

## CHAPTER 10 - SUBDIVISION REGULATION

### ARTICLE 10.01. - GENERAL PROVISIONS

#### Sec. 10.01.001 - Engineering design standards.

- (a) There are hereby established, in the town's engineering design standards roadway design requirements for the purpose of promoting the health, safety, and welfare of the town and its inhabitants. The roadway system design requirements are hereby established as "section 4" of the town's engineering design standards to Ordinance 2020-54. The roadway system design requirements are hereby established as set forth in exhibit A, attached to Ordinance 05-50 and incorporated for all purposes.
- (b) There are hereby established, in the town's engineering design standards water system design requirements for the purpose of promoting the health, safety, and welfare of the town and its inhabitants. The water system design requirements are hereby established as "section 2" of the town's engineering design standards. The water system design requirements are hereby established as set forth in exhibit A, attached to Ordinance 17-90 and incorporated for all purposes.
- (c) There are hereby established in the engineering design standards wastewater system design requirements for the purpose of promoting the health, safety, and welfare of the town and its inhabitants. The wastewater system design requirements are hereby established as "section 3" of the town's engineering design standards. The wastewater system design requirements are hereby established as set forth in exhibit B, attached to Ordinance 17-90 and incorporated for all purposes.

(Ord. No. 05-50, § 2, 6-14-05; Ord. No. 6-27, § 2, 3-14-06; Ord. No. 17-90 12-12-17; Ord. No. 2020-54, 7-14-20)

#### Sec. 10.01.002 - Replats.

- (a) Any person who wishes to revise a subdivision plat which has been previously filed for record must make an application of the proposed revised plat to the Town Council. The replat of the subdivision shall meet all the requirements for a subdivision that may be pertinent. However, if the subdivision as replatted does not require any appreciable alteration or improvement of utility installations, streets, alleys, building setback lines, etc., no engineering plans or preliminary plat will be required.
- (b) In the event the proposed replat involves property which has been previously developed or zoned as single-family or duplex-residential use, special requirements are triggered as follows:
  - (1)

After an application is filed for a replat affecting single-family and duplex property, the Town Administrator shall give notice of the application to be published in the official newspaper of the town at least 15 days before the date of the Town Council meeting at which it is to be considered. Such notice must include a statement of the time and place at which the Town Council will meet to consider the replat and to hear protests to the revision at a public hearing. Additionally, written notice must be sent to all owners of property located within 200 feet of the property upon which the replat is requested. Such notice may be served by depositing the notice, properly addressed and postage paid, at the local post office.

- (2) If 20 percent or more of the property owners to whom notice has been required to be given file a written protest of the replatting before or at the public hearing, the affirmative vote of at least  $\frac{3}{4}$  of the Town Council members is required to approve the replat.

(Ordinance adopting Code)

## ARTICLE 10.02. - CAPITAL IMPROVEMENTS AND IMPACT FEES

### Sec. 10.02.001 - Purpose.

This article is intended to assure the provision of adequate public facilities to serve new development in the town by requiring each such development to pay its share of the costs of such improvements necessitated by and attributable to such new development.

### Sec. 10.02.002 - Definitions.

For the purposes of this article, the following words have the meanings hereinafter designated:

*Area-related facility* means a capital improvement or facility expansion which is designated in the impact fee capital improvements plan and which is not a site-related facility. Area-related facility may include a capital improvement which is located offsite or within or on the perimeter of the development site.

*Capital improvement* means any of the following facilities with a life expectancy of three or more years that are owned and operated by or on behalf of the town:

- (1) Water supply, treatment and distribution facilities; wastewater collection and treatment facilities; and stormwater, drainage and flood control facilities, whether or not they are located within the service area; and
- (2) Roadway facilities.

*Capital improvements plan* means a plan contemplated by the article that identifies capital improvements or facility expansions for which impact fees may be assessed.

*Facility expansion* means the expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new capital improvement, in order that the existing facility may serve new development. The term does not include the repair, maintenance, modernization or expansion of an existing facility to better serve existing development.

*Final plat or final plat approval or approved final plat* means the point at which the applicant has complied with all conditions of approval for any type of plat required by law to be filed with the applicable county, including but not limited to, a final plat, replat, amending plat and vacating plat, and the subject plat has been approved by the town.

*Impact fee* means a charge or assessment imposed as set forth in this article against new development. The term does not include:

- (1) Required dedications of land for public parks or payments in lieu thereof;
- (2) Dedication of rights-of-way or easements or construction or dedication of on-site or off-site water distribution, wastewater collection or drainage facilities, or streets, sidewalks, or curbs if the dedication or construction is required by a valid ordinance and is necessitated by and attributable to the new development;
- (3) Lot or acreage fees or pro-rata fees to be placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or sewer mains or lines; or
- (4) Other pro-rata fees for reimbursement of water or sewer mains or lines extended by the town.

*Land use assumptions* means a description of the service area and the projections of changes in land uses, densities, intensities, population and employment growth in the service area over at least a ten-year period and by the town, as may be amended from time to time, upon which the capital improvements plans are based.

*New development* means a project involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure, or any use or extension of the use of land, which has the effect of increasing the requirements for capital improvements or facility expansions, measured by the number of service units to be generated by such activity, and which requires either the approval of a plat pursuant to the town's subdivision regulations, the issuance of a building permit, or connection to the town's water or wastewater system, and which has not been exempted from these regulations by provisions herein or attached hereto. Installation of a larger water meter will constitute new development. Notwithstanding, roadway impact fees shall not be collected for any temporary modular building which is scheduled to be replaced with a permanent building.

*Off-site* means a facility or expansion that is not a site-related facility, as defined herein.

*Plat* means any type of plat required by law to be filed with the applicable county, including but not limited to, a final plat, replat, amending plat and vacating plat.

*Property owner* means has the same meaning as the term "subdivider" in the town's subdivision regulations. Property owner includes the developer for the new development.

*Recoup* means the imposition of an impact fee to reimburse the town for capital improvements which the town has previously oversized to serve new development.

*Roadway facilities* means arterial or collector streets or roads that have been designated on the town's official roadway plan, together with all necessary appurtenances. The term includes, but is not limited to, the town's share of costs for roadways and associated improvements designated on the federal or state highway system, including but not limited to, local matching funds and costs related to utility line relocation and the establishment of curbs, gutters, sidewalks and drainage appurtenances. The term also includes, but is not limited to, interest in land, traffic lanes, intersection improvements, traffic-control devices and turn lanes associated with the roadway or street lighting.

*Service area* means the area within the town and/or the town's extraterritorial jurisdiction, as identified in the land use assumptions, to be served by the capital improvements or facilities expansions specified in the capital improvements plan, except roadway facilities service area means any one of the individual services areas within the town's corporate boundaries as identified in the land use assumptions and the capital improvements plan.

*Service unit* means the standardized measure of consumption, use, generation or discharge attributable to an individual unit of development, calculated in accordance with generally accepted engineering and/or planning standards, as indicated in the land use equivalency tables located in the study (hereinafter defined).

*Single-family residential* means has the meaning given the term in the town's zoning regulations, as they exist or may be amended.

*Site-related facility* means an improvement or facility which is for the primary use or benefit of a new development and/or which is for the primary purpose of safe and adequate provision of roadway, water or wastewater facilities to serve the new development, and which is not included in the capital improvements plan and for which the property owner is solely responsible under subdivision or other applicable regulations or which is located at least partially on the plat which is being considered for impact fee assessment. Site-related facility includes that portion of an off-site water or wastewater main, equivalent to a standard size water or wastewater main, which is necessary to connect any new development with the town's water or wastewater system, the cost of which has not been included in the town's impact fee capital improvements plan.

*Study* means the "Water, Wastewater and Roadway Impact Fee Report" study, dated October 2016 and prepared by Freese & Nichols, Inc., on behalf of the town, a copy of which is located in the office of the Town Secretary and incorporated by reference herein, as may be amended from time to time.

*Town Council* means the Town Council of the Town of Prosper, Texas.

*Town or Prosper* means the Town of Prosper, Texas.

*Utility connection* means authorization to install a water meter for connecting a new development to the town's water system or to the town's wastewater system.

*Wastewater facility* means a wastewater interceptor or main, lift station or other facility or improvement used for providing wastewater collection and treatment included within the town's collection system for wastewater. Wastewater facility includes, but is not limited to, land, easements or structures associated with such facilities. Wastewater facility excludes a site-related facility.

*Water facility* means a water interceptor or main, pump station, storage tank or other facility or improvement used for providing water supply, treatment and distribution service included within the town's water storage or distribution system. Water facility includes, but is not limited to, land, easements or structures associated with such facilities. Water facility excludes site-related facilities.

*Water meter* means a device owned by the town for measuring the flow of water to a development, whether for domestic or for irrigation purposes.

(Ord. No. 11-71, 11-8-11; Ord. No. 14-57, 8-26-14; Ord. No. 17-14, 2-28-17)

#### Sec. 10.02.003 - Applicability.

The provisions of this article regarding water and wastewater impact fees apply to all new development within the corporate boundaries of the town and its extraterritorial jurisdiction. The provisions of this article regarding roadway impact fees apply to all new development within the corporate boundaries of the town.

#### Sec. 10.02.004 - Land use assumptions adopted.

The previously land use assumptions have been reviewed, evaluated, updated and revised, and the Town Council finds that the land use assumptions set forth in the study are hereby and approved.

#### Sec. 10.02.005 - Capital improvements plan adopted.

The previously capital improvements plan has been reviewed, evaluated, updated and revised, and the Town Council finds that the capital improvements plan set forth in the study is hereby and approved.

(Ord. No. 11-71, 11-8-11)

#### Sec. 10.02.006 - Impact fees adopted.

The previously impact fees for roadways, water and wastewater have been reviewed, evaluated, updated and revised. The Town Council finds that:

- (1) The impact fees for roadways set forth in exhibit A, "roadway impact fee schedule," attached to Ordinance 17-14 and incorporated for all purposes, are hereby and approved;
- (2) The impact fees for water set forth in exhibit B, "water impact fee schedule," attached to Ordinance 17-14 and incorporated for all purposes, representing 50 percent of the total projected costs, are hereby and approved; and
- (3) The impact fees for wastewater set forth in exhibit C, "wastewater impact fee schedule," attached to Ordinance 17-14 and incorporated for all purposes, representing 50 percent of the total projected costs, are hereby and approved.

(Ord. No. 17-14, 2-28-17)

#### Sec. 10.02.007 - Impact fee as condition of development approval/permit issuance.

No final plat for new development shall be released for filing with the appropriate county, or in the cases for which no plat is submitted to the town, whether the property is located inside or outside the corporate boundaries of the town, no application for a utility connection shall be approved and/or no building permit and/or certificate of occupancy shall be issued, without assessment of an impact fee pursuant to this article. No building permit shall be issued, or in the cases for which no plat is submitted to the town, whether the property is located inside or outside the corporate boundaries of the town, no building permit and/or certificate of occupancy shall be issued and/or utility connection made, for new development, until the property owner has paid the impact fee imposed by and calculated herein or a contract for payment is approved by the town and executed by the parties.

(Ord. No. 11-71, 11-8-11)

#### Sec. 10.02.008 - Assessment.

- (a) The assessment of the impact fee for any new development shall be calculated and made at the time of final plat approval (as defined in section 10.02.002); however, for the sole purpose of phasing in the application of this article, final plats that have been approved by the town on or before February 28, 2017, pursuant to the town's subdivision regulations, or for a final plat deemed approved by the town on or before February 28, 2017, due to the town's failure to act, assessment for the new development to which the final plat applies shall be calculated and made in accordance with the impact fees existing on February 27, 2017.
- (b) Following initial assessment of the impact fee for a new development pursuant to subsection (a), the amount of the impact fee per service unit for that development cannot be increased, unless the approved final plat expires or lapses under applicable ordinances or law or the owner

proposes to change the approved development by the submission of a new development application or application to increase the number of service units, in which case the impact fee will be reassessed for increased meter size or additional meters or service units at the impact fee rate then in effect.

- (c) Following the lapse or expiration of a final plat that has been approved or a final plat deemed approved due to the town's failure to act, pursuant to the town's subdivision regulations, a new assessment shall be performed at the time of new final plat approval in accordance with this article.

Sec. 10.02.009 - Computation and collection.

- (a) The impact fees due on new development shall be collected at the time of application for a building permit or, in the cases for which no plat is submitted to the town, whether the property is located inside or outside the corporate boundaries of the town, at the time of application for building permit, utility connection or certificate of occupancy, whichever occurs first, unless an agreement between the developer and the town has been executed providing for a different time of payment.
- (b) At the time of final plat approval, or the request for a utility connection for an area in the town's extraterritorial jurisdiction for which a final plat was not submitted to the town, for all new developments, the town shall compute the impact fees due for the new development in the following manner:
  - (1) The amount of each type of impact fee due (roadway, water, and/or wastewater) shall be determined by multiplying the number of each type of service units generated by the new development by the impact fee due for each type of service unit in the applicable service area set forth in exhibits A, B and/or C to section 10.02.006, respectively. The town shall determine the appropriate land use category set forth in exhibits A, B and/or C to section 10.02.006 for the computation of the impact fee.
  - (2) The amount of each impact fee due shall be reduced by any allowable credits for that category of capital improvements in the manner provided by this article.
- (c) Whenever a property owner proposes to increase the number of service units for a new development, the additional impact fees collected for such new service units shall be determined by using the amount of impact fee per service unit in exhibits A, B and/or C to section 10.02.006, and such additional fee shall be collected at the time of issuance of a new building permit, or for an area in the town's extraterritorial jurisdiction for which a final plat was not required to be submitted to the town, prior to or at the time of enlargement of the connection to the town's water or wastewater system.
- (d)

The Town Manager, or his/her designee, may consider alternate service unit equivalencies as defined in exhibits A, B and/or C to section 10.02.006, as presented by the property owner or applicant. All data and appropriate technical support data, consistent with the methodological approach in effect with the town, shall be provided. The applicant bears full responsibility for the provision of such data at the time of fee determination. The town will make the final determination as to consideration of such data.

(Ord. No. 17-14, 2-28-17)

Sec. 10.02.010 - Credits against.

- (a) Any construction or contributions to or dedications of any area-related facility appearing in the capital improvements plan that is required to be constructed by a property owner as a condition of new development shall be credited against the impact fees otherwise due on that new development from the same category (roadway, water or wastewater) of impact fees assessed on the new development.
- (b) All credits against impact fees shall be subject to the following limitations and shall be granted based on this article and any additional administrative guidelines that may be by the town.
  - (1) No credit shall be given for the dedication or construction of site-related facilities.
  - (2) No credit shall exceed an amount equal to the assessed impact fee.
  - (3) If a credit applicable to a final plat has not been exhausted within ten years from: (i) the acquisition of the first building permit issued; or, (ii) in the cases for which no plat is submitted to the town, whether the property is located inside or outside the corporate boundaries of the town, the acquisition of the first building permit issued, the acquisition of the first certificate of occupancy is issued or connection made after the effective date of the adoption of the applicable impact fees, whichever occurs first, or within such period as may otherwise be designated by contract, such credit shall lapse.
  - (4) In no event will the town reimburse the property owner or developer for a credit when no impact fees for the new development can be collected pursuant to town ordinance or for any amount exceeding the total impact fees due for the new development for the category of capital improvement, unless otherwise agreed to by the town.
- (c) The available credit associated with new development shall be applied against an impact fee in the following manner:
  - (1) For single-family residential lots in a new development consisting only of single-family residential development, such credit shall be prorated equally among such lots, to be applied at the time of application of a building permit for each lot, against impact fees to be collected at the time the building permit is issued.
  - (2)

For all other types of new development, including those involving mixed uses, the credit applicable to the new development shall be applied to the impact fee due at the time of approval.

- (3) At its sole discretion, the town may authorize alternative credit agreements upon written agreement with the property owner in accordance with the town's administrative guidelines.

Sec. 10.02.011 - Establishment of accounts.

- (a) The town shall establish an account to which interest is allocated for each service area for each type of capital facility for which an impact fee is imposed. Each impact fee collected within the service area shall be deposited in such account.
- (b) Interest earned on the account into which the impact fees are deposited shall be considered funds of the account and shall be used only in the same manner as which the underlying funds may be used.
- (c) The town shall establish adequate financial and accounting controls to ensure that impact fees disbursed from the accounts are utilized solely for authorized purposes.
- (d) The town shall maintain and keep financial records for impact fees, which shall show the source and disbursement of all fees collected in or expended within each service area. The records of the account into which impact fees are deposited shall be open for public inspection and copying during ordinary business hours. The town may establish a fee for copying services.

Sec. 10.02.012 - Use of proceeds of impact fee accounts.

- (a) The impact fees collected for each service area may be used to finance or to recoup the costs of any capital improvements or facility expansion identified in the capital improvements plan for the service area, including but not limited to the construction contract price, surveying and engineering fees, land acquisition costs (including land purchases, court awards and costs, attorney's fees and expert witness fees). Impact fees may also be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of the town to finance such capital improvements or facility expansion.
- (b) Impact fees collected pursuant to this article shall not be used to pay for any of the following expenses:
  - (1) Construction, acquisition or expansion of public facilities or assets other than capital improvements or facility expansions identified in the capital improvements plan;
  - (2) Repair, operation or maintenance of existing or new capital improvements or facility expansion;
  - (3) Upgrade, update, expansion or replacement of existing capital improvements to provide better service to existing development; or
  - (4)

Administrative and operating costs of the town.

Sec. 10.02.013 - Refunds.

- (a) Upon application by an owner of property, any impact fee or portion thereof collected pursuant to this article shall be refunded as specified in this article if:
  - (1) Has not been expended within the service area within ten years from the date of payment;
  - (2) Existing facilities are available and service is denied; or
  - (3) The town has, after collecting the impact fee when service was not available, failed to commence construction within two years or service is not available within a reasonable period considering the type of improvement or expansion, but in no event later than five years from the date of payment.
- (b) Payment shall be refunded to the record owner of the property for which the impact fee was paid or, if the impact fee was paid by another governmental entity, to such governmental entity, together with interest calculated from the date of payment to the date of refund at the statutory rate as set forth in the V.T.C.A. Finance Code, § 302.002, or its successor statute. The application for refund pursuant to this article shall be submitted within 60 days after the expiration of the ten-year period for expenditure of the fee. An impact fee shall be considered expended on a first-in, first-out basis.
- (c) An impact fee collected pursuant to this article shall also be considered expended if the total expenditures for capital improvements or facility within the service area within ten years following the date of payment exceed the total fees collected within the service area for such improvements or expansions during such period.
- (d) If a refund is due pursuant to subsections (a) and (b), the town shall divide the difference between the amount of expenditures and the amount of the fees collected by the total number of service units assumed within the service area for the period to determine the refund due per service unit. The refund to the record owner shall be calculated by multiplying the refund due per service unit by the number of service units for the development for which the fee was paid, and interest due shall be calculated upon that amount.
- (e) Upon completion of all the capital improvements or facility expansions identified in the capital improvements plan for the service area, the town shall recalculate the impact fee per service unit using the actual costs for the improvements or expansions. If the impact fee per service unit based on actual cost is less than the impact fee per service unit paid, the town shall refund the difference, if such difference exceeds the impact fee paid by more than ten percent. If the difference is less than ten percent, no refund shall be due. The refund to the record owner shall be calculated by multiplying such difference by the number of service units for the development for which the fee was paid, and interest due shall be calculated upon that amount.

Sec. 10.02.014 - Updates to plan and revision of fees.

- (a) The town shall update its land use assumptions and capital improvements plans at least every five years, commencing from the date of adoption of such plans, and shall recalculate the impact fees based thereon in accordance with the procedures set forth in V.T.C.A. Local Government Code, ch. 395 or in any successor statute.
- (b) The town may review its land use assumptions, impact fees, capital improvements plans and other factors such as market conditions more frequently than provided in subsection (a) to determine whether the land use assumptions and capital improvements plan should be updated and the impact fee recalculated accordingly, or whether any exhibits hereto should be changed.
- (c) If, at the time an update is required pursuant to subsection (a), the Town Council determines that no change to the land use assumptions, capital improvements plan or impact fee is needed, it may dispense with such update by following the procedures in V.T.C.A. Local Government Code, § 395.0575, or its successor statute.
- (d) In addition to the reviews required by this section, the town shall also conduct the reviews required by section 10.02.006.

Sec. 10.02.015 - Use of other financing mechanisms.

- (a) The town may finance capital improvements or facility expansion designated in the capital improvements plan through the issuance of bonds, through the formation of public utility districts or other assessment districts, or through any other authorized mechanism, in such manner and subject to such limitations as may be provided by law, in addition to the use of impact fees.
- (b) Except as herein otherwise provided, the assessment and collection of an impact fee shall be additional and supplemental to, and not in substitution of, any other tax, fee, charge or assessment which is lawfully imposed on and due against the property.

(Ord. No. 11-71, 11-8-11)

Sec. 10.02.016 - Impact fee as additional and supplemental regulation.

Impact fees established by this article are additional and supplemental to, and not in substitution of, any other requirements imposed by the town on the development of land or the issuance of building permits or certificates of occupancy. Such fee is intended to be consistent with and to further the policies of the town's comprehensive plan, the capital improvements plan, the zoning ordinance, subdivision regulation and other town policies, ordinances, codes and resolutions by which the town seeks to ensure the provision of adequate public facilities in conjunction with the development of land.

Sec. 10.02.017 - Relief procedures.

- (a) The property owner or applicant for a new development may appeal the following decisions to the Town Manager, or his/her designee:
  - (1) The applicability of an impact fee to the development;
  - (2) The amount of an impact fee due;
  - (3) The availability or amount of a discount against roadway impact fees; or
  - (4) The availability or amount of a refund.
- (b) All appeals shall be taken with 30 days of notice of the administrative decision from which the appeal is taken.
- (c) The burden of proof shall be on the appellant.
- (d) The decision of the Town Manager, or his/her designee, may be appealed to the Town Council by filing a notice of appeal with the development services department within 30 days of the Town Manager, or his/her designees', decision. 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 original determination of the impact fee due, the development application may be processed while the appeal is pending.
- (e) The Town Manager, or his/her designee, or the Town Council on appeal, shall review the evidence presented by the appellant and any reports by the development services department, and determine whether the impact fee regulations have been correctly applied to the availability of a discount or refund, or to the amount of an impact fee, discount or refund applied to the proposed development.

(Ord. No. 17-14, 2-28-17)

## ARTICLE 10.03. - SUBDIVISION ORDINANCE

### *Footnotes:*

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*Printed herein is the Subdivision Ordinance, as adopted by Ord. No. 17-41, on May 23, 2017, amended by Ord. No. 19-57, adopted August 27, 2019 and Ord. No. 2020-42, adopted May 12, 2020. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.*

## DIVISION 1. - GENERAL PROVISIONS

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."

Sec. 10.03.002 - 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.

Sec. 10.03.003 - 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.

Sec. 10.03.004 - 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 V.T.C.A., Local Government Code, 212 Subchapter A.
  - (1)

In accordance with V.T.C.A., Local Government Code, § 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 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 by the owner of the tract to be dedicated to public use 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 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 10.03.004(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.

(Ord. No. 2023-63, § 2, 9-26-2023)

Sec. 10.03.005 - 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.

Sec. 10.03.006 - 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.

Sec. 10.03.007 - 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 10.03.132(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 10.03.116 Security for Completion of Public Improvements.

Sec. 10.03.008 - 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 unplatting 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.

Sec. 10.03.009 - 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 10.03.090(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 200 feet of an existing or proposed wastewater line without connection to the town's facilities.
    - b. All existing septic tanks must comply with V.T.C.A., 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. Nonresidential 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 and 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.

Sec. 10.03.010 - 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, divs. 4—6.



**Figure 1: General Overview of the platting Process**

Secs. 10.03.011—10.03.030 - Reserved.

## DIVISION 2. - DEVELOPMENT REVIEW BODIES

Sec. 10.03.031 - Town Council.

(a) *Responsibilities.* Table 1 is a summary of the Town Council's responsibilities within the subdivision ordinance.

**Table 1: Town Council Responsibilities**

<u>10.03.084(j)</u> (4)b	Approving/Denying an Appeal of the Commission's Decision on a preliminary plat Extension
<u>10.03.085(o)</u> (4)b	Approving/Denying an Appeal of the Commission's Decision on a final plat Extension
<u>10.03.090(d)</u>	Approving/Denying a Plat Vacation
<u>10.03.171(j)</u>	Approving/Denying an Administrative Waiver Appeal
<u>10.03.171(c)</u> (2)	Approving/Denying a Council Waiver
<u>10.03.171(c)</u> (3)	Approving/Denying a Subdivision Proportionality Appeal

Sec. 10.03.032 - Planning and Zoning Commission.

(a) *Responsibilities.* Table 2 is a summary of the Planning and Zoning Commission's responsibilities within the subdivision ordinance.

**Table 2: Planning and Zoning Commission Responsibilities**

<u>10.03.084(f)</u>	Approving/Denying a preliminary plat
<u>10.03.084(j)</u> (4)a	Approving/Denying an Appeal of the Director of Development Services' Decision on a preliminary plat Extension
<u>10.03.085(o)</u> (4).a	Approving/Denying an Appeal of the Director of Development Services' Decision on a final plat Extension
<u>10.03.085(h)</u>	Approving/Denying a final plat
<u>10.03.086(h)</u> (1)	Approving/Denying a Deferral to the Commission of a Minor Plat Decision

<u>10.03.087(h)</u>	Approving/Denying a Replat
<u>10.03.089</u>	Approving/Denying a Conveyance Plat
<u>10.03.087(h)</u> (2)b.i	Approving/Denying a Deferral to the Commission of a Minor Replat Decision
<u>10.03.088(h)</u> (1)	Approving/Denying a Deferral to the Commission of an Amending Plat Decision
<u>10.03.171(j)</u>	Recommending an Administrative Waiver Appeal
<u>10.03.171(h)</u> (3)a	Recommending a Council Waiver

Sec. 10.03.033 - Town Manager.

(a) *Responsibilities.* Table 3 is a summary of the Town Manager's responsibilities within the subdivision ordinance.

**Table 3: Town Manager Responsibilities**

<u>10.03.150(h)</u> (8)	Refunds of Park Improvement Fees
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Sec. 10.03.034 - 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**

<u>10.03.084(e)</u>	Reviewing a preliminary plat
<u>10.03.084(j)</u>	Approving/Denying a preliminary plat Extension

<u>10.03.085(o)</u>	Approving/Denying a final plat Extension for Approved but not Filed Plats
<u>10.03.084(k)</u> (3)	Approving/Denying a Determination of Minor or Major preliminary plat Amendments
<u>10.03.085(g)</u>	Reviewing a final plat
<u>10.03.086(g)</u>	Approving/Deferring a Minor Plat
<u>10.03.087(h)</u>	Reviewing a Replat
<u>10.03.087(h)</u> (2)b	Approving/Deferring a Minor Replat
<u>10.03.088(g)</u>	Approving/Deferring an Amending Plat
<u>10.03.089</u>	Reviewing a Conveyance Plat
<u>10.03.090(c)</u>	Recommending a Plat Vacation
<u>10.03.171(c)</u> (1)	Approving/Denying an Administrative Waiver (as applicable)

(b) In the event there is not sufficient time for the Planning and Zoning Commission to approve or deny any plat based upon the filing date of such plat, the Director of Development Services may approve or deny such plat, pursuant to V.T.C.A., Local Government Code, § 212.0065, as amended. The disapproval of any plat by the Director of Development Services may be appealed to the Planning and Zoning Commission.

(Ord. No. 2023-63, § 3, 9-26-2023)

Sec. 10.03.035 - 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**

<u>10.03.111</u>	Approving/Denying construction plans
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<u>10.03.111</u>	Approving/Denying an Extension of construction plans beyond Expiration Date
<u>10.03.113</u>	Approving a Construction Release
<u>10.03.116(b)</u> (2)	Approving Escrow
<u>10.03.116(c)</u>	Approving the Estimated Cost and Security Approval
<u>10.03.171(c)</u> (1)	Approving an Administrative Waiver (as applicable)
<u>10.03.171(c)</u>	Recommending a Subdivision Proportionality Appeal

Sec. 10.03.036 - 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**

<u>10.03.112</u>	Conducting a Pre-Construction Meeting
<u>10.03.115(a)</u>	Approving Inspection of public improvements

Secs. 10.03.037—10.03.060 - Reserved.

### DIVISION 3. - APPLICATION SUBMITTAL AND PROCESSING PROCEDURES

Sec. 10.03.061 - 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 10.03.084 through 10.03.090.
- (4) Pre-application meetings do not vest a permit, application or other type of development approval, pursuant to Chapter 245, LGC.

Sec. 10.03.062 - 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 10.03.062(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 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.

- (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 V.T.C.A., Local Government Code, ch. 212, shall commence on the filing date.
- (b) *Extension of right to 30-day action.* Pursuant to V.T.C.A. Local Government Code, § 212.009(b-2), as amended, upon application in writing by the applicant, the Commission or Town Council may approve one or more extensions of right to 30-day action, each such extension not to exceed 30 additional days.

(Ord. No. 2023-63, § 4, 9-26-2023)

Sec. 10.03.064 - 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.

Sec. 10.03.065 - 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 10.03.087(c) Public Hearing and Notice Requirements or by state law, the official shall schedule the public hearing and if required by section 10.03.087(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 10.03.087(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.

Sec. 10.03.066 - 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 years. Unless otherwise expressly provided by these subdivision regulations, an approved application shall automatically expire two years following the approval date of the application (see 10.03.111(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 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.

Secs. 10.03.067—10.03.080 - Reserved.

#### DIVISION 4. - PLATTING REQUIREMENTS

Sec. 10.03.081 - 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 10.03.087 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 10.03.088 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.

Sec. 10.03.082 - Pre-application meeting.

See section 10.03.061 Pre-Application Meeting.

Sec. 10.03.083 - 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 10.03.061). 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.

Sec. 10.03.084 - 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 (10.03.084(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 [10.03.086 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 10.03.146\(j\)](#));
    - c. Preliminary utility plan ([section 10.03.142\(c\)](#)); 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 [10.03.084](#) 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 and Zoning Commission.

(f) *Action by the Planning and Zoning Commission.* 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 30 calendar days following the filing date, unless the applicant has submitted a waiver of right to 30-day action, as outlined in section 10.03.063(b) and V.T.C.A., Local Government Code § 212.009(b-2), 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 V.T.C.A., Local Government Code § 212.0091, 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 V.T.C.A., Local Government Code § 212.0093, 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 V.T.C.A., Local Government Code § 212.0095, 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 (10.03.111) and a final plat (10.03.085).
- (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 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 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 (10.03.111(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 1.03.084(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 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 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 30 calendar days following the date of the request.
  - b. Should the Director of Development Services fail to act on an extension request within 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 14 calendar days following the denial.
  - iii. The Commission shall hear and consider such an appeal within 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 14 calendar days following the denial.
  - iii. The Town Council shall hear and consider such an appeal within 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.

(Ord. No. 2023-63, § 6, 9-26-2023)

Sec. 10.03.085 - 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 (10.03.085(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 [10.03.086 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 10.03.084](#) final plat and with [section 10.03.111](#) 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 10.03.084(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 and Zoning Commission.* 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 30 calendar days following the filing date, unless the applicant submits a waiver of right to 30-day action, as outlined in 10.03.063(b) and V.T.C.A., Local Government Code § 212.009(b-2), 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 V.T.C.A. Local Government Code, § 212.0091, 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 V.T.C.A. Local Government Code, § 212.0093, 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 V.T.C.A. Local Government Code, § 212.0095, 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 10.03.084(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 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 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 (10.03.111(f) Expiration Date for Construction Plans).
- (3) *Void if not extended.* If the final plat is not extended as provided in 10.03.085(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 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 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 30 calendar days following the date of the request.
  - b. Should the Director of Development Services fail to act on an extension request within 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 14 calendar days following the denial.
- iii. The Commission shall hear and consider such an appeal within 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 14 calendar days following the denial.
  - iii. The Town Council shall hear and consider such an appeal within 30 calendar days following receipt of the appeal request by the Director of Development Services.
  - iv. The decision of the Town Council is final.

Ord. No. 2023-63, § 6, 9-26-2023)

Sec. 10.03.086 - Minor plat.

- (a) *Purpose.* The purpose of a minor plat is to simplify divisions of land under certain circumstances as outlined in V.T.C.A., Local Government Code § 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 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 tract into four 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 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.* 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 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 10.03.063(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 10.03.063(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 10.03.086(g)(3)b or 10.03.086(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 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 10.03.085\(j\) 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.

Sec. 10.03.087 - Replat.

- (a) *Purpose.* The purpose of a replat is to re-subdivide any part or all of a recorded plat.
- (b) *Applicability.*
  - (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.* Notice of a public hearing is only required for a residential replat and shall be given in accordance with [section 10.03.065 Public Hearings for Replat Applications and TLGC 212.015](#). See specific notice and hearing requirements for certain replats in [section 10.03.087\(d\)\(2\) 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 ch. 212.015, a replat without vacation of the preceding plat must conform to the requirements of this [section 10.03.087\(d\) Additional Public Hearing and Notice Requirements for Residential Replats](#) if:
    - a. During the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot; or
    - b. Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.

(2) *Notice and public hearing requirements for residential replats.* Notice of the required public hearing shall be given before the 15<sup>th</sup> 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 V.T.C.A., Local Government Code, § 212.015(c) (as amended) attached, forwarded by the town to the owners of lots that are in the original subdivision and that are within 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 10.03.171 Petition for Subdivision Waiver) and is protested in accordance with this section 10.03.087(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 20 percent of the area of the lots or land immediately adjoining the area covered by the replat application and extending 200 feet 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 10.03.087(c) Public Hearing and Notice Requirements).

(2) *Minor replat.*

- a. Pursuant to V.T.C.A., Local Government Code § 212.0065, a replat involving four 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 10.03.087 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 10.03.086 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.

Sec. 10.03.088 - 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.* 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 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 10.03.063(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 10.03.063(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 10.03.088(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 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.

Sec. 10.03.089 - 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 acres.
  - (2) *Inheritance or holding tract.* To record the subdivision of property into parcels, five 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 10.03.089](#) 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 10.03.085](#) 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.

Sec. 10.03.090 - 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 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 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.

Secs. 10.03.091—10.03.110 - Reserved.

## DIVISION 5. - CONSTRUCTION PLANS AND PROCEDURES

Sec. 10.03.111 - 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 (10.03.112); and
  - (2) Apply for construction release (10.03.113).

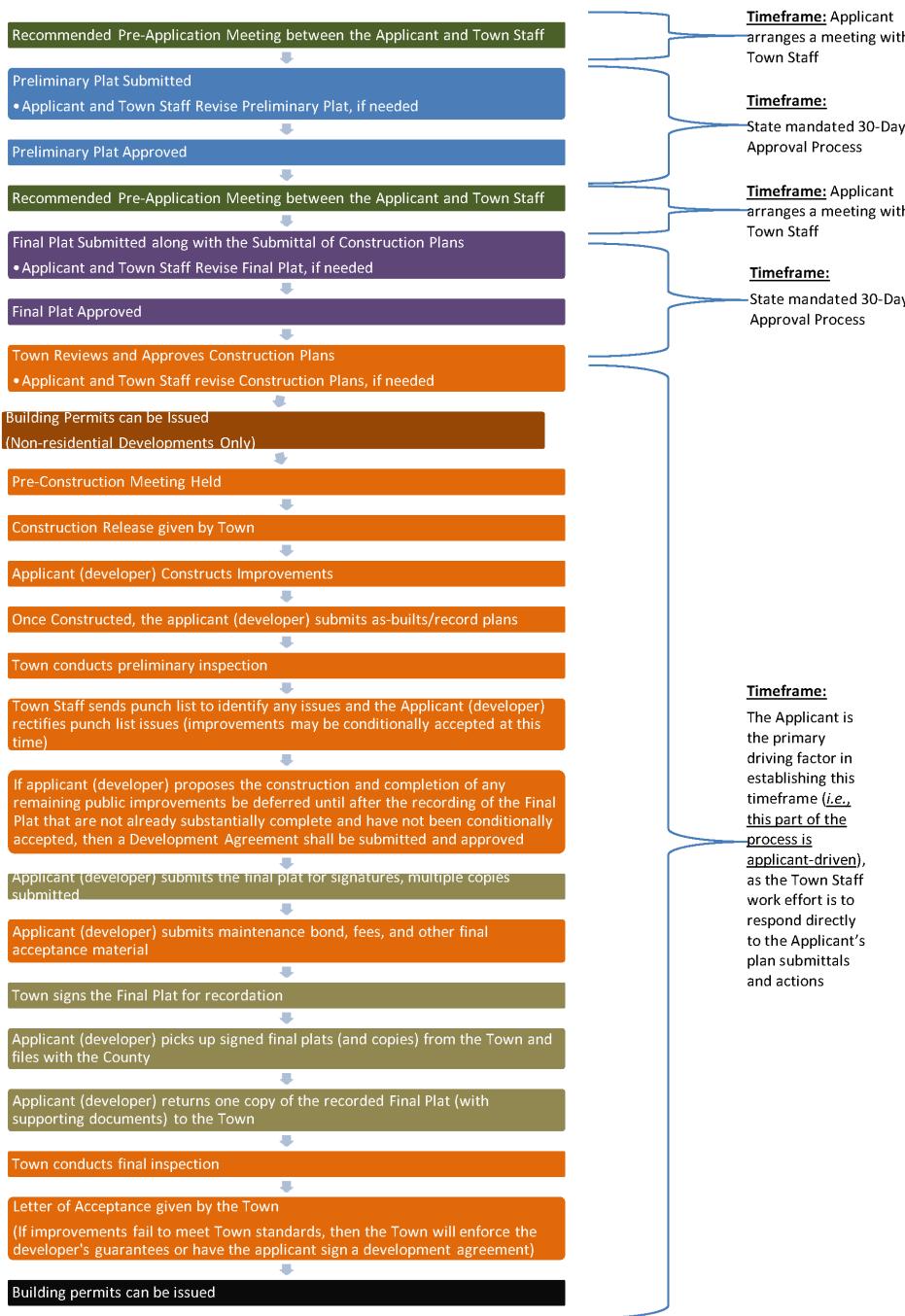


Figure 2: Detailed Overview of the platting Process

(f) *Expiration Date for construction plans.* The approval of construction plans shall remain in effect for a period of one 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 10.03.111(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 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 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 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 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 month extension may be requested using the same process outlined above.

Sec. 10.03.112 - 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.

Sec. 10.03.113 - Construction release.

- (a) *Requirements for a construction release.*
  - (1) 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.
  - (2) The construction release shall remain in effect for a period of one 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.
- (b) *Construction release expiration and extension.* Expiration, and possible extension, of the construction release shall be the same as for the construction plans (see Sections 10.03.111(f) and 10.03.111(g)).

Sec. 10.03.114 - 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 10.03.112 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 10.03.114(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.

Sec. 10.03.115 - 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 years from the date of acceptance by the town (see 10.03.115(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 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 10.03.115(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.

Sec. 10.03.116 - 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 125 percent 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).

Secs. 10.03.117—10.03.130 - Reserved.

## DIVISION 6. - SUBDIVISION DESIGN STANDARDS

Sec. 10.03.131 - 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 and 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.

Sec. 10.03.132 - 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 10.03.171 Subdivision Proportionality Appeal for Proportionality Approval Procedures.

Sec. 10.03.133 - 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 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 and 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 points of ingress and egress, except that culs-de-sac shall be permitted in conformance with section 10.03.133(g) Culs-de-Sac and Dead-End Streets (below).

- a. The Planning and 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 10.03.133(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 percent of the right-of-way necessary to bring the street into conformance with subsection 10.03.133(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 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 10.03.133(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 10.03.133(f) Street Design Criteria up to five 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 as 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 and specifications.
- (g) *Culs-de-sac and dead-end streets.*
  - (1) *Culs-de-sac.*
    - a. A cul-de-sac street shall not exceed 600 feet in length, unless approved by the Planning and 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 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 80 feet and a minimum street right-of-way diameter of at least 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 culs-de-sac in Paragraph 10.03.133(g)(1) Culs-de-sac (above) and a temporary turnaround easement meeting the dimensions listed for the right-of-way in Paragraph 10.03.133(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 and specifications.
  - b. Collector street paving shall be in conformance with the Comprehensive Plan and street design criteria as found in the design standards and specifications.
  - c. Alley paving shall be in conformance with 10.03.135 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 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 300 feet and no closer than 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 600 feet. Cul-de-sac, 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 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.

Sec. 10.03.134 - 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 or 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 24 feet.

c. If a gate design incorporates any overhead obstruction, the obstruction must be a minimum of 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 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 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 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 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 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 50 foot setback requirement and does not provide a turn-around space with a minimum outside radius of 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 percent 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.

- (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 10.03.135.
- (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.

Sec. 10.03.136 - 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 along residential streets and collector streets and six feet along thoroughfares. The width of the sidewalk shall be increased if designated as a hike and bike trail in accordance with the Parks, Recreation and Open Space Master Plan.

- (2) Sidewalks located along thoroughfares and collector streets shall be constructed to meander with a radius between 100 feet to 500 feet, 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, and 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 and 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 and 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 and one-half feet on either side.

Sec. 10.03.137 - 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 10.03.137(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 10.03.137(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.

Sec. 10.03.138 - 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.

Sec. 10.03.139 - Survey monuments and lot markers.

(a) *Permanent survey reference monuments.*

(1) Metal monuments three and one quarter inches 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 12-inch long steel rod,  $\frac{5}{8}$  inch in diameter and embedded at least 12 inches 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 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 12 inches 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.

Sec. 10.03.140 - 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 10.03.137(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.

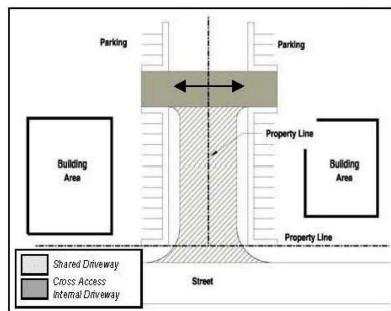


Figure 3: Example of Common Delivery (For Illustrative Purposes Only)

Sec. 10.03.141 - 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 24 inches 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.

Sec. 10.03.142 - 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 and Specifications and the requirements of V.T.C.A., Administrative Code, ch. 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 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 10.03.142 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.

Sec. 10.03.143 - 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 feet 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 V.T.C.A., Administrative Code, ch. 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 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 10.03.142(c) Preliminary Utility Plan.

Sec. 10.03.144 - 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 (¼) 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 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 feet 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 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, 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 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) Retention ponds shall be designed per design standards and specifications.

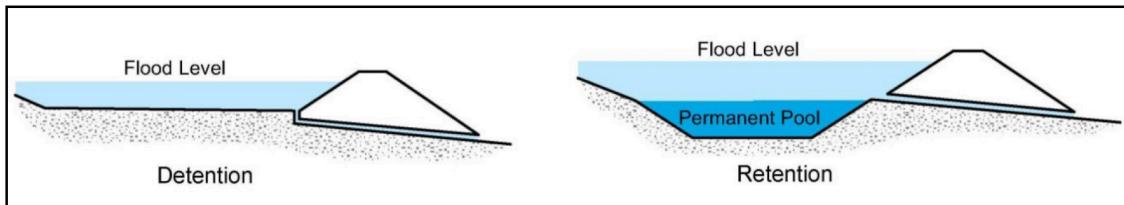


Figure 4: Detention and Retention Pond Examples

Sec. 10.03.145 - 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 24 inches 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 10.03.145(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 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.

Sec. 10.03.146 - Residential development criteria along major creeks.

(a) *Subdivision design for 60 percent of creek frontage.*

- (1) A minimum of 60 percent of the linear frontage of the base flood (100-year) plain in each preliminary plat shall be adjacent to it one 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 culs-de-sac 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 15 feet.

(b) *Subdivision design for 40 percent of creek frontage.* A maximum of 40 percent 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 25 feet;
- (2) Alternating culs-de-sac and looped streets shall be provided at intervals not to exceed 1,200 feet 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 10.03.150.

(c) *Exemptions.* Subsection 10.03.146(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 25 feet;
- (2) Any lot that sides to the base floodplain and/or access dedication shall have a minimum side yard setback of 15 feet.
- (3) Alternating culs-de-sac and looped streets shall be provided at intervals not to exceed 1,200 feet 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 10.03.150.

(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.

Sec. 10.03.147 - 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 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 of 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.

Sec. 10.03.148 - 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 60 feet.
  - (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 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 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 10.03.148(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 10.03.148(b), minimum of 25 feet in width, shall be installed by the developer of the subdivision within a landscape easement. This requirement shall be increased to 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 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 gallons at time of planting and reach a minimum height of six feet within two growing seasons and shrubs that shall be a minimum of three gallons at the time of planting and reach a minimum height of three feet within two 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 caliper inches per ten linear feet of landscape easement frontage.
    - (b) Large trees shall consist of a minimum of 33 percent of all tree plantings.
    - (c) Large trees shall be a minimum of four caliper inches at time of planting.
    - (d) The ornamental trees shall be a minimum of two caliper inches at time of planting.
    - (e) A single species of tree shall not exceed 45 percent of the plantings.
    - (f) Large trees shall be spaced a minimum of 25 feet from each other.
    - (g) Ornamental trees shall be spaced a minimum of twelve and one-half feet 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 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 and a maximum height of eight feet, with masonry columns spaced between 75 feet and 100 feet, 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.
  - 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 16 gauge pickets and 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 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 25 feet from the ornamental metal fence.

(5) *Irrigation requirements.* An automatic, underground irrigation system shall provide 100 percent 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.

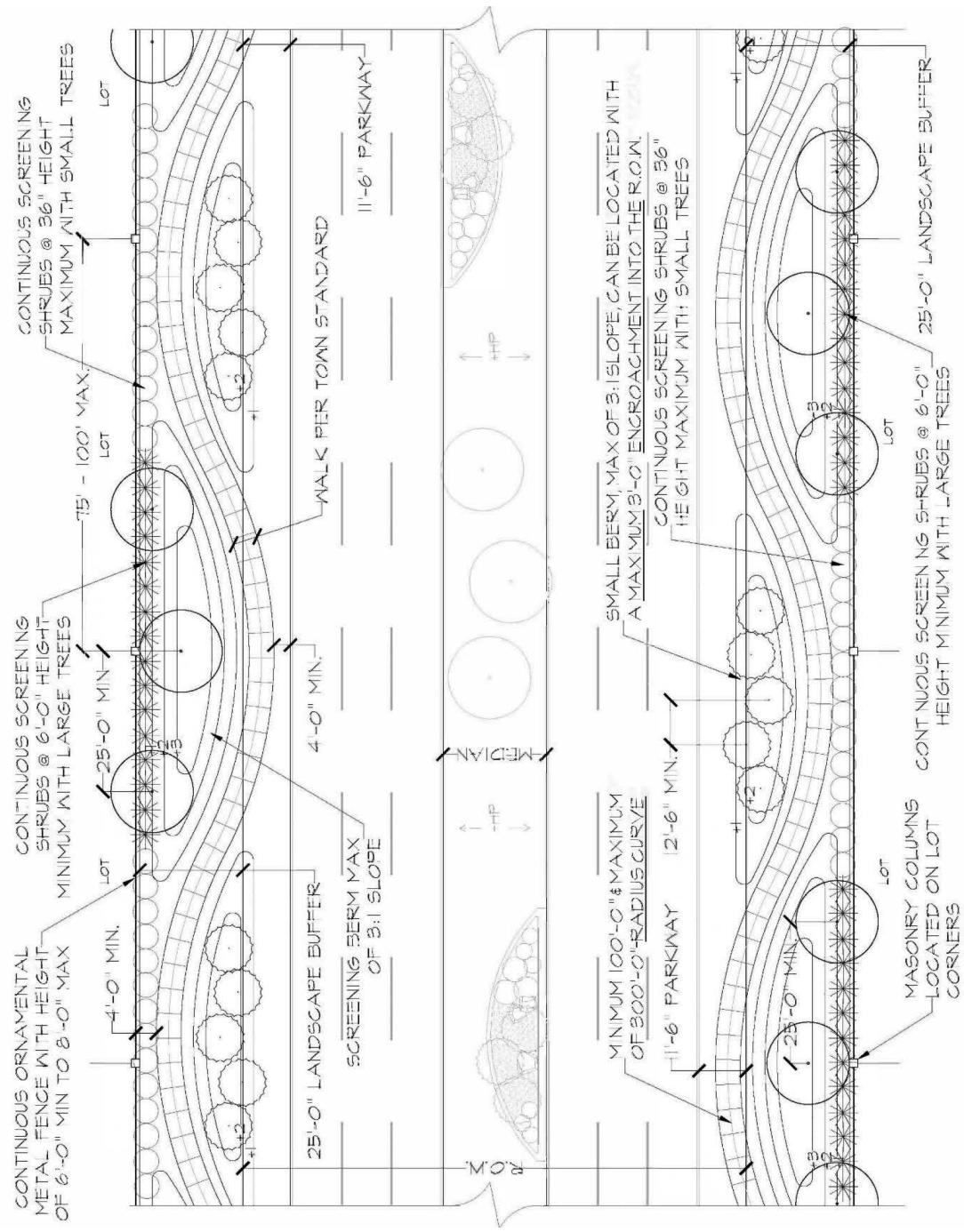


Figure 5: Thoroughfare Screening and Landscape Buffer Design

Sec. 10.03.149 - 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.

Sec. 10.03.150 - 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 10.03.150(d) shall not apply to major creeks as set forth in section 10.03.145 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.

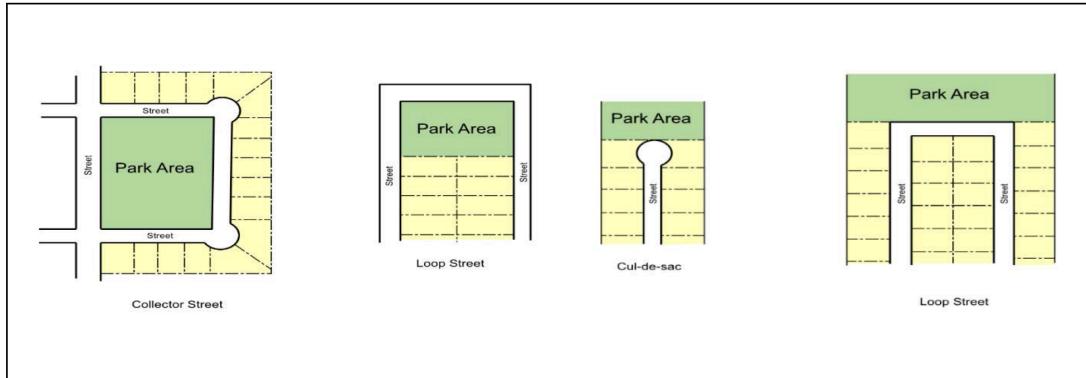


Figure 6: Park Design

- 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 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 20 foot level surface shall be provided for all public hike and bike trails. The 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 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, 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 acre of land per 35 residential units, or an amount proportionally equal to five percent 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 100 percent 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 acres for a neighborhood park or less than 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 10.03.150(g).1.b.i or 10.03.150(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 10.03.150 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 10.03.150.
  - 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 10.03.150.

(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 10.03.150(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 10.03.150(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 \$1,500.00 per unit, and a park fee for multifamily dwelling units in the amount of \$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 and

Recreation Board. All improvements in public parks and open spaces shall be consistent with the design criteria and objectives of the Parks, Recreation and 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 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.

Sec. 10.03.151 - 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, internet 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 nonresidential 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.

Fiber optic network conduit and fiber optic cable. All residential and multiple-family subdivisions must make best efforts to install fiber optic capability before receiving a certificate of occupancy. In addition, the developer must inform the town of the provider chosen to serve the development and specify both the overall speed (minimum 1GB) and the speed to each individual house or unit.

(Ord. No. 2021-65, § 2, 11-9-2021)

Secs. 10.03.152—10.03.170 - Reserved.

## DIVISION 7. - SUBDIVISION RELIEF PROCEDURES

Sec. 10.03.171 - 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 division 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 and Zoning Commission and Town Council approval and is not listed in Table 7.
- (c) *Decision-maker.*
  - (1) *Administrative waiver.*

Table 7: Administrative Waiver

Section	Standard
<u>10.03.137(d)</u>	Right Angles for Side Lot Lines
<u>10.03.137(i)</u>	Waiver to the Minimum Lot Size
<u>10.03.138(e)</u>	Waiver to the Minimum Block Size
<u>10.03.133(d)(2)</u>	Street right-of-way Dedication

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 div. 6 of the subdivision ordinance, as amended; however, in no event shall the Town Manager waive any provision of section 10.03.149, "Homeowners' Property Owners' Associations," section 10.03.150, "Park Land Designs, Dedications, and Fees," and section 10.03.151, "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.
- (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 10.03.063(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 (10.03.171) 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 (10.03.171(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 10.03.063(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 10.03.171(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 and Zoning Commission.
      - i.

The Commission shall consider the council waiver petition at a public meeting no later than 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 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 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 30 calendar days following the denial decision.

(2) *Recommendation of the Planning and Zoning Commission.*

- a. The Commission shall consider the appeal at a public meeting no later than 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 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.

Sec. 10.03.172 - 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 V.T.C.A., Local Government Code, ch. 395 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 10.03.171 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 10.03.171 Subdivision Proportionality Appeal shall not be used to waive standards on grounds applicable to any subdivision waiver application, as outlined in 10.03.171 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 14 calendar days following the decision on the related application.
- b. The study in support of the petition shall be filed within 60 calendar days following the initial decision, unless the applicant (petitioner for relief) seeks an extension in writing within such 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 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 10.03.171 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 60 calendar days after the study supporting the petition (refer to section 10.03.171(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 10.03.171(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 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 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 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.

Sec. 10.03.173 - Subdivision vested rights petition.

Petitions (requests) to develop under previous regulations will be processed according to town's adopted vesting policy and pursuant to V.T.C.A. Local Government Code, ch. 245 or successor statute.

## DIVISION 8. - DEFINITIONS

### Sec. 10.03.191 - 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.

### Sec. 10.03.192 - 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.

*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 10.03.088 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.
- c. For purposes of plat approval, approval shall also include approval with conditions, pursuant to V.T.C.A., Local Government Code, § 212.009, as amended.

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

*Base flood.* The flood having a one 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 and Specifications for detailed standards.)

*Commission.* The Planning and 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 or more sides by the building.

*Crosswalk way.* A public right-of-way, four 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 and 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 V.T.C.A. Local Government

Code, ch. 42, 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 date.* The filing date of a preliminary plat, replat or final plat shall be considered the date an applicant submits said plat, along with a completed application and applicable fees, and other requirements prescribed by or under V.T.C.A., Local Government Code § 212.004, as amended.

*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 side of the street, or between two 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 and 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 lots that meets the submission and approval requirements of section 10.03.086 Minor Plat. Such a plat is also considered a final plat.

*Minor replat.* Pursuant to V.T.C.A., Local Government Code § 212.0065, a minor replat is a replat involving four 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 10.03.087(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.

*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 and Zoning Commission.* The Planning and Zoning Commission of the town. Also referred to as the "Commission."

*Plat.* 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.

*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, though, and from the development see 10.03.144(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 10.03.084 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 10.03.142(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 10.03.087 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 10.03.171 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 and 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 and Zoning Commission and Town Council approval.
- b. See section 10.03.171 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 10.03.171 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.

(Ord. No. 2023-63, § 5, 9-26-2023)