Article 3: Subdivision Regulations

301 Administration

A. Purpose

It is the purpose of this section to provide for the safe, efficient, and orderly development of the City, and the provision of adequate streets, utilities, services, and facilities, all in accordance with the Comprehensive Plan for the City.

B. Authority and Jurisdiction

1. These subdivision regulations are adopted under the authority of Texas Local Government Code Chapter 212, which chapter is hereby made a part of these regulations.
2. The Director of Planning shall be responsible for interpreting and administering this Article, unless otherwise stated herein.
3. The Director may waive or adjust any of the submittal requirements prior to formal application submittal if such requirements are unnecessary to demonstrate satisfaction of the applicable review criteria.
4. In accordance with Texas Local Government Code §212.0065, the City Council delegates authority to the Director of Planning to approve, approve with conditions, or disapprove a plat submitted to the city. The Director of Planning may, for any reason, elect to present the plat to the municipal authority for action.

C. Applicability

These provisions shall be applicable to any property within the corporate limits of the City and the extraterritorial jurisdiction (ETJ) where the owner or proprietor desires to subdivide the land into two or more parts.

1. **Plat or Replat Required**
   A plat or replat must be submitted:
   - **a.** Prior to subdividing any tract of land into two or more parts any resulting part of which is five acres or less in size;
   - **b.** Prior to subdividing any tract of land into two or more parts that are greater than five acres in size and any of which resulting parts are without access;
   - **c.** Prior to connecting to or commencing any construction activity associated with any public utility or roadway;
   - **d.** Prior to the construction of any streets, utilities, drainage, public improvements, or any related roadway or other public improvements within or adjacent to any tract of land, unless otherwise authorized by the Director of Engineering;
   - **e.** Prior to the City issuing a permit for the construction any building or structure on any tract of land; or
   - **f.** When building additions, alterations, or repairs on a property that is not platted exceed 50 percent of the value of an existing building or structure on that property within any 12-month period.
2. **Exemption**
   From and after September 5, 2017, a plat or replat otherwise required by Section 301C.1 shall not be required prior to the constructing, repair, renovating, or remodeling of one existing or new single-family residential dwelling unit, private utility service lines, or any accessory residential structures, such as a barn, residential storage shed, arbor, gazebo, or swimming pool on a single, undivided tract of land in the ETJ that is not being conveyed or created from a larger tract.
3. **Zoning Required**
   If property located within the City is not zoned, permanent zoning shall be obtained prior to filing a plat for recordation.

Exhibit "A"

D. Plat Expiration

1. Plat Expiration Exceptions

a. Approvals for all plats or plans of any kind or nature for properties for which a development agreement, annexation agreement, or facilities agreement has been approved and executed by the City prior to September 8, 2014, shall be valid indefinitely.

b. If the executed development agreement, annexation agreement, or facilities agreement regarding the subject property is terminated, voided for any reason, or otherwise expires, the approvals for affected plats and plans of any kind and nature shall be subject to the expiration timeline described in the specific subdivision application procedure.

c. The approval expirations contained in these subdivision approval procedures shall not apply to plats or plans approved prior to September 8, 2014. Approval expirations that existed within Chapter 142 of the Code of Ordinances before September 8, 2014, shall apply to any plats or plans approved before September 8, 2014.

2. Plat Expiration Extensions

a. The Planning and Zoning Commission may grant one expiration extension of up to 1 year for good cause shown by the applicant.

b. All requests for extensions shall be submitted in writing to the Director of Planning at least 30 days prior to the expiration of approval.

c. An extension request shall include:

I. A narrative stating the reasons for the applicant's inability to comply with the specified deadlines;

II. A narrative describing any changes in the character of the neighborhood, the Comprehensive Plan, or this Code that have occurred since approval of the permit or plan, and how any such changes affect the permit or plan; and

III. The anticipated time schedule for completing the approved project.

d. Additional review of the permit, plat, or plan may result in additional conditions, as applicable and to the extent allowed by state law.

3. Modification or Amendment of Approval

Unless otherwise provided in this Code, any substantial modification of an approved plat shall require a new application to be submitted and reviewed in accordance with all procedures and requirements applicable to that particular type of application at the time the new application is submitted.

E. Improvements Required

1. Generally

a. With the exception of conveyance plats, public improvements shall be constructed, at the sole cost of the developer, including all required testing and studies, to, upon, and across the subject property being platted and through to any adjacent properties, as deemed necessary by the Director of Engineering to facilitate the orderly development of the area. These improvements shall satisfy the requirements of the following:

I. The Comprehensive Plan;

II. Master Thoroughfare Plan;

III. The Hike and Bike Trails Master Plan;

IV. The Water Distribution System Master Plan;

V. The Wastewater Collection System Master Plan;

VI. The Engineering Design Manual; and

VII. Other requirements as deemed necessary by the Director of Engineering.

b. No property shall be subdivided or phased in a manner that circumvents the design, acquisition, and construction of any required public improvements, and/or public right-of-way or easement dedications, unless otherwise stated herein, or approved by agreement with the City.

c. The construction of improvements specified in this Article may be deferred, delayed, or waived, or the City may choose to share in the costs for such improvements in certain circumstances, with the approval of a facilities agreement as specified in §302A, *Facilities Agreement.*

2. Acceptance of Public Improvements

Following completion and final inspection of public improvements, the developer shall provide the City with a statement or affidavit specifying the value of street, drainage, and other general fixed assets and the value of water, sewerage, and other utility assets being dedicated to the City together with a "bills paid" affidavit form and a maintenance bond acceptable to the City. The Director of Engineering shall accept such improvements in writing and thereafter make such payments, if any, to the developer as specified in the facilities agreement, if applicable.

3. Acceptance of Residential Screening and Buffering Improvements

a. A certificate of acceptance shall be required for all screening required by Article 2 of this Code and for all buffering required by this Article for specific residential lots prior to filing of a plat with the County Clerk. Upon completion of construction of the required screening and buffering improvements, the developer shall request an inspection of said improvements from the Director of Planning. If the required screening and buffering is installed per the approved screening and buffering plan, the Director of Planning shall issue a certificate of acceptance.

b. Exception: Where installation of landscaping is required to occur during a stage 3 or stage 4 drought situation as determined by the City and subject to approval by the Director of Planning, the developer may provide the city with a letter of credit or some other financial assurance deemed acceptable to the Director of Planning that is equal to the cost of installing the landscaping, plus 20 percent, which will remain in effect until the screening and buffering improvements are installed and accepted by the city. Once stage 3 or stage 4 restrictions are lifted, the required landscaping must be installed within 6 months, or the development shall be deemed to be in violation of this section and no additional permits, certificates of completion, or certificates of occupancy will be issued.

4. Maintenance Bond

The subdivider shall furnish a maintenance bond in the amount of 15 percent of the contract price of all public improvements, or in such amount as approved by the Director of Engineering, with a reputable and solvent corporate surety in favor of the City to indemnify the City against any repairs which may become necessary to any part of the construction of public improvements in connection with the subdivision, arising from defective workmanship or materials, for a period of two full years from the date of final acceptance of the improvements. Final acceptance will be withheld until the required maintenance bond is furnished to the City.

5. Final Acceptance

Upon satisfactory completion of the required improvements, the Director of Engineering shall issue a release of covenants to the property owner.

F. Engineering and Construction Standards

1. The Director of Engineering is authorized and directed to apply and enforce all standards found in the Engineering Design Manual, Master Thoroughfare Plan, Stormwater Design Manual, Stream Bank Stabilization Manual, Standard Details, Construction Specifications, North Texas Council of Governments (NCTCOG) Public Works Standards and other rules and regulations adopted by the City (collectively "Requirements") to the design and construction of public improvements in the City and in the ETJ.

2. The adoption and amendment of such standards shall be carried out in accordance with 212.0021 of the Texas Local Government Code.

Exhibit "A"

302 Special Provisions

A. Facilities Agreement

1. A property owner may request to enter into an agreement with the City, which shall govern the property included within a plat, if the property owner is seeking:
   a. Pro rata reimbursements;
   b. City participation in cost;
   c. The escrowing of funds in lieu of constructing improvements;
   d. If all improvements required to be dedicated to the city will not be completed prior to filing the plat; or
   e. Other nonstandard development regulations or terms.
2. The Director of Engineering, at their sole discretion, may determine if all improvements required to be dedicated to the City are unable to be constructed and accepted prior to filing a plat.
3. The City may participate with the property owner or developer on major items of construction such as lift stations, bridges, streets adjacent to the subdivision, or oversized utilities, which benefit existing or future development in addition to the current subdivision.
4. This agreement shall be based upon the requirements of this Article and shall provide the City with specific authority to complete the improvements required in the agreement in the event of default by the developer, and to recover the full completion cost of any deferred improvements plus all related administrative and legal costs of such measures. The City may subordinate its facilities agreement to the prime lender if provided for in said agreement.
5. The facilities agreement shall be a legally binding agreement between the City and the property owner that runs with the land, specifying the individual and joint responsibilities of both the City and the property owner. Unusual circumstances relating to the development of land shall be considered in the facilities agreements such that the purpose of this Article is best served for each development. The property owner shall include in such an agreement a hold harmless and indemnity clause agreeing to hold the City harmless against any claim arising out of the development of the property or any actions taken therein. The property owner shall also provide a performance bond, irrevocable letter of credit, or cash deposit in an amount equal to 120 percent of the cost to complete any improvements deferred by the facilities agreement. The facilities agreement shall be accompanied by either or both of the following documents, as approved by the City:
   a. A signed and sealed opinion of probable cost prepared a Texas-licensed Professional Engineer; or
   b. A fully executed construction contract for the construction of the improvements being deferred together with a conditional assignment of the completed contract to the City.
6. The City Council delegates to the City Manager the ability to approve standard facilities agreements. In the event of a non-standard agreement or a disagreement between the property owner and City staff concerning stipulations of the facilities agreement, the City Council shall review the stipulations and make recommendations regarding the non-standard agreement or resolving the disagreement.
7. The City shall impose an application fee for the preparation of a facilities agreement as well as any subsequent release of the facilities agreement that may be requested. The amount of the application fee shall be an amount as specified in Appendix A – Schedule of Fees of the Code of Ordinances which may be amended from time to time by ordinance.
8. The property owner shall have a continuing responsibility under this facilities agreement until all required improvements, per the terms of the agreement, have been completed. When the construction of required improvements has proceeded to the point that certain parts of the development are adequately served, the property owner may request that the Director of Engineering release specified portions of the development for use prior to the completion of all improvements, unless the release of such improvements will jeopardize or hinder the continued construction of required improvements.

9. A fee for filing facilities agreements and any releases for recordation with the County is also required and shall be paid by the property owner. The amount of this fee is determined by Collin County and may be amended from time to time.
10. A copy of the executed facilities agreement shall be kept on file with the City Secretary, subsequent to filing the facilities agreement with the County Clerk.

B. Permits

1. Permits Required

a. Within the city limits, a permit shall be obtained from the City before commencing any construction or development activity on a property.

b. In the ETJ, a permit shall be required prior to commencing any construction activity associated with any public improvements.

c. A facilities agreement, if required as described in §302A, shall be approved by the City prior to issuance of a development permit. The executed facilities agreement shall be filed in the records of the County by the City.

d. All public improvements required by this Article must be installed and accepted prior to filing a plat for recordation, unless otherwise specified in an approved facilities agreement or waived by approval of a Variance.

2. Expiration

All permits shall expire two years after issuance, or two years after application if no permit has been issued, unless continuous progress towards completion of the project is demonstrated or another expiration timeline is specifically referenced herein. If construction has not been completed within the allotted two years, another permit shall be required, and the required fees associated with the permit type shall be paid. If this provision conflicts with an expiration provision contained in another City code or ordinance, the more restrictive provision shall apply.

C. Pro Rata Payment

1. The developer shall be fully responsible for the construction of public improvements necessary for the development and the surrounding area. Provisions for reimbursement of costs required by the City but exceeding those necessary to serve the development shall be made a part of a facilities agreement. For any subsequent subdivision utilizing such public improvements, any costs due to the original developer(s) shall be prorated by the use the new subdivision bears to the amount due.
2. All such reimbursements or prorations due to the original developer(s) shall be based on the actual cost of the improvements at the time of their construction, subject to comparison with other current unit and/or project costs. The original developer shall provide the City with acceptable documentation of actual construction costs. Collection of funds shall be for a maximum 10-year period after final acceptance of the improvements. Where no actual cost exists, the fee noted in the Appendix A – Schedule of Fees of the Code of Ordinances shall apply.
3. In the case that the subdivision shall utilize utilities already constructed through the use of city funds or developer funds, the developer shall pay to the city/developer for the use of such facilities an amount equal to that amount which would be required to serve the subdivision under the requirements of this Article.
4. Any rebates or other payments to the developer by the City for the cost of oversized improvements or off-site improvements required as a part of the subdivision or development and necessary for the adequate and efficient development of surrounding areas of the city, shall be paid only from monies received by the City from the subdividing or development of surrounding areas and such rebates or payments shall not be made unless and until such moneys are received by the City.
5. The adjacent owner shall pay 100 percent of the costs incurred by the original developer(s) to acquire an easement from the adjacent owner. All pro rata payments levied are a personal liability and charge against the real and true owners of the premises described, notwithstanding such owners may not be named, or may be incorrectly named.

D. Floodplains and Other Natural Areas

1. Prior to issuing a permit within or adjacent to a flood prone area, a flood study shall be submitted to and approved by the Director of Engineering in accordance with §805, *Floodplain Regulations*.
2. All lands remaining within the 100-year floodplain shall be dedicated as an easement.
3. Any required no-build areas within residential subdivisions shall be contained within an easement and designated as a common area in accordance with §302G, *Common Areas and Homeowners'/Property Owners' Associations*.
4. A homeowners' or property owners' association shall be established and responsible for the supervision, maintenance, and restoration any no-build areas that are included in the plat of the parent tract, including any no-build areas contained in a common area or on a buildable lot, and shall be conveyed as follows:
   a. The ownership of any common areas containing no-build areas shall be conveyed to the property owners' or homeowners' association in fee simple; and
   b. An irrevocable perpetual easement of any no-build area included in and proposed as a part of an otherwise buildable lot on a plat shall be conveyed to the homeowners' or property owners' association.
5. Floodplain and no-build areas shall adhere to the same requirements for platting, phasing, deferral, delay, and other modifications of improvements as specified in §301E, *Improvements Required.*

E. Additional Studies or Technical Analyses

It is generally understood and accepted that additional studies or analyses may be necessary prior to the consideration of a plat or permit, as determined by the Director of Engineering. This may include, but not be limited to, flood studies, drainage analyses, utility analyses, and traffic impact analyses, the results of which may have significant impacts regarding the feasibility or final layout of the plat or permit. When required with a preliminary plat submittal, such studies must be reviewed by the Director of Engineering and considered substantially complete prior to approval of the preliminary plat. Prior to the approval of all other plats and permits, such studies shall be reviewed and approved by the Director of Engineering.

F. Finding of Proportionality

Any payment of fees or construction costs or required easement, dedication, or reservation of land included on any plat application required by this section shall meet the requirements of Texas Local Government Code §212.904.

G. Common Areas and Homeowners'/Property Owners' Associations

1. If common areas are to be a part of a plat, the common areas shall be shown on the plat along with an adequate form for dedication thereof. This dedication form shall accomplish the following purposes:
   a. Save the title to common area property or properties for the benefit of the homeowners' association ("HOA") within residential developments, or the property owners' association ("POA") in non-residential developments;
   b. Express a definite undertaking by the developer to convey the common area property or properties to the HOA/POA; and
   c. Tie the covenants and HOA/POA use provisions to the plat so that collection of fees and denying use is legally supportable.
2. The HOA/POA's restrictive covenants, bylaws, and articles of incorporation shall:
   a. Require the continuous ownership, maintenance, and control of the common area(s) by a responsible body, in perpetuity, for the benefit of the homeowners or property owners without using public funds;
   b. Require that membership in the HOA/POA shall run with the title to each lot and shall not be voluntary;

c. Require that HOA/POA's primary source of operating funds is a periodic assessment levied against each parcel of land within the development under recorded covenants, which shall be incorporated into each deed, and which shall run with the land to bind each and every owner of it and which are enforceable as a lien against the land;

d. Include a provision that if the HOA/POA defaults, the City shall have the rights of the association to either file a lien on the property within the development or assess homeowners or property owners within the development; and

e. Be submitted to the Planning Department for approval before recording along with the associated plat, and be recorded as a part thereof.

3. Prior to recording a plat with the County Clerk that creates a common area and before the City accepts any public improvements associated with the plat, the developer shall:

a. Include sufficient language on the plat to require the perpetual ownership and maintenance of the common area(s) by the HOA/POA, including any landscaping, walls, irrigation, or other improvements, or otherwise establish ownership and maintenance through an associated facilities agreement or restrictive covenants in favor of the City;

b. Create an incorporated nonprofit HOA/POA with bylaws reflecting the requirements in §302G.2; and

c. Record covenants that automatically make every lot owner a mandatory member of the association, give the property owner the right to use the common area(s), and establish their voting rights and their obligations to pay assessments.

4. In approving the documents referenced in §302G.3, the City shall determine that the proper legal position is ensured and that the proposed HOA/POA will function properly both during and after the time in which the developer is active in the development. The City may require the association to provide on-going reporting of budgetary actions, financial reports, and collection activity on homeowners' or property owners' assessments. Should the funding of the common area(s) maintenance not support the level of maintenance required by applicable ordinance, the City may require additional security for the provision of such maintenance.

Exhibit "A"

303 Submittal Procedures

A. Authority to Submit Application

Unless expressly stated otherwise herein, an application for a permit, plat, or plan established by this Article shall be submitted by:

1. The property owner on whose land development is proposed as evidenced by the most recent municipal or county tax roll or recorded deed;
2. A person authorized to submit an application on behalf of the owner, as evidenced by a letter or document signed by the owner or other person; or
3. If there are multiple owners authorized to submit the application, all such persons shall sign separate applications or provide a letter or document consenting to the application.

B. Submittal Requirements

1. Application Filing Date

The filing date of a plat submittal ("plat application") is the date on which a full and complete application is received by the City in accordance with the procedures and requirements prescribed herein, including any supporting documents and information required of this Article and the associated payment of all application fees.

2. Submittal Requirements

Submittal requirements for each plat or plan type are specified in the following sections of this Article.

3. Payment of Application Fees

All application fees as outlined in Appendix A – Schedule of Fees of the Code of Ordinances must be paid at the time of plat, permit, or plan submittal.

4. Incomplete Applications

Submitted applications that do not include the required documents, information prescribed herein, or the payment of associated application fees shall be returned to the applicant without any further action by the City. The fact that a City employee reviewed an application to determine whether it can be considered complete shall not be binding on the City as the official acceptance of the application for filing, nor shall it vest any rights under the Texas Local Government Code, Chapter 245.

5. Right to Refile Application

If an application is deemed incomplete and returned to the applicant, the applicant may submit a new application on the next submittal day.

6. Vested Rights

No vested rights accrue solely from the filing of an application that is incomplete or has expired pursuant to this section, or from the filing of a full and complete application that is subsequently denied.

C. Plat Review and Approval

1. Procedures Governing the Review and Approval of Plats

Once a full and complete plat application has been filed with the City, City staff will begin a technical review of the plat application, and shall approve, approve with conditions, or disapprove the plat application in accordance with the procedures prescribed in Texas Local Government Code Chapter 212 and the authority delegated to staff by the City Council.

2. Approval, Conditional Approval, Disapproval or Denial

a. The Director of Planning shall have the authority to approve, approve with conditions, or disapprove an application in accordance with the requirements and procedures described herein and in TLGC §212.009, 212.0091, 212.0093, and 212.0095.

b. Any conditions of approval or reasons for disapproval shall be listed in or attached to the action letter document, as required by TLGC §212.0091.

c. If an application is approved with conditions or disapproved, the applicant may submit a response to the Director of Planning in accordance with TLGC §212.0093.

d. Pursuant to TLGC §212.0065, an applicant has the right to appeal the decision of the Director of Planning to disapprove a plat in accordance with §306A, *Appeals*.

e. Pursuant to TLGC §212.0095, an applicant has the right to appeal the decision of the Director of Planning to disapprove an applicant's response to a disapproval in accordance with §306A, *Appeals*.

D. Application Withdrawal

1. Application Withdrawal

a. After an application has been deemed filed with the City, the applicant may withdraw the application at any time by submitting a letter of withdrawal to the Director of Planning.

b. An applicant is not entitled to a refund of application fees for withdrawn applications; however, the Director of Planning may refund fees if the review has not yet started.

c. If a plat, plan, or other development application is received for a property which is subject to a previous approval, the previous plat, plan, or other development application approval shall be deemed withdrawn without the need for a withdrawal letter and any previous approvals shall become null and void.

304 Subdivision Regulations Amendments

Under the provisions of Texas Local Government Code Chapter 212, the City Council may from time to time after a public hearing amend, supplement, or change by ordinance the rules and regulations contained herein.

Exhibit "A"

305 Platting

A. Preliminary Plat

1. Applicability

A preliminary plat is required if the proposed development or subdivision is to occur in phases or for any single-family, duplex, triplex, or quadplex residences when located on land that has not yet been platted for development and when it:

a. Includes more than 4 lots; or

b. Includes lots without frontage on an existing street; or

c. Requires the creation of a new street; or

d. Requires the extension of municipal facilities.

2. Submittal Requirements

a. Submittals shall be processed in accordance with the procedures described in §303, *Submittal Procedures*.

b. An application for review and approval of a preliminary plat shall include the following:

I. Application;

II. Payment of submittal fees (see Appendix A – Schedule of Fees);

III. The preliminary plat;

IV. Preliminary utility plans;

V. Preliminary drainage plans;

VI. Setback exhibit (required for single-family developments only); and

VII. Off-site parking exhibit for single-family developments (as needed).

c. In instances of residential development within the City limits, a Tree Preservation Plan is required to be submitted with the plat application, in accordance with the specifications described in §404C, *Development Permit Process.*

d. In instances of non-residential and multi-family residential development within the City limits, a preliminary plat may not be submitted prior to the approval of an associated Site Plan in accordance with the provisions of §203E.1, *Site Plan.*

3. Preliminary Plat Requirements

The preliminary plat shall include the following information:

a. Drawn at a scale of 20 feet to 1 inch to 100 feet to 1 inch on a page size of 24x36 inches.

b. An exhibit showing the entire proposed subdivision layout on a single page, with match lines and page numbers shown, will be required if a multiple page preliminary plat is submitted;

c. Existing features on the property and within 200 feet of the property's perimeter including:

I. Location, widths, names and filing information of all existing or platted streets, alleys, rights-of-way, easements, railroad rights-of-way, and other important features such as creeks, and abstract lines;

II. Existing easements, including but not limited to sanitary sewer easements, water easements, storm sewer and drainage easements, utility easements, and erosion hazard setback easements; and

III. Property lines and names of adjacent subdivisions, parcels, and filing information or ownership information (distinguished from within the property/subdivision by a lighter line weight)

d. New features inside the subdivision, including:

I. The boundary line, accurate in scale, of the tract to be subdivided, with accurate distances and bearings and accurate acreage indicated;

II. One copy of the traverse closure sheet shall accompany the plat;

III. The layout, designations, names, widths, and accurate dimensions of any and all proposed rights-of-way and easements;

IV. The layout, lot numbers, blocks and approximate dimensions of proposed lots and blocks;

V. For all lots located wholly or partially within or immediately adjacent to a flood prone area, a designation of the minimum finished floor elevation allowed as defined by Article 8: Stormwater Management;

VI. A series of connected mutual access easements, fire lane easements, and pedestrian access easements must be shown for any lot(s) being created that does not have direct access to a public street by frontage on such street from the proposed lot(s) to a public street(s). It is understood that the final alignment of all easements may not be known at the time of preliminary platting. As such, any easements shown on a proposed preliminary plat may be revised as necessary on a subsequent associated final plat so long as adequate access and utilities are provided to the proposed lot(s), subject to the review and approval of the Director of Engineering and the Fire Marshal; and

VII. The layout and designation of all parcels of land intended to be dedicated or reserved for public use, or reserved in the deeds for the use of all property owners in the proposed subdivision (common areas), or reservations for other uses, together with the purpose or conditions and limitations of such reservations and/or dedications, if any.

e. The length of all arcs, radii, internal angles, points of curvature, length and bearing of the tangents. This data shall be provided on a table keyed to the curves on the plat;

f. A location map of the proposed subdivision indicating major roadways or platted streets within 1,000 feet of the proposed subdivision.

g. North indicator and scale;

h. Title information including the following:

I. The proposed name of the subdivision with section or sequencing designation, as appropriate, followed by the lot(s) and block(s);

II. Acreage of the proposed subdivision;

III. The names and addresses of the owner, developer and land planner, engineer, and/or surveyor, as appropriate;

IV. The tract designation, abstract and other description according to the real estate records of the city or county; and

V. The total number of lots, and designation and amounts of land of the proposed uses within the subdivision.

i. State plane coordinates tied to two points on the plat boundary;

j. Owner's certificate with metes and bounds description;

k. Approval certificate with a signature block and date for the approving presiding officer and attesting signatory.

I. The presiding officer identified on the certificate shall be determined as indicated below:

a. For plats requiring administrative staff approval, the City Manager shall be the presiding officer and the City Secretary shall be the attesting signatory.

b. For plats requiring Planning and Zoning Commission approval, the chairman of the commission shall be the presiding officer. However, if the vice-chair presides over a meeting where a plat is approved, the vice-chair shall be authorized to serve as the presiding officer. The Planning and Zoning Commission secretary shall be the attesting signatory.

c. For plats requiring City Council approval, the mayor, or mayor pro-tem in the mayor's absence, shall be the presiding officer and the City Secretary shall be the attesting signatory.

l. Additional Notes, including:

I. PRELIMINARY PLAT FOR REVIEW PURPOSES ONLY; and

II. For lots in the corporate limits, “All proposed lots situated in whole or in part within the city's corporate limits comply with the minimum size requirements of the governing zoning district and the requirements of the subdivision ordinance.”; or

III. For lots in the Extraterritorial Jurisdiction, “All proposed lots situated entirely outside the city's corporate limits and within the city's extraterritorial jurisdiction comply with the requirements of the subdivision ordinance or associated development agreement.”

m. For single-family, duplex, triplex, and quadplex residential subdivisions:

I. A separate plan (“setback exhibit”) at the same scale as the plat showing the proposed layout, lot numbers, setback lines, and any existing or proposed easements or rights-of-way.

II. A table of all lots’ sizes.

4. Preliminary Utility and Drainage Plan Requirements:

The preliminary utility and drainage plans shall include the following information:

a. A plan showing existing topography with contour lines of five feet, or less, with the proposed lot layout shown, and topographic cross-sections where an Erosion Hazard Setback Easement is required;

b. A plan of the proposed water and sanitary sewer lines and related facilities, including preliminary profiles where utility lines are anticipated to be greater than ten feet in depth;

c. A plan showing the proposed drainage facilities including drainage areas, stormwater detention areas, preliminary estimated runoff calculations, points of concentration, and the location of proposed lines, inlets, culverts, and bridges;

5. Standards for Approval

Preliminary plats shall be considered for approval by the Director of Planning based on the following approval criteria:

a. The proposed plat complies with applicable dimensional and development standards in this Code;

b. The proposed plat does not affect a recorded easement without approval from the easement holder;

c. The proposed plat provides a layout of lots, roads, utilities, drainage, and other public facilities and services that aligns with the requirements in the Engineering Design Manual;

d. The proposed plat provides evidence of adequate public facilities to serve the proposed development; and

e. The proposed plat does not remove or attempt to remove recorded covenants or restrictions.

6. Effect of Approval

Approval of the preliminary plat shall in no way constitute final acceptance or approval of the development. A preliminary plat is not recorded. The Director of Planning shall maintain the approved preliminary plat.

7. Approval Expiration

a. When a preliminary plat has been approved, a final plat for all or a part of the area shall be submitted within 180 days; otherwise, the approval of the preliminary plat shall terminate and shall be void. However, prior to the expiration of such approval, the time for filing of the application for the final plat may be extended at the written request of the property owner. The first filing extension (not to exceed 90 days) shall be granted by the Director of Planning. Any further requests for extensions shall be considered by the Planning and Zoning Commission in accordance with §301D.2, *Plat Expiration Extension.*

b. If a final plat for any portion of the area shown on the preliminary plat has been filed for record with the County Clerk, the preliminary plat's approval shall remain valid indefinitely.

c. In no plat is filed, the preliminary plat’s approval shall remain valid for as long as the development agreement, annexation agreement, or facilities agreement remains binding or in effect.

Exhibit "A"

B. Final Plat

1. Applicability

A final plat is required if the proposed development or subdivision is located on land that has not yet been platted for development and:

a. Includes more than 4 lots; or

b. Includes lots without frontage on an existing street; or

c. Requires the creation of a new street; or

d. Requires the extension of municipal facilities.

2. Submittal Requirements

a. Final plat submittals shall be processed in accordance with §303, *Submittal Procedures*.

b. An application for review and approval of a final plat shall include the following:

I. Application;

II. Payment of submittal fees (see Appendix A – Schedule of Fees);

III. The final plat;

IV. Setback Exhibit (for single-family residential developments); and

V. Off-site parking exhibit for single-family developments (as needed);

c. In instances of non-residential and multi-family residential development within the City limits, a final plat may not be submitted prior to the approval of an associated Site Plan in accordance with the provisions of §203E.1, *Site Plan.*

d. Civil engineering plans associated with a development permit shall be approved prior to the submittal of a final plat.

3. Final Plat Requirements

a. The final plat shall be drawn on sheets measuring 24x36 inches, and shall be at a scale of 100 feet to the inch or as determined by the Director of Planning.

b. An exhibit showing the entire proposed subdivision layout on a single page will be required if a multiple page final plat is submitted; and

c. All features and necessary data to locate and reproduce the final plat on the ground must be shown on the final plat, including:

I. The boundary line, accurate in scale, of the tract to be subdivided, with accurate distances, bearings, and acreage indicated;

II. One copy of the traverse closure sheet shall accompany the plat;

III. Bearings and distances to the nearest established street lines, official monuments, or subdivision corner, which shall be found and accurately described on the final plat. Abstract lines and municipal and school district boundaries shall be shown;

IV. An accurate location of the subdivision in reference to the deed records of the County which shall include the volume and page of the deed of the property to be subdivided (or the full complete County Clerk's Document Number);

V. Immediately adjacent properties, including lot and street layouts, and the county filing information. Features situated outside the subdivision shall be appropriately distinguished from features situated within the subdivision;

VI. The layout, width, and names of all street and/or alley rights-of-way with the bearings and distances between points of curvature;

VII. The length of all arcs, radii, internal angles, points of curvature, length and bearing of the tangents. This data shall be provided on a table keyed to the curves on the final plat;

VIII. The location, width, and description of all easements for right-of-way provided for public services, utilities or fire lanes and any limitations on use of the easements;

IX. All lot lines with accurate dimensions in feet and hundredths and with bearings and angles to street and alley lines to the nearest second;

X. For all lots located wholly or partially within or immediately adjacent to a flood prone area, a designation of the minimum finished floor elevation allowed as defined by Article 8: Stormwater Management;

XI. A continuous and sequential lettering and/or numbering of blocks and lots within the subdivision;

XII. A layout and designation to the nearest hundredth of an acre of all parcels of land that are to be dedicated or reserved for public use, or reserved in the deeds for the use of all property owners in the proposed subdivision (common areas), or reservations for other uses, together with the purpose and conditions or limitations of such reservations and/or dedications, if any;

XIII. The accurate location, material, and approximate size of all monuments and benchmarks;

XIV. The official monuments shall be tied at two points into the plane coordinates for the Lambert Conformal Conic Projection for Texas, North Central Zone. Reference may be made to Special Publication, No. 252, Plane Coordinate Projection Tables for Texas, published and printed by United States Department of Commerce, Coast and Geodetic Survey. State plane coordinates tied to two points on the plat boundary shall be shown on the plat; and

d. For single-family, duplex, triplex, and quadplex residential subdivisions:

I. A separate plan (known as a “setback exhibit”) at the same scale as the plat showing the proposed layout, lot numbers, setback lines, any existing or proposed easements and rights-of-way.

II. A table of all lots' sizes.

e. A location map of the proposed subdivision indicating major roadways or platted streets within 1,000 feet of the proposed subdivision shall be included.

f. North indicator and scale;

g. The following title information shall be included:

I. The proposed name of the subdivision with section or sequencing designation, as appropriate, followed by the lot(s) and block(s);

II. The previous plat information, when applicable;

III. Acreage of the proposed subdivision;

IV. The names and addresses of the owner, developer and land planner, engineer, and/or surveyor responsible for actual design of the subdivision.

V. The tract designation, abstract and other description according to the real estate records of the city or county; and

VI. The total number of lots, and designation and amounts of land of the proposed uses within the subdivision.

h. The following certificates shall be included:

I. Certification by a public surveyor registered in the state, that the plat represents a survey made by him or under their direct supervision, and that all the monuments shown thereon actually exist, and that their location, size and material are correctly shown;

II. A certificate of ownership and dedication, on a form approved by the director of planning, of all streets, alleys, parks, open spaces and public ways to public use forever, signed and acknowledged before a notary public by the owner and any and all lienholders of the land, and a complete and accurate description of the land subdivided and dedications made;

III. Approval certificate.

a. The following certificate shall be placed on the plat in a manner that will allow the completion of the certificate by the proper party:

Approved _____ Presiding Officer City of McKinney, Texas _____ Date

Attest _____ City Secretary or Board/Commission Secretary _____ Date

b. The presiding officer identified on the certificate shall be determined as indicated below:
   i. For plats requiring administrative staff approval, the City Manager shall be the presiding officer and the City Secretary shall be the attesting signatory.
   ii. For plats requiring Planning and Zoning Commission approval, the chairman of the commission shall be the presiding officer. However, if the vice-chair presides over a meeting where a plat is approved, the vice-chair shall be authorized to serve as the presiding officer. The Planning and Zoning Commission secretary shall be the attesting signatory.
   iii. For plats requiring City Council approval, the mayor, or mayor pro-tem in the mayor's absence, shall be the presiding officer and the City Secretary shall be the attesting signatory.

IV. The Applicant shall place the following notation on each page of a final plat:
   a. For lots in the City limits: “All proposed lots situated in whole or in part within the City's corporate limits comply with the minimum size requirements of the governing zoning district and the requirements of the subdivision ordinance.”; or
   b. For lots in the ETJ: “All proposed lots situated entirely outside the City's corporate limits and within the City's extraterritorial jurisdiction comply with the requirements of the subdivision ordinance or associated development agreement.”

V. If applicable, a tree planting plan for any neighborhoods utilizing street trees for the required lot trees.

4. Standards for Approval

Final plats shall be considered for approval by the Directo of Planningbased on the following approval criteria:

a. The proposed plat complies with applicable dimensional and development standards in this Code;

b. The proposed plat does not affect a recorded easement without approval from the easement holder;

c. The proposed plat provides a layout of lots, roads, utilities, drainage, and other public facilities and services that aligns with the requirements in the Engineering Design Manual;

d. The proposed plat provides evidence of adequate public facilities to serve the proposed development;

e. The proposed plat does not remove or attempt to remove recorded covenants or restrictions;

f. The proposed final plat is consistent with the approved preliminary plat, if a preliminary plat was required, including any conditions of approval; and

g. The proposed final plat complies with the approved development permit.

5. Approval Expiration

a. The approval of a final plat shall remain in effect for five years following the date of approval except that the plat's approval shall remain valid indefinitely as long as consistent progress toward the filing of the final plat is demonstrated. If after the 5-year approval time period, progress toward the filing of the final plat has not been shown for a period of at least 180 days, the plat's approval shall immediately terminate and become void.

b. If the final plat expires and no other final plat has been submitted or filed on the same preliminary plat, the preliminary plat of the property shall also expire concurrently with the expiration of the final plat.

c. An extension of the approval expiration may be granted pursuant to §301D.2, *Plat Expiration Extension.*

6. Recording

a. The final plat shall be filed for recordation with the County Clerk by the City after the following have been completed:

I. All conditions of approval are satisfied;

II. All public improvements in subdivisions, unless otherwise described by a facilities agreement, have been accepted; and

III. An original certificate, signed by the county tax assessor-collector, stating that all taxes and assessments then due and payable on the land contained within the subdivision have been paid.

b. The final plat applicant shall be responsible for paying all applicable fees associated with filing a plat for recordation.

C. Minor Plat

1. Applicability

A minor plat is required for any development or subdivision of land that has not yet been platted for development that**:**

a. Involves four or fewer lots;

b. All such lots front onto an existing street;

c. Does not require the dedication of public right-of-way or other public improvements; and

d. Does not require the creation of any new street or the extension of municipal facilities.

2. Submittal Requirements

a. Submittals shall be processed in accordance with §303, *Submittal Procedures.*

b. An application for review and approval of a minor plat shall include the following:

I. Application;

II. Payment of submittal fees (see Appendix A – Schedule of Fees);

III. The minor plat;

IV. Tree Preservation Plan, as described in §404C, *Development Permit Process*;

V. Setback Exhibit (for residential lots);

VI. Screening and buffering plans (for residential lots); and

VII. Any supporting documents deemed necessary or as otherwise required by the Director of Planning.

c. In instances of non-residential and multi-family residential development with the city limits, a minor plat may not be submitted prior to the approval of a Site Plan in accordance with the provisions of §203E.1, Site Plan.

d. Civil engineering plans associated with a development permit, if necessary, shall be approved prior to the submittal of a minor plat.

3. Minor Plat Requirements

The requirements for a minor plat shall be the same as a final plat, found in §305B.3, *Final Plat Requirements.*

4. Standards for Approval

Minor Plats shall be considered for approval by the Director of Planning based on the following approval criteria:

a. The proposed plat complies with applicable dimensional and development standards in this Code;

b. The proposed plat does not affect a recorded easement without approval from the easement holder; and

c. The proposed plat provides a layout of lots, roads, utilities, drainage, and other public facilities and services that aligns with the requirements of the Engineering Design Manual;

d. The proposed plat provides evidence of adequate public facilities to serve the proposed development;

e. The proposed plat does not remove or attempt to remove recorded covenants or restrictions; and

f. The proposed plat complies with the approved development permit, if a development permit is required.

5. Approval Expiration

a. The approval of a minor plat shall remain in effect for five years following the date of approval except that the plat's approval shall remain valid indefinitely as long as consistent progress toward the filing of the minor plat is demonstrated. If after the 5-year approval time period, progress toward the filing of the minor plat has not been shown for a period of at least 180 days, the plat's approval shall immediately terminate and become void.

b. An extension of the approval expiration may be granted pursuant to §301D.2, *Plat Expiration Extension.*

6. Recording

a. The minor plat shall be filed for recordation with the County Clerk by the City after the following have been completed:

I. All conditions of approval are satisfied;

II. All public improvements in subdivisions, unless otherwise described by a facilities agreement, have been accepted; and

III. An original certificate, signed by the county tax assessor-collector, stating that all taxes and assessments then due and payable on the land contained within the subdivision have been paid.

b. The minor plat applicant shall be responsible for paying all applicable fees associated with filing a plat for recordation.

D. Replat

1. Applicability

a. A replat is required to subdivide all or part of an existing platted development or subdivision.

b. A replat may be recorded and supersede the prior plat without vacating that plat if the replat:

I. Is signed and acknowledged by the owners of the property being replatted;

II. Is approved in accordance with Chapter 212 of the Texas Local Government Code; and

III. Does not attempt to amend or remove any covenants or restrictions.

2. Submittal Requirements

a. Submittals shall be processed in accordance with §303, *Submittal Procedures.*

b. An application for review and approval of a replat shall include the following:

I. Application;

II. Payment of submittal fees (see Appendix A – Schedule of Fees);

III. The replat;

IV. Tree Preservation Plan;

V. Setback Exhibit (for single-family residential developments); and

VI. Screening and buffering plans (for residential lots).

c. Civil engineering plans associated with a development permit, if necessary, shall be approved prior to the submittal of a replat.

3. Replat Requirements

The requirements for a replat shall be the same as a final plat, found in§305B.3, *Final Plat Requirements.*

4. Standards for Approval

Replats shall be considered for approval based on the following approval criteria:

a. The proposed plat complies with applicable dimensional and development standards in this Code;

b. The proposed plat does not affect a recorded easement without approval from the easement holder; and

c. The proposed plat provides a layout of lots, roads, utilities, drainage, and other public facilities and services that aligns with the requirements in the Engineering Design Manual;

d. The proposed plat provides evidence of adequate public facilities to serve the proposed development;

e. The proposed plat does not remove or attempt to remove recorded covenants or restrictions; and

f. The proposed plat complies with the approved development permit, if a development permit is required.

5. Approval Procedure for Certain Plats

In accordance with TLGC §212.015, the following approval procedures shall apply to replats:

a. Residential Replats without a Variance

If a proposed replat includes residentially zoned or deed-restricted property as specified in TLGC §212.015, notice of the replat approval shall be provided to each lot owner of record within 200 feet of the lots replatted no later than the 15th day after the date the replat is approved.

b. Residential Replats with a Variance

I. Pursuant to Chapter 212 of the Texas Local Government Code, a proposed replat requires a Variance shall not be considered for action by the Planning and Zoning Commission or City Council until a public hearing has been held in accordance with TLGC §212.015 and notice of the public hearing is given before the 15th day before the date of the hearing by:

   a. Publication in an official newspaper of general circulation in the county in which the municipality is located; and

   b. By written notice, with a copy of subsection (II) attached, forwarded to the owners of lots that are in the original subdivision and that are within 200 feet of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision with the ETJ the most recently approved county tax roll of the property 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 city.

II. Proposed replats may be protested and shall be approved pursuant to TLGC §212.015.

If a proposed replat for residentially zoned or deed-restricted property as specified in TLGC §212.015 does not require a Variance or Special Exception and is approved by the Director of Planning, City Council, or Planning and Zoning Commission, notice of the replat approval shall be provided to each lot owner of record within 200 feet of the lots replatted no later than the 15th day after the date the replat is approved.

6. Approval Expiration

a. The approval of a replat shall remain in effect for five years following the date of approval except that the plat's approval shall remain valid indefinitely as long as consistent progress toward the filing of the replat is demonstrated. If after the 5-year approval time period, progress toward the filing of the replat has not been shown for a period of at least 180 days, the replat's approval shall immediately terminate and become void.

b. An extension of the approval expiration may be granted pursuant to §301D.2, *Plat Expiration Extension.*

7. Recording

a. The replat shall be filed for recordation with the County Clerk by the City after the following have been completed:

I. All conditions of approval are satisfied; and

II. All public improvements in subdivisions, unless otherwise described by a facilities agreement, have been accepted;

III. An original certificate, signed by the county tax assessor-collector, stating that all taxes and assessments then due and payable on the land contained within the subdivision have been paid.

b. The replat applicant shall be responsible for paying all applicable fees associated with filing a plat for recordation.

E. Amending Plat

1. Applicability

An amending plat may be used as a means to correct minor errors or make minor adjustments to an existing, filed plat solely for one or more purposes prescribed in Texas Local Government Code §212.016and:

a. Does not attempt to amend or remove any covenants or restrictions; and

b. Civil engineering plans associated with a development permit, if necessary, shall be approved prior to the submittal of an amending plat.

2. Submittal Requirements

a. Submittals shall be processed in accordance with §303, *Submittal Procedures.*

b. An application for review and approval of an amending plat shall include the following:

I. Application;

II. Payment of submittal fees (see Appendix A – Schedule of Fees)

III. The amending plat; and

IV. Setback Exhibit (for single-family residential developments).

3. Amending Plat Requirements

The requirements for an amending plat shall be the same as a final plat, found in §305B.3, *Final Plat Requirements,* plus the following additional items:

a. A purpose statement shall be provided on the proposed amending plat that includes a brief synopsis of the reason for the proposed plat.

4. Approval Procedure

a. Amending plats shall be considered for approval by the Director of Planning based on the following approval criteria:

I. The proposed plat complies with applicable dimensional and development standards in this Code;

II. The proposed plat does not affect a recorded easement without approval from the easement holder;

III. The proposed plat provides evidence of adequate public facilities to serve the proposed development; and

IV. The proposed plat does not remove or attempt to remove recorded covenants or restrictions.

5. Approval Expiration

a. The approval of an amending plat shall remain in effect for five years following the date of approval except that the plat's approval shall remain valid indefinitely as long as consistent progress toward the filing of the amending plat is demonstrated. If after the five-year approval time period, progress toward the filing of the amending plat has not been shown for a period of at least 180 days, the plat's approval shall immediately terminate and become void.

b. An extension of the approval expiration may be granted pursuant to §301D.2, *Plat Expiration Extension.*

6. Recording

a. The amending plat shall be filed for recordation with the County Clerk by the City after all conditions of approval are satisfied.

I. An original certificate, signed by the county tax assessor-collector, stating that all taxes and assessments then due and payable on the land contained within the subdivision have been paid.

b. The amending plat applicant shall be responsible for paying all applicable fees associated with filing a plat for recordation.

F. Conveyance Plat

1. Purpose

The purpose of a conveyance plat is to subdivide land and to provide for the recordation of the same, for the purpose of conveying the property to another owner without developing it. A conveyance plat may be used to sell the property or interests in the property, but a conveyance plat does not constitute approval of any type of development on the property. A conveyance plat is merely a map of the subject property approved by the City for the purpose of sale or conveyance by the owner thereof to another party. A conveyance plat is not the first step in the development of a project as it does not provide any detail regarding a project. The submission and approval of a conveyance plat does not vest any rights in the property, or "freeze" the rules, laws, statutes, ordinances, or regulations applicable to the development and subdivision of land.

2. Applicability

A conveyance plat may be used in lieu of a final plat or minor plat to record the subdivision of property within the City or its ETJ, if each parcel of the subdivision:

a. Has direct access to all required public improvements (water, sanitary sewer, storm sewer) via dedicated easements or direct adjacency to existing infrastructure;

b. Has access to an existing public right-of-way via frontage on that right-of-way or via the dedication of necessary access easements; and

c. No portion of the parcel is smaller than 50 feet wide.

3. Submittal Requirements

a. Submittals shall be processed in accordance with §303, *Submittal Procedures.*

b. An application for review and approval of a conveyance plat shall include the following:

I. Application;

II. Payment of submittal fees (see Appendix A – Schedule of Fees); and

III. The conveyance plat.

4. Conveyance Plat Requirements

The requirements for a conveyance plat shall be the same as a final plat, found in §305B.3, *Final Plat Requirements,* and the following additional items:

a. All conveyance plats shall include the following notation:

I. CONVEYANCE PLAT ONLY: NOT FOR DEVELOPMENT;

II. A conveyance plat is a map of property approved by the city for the purpose of sale or conveyance in its entirety or interests thereon defined. Lots created by a conveyance plat may not have all necessary public utilities available for immediate use. No certificate of occupancy shall be issued nor permanent public utility service provided to any lot(s) created by a conveyance plat until all required public improvements have been constructed and accepted and a final plat is filed for record with the county clerk. Selling a portion of property by metes and bounds, except as shown on an approved, filed and accepted conveyance plat, final plat, minor plat or replat is a violation of the city's Code of Ordinances and State Law.

b. If a parcel is to be created adjacent to a right-of-way shown on the city's master thoroughfare plan or another existing roadway with insufficient right-of-way based on its classification type, the appropriate amount of right-of-way based on its roadway classification, as defined by the engineering design manual, shall be dedicated to the city via the proposed conveyance plat.

c. If a parcel is to be created adjacent to a hike and bike trail, water line, sewer line, drainage area, or some other public infrastructure as shown by the comprehensive plan, easements of adequate size to accommodate said infrastructure shall be dedicated to the city via the proposed conveyance plat.

d. A conveyance plat is not the first step in the development of a project as it does not provide any detail regarding a project. As such the submission and approval of a conveyance plat does not vest any rights in the property.

e. No permits for development shall be issued for land that has platted under this section. A permit for public infrastructure only may be issued for land that has only been platted under this section.

5. Approval Procedure

a. Conveyance plats shall be considered for approval by the Director of Planning based on the following:

I. The proposed plat complies with applicable dimensional and development standards in this Code;

II. The proposed plat does not affect a recorded easement without approval from the easement holder;

III. The proposed plat provides evidence of adequate public facilities to serve the proposed development; and

IV. The proposed plat does not remove or attempt to remove recorded covenants or restrictions.

6. Effect of Approval

a. A conveyance plat may be superseded by a revised conveyance plat or a preliminary plat, final plat, minor plat, or replat, in total or in part, through compliance with the procedures and requirements of this Code.

b. No permits for development shall be issued nor permanent utility service provided for land that has only been platted via the conveyance plat process. A preliminary plat, final plat, minor plat, or replat must be approved subsequent to the filing of a conveyance plat prior to the issuance of permits for development.

7. Approval Expiration

a. The approval of a conveyance plat shall be valid for two years from the date of approval. If the conveyance plat has not been filed for record within the allotted two-year time period, the conveyance plat approval shall terminate and become void. However, the validity of a conveyance plat approval may be extended once for a period not to exceed an additional 180 days, subject to the approval of the Director of Planning.

b. An extension of the approval expiration may be granted pursuant to §301D.2, *Plat Expiration Extension.*

8. Recording

a. The conveyance plat shall be filed for recordation with the County Clerk by the City after all conditions of approval are satisfied.

I. An original certificate, signed by the county tax assessor-collector, stating that all taxes and assessments then due and payable on the land contained within the subdivision have been paid.

b. The conveyance plat applicant shall be responsible for paying all applicable fees associated with filing a plat for recordation.

G. Vacating Plat

1. Applicability

The property owner of the tract covered by a plat may vacate the plat pursuant to TLGC §212.013, as amended. If dedicated by an instrument other than a plat, then the applicant shall follow the procedure established in Charter, Article XIII: Public Improvements.

Exhibit "A"

2. Submittal Requirements

a. Submittals shall be processed in accordance with §303, *Submittal Procedures.*

b. An application for review and approval of a vacating plat shall include the following:

I. Application;

II. Payment of submittal fees (see Appendix A – Schedule of Fees); and

III. The vacating instrument, plat, letter, or exhibit.

3. Approval Procedure

a. The vacation of a plat or portion thereof shall be approved in the same manner defined for the original plat, including any public meeting, hearing, and notices, pursuant to Chapter 212 of the Texas Local Government Code, which includes action by the Planning and Zoning Commission or City Council.

b. The applicant may appeal the decision of the Planning and Zoning Commission to disapprove the applicant's response under TLGC §212.0093 in accordance with §306A, *Appeals.*

4. Recording

a. The vacating plat shall be filed for recordation with the County Clerk by the City after all conditions of approval are satisfied.

b. The vacating plat applicant shall be responsible for paying all applicable fees associated with filing a plat for recordation.

5. Effect of the Recorded Vacating Plat

a. On the execution and recording of the vacating instrument, the previously filed plat shall have no effect. Regardless of the Planning and Zoning Commission's or City Council's action on the petition, the property owner(s) will have no right to a refund of any monies, fees, or charges paid to the City nor to the return of any property or consideration dedicated or delivered to the City except as may have previously been agreed to by the City Council.

b. 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.

c. The Planning or Zoning Commission or City Council, at its discretion, shall have the right to retain all or specific portions of road rights-of-way or easements shown on the plat being considered for vacation. However, the Planning and Zoning Commission or City Council shall consider plat vacation upon satisfactory conveyance of easements and/or rights-of-way in a separate legal document using forms provided by the City Attorney's office.

Exhibit "A"

306 Flexibility and Relief Procedures

A. Appeals

1. Appeals shall be made in accordance with applicable state law and in accordance with this Article.
2. The property owner or applicant of a tract of land under consideration who is aggrieved by the disapproval of a plat under Texas Local Government Code §212.0095 for which Staff is the decision maker, may appeal such disapproval to the City Council within 21 days of the denial.
   a. All requests for appeals must be made in writing, identify the specific basis for the appeal, and be submitted to the Director of Planning.
   b. The Director of Planning shall prepare a report and place the project on the agenda for consideration by the City Council.
   c. Any appeal to City Council under this provision shall not be considered a filing under Texas Local Government Code chapter 212, and thus shall not require City Council action within 30 days or 15 days, respectively.

B. Variance

1. Suspension of any of these rules and regulations may be granted by the City Council or, in the circumstances described in provision 2. below, the Planning and Zoning Commission upon a good and sufficient showing by the owner that:
   a. There are special circumstances or conditions affecting the property in question; or
   b. Enforcement of the provisions of this Article will deprive the applicant of a substantial property right, and
   c. Such suspension, if granted, will not be materially detrimental to the public welfare or injurious to other property or property rights in the vicinity.
2. If the suspension of any of the rules and regulations of this Article is sought, the Variance request will usually and primarily be considered by the City Council. In the event, however, that a City Council meeting will not occur within the timelines required pursuant to Texas Local Government Code chapter 212, the Director of Planning shall have the authority to send the Variance request to the Planning and Zoning Commission for its approval or disapproval.
3. Each and every application for Variance shall be decided solely and entirely on its own merits; and the disposition of any prior or pending application for Variance shall not be allowed to enter into or affect any decision on the application in question.
4. Pecuniary interests standing alone shall not be justification for the granting of a Variance.

Exhibit "A"

307 Design Standards

A. Lots and Blocks

1. Minimum Lot Dimensions

a. Lot dimensions shall be determined by the appropriate zoning classification, in addition to any requirements contained in this Article.

b. Minimum usable lot depths for lots backing on natural drainage areas and any associated easements shall not be less than 80 feet measured between front lot property line and the limits of the area or easement.

2. Lot Shape

Lots shall be rectangular insofar as is practical. Sharp angles between lot lines shall be avoided. The ratio of depth to width shall not ordinarily exceed 2.5 to 1.

3. Lot Frontage

a. All lots shall have frontage on an existing or proposed public street, unless the lot is part of an approved private street development, in which case lots may front on an existing or proposed private street. Non-residential lots may provide access to an existing or proposed street via a series of mutual access easements connecting lots with no street frontage to a public street.

b. Wherever feasible, each lot shall face the front of a similar lot across the street. In general, an arrangement placing facing lots at right angles to each other shall be avoided.

c. Single-family, duplex, triplex, or quadplex residential lots shall not front and back to a street. Single-family residential lots may front to a street and back to an alley or back to another lot.

4. Block Length

The maximum block length for residential use shall be in accordance with the Engineering Design Manual.

5. Lot Numbering and Block Lettering

a. All lots are to be numbered consecutively within each block on a plat.

b. Blocks are to be lettered consecutively within the overall plat and shall be a new block when separated by a street.

B. Easements and Rights-of-Way

1. Applicability

Where necessary to provide for the purposes of maintenance, construction, access, or other service requirements in the city and the ETJ, easements and rights-of-way shall be provided for public and franchise utilities and any other improvements as deemed required by the City.

2. Size

Easements and rights-of-way for public improvements required by this Article shall be provided as specified by the Engineering Design Manual. Easements for franchise utilities shall be provided as specified by the individual utility company. All utility easements intended for the shared use of franchised utilities shall not be less than 10 feet in width unless located adjacent to a right-of-way.

3. Fire Lane Easements

a. Where adequate access for firefighting purposes may not otherwise be provided, easements for fire lanes shall be required in accordance with the City's currently adopted fire code, and as deemed necessary by the Fire Marshal.

b. Fire lane easements shall be maintained by the property owner, shall be marked as such on the ground, and shall be kept free and clear at all times.

C. Improvements

1. Franchise Utilities

Franchise utilities shall be provided for each lot. Franchise utilities include electrical, telephone, television, internet, and other wire carrier type utilities.

2. Hike and Bike Trails

Hike and bike trails shall be provided as referenced in the Parks Master Plan and the Engineering Design Manual.

3. Streets, Alleys, Sidewalks, and Lighting

Streets, alleys, sidewalks, and lighting shall be provided as referenced in the Engineering Design Manual. These improvements shall be provided to and through the property being subdivided, including in locations along the perimeter of the property line. Street connections shall also be provided to adjacent tracts in all cardinal directions.

4. Storm Sewer and Storm Drainage Facilities

Storm sewer and storm drainage facilities shall be provided as referenced in the Engineering Design Manual and as specified in Article 8: *Stormwater Management.* Storm sewer and storm drainage facilities shall be provided to and through the property being subdivided, including in locations along the perimeter of the property line.

5. Sanitary Sewers

a. Sanitary sewer systems shall be provided as referenced in the Engineering Design Manual and the Wastewater Collection System Master Plan. Sanitary sewer systems shall be provided to and through the property being subdivided, including in locations along the perimeter of the property line.

b. On-site sewerage facilities (OSSF, more commonly known as septic systems) shall only be allowed on lots of 1.5 acres or larger, if there is no feasible way to provide a sanitary sewer system to the property, and if approved by the Director of Engineering. In no case shall the net developable area of the lot (the total area less any easements) be less than 1 acre. A review must be conducted by the OSSF permitting authority prior to the filing of a plat where an OSSF has been approved.

6. Water

a. Water systems shall be provided as referenced in the Engineering Design Manual and the Water Distribution Master Plan. Water systems shall be provided to and through the property being subdivided, including in locations along the perimeter of the property line.

b. Water wells shall not be used for domestic water service. Water wells may be used for large irrigation systems if approved by the Director of Engineering and registered with the applicable groundwater conservation district.

7. Median Landscaping

Landscaping improvements shall be installed within the medians of all proposed or planned or divided roadways within the city limits as shown on the Master Thoroughfare Plan.

a. Only developments abutting or adjacent to a divided roadway which is owned and maintained by the City, as identified in the Master Thoroughfare Plan, shall be subject to this section.

b. The developer shall be fully responsible for the construction and installation of the required landscaping and maintenance of the improvements for a period of 1 year.

c. Landscape, irrigation, and construction plans shall be subject to review and approval by the Director of Engineering. The location of landscaping shall conform to the Engineering Design Manual and shall be placed to accommodate the ultimate number of traffic lanes. The minimum number of trees required in the median shall be calculated as follows:

I. One canopy tree, minimum of 12 feet tall with a 4-inch caliper trunk, shall be provided for 50 linear feet of median.

II. One ornamental tree, minimum of 8 feet tall with a minimum 2-inch caliper trunk, shall be provided for every 100 feet of median.

III. Trees may be clustered together to facilitate design and to accommodate future road widening.

IV. Irrigation in accordance with City specifications is required for new landscape plantings.

d. The developer may pay a fee in lieu of construction:

I. In the event that the Director of Parks and Recreation determines that construction of improvements is impractical, the developer shall pay a fee in lieu of construction, as specified in Appendix A – Schedule of Fees.

II. The fee in lieu of construction shall be collected once from each frontage.

III. The Director of Parks and Recreation may allow the developer to install landscaping across the full width of the median and be reimbursed by the City for the landscaping provided for the additional frontage at the per linear foot of frontage rate or the actual cost of the improvements, whichever amount is less, if funds are available.

IV. The collected fee in lieu of construction shall be applied to construction, reconstruction, upgrading, and installation of medians of divided roadways within the adjacent roadway benefits area (see §902, *Definitions*) pertaining to roadway impact fees. Any fees not expended within 10 years of collection shall be returned to the developer or subdivider that deposited the fees with the City.

V. Notwithstanding the 10-year limitation specified above, the City shall not be required to return fees that have not been expended if roadway medians have not been constructed on divided roadways within the adjacent roadway benefit area thus preventing the purchasing, planting, growing and/or irrigation of the required standard median landscaping by the City. The time period for the expenditure of fees escrowed with the City for the construction of median landscaping shall not begin to run until such time as the roadway medians within the applicable roadway benefits area have been constructed on such divided roadways, the roadway medians have been accepted by the City, and the roadway medians are ready for standard median landscaping.

Exhibit "A"

308 Residential Screening and Buffering

A. Purpose

The purpose of this section is to establish standards for the buffering of residential lots and to create aesthetically pleasing corridors which encourage harmony while ensuring safety and security and reducing noise and glare in neighborhoods.

B. Applicability

All single-family, duplex, triplex, and quadplex residential developments located within the City limits and the ETJ shall provide buffering in accordance with this Section. For single-family, duplex, triplex, and quadplex residential developments located within the City limits, screening shall also be provided within the landscape buffer as required in §206C, *Screening,* including a wall maintenance easement.

C. Approval Required

1. Plans for screening and buffering shall be submitted and reviewed concurrently with the application for development permit approval. Approval of the screening and buffering plans by the Director of Planning is required prior to the approval of a Minor Plat, Replat, or Final Plat.
2. Construction drawings of all improvements shall be approved by the appropriate Administrative Official prior to the installation of any proposed screening and buffering improvements.

D. Buffering Standards

1. Within the City limits and in the ETJ, a landscape buffer shall be provided in the form of a common area wherever a single-family, duplex, triplex, or quadplex residential lot would otherwise back or side to a street, including those lots separated by an alley, parallel road, or common area, and shall be the minimum width indicated in Table 3-1.

Table 3-1: Width of Required Common Area Landscape Buffer

		Lots Backing a Street (in feet)	Lot Siding a Street (in feet)
Ultimate Width of Adjacent Right-of-Way (in feet) [1]	50 or less	10	0
	51-59	20	0
	60-199	20	20
	200 or greater	30	30

[1] Round to the nearest whole number.

2. A residential lot may be exempted from this requirement if it is determined that the back or side of such residential lot will be screened from view or separated from the right-of-way by a future development or a future phase of the larger platted development that contains the subject residential lot.
3. Buffer areas shall be sodded, plugged, sprigged, hydro-mulched, or seeded, except that solid sod shall be used in swales, or when necessary to prevent erosion. Grass seed, sod and other material shall be clean and reasonably free of weeds and noxious pests and insects. Grass areas shall be established with 100 percent coverage and 70 percent density with an approved perennial grass prior to final acceptance.

E. Irrigation

All required landscaped common areas shall be provided with an automatic underground irrigation system which features rain and freeze sensors or a weather-aware internet device and are designed by a qualified professional. Irrigation systems shall be designed for maximum irrigation efficiency, including the maximization of bubblers and drip emitters and the minimization of rotors and spray sprinklers.

F. Conflicts Prohibited

No improvements shall conflict with vehicular or pedestrian traffic movement. No improvements, including trees or shrubs which do not meet the guidelines established by a utility company or the City shall be planted over or under existing utilities. Sidewalk or hike and bike trail locations shall be coordinated with other improvements and shall be shown on the screening and buffering plan.

Exhibit "A"

309 Conveyance of Land for Recreational Areas & Facilities

A. Purpose

It is hereby declared by the City Council that public parks, recreational facilities, and open spaces are valuable assets that advance the public's health, safety, and welfare, and improve the overall quality of life of the community's residents. New residential development in the city creates the need for additional parks and recreation resources because of the increased population. Requiring that new residential development dedicate parkland and pay park development fees in proportion to its impacts on the City's parks and recreation resources is recognized as a fair, reasonable and uniform method of financing these assets that does not impose an unfair burden on new or existing development. The parkland dedication and park development fee requirements established in this article aim to maintain the current level of service in the City and generally flow from the assessment of needs reported in the McKinney Parks, Recreation, Open Space, Trails & Streetscape Visioning Master Plan (2017), as it may be amended from time to time (the "Parks Master Plan"). Accordingly, this article requires the dedication of parkland and payment of park development fees to:

1. Meet the goals and objectives set forth in the Parks Master Plan.
2. Deliver new and/or updated parks, recreation, trails and open space resources to meet the increased demand generated by new development on the parks system.
3. Establish proportionate costs that are associated with providing new or updated parks and facilities, so the increased costs are borne by those who are responsible for creating the additional demand.
4. Create a variety of recreational opportunities for residents within reasonable proximity to their homes.
5. Provide credit for applicable private and semi-public parkland and/or park-like amenities that offset the increased demand on the parks system generated by new development.

B. Authority

Unless otherwise specified, the provisions of this section shall be administered by the Director of Parks and Recreation ("Director") or their designee. The standards and criteria contained within this article are deemed to be minimum standards.

C. Applicability

1. New Residential Development and Redevelopment

This article applies to a landowner that develops or redevelops land located within the City for residential use.

2. Exemptions

- **a.** Non-residential uses.
- **b.** Assisted Living/Memory Care/Skilled Nursing Uses.
- **c.** Properties located within the City's ETJ at the time development occurs.
- **d.** The remodeling, rehabilitation, or other improvements to an existing residential structure, or the rebuilding of a damaged structure that does not increase the number of residential units.
- **e.** If a parkland dedication requirement was satisfied or a park development fee was paid for residential development on a particular tract prior to the amendment of this Article, then subsequent development of the subject tract to which the parkland dedication requirement and/or park development fee applies may be exempt from any increased requirements. However, if there is an increase in the number of dwelling units on such a site, then there shall be a proportional increase in the parkland dedication requirement and the payment of park development fees.

f. Residential development on a lot of record that was approved prior to the effective date of the ordinance from which this Article derives. However, if there is an increase in the number of dwelling units on such a site, then there shall be a proportional increase in the parkland dedication requirement and the payment of park development fees.

g. Residential development constructed or to be constructed in accordance with a building permit issued prior to the effective date of the ordinance from which this Article derives provided such building permit has not lapsed or otherwise expired and has not been modified to increase the number of residential units allowed.

h. Residential development within the MTC – McKinney Town Center zoning district. Refer to Appendix 2B: McKinney Town Center MTC for open space standards applicable to all new residential development within the MTC.

3. Effective Date

a. The provisions of this Article shall take effect on October 1, 2022.

b. Notwithstanding provision 3.a. of this subsection, a developer may request that all of the parkland dedication and park development fee requirements established by this article be applied to a new residential development after its adoption and publication as required by state law and prior to October 1, 2022, subject to the approval of the Director.

D. Parkland Dedication and Park Development Fee Standards in General

1. As a condition of subdivision development, a developer of property for residential uses shall dedicate land for parks or pay a fee in lieu of dedicating land or a combination of both as approved by the Director.

2. In addition to the parkland dedication requirement, a developer of residential property shall pay a park development fee. Subject to the approval of the City, a developer may elect to construct required park improvements as identified by the Director on City-owned parkland in lieu of paying the associated park development fee as set forth in this Article.

3. City Council has established seven geographical park zones and one citywide park zone as depicted on Appendix 3A: Parkland Dedication Zones attached hereto and incorporated herein by reference for all purposes allowed by law. Except as provided below, parkland dedications including any fees paid in lieu of parkland dedication and park development fees from a residential development shall (with certain exceptions identified in this Article) be located, conveyed, held, and utilized in the geographical park zone in which the subject development is located or in an adjacent geographical park zone where the subject development occurs near the perimeter of or overlaps geographic park zones subject to the discretion of the Director.

4. Up to 10 percent of any fees paid in lieu of parkland dedication and park development fee(s) collected may be applied to the citywide park zone for use anywhere in the City's parks system at the discretion of the Director. No less than 90 percent of any fees paid in lieu of parkland dedication and park development fee(s) collected shall (with certain exceptions identified in this Article) be applied to the applicable geographical park zone.

5. The transfer of fees identified in this Article between and among geographical park zones are permitted subject to review and approval by the Director and the repayment of such fees to the originating geographical park zone.

6. Parkland dedication requirements (and/or payment of fees in lieu of parkland dedication) and payment of Park Development Fees shall be satisfied at the time of plat recordation for single family and duplex residential units, and prior to the issuance of any building permits for all other residential development.

7. Requirements herein are based on the actual number of dwelling units for an entire development. Increases or decreases in the final unit count may require an adjustment in park development fees paid or parkland dedicated.

8. The required parkland dedications and schedules of park development fees are listed in Table 3-2 with supporting analysis attached hereto as Appendix 3B: Park Dedication Calculations for Developed Parks and made a part of this article for all purposes allowed by law.
9. City Council has adopted a Discount Schedule to reduce certain park development fees over an established timeframe listed in Table 3-2.
10. Certain developments and use types may qualify for credits as listed in Table 3-3 (see Section 309J) if all conditions precedent thereto are satisfied in the determination of the Director.

Table 3-2: Minimum Parkland Dedication and Park Development Fee Requirements

		Parkland Dedication [1]		Park Development Fee [1]	
		Acres of Land	**Fee in Lieu of Land**	**Single-Family**	**Multi-Family**
Required		One acre outside of floodplain per 37 Units (3 acres of floodplain equate to one acre of parkland, with not more than 20% of any parkland dedication site being allowed in a floodplain)	Fair Market Value of one acre of Land within the tract being developed multiplied by the number of acres required	$1,993 per unit	$1,631 per unit
Discount Schedule [2]	2022 & 2023	None		$1,000 per unit	$1,600 per unit
	2024 & 2025			$1,400 per unit	$1,600 per unit
	2026 and beyond [3]			$1,400 per unit	$1,600 per unit

[1] See Appendix 3B for supporting analysis
[2] Effective October 1st of each calendar year
[3] Unless otherwise modified by City Council

Table 3-3: Parkland Dedication and Park Development Fee Credits

Use	Parkland Dedication – Reduction in Required Acres or Fee in Lieu	Park Development Fee – Credit for Private Park Amenities
Single-Family Residential	None	Up to 50 %
Multi-Family Residential	None	Up to 50 %
Mixed-Use Residential Structure	25%	Up to 50 %
Senior/Independent Living	50%	Not required
Affordable Housing	50%	Not required
Assisted Living/Memory Care/Skilled Nursing	Not required	Not required

E. Parkland Dedication Procedures

Through the Planning Department's pre-development meeting process, it may be determined whether parkland shall be conveyed or cash in lieu of parkland dedication shall be paid to the City under this article. Additional meetings between the developer and the Parks and Recreation Department ("PARD") may be needed in order to evaluate the suitability of potential land for parkland dedication. Additionally, PARD may request a site visit to

the subject property as a part of its determination. The following information may be required as a part of the process, prior to the City accepting land as a public parks dedication.

1. A narrative outlining the intended use, number of residential units proposed, and description of housing type(s) within the subject property.
2. Lot dimensions or metes and bounds acreage of parkland to be dedicated.
3. Total acreage of floodplain as well as the land located outside of the floodplain proposed to be dedicated to the City for parkland.
4. A tree survey of the proposed parkland.
5. A slope analysis of the proposed parkland.
6. An environmental survey identifying critical environmental features such as, but not limited to, protected species, habitat, and water features within and about the proposed parkland.

F. Parkland Acceptance Criteria

1. General Parkland Dedication Requirements

- **a.** Must be conveyed in fee simple by general warranty deed.
- **b.** Must be by lot and block and shown on a recorded plat of record.
- **c.** For a phased development the entire parkland dedication area shall not be deeded to the City until such time that all necessary roadway, utility and other public improvements are constructed to provide accessibility to the proposed parkland and have been accepted by the City, or at the request of the Director.

2. Guidelines

- **a.** The City of McKinney generally will not accept dedications of land for parks that are less than 10 acres in area. Maintaining many small parks is inefficient and too costly for the City to sustain over the long-term.
- **b.** Parkland shall be dedicated to the City free and clear of any and all liens and encumbrances that may interfere with the use of the land for park purposes. The City's representatives must be permitted to make onsite inspections of the proposed parkland for the purposes of determining site suitability and identifying any visual hazards or impediments to park development and use.
- **c.** If the property owner or developer has any form of environmental assessment on the tract, a copy of that assessment shall be provided to the City. The City may initiate and/or require the developer to initiate specific environmental studies or assessments if the City's visual inspection of the proposed parkland gives rise to the belief that an environmental problem may exist on the site. The Director may also require the employment of consultants necessary to evaluate any environmental issues relating to the site. If an environmental hazard is identified, the developer must remove or remediate the hazard prior to City's acceptance of the proposed parkland dedication. The City will not accept parkland dedication sites previously or currently encumbered by hazardous and/or waste materials or dump sites.
- **d.** The developer is responsible for providing infrastructure, at no cost to City, that ensures convenient access by improved streets, sidewalks, and adequate drainage improvements so the proposed parkland is suitable for the purpose intended. The developer is responsible for providing water, sewer, and electrical utilities to the proposed parkland in accordance with the procedures applicable to other public improvements as specified in the City's subdivision ordinances.
- **e.** If soils have been disturbed, they shall be restored to their pre-disturbance condition, and the soil stabilized by vegetative cover by the developer prior to dedication of the proposed parkland to the City.
- **f.** Parks should be easy to access and open to public view to benefit area development, enhance the visual character of the City, protect public safety, and minimize conflict with adjacent land uses.
- **g.** A current title insurance policy acceptable to the City in an amount equal to the fair market value of the proposed parkland dedication must be provided to the City.

h. The property owner shall pay all taxes or assessments owed on the property up to the date of acceptance of the parkland dedication by the City. A tax certificate from the County Tax Assessor shall be submitted with the parkland dedication.

3. Land Requirements

a. Land parcels that are unsuitable for development are typically unsuitable for neighborhood/community parks. Hence, parkland dedication sites should be selected by the developer prior to a subdivision being platted and acquired as a part of the development process.

b. Parkland dedication sites should be adjacent to residential areas in a manner that serves the greatest number of users and should be located to minimize the number of users crossing arterial roadways to access the proposed parkland dedication site.

c. Where feasible, parkland dedication sites should be located adjacent to schools to encourage shared facilities and joint development of new sites.

d. Parks should have well-drained and suitable soils and level topography. Parkland dedication sites should not be severely sloping or have unusual topography that would render the land unusable for recreational activities.

e. Parks must be adjacent to a street for ease of access and pedestrian, bike or parking accommodations.

f. No more than two sides of a park may be adjacent to the rear lot lines of homes.

g. Parks must include visible, attractive and suitable means of ingress and egress proportionate to the size and amenities of the parkland dedication site.

h. The parkland dedication site should not be encumbered by overhead utility lines or above-ground improvements or easements that might create a dangerous condition or limit the opportunity for park development and use.

i. Where appropriate, proposed parkland dedication sites with existing trees or other scenic elements are preferred and may be reviewed by the City's Arborist to make recommendations.

j. Rare, unique, endangered, historic or other significant natural areas will be given a high priority for consideration of a parkland dedication site pursuant to this article.

k. Consideration will be given to a potential parkland dedication site that is in the floodplain or an area which may be considered "floodable" even though not in a federally regulated floodplain if the proposed parkland site is suitable for park improvements. At the discretion of the City, land in floodplains may be considered as part of a parkland dedication requirement on a 3:1 basis; that is, 3 acres of floodplain will be deemed equal to 1 acre of parkland, but not more than 20% of any parkland dedication site shall be allowed in a floodplain.

l. Detention/retention areas may not be used to meet parkland dedication requirements but may be accepted by City in addition to the required parkland dedication. If accepted as part of a park, the detention/retention area design must meet the City's specifications.

G. Payment of Fees in Lieu of Parkland Dedication

The City may require that a fee be paid in lieu of parkland dedication in amounts as set forth in Table 1-1 and Appendix 3B: Park Dedication Calculations for Developed Parks.

1. The fee to be paid in lieu of parkland dedication will be the average fair market value per acre of the land which is being subdivided determined at the time of the final plat approval or the issuance of a building permit, as applicable. The fair market value shall be established by the most recent appraisal of all or part of the subject property as adopted by the Collin Central Appraisal District and in effect on the date on which the land for which the payment of fees in lieu of parkland dedication is required is final platted. At its discretion, the City may opt to commission an independent appraisal of the subject land by a third party and adjust the amount of assessed value based on any difference between the independent appraisal and the Appraisal District's valuation.

2. Fees collected in lieu of parkland dedication shall be used for the purpose of acquisition, development and/or improvement of park facilities.

Exhibit "A"

H. Park Development Fee

1. In addition to the parkland dedication requirements, park development fees are hereby established and imposed on residential development for the purpose of assuring that park facilities, including neighborhood/community parks and passive park conservation areas, are available and adequate to meet the needs created by such development while maintaining current and proposed parks and recreation standards that meet the City of McKinney's standards. Park development fees are supplementary to, and not in substitution of, the parkland dedication requirement.
2. The amount of park development fees assessed to a residential development and the basis for the calculation is shown in Table 3-2, *Minimum Parkland Dedication and Park Development Fee Requirements,* and Appendix 3B: Park Dedication Calculations for Developed Parks. Park development fees shall be processed simultaneously with the parkland dedication requirements. Park development fees shall be imposed by the City on all residential development, and all park development fees collected shall be used for the purpose of acquisition, development and/or improvement of park facilities.

I. Providing Public Park Improvements In lieu of Paying Park Development Fees

1. Subject to the City's approval, a developer may enter into a development agreement with the City to construct required park improvements in lieu of paying the associated park development fees, in whole or in part, as set forth herein. In such event:
   - **a.** Facilities and improvements provided by a developer shall be constructed on lands dedicated to the City as public parkland, and shall be designed and installed to meet the terms, conditions and requirements under this article, the Parks Master Plan, and as approved by the Director, in accordance with related federal, national, state or local codes including, but not limited to, the following:
     - I. International Play Equipment Manufacturer's Association (IPEMA);
     - II. Consumer Product Safety Commission (CPSC) Handbook for Public Safety;
     - III. American Society for Testing and Materials (ASTM and ASTM F08);
     - IV. Accessibility Standards for Play Areas through the ADA Accessibility Guidelines (ADAAG);
     - V. Illuminating Engineering Society of North American (IESNA RP-6-01); and/or
     - VI. Sports Turf Management Association (STMA).
   - **b.** The amount of park development fees that the developer must pay will be reduced by the actual costs paid by the developer for developer's construction of the park improvements required and approved by City on the City's parklands as such costs are demonstrated by and through approved pay applications and invoices submitted to developer by developer's contractors and materialmen together with documentation demonstrating developer's payment thereof and such additional information as may be requested by City to confirm compliance with the standards referenced in this section. In no event shall City be responsible for paying developer any amounts in excess of the park development fees that developer must otherwise pay, or any amounts for park improvements not approved in advance by City or park improvements not properly constructed and installed.

2. **General Requirements for Public Park Improvements**
   - **a.** A park site plan, developed in cooperation with the PARD staff, shall be submitted by the developer. The park site plan will be reviewed and if acceptable approved by the Director.
   - **b.** All proposed public park improvements must be shown on a site plan and/or construction plans unless the Director authorizes another method of approval. The proposed park improvements must also be reviewed and approved by the City's Director of Engineering.
   - **c.** Detailed plans and specifications for proposed park improvements hereunder shall be due and processed in accordance with the procedures and requirements pertaining to the construction and installation of public improvements.

d. All plans and specifications for the proposed park improvements shall meet or exceed the City's standards in effect at the time of the submission.

e. If the park improvements are constructed on land that is being dedicated to, has already been dedicated to, and/or is owned by the City, then the developer shall provide at no cost to the City payment and performance bonds in the form approved by the City that identify the City as a Beneficiary in an amount equal to the greater of the park development fees due or the cost of the park improvements pursuant to Texas Government Code §§2253.001, et seq. The park improvements shall be completed, and final accepted by the City prior to plat recordation.

f. The developer shall also provide to City, at no cost to City, a two-year maintenance bond that is equal in amount to 15 percent of the construction cost of said park improvements. The developer shall also provide to City a manufacturer's letter certifying that any play structure, equipment, facilities, and safety surfaces were installed in accordance with the manufacturer's installation requirements.

g. All manufacturers' warranties shall be provided to City, at no cost to City, for any park equipment installed in and upon the City's parkland as part of these improvements.

h. Upon issuance of a Certificate of Completion and Acceptance, the developer shall warrant the park improvements for a period of two years.

i. The developer shall be liable for costs required to complete the Public Park Improvements if:

I. Developer fails to complete the park improvements in accordance with the approved plans; or

II. Developer fails to complete any warranty work.

j. All Park improvements shall be inspected by the City while construction is in progress, and when complete to verify all requirements have been satisfied.

k. Once the park improvements are constructed, and after the Director has accepted such improvements, the developer shall convey such park improvements to the City free and clear of any lien or other encumbrances.

l. The park improvements will be considered complete with a Letter of Completion and Acceptance from the City and will be issued after the following requirements are met:

I. Park improvements have been constructed in accordance with the approved plans; and

II. Park improvements have been inspected and reviewed by PARD staff and determined to satisfy the terms, conditions and requirements under this Chapter; and

III. Developer has provided City with a bills paid affidavit and such additional documentation as City may require to confirm that all of developer's contractors and materialmen have been fully paid; and

IV. Developer has provided City with all warranties and the required Maintenance Bond.

J. Credits for Private Amenities

1. Up to 50 percent of the total park development fee required by this article to be paid by a developer may be eligible for reimbursement if the developer provides private parkland and/or park-like amenities on the site situated within the property being subdivided as determined in the sole discretion of the Director. The remaining 50 percent of the park development fee is retained for deposit in the City's park development fund for the purpose of defraying the financial burden that new residential units impose on the City's existing public park system within the citywide park zone and the applicable geographical park zone as provided above in this article.

2. Private facilities eligible for credit are those outdoor park-like amenities typically found in McKinney's public parks that will substitute for the park improvements otherwise funded by a park development fee to meet the outdoor recreation needs of the development's residents. These park-like amenities might include by way of illustration, and not limitation, parkland (minimum size of 1 acre), playground equipment, shade structures, splash pads, "pick-up" basketball courts or volleyball courts, tennis courts, walking and jogging trails, and any associated lighting improvements.

3. The design of private park amenities must be reviewed and approved by the Director prior to the platting of the first unit within the subdivision.
4. The amount of park development fee credit shall be based on actual out-of-pocket dollar costs that the developer incurred in providing the outdoor and/or indoor private park recreation improvements evidenced as follows:
   a. The developer is required to submit all invoices and checks paid toward the construction of the private park-like amenities; and
   b. The developer must allow PARD staff to conduct a site visit to verify the private park-like improvements.
5. Yards, court areas, setbacks and other open areas required to be maintained by the zoning and subdivision rules and regulation ordinances shall not be included in any park development fee credit computation.
6. Private park recreation improvements shall be owned by an incorporated nonprofit homeowners' association comprised of all property owners in the subdivision. The organization should operate under recorded land agreements through which each property unit owner in the subdivision is automatically a member, and each unit is subject to a charge for a proportionate share of expenses for maintaining the private park facilities.
7. Should the homeowners' association fail to maintain the developer-provided private park facilities in a safe and clean condition, then each property owner agrees that the Director may access the provided private park facilities to operate, maintain and repair them. The costs of such maintenance, operations and repairs by the City shall be charged to the homeowners' association.
8. Use of the private parkland and facilities shall be restricted for park and recreation purposes by a recorded covenant that runs with the land in favor of future owners of the property and which cannot be defeated or eliminated without the prior written consent of the City.
9. Private park facilities must be similar or comparable to the facilities that would be required to meet public park standards and recreational needs as required per the City's development regulations and Parks Master Plan and other federal, state and local laws.
10. All private park-like amenities must be constructed and accepted prior to the plat recordation of the same phase in which the private park improvements are located.
11. Subject to the Director's approval, Senior/Independent Living developments and Affordable Housing developments (for which a park development fee is not required) may receive credits against their required payment of fees in lieu of dedicating parkland for that portion of the cost incurred in providing on-site private park amenities hereunder that exceeds one hundred percent (100%) of the amount of park development fees that would have been required for a similar development which is not excepted from the payment of park development fees.
12. For example, a multi-family affordable housing development of ten (10) residential units could receive credits against their required payment of fees in lieu of dedicating parkland for those costs of providing on-site private park amenities that exceed the amount of park development fees for a multi-family development of the same size (ten residential units) – 10 units x $1,600 per unit or $16,000. In this scenario if the cost of the on-site private park amenities amounted to $30,000 the multi-family affordable housing development could receive up to $14,000 in credits applied against their required payment of fees in lieu of dedicating parkland.

K. Reimbursement for City Acquired Parkland

1. The City may from time to time acquire land for parks and develop and improve park facilities on such land in advance of actual or potential development. If the City acquires parkland and/or develops and improves park facilities thereon in advance of development, the City may require subsequent parkland dedications to be made in the form of paying a fee in lieu of parkland dedication only.
2. The fees paid in lieu of parkland dedication may, in the discretion of the Director, be used to reimburse the City for the cost(s) of such prior parkland acquisition. In addition, any park development fees collected may, in the discretion of the Director, be used to reimburse the City for the cost(s) of development and improvement of park facilities on such parkland in advance of actual or potential development.

L. Affordable Housing Exemption

Notwithstanding any other provision contained in this article new residential dwelling units that are rented or sold to persons or households of low income shall receive a partial exemption from the parkland dedication and park development fee requirements set out in this article.

1. An affordable housing unit for the purpose of this article is a household at or below 120 percent of Area Median Income (AMI).
2. In projects with a mix of market-rate and affordable housing units, only the affordable housing units shall receive this exemption.
3. For any affordable housing unit qualifying for an exemption, a covenant acceptable to the McKinney Housing and Community Development Department shall be recorded in the Collin County Deed Records, guaranteeing that the affordability criterion will be observed for a time period of at least 50 years from the issuance of the final green tag or certificate of occupancy or a longer period of time if required by the construction or mortgage financing assistance program or rental subsidy program applicable to the affordable housing unit(s).
4. Should any qualifying affordable housing unit cease to operate as a qualifying affordable housing unit before the 50-year time period has expired, then the fee in lieu of parkland dedication and park development fee requirements for each said unit shall be paid to the City at the rate in effect at the time of permitting.

M. Appeal Process

Any decision under this article made by the Director may be appealed to the City's Zoning Board of Adjustment within 30 days following the Director's decision. Filing an appeal shall not stay the required parkland dedication (and/or payment of fees in lieu of parkland dedication) or the payment and collection of the park development fee due.

N. Review and Indexing of Fees

1. The city shall review the park development fees established and the amount of parkland dedication required in this article at least once every five years. Failure to timely commence or complete review by the City Council shall not invalidate this ordinance.
2. If the City fails to timely review the park development fees any person who has paid a park development fee may present a written request that the City perform the review of the park development fees within 60 days after the date of the request. If the City finds it is late performing such review, the City will cause the review of the park development fees to commence within 60 days after the date of the request and continue until completion.
3. The park development fee shall be updated annually in the interim 5-year period as part of City of McKinney's annual budgeting process in accordance with the U.S. Department of Labor Statistics Dallas-Fort Worth-Arlington Consumer Price Index for All Urban Consumers.

O. Right to Refund

The City shall account for all fees paid in lieu of parkland dedication and all park development fees paid under this article with reference to the individual plat(s) involved. Any fees paid for such purposes should be encumbered or expended by the City within 15 years from the date received by the City for acquisition, development and/or improvement of parks as required herein. Such funds shall be considered to be spent on a first-in, first-out basis. If not so expended, the landowners of the property on the expiration of such period shall be entitled to a prorated share of such sum without interest, computed based on the number of dwelling units in the residential development for which such unencumbered and unexpended park related fees were paid. The owners of such property must request such refund within 1 year of entitlement, in writing. Failure to timely submit the required application for refund shall constitute an absolute waiver of any right to the refund.

P. Severability

If any provision of this article is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this article which can be implemented without the invalid provisions and, to this end, the provisions of this article are declared to be severable. The City Council hereby declares that it would have adopted each and every provision and portion thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would subsequently be declared invalid or unconstitutional.

Q. Penalties, Sanctions, and Redeterminations

1. **Requirements to be Satisfied Prior to Development**
   It shall be unlawful for any person who is required to convey land or pay money in lieu of dedicating parkland and pay park development fees as required by this article, to begin, or allow any other person or contractor to begin, any construction or improvements on any land within any residential development to which this article applies until the required conveyance of parkland or payment of money in lieu of dedicating parkland and the payment of park development fees is made to the city in accordance with this article.
2. **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 residential development to which this article applies until the required conveyance of parkland or payment of money in lieu of dedicating parkland and the payment of park development fees is made to the city in accordance with this article.
3. **Redetermination of Requirements for Proposed Additional Dwelling Units**
   After the city council has made a determination of the requirements of this article, or after the requirements of this article have been met, based upon the proposed number of residential dwelling units for any land to which this article applies, any person who desires to construct a number of dwelling units in excess of the number of dwelling units for which the requirements of this article were determined or met must submit to the city council a revised zoning proposal for additional dwelling units for the residential development. Once the city council has approved a zoning ordinance increasing the number of dwelling units allowed on a platted lot or within a residential subdivision, the developer shall either convey the additional parkland through a plat or replat or shall pay a fee in lieu of dedicating parkland and pay additional park development fees for the additional dwelling units at the issuance of the building permits. Where a payment of money in lieu of dedicating parkland was originally made to meet the requirements of this article, the person proposing to construct additional dwelling units may be required to convey parkland for all or part of the development. In such case, after the required conveyance is made, the payments, or portion thereof, previously made, which are satisfied by the dedication of parkland shall be returned by the city.

R. Penalties

Any person violating any of the provisions of this article shall, upon conviction, be fined a sum not exceeding $500.00; and each day and every day or portion of a day that the provisions of this article are violated shall constitute a separate and distinct offense. This penalty is in addition to and cumulative of any other remedies as may be available at law and equity.

Exhibit "A"

310 Private Street Regulations

A. Purpose

The purpose of these private street regulations is to provide regulations governing the development of private street neighborhoods, which allows the City to provide a broader variety of residential neighborhood types to meet the needs of the residents of the City.

B. Applicability

1. General

These provisions shall apply to properties within the City's corporate limits where private streets are constructed that are not owned or maintained by the City. Private street developments shall be permitted in all single family and agriculture zoning districts so long as all requirements of this Code are satisfied.

2. Permits and Plans Required

No construction shall commence until the Director of Engineering has approved construction plans and issued a Development Permit for the proposed private street development.

C. Development Requirements

Proposed private street developments shall be evaluated for conformance with following standards as part of the review and approval process.

1. The design and construction of a private street development shall conform to the same rules, regulations, standards, and specifications established for public street developments in this code and as regulated in the Engineering Design Manual.

2. A plat for a private street development shall not:

- **a.** Impede the current or future street circulation needs of the area, especially any needed collector or arterial street route, or adequate access to any adjoining tract;
- **b.** Disrupt an existing or proposed city public pedestrian pathway, hike and bike trail or park; or
- **c.** Impede or prohibit access for emergency vehicles, public and private utility maintenance and service personnel, the U.S. Postal Service, and government employees in pursuit of their official duties.

3. Any proposed gate or controlled access mechanism and vehicle maneuvering is subject to the approval of the City's Fire Marshal. Queueing, stacking, maneuvering, and other similar access requirements at gates shall be as required by the Engineering Design Manual

4. No non-residential, multi-family residential, or manufactured housing uses shall be permitted within a private street development. Amenity centers and security stations shall not be considered a non-residential use for the purposes of this section.

5. Structures

- **a.** Perimeter fences at development entry access points, entry monuments, and security stations, may be erected within the public utility, fire lane, access, and drainage easements, provided they do not impede the installation, maintenance, repair, or replacement of public utilities and storm sewers within the easements. As part of the City's approval of a private street development, the developer and subsequent homeowner's association agree to hold the City harmless for any damage that occurs to structures constructed in the public utility, fire lane, access, and drainage easements during any maintenance or reconstruction activities.
- **b.** Where security stations are a part of a larger, multipurpose structure, only that portion of the structure which functions as a security station may encroach upon the building line adjacent to the private street.

D. Plat Requirements

1. Required Wording on Plat

Each private street development plat shall contain the following wording on the face of the plat:

a. "PRIVATE STREET DEVELOPMENT"

b. The streets, alleys, and drainage systems within this development have not been dedicated to the public for public access nor been accepted by the City as public improvements. All private streets, alleys, drainage systems, and other associated improvements shall be owned and maintained by the homeowners' association. All private streets and alleys shall always remain open to emergency vehicles, public and private utility service personnel, the U.S. Postal Service, and governmental employees in pursuit of their official duties."

2. Easements

Private street developments shall provide the following easements:

a. Private streets shall be dedicated as common areas which are owned and maintained by the HOA;

b. Private streets shall be equal in size and shape to the right-of-way required for public streets, as required by the Engineering Design Manual;

c. Private streets shall be overlaid with a public utility, fire lane, access, and drainage easement;

d. Additional franchise utility easements required by public agencies that are located outside the private street;

e. Pre-existing easements unaffected by the platting process; and

f. Additional easements, including, but not limited to, franchise utilities, street lighting, government vehicle access, mail collection and delivery access, and utility meter reading access, as may be necessary as determined by the appropriate Administrative Official.

E. Conversion of Public Streets to Private Streets

For existing public street developments to become private:

1. A replat application, as described in §305D must contain signatures of all owners of existing lots that would be part of the proposed private street development;

2. The applicants must purchase installed infrastructure and right-of-way from the city and establish a reserve fund in accordance with §310F.2, *Reserve Fund,* within this section; and

3. The applicants must conform to all other provisions of this section.

F. Homeowners' Association

1. Required

Developments with private streets shall have a HOA which shall own and be responsible for the maintenance of private streets and appurtenances. The HOA shall provide for the payment of dues and assessments required to maintain the private streets. The HOA documents must be submitted to the City for review and be acceptable to the City at the time of final plat approval. The approved document must be filed for record contemporaneously with the filing of the final plat or replat.

2. Reserve Fund

The HOA documents must establish a reserve fund for the maintenance of private streets and other improvements such as common greenbelts, security station structures and equipment, and other significant HOA infrastructure. This reserve fund shall not be commingled with any other HOA fund. The balance of the fund shall be equal to the total replacement cost of the private streets and other improvements divided by the average life expectancy of those improvements times the age of the improvements. The life expectancy for a subdivision with concrete streets shall be a minimum of 20 years.

a. The HOA shall have an annual review performed by a certified public accounting firm verifying the amount in the reserve fund. A copy of this review shall be provided to the City.

b. If the private streets convert to public streets, the full balance of the reserve fund shall be transferred to the City.

3. Membership Requirements

Every owner of a lot within the private street development shall be a member of the HOA.

4. Required Disclosures

The HOA documents shall address, but shall not be limited to, the following 4 subsections:

a. The HOA documents must indicate that the streets within the development are private, owned and maintained by the HOA and that the City has no obligation to maintain or reconstruct the private streets.

b. The HOA documents shall include a statement indicating that the City may, but is not obligated to, inspect private streets, and require repairs necessary to ensure that the same are maintained to city standards.

c. The HOA may not be dissolved without the prior written consent of the City.

d. Section 310G.2, *Mandatory Conversion,* of these regulations shall be included in the HOA documents, to increase the opportunity for awareness of mandatory conversion of private streets to public streets.

5. Assignment of Homeowners' Association Lien Rights

The HOA declaration shall provide that, should the association fail to carry out its duties as specified in these regulations or of any applicable City codes, regulations or agreements with the City, the City or its lawful agents shall have the right and ability, after due notice to the HOA, to perform the responsibilities of the association, and to assess the HOA or the lot owners for all costs incurred by the City in performing said responsibilities if the association fails to do so. The City shall further have any and all liens and lien rights granted to the HOA to enforce the assessments required by the declaration, and/or to avail itself of any other enforcement actions available pursuant to state or City codes and regulations. No portion of the HOA documents pertaining to the maintenance of the private improvements may be amended without the written consent of the City.

6. Services Not Provided

The HOA documents shall note that certain City services shall not be provided on private streets, including routine police patrols, enforcement of traffic and parking ordinances, and preparation of accident reports. Depending on the characteristics of the proposed development, other services may not be provided.

7. Access Required

The HOA documents shall contain a provision that requires access to emergency vehicles, utility personnel, the U.S. Postal Service, and governmental employees in pursuit of their official duties.

G. Conversion of Private Streets to Public Streets

1. Voluntary Conversion

The City may, at its sole discretion, accept private streets for public access and maintenance. The procedure must conform to all of the following provisions:

a. The HOA must submit a petition signed by at least 51 percent of its members (or a greater number of signatures if required by the HOA document).

b. All the infrastructure must be in a condition that is acceptable to the City, as documented by a report prepared by a Professional Engineer retained by the homeowner's association and approved by the Director of Engineering. Any repairs, if necessary, shall be performed at the expense of the homeowner's associations.

c. All security stations, gates, and other structures not consistent with a public street development must be removed at the expense of the homeowner's association.

d. The full balance of the reserve fund must be delivered to the City.

e. A plat shall be submitted to the City and upon review and approval, shall be filed with the County Clerk to dedicate the streets, public utility easements, storm sewer easements, and any other public easements to the City. Existing private street subdivisions that are subject to a Specific Use Permit ordinance must seek the City Council's approval of an ordinance voiding the Specific Use Permit ordinance prior to the filing of said subdivision plat.

f. The HOA documents must be modified and refiled to remove requirements specific to private street developments.

Exhibit "A"

2. Mandatory Conversion

The City will notify the HOA of violations of the private street regulations. Failure by the HOA to bring the development into compliance with the regulations may cause the City correct all remaining violations, remove the security stations and unilaterally replat the development thereby dedicating the streets to the public. All monies in the reserve fund will become the property of the City and will be used to offset any costs associated with converting the private streets to public streets. In the event the balance is not sufficient to cover all expenses, the HOA and/or the property owners will be responsible for unpaid work.

3. Variance to Preliminary Plat (by City Council)

All private streets shall meet the following standards:

a. The area shall be within the corporate limits of the city.

b. The development plan shall not impede the current or future street circulation needs of the area, especially any needed collector or arterial street route, or adequate access to any adjoining tract.

c. Area shall not disrupt an existing or proposed city public pedestrian pathway, hike and bike trail or park.

d. The extent to which the proposal meets the following criteria, shall be considered in decision-making on a variance to the final plat. The following criteria shall be considered by the Planning and Zoning Commission and City Council as part of the decision-making process on any associated plat. While they are recommended guidelines, the degree to which each is satisfied should be reviewed by staff, the planning and zoning commission, and city council, as a part of the determination of the merits of any individual proposed private street development.

e. If the area is intended for residential use (may be an existing or proposed residential development), it should be zoned solely as a residential zoning district (that is, a zoning district the stated purpose of which is to provide for primarily residential uses), except in the case of a PD (planned development) zoning district, in which case the area should be designated solely for residential use.

f. The area should be bounded on all sides by natural barriers, manmade barriers such as a greenbelt, hike and bike trail, golf course or park, screening walls, or collector roadways.

g. Except where substantial existing natural or manmade barriers would render the requirement unreasonable, each such development should have direct access to a two-lane collector street (C2U - 37-foot pavement width, unless a lesser width two-lane collector is determined adequate by the director of engineering due to an absence of need for on-street parking), in addition to any access to one or more arterial streets that may be proposed. Any private street development of such limited size that it does not require direct collector street access for appropriate traffic service may instead have access to a collector street within the neighborhood by way of another local street.

h. The proposed private street subdivision should not result in an overconcentration of private streets, such that more than four contiguous developments contain private streets.

Exhibit "A"

311 Right-of-Way Vacation/Alley Abandonment

A. Purpose

As the City's vehicular circulation needs and traffic patterns change, rights-of-way previously dedicated to, or acquired by, the City for public travel may no longer be necessary. As such, in accordance with the Texas Transportation Code §311.007, the City may choose to vacate, abandon, or close a street or alley, on its own accord or upon receipt of a petition from all owners of property adjacent to, abutting, or directly served by the right-of-way sought to be closed and/or abandoned.

B. Applicability

The property owner adjacent to any right-of-way may request that the City vacate said right-of-way. The City may also choose to vacate any right-of-way without the request of adjacent property owners.

C. Submittal Requirements

1. Right-of-way vacation/alley abandonment submittals shall be processed in accordance with §303, *Submittal Procedures*.
2. The Director of Engineering shall be furnished with the following:
   - **a.** Application and submittal fee (see Appendix A – Schedule of Fees);
   - **b.** The appropriate application fee as specified in Appendix A – Schedule of Fees;
   - **c.** A letter of intent detailing the reasons for the requested right-of-way vacation;
   - **d.** A right-of-way vacation petition signed by all property owners whose property shares a boundary line with, or is directly served by, the right-of-way in question;
   - **e.** An affidavit signed by the applicant identifying all private utilities situated within the right-of-way to be vacated;
   - **f.** An exhibit, drawn to a scale of up to 100 feet to the inch, or as determined by the director of planning, showing the location of the right-of-way to be vacated;
   - **g.** A metes and bounds description of the right-of-way to be vacated; and
   - **h.** Any other relevant information as requested by the Director of Planning or Director of Engineering.

D. Public Hearing Required

Prior to the vacation of a public street or alley right-of-way, a public hearing shall be held at a City Council meeting.

1. Written notice for the public hearing shall be sent to all owners of property, or to the person rendering the same for City taxes, located within 200 feet of the right-of-way in question, not less than 10 days before such hearing is held. Such notice shall be served by using the most recently approved City tax roll, and depositing the notice, properly addressed and postage paid, in the United States mail.
2. Published notice of the public hearing shall also be given at least 15 days prior to the hearing by publication one time in the City's official newspaper, stating the time and place of the public hearing.

E. Procedure

1. **Utility Verification and Easements**
   The applicant for a right-of-way vacation or alley abandonment shall verify with the appropriate entity that the right-of-way to be vacated is free of all public and private utilities including, but not limited to water, sanitary sewer, storm sewer, electricity, cable television, internet, telephone, and gas. If public or private utilities are present within the right-of-way, a utility easement of an appropriate size and location, as determined by the Director of Engineering, will be retained. A drainage easement may also be retained over the right-of-way to be vacated, as determined by the Director of Engineering, to maintain adequate storm water drainage in the area.

Exhibit "A"

2. City Council Action

If the City Council chooses to vacate or abandon a portion of the City's right-of-way, an ordinance shall be adopted and that ordinance shall be filed for record with the County Clerk. A metes and bounds description and a visual depiction or exhibit showing the location and limits of the vacated right-of-way shall be attached to the adopted ordinance as exhibits.

Exhibit "A"

Appendix 3A: Parkland Dedication Zones

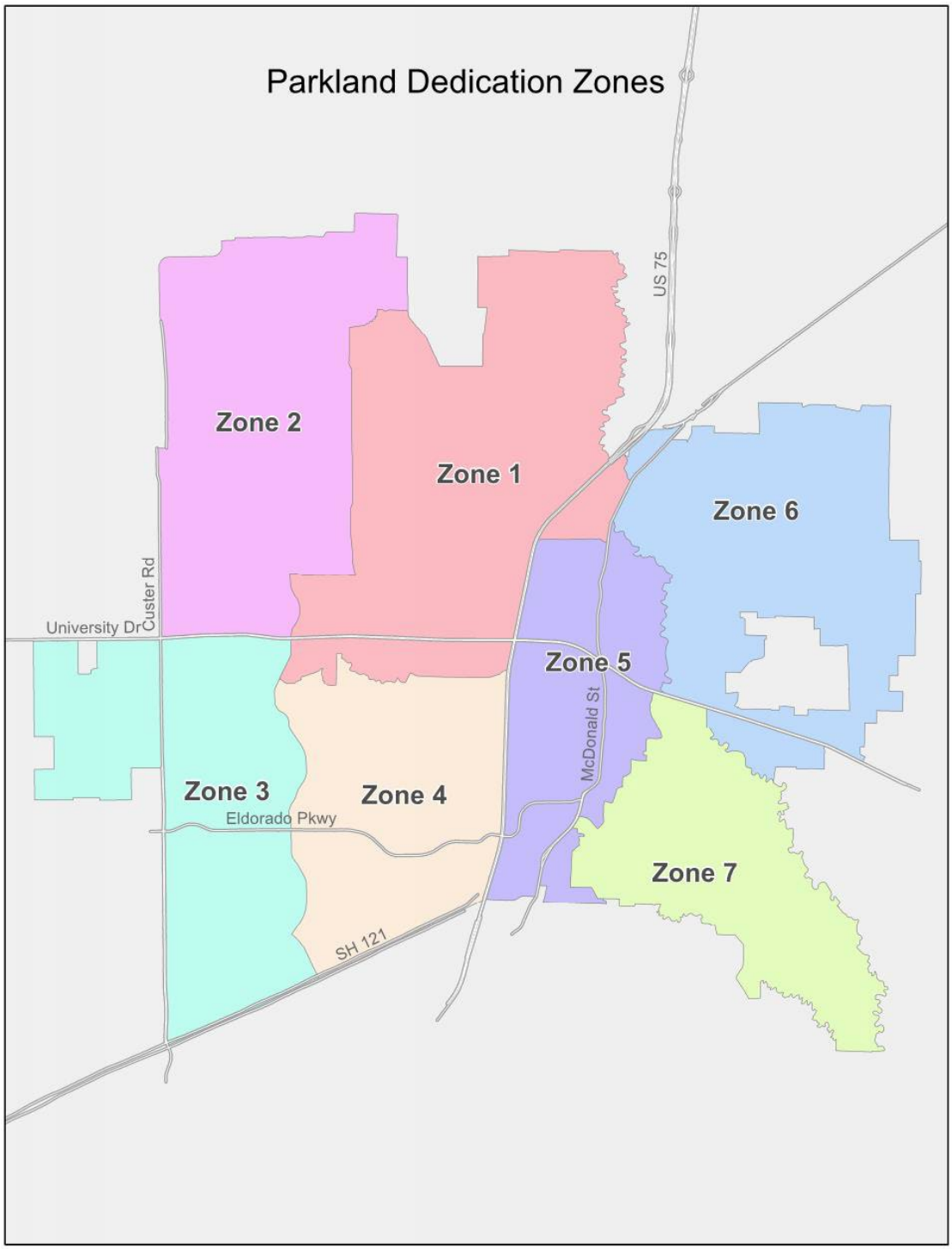

Exhibit "A"

Appendix 3B: Park Dedication Calculations for Developed Parks

A. Fee-in-lieu of Land

Total developed neighborhood and community park acreage:	630.36 (32%)
Total undeveloped/passive park acreage:	1,311.82 (68%)
Total park acreage:	1,942

Total number of dwelling units:

Single-Family Unit (SFU) (3 persons per household):	54,931
Multi-Family Units (MFU) (2.4 persons per household):	16,911
	71,842

Ratio of MFU/SFU persons per household: 2.4/3.0 = .8
Dwelling units per acre of parks: 71,842/1,942 = 37
Assume FMV of an acre of land in the subdivision is $100,000.
Average fee-in-lieu: $100,000/37 = $2,703
Adjust for .8 ratio of MFU/SFU
SFU: $2,703*1.1 = $2,973 per unit
MFU: $2,703*.9 = $2,433 per unit.

B. Park Development Fee

Recent park construction bids for active parks:

Cottonwood Park	3.59 acres	$2.57 million
Finch Park	28.08 acres	$2.02 million
George Webb Park	11.22 acres	$2.16 million
TOTAL	**42.89 acres**	**$6.75 million**

Average development cost per acre for active/developed parks: $6.75/42.89 = $157,379.
Average development cost per acre for passive/undeveloped parks at (say)15% = $23,609
Weighted average development cost per acre [(157,379*630.36) + (23,609*1311.82) = 130,176,184/1942] = $67,032
Average development cost per dwelling unit: $67,032/37 = $1,812
Adjust for .8 ratio of MFU/SFU
SFU: $1,812/1.1 = $1,993 per unit MFU: $1,812/.9 = $1,631 per unit
TOTAL FEE: SFU ($2,973 + $1993) = $4,966. MFU: ($2,433 + $1,631) = $4,064

C. Assumptions

1. The draft ordinance states that the land value will be "the fair market value per acre of land that is being subdivided). This value will vary among sites. For the purpose of illustration only, the land value in the calculation is arbitrarily shown as $100,000 per acre.
2. The McKinney Planning Department supplied the person per household numbers for single- family (3.0) and multi-family (2.4) dwellings.
3. The park development cost for passive/undeveloped parks was arbitrarily assumed to be 15% of the cost of developing active parks.