components serviced and maintained on a regular basis as needed to ensure proper gate operation.
 - b. A proper power supply shall be maintained to all electrical and electronic components at all times.
5. Failure to Meet Requirements
 - a. Each gate is subject to a performance test on a regular basis as determined by the Fire Department.
 - b. Upon failure of a performance test, the gate system shall be disabled and maintained in the open position until repaired, and shall not be placed back in service until tested and authorized by the Fire Department.



D. Homeowners' or Property Owners' Association Required

1. Homeowners' or Property Owners' Association Required

Subdivisions developed with private streets and alleys must have a mandatory Homeowners' or Property Owners' Association that includes all property to be served by Private Streets. The association shall own and be responsible for the maintenance of private streets and appurtenances.

2. The Homeowners' or Property Owners' Association documents must establish a reserve fund for the maintenance of streets and other improvements. The association documents shall be reviewed and approved by the Town's attorney to ensure that they conform to this and other applicable Town ordinances. The documents shall be filed and recorded prior to the approval of the Final Plat. Lot deeds must convey membership in the association and provide for the payment of dues and assessments required by the association. The association may not be dissolved without the prior written consent of the Town. No portion of the association documents pertaining to the maintenance of the private streets and alleys and assessment therefore may be amended without the written consent of the Town.

E. Construction and Utilities

Water, sewer, drainage facilities, street lights and signs placed within the private street and alley lot shall be installed to Town standards prior to approval of the Final Plat. All Town regulations relating to infrastructure financing and developer cost participation shall apply to subdivisions with private streets.

F. Access Restrictions

1. General Requirements

The entrances to all Private Streets shall be marked with a sign stating that it is a private street. All restricted access entrances shall be staffed 24 hours every day, or an alternative means shall be provided of ensuring access to the subdivision by the Town and other utility service providers with appropriate identification. If the association fails to maintain reliable access as required to provide Town services, the Town shall have the right to enter the subdivision and remove any gate or device that is a barrier to access at the sole expense of the association.

2. Restricted Access

Private streets that have access controlled by a gate, cross arm, or other access control device shall conform to the following requirements:

- a. The street must have a minimum uninterrupted pavement width of twenty-four (24) feet at the location of the access control device.
- b. The design of all gates, cross arms and access control devices, including automatic opening systems and manual backup systems, shall be approved by the local Fire Department before installation.
- c. The gates, cross arms, and access control devices shall be tested and accepted by the Fire Department before being put into operation.
- d. If the entrance incorporates a median, guard booth, 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 with private streets 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.

3. Visitor Entrance Design Standards

- a. At least one entrance to a subdivision with Private Streets shall be equipped for visitor access.
- b. In addition to meeting the above 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 and automobile queuing.



- c. 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 “headout” position.
 - d. A sign shall be erected next to the edge or such turn around space to prohibit vehicle parking in such space.
 - e. A resident entrance used in combination with a visitor entrance shall comply with the requirements of this Subsection.
4. Resident-Only Entrance Design Standards
 - a. In addition to meeting the above design standards, an access control device that requires residents to use a key, card, code, or other method to gain access shall be set back internally a minimum of fifty (50) feet from the boundary of the subdivision to provide for automobile queuing; except that resident entrances equipped with an electronic opener that allows residents to remotely open the access control device and enter the subdivision without having to stop are exempted from this requirement.
 - b. A sign shall be erected next to any resident entrance that does not meet the fifty (50) foot setback requirement and does not provide a turn-around space with a minimum outside radius of thirty (30) feet to indicate that it is for resident use only and not for visitors.

G. Converting Private Streets to Public Streets

The Homeowners’ or Property Owners’ Association documents shall allow the association to request the Town to accept private streets and alleys and the associated property as public streets and right-of-way upon written notice to all association members and to convey the same to the Town upon the consent by written signatures of the owners of 75% of the affected lots on the street. However, in no event shall the Town be obligated to accept said Private Streets and alleys as public.

1. Town’s Acceptance of Streets and Alleys

Should the Town elect to accept the streets and alleys as public, the Town may inspect the private streets and assess the Homeowners’ or Property Owners’ Association or lot owners for the expense of needed repairs concurrent with the Town’s acceptance of the streets and alleys. The Town will be the sole judge of whether repairs are needed.

2. Town’s Requirements

The Town may also require, at the Homeowners’ or Property Owners’ Association’s expense, the removal of guard booths, access control devices, landscaping or other aesthetic amenities located within the street. The association documents shall provide for the Town’s right to such assessment. Those portions of the association documents pertaining to the subject matter contained in this paragraph shall not be amended without the written consent of the Town.

6.05. Alleys

A. Alleys are Optional Improvements

At the time of an application for a Preliminary Plat, the Developer shall identify the location of all proposed alleys. The Commission shall have the authority to approve or deny all requests for alleys. If alleys are constructed at the discretion of the Developer, then the alleys shall meet the standards of this Section 6.05.

B. Alley/Street Intersection – Prohibition

Alleys shall not intersect streets that are designated in the Comprehensive Plan as a Collector Street or a Thoroughfare.



C. Alley Design

Alleys shall be designed in accordance with the Design Standards and Specifications.

6.06. Sidewalks

A. Intent

Sidewalks are required to achieve the following:

1. Promote the mobility, health, safety, and welfare of residents, property owners, and visitors to the Town and to implement objectives and strategies of the Comprehensive Plan,
2. Improve the safety of walking by providing separation from motorized transportation and improving travel surfaces for pedestrians,
3. Improve public welfare by providing an alternate means of access to transportation and social interaction, especially for children, other citizens without personal vehicles, or those with disabilities, and
4. Facilitate walking as a means of physical activity.

B. Location Requirements

1. Sidewalks shall be constructed on both sides of all new roadways.
2. The Deputy Director of Engineering Services may waive the requirement for sidewalks in subdivisions consisting of bar ditch drainage conveyance (no curb and gutter).
3. Sidewalks shall be constructed generally within the Right-of-Way.
 - a. Where public sidewalks veer out of the Right-of-Way, a sidewalk easement shall be dedicated for all portions outside of the Right-of-Way.
4. Routing to clear poles, trees or other obstacles shall be subject to Deputy Director of Engineering Services approval.
5. Construction Plans shall show the location of all proposed sidewalks and shall state at what stage of the project they will be constructed.
6. All sidewalks shall conform to Federal Americans with Disabilities Act (ADA) requirements and barrier-free ramps shall be provided for access to the street.

C. General Construction

1. Sidewalks shall have a minimum width of five feet (5') along residential streets and Collector Streets and six feet (6') along Thoroughfares. The width of the sidewalk shall be increased if designated as a hike and bike trail in accordance with the Parks, Recreation & Open Space Master Plan.
2. Sidewalks located along Thoroughfares and Collector Streets shall be constructed to meander with a radius between 100' to 500', unless the Deputy Director of Engineering Services determines the required radius cannot be met due to existing physical conditions or site constraints.
3. Sidewalks may be located in the required landscape buffer upon approval of the Town's Landscape Architect and shall be placed in an access easement to be dedicated at the time of Final Plat.
4. Sidewalk construction may be delayed until the development of lots, but in locations adjacent to open space lots, common area lots and across bridges and culverts, the sidewalk shall be constructed with the other improvements to the Subdivision.
5. The Commission may require pedestrian access to schools, parks, playgrounds, or other nearby streets with perpetual, unobstructed easements at least 15 feet in width. Easements shall be indicated on the plat.



D. Hike and Bike Trails

1. Trails shall be constructed by the Developer in locations shown on the Parks, Recreation, & Open Space Master Plan unless otherwise approved by the Commission upon the recommendation of the Parks and Recreation Board.
2. Where a hike and bike trail is shown to be required through a residential development not adjacent to a creek, a 50-foot access easement shall be required within an HOA/open space lot. The width of the access easement may be reduced to a minimum of 25 feet at an entry or exit point of the trail.
3. Hike and bike trails adjacent to a street shall be located within a minimum 15-foot access easement within an HOA/open space lot.
4. Hike and bike trails shall not cross the driveways of residential homes unless recommended by the Director of Parks and Recreation and approved by the Planning & Zoning Commission.
5. Hike and bike trails shall be required at the time of development. Hike and bike trails shall comply fully with the Texas Accessibility Standards of the Architectural Barriers Act, administered by the Texas Department of Licensing and Regulation.

E. Access Easements

1. Access Easements shall be required for all sidewalks and hike & bike trails or portions thereof that fall outside of public right-of-way.
2. Easement width and size shall be sufficient enough to incorporate all of the public pedestrian facilities plus two (2) and one-half (1/2) feet on either side.

6.07. Lots

A. Lot Design

Lot design shall provide adequate width, depth, and shape to provide open area, to eliminate overcrowding, and to be appropriate for the location of the Subdivision for the type of development and use contemplated, and shall meet all requirements of the Town.

B. Lot Frontage Requirement

1. Except as noted below, every lot shall have frontage on and access to a public street.
2. It is recognized that certain nonresidential developments may contain lots that cannot achieve access to a public street. The Council may grant a waiver if adequate access including required fire lanes are provided through dedicated public access easements from a public street.

C. Lot Frontage Prohibition for Single-Family Lots on Thoroughfares

Lots zoned for single-family use shall not front upon a Collector Street or Thoroughfare.

D. Right Angles for Side Lot Lines

All side lines of lots shall be as close to right angles as possible to straight street lines and radial to curved street lines except where a variation to this rule will provide a better street and lot layout. The Director of Development Services may grant an Administrative Waiver, if unusual circumstances exist on the subject property or on adjacent property that make it difficult to comply with this requirement.

E. Flag Lots

Except as provided in 6.07.B.2 above, every lot shall have at least 50 feet of frontage along a street.

F. Key Lots

To the greatest extent possible, the creation of key lots shall be avoided.



G. Scenarios where Additional Lot Depth is Required

Where a lot in a residential area backs up to a high-pressure oil or gas line, electric transmission line (60kv or higher), an industrial, commercial, or other land use that has a significant change in use from the residential use of the property, and where no street or alley is provided at the rear of such lot, additional lot depth may be required.

H. Double Frontage and Reverse Frontage Lots

Double frontage lots (also called through lots) and reverse frontage lots shall be prohibited except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation or exist prior to the adoption of this Subdivision Ordinance. (A reverse frontage lot is a lot that is at right angles, or approximately right angles, to the general pattern in the area involved.)

I. Waiver to the Minimum Lot Size

The minimum lot size requirement of the Zoning Ordinance as it currently exists or may be amended, may be waived by the Director of Development Services as an Administrative Waiver if an existing tract of land was created prior to the adoption of this Subdivision Ordinance. This waiver is designed to allow an existing tract (which is often a remnant tract from a larger tract) that is surrounded by development to be platted, which will then allow the owner to apply for Town permits.

J. Land Subject to a 100-Year Floodplain

1. Any land that, in its natural state, is subject to a 100-year flood or that cannot be properly drained shall not be subdivided, re-subdivided, or developed until receipt of evidence that the construction of specific improvements proposed by the Developer can be expected to yield a usable building site (*i.e.* Flood Study and FEMA CLOMR [Conditional Letter of Map Revision]).
2. Building construction upon such land shall be prohibited until the specific drainage improvements have been planned, constructed, and an approved CLOMR or an approved LOMR (Letter of Map Revision) has been received from FEMA.
3. If a CLOMR has been approved as per 6.07.J.2, a LOMR must be received from FEMA prior to issuance of certificates of occupancies.

K. Prohibition of Reserve Strips

No subdivision or addition showing reserve strips of landing controlling the access to public ways or adjoining properties will be approved either in whole or in part.

6.08. Blocks

A. Block Length Measurement

The length of a block shall be considered to be the distance from property corner to property corner measured along the property line of the Block Face:

1. Of greatest dimension, or
2. On which the greatest number of lots face.

B. Block Width Measurements

The width of a block shall be considered to be the distance from property corner to property corner measured along the property line of the block face:

1. Of least dimension, or
2. On which the fewest number of lots face.



C. Block Measurement Factors

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

1. Provision of adequate building sites suitable to the special needs of the type of use contemplated;
2. Zoning requirements as to lot sizes and dimensions;
3. Needs for convenient access, circulation, control and safety of street traffic;
4. Limitations of topography; and
5. Compatibility with efficient development of public facilities as established by surrounding developments.

D. Block Design

1. Intersecting streets shall be provided at such intervals as to serve traffic adequately and to meet existing streets.
2. Where no existing subdivision controls, block lengths shall not exceed 1,000 feet. A "T" intersection break on one side to provide traffic outlet will conform to the 1,000 feet break.

E. Waiver to the Minimum Block Size

For the following scenario, the Director of Development Services may approve an Administrative Waiver for blocks lengths greater than the minimum established above.

1. For blocks in which all lots are 22,000 square feet in size or greater, the maximum block length may be increased up to 1,440' long or up to 24 lots per block, whichever is greater. Under no circumstances, shall the maximum block length exceed 2,000 feet.
2. For blocks to be eligible for increased block length, the block must be located in a residential zoning district.

6.09. Survey Monuments and Lot Markers

A. Permanent Survey Reference Monuments

1. Metal monuments three and one quarter inches (3.25") in diameter long shall be placed by the surveyor shall be placed on at least one block corner, boundary corner or angle points for each plat or each phase of a multi-platted area or subdivision.
 - a. A twelve inch (12") long steel rod, 5/8 inch in diameter and embedded at least twelve inches (12") into the monument, shall be placed at the boundary intersection point on each monument.
 - b. These monuments shall be set at elevations so that they will not be disturbed during construction.
 - c. The tops of the monuments shall be three and one quarter inch (3.25") metal markers set at finished grade.
 - d. All survey monuments installed with the development shall be shown on the Final Plat with longitude, latitude, and elevation.
2. Submission of the Final Plat prepared by the licensed surveyor shall be considered evidence that the monuments, guard stakes and flagging have been set.
3. The Deputy Director of Engineering Services may approve alternative survey methods.

B. Lot Markers

Lot markers shall be iron pins no less than twelve inches (12") long nor less than one-half inch in diameter set flush with the ground at every corner, at all angle points, and at all points of curves not otherwise designated under the subparagraphs above or industry adopted survey benchmark documents, as approved by the Director of Development Services.



6.10. Access Management

A. Intent of Access Management

It is the intent of this section to:

1. Fulfill the access requirements contained in the Zoning Ordinance as it exists or may be amended; and
2. Fulfill the standards of the Town’s Thoroughfare Design Requirements.

B. Access Requirement

Every lot shall have frontage on, and access to, a public street or other approved public access easement in accordance with Section 6.07.B.

C. Common Access

1. Lots with sufficient frontage to safely meet the design requirements may be permitted their own driveways. For lots without sufficient frontage (i.e., do not meet the driveway spacing standards), then a Common Access Easement may be required between adjacent lots.
2. Common Access Easement
 - a. The use of common driveways shall require the dedication of a joint-use private access easement on each affected property.
 - b. Said dedication shall be provided on the Final Plat of the subject properties, or be filed by separate instrument approved by the Town Attorney with the County with a copy forwarded to the Town.
 - c. The Plat shall state that the easement shall be maintained by the property owner.
 - d. The Common Access Easement shall encompass the entire width of the planned driveway plus an additional width of one foot on both sides of the drive.

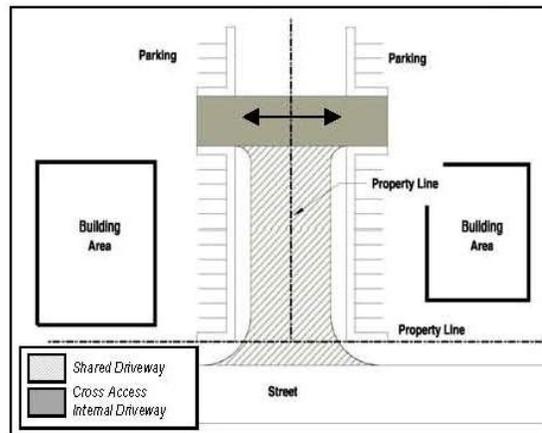


Figure 3: Example of Common Driveway (For Illustrative Purposes Only)



6.11. Easement Dedication

A. Easement Dedication

1. Easements and dedications of property needed for the construction of streets, alleys, sidewalks, trails, storm drainage facilities, floodways, water mains, wastewater mains and other utilities, and any other property necessary to serve the platted area and to implement the requirements of the Subdivision Ordinance shall be labeled on the Final Plat and dedicated for the specific purpose intended (e.g., "Water Easement", "Drainage Easement", "Street Easement").
2. The type, size and location of easements shall be determined in accordance with the Town of Prosper Design Standards and Specifications.

B. Off-site Easements

1. Off-site easements may be required to fulfill the requirements of the Subdivision Ordinance.
2. Off-site easements shall be dedicated to the Town by separate instrument and shall be approved by the Town.
3. Off-site easements requiring dedication by different land owner than the developer of the subject property shall be executed and received by the Town prior to release of construction plans.
4. All off-site easements shall be recorded at the appropriate county prior to acceptance of required public infrastructure.
5. Type, size and location of off-site easements shall be determined in accordance with the Design Standards and Specifications.

C. Restrictions

1. No portion of a structure (including, but not limited to, walls, foundations, porches/patios and porch/patio covers, canopies, roof extensions/overhangs, chimneys, fire flues, pools, etc.) shall encroach over or into any public easement, except that wall-attached window awnings, "bay" style windows, and roof eaves shall be allowed to encroach into an easement a maximum of twenty-four inches (24") upon approval of the Deputy Director of Engineering Services.
2. Retaining walls, screening walls, fences, gates or similar structures shall be allowed to cross public easements perpendicular to the intended use, and shall not be allowed to run longitudinally within said easement.

D. Maintenance of Easements

1. The Town shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs, or other improvements or growths that in any way endanger or interfere with the construction, maintenance, or efficiency of Town systems.
2. The Town shall at all times have the right of ingress and egress to and from and upon the said easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, and adding to or removing all or part of its respective systems without the necessity at any time or procuring the permission of anyone.
3. The property owner shall be responsible for maintaining the easement property.

E. Fire Lane Easements

1. Fire Lane Easements for emergency access shall be provided in locations as directed by the current adopted Fire Code and as required by the Town.
2. Fire Lane Easements shall be shown and dedicated by Plat or by separate instrument and shall be of minimum width as determined by the most current adopted Fire Code and any amendments as well as Design Standards and specifications.



3. The property owner shall be responsible for maintaining the easement property.

F. Private Easements

Easements needed for construction or maintenance of private improvements (including, but not limited to, retaining walls, screening walls, private drainage systems, private streets, etc.) shall be labeled on the Final Plat and dedicated for the specific purpose intended. Specific notes on the plat shall designate maintenance responsibilities to a Home Owner's Association or Property Owner's Association or owner of the property.

G. Utility Easements

1. Easements for private franchise utilities shall be located adjacent to the street right-of-way along the fronts of lots or tracts.
2. Utility Easements dedicated to the Town shall be non-exclusive and provide construction, service and maintenance rights for all public utilities and private franchise utility providers.

H. Needs/Benefits Determination

1. No dedication otherwise required by this ordinance may be imposed upon a property owner unless the Town determines that the dedication is related to the impact of the proposed development; is roughly proportional to the needs created by the proposed development; and provides a benefit to the development.
2. An Applicant may appeal a staff recommendation that a dedication be required in accordance with the provisions of Section 7 Subdivision Relief Procedures.

6.12. Water Utility

A. General

1. Approved Water Distribution System Required

All Subdivisions shall provide an approved water distribution system connected to the existing Town water system in conformance with all applicable Town master plans and regulations. The Deputy Director of Engineering Services may recommend approval to the Town Council for a connection to another entity's water system when necessary to accommodate the efficient growth of the Town's infrastructure.

2. System Design

In the absence of specific standards, all water supply, distribution, pumping, and storage improvements shall be designed in accordance with the most current standards of the American Water Works Association and the most current criteria included in the Texas Administrative Code, Chapter 290. The Town shall make the final determination of the adequacy of any proposed system.

B. Basic Requirements

1. Water Main Construction

- a. All water mains shall be constructed within the street Right-of-Way or easements dedicated to the Town per design standards and specifications.
- b. All public water facilities shall conform to Water Design Criteria as found in the Design Standards & Specifications and the requirements of Texas Administrative Code, Chapter 290, subchapter D, Rules and Regulations for Public Water Systems.



2. Water Main Cost of Construction
 - a. The Developer shall, at the Developer's cost and expense, pay for the installation of all water distribution system improvements within the Developer's Subdivision in addition to any off-site improvements to bring the water system to Developer's Subdivision.
 - b. Mains shown on the Capital Improvements Projects Master Plan and not planned to be extended in time to serve a proposed development may be installed by the Developer at the Developer's expense, but shall be impact fee reimbursed by an approved Development Agreement.

3. Water Easements

The minimum easement width for water mains shall be fifteen (15) feet, or as determined by the Deputy Director of Engineering Services.

C. Preliminary Utility Plan

1. General

- a. The Preliminary Utility Plan shall show compliance with Sections 6.12 Water Utility and 6.13 Wastewater Utility, and shall be in agreement with all other Town plans and standards.

2. Illustrate the Location and Size of Water Utility and Wastewater Utility Mains

- a. Concurrent with the submission of a Preliminary Plat or Replat, the Developer shall submit a map or plan showing the location and size of Water Utility and Wastewater Utility mains, which will be required to provide adequate service and fire protection to the lots specified in the proposed plat.
- b. Preliminary Utility Plans shall also show all fire hydrant locations, existing and proposed, required to provide adequate fire protection per Design Standards and Specifications and Fire Code.
- c. The Town may require the development to submit modeling for the proposed utility mains to verify level of service.

3. Plan Document

The plan shall be prepared as noted in the Town's Application Forms.

6.13. Wastewater Utility

A. General

1. Approved Means of Wastewater Collection and Treatment Required

- a. All lots, tracts or parcels on which development is proposed shall be served by an approved means of wastewater collection and treatment.
- b. A lot may be served by On-Site Sewage Facilities (OSSFs) if the lot is at least one acre in size. Additionally, the size of the lot shall be sufficiently large to accommodate adequate drainage fields and to meet the standards set forth by the State of Texas, the County or any other governmental unit having appropriate jurisdiction.
- c. All lots, regardless of size, shall connect to the Town's facilities if the lot is within 200' of an existing or proposed wastewater line.

2. Possible Phasing of Development Required

- a. The Deputy Director of Engineering Services may require the phasing of development and/or improvements in order to maintain adequate wastewater capacity.
- b. Subdivisions either in the ETJ or that have been annexed and are not served by the Town shall meet the same requirements but be subject to approval by the Director of Development Services.



B. Basic Requirements

1. Wastewater Collection System Required

- a. All Subdivisions shall provide an approved wastewater collection system conforming to the Town’s engineering Design Standards and Specifications and all applicable Town plans and regulations and the requirements of Texas Administrative Code, Chapter 217, Design Criteria for Domestic Wastewater Systems.
- b. The Town shall make the final determination of the adequacy of the proposed system.
- c. All wastewater collection systems shall be constructed within the street Right-of-Way or easements dedicated to the Town per design standards and specifications.

2. Cost of Construction

- a. The Developer shall, at the Developer's cost and expense, pay for the installation of all wastewater collection system improvements within the Developer's Subdivision in addition to any off-site improvements to bring wastewater system to Developer's Subdivision.
- b. Wastewater mains as shown on the Capital Improvements Projects Master Plan not planned to be extended in time to serve a proposed new development may be installed by Developer at the Developer's expense, but shall be impact fee reimbursement through an approved Development Agreement.

3. Wastewater (Sanitary Sewer) Easements

The minimum easement width for wastewater mains shall be fifteen (15) feet, or as determined by the Deputy Director of Engineering Services.

C. Preliminary Utility Plan

When required by the Subdivision Ordinance, a Preliminary Utility Plan for Wastewater Utility requirements shall be prepared in accordance with 6.12.C Preliminary Utility Plan.

6.14. Drainage and Stormwater

A. General

1. Components of the Drainage System

Drainage systems, including all conveyances, inlets, conduits, structures, basins, or outlets used to drain Stormwater, must be designed and constructed to promote the health, safety, and welfare of the property owner and the public, and to promote water quality standards. All drainage systems shall be designed so that there will be no negative impact to upstream and downstream property owners.

2. Management of Stormwater Runoff

Adequate provision must be made for the acceptance, collection, conveyance, detention, and discharge of Stormwater runoff onto, through and originating within the Subdivision.

3. Discharge of Stormwater Runoff

Stormwater must be discharged in an acceptable form and at a controlled rate so as not to endanger human life or public or private property or violate water quality standards.

4. Drainage Facilities

Drainage facilities shall be provided and constructed by the Developer in accordance with the requirements within the design standards and specifications.

**B. Planning and Construction**

1. The Developer shall incur the cost of all drainage improvements connected with development of the Subdivision and acceptance of current upstream flows necessary to safely and adequately drain the Subdivision, including any necessary off-site channels or storm sewers and acquisition of any required easements.
2. Any necessary off-site channel or storm sewers that are required to be within easements must have a separate instrument easement filed in the County Real Property Records.

C. Residential Grading and Drainage**1. Lot-to-Lot Drainage Standards**

- a. Surface runoff from residential lots shall be directed towards side lot swales located at a common property line and shall not cross fully onto an adjacent lot before being directed toward the street or a dedicated drainage easement or public Right-of-Way.
- b. Surface runoff from residential lots that fully cross property lines and onto adjacent lots are referred to as lot-to-lot drainage and shall not be allowed unless approved by the Deputy Director of Engineering Services.

2. Detailed Standards

See the Design Standards and Specifications for requirements for detailed standards and policies.

D. Nonresidential Grading and Drainage**1. Lot-to-Lot Grading and Drainage Standards**

- a. Surface runoff from nonresidential lots that fully cross property lines and onto adjacent nonresidential lots are referred to as lot-to-lot drainage and shall not be allowed without a dedicated public drainage easement. At no point shall a developed nonresidential lot be allowed to surface drain onto a residential lot regardless of easements.
- b. Surface runoff or enclosed systems from developed nonresidential lots that cross a property line are considered public drainage and must be contained within a dedicated drainage easement.
- c. Concentrations of stormwater from areas exceeding a quarter (1/4) acre unless otherwise approved by the Deputy Director of Engineering Services shall not be discharged to Town streets through driveways or flumes but shall be collected into an enclosed system, either private or public, prior to reaching the curb line of the roadway.
 - i. Surface runoff from landscape buffers and mostly impermeable areas shall be permitted to surface drain directly towards Town streets if the street system was designed to handle associated flows.

2. Detailed Standards

See the Design Standards and Specifications for detailed standards and policies.

E. Design Criteria

1. The design of the swales and enclosed systems located within a dedicated drainage easement shall utilize the Town's adopted drainage design criteria for channel and pipe systems.
2. Side yard swales shall have a minimum slope of one (1) percent to ensure adequacy of flow during and after a rain event.
3. See the Design Standards and Specifications for requirements for detailed standards and policies.



F. Materials

1. Swales on Residential Lots

Swales on residential lots shall be fully vegetated.

2. Swales on Nonresidential Lots

Swales on nonresidential lots may be constructed in a natural state fully vegetated in cases where the surrounding area has been vegetated and velocities and depth of flow can be contained within the proposed swale without erosive damage.

a. Swales or inverts within parking and private driving lanes of nonresidential properties shall be constructed of materials similar to those of the parking and driving lanes.

3. Systems on Nonresidential Lots

Enclosed systems on nonresidential lots that will be dedicated to the Town shall be designed in accordance with the Design Standards and Specifications.

G. Floodplain

1. *Floodplain delineation and dedication.* If any portion of the property contains a drainage course, lies within 100' from the top of a high bank, or contains Federal Emergency Management Agency (FEMA) floodplain, then the drainage basin area shall be determined. If that area is 160 acres or more, then the 100-year floodplain shall be established. All floodplain calculations shall be approved by the floodplain administrator. The floodplain shall be delineated on the plat and shall be dedicated to the Town, at the Town's option.

2. Floodplain easements shall be provided along natural drainage ways and lakes or reservoirs.

3. Floodplain easement locations shall be shown on the Final Plat.

4. Floodplain easements shall be provided in accordance with the recommendation of the Deputy Director of Engineering Services and the Director of Development Services to accommodate the 100 year storm drainage flows or the flow of the flood of record, whichever is greater.

5. Floodplain easements shall encompass all areas beneath the water surface elevation of the Base 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 by the Deputy Director of Engineering Services.

6. The following full statement of structures shall be placed in the dedication instrument of the Plat:

100 Year Floodplain Easement Restriction:

*Construction within the floodplain may not occur until approved by the **Town**. (A request for construction within the floodplain easement must be accompanied with detailed engineering plans and studies indicating that no flooding will result, that no obstruction to the natural flow of water will result; and subject to all owners or the property affected by such construction becoming a party to the request.) Where construction is approved, all finished floor elevations shall be a minimum of one (1) foot above the 100-year flood elevation as determined by analyzing the ultimate build-out conditions of the entire drainage basin.*

*Existing creeks, lakes, reservoirs, or drainage channels traversing along or across portions of this addition, will remain as an open channel at all times and will be maintained by the individual owners of the lot or lots that are traversed by the drainage courses along or across said lots. The **Town** will not be responsible for the maintenance and operation of said drainage ways or for the control of erosion. Each property owner shall keep the natural drainage channels traversing his/her property clean and free of debris, silt, or any substance that would result in unsanitary conditions. The **Town** shall have the right of*



*ingress and egress for the purpose of inspection and supervision of maintenance work by the property owner to alleviate any undesirable conditions, which may occur. The **Town** is not obligated to maintain or assistance with maintenance of the area.*

*The natural drainage channel, as in the case of all natural drainage channels, are subject to storm water overflow and natural bank erosion. The **Town** shall not be liable for damages of any nature resulting from the occurrence of these natural phenomena, nor resulting from a failure of any structure(s) within the natural drainage channels. The natural drainage channel crossing each lot is shown by the Floodway easement line as shown on the plat. If a Subdivision alters the horizontal or vertical floodplain, a FEMA Floodway map revision may be required.*

H. Drainage Easements

1. Easements for storm drainage facilities shall be provided at locations containing proposed or existing drainage ways.
2. Storm drainage easements, fifteen (15) feet minimum width, or as determined by the Deputy Director of Engineering Services, shall be provided for existing and proposed enclosed drainage systems.
 - a. Easements shall be centered over the systems.
 - b. Larger easements, where necessary, shall be provided as directed by the Deputy Director of Engineering Services.
3. Storm drainage easements shall be provided for emergency overflow drainage ways of sufficient width to contain within the easement Stormwater resulting from a 100-year frequency storm less the amount of stormwater carried in an enclosed system of a capacity required by the Town.
4. Where a Subdivision is bounded by a water-course, drainage way, channel, or stream, there shall be provided a drainage easement conforming substantially to the lines of such water course, and of such width to provide for increased drainage from anticipated future upstream developments, plus a minimum of ten (10) feet on each side.
5. Drainage easements shall include provisions for access ingress and egress by crews and equipment for maintenance purposes.

I. Maintenance

1. Mowing and maintenance shall be the responsibility of the property owner or Homeowners' or Property Owners' Association.
2. Periodic cleaning of enclosed systems located within dedicated drainage easements shall be the responsibility of the Town.

J. Preliminary Drainage Plan

1. General
 - a. The Preliminary Drainage Plan shall be submitted with the submittal of a Preliminary Plat or Replat for review and acceptance in accordance with the Development Manual.
 - b. A Preliminary Drainage Plan shall be prepared for all developments in accordance with the requirements set forth in the Town's Application Forms.
 - c. The review of the Preliminary Drainage Plan does not constitute final drainage plan approval or authorize a waiver to the Subdivision Regulations.
 - d. For property with a previously accepted Preliminary Drainage Plan, the accepted Preliminary Drainage Plan may be submitted and enforced unless a revised Preliminary Drainage Plan is required by the Town due to lot reconfiguration or other conditions created by the new Plat.



- e. The Deputy Director of Engineering Services may waive the requirement for a Preliminary Drainage Plan if the submitted plat is not anticipated to cause any significant change in runoff characteristics from a previously accepted drainage study or for single residential properties where no drainage problems are anticipated.
- f. If the applicant requests a waiver in writing, a copy of any previous drainage plan prepared for the property shall be provided.
- 2. Illustrate the Drainage of the Site
 - a. For any property involved in the development process, a Preliminary Drainage Plan shall be provided, at the Developer's expense, for the area proposed for development.
 - b. The Preliminary Drainage Plan shall show the watershed affecting the development and how the runoff from the fully-developed watershed will be conveyed to, through, and from the development.
 - i. The Preliminary Drainage Plan must comply with the standards outlined in this Subdivision Ordinance, Design Standards and Specifications, and the Code of Ordinances.
 - c. The Preliminary Drainage Plan is a guide for later detailed drainage design.
- 3. Plan Document
 - a. The plan shall be prepared as noted in the Town's Application Forms.

K. Detention and Retention Pond Overview

- 1. Storage of stormwater runoff within a stormwater management system is essential to providing the extended detention of stormwater flows for water quality protection and downstream stream bank erosion protection, as well as for peak flow attenuation of larger flows for flood protection.
- 2. Runoff storage can be provided within an on-site system with structural stormwater controls and/or nonstructural features and landscaped areas.
- 3. All detention and retention ponds shall have trees surrounding the pond. Retention ponds with a constant water level shall have a fountain(s) or other method of circulating water.
- 4. Figure 4 illustrates various storage facilities that can be considered for a development site.
- 5. Detention Ponds are designed to drain a runoff volume over a specified period of time, typically 24 hours, and provide for stream bank protection.
- 6. Detention Ponds are designed to completely drain after a storm has passed. Likewise, Retention Ponds also serve to drain runoff, but have the added feature of a permanent pool.
- 7. Retentions ponds shall be designed per Design Standards and Specifications.

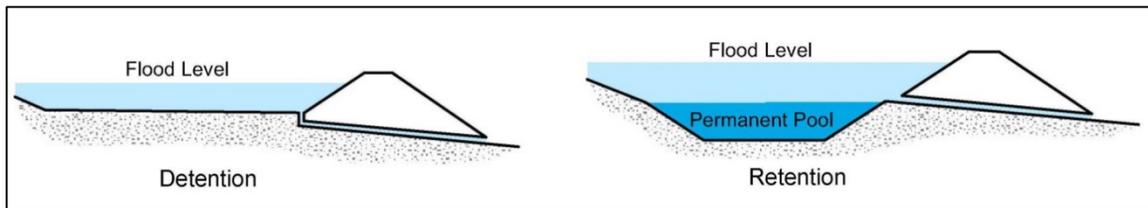


Figure 4: Detention and Retention Pond Examples



6.15. Development Criteria Along Creeks, Drainage Ways and Floodplain

A. Platting Along Creeks, Drainage Ways and Floodplain

1. No property shall be subdivided through final platting or "phasing" in a manner that is intended to avoid or circumvent the Developer's obligation to construct required improvements and/or dedicate required easements including, but not limited to, rights-of-ways, erosion hazard setbacks, and creek stabilization.
2. For single-family residential lots, dedication of the creek or drainage way to an approved Homeowners' Association (HOA) shall be required.
 - a. No portion of a "drainage and floodway easement" for floodplain purposes shall be contained in a single-family residential lot.
 - b. The limits of a drainage and floodway easement for floodplain shall be dedicated by Final Plat as a single lot to an HOA, or to the Town at the Town's sole discretion.
3. Creeks and drainage ways may be retained as a part of a nonresidential lot, and it shall be the property owner's responsibility to maintain this area, except as otherwise provided.
 - a. Property located within any floodplain designation (subsequent to any reclamation) or which is subject to, or required to be designated as, an erosion hazard setback easement or another similarly related easement (hereinafter collectively referred to in this section as "no-build areas") shall be designated in a Preliminary Plat where applicable and Final Plat as a common area.
 - b. Floodplain and/or erosion hazard setback easements may be included in and platted in conjunction with a nonresidential lot with buildable area.
 - c. "Buildable area" shall mean a lot of a size, shape, characteristics and topography which allows for the reasonable construction of improvements and structures allowed in the zoning classification in which it is located.
4. Structures built on lots adjacent to floodplains shall be constructed so that the finished floor elevation is a minimum twenty-four inches (24") above the 100 year fully developed floodplain.

B. Maintenance Responsibilities

1. A Homeowners' Association for residential development shall be responsible for maintaining the common area for which a drainage and floodway easement is required.
 - a. A drainage and floodway easement for maintenance purposes shall be granted to the Town and shall grant the right but not the obligation to maintain and construct drainage facilities if the creek or drainage way is not being properly maintained.
 - b. A lien may be filed against the property in favor of the Town to secure payment of any expenses incurred by the Town for maintenance.
2. A drainage and floodway easement for nonresidential lots for maintenance purposes shall be granted to the Town. The Town shall have the right but not the obligation to maintain and construct drainage facilities if the creek or drainage way is not being properly maintained. Consequently, a lien may be filed against the nonresidential property in favor of the Town to secure payment of any expenses incurred by the Town for maintenance.
3. Nonresidential properties may create an entity or Property Owner's Association (POA) to maintain creeks or drainage ways, provided the maintenance area is set forth by easement and the entity's by-laws, filed of record, and provide for on-going maintenance.
 - a. Such easements shall authorize a lien against the POA in favor of the Town to secure payment for any expenses incurred if the maintenance entity is not properly maintaining the creek or drainage way.



- b. Adequate easements shall be required that give the Town the right but not the obligation to maintain and construct drainage facilities if, in the Town's sole opinion, the maintenance entity is not properly maintaining the creek or drainage way.

C. Erosion Hazard Setbacks

1. Erosion hazard setbacks will be utilized to provide creek bank protection for all creeks and drainage ways within the Town.
2. In all cases, a buffer shall be created and protected by easement (See 6.15.D Drainage and Floodway Easements) for the determined setbacks.
3. The setback limits may be altered through mechanical creek bank protection if such mechanical stabilization is approved by the Deputy Director of Engineering Services and final platted consistent with the protected bank area.
4. Where easements for erosion hazard setbacks are established, no building, fence, wall, deck, swimming pool, or other structure shall be located, constructed, or maintained within the area encompassing the setback.
5. The setback requirement for each creek or drainage way shall be determined as described in the Design Standards and Specifications of the Town.

D. Drainage and Floodway Easements

All creeks, drainage ways and floodplain shall be dedicated in Drainage and Floodway Easements of such width as to encompass the 100-year storm event plus a minimum ten (10) feet for maintenance purposes or as determined by the Deputy Director of Engineering Services.

1. All erosion hazard setbacks shall be dedicated within the same drainage and floodway easement for floodplains of such width as determined by Design Standards and Specification.
2. The outer limits of a Drainage and Floodway Easement shall be such that it encompasses both 100-year floodplain and the erosion hazard setback plus the additional width for maintenance purposes as outlined in the Design Standards and Specifications.

E. Studies to be Provided when Requested

At the request of the Town, the Property Owner shall submit the following documents with the Final Plat that includes property along Creeks, Drainage Ways and Floodplains in addition to studies required for development along Major Creeks:

1. Floodplain studies;
2. Reclamation studies; and
3. Creek stabilization.



6.16. Residential Development Criteria Along Major Creeks

A. Subdivision Design for 60% of Creek Frontage

1. A minimum of sixty percent (60%) of the linear frontage of the Base Flood (100-Year) Plain in each Preliminary Plat shall be adjacent to it one (1) or more of the following types of streets, unless otherwise approved by the Planning and Zoning Commission:
 - a. Parallel streets,
 - b. Loop streets (see Figure 6 for an illustration of this street type), or
 - c. Cul-de-sac street (see Figure 6 for an illustration of this street type), with no more than two consecutive cul-de-sacs without separation by a looped street or parallel street being permitted.
2. Any lot that sides to the Base Floodplain and/or Access Dedication shall have a minimum side yard setback of fifteen (15) feet.

B. Subdivision Design for 40% of Creek Frontage

A maximum of forty percent (40%) of the linear frontage of the Base Floodplain and/or Access Dedication in each Preliminary Plat may have lots backing to a Major Creek, unless otherwise approved by the Planning and Zoning Commission. When a lot backs to a Major Creek, the following is required:

1. Any lot shall have a minimum rear yard setback of twenty-five (25) feet;
2. Alternating cul-de-sacs and looped streets shall be provided at intervals not to exceed 1,200' for access to the Base Floodplain and/or Access Dedication; and
3. The Base Floodplain and/or Access Dedication shall be available to public access from the end of a cul-de-sac in the manner required in Section 6.20.

C. Exemptions

Subsection 6.16.A (above) does not apply to properties which have an approved concept plan that is part of a planned development ordinance adopted prior to the effective date of this Ordinance; provided, however, said properties are subject to the following conditions:

1. Any lot that backs to the Base Floodplain and/or Access Dedication shall have a minimum rear yard setback of twenty-five (25) feet;
2. Any lot that sides to the Base Floodplain and/or Access Dedication shall have a minimum side yard setback of fifteen (15) feet.
3. Alternating cul-de-sacs and looped streets shall be provided at intervals not to exceed 1,200' for access to the Base Floodplain and/or Access Dedication; and
4. The Base Floodplain and/or Access Dedication shall be available to public access from the end of a cul-de-sac in the manner required in Section 6.20.

D. Ornamental Fence Requirement

Residential lots that are allowed to back or side to the Base Floodplain, Access Dedication and/or open space lot shall have an ornamental metal fence along the rear and side of the lots subject to Town review and approval. The lot owner is responsible for the maintenance of the fence.

E. Studies to be Provided when Requested

At the request of the Town, the Property Owner shall submit the following documents with the Preliminary Plat that includes property along a Major Creek:

1. Wetland Delineation Study;
2. Habitat Study; and



3. Vegetative Study.

6.17. Retaining Wall Construction

A. Location

1. Retaining walls on residential lots shall be located and constructed on private property and outside of public right-of-way.
2. If a retaining wall is designed to traverse three or more lots within a Subdivision or on the perimeter of a residential development, the wall shall be located within a wall maintenance easement dedicated on the Final Plat

B. Design by a Professional Engineer Required

All retaining walls shall be designed by a professional engineer and plans submitted to the Town for review must be signed and sealed by the design engineer.

C. Building Permit Required

1. Any earth terracing method that supports a structure or vehicle load, or that is over four (4) feet in height (as measured from the bottom of footing to top of wall), shall require a Building Permit and shall meet the requirements of this section.
2. No Building Permit, other than for a retaining wall, shall be issued for any lot within a Subdivision until all retaining walls are constructed in accordance with a grading plan for the Subdivision.
3. A retaining wall shall be constructed in accordance with the grading plan and shall comply with the requirements of the applicable building code and this ordinance.
4. Any change from the approved grading plan or design for a retaining wall within a Subdivision shall not be permitted unless the Applicant has submitted plans for the entire Subdivision showing the proposed changing in grading and the Deputy Director of Engineering Services has approved the proposed change(s).

D. Retaining Wall Easements

1. If in the opinion of the Deputy Director of Engineering Services, the grading plans submitted with the Application for approval of a Final Plat indicate a need for the construction of one or more retaining walls, a wall maintenance easement shall be dedicated on the Final Plat.
2. The width of the wall maintenance easement shall be the width of the retaining wall plus the width a the no-building zone, as established by the Applicant's licensed engineer and approved by the Deputy Director of Engineering Services.
 - a. A no-building zone shall be the area adjacent to a retaining wall in which the wall design did not account for any additional loads by the design engineer.
 - b. No structure (other than the retaining wall), swimming pool, landscaping, or any other feature that adds load to the retaining wall, shall be constructed within the wall maintenance easement
3. Any wall maintenance easement shall include provisions for access ingress and egress by crews and equipment for maintenance purposes.



6.18. Residential Thoroughfare Screening

A. Purpose Statement

The image of the Town and its related influence on property values and the types of development that occur directly affect the public welfare of the Town. With streets being the largest public land use, the image people experience when traveling Town streets can have a substantial impact on the overall image of the Town. This section is designed to create a positive visual image from Town streets by providing quality screening. In addition to improving the Town's image, these landscape screening options are intended to buffer residential uses from roadway noise to minimize sound and visual nuisances of roadway adjacency.

B. Screening Requirements

Screening is required for all Single-Family, Two-Family, and Townhome lots and subdivisions as follows:

1. The rear of all lots that back to a thoroughfare or collector;
2. The side of all lots that side to a thoroughfare or collector, unless a lot sides to a median divided entry street to a subdivision; and
3. Between any street and an adjoining parallel alley or street.

C. Prohibited Lot Layout

1. Lots are prohibited from backing to a street with a right-of-way of less than sixty feet (60').
2. All required screening shall be installed in accordance with this Ordinance, as it currently exists or may be amended.

D. Screening Plans

1. A screening plan, including entry features, showing elevations and materials shall be submitted with the Final Plat and approved by the Director of Development Services prior to the filing of the Final Plat at the County.
2. Screening walls and fences shall be designed in accordance with the Town's design standards.
3. All required screening shall be installed prior to Town issuance of a final acceptance certificate unless the following:
 - a. The Developer may delay the installation of screening by providing surety to guarantee the installation of the required screening.
 - b. Surety shall be defined as a bond, escrow, letter of credit, or letter of financial guarantee from a financial institution and be in an amount and format that is approved by the Director of Development Services.
4. Required screening shall be installed within three (3) months from the date of Town issuance of a final acceptance certificate and/or prior to Town conducting a building final inspection for occupancy for a home in the subdivision, excluding model homes.

E. Landscape Plans

1. Landscape plans for landscaping required by this Ordinance, as it currently exists or may be amended, shall be submitted with the Final Plat and approved by the Director of Parks and Recreation prior to the filing of the Final Plat.
2. Landscape plans shall be approved by the Town for all proposed landscaping prior to planting.
3. Landscape materials shall be in accordance with the Approved Plant List and installation shall be in accordance with the Zoning Ordinance, as it currently exists or may be amended, or other applicable ordinances.
4. Other species may be utilized with approval by the Town's Landscape Architect.



5. Upon installation of the required landscaping, the developer shall contact the Parks Department to request final inspection of landscaping elements.
6. All required landscaping shall be installed prior to Town issuance of a final acceptance certificate.
 - a. The Developer may delay the installation of landscaping by providing surety to guarantee the installation of the required landscaping.
 - b. Surety shall be defined as a bond, letter of credit, or letter of financial guarantee from a financial institution and be in an amount and format that is approved by the Director of Development Services.
 - c. Required landscaping shall be installed within six (6) months from the date of Town issuance of a final acceptance certificate and prior to Town conducting a building final inspection for occupancy for a home in the subdivision, excluding model homes.

F. Required Screening and Landscaping

Screening required by Section 6.18.B shall be installed by the Developer in accordance with the approved Screening Plans and Landscape Plans. The design of such screening shall conform to the standards below and as generally shown in Figure 5.

1. A landscape buffer meeting the screening requirements of 6.18.B, minimum of twenty-five (25') feet in width, shall be installed by the developer of the subdivision within a landscape easement. This requirement shall be increased to thirty (30') feet along Preston Road, University Drive, and Dallas Parkway.
2. Landscape Easement Requirement
 - a. A landscape easement, being the minimum width of the required landscape buffer, shall be provided for required screening and shall be located within a private "non-buildable" lot that is dedicated to, owned by, and maintained by the subdivision's Homeowners' Association (HOA).
 - b. Required landscape easements shall be exclusive of all required streets and right-turn rights-of-way, drainage easements, and utility easements, unless otherwise approved by the Town Council. Perpendicular crossings at a maximum width of fifteen (15) feet are allowed unless otherwise approved by the Director of Development Services.
3. Landscaping Requirements
 - a. All trees and other required landscape materials shall be from the Approved Plant List as maintained by the Town.
 - b. Landscaping shall be provided as follows:
 - i. A living screen of evergreen shrubs shall be planted within the required landscape easement as generally shown in Figure 5.
 - (a) The living screen shall alternate with shrubs that shall be a minimum of seven (7) gallons at time of planting and reach a minimum height of six feet (6') within two (2) growing seasons and shrubs that shall be a minimum of three (3) gallons at the time of planting and reach a minimum height of three feet (3') within two (2) growing seasons.
 - ii. A mix of large and ornamental trees shall be planted within the required landscape buffer, as generally shown in Figure 5.
 - (a) The total number of caliper inches of the trees shall equal or exceed two (2) caliper inches per ten (10) linear feet of landscape easement frontage.
 - (b) Large trees shall consist of a minimum of thirty-three percent (33%) of all tree plantings.
 - (c) Large trees shall be a minimum of four (4) caliper inches at time of planting.
 - (d) The ornamental trees shall be a minimum of two (2) caliper inches at time of planting.



- (e) A single species of tree shall not exceed forty-five percent (45%) of the plantings.
 - (f) Large trees shall be spaced a minimum of twenty-five (25) feet from each other.
 - (g) Ornamental trees shall be spaced a minimum of twelve and a half feet (12.5') from each other unless approved by Town Landscape Architect.
- iii. Berms shall be constructed within the landscape easement as generally shown in Figure 5.
 - (a) The berms may encroach up to three feet (3') into the right-of-way and shall not exceed a 3:1 slope.
 - (b) Adequate information shall be provided on the landscape plan to indicate drainage patterns.
 - iv. Ground cover shall be planted throughout the landscape easement. Ground cover includes, but is not limited to: grasses, shrubs, mulched planter beds, and hardscape.

4. Screening Fencing Requirements

Screening fences shall be provided as follows:

- a. A continuous ornamental metal fence with a minimum height of six feet (6') and a maximum height of eight feet (8'), with masonry columns spaced between 75' and 100', shall be constructed along the shared property line between the landscape buffer and the abutting lots.
 - i. The maximum height of the columns, including capstones, shall be nine feet (9').
 - ii. The minimum height of required walls and fences shall be measured from the nearest alley edge, the property line (where no alley exists) or sidewalk grade, whichever is higher, and shall be constructed in accordance with Town design standards.
 - iii. The ornamental metal fence shall be constructed of solid-stock materials and tubular steel with a minimum of sixteen (16) gauge pickets and eleven (11) gauge posts.
- b. The requirement to construct a continuous ornamental fence may be waived by the Director of Development Services where residential lots do not directly back or side to the required landscape buffer.
- c. A minimum five-foot (5') wall maintenance easement, dedicated to the HOA, shall be provided on the plat on all lots abutting the screening wall or fence. The screening wall shall be owned and maintained by the HOA.
- d. Masonry walls, wood fences, solid metal fences, or any other type of solid fencing shall not be constructed parallel to the required ornamental metal fence within the landscape buffer or on an adjacent lot, within a distance of twenty-five feet (25') from the ornamental metal fence.

5. Irrigation Requirements

An automatic, underground irrigation system shall provide one hundred percent (100%) coverage for all living screens and plantings, and shall conform to the following:

- a. Irrigation lines shall be placed a minimum of two and one-half feet from the sidewalk.
 - i. Reduction of this requirement is subject to review and approval by the Deputy Director of Engineering Services.
 - ii. The main irrigation lines, section lines and zone valves for irrigation systems shall be placed outside of required right-of-way corner clips.
- b. Trees and shrubs shall be irrigated by bubbler irrigation lines only. Other landscaping may be irrigated by spray irrigation. Separate valves shall be provided to turn off the spray irrigation line during periods of drought or water conservation.



- c. The main irrigation line, section lines and water valve for irrigation shall be placed in accordance with the Engineering Design Standards.
 - d. The Developer is responsible for installing the water meter and back flow equipment in accordance with the Engineering Design Standards.
6. Maintenance Requirements
- The Developer shall provide financial means to maintain required screening walls, fences, and landscaping. One of the following maintenance alternatives shall be selected and fulfilled by the Developer, but the selection is subject to staff approval:
- a. Establishment of a Homeowners' Association to maintain required screening fences, and landscaping. The Developer shall provide Homeowners' Association documents to the Town to demonstrate financial responsibility for future maintenance, repairs, and replacement of the required improvements. Documents establishing the Homeowners' Association or Property Owners' association shall be submitted to the Town for review and may be reviewed by the Town Attorney for conformance with this and other applicable ordinances prior to final acceptance of the subdivision. The documents shall include, among other information required by the Town, descriptions of:
 - i. Operating budgets based on operating assumptions;
 - ii. Reserve budget based on facilities to be maintained;
 - iii. Subsidies budget; and
 - iv. Liability insurance.The Homeowner's Association shall be responsible for maintaining, repairing, or replacing screening walls, fences, and landscaping required by this Ordinance, as it currently exists or may be amended.
 - b. Subject to the discretion and approval of the Town Attorney and Town Council, a Public Improvement District (PID) may also be utilized to maintain landscaping improvements.

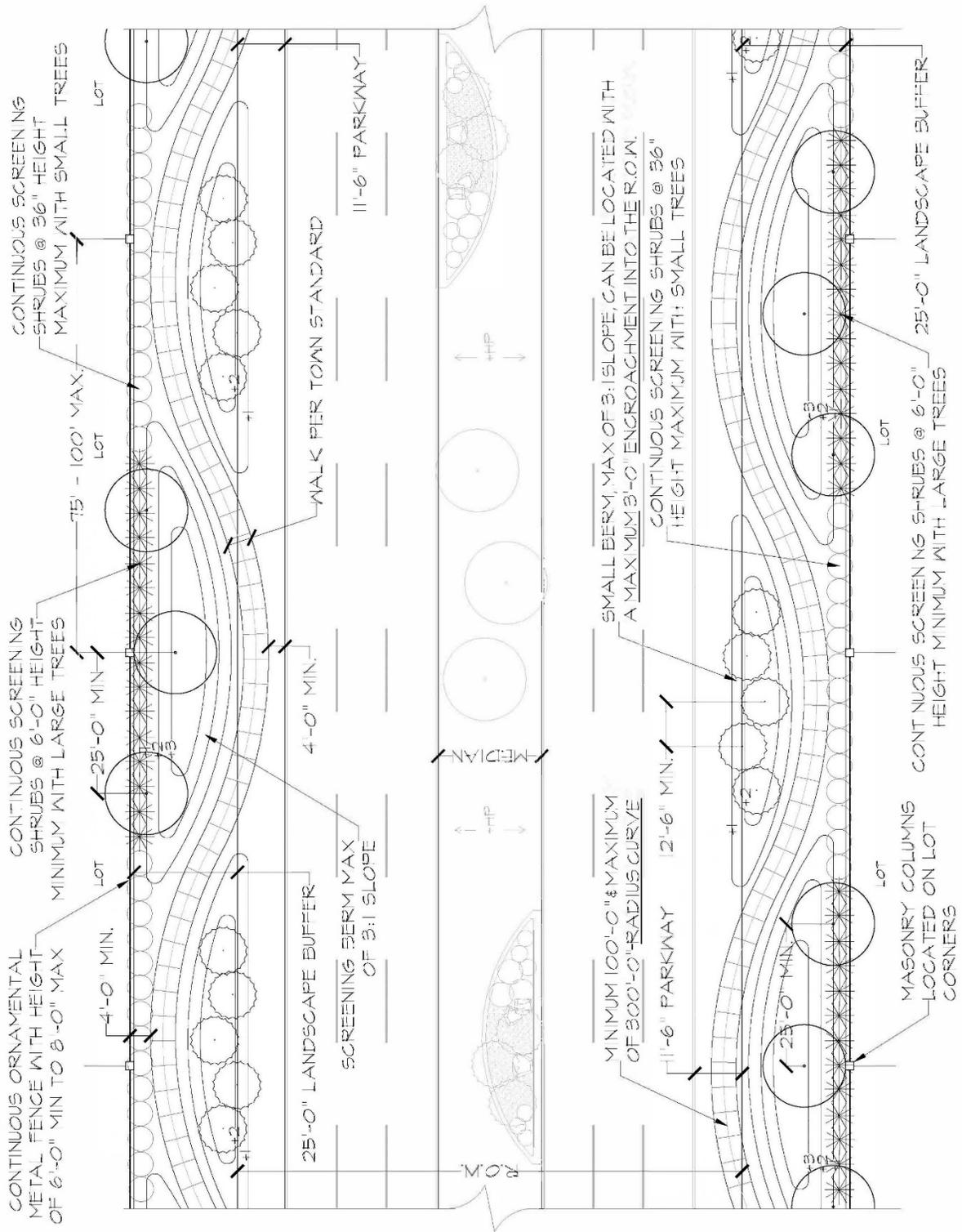


Figure 5: Thoroughfare Screening and Landscape Buffer Design



6.19. Homeowners' or Property Owners' Associations

A. Applicability

When a Subdivision contains common areas, common property, Usable Open Space or other improvements not intended to be conveyed to the Town (e.g., drainage areas or amenities), 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

The common areas shall be shown on the Final Plat or record Plat along with an adequate form for dedication thereof. This dedication form shall:

1. Save the title to common area properties for the benefit of the Homeowners' or Property Owners' Association; and
2. Express a definite undertaking by the subdivider to convey the common properties to the Homeowners' or Property Owners' Association.

C. Membership

A Homeowners' or Property Owners' Association shall be an incorporated organization operating under recorded land declarations through which:

1. Each lot owner in a described land area is automatically a member; and
2. Each lot is automatically subject to a charge for a proportionate share of the expenses for the Homeowners' or Property Owners' Association's activities, such as maintenance of common areas, common open spaces or the provision and upkeep of Usable Open Space and common recreational facilities.

D. Legal Requirements

To ensure the establishment of a permanent Homeowners' or Property Owners' Association, including its financing and the rights and responsibilities of the homeowners in relation to the use, management and ownership of common areas or common property, the Subdivision plat, dedication documents, covenants, and other recorded legal agreements must:

1. Legally create an automatic membership, Homeowners' or Property Owners' Association;
2. Place title to the common property in the Homeowners' or Property Owners' Association or give definite assurance that it automatically will be so placed within a reasonable, definite time;
3. Place responsibility for operation and maintenance of the common property in with the Homeowners' or Property Owners' Association;
4. Provide for or place an association charge or assessment on each lot in a manner that will ensure sufficient association funds to maintain the common property or improvements;
5. Identify 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 residential lots;
 - c. The common properties to be transferred by the Developer to the Homeowners' or Property Owners' Association; and
 - d. Other parcels.



E. Contents of Agreements.

At a minimum, the agreements, covenants and restrictions establishing and creating a mandatory homeowners' association required in this Section shall contain and/or provide for the following:

1. Definitions of terms contained therein;
2. Provisions acceptable to the Town for the establishment and organization of the mandatory homeowners' association and the adoption of bylaws for such association, including provisions requiring that the owner of any lot within the applicable subdivision and any successive buyer shall automatically and mandatorily become a member of the association;
3. The initial term of the agreements, covenants and restrictions establishing and creating the association shall be for a 25-year period and shall automatically renew for successive ten-year periods, and the association may not be dissolved without the prior written consent of the Town;
4. Provisions acceptable to the Town to ensure the continuous and perpetual use, operation, maintenance, and/or supervision of all facilities, structures, improvements, systems, areas or grounds that are the responsibility of the association and to establish a reserve fund for such purposes;
5. Provisions prohibiting the amendment or repeal 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 without the prior written consent of the Town;
6. The right and ability of the Town or its lawful agents, after due notice to the association, to remove any landscape systems, features or elements that cease to be maintained by the association; to perform the responsibilities of the association if the association fails to do so in compliance with any provisions of the agreements, covenants or restrictions of the association or of any applicable Town codes or regulations; to assess the association for all costs incurred by the Town in performing such responsibilities if the association fails to do so; and/or to avail itself of any other enforcement actions available to the Town pursuant to state law or Town codes or regulations; and
7. Provisions indemnifying and holding the Town 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 Town's removal of any landscape systems, features or elements that cease to be maintained by the association or from the Town's performance of the operation, maintenance or supervision responsibilities of the association due to the association's failure to perform such responsibilities."

F. Procedure

Prior to recording the Plat with the appropriate County, the Subdivider shall:

1. Draft the articles of incorporation of the Homeowners' or Property Owners' Association, its bylaws, and the restrictive covenants;
2. Submit draft articles, bylaws, and covenants to the Director of Development Services for approval;
3. Create the appropriate legal entity following approval;
4. Record approved covenants, at the County Clerk's office, which automatically make every lot owner a member of the association, give him/her the right to use the common property, and establish his/her voting rights and his/her obligations to pay assessments; and
5. Provide evidence of the recorded articles, bylaws, and the restrictive covenants prior to Final Plat approval.



G. Maintenance, Repair or Capital Improvement

1. Any maintenance, repair or capital improvement made to the property or facilities of the Homeowners’ or Property Owners’ Association by the Town pursuant to its ordinances and as a result of non-performance or negligence on the part of the Association, shall be assessed to the Association and paid by the Association within 30 days of the date of notification.
2. If the Association fails to pay within 30 days, then the cost will be divided between the various Association members in proportion to the taxable value of their properties, as shown by the current year valuations of the Collin or Denton County Appraisal District.

6.20. Park Land Designs, Dedications, and Fees

A. Purpose

This Section is intended to meet the goals and objectives of the Parks, Recreation, and Open Space Master Plan to meet the additional needs created by new residential development.

B. Scope

The provisions of this Section shall apply to all new residential development within the Town for which a Final Plat or Preliminary Plat is required to be submitted to the Town for approval.

C. Exemptions

The provisions of this Section shall not apply to the following:

1. Senior living facilities and senior care facilities, including assisted living facilities, senior congregate care facilities, memory care facilities and nursing homes. However, independent living and retirement communities or age-restricted housing developments shall be subject to the provisions of this Section.

D. Park Design Requirements: Neighborhood and Linear Parks and Connections to Park

1. This subsection 6.20.D shall not apply to Major Creeks as set forth in Section 6.15 unless otherwise noted.
2. Parks must be easy to access and open to public view to benefit area development, enhance the visual character of the Town, protect public safety and minimize conflict with adjacent land uses.
3. The following standards shall be used in designing parks and adjacent development:
 - a. Where physically feasible, parks shall be bounded by streets, or by other public uses (e.g. a school, library, recreation center).
 - b. Where residential lots directly abut a park, lots must be oriented to side and not back to the park. In this instance, cul-de-sac and looped streets must be used to access the lots and park.

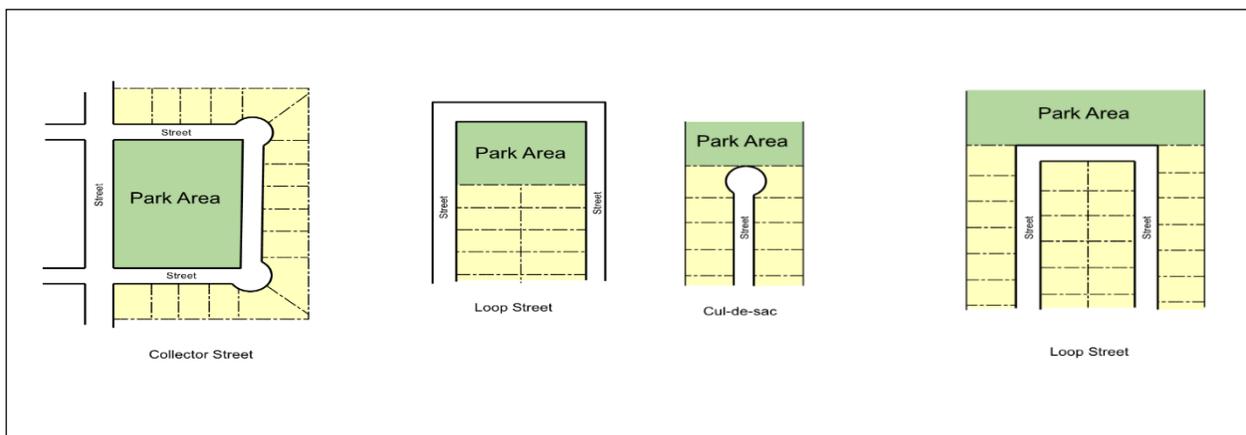


Figure 6: Park Design



- c. Residential lots may back to a park only when the site's physical character (*e.g.*, shape, topography, drainage) does not reasonably permit an alternative design or the layout of the subdivision complements the use of the park (*e.g.*, lots backing to a golf course). Lots backing to a park shall only be allowed upon a recommendation from the Director of Parks and Recreation and approval by the Commission.
 - d. A proposed subdivision adjacent to a park may not be designed to restrict reasonable access to the park from other area subdivisions.
 - e. Street connections to existing or future adjoining subdivisions may be required to provide reasonable access to parks.
 - f. Alleys shall not abut a park.
 - g. Public access to a park shall not be less than fifty (50) feet at the curb and in width to the Base Floodplain and/or Maintenance and/or Access Dedication and shall not be part of a residential lot. The Developer shall install a hike and bike trail connection from the street to the hike and bike trail/park prior to final acceptance of the subdivision. This trail must be blocked from motor vehicle traffic. However, the Developer may request to escrow funds for the contracted amount prior to final acceptance of the subdivision with Town approval. The escrow amount will remain in place until the trail has been completed and accepted by the Town.
 - h. A twenty (20) foot level surface shall be provided for all public hike and bike trails. The twenty (20) foot wide level surface can be provided within and/or outside of the Base Floodplain and/or Access Dedication. The parkway for the public street may count towards the twenty (20) foot wide level surface.
 - i. All proposed hike and bike trails shall be shown on the Preliminary Plat. The Parks and Recreation Department shall make the final determination of the placement of the public hike and bike trail at the time of the Final Plat.
 - j. No development shall interrupt future trail routes or otherwise hinder efficient public access to or from an existing or future planned trail. Gated and other limited access developments shall be designed such that they facilitate, and do not impede, through public access, emergency ingress and egress, usage and enjoyment of public trails.
 - k. Streets abutting a park shall be built in accordance with the Thoroughfare Plan, the standards of this Ordinance and all other applicable construction standards and/or ordinances, as they exist or may be amended; however, the Town may require any residential street built adjacent to a park to be constructed to collector street width to ensure access and prevent traffic congestion.
 - i. When park land is acquired, the Town shall reserve sufficient land to provide the additional right-of-way required for an abutting collector size street, sixty (60) feet of right-of-way, unless otherwise approved by the Town.
 - ii. The proposed street alignment fronting on Town parks is subject to Town approval. Land owners shall also provide street access to all Major Creeks and/or Access Dedications.
- E. Dedication Requirements (Land, Payment, or Combination)
1. Land Conveyance or Payment in Lieu of Land

The owner of any property to be developed for residential purposes shall convey for park purposes land or make a payment of money in lieu of land, or a combination of both, to the Town at the time of rezoning or subdivision to provide for the recreational needs created by such development, in accordance with the provisions of this chapter.



2. Proposed Number of Dwelling Units

All plats, lots of record, replats, site plans or proposed improvements of land for new residential development shall indicate the number of proposed dwelling units to be constructed or placed within the development on such plat, lot of record, replat or site plan.

3. Determination Authority

In reviewing any lot of record, plat, site plan or proposed improvements of land for a new residential development, the Director of Parks and Recreation shall make a determination of whether a conveyance of land, payment of money in lieu of land or a combination of both shall be made to meet the requirements of this Section.

4. Factors Considered

In making a determination of which type of dedication, or combination thereof, shall be made, the Director of Parks and Recreation shall evaluate what would be in the best interest of the Town, based upon relevant factors that may include, but not be limited to, the following:

- a. Whether the proposed land to be conveyed for park purposes would be suitable as a neighborhood, linear, community, or Town park.
- b. The Parks, Recreation, and Open Space Master Plan for the area in which the development is located.
- c. Whether the proposed land to be conveyed for park purposes is adjacent to an existing or proposed school site.
- d. Whether there is sufficient existing public or private park land in the area of the proposed development.
- e. Whether the park needs of the area where the proposed development is located would be best served by expanding or upgrading existing parks.
- f. Land located adjacent to a greenbelt park.

F. Dedications: Conveyance of Land Requirements

Where the Director of Parks and Recreation determines that a conveyance of land shall be required, in whole or in part, the Parks and Recreation Board shall make final recommendation to the Town Council. Conveyance of land shall meet the requirements of this Section and the following provisions shall apply:

1. Amount

The required conveyance of land shall be one (1) acre of land per thirty-five (35) residential units, or an amount proportionally equal to five percent (5%) of the total tract acreage, whichever is greater.

2. Manner and Method

Plats required to be submitted to the Town for approval shall show thereon a fee simple conveyance to the Town of the land required by this Section for park purposes as a condition to approval of such plat by the Commission, and the Town may further require the conveyance of the park property by general warranty deed. As a condition to acceptance of the plat or deed by the Town, the Subdivider shall provide the Town with an owner's title policy of insurance in an amount equal to the value of the land conveyed, which amount shall be determined by the Town.



3. Credit for Private Recreation Facilities

Where private recreation facilities are built for the residents for the subdivision or development, a credit may be granted with a recommendation from the Town Parks and Recreation Board and approval by the Town Council. The value of these private recreation facilities shall be determined by the Town Council, but shall not exceed one hundred percent (100%) credit of conveyance.

4. Suitability of Land for Neighborhood Parks, Community Parks, or Linear Parks

A proposed conveyance of land shall not be considered suitable for Neighborhood Parks, Community Parks, or Open Space purposes if it has one or more of the following characteristics:

- a. Located within the 100-year floodplain, as shown on the latest flood insurance rate map or floodplain Ordinance adopted by the Town on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. The Town may take more than the 20 percent floodplain land if it is determined in the best interest of the Town.
- b. The proposed dedication is less than seven and a half (7.5) acres for a neighborhood park or less than twenty (20) acres for a community park, unless the proposed dedication is located in such a manner in which it could be combined with other dedications to create a park of adequate size.
- c. It has unusual topography or slope or has utility easements that renders it unsuitable for organized recreational activities or passive park needs, depending on the Town's intended use for the property.
- d. It does not or would not front an improved public street or would not be readily accessible, in whole or in part, to the public.

G. Dedications: Payment in Lieu of Land Provisions

Where the Director of Parks and Recreation determines that a payment of money in lieu of land shall be made, the following provisions shall apply:

1. Determining the Amount of Payment

- a. Any payment of money required to be paid shall be in an amount equal to the average per-acre value of the whole property included within the residential development, the amount set forth in the Fee Schedule Ordinance as it currently exists or may be amended, whichever is greater.
- b. In determining the average per-acre value of the total land included within the proposed residential development, the Director of Parks and Recreation may base its determination on one or more of the following:
 - i. The most recent appraisal of all or part of the property made by the central appraisal district; or
 - ii. Confirmed sale prices of all or part of the property to be developed, or comparable property in close proximity thereof, which have occurred within two years immediately preceding the date of determination; or
 - iii. Where, in the judgment of the Director of Parks and Recreation, Section 6.20.G.1.b.i or 6.20.G.1.b.ii above would not, because of changed conditions, be a reliable indication of the then-current value of the land being developed, an independent appraisal of the whole property obtained by the Town and paid for by the Developer; or
 - iv. The amount set forth in the Fee Schedule Ordinance as it currently exists or may be amended.



2. Time of Payment

Any payment of money required herein shall be paid as a condition to the approval of any Final Plat or replat. Payment shall be made prior to the filing of the plat unless otherwise stated in an agreement approved by the Town Council.

3. Parkland Dedication Fund

All cash payments paid to the Town in accordance with this Section 6.20 shall be deposited in a separate parkland dedication fund. The Town shall account for all such payment with reference to each development for which the payment is made.

4. Use of Funds

Any payments made to the park development fund must be used for the acquisition and development of parks, hike and bike trails or public open space located within the Town.

5. Compliance

a. Requirements to be Satisfied Prior to Development

It shall be unlawful for any person who is required to convey land, or make a payment in lieu of land, to begin, or allow any other person or contractor to begin, any construction or improvements on any land within any development until the required conveyance of land, or payment of money in lieu of land, is made to the Town in accordance with this Section 6.20.

b. Permits and Services to be Withheld

No building permits shall be issued for, and no permanent utility services shall be provided to, any land within any development until the required conveyance of land, or payment of money in lieu of land, is made to the Town in accordance with this Section 6.20.

H. Park Improvement Fee

1. Purpose

a. A park improvement fee ("park fee") is hereby imposed on residential development for the purpose of ensuring that Town, community, neighborhood and linear park facilities are available and adequate to meet the needs created by such residential development.

b. The park fee is imposed in conjunction with and in addition to requirements for the dedication of neighborhood and linear park land and the construction of neighborhood and linear park improvements for which contributions the Property Owner may be reimbursed from proceeds of park fees imposed, as provided in Section 6.20.H.6 (Use of Park Improvement Fee).

2. Applicability of Park Fee

a. In all cases in which parkland is dedicated or cash is paid in lieu of parkland dedication, the Subdivider shall also pay to the Town a sum of money, as set forth by Section 6.20.H.4 (Amount of Park Improvement Fee). This subsection does not apply to activities involving the replacement, reconstruction, remodeling, rehabilitation or other improvements to an existing residential structure, or to the rebuilding of a damaged structure or to permits required for accessory uses, unless such activity results in a change in the type or increase in the number of dwelling units.

3. Imposition of Park Fee

a. Payment of the park fee shall be made prior to the acceptance of public improvements by the Town. If no public improvements are required, such payment shall be made prior to filing the record plat.

b. Imposition of the park fee does not alter, negate, supersede or otherwise affect any other requirements of Town, county, state or federal legislation or regulations that may be applicable to



a residential development, including Town zoning and/or subdivision regulations that may impose open space and park requirements and standards.

4. Amount of Park Improvement Fee

There is hereby established a park fee for single-family dwelling units in the amount of one thousand five hundred dollars (\$1,500.00) per unit, and a park fee for multifamily dwelling units in the amount of two thousand dollars (\$2,000.00) per unit.

5. Processing and Collection of Park Improvement Fee

- a. Upon acceptance of a Final Plat, the Town shall calculate the amount of the applicable park fee due. The park fee rate in effect at the time of acceptance of the Final Plat shall be used to calculate the park fee.
- b. The applicable park fee shall be collected prior to the signing of the plat unless otherwise stated in an agreement approved by the Parks and Recreation Board.

6. Use of Park Improvement Fee

- a. Park fees must be used for the following purposes:
 - i. To acquire and develop Park Facilities.
 - ii. To repay Developers for the reasonable costs of any park improvements constructed and accepted by the Town.

7. Accounting Procedures for Park Improvement Fees

- a. All park improvement fee payments shall be segregated in a separate fund to be spent only for the improvement of Park Facilities within the Town that will meet the needs of the residents of the development or subdivision in respect of which such payment was made.
- b. The Town shall maintain and keep financial records for park improvement fees, which shall show the source and disbursement of all fees collected.

8. Additional Voluntary Park Improvements

A developer may request permission to construct, at his or her own expense, additional park improvements. The Town may accept or reject voluntary dedications of park land and/or additional park improvements. Such voluntary dedications and/or improvements shall be considered for approval by the Parks & Recreation Board. All improvements in public parks and open spaces shall be consistent with the design criteria and objectives of the Parks, Recreation & Open Space Master Plan, and shall, upon installation, become the property of the Town. Prior to constructing such additional park improvements, the developer shall enter into a Development Agreement with the Town that defines, among other things, the work to be performed, construction schedules, improvement costs, performance surety, the amount to be reimbursed by the Town (if any), and the timing of such reimbursement (if any).

9. Appeals and Variances

- a. The Developer may appeal the following decisions of the Town Manager to the Town Council:
 - i. The applicability of the park fee;
 - ii. The amount of the fee due; or
 - iii. The amount of refund due, if any.



- b. The burden of proof is on the appellant to demonstrate that the amount of the fee, the amount of the credit or reimbursement was not calculated according to the applicable schedule of fees or the guidelines established for determining such amounts. The appellant must file a notice of appeal with the Town Council within thirty (30) days following the determination by the Town Manager. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the Town Attorney in an amount equal to the park fee due as calculated by the Town Manager, the development application shall be processed. The filing of an appeal shall not stay the collection of the fee due, unless a bond or other sufficient surety has been filed.
- c. The Town Council may grant variances from any requirements of this Section, upon written request by a Property Owner subject to this Section, following a public hearing, and only upon a finding that a strict application of such requirement would result in a substantial hardship that is not common to similarly situated Property Owners.

10. Park Fee as Additional and Supplemental Requirement

The park fee is additional and supplemental to and not in substitution of any other requirements imposed by the Town on the residential development of the land.

6.21. Franchise Utilities

A. Prohibition of Above Ground Utility Support Structures (Poles)

All utility service lines for residential distribution for electricity, telephone, gas, cable television, data, and any other such service shall be underground with the exception of electric major transmission (three-phase lines) or feeder lines. These lines shall be located on the perimeter of a subdivision whenever possible.

B. Service Connections

Utility service to non-residential properties shall be placed underground from the right-of-way or the easement adjacent to the right-of-way to the point of service. For all service connections from the right-of-way to the point of service for all nonresidential properties, ground mounted equipment shall not be placed in visibility, access and maintenance easements.

C. Requirements

- 1. The electric utility company shall be responsible for developing administrative policies and cost reimbursement procedures for the installation and extension of underground electric service. These policies shall permit the electric company to recover the cost differential between extending and installing overhead and underground service.
- 2. The developer shall furnish all easements and right-of-way necessary for construction of electric, gas, street lighting, telephone and cable television service to the subdivision.
- 3. The installation of these utilities shall conform to commonly accepted construction standards and shall be subject to review by the Deputy Director of Engineering Services.
- 4. All Plats for residential and multifamily developments shall require all telecommunication lines, electric lines, and utility lateral and services lines and wires to be placed underground except as otherwise herein provided.
 - a. In special or unique circumstances or to avoid undue hardships, a Council Waiver may be approved to permit the construction and maintenance of overhead electric utility lateral or services lines and of overhead telecommunication lines and may approve any Plat or Site Plan with such approved variances or exceptions.



- b. All electrical and telecommunication equipment (transformers, amplifiers, switching devices, etc.) necessary for underground installations in Subdivisions shall be pad mounted or placed underground.
 - i. All above ground support equipment shall be placed in manner to not block drainage on side yard swale of residential lots.
 - c. Unless specifically stated otherwise, temporary construction service may be provided by overhead utility lines and facilities without obtaining a waiver.
 - d. "Electric Utility Service Lines" shall mean those electric lines through which a transformer connects a lateral line to a customer's service entrance.
5. All installations regulated by the provisions set forth herein shall be in conformance with the intent of this ordinance and shall conform to any regulations and/or specifications that the various public utility companies may have in force from time to time.
 6. Nothing in this ordinance shall be construed to require any existing facilities to be placed underground when no development is proposed.



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Section 7. Subdivision Relief Procedures

7.01. Petition for Subdivision Waiver

A. Purpose

The purpose of a petition for a Subdivision Waiver of a particular standard or requirement of this Subdivision Ordinance, as such are applicable to Plats or Construction Plans, is to determine whether such particular standard or requirement should be applied to an Application or modified.

B. Definitions

Subdivision Waivers shall be classified as an Administrative Waiver, Town Manager Waiver or Council Waiver. Administrative Waivers are defined as a minor change to the standards, but not the intent, of these Subdivision Regulations and are listed in Table 7. A Town Manager Waiver is a waiver of a subdivision design standard contained in Section 6 of the Subdivision Ordinance, as amended, subject to the limitations in Subpart (C). A Council Waiver is a significant change to both the standards and intent of the Subdivision Regulations, which involves Planning & Zoning Commission and Town Council approval and is not listed in Table 7. (Ord. No. 2020-42; 05-12-20)

C. Decision-Maker

1. Administrative Waiver

Table 7: Administrative Waiver	
Section	Standard
6.07.D	Right Angles for Side Lot Lines
6.07.I	Waiver to the Minimum Lot Size
6.08.E	Waiver to the Minimum Block Size
6.03.D.2	Street Right-of-Way Dedication
6.03.L	Street Openings to Adjoining Properties

The Development Services Department shall act upon any Administrative Waiver listed in Table 7.

2. Town Manager Waiver

Other than those sections listed above in Table 7 for Administrative Waiver by the Development Services Director, the Town Manager may waive any subdivision design standard listed in Section 6 of the Subdivision Ordinance, as amended; however, in no event shall the Town Manager waive any provision of Section 6.19, "Homeowners' Property Owners' Associations," Section 6.20, "Park Land Designs, Dedications, and Fees," and Section 6.21, "Franchise Utilities," all as amended. Further, the Town Manager is not authorized to waive any fee or charge imposed by the Town. The decision of the Town Manager not to waive a subdivision design standard referenced herein may be considered by the Town Council as a Council Waiver. (Ord. No. 2020-42; 05-12-20)

3. Council Waiver

After review and recommendation from the Commission, the Town Council shall decide a Council Waiver.



D. Subdivision Waiver Applicability

1. Waiver of Standard or Requirement
 - a. An Applicant may request a Subdivision Waiver of a particular standard or requirement applicable to a Preliminary Plat, to Construction Plans, or where no Preliminary Plat Application has been submitted for approval, to a Final Plat or a Replat.
 - b. A Subdivision Waiver petition shall be specific in nature, and shall only involve relief consideration for one particular standard or requirement.
 - c. An Applicant may submit more than one Subdivision Waiver petition if there are several standards or requirements at issue.
 - d. For processing a Subdivision Waiver concurrently with a Plat Application, an Applicant shall submit a Waiver of Right to 30-Day Action in accordance with 3.03.B Waiver of Right to 30-Day Action.
2. Waiver Petition Acceptance
 - a. A petition for a Subdivision Waiver may not be filed in lieu of:
 - i. A Subdivision Proportionality Appeal (7.02) or
 - ii. A Subdivision Vested Rights Petition (7.03).
 - b. If there is a question as to whether a Subdivision Proportionality Appeal or Subdivision Vested Rights Petition is required instead of a Subdivision Waiver petition, such determination shall be made by the Director of Development Services.

E. Subdivision Waiver Submission Procedures

1. Written Waiver Request with Application
 - a. A request for a Subdivision Waiver shall be submitted in writing by the Applicant with the filing of a Preliminary Plat, Construction Plans, Final Plat or Replat, as applicable.
 - b. No Subdivision Waiver may be considered or granted unless the Applicant has made such written request.
2. Grounds for Waiver
 - a. The Applicant’s request shall state the grounds for the Subdivision Waiver request, based upon the Subdivision Waiver Criteria (7.01.F), and all of the facts relied upon by the Applicant.
 - b. Failure to do so will result in denial of the Application unless the Applicant submits a Waiver of Right to 30-Day Action in accordance with 3.03.B Waiver of Right to 30-Day Action.

F. Subdivision Waiver Criteria

1. Undue Hardship Present

A Subdivision Waiver to regulations within this Subdivision Ordinance may be approved only when, in the Decision-Maker’s opinion, undue hardship will result from strict compliance to the regulations.
2. Consideration Factors

The Decision-Maker shall take into account the following factors:

 - a. The nature of the proposed land use involved and existing uses of the land in the vicinity;
 - b. The number of persons who will reside or work in the proposed development; and
 - c. The effect such Subdivision Waiver might have upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.



3. Findings

No Subdivision Waiver shall be granted unless the Decision-Maker finds:

- a. That there are special circumstances or conditions affecting the land involved or other physical conditions of the property such that the strict application of the provisions of this Subdivision Ordinance would deprive the Applicant of the reasonable use of his or her land; and
- b. That the Subdivision Waiver is necessary for the preservation and enjoyment of a substantial property right of the Applicant, and that the granting of the Subdivision Waiver will not be detrimental to the public health, safety or welfare or injurious to other property in the area; and
- c. That the granting of the Subdivision Waiver will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this Subdivision Ordinance.

4. Intent of Subdivision Regulations

- a. A Subdivision Waiver may be granted only when waiving the requirement requested is in harmony with the general purpose and intent of the Subdivision Regulations so that the public health, safety and welfare may be secured and substantial justice done.
- b. Financial hardship alone to the Applicant shall not constitute undue hardship.

5. Minimum Degree of Variation

No Subdivision Waiver shall be granted unless it represents the minimum degree of variation of requirements necessary to meet the objective of the Applicant in requesting the waiver.

6. Violations and Conflicts

The Decision-Maker shall not authorize a Subdivision Waiver that would constitute a violation of, or conflict with, any other valid ordinance, code, regulation, master plan or Comprehensive Plan of the Town.

7. Falsification of Information

- a. Any falsification of information by the Applicant shall be cause for the Subdivision Waiver request to be denied.
- b. If the Subdivision Waiver request is approved based upon false information, whether intentional or not, discovery of such false information shall nullify prior approval of the Subdivision Waiver, and shall be grounds for reconsideration of the Subdivision Waiver request.

G. Burden of Proof

The Applicant bears the burden of proof to demonstrate that the requirement for which a Subdivision Waiver is requested imposes an undue hardship on the Applicant. The Applicant shall submit the proof with the Application.

H. Subdivision Waiver Decision

1. The Decision-Maker shall consider the Subdivision Waiver petition and, based upon the criteria set forth in 7.01.F Subdivision Waiver Criteria, shall take one of the following actions:
 - a. Deny the petition, and impose the standard or requirement as it is stated in these Subdivision Regulations; or
 - b. Grant the petition and waive, in whole or in part, or modify the standard or requirement as it is stated in this Subdivision Ordinance.
2. Processing of an Administrative Waiver Petition



The Decision-Maker shall deny or grant a petition for an Administrative Waiver (see Table 7 for a list of Administrative Waivers) concurrently with the decision of a Preliminary Plat, Construction Plans, Final Plat or Replat, as applicable.

3. Processing of a Council Waiver Petition

a. Recommendation of the Planning & Zoning Commission

- i. The Commission shall consider the Council Waiver petition at a public meeting no later than thirty (30) calendar days after the date on which the notice of Council Waiver is submitted to the Director of Development Services.
- ii. The Commission shall recommend to the Town Council to approve, approve with conditions, or deny a request for a Council Waiver by majority vote of all members.

b. Decision by Town Council

- i. After the recommendation from the Commission has been made, the Town Council shall consider the Council Waiver request at a public meeting no later than thirty (30) calendar days after the date on which the Commission's recommendation was made.
- ii. The Town Council can approve, approve with conditions, or deny a request for a Council Waiver by a majority vote of all members.
- iii. The decision of the Town Council is final.

I. Notification of Decision on Petition – 14 Days

The Applicant shall be notified of the decision on the Subdivision Waiver by the applicable Decision-Maker (e.g., the Director of Development Services, Deputy Director of Engineering Services, Commission or Town Council, as applicable), within fourteen (14) calendar days following the decision.

J. Administrative Waiver Appeal

1. Initiation of an Appeal

- a. The Applicant may appeal an Administrative Waiver decision.
- b. The written request to appeal shall be submitted to the Director of Development Services within thirty (30) calendar days following the denial decision.

2. Recommendation of the Planning & Zoning Commission

- a. The Commission shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date on which the notice of appeal is submitted to the Director of Development Services.
- b. At this meeting, new information may be presented and considered, if available, that might alter the previous decision to deny the Administrative Waiver.
- c. The Commission shall recommend to the Town Council to affirm, modify or reverse the previous decision by simple majority vote.

3. Appeal to Town Council

- a. After the recommendation from the Commission has been made, the Town Council shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date on which the Commission's recommendation was made.
- b. The Town Council may affirm, modify or reverse the decision by majority vote of all members.
- c. The decision of the Town Council is final.



K. Effect of Approval

1. Submission and Processing

Following the granting of a Subdivision Waiver, the Applicant may submit or continue the processing of a Plat or Construction Plans, as applicable.

2. Expirations

The Subdivision Waiver granted shall remain in effect for the period the Plat or Construction Plans are in effect, and shall expire upon expiration of either or both of those Applications.

3. Extensions

Extension of the Plat or Construction Plans Applications shall also result in extension of the Subdivision Waiver.

7.02. Subdivision Proportionality Appeal

A. Purpose and Applicability

1. Purpose

The purpose of a petition for relief from a dedication, construction requirement, or a requirement to pay a fee, other than an impact fee authorized by Chapter 395 of the Texas Local Government Code is to ensure that the imposition of a dedication, construction, or fee standards to a proposed development does not result in an unconstitutionally disproportionate burden on the property owner.

2. Applicability

- a. An Applicant may file a petition for relief under this 7.02 Subdivision Proportionality Appeal to contest a requirement to dedicate land, to construct Public Improvements, or pay a fee as required by this Subdivision Ordinance, other ordinance, or that are attached as a condition to approval of the Application.
- b. A petition under this 7.02 Subdivision Proportionality Appeal shall not be used to waive standards on grounds applicable to any Subdivision Waiver Application, as outlined in 7.01 Petition for Subdivision Waiver.
- c. An appeal hereunder is a prerequisite to the filing of any court action or challenge to proportionality. Exhaustion of administrative remedies shall not be accomplished unless appeals provided for in this section are complete.

B. Petition Requirements

1. Form of Petition

The petition for relief from a dedication, construction, or fee requirement shall allege that there is not a rational nexus or rough proportionality between the standards and the impact of the proposed development in public facilities.

2. Study Required

The Applicant shall provide a study in support of the petition along with petition for relief that includes the following information applicable to the standard in question:

a. Capacity Utilized

- i. Total capacity of the Town's water, wastewater, storm drainage, parks or roadway system to be utilized by the proposed development, employing standard measures of capacity and



equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the development.

- ii. If the proposed development is to be developed in phases, such information shall also be provided for the entire development proposed, including any phases already developed.
- b. Capacity Supplied
 - i. Total capacity to be supplied to the Town's water, wastewater, storm drainage, parks or roadway system by the proposed dedication of an interest in land or construction of Public Improvements.
 - ii. If the Application is part of a phased development, the information shall include any capacity supplied by prior dedications or construction of Public Improvements.
- c. Capacity Comparison
 - i. Comparison of the capacity of the Town's public facilities system(s) to be consumed by the proposed development with the capacity to be supplied to such system(s) by the proposed dedication of an interest in land, construction of Public Improvements, or payment of a fee.
 - ii. In making this comparison, the impacts on the Town's public facilities system(s) from the entire development shall be considered.
- d. Oversizing

The effect of any Town participation in the costs of oversizing the Public Improvement to be constructed in accordance with the Town's requirements.
- e. Other Information

Any other information that shows the alleged disproportionality between the impacts created by the proposed development and the dedication or construction requirement imposed by the Town.
- 3. Time for Filing Petition and Study
 - a. A petition for relief from a dedication, construction, or fee requirement shall be filed with the Deputy Director of Engineering Services within fourteen (14) calendar days following the decision on the related Application.
 - b. The study in support of the petition shall be filed within sixty (60) calendar days following the initial decision, unless the Applicant (petitioner for relief) seeks an extension in writing within such sixty (60) calendar day period.
 - c. The Deputy Director of Engineering Services may extend the time for submitting the study for a period not to exceed an additional thirty (30) calendar days.
- 4. Land in the Extraterritorial Jurisdiction (ETJ)

Where land or facilities to be dedicated are located in the ETJ of the Town and are to be dedicated to the County, a petition for relief or study in support of the petition shall be accepted as complete for review by the Deputy Director of Engineering Services only when such petition or study is accompanied by verification that a copy has been delivered to and accepted by the County, as applicable.

C. Processing of Subdivision Proportionality Appeal Petitions and Decision

- 1. Responsible Official

The Deputy Director of Engineering Services shall be the Responsible Official for processing a petition for relief from a dedication, construction, or fee requirement.
- 2. Review and Recommendation



- a. The Deputy Director of Engineering Services shall review the petition and supporting study and shall make a recommendation to the Town Council.
 - b. In response to a petition for relief from a dedication or construction requirement pursuant to 7.02 Subdivision Proportionality Appeal and to achieve proportionality between the demands created by a proposed development on public facilities and the obligation to provide adequate public facilities, the Town may participate in the costs of Public Improvements, credit or offset the obligations against payment of impact fees, or relieve the property owner any of the obligations.
3. Decision-Maker
- The Town Council shall decide the Subdivision Proportionality Appeal petition, after receiving a recommendation from the Deputy Director of Engineering Services.
4. Public Hearing Held within 60 Days after Receipt of Study
- The Town Council shall conduct a public hearing within sixty (60) calendar days after the study supporting the petition (refer to Section 7.02.B) is filed with the Deputy Director of Engineering Services.
5. Burden of Proof
- The Applicant bears the burden of proof to demonstrate that the Application of a dedication, construction, or fee requirement that is in question imposes a disproportionate burden on the Applicant.
6. Decision
- The Town Council shall consider the petition for relief from a dedication, construction, or fee requirement based upon the following criteria:
- a. The Town Council shall determine whether the Application of the standard or condition is roughly proportional to the nature and extent of the impacts created by the proposed development on public facilities and whether the Application of the standard or condition reasonably benefits the development.
 - b. In making such determination, the Town Council shall consider the evidence submitted by the Applicant, the report and recommendation of the Deputy Director of Engineering Services and, where the property is located within the Town's ETJ, any recommendations from the County, as applicable.
7. Action
- Based on the criteria in 7.02.C.6, the Town Council shall take one of the following actions:
- a. Deny the petition for relief, and impose the dedication, construction, or fee requirement as required by this Ordinance; or
 - b. Grant the petition for relief, and waive any dedication, construction, or fee requirement to the extent necessary to achieve proportionality; or
 - c. Grant the petition for relief, and direct that the Town to waive the fee or participate in the costs of acquiring land for or constructing the Public Improvement and establish the extent of such participation.
8. Notification of Decision on Petition
- The Deputy Director of Engineering Services shall notify the Applicant of the decision on the petition for relief within fourteen (14) calendar days following the Town Council's decision.
- D. Expiration or Failure to File Application
- Where an Application was denied based upon the imposition of the standard requiring dedication of land or construction of a required Public Improvement and the Town Council's decision is to grant some level of



relief, the Applicant shall resubmit the Application within sixty (60) calendar days following the date the petition for relief is granted, in whole or in part, showing conformance with the Town Council's decision on the petition.

1. If the Application is not resubmitted within the sixty (60) day period, the relief granted by the Town Council on the petition shall expire.
2. If the re-submittal of the Application is modified in any other way, a new petition for relief may be required by the Deputy Director of Engineering Services.
3. If the Application for which relief was granted is denied on other grounds, a new petition for relief may be required by the Deputy Director of Engineering Services.

E. Effect of Relief

1. The Deputy Director of Engineering Services may require the Applicant to submit a modified Application or supporting materials consistent with the relief granted by the Town Council on the petition.
2. The relief granted on the petition shall remain in effect for the period the Application is in effect, and shall expire upon expiration or approval of the Application.

7.03. Subdivision Vested Rights Petition

Petitions (requests) to develop under previous regulations will be processed according to Town's adopted vesting policy and pursuant to Texas Local Government Code, Chapter 245 or successor statute.



Section 8. Definitions

8.01. Usage and Interpretation

A. Usage and Interpretation Rules

For the purpose of this Subdivision Ordinance, certain terms or words herein shall be interpreted or defined as follows:

1. Words used in the present tense include the future tense;
2. The singular includes the plural;
3. The word "person" includes a corporation as well as an individual;
4. The term "shall" is always mandatory; and
5. The term "may" is discretionary.

B. Words and Terms Not Expressly Defined

Words and terms not expressly defined herein are to be construed according to the normally accepted meaning of such words or terms or, where no definition appears, then according to their customary usage in the practice of municipal planning and engineering.

8.02. Words and Terms Defined

For the purpose of this Subdivision Ordinance, certain terms and words are herewith defined and shall have the meaning here applied; any word not defined herein shall be determined by the Town Council.

Abutting

Adjacent, adjoining and contiguous to. It may also mean having a lot line in common with a right-of-way or easement, or with a physical improvement such as a street, waterline, park, or open space.

Access

A means of approaching or entering a property, or the ability to traverse a property (such as in the use of the phrase "pedestrian access easement").

Administrative Waiver

See Waiver, Administrative.

Administratively Complete

(Ord. 19-57; 8-27-19)

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 Town staff and the Engineering Department have determined that the application for a Preliminary Plat, Replat and/or Final Plat meets all requirements of applicable Town ordinances so that it may be reviewed by the Planning & Zoning Commission or Town Council; (2) the Preliminary Plat, Replat and/or Final Plat has been placed on a duly posted agenda for the Planning & Zoning Commission or Town Council; and (3) the Planning & Zoning Commission or Town Council has taken action on the Preliminary Plat, Replat and/or Final Plat.

Alley

A public Right-of-Way, not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street.



Amending Plat

An Amending Plat applies minor revisions to a recorded plat consistent with provisions of State law, see Section 4.08 Amending Plat.

Applicant

The person or entity responsible for the submission of an Application. The Applicant must be the actual owner of the property for which an Application is submitted, or shall be a duly authorized representative of the property owner. Also see Developer.

Application

The package of materials, including but not limited to an Application Form, Plat, completed checklist, tax certificate, Construction Plans, special drawings or studies, and other informational materials, that is required by the Town to initiate Town review and approval of a development project.

Application Form

The written form (as provided by and as may be amended by the Director of Development Services) that is filled out and executed by the Applicant and submitted to the Town along with other required materials as a part of an Application.

Approval

- a. Approval constitutes a determination by the official, board, commission or Town Council responsible for such determination that the Application is in compliance with the minimum provisions of this Subdivision Ordinance.
- b. Such approval does not constitute approval of the engineering or surveying contained in the plans, as the design engineer or surveyor that sealed the plans is responsible for the adequacy of such plans.

Barrier Curbs

Barrier curbs are designed to prevent vehicles from leaving the roadway or pavement.

Base Flood

The flood having a one (1) percent chance of being equaled or exceeded in any given year, determined based upon FEMA (Federal Emergency Management Agency) guidelines and as shown in the current effective Flood Insurance Study.

Block

A tract or parcel of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad Right-of-Way, highway, stream, or corporate boundary lines.

Block Face

The portion of a Block that abuts a street.

Block Length

The length of the Block Face between two intersections.

Building

Any structure built for support, shelter or enclosure of persons, animals, personal property, records or other movable property and when separated in a manner sufficient to prevent fire, each portion of such building shall be deemed a separate building.



Building Official

The Building Official of the Town or his or her designee.

Building Permit

A permit issued by the Town before a building or structure is started, improved, enlarged or altered as proof that such action is in compliance with the Town code.

Building Setback Line

The line within a property defining the minimum horizontal distance between a building or other structure and the adjacent street Right-of-Way/property line.

Certificate of Occupancy

An official certificate issued by the Town through the enforcement official that indicates conformance with the Town's rules and regulations and that authorizes legal use of the premises.

Collector Street

A street designed or used to carry traffic from Local Streets to Thoroughfares. (See the Comprehensive Plan and Street Design Criteria as found in the Design Standards & Specifications for detailed standards.)

Commission

The Planning & Zoning Commission of the Town.

Comprehensive Plan

- a. The plan, including all revisions thereto, adopted by the Town Council as the official policy regarding the guidance and coordination of the development of land in the Town.
- b. The plan indicates the general location recommended for various land uses, transportation routes, public and private buildings, streets, utilities, parks, other public and private developments and improvements, and population projections.
- c. The plan may consist of, but is not limited to, the following plan elements: Future Land Use Plan, Transportation Plan, and thoroughfare plan map.

Construction Plans

A set of drawings and/or specifications, including paving, water, wastewater, drainage, or other required plans, submitted to the Town for review in conjunction with a subdivision or a development.

Conveyance Plat

An interim step in the subdivision and development of land, a Conveyance Plat is a plat designed to subdivide land and to provide for recordation for the purpose of conveying (i.e., selling) the property without developing it. A Conveyance Plat does not constitute approval for any type of development on the property.

Council

See Town Council.

Council Waiver

See Waiver, Council.

County

Collin or Denton County.



Court

An open, unoccupied space other than a yard, on the same lot with a building, which is bounded on three (3) or more sides by the building.

Crosswalk Way

A public Right-of-Way, four (4) feet or more in width between property lines, which provides pedestrian circulation.

Cul-de-Sac

A short, residential street having only one vehicular access to another street, and terminated on the opposite end with a vehicular turnaround.

Curb Level

- a. The level of the established curb in front of the building measured at the center of such front.
- b. Where no curb has been established, the Deputy Director of Engineering Services shall establish such curb or its equivalent for the purpose of this Subdivision Ordinance.

Date of Adoption

The date of adoption of this Subdivision Ordinance shall be the date this ordinance becomes effective.

Dead-End Street

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

Decision-Maker

The Town official or group, such as the Director of Development Services, Town Council, or Planning & Zoning Commission, responsible for deciding an Application authorized by this Subdivision Ordinance.

Design Standards and Specifications

A stand-alone document, or a compilation of documents, not included within this Subdivision Ordinance that details specific engineering requirements for the construction of Public Improvements.

Developer

- a. A person or entity, limited to the property owner or duly authorized representative thereof, who proposes to undertake or undertakes the division, developments, or improvement of land and other activities covered by this Subdivision Ordinance.
- b. The word Developer is intended to include the terms Subdivider, property owner, and, when submitting platting documents, Applicant.

Development

Any manmade change to improved or unimproved real estate, including but not limited to, buildings and/or other structures, paving, drainage, utilities, storage, and agricultural activities.

Development Agreement

Agreement between the Town and a Subdivider or Developer, which includes provisions for construction of Public Improvements, Town participation, pro rata agreements, escrow deposits, and other provisions for the development of land.



Development Application

An Application, developed and updated by the Director of Development Services, for any type of plan, permit, plat or Construction Plans/drawings authorized or addressed by this Subdivision Ordinance.

Development Manual

A collection of Application Forms created, updated, and managed by the Director of Development Services. The Development Manual also contains checklists, additional information, fees, and forms and is a policy document for the public to reference.

Director of Development Services

The person(s) so designated by the Town Manager to provide oversight for and have responsibility of the Town's Development Services Department. This term shall also include any designee of the Director of Development Services. Also, this term shall be inclusive of any future variations of the term, as deemed appropriate by the Town Manager, such as "Development Services Director" or "Planning Director."

Deputy Director of Engineering Services

The person(s) so designated by the Town Manager to provide oversight for and have responsibility of the Town's Engineering Services Department. This term shall also include any designee of the Deputy Director of Engineering Services. Also, this term shall be inclusive of any future variations of the term, as deemed appropriate by the Town Manager.

Director of Public Works

The person(s) so designated by the Town Manager to provide oversight for and have responsibility of the Town's Public Works Department. This term shall also include any designee of the Director of Public Works. Also, this term shall be inclusive of any future variations of the term, as deemed appropriate by the Town Manager.

Dwelling Unit

One or more rooms, which are arranged, designed, used, or intended to be used for occupancy by a single-family or group of persons living together as a family or by a single person.

Easement

- a. Authorization by a property owner for another to use any designated part of the owner's property for a specified purpose or use and evidenced by an instrument or plat filed with the County Clerk. Among other things, easements may be used to install and maintain utility lines, drainage ditches or channels, or for other Town or public services.
- b. An area established for public purposes on private property upon which the Town shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs, or other improvements or growths which in any way endanger or interfere with the construction, maintenance, or efficiency of Town systems.
- c. The Town shall at all times have the right of ingress and egress to and from and upon the said easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, and adding to or removing all or part of its respective systems without the necessity at any time or procuring the permission of anyone.

Easement, Common Access

An easement to provide shared access to and from retail, commercial, and industrial properties. The easement is maintained by the owners of the property or as otherwise provided by deed restrictions or the terms of the easement instrument.



Engineer

A person duly authorized under the provisions of the Texas Engineering Practice Act, as heretofore or hereafter amended, to practice the profession of engineering and who is specifically qualified to design and prepare Construction Plans and specifications for public works improvements.

Engineering Plans

See Construction Plans.

ETJ

See Extraterritorial Jurisdiction (ETJ).

Extraterritorial Jurisdiction (ETJ)

The unincorporated area, not a part of any other municipality, which is contiguous to the corporate limits of the Town, the outer limits of which are measured from the extremities of the corporate limits of the Town outward for the distance as stipulated in Chapter 42 of the Texas Local Government Code, according to the inhabitants of the Town, and in which area the Town may regulate subdivisions and enjoin violation of provisions of this Subdivision Ordinance.

Fee Schedule

A listing of fees for various Town Applications, which is prepared by the Town Manager and approved by Town Council and may be amended periodically. The Fee Schedule is approved separately from this Subdivision Ordinance.

Filing Plat

See Final Plat.

Final Acceptance

The acceptance by the Town of all infrastructure improvements constructed by the Developer in conjunction with the development of land.

Final Plat

- a. The one official and authentic map of any given subdivision of land prepared from actual field measurement and staking of all identifiable points by a Surveyor or Engineer with the subdivision location referenced to a survey corner and all boundaries, corners and curves of the land division sufficiently described so that they can be reproduced without additional references.
- b. The Final Plat of any lot, tract, or parcel of land shall be recorded in the Deed Records of Collin or Denton County, Texas.
- c. A Final Plat may also be referenced as a Record Plat or Filing Plat.

Floodplain

The area subject to be inundated by water from the Base Flood.

Floodway

A natural drainage area that accommodates the Base Flood for existing creeks and open drainage ways.

Frontage

All the property abutting on one (1) side of the street, or between two (2) intersecting streets, measured along the street line.



Homeowners' or Property Owners' Association

- a. A formal organization operating under recorded land agreements through which:
 - i. Each lot and/or property owner in a specific area is automatically a member; and
 - ii. Each lot or property interest is automatically subject to a charge for a proportionate share of the expense for the organization's activities, such as the maintenance of common property; and
 - iii. The charge, if unpaid, becomes a lien against the nonpaying member's property.

Improvement

Any man-made fixed item that becomes part of or placed upon real property, see also Public Improvement.

Infrastructure

All streets, alleys, sidewalks, storm drainage, water, and wastewater facilities, utilities, lighting, transportation, and other facilities as required by the Town.

Land Planner

A person(s), other than a surveyor or engineer, who also possesses and can demonstrate a valid proficiency in the planning of residential, commercial, industrial and other related developments; such proficiency often having been acquired by education in the field of urban planning, landscape architecture or other specialized planning curriculum and/or by actual experience and practice in the field of land planning.

Letter of Final Acceptance

Notification to an Applicant from the Deputy Director of Engineering Services that all improvements are completed, inspected, tested (if applicable), and determined by the Town to be in conformance with this Subdivision Ordinance and with the Town's design/engineering standards and all improvements are accepted by the Town or will be accepted contingent to the approval of a Final Plat.

Local Street

A Local Street is a street used primarily for access to abutting property especially residential areas. Local streets also provide secondary or minor access and circulation to community facilities (school, parks, etc.) and other traffic generators such as commercial and industrial areas.

Lot

Land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under this Subdivision Ordinance, and having its principal frontage upon a street or officially approved place.

Lot, Corner

- a. A lot situated at the junction of two or more streets.
- b. A corner lot shall be deemed to front on the street on which it has its smallest dimensions, or as otherwise designated by the Planning & Zoning Commission.

Lot, Depth

The mean distance from the front street line to the rear line.

Lot, Interior

A lot, the side line of which does not abut on any street.



Lot, Key

A corner lot that is designed such that the lots located directly behind it face the side street of the corner lot and are not separated by an alley.

Lot, Through

An interior lot having frontage on two streets.

Lot Lines

The lines bounding a lot as defined herein.

Lot of Record

A lot that is part of a subdivision, a map of which has been recorded in the office of the County Clerk.

Lot Width

The mean distance between side lines measured at right angles to the depth.

Major Creek

The Major Creeks are commonly known as Button Branch, Doe Branch, Gentle Creek, Rutherford Branch and Wilson Creek. Each Major Creek begins at its headwater (as determined by the Federal Emergency Management Agency (FEMA) and/or the U.S. Army Corps of Engineers) as is generally depicted on Flood Insurance Rate Maps that can be obtained from FEMA.

Manual on Uniform Traffic Control Devices

The Manual on Uniform Traffic Control Devices, or MUTCD defines the standards used by road managers nationwide to install and maintain traffic control devices on all public streets, highways, bikeways, and private roads open to public traffic. The MUTCD is published by the Federal Highway Administration (FHWA) under 23 Code of Federal Regulations (CFR), Part 655, Subpart F.

Marginal Access Street

A street parallel to and adjacent to an arterial street, and primarily provides access to abutting properties and protection from through traffic.

Minor Plat

A plat dividing land into no more than four (4) lots that meets the submission and approval requirements of Section 4.06 Minor Plat. Such a plat is also considered a Final Plat.

Minor Replat

Pursuant to **Texas Local Government Code 212.0065**, a Minor Replat is a Replat involving four (4) or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities. See Section 4.07.H.2 Minor Replat for details.

Mountable Curbs

Mountable curbs (also commonly known as sloping or roll-over curbs) have sloping faces that allow vehicles to encroach upon the curb without discomfort or damaging the vehicle.

Official Submission Date

(Ord. 19-57; 8-27-19)

The Official Submission Date means the date a Preliminary Plat, Replat or Final Plat is considered by the Town to be administratively complete and is heard by either the Planning & Zoning Commission or Town Council.



Park, Playground, or Community Center, Public

An open recreational facility or park owned and operated by a public agency such as the Town or the school district, and available to the general public.

Park Service Zone

All property within the Town and its Extraterritorial Jurisdiction (ETJ) is within a park service zone as shown on the map on file with the Director of Development Services, as the same may be amended from time to time by the Town Council.

Parking Space

Open space or garage space reserved exclusively for the parking of a vehicle.

Pavement Width

The portion of a street available for vehicular traffic. Where curbs are laid, it is the portion between the face of the curbs.

Perimeter Street

A street that abuts a parcel of land to be subdivided on one side.

Person

Person means an individual, firm, association, organization, partnership, trust, foundation, company or corporation.

Planning & Zoning Commission

The Planning & Zoning Commission of the Town. Also referred to as the "Commission."

Plat

- a. A map or chart of the subdivision, lot or tract of land showing all essential dimensions and other information required to comply with this Subdivision Ordinance as it exists or may be amended.
- b. It shall include the term plan, plat or re-plat, in both singular and plural.

Plat, Amending

See Amending Plat.

Plat, Final

See Final Plat.

Plat, Minor

See Minor Plat.

Plat, Preliminary

See Preliminary Plat.

Preliminary Drainage Plan

This plan shows the watershed affecting the development and how the runoff from the fully-developed watershed will be conveyed to, through, and from the development see 6.14.J Preliminary Drainage Plan for details.



Preliminary Plat

- a. The graphic expression of the proposed overall plan for subdividing, improving and developing a tract shown by superimposing a scale drawing of the proposed land division on a topographic map and showing in plan view existing and proposed drainage features and facilities, street layout and direction of curb flow, and other pertinent features with notations sufficient to substantially identify the general scope and detail of the proposed development.
- b. The Preliminary Plat shall serve as a means for the Town to review and study the proposed division of land and/or improvements.
- c. See Section 4.04 Preliminary Plat.

Preliminary Stormwater Management Plan

A plan identifying permanent water quality feature opportunities for Subdivision development.

Preliminary SWMP

Preliminary SWMP is an abbreviation for Preliminary Stormwater Management Plan.

Preliminary Utility Plan

A plan detailing both Water Utility and Wastewater Utility requirements, see Section 6.12.C Preliminary Utility Plan for details.

Private Street

See Street, Private.

Proportionality/Proportional Share

The Developer's portion of the costs of an exaction or Public Improvement.

Public Improvement

Any Improvement, facility or service together with its associated public site, Right-of-Way or easement necessary to provide transportation, storm drainage, public or private utilities, parks or recreational, energy or similar essential public services and facilities, for which the Town ultimately assumes the responsibility, upon a Letter of Final Acceptance being issued, for maintenance, operation and/or ownership.

Record Drawings

A group of drawings or plans that depicts the final configuration of the installed or constructed improvements of a development, improvements that have been verified by the contractor as their installation or construction occurs during development. The Record Drawings shall reflect the Construction Plans (or working drawings) used, corrected, and/or clarified in the field.

Record Plat

See Final Plat.

Replat

The re-subdivision of any or part or all of any block or blocks of a previously platted subdivision, addition, lot or tract, that is beyond the definition of an Amending Plat and which does not require the vacation of the entire preceding plat. Such plat also conforms to Section 4.07 Replat of this Subdivision Ordinance. A Replat can function as a Final Plat for a property.



Residential Street

A street that is intended primarily to serve traffic within a neighborhood or Residential Zoning District and which is used primarily for access to abutting properties.

Residential Use

Residential use means use of a structure as a residence.

Residential Zoning District

Residential district means a single-family, patio home, duplex, townhouse, multifamily or manufactured home zoning district.

Responsible Official

The Town staff person who has been designated by the Town Manager to accept a type of development Application for filing, to review and make recommendations concerning such Applications, and where authorized, to initially decide such Applications, to initiate enforcement actions, and to take all other actions necessary for administration of the provisions of development Applications. Also includes any designee of the designated Town staff person.

Retaining Wall

A non-building, structural wall supporting soil loads and live and dead surcharge loads to the soil, such as additional soil, structures and vehicles.

Right-of-Way

- a. A parcel of land occupied or intended to be occupied by a street or alley.
- b. A Right-of-Way may be used for other facilities and utilities, such as sidewalks, railroad crossings, electrical communication, oil or gas, water or sanitary or storm sewer facilities, or for any other use.
- c. The use of Right-of-Way shall also include parkways and medians outside of pavement.
- d. For platting purposes, the term "Right-of-Way" shall mean that every Right-of-Way shown on a Final Plat is to be separate and distinct from the lots or parcels adjoining such Right-of-Way and not included within the dimensions or areas of such lots or parcels.

Security

The financial guarantee provided by an Applicant that secures the construction of Public Improvements and any other contractual obligations stated within a Development Agreement.

Setback Line

A line within a lot, parallel to and measured from a corresponding lot line, establishing the minimum required yard and governing the placement of structures and uses on the lot.

Site Plan

A detailed, scaled drawing of all surface improvements, structures, and utilities proposed for development and is associated with the Zoning Ordinance as it currently exists or may be amended.

Sketch Plan

A sketch or informal plan prepared prior to the preparation of the Conveyance Plat and/or Preliminary Plat describing the proposed design of the subdivision to be reviewed during the pre-application review process.



Street

A public Right-of-Way that provides vehicular traffic access to adjacent lands.

Street, Private

A privately owned street within a Subdivision for which the private owners assume full responsibility for maintenance and controls and that has not been dedicated to the use of the public. This term is inclusive of related alleys. Private streets are Local Streets allowed in gated planned unit developments (PUDs) with homeowners' associations that maintain them.

Street Right-of-Way Width

The shortest distance between the property or easement lines that delineates the Right-of-Way of a street.

Structure

Anything constructed or erected that requires location on the ground, or attached to something having a location on the ground, including, but not limited to advertising signs, billboards and poster panels, but exclusive of customary fences or boundary of retaining walls, sidewalks and curbs.

Subdivider

- a. Any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision.
- b. In any event, the term "subdivider" shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner, of land to be subdivided.

Subdivision

- a. The division of a tract or parcel of land into two or more parts or lots for the purpose, whether immediate or future, of sale or building development or transfer of ownership with the exception of transfer to heirs of an estate, and shall include re-subdivision.
- b. Any other subdivision or re-subdivision of land contemplated by the provisions of Chapter 212, Local Government Code.

Subdivision Ordinance

The adopted Subdivision Ordinance of the Town, as may be amended in the future, and may be referred as "this Ordinance."

Subdivision Plat

A Plat (i.e., Preliminary Plat, Final Plat, Minor Plat, Replat, Amending Plat or Conveyance Plat) established in LGC 212, Subchapter A involving the subdividing of land in two (2) or more parts or the amending of a recorded Plat.

Subdivision Regulations

Any regulations and standards contained within the Subdivision Ordinance.

Subdivision Waiver

Either an Administrative Waiver or Council Waiver; see Section 7.01 Petition for Subdivision Waiver.

Surveyor

A licensed State Land Surveyor or a Registered Public Land Surveyor, as authorized by the State to practice the profession of surveying.



Thoroughfare

- a. A street designated as a Thoroughfare within the Comprehensive Plan.
- b. A principal traffic-way more or less continuous across the Town or areas adjacent thereto and shall act as a principal connecting street with highways as indicated in the Comprehensive Plan.
- c. See the Comprehensive Plan and Street Design Criteria as found in the Design Standards & Specifications for detailed standards.

Town

The Town of Prosper, Texas, together with all its governing and operating bodies.

Town Attorney

The person(s) so designated by the Town Council to provide oversight for and have legal responsibility for the Town. This term shall also include any licensed attorney designated by the Town Attorney.

Town Council

The duly elected governing body of the Town of Prosper, Texas.

Town Manager

The officially appointed and authorized Town Manager of the Town of Prosper, Texas, or the Town Manager's duly authorized representative.

Town Secretary

The person(s) so designated by the Town Manager to provide clerical and official services for the Town Council. This term shall also include any designee of the Town Secretary.

Transportation Plan

The plan that guides the development of adequate circulation within the Town, and connects the Town street system to regional traffic carriers. Also, referred to as the Thoroughfare Plan or Master Thoroughfare Plan.

Usable Open Space

An area or recreational facility that is designed and intended to be used for outdoor living and/or recreation. Usable Open Space may include recreational facilities, water features, required perimeter landscape areas, floodplain areas, and decorative objects such as art work or fountains. Usable Open Space shall not include the following:

- a. Rooftops;
- b. Buildings, except those portions or any building designed specifically for recreation purposes;
- c. Landscaped parking requirements;
- d. Driveways;
- e. Turnarounds; or
- f. Right-of-Way or easements for streets and alleys.

Utility Easement

See Easement.



Vested Right

A right of an Applicant requiring the Town to review and decide the Application under standards in effect prior to the effective date of the standards of this Subdivision Ordinance and/or of any subsequent amendments.

Vested Rights Petition

- a. A request for relief from any standard or requirement of the Subdivision Regulations based on an assertion that the Applicant (petitioner for relief) has acquired a Vested Right.
- b. Such petition is regulated under Section 7.03 Subdivision Vested Rights Petition.

Waiver, Council

- a. A Council Waiver is a significant change to both the standards and intent of the Subdivision Regulations, which involves Planning & Zoning Commission and Town Council approval.
- b. See Section 7.01 Petition for Subdivision Waiver for details.

Waiver, Administrative

- a. An Administrative Waiver is a waiver listed in Table 7 and is a minor change to the standards, but not the intent, of these Subdivision Regulations.
- b. An Administrative Waiver is approved by either the Director of Development Services or Deputy Director of Engineering Services (as applicable).
- c. See Section 7.01 Petition for Subdivision Waiver for details.

Yard

- a. An open space other than a court, on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.
- b. In measuring to determine the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the main building shall be used.

Yard, Front

A yard across the full width of a lot extending from the front line of the main building to the front street line of the lot.

Yard, Rear

A yard across the full width of the lot extending from the rear line of the main building to the rear line of the lot.

Yard, Side

A yard between the building and the side line of the lot and extending from the front yard to the required minimum rear yard.