

Chapter 142 - SUBDIVISION REGULATIONS¹

Footnotes:

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Editor's note— Ord. No. 2008-08-077, § 1, adopted August 19, 2008, in effect repealed former ch. 142, §§ 142-1—142-9, 142-37—142-41, 142-71—142-77, 142-98—142-108, 142-130—142-134, 142-152—142-160, 142-189—142-203; and added a new ch. 142. Former ch. 142 pertained to similar subject matter, and derived from the Code of 1982, §§ 40-1—40-9, 40-31—40-35, 40-51—40-57, 40-71—40-81, 40-101—40-105, 40-131—40-139, 40-161—40-172, 40-174, and 40-175; and the following ordinances:

Ord. No.	Date	Ord. No.	Date	Ord. No.	Date
1290	5-18-1982	94-08-26	8-16-1994	2000-08-56	8- 1-2000
1519	2-19-1985	95-01-04	1-24-1995	2001-10-117	10- 2-2001
1523	3- 5-1985	96-09-37	9- 3-1996	2001-12-135	12- 4-2001
1561	6-18-1985	96-09-38	9- 3-1996	2002-08-085	8-20-2002
1648	5- 6-1986	97-08-46	8- 5-1997	2003-08-070	8-19-2003
1699	1- 6-1987	98-09-52	9-15-1998	2004-09-098	9-21-2004
1724	6-16-1987	99-01-02	1-19-1999	2006-10-110	10- 3-2006
1731	6-16-1987	99-05-52	5- 4-1999	2006-10-111	10- 3-2006
1834	5-16-1989	99-08-62	8- 3-1999	2006-10-119	10-17-2006
1881	9-18-1990	2000-05-30	5- 2-2000	2007-01-008	1-16-2007
92-10-32	10-20-1992	2000-05-36	5-16-2000	2007-03-027	3-20-2007

Charter reference— State law relating to subdivisions adopted, § 158.

State Law reference— Municipal regulation of subdivisions and property development, V.T.C.A., Local Government Code § 212.010 et seq.

ARTICLE I. - IN GENERAL

Sec. 142-1. - Short title.

This chapter may be known as and referred to as the "Subdivision Regulations or Subdivision Ordinance of the City of McKinney, Texas."

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-2. - Purpose.

It is the purpose of this chapter 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.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-3. - Authority.

These subdivision regulations are adopted under the authority of V.T.C.A., Local Government Code ch. 212, which chapter is hereby made a part of these regulations.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-4. - Jurisdiction.

- (a) These regulations shall govern any and every person, firm, corporation, or organization owning any tract of land within the corporate limits of the city who may hereafter divide the same into two or more parts for the purpose of laying out any subdivision of any tract of land or any addition to said city, or for laying out suburban lots or building lots, or any lots, and street, alleys or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto. These regulations shall also govern any and every person, firm, corporation, or organization constructing any street, right-of-way improvement or any related roadway improvement, whether or not a subdivision as defined herein is being created.
- (b) By the authority of the Municipal Annexation Act, 1963, V.T.C.A., Local Government Code chs. 42, 43 and V.T.C.A., Local Government Code ch. 212, which are hereby made a part of these regulations, these regulations shall be extended to and shall apply to all of the area outside of the corporate limits of the city, but within the extraterritorial jurisdiction of the city. Such jurisdiction shall extend into and encompass all those areas not within the jurisdiction of some other municipality, as classified in V.T.C.A., Local Government Code chs. 42, 43 and 212, and extend in all directions from the corporate limits of the city, and all of its extensions.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-5. - Approval required.

- (a) Unless and until any plat, plan or replat shall have been first approved in the manner provided by law, it shall be unlawful for any person, firm, corporation, or organization to construct or cause to be constructed any streets, utilities, buildings or other improvements to any tract of land, except as provided in (b) below; and any official

of the city, shall not issue any permit for such improvements or to serve or connect said land, or any part thereof, or for the use of the owners or purchasers of said land, or any part thereof, with any public utilities such as water, sewers, lights, gas, etc., which may be owned, controlled, distributed, franchised, or supplied by such city, except as provided in (b) below.

- (b) From and after September 5, 2017, a plat, plan or replat otherwise required by (a) above 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.
- (c) No building permits will be issued for the construction of any building on any unplatted land within the city. Minor repair permits may be issued. When additions, alterations, or repairs within any 12-month period exceed 50 percent of the value of an existing building or structure on previously unplatted property, the land upon which such building or structure is located shall be platted in accordance with the provisions of this chapter.

(Ord. No. 2008-08-077, § 1, 8-5-2008; Ord. No. 2012-11-056, § 2, 11-5-2012; Ord. No. 2013-04-033, § 3, 4-2-2013; Ord. No. 2013-06-054, § 1, 6-4-2013; Ord. No. 2017-09-084, § 1, 9-5-2017)

Sec. 142-6. - Improvements required.

All of the improvements required under these regulations, or improvements specified in the comprehensive plan of the city, or improvements which, in the judgment of the ~~city engineer~~ **director of engineering**, are necessary for the adequate provision of streets, utilities, drainage, services, and facilities to the subdivision and to surrounding areas of the city, shall be constructed at the sole expense of the developer, unless other provisions are approved by the city council. All improvements required by this chapter shall be constructed and accepted by the ~~city engineer~~ **director of engineering** prior to filing an associated plat, unless otherwise specified in a binding contractual facilities agreement. Payment for any and all improvements that are not to be made at the time of the primary construction of the subdivision or development shall be made a part of a binding contractual facilities agreement, signed by the developer and approved by the city.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-7. - Zoning.

If the property is not zoned as required for the proposed subdivision, permanent zoning shall be requested. Application for zoning includes completion of required forms, payment of required fees, and performance of other requirements of the zoning ordinance and the rules and regulations of the city, as the same may be passed or amended from time to time.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-8. - Variances and appeals.

- (a) These rules and regulations are the standard requirements of the city. Suspension of any of these rules and regulations may be granted by the city council upon a good and sufficient showing by the owner that there are special circumstances or conditions affecting the property in question, or that enforcement of the provisions of this chapter will deprive the applicant of a substantial property right, and that such suspension, if granted, will not be materially detrimental to the public welfare or injurious to other property or property rights in the vicinity. 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. Pecuniary interests standing alone shall not be justification for the granting of a variance.

- (b) If the suspension of any of the rules and regulations of this chapter is sought, said variance request shall not be required to be considered by the planning and zoning commission prior to being considered by the city council. The director of planning shall have the authority to send any variance request to the planning and zoning commission for any reason.
- (c) The property owner or applicant of the tract of land under consideration who is aggrieved by a decision made by any city administrator or official under these regulations shall first apply to the planning and zoning commission for relief from such administrative decision within 21 days of the date that the decision was made. The aggrieved party may appeal the ruling by the planning and zoning commission to the city council within 21 days of the date that the decision was made by the planning and zoning commission. All requests for appeals must be in writing and submitted to the director of planning within the aforementioned time frames.

(Ord. No. 2008-08-077, § 1, 8-5-2008; Ord. No. 2012-11-056, § 3, 11-5-2012; Ord. No. 2013-04-033, § 3, 4-2-2013)

Sec. 142-9. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Alley* means a public or private way set aside as a permanent right-of-way for the movement of vehicular traffic, to provide access to abutting property, and to provide utility service. An alley is a right-of-way with an ultimate width of 20 feet or less.
- (2) *Applicant* means the owner of all the lots in the proposed subdivision or homeowners' association, as the context allows.
- (3) *City* means the municipal corporation of the City of McKinney, Texas.
 - a. *City council* means the duly elected governing body of the City of McKinney, Texas.
 - b. ~~City engineer~~*Director of Engineering* means the engineer employed by the City of McKinney, Texas, or the engineers retained as consultants to the city, or their duly authorized representative.
 - c. *City official or administrator* means any person, elective or appointive, or any employee, or any board or commission authorized or constituted by city ordinance or state law to act on behalf of the municipality.
 - d. *Commission* means the planning and zoning commission, as appointed by the city council to administer these regulations.
 - e. *Director of planning* means the city official designated to administer the provisions of these regulations.
- (4) *Collector streets* means a C2U roadway or larger, as indicated by the City of McKinney ~~Street Engineering Design Manual~~ *or the North Central Texas Council of Governments Street Design Standards*.
- (5) *Community park* means a park of approximately 40 to 100 acres, serving an area two to three miles in diameter, serving a population of approximately 20,000 persons and encompassing the service areas of four or more neighborhood parks. Community parks may typically contain lighted athletic facilities for more active play purposes, such as ball fields for football, softball, baseball and soccer, and a recreation center or swimming pool. These parks may be located adjacent to existing or proposed greenbelt areas and proposed junior and senior high school sites.

- (6) *Comprehensive plan* means the comprehensive plan of the city as adopted by the city council. The comprehensive plan shall consist of a land use plan, a transportation plan, a water system plan, a sanitary sewer plan, a storm drainage plan, a park system plan, and such other plans as may be adopted from time to time by the city council.
- (7) *Dwelling unit* means any building, structure or mobile home, or part thereof, which is designed, used or intended to be used for human occupancy as the living quarters, of one housekeeping unit or family.
- (8) *Easement* means a right in a particular area of real property that exists because of an express or implied agreement between the landowner and another party, that grants the right to use or access the land area.
- (9) *Entry turnaround* means an esplanade opening or other accommodation provided at the entrance to a private street development in order to allow vehicles denied access to reenter the public street with a forward motion without unduly disturbing other vehicles at the entrance.
- (10) *Extraterritorial jurisdiction (ETJ)* means all land situated, as classified by V.T.C.A., Local Government Code chs. 42, 43 and 212, in all directions from the corporate boundary of the city and its extensions, and which is not in conflict with the ETJ of another municipality, or with any duly executed boundary agreement with another incorporated municipality.
- (11) *Green belt* means an open space area consisting primarily of natural features that may be located in a floodplain or along a creek channel or be used as a buffer between land uses or be used as an open space linkage between various land uses.
- (12) *Hike and bike trail* means a hike and bike trail has a minimum ten-foot concrete surface width and is a trail that serves as a linkage for access to recreational and educational areas and facilities. Upon recommendation of the director of parks and recreation, the width of the hike and bike trail may be reduced to eight feet if:
 - a. Due to existing improvements or property lines, inadequate space is available;
 - b. The hike and bike trail section links two existing eight-foot sections in a single block; or
 - c. Other site limitations, including the opportunity for tree preservation, render a ten-foot wide trail undesirable.
- (13) *Infrastructure* means facilities and services needed to sustain industry, residential, commercial and all other land use activities. The term "infrastructure" includes water, sewer lines, and other utilities, streets and roads, communications, and public facilities, such as fire houses, parks, schools, and such.
- (14) *Land planner* means any person skilled in the art and science of arranging and designing the layout of land so as to create adequate and desirable building sites, a coordinated street system, and space appropriate to the efficient removal of stormwater and the provision of public services and utilities, all consistent with long range goals and the objectives of the comprehensive plan. A land planner may be trained in any of several specialties; and, where appropriate to his experience, the term includes architect, engineer, landscape architect, and surveyor.
- (15) *Mobile home park* means a tract of land designed, used or intended for the renting or leasing, but not sales, of sites for the location, occupancy, or accommodation of one or more mobile home dwellings. A mobile home park shall have filed with the city a certified land division approved by the commission according to the provisions of this chapter. A mobile home park shall be developed in conformance with the standards set out in chapter 138, article III, division 2.
- (16) *Neighborhood park* means a park of approximately ten to 20 acres, serving an area one to two miles in diameter and serving a population of approximately 5,000 persons. Neighborhood parks should be designed to service a specific neighborhood area and may include playground apparatus and other space for active recreational purposes, along with some areas for passive use. Whenever possible, neighborhood parks should be located adjacent to existing or proposed greenbelt areas and proposed elementary school sites.

- (17) *Park* means a tract of land, designated and used by the public (or homeowners in the case of private park area), for active and passive recreation.
- (18) *Private street* means a platted street providing limited local traffic circulation among adjacent lots, which is privately owned and maintained, contained within a private street lot, and constructed in accordance with the requirements of this chapter.
- (19) *Private street lot* means a separate tract, typically termed a common area, owned by the property owners' association whereupon a private street is constructed.
- (20) *Property owners' association* means an organization established for the ownership, care, and maintenance of private streets and other private facilities.
- (21) *Residential estate subdivision* means a subdivision of lots of no less than 1½ acres, or such greater area as may be indicated from soil percolation tests, intended for single family residential use, which may be determined by the city to be adequately developed and served by septic tanks, wells, and/or other facilities normally associated with rural development.
- (22) *Residential or residential development* means the actual or proposed use of land for one or more buildings, structures or mobile homes that are designed or intended to be used, in whole or in part, for one or more dwelling units, but which are not motels or hotels as defined in section 146-46.
- (23) *Security station* means the facility controlling vehicular access to private street developments, which may be a mechanical device or a manned structure.
- (24) *Stacking area* means a setback measured from the public street right-of-way to the security station.
- (25) *Street* means a public or private way set aside as a permanent right-of-way for the movement of vehicular traffic, to provide access to abutting property, and to provide utility service. A street is a right-of-way with an ultimate width of more than 20 feet.
- (26) *Subdivider or developer* means an individual, firm, association, syndicate, partnership, corporation, or other organization dividing or proposing to divide land, or making improvements to such land, so as to effect a subdivision of land.
- (27) *Subdivision* means the division of any lot, tract, or parcel of land into two or more lots or sites for the purpose of sale or of building development, whether immediate or future. The term includes resubdivision or replatting of an existing subdivision, building upon, or other development of land, but does not include the division of land into tracts where each resulting lot is more than five acres in size; does not involve or require any new street, alley or easement of access; and no public improvement is being dedicated. As part of a subdivision, if any lot is proposed to be five acres in area or smaller, the entire parent tract must be platted together with such other lots or tracts. When appropriate to context, the term subdivision shall relate to the process of subdividing or to the land subdivided. Subdivisions of mobile home spaces for sale, lease or rent shall comply with all provisions of chapter 138, article III, division 2, regulating mobile home parks, as it now exists or it may hereafter be amended.
- a. *Amending plat* means a map, drawing or chart that modifies a recorded final plat, record plat, or minor plat in accordance with the provisions of section 142-77.
- b. *Certified land division* means a map, drawing or chart delineating parcels of land offered for rent or lease for other than agricultural uses and which:
1. Is not required by state statute to be filed in the map and plat records of the county; and
 2. Does not involve or require the dedication of public streets or alleys; and
 3. Has been certified by the city council as having met the conditions of this chapter. A certified land division shall be treated as a subdivision plat under these regulations, except that it is properly certified for filing with the city secretary rather than the county clerk. In addition, a plat

of the property indicating legal boundaries and any public dedications and easements shall be prepared, reviewed by staff, approved by the city council, and filed with the county clerk.

- c. *Conveyance plat* means a map of property approved by the city for the purpose of sale or conveyance. 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.
 - d. *Minor plat* means a map, drawing or chart prepared according to the provisions of this chapter, and containing all engineering and legal data, dedications, and certificates necessary to the recording of same in the map and plat records of the county, and meeting the criteria defined in section 142-76.
 - e. *Minor replat* means a map, drawing or chart drawn to scale that modifies a platted lot(s) of record that front onto an existing street and involves four lots or less, does not require the creation of a new public street, and does not require the extension of municipal facilities.
 - f. *Preliminary-final plat* means a map, drawing or chart drawn to scale, on which is shown the subdivider's proposed arrangement of streets, lots, easements and other public spaces in the subdivision that he intends to submit in form for recording via an associated record plat.
 - g. *Preliminary-final replat* means a map, drawing or chart drawn to scale that modifies a platted lot(s) of record that may or may not front onto an existing street and involves more than four lots, the creation of a new public street, or requires the extension of municipal facilities.
 - h. *Record plat* means a map, drawing or chart prepared according to the provisions of this chapter, and containing all engineering and legal data, dedications, and certificates necessary to the recording of same in the map and plat records of the county. A record plat may also be referred to as a final plat.
- (28) *Utility easement* means an easement dedicated to the public for access, construction, reconstruction, and maintenance to water lines, sanitary sewer lines, storm sewers, and those franchises granted permission by the city, utility district, or county to occupy the easement.
- (29) *Thoroughfare* means any planned or existing roadway within the city and its ETJ. A major thoroughfare is a planned or existing roadway with an ultimate right-of-way width of 60 feet or greater. A minor thoroughfare is a planned or existing roadway with an ultimate right-of-way width of less than 60 feet.
- (30) *Zoning ordinance* means the duly adopted ordinance of the city establishing certain districts within the city and regulating the use of land, size of lots, size and height of buildings, and other elements of development within those districts codified in chapter 146.

Unless otherwise defined herein, words contained in these regulations shall have the meanings found in chapter 146 and section 142-9, and as such provisions may be hereafter amended.

(Ord. No. 2008-08-077, § 1, 8-5-2008; Ord. No. 2010-12-053, §§ 1, 2, 12-7-2010; Ord. No. 2011-04-026, § 1, 4-19-2011; Ord. No. 2012-11-056, § 4, 11-5-2012; Ord. No. 2013-04-033, § 3, 4-2-2013; Ord. No. 2013-06-054, § 2, 6-4-2013)

Sec. 142-10. - Changes and amendments.

Under the provisions of V.T.C.A., Local Government Code ch. 212, the city council may from time to time amend, supplement or change by ordinance the rules and regulations contained herein.

- (1) *City council hearing and public notice.* A public hearing shall be held by the city council before adopting any proposed amendment, supplement, or change to the ordinance. Notice of such hearing shall be given by publication one time in a newspaper of general circulation in the city, stating the time and place of such hearing, which time shall not be earlier than 15 days from the first date of publication.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Secs. 142-11—142-36. - Reserved.

ARTICLE II. - SPECIAL PROVISIONS

Sec. 142-37. - Facilities agreement.

- (a) A subdivider shall be required to enter into an agreement with the city, which shall govern his subdivision if there are pro rata payments, city participation in cost, escrow deposits or other future considerations, other nonstandard development regulations or if all improvements required to be dedicated to the city will be not completed prior to filing the record plat, minor plat, minor replat, or final plat in the county records.
- (b) This agreement shall be based upon the requirements of this chapter, and shall provide the city with specific authority to complete the improvements required in the agreement in the event of default by the subdivider, and to recover the full legal costs of such measures. The city may subordinate its facilities agreement to the prime lender if provided for in said agreement.
- (c) The facilities agreement shall be a legally binding agreement between the city and the subdivider specifying the individual and joint responsibilities of both the city and the subdivider. Unusual circumstances relating to the subdivision shall be considered in the facilities agreements such that the purpose of this chapter is best served for each particular subdivision. The subdivider 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 subdivider's subdivision of the property or any actions taken therein.
- (d) The city delegates to the ~~city engineer~~director of engineering the ability to approve standard facilities agreements. In the event of a disagreement between the subdivider and the director of planning or the ~~city engineer~~director of engineering concerning stipulations of the facilities agreement, the city council shall review said stipulations and make recommendation for resolving the disagreement.
- (e) The subdivider shall have a continuing responsibility under this facilities agreement after the filing of the record plat, minor plat, minor replat, or final plat until all facilities and improvements required under this facilities agreement have been completed. When the construction of required improvements has proceeded to the point that certain parts of the subdivision are adequately served, the ~~city engineer~~director of engineering may release specified portions of the subdivision 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. Any facilities agreement shall remain in force for all portions of the subdivision for which a release has not been executed.
- (f) The city shall impose a fee for filing facilities agreements with the county. The amount of the filing fee shall be an amount as specified in appendix A of the Code of Ordinances which may be amended from time to time by ordinance.

(Ord. No. 2008-08-077, § 1, 8-5-2008; Ord. No. 2008-09-093, § 18, 9-16-2008)

Sec. 142-38. - Permits.

- (a) *Required.* A permit shall be obtained from the city before commencing any construction including, but not limited to, grading, paving, utility installation or foundation work. [Requirements for permits related to buildings and structures are further defined in chapter 122 of the Code of Ordinances.](#) Permits may be issued in phases or groups depending on the applicant's development needs. All public improvements required by this chapter

must be installed and accepted prior to filing a plat for record, unless otherwise specified in an approved facilities agreement or waived by approval of a variance.

- (b) *Types.*
- (1) *Building permit.* This permit allows for the installation of all proposed improvements, including but not limited to grading, utility installation, paving, and vertical construction. This permit is further referenced in chapter 122 of the Code of Ordinances. This permit is often the final permit to be issued in the development process.
 - (2) *Development permit.* This permit allows for the installation of on-site and off-site public improvements. This permit is typically issued after a grading and erosion control permit and before a utility, paving, and/or foundation permit. This permit is typically issued to allow for the construction of required public improvements.
 - (3) *Grading and erosion control permit.* This permit allows the applicant to install erosion control measures and begin the earth-disturbing activities associated with the development of the subject property. This permit is often the first permit to be issued in the development process.
 - (4) *Utility, paving, and/or foundation permit.* This permit allows for the installation of on-site utilities, paving and building foundations. This permit may be issued as a single permit or may be issued individually depending on the applicant's development needs.
- (c) *Expiration.* All permits referenced herein shall expire two years after issuance. If construction has not been completed within the allotted two years, another permit shall be required and the required fees associated therewith shall be paid. If this provision conflicts with an expiration provision contained in another chapter, the more restrictive provision shall apply.

(Ord. No. 2008-08-077, § 1, 8-5-2008; Ord. No. 2010-12-053, § 3, 12-7-2010)

Sec. 142-39. - Pro rata payments.

- (a) The developer shall be fully responsible for the construction of utilities necessary for the subdivision and the surrounding area, unless other provisions are approved by the city council. Provisions for reimbursement of costs required by the city but exceeding those necessary to serve the subdivision, and any other provisions, shall be made a part of a facilities agreement. For any subsequent subdivision utilizing such facilities, any costs due prior developers shall be prorated by the use the new subdivision bears to the amount due. Such prorated amounts will be made a part of any subsequent facilities agreement, collected by the city, and repaid to the original developer making such improvements.
- (b) All such reimbursements or prorations 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 therefore provide the city with acceptable documentation of actual construction costs from which calculation of reimbursable amounts will be made for inclusion in a facilities agreement.
- (c) In the case that the subdivision shall utilize utilities already constructed through the use of city funds, the developer shall pay to the city for the use of such facilities an amount equal to that which would be required to serve the subdivision under the requirements of this chapter, based upon policies developed and approved by the city council.
- (d) 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 until such monies are received by the city, unless other provisions are approved by the city council.

- (e) Notwithstanding the foregoing, the adjacent owner shall pay 100 percent of the costs incurred by the developer to acquire an easement from the adjacent owner. The pro rata share paid by the adjacent owner to the city will be forwarded to the developer within 60 days of receipt by the city. 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.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-40. - City participation.

- (a) The city may participate with the developer on major items of construction such as lift stations, bridges or streets adjacent to the subdivision, which benefit existing or future development in addition to that being subdivided. The city shall participate in the street construction within and adjacent to new subdivisions on the following basis:
 - (1) All streets not exceeding 45 feet from curb back to curb back shall be paid for and constructed by the developer.
 - (2) If the developer's property abuts only one side of a street right-of-way, the developer shall provide not less than ~~24 feet~~two travel lanes of paved width, including on-street bicycle facilities if applicable.
 - (3) Streets in excess of 45 feet in width shall be provided by the developer in accordance with the city's transportation plan, or on request of the city council, but the city shall pay the cost of developing the width of the street in excess of 45 feet, excluding the cost of curbs or turning lanes.
- (b) The construction of certain facilities required by the provisions of this chapter may not be possible or practical at the time the developer prepares his plans for public improvements. Such deletion or delay of improvements may be specified in a facilities agreement, together with provisions for escrow deposits or future payments by the city and/or developer. The city shall not be responsible for payment until the street is extended into or through property other than that being subdivided, and/or until funds are available, unless otherwise provided in the facilities agreement for the subdivision.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-41. - Floodplains.

- (a) Prior to the clearing, grading, filling, dredging, or other improvement within a designated floodplain, a ~~development~~ permit shall be issued as provided herein. Plans accompanying such ~~development~~ permit shall be certified by a professional engineer competent to make certification that such improvements shall not increase the elevation of the 100-year floodplain, as described in Chapter 130, Article IV, Storm Water Management. ~~on maps provided by the Federal Insurance Administration or succeeding reference maps, by an elevation of more than one (1) foot for any adjacent or upstream property.~~ A determination of other possible adverse environmental effects on adjacent properties will also be made by the ~~city engineer~~director of engineering in approving or disapproving such ~~development~~ permit.
- (b) Upon, and as a condition for approval of the ~~development~~ permit, all lands remaining within the 100-year flood~~plain~~way shall be dedicated as an easement; unless designated as open space under terms and conditions approved by the city council.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-42. - Dormancy and approval expirations.

- (a) *General development plan.*
- (1) The approval of a general development plan shall remain in effect so long as progress is being made toward completion of the project on the subject property. If, however, a record plat for all or a part of the subject property has not been filed for recordation with the county clerk within a period of five years following the original approval of the general development plan, the general development plan's approval shall terminate and become void.
 - (2) Following the expiration of the general development plan, the subdivider at any time thereafter may submit a new general development plan for commission approval following the procedures and regulations then in effect.
- (b) *Preliminary-final plat (includes preliminary-final replat).*
- (1) When a preliminary-final plat has been approved by the commission, a record plat for all or a part of the area shall be submitted within six months thereafter; otherwise the approval shall terminate and shall be void. However, prior to the expiration of said approval, the time for filing of the application for the record plat may be extended at the written request of the subdivider. 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.
 - (2) If a record plat for any portion of the area shown on the preliminary-final plat has been filed for record with the county clerk, the preliminary-final plat's approval shall remain valid indefinitely.
 - (3) If a preliminary-final plat expires, the general development plan, if one was approved, that underlies and forms the basis for the preliminary-final plat shall also expire contemporaneously with the expiration of the preliminary-final plat.
 - (4) Following the expiration of the plat, the subdivider at any time thereafter may submit a new general development plan, if required, and/or preliminary-final plat for commission approval following the procedures and regulations then in effect.
- (c) *Record plat.*
- (1) The approval of a record 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 record plat is demonstrated. If after the five-year approval time period, progress toward the filing of the record plat has not been shown for a period of at least six months, the plat's approval shall immediately terminate and become void. Evidence of progress toward the filing of the record plat shall include, but not necessarily be limited to, the construction of public improvements, application for and receipt of permits, and request(s) for inspections.
 - (2) If the record plat expires and no other record plat that is based on the same preliminary-final plat or preliminary-final replat which underlies and forms the basis for the expired or expiring record plat has been previously filed for recording with the county, the preliminary-final plat or preliminary-final replat of the property shall also expire contemporaneously with the expiration of the record plat. If such underlying preliminary-final plat or preliminary-final replat expires, the general development plan shall also contemporaneously expire with the expiration of the record plat.
 - (3) Following the expiration of the record plat the subdivider at any time thereafter may submit a new general development plan, if required, preliminary-final plat or preliminary-final replat, and/or record plat for commission approval following the procedures and regulations then in effect.
- (d) *Amending plat, conveyance plat, minor plat, and minor replat.*
- (1) The approval expiration provisions applicable to record plats in subsection (c) of this section shall also apply to amending plats, conveyance plats, minor plats, and minor replats.
- (e) *Exceptions.*

- (1) Notwithstanding the foregoing provisions in this section, approvals for all general development plans and plats of any kind or nature for properties for which a developers agreement, annexation agreement, or facilities agreement has been approved and executed by the city prior to September 8, 2014, shall be valid indefinitely.
- (2) If the executed developers agreement, annexation agreement, or facilities agreement regarding the subject property is terminated, voided for any reason, or otherwise expires the approvals for affected general development plans and plats of any kind and nature shall be subject to the expiration timelines specified hereinabove.
- (3) The approval expirations contained herein shall not apply to general development plans or plats 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 general development plans or plats approved before September 8, 2014.

(Ord. No. 2014-09-062, § 1, 9-2-2014)

Secs. 142-43—142-70. - Reserved.

ARTICLE III. - PROCEDURE

Sec. 142-71. - Pre-development meeting.

Prior to applying for a preliminary-final plat or preliminary-final replat, the subdivider should consult with the director of planning, the fire marshal, and the ~~city engineer~~director of engineering or their duly authorized representatives concerning the ultimate land use of the proposed development, the most advantageous subdivision plan, the suitability of the location of the proposed subdivision, the arrangement of streets, alleys, and lots, the layout of utility lines and availability of service from trunk mains and other regulations and policies of the city regarding development.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-72. - Letter of intent.

The subdivider shall submit a letter to the director of planning showing his name and address and that of his land planner and stating his intent to subdivide a particular property, briefly describing the location, amount of land, and particulars as to the intended use of the property, and requesting that the review of a plat for the property be placed on the agenda of a scheduled commission meeting or be acted upon by staff. Such letter of intent shall be received in accordance with the submittal schedule as published by the planning department, and shall be accompanied by an application for plat approval, the appropriate fee and drawings of the plat, as indicated herein.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-73. - Reserved.

Editor's note— Ord. No. 2012-11-056, § 6, adopted November 5, 2012, amended the Code by repealing former § 142-73 in its entirety. Former § 142-73 pertained to the general development plan, and derived from Ord. No. 2008-08-077, adopted August 5, 2008. Former § 142-73 was

restored by Ord. No. 2013-04-033, adopted April 2, 2013, and repealed again by Ord. No. 2013-04-034, adopted April 2, 2013.

Sec. 142-74. - Preliminary-final plat.

- (a) The planning department shall be furnished with a drawing of the preliminary-final plat together with the number of copies of the plan deemed necessary by the director of planning to complete the required reviews or staff reports, and any necessary supporting documents describing the type of development, provision of services, development procedure and timing, and engineering studies. Such materials shall be received in accordance with the submittal schedule as published by the planning department. No plat will be considered by the commission until and unless the prescribed application fees have been paid.
- (b) The preliminary-final plat shall be delivered to the director of planning who shall check and verify the plat, prepare a report to the commission setting forth the findings of staff, and file the report and the plat with the commission at or before the meeting scheduled for review.
 - (1) *Scale and drawing size.* The preliminary-final plat and all schematic plans shall be drawn to a scale of 20 feet to the inch to 100 feet to the inch, or as determined by the director of planning, on a drawing size of 24 inches by 36 inches. An 11-inch by 17-inch reduction of each drawing shall also be submitted. A digital copy of the preliminary-final plat shall accompany these drawings.
 - (2) *Existing features inside subdivision.* The following existing features inside the subdivision shall be identified:
 - a. The locations, widths, and names of all existing or platted streets, alleys, easements, railroad rights-of-way, and other important features such as creeks, abstract lines; and
 - b. Existing easements, including sanitary sewer easements, water line easements, and storm sewer easements.
 - c. Additional information as deemed necessary by the director of planning to adequately review the proposed plat.
 - (3) *Existing features outside subdivision.* The existing features listed in subsection (b)(2) of this section that are situated outside the proposed subdivision and within 200 feet of the perimeter thereof shall also be identified. Property lines and the names of adjacent subdivisions and/or the names of record of adjoining parcels of unsubdivided land shall be identified. Features situated outside the subdivision shall be appropriately distinguished from features situated within the subdivision.
 - (4) *New features inside subdivision.* The following new features inside the subdivision shall be identified:
 - a. The boundary line, accurate in scale, of the tract to be subdivided, with accurate distances and bearings indicated;
 - b. The layout, designations, names and widths of any and all proposed streets, alleys and easements;
 - c. The layout, lot numbers, and approximate dimensions of proposed lots and blocks; and
 - d. A series of connected mutual access and fire lane 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 mutual access and fire lane easements may not be known at the time of preliminary-final platting. As such, any mutual access and fire lane easements shown on a proposed preliminary-final plat may be revised as necessary on a subsequent associated record plat so long as adequate mutual access and fire lane access is provided from the proposed lot(s) to a public street(s), subject to the review and approval of the director of engineering and the fire marshal.

- e. 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, or reservations for other uses, together with the purpose or conditions and limitations of such reservations, if any.
- (5) *Location map.* A location map of the proposed subdivision indicating major roadways or platted streets within 1,000 feet of the proposed subdivision shall be included.
- (6) *Title information.* The following title information shall be included:
- a. The proposed name of the subdivision with section or sequencing designation, as appropriate;
 - b. North point, scale, preparation date and acreage of the proposed subdivision;
 - c. The names and addresses of the owner, developer and land planner, engineer, and/or surveyor, as appropriate;
 - d. The tract designation, abstract and other description according to the real estate records of the city or county; and
 - e. The total number of lots, and designation and amounts of land of the proposed uses within the subdivision.
- (7) *Additional notes.*
- a. The subdivider shall place the following notation(s) on each page of a preliminary-final plat of land that is situated within the corporate limits of the city:
 - 1. PRELIMINARY-FINAL PLAT FOR REVIEW PURPOSES ONLY
 - 2. 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.
 - b. The subdivider shall place the following notation on each page of a preliminary-final plat containing land that is situated outside the city's corporate limits and within the extraterritorial jurisdiction of the city:
 - 1. PRELIMINARY-FINAL PLAT FOR REVIEW PURPOSES ONLY
 - 2. 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.
 - c. 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.
- (8) *Schematic plans required.* To assist in a complete and thorough review of the proposed preliminary-final plat, the following schematic plan types may be required, as determined by the director of planning. Such required plans must be submitted on separate sheets at the same scale as the preliminary-final plat.
- a. A plan showing existing topography with contour lines of five feet, or less, with the proposed lot layout shown;
 - b. A plan showing the proposed layout, lot numbers, and setback lines for single family and duplex residential subdivisions;
 - c. A plan of the proposed water and sanitary sewer lines and related facilities;

- d. A plan showing the proposed drainage facilities including drainage areas, stormwater detention areas, preliminary estimated runoff, points of concentration, and the location of proposed lines, inlets, culverts, and bridges; and
- e. An exhibit showing the entire proposed subdivision layout on a single page will be required if a multiple page preliminary-final plat is submitted.

(9) *Approval and variances.*

- a. When a preliminary-final plat is found to conform to these regulations, or may be made to conform by making certain changes directed by the commission, a copy of the preliminary-final plat with such changes made thereon, and the approval thereof by the commission, conditioned as necessary on said changes, shall be transmitted to the subdivider. Approval of the preliminary-final plat as such shall in no way constitute final acceptance or approval of the subdivision.
- b. Approval of the preliminary-final plat by the commission shall include the condition that a record plat conforming with the approved preliminary-final plat be submitted for staff review.
- c. If the commission finds that the preliminary-final plat does not conform to these regulations, and that requested changes to make it conform are not acceptable to the subdivider, the commission shall have the authority to disapprove the preliminary-final plat.
- d. Variances. A variance to the requirements of this section may be granted by the city council in accordance with the provisions of section 142-8.

(Ord. No. 2008-08-077, § 1, 8-5-2008; Ord. No. 2010-12-053, §§ 4, 5, 12-7-2010; Ord. No. 2012-11-056, §§ 7—9, 11-5-2012; Ord. No. 2013-04-033, § 3, 4-2-2013; Ord. No. 2014-09-062, §§ 2—4, 9-2-2014)

Sec. 142-75. - Preliminary-final replat.

- (a) Documentation submitted for approval of preliminary-final replats shall meet the preliminary-final plat requirements of section 142-74, except as follows:
 - (1) Purpose statement. A purpose statement shall be provided on the proposed preliminary-final replat. This statement shall provide a brief synopsis of the reason for the proposed plat.
 - (2) The subdivider shall place the following notation on each page of a preliminary-final plat containing land that is situated within the corporate limits of the city:
 - a. PRELIMINARY-FINAL REPLAT FOR REVIEW PURPOSES ONLY
 - b. 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.
 - (3) The subdivider shall place the following notation on each page of a preliminary-final plat containing land that is situated outside the city's corporate limits and within the extraterritorial jurisdiction of the city:
 - a. PRELIMINARY-FINAL REPLAT FOR REVIEW PURPOSES ONLY
 - b. 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.
- (b) *Schematic plans required.* To assist in a complete and thorough review of the proposed preliminary-final replat, the following schematic plan types may be required, as determined by the director of planning. Such required plans must be submitted on separate sheets at the same scale as the preliminary-final replat.

- (1) A plan showing existing topography with contour lines of five feet, or less, with the proposed lot layout shown;
 - (2) A plan showing the proposed layout, lot numbers, and setback lines for single family and duplex residential subdivisions;
 - (3) A plan of the proposed water and sanitary sewer lines and related facilities;
 - (4) A plan showing the proposed drainage facilities including drainage areas, stormwater detention areas, preliminary estimated runoff, points of concentration, and the location of proposed lines, inlets, culverts, and bridges; and
 - (5) An exhibit showing the entire proposed subdivision layout on a single page will be required if a multiple page preliminary-final plat is submitted.
- (c) *Approval and variances.*
- (1) The approval provisions applicable to preliminary-final plats (section 142-74) shall also apply to preliminary-final replats.
 - (2) Variances. A variance to the requirements of this section may be granted by the city council in accordance with the provisions of section 142-8.
- (d) *Public hearing and property owner notification.*
- (1) Prior to taking action on a proposed preliminary-final replat, the planning and zoning commission shall hold at least one public hearing thereon.
 - (2) If the proposed preliminary-final replat includes (i) any property that has been limited by a temporary or permanent zoning classification at any time during the preceding five years, or (ii) any lot from the preceding plat that was limited by deed restrictions to residential uses for not more than two residential units per lot, notice of said public hearing shall be published in the city's official newspaper and written notice thereof, together with a copy of subsection (3), shall be sent to all owners of lots that are within the original subdivision and located within 200 feet of the lots to be replatted, at least 16 days before the date such hearing is held. Such notice may be served by using the most recently approved municipal tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested, and depositing the notice, properly addressed and postage paid, in the United States mail.
 - (3) If the proposed preliminary-final replat requires a variance and is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths of the members present of the planning and zoning commission or city council, or both. For a legal protest, written instruments signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, but within the original subdivision, must be filed with the planning and zoning commission or city council, or both, prior to the close of the public hearing. In computing the percentage of land area under this subsection (3), the area of streets and alleys shall be included.

(Ord. No. 2008-08-077, § 1, 8-5-2008; Ord. No. 2010-12-053, §§ 6, 7, 12-7-2010; Ord. No. 2012-11-056, §§ 10, 11, 11-5-2012; Ord. No. 2013-04-033, § 3, 4-2-2013; Ord. No. 2014-09-062, §§ 5, 6, 9-2-2014)

Sec. 142-76. - Record plat.

- (a) When a preliminary-final plat or preliminary-final replat has been approved by the commission, or changes designated by same have been made by the subdivider, the subdivider may prepare the record plat for all or a portion of the area in a form for approval.

- (b) The record plat shall be submitted to the director of planning who shall cause the same to be checked and verified as to its conformance with the preliminary-final plat or preliminary-final replat as approved by the commission and/or city council. A drawing of the record plat and the number of copies of the plan deemed necessary by the director of planning to complete the required review or staff reports, and any necessary supporting documents describing the type of provision of services, development procedure and timing, and any required engineering studies, shall be delivered to the director of planning in accordance with the submittal scheduled as published by the planning department. No record plat may be considered by the city until the prescribed application fees have been paid.
- (1) *Completion required.* If the record plat is incomplete, the record plat shall be deemed not to have been submitted or filed until any and all deficiencies are corrected.
 - (2) *Substantial conformation required.*
 - a. If the record plat is complete but does not substantially conform with the preliminary-final plat as approved by the commission and/or city council, the record plat shall be deemed not to have been submitted or filed, and a conforming plat shall be submitted, or an amended preliminary-final plat or preliminary-final replat shall be submitted for commission consideration.
 - b. The record plat may constitute all or only a portion of the approved preliminary-final plat or preliminary-final replat, but any portion thereof shall conform to all of the requirements of these regulations. If record plats are submitted for approval for portions or sections of the proposed subdivision, each portion or section shall carry the name of the entire subdivision but shall bear a distinguishing letter, number, or subtitle. Block letters shall run consecutively throughout the entire subdivision, even though such subdivisions might be finally approved in sections.
 - (3) *Scale and drawing size.* The record plat shall be drawn on sheets measuring 24 inches by 36 inches, and shall be at a scale of 100 feet to the inch or as determined by the director of planning.
 - (4) *Features to be shown.* All necessary data to locate and reproduce the record plat on the ground must be shown on the record plat, including:
 - a. The boundary lines with accurate distances and bearings, a metes and bounds description of the boundary with an error of closure not to exceed one in 5,000, exact acreage, and the exact location and width of all existing or platted streets intersecting the boundary of the tract. One copy of the traverse closure sheet shall accompany the record plat;
 - b. Bearings and distances to the nearest established street lines, official monuments, or subdivision corner, which shall be found and accurately described on the record plat. Abstract lines and municipal and school district boundaries shall be shown;
 - c. 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;
 - d. Immediately adjacent properties, including lot and street layouts, and the county filing information;
 - e. The layout, width, and names of all streets and/or alleys with the bearings and distances between points of curvature;
 - f. 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 record plat;
 - g. 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;
 - h. All lot lines with accurate dimensions in feet and hundredths and with bearings and angles to street and alley lines to the nearest second;

- i. For all lots located wholly or partially within or immediately adjacent to a floodplain area, as designated on maps provided by the Federal Insurance Administration, a designation of the minimum finish floor elevation allowed, which shall be at least two feet above the 100-year flood elevation at that point;
 - j. A continuous and sequential lettering and/or numbering of blocks and lots within the subdivision;
 - k. An accurate outline description and area to the nearest hundredth of an acre of all parcels of land that are offered for dedication or reserved for public use, or reserved in the deeds for the use of all property owners in the proposed subdivision or reserved for other uses, together with the purpose and conditions or limitations of such reservations and/or dedications, if any;
 - l. The accurate location, material and approximate size of all monuments and benchmarks; and
 - m. 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.
 - n. Additional information as deemed necessary by the Director of Planning to adequately review the proposed plat.
- (5) *Location map.* A location map of the proposed subdivision indicating major roadways or platted streets within 1,000 feet of the proposed subdivision shall be included.
- (6) *Title information.* The following title information shall be included:
- a. The proposed name of the subdivision with section or sequencing designation, as appropriate;
 - b. The north point, scale and date; and
 - c. The names and addresses of the owner, developer and land planner, engineer, and/or surveyor responsible for actual design of the subdivision.
- (7) *Certificates required.* The following certificates shall be included:
- a. 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;
 - b. 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;
 - c. 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;
 - d. Approval certificate.
 - 1. The following certificate shall be placed on the record plat in a manner that will allow the completion of the certificate by the proper party:

Approved and Accepted

Presiding Officer's Title (see subsection d.2 below)
 City of McKinney, Texas

Date

2. The presiding officer shall be determined as indicated below:
 - i. For plats requiring administrative staff approval, the city manager shall be the presiding officer.
 - ii. For plats requiring planning and zoning commission approval, the chairman 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.
 - iii. For plats requiring city council approval, the mayor, or mayor pro-tem in the mayor's absence, shall be the presiding officer.
 - e. The subdivider shall place the following notation on each page of a record plat containing land that is situated within the corporate limits of the city:
 1. 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.
 - f. The subdivider shall place the following notation on each page of a record plat containing land that is situated outside the city's corporate limits and within the extraterritorial jurisdiction of the city:
 1. 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.
- (8) *Construction plans.* Construction plans and profile sheets for all public improvements shall be submitted with the record plat. The approval of the record plat shall be contingent upon approval of construction plans and specifications by the ~~city engineer~~ **director of engineering**. Construction plans and profiles shall be drawn on sheets measuring 24 inches by 36 inches, and shall be the same size as the record plat. Each sheet shall include north point, scales, date and benchmark description to sea level datum. Each sheet shall show the seal and signature of the professional engineer who prepared the plans and shall include the following **in accordance with the City Engineering Design Manual**:
- a. A plan and profile of each street with top of curb grades shown. Scales shall be in one inch equals 40 feet horizontally, and one inch equals five or six feet vertically or such other scale approved by the ~~city engineer~~ **director of engineering**;
 - b. The cross section of proposed streets, alleys and sidewalks showing the width and type of pavements, base and subgrade and location within the right-of-way, ~~and in accordance with the city street design standards manual.~~;
 - c. A plan and profile of proposed sanitary sewers with grades and pipe size indicated and showing locations of manholes, cleanouts and other appurtenances, with a section showing embedment;
 - d. A plan of the proposed water distribution system showing pipe sizes and location of valves, fire hydrants, fittings and other appurtenances, with a section showing embedment;
 - e. A plan to scale of all areas contributing stormwater runoff or drainage within and surrounding the proposed subdivision. Such plan shall indicate size of areas, storm frequency and duration data, amounts of runoff, points of concentration, time of concentration and other data necessary to adequately design drainage facilities for the area; and
 - f. A plan and profile of proposed storm sewers, showing hydraulic data, pipe grades and sizes, manholes, inlets, pipe connections, culverts, outlet structures, bridges and other structures.
 - g. **Other drawings as necessary for a complete installation, including an erosion control plan and post construction stormwater quality plan.**

- (9) *Approval and variances.*

- a. The city delegates to the director of planning the authority to approve record plats. The director of planning shall act upon the record plat within 30 days after submittal of the record plat to the city as herein provided. Failure to act within this time shall constitute approval of the record plat, and the city secretary shall be directed to certify to its acceptance.
 - 1. The record plat shall be reviewed for conformance with the approved preliminary-final plat and if the record plat is found to be in conformance, the director of planning shall approve the record plat, or approve the record plat with conditions.
 - 2. The director of planning shall either find the record plat conforming, shall identify any nonconformity with the applicant and allow an opportunity for the applicant to correct said nonconformity, or shall refer the record plat to the planning and zoning commission for approval.
 - 3. The director of planning may for any reason elect to present the record plat to the planning and zoning commission for approval.
 - 4. The director of planning shall not approve any record plat that does not substantially conform to the approved preliminary-final plat or preliminary-final replat.
 - 5. The director of planning shall not disapprove the record plat and shall be required to refer any record plat which he does not find conforming to the planning and zoning commission.
 - 6. If the planning and zoning commission denies the record plat, the subdivider may, within 14 days of the commission decision, submit a letter to the director of planning appealing the decision of the commission to the city council. Any appeal to city council shall not be considered a filing under section V.T.C.A., Local Government Code § 212.009, and thus shall not require council action within 30 days. The director of planning shall prepare a report and place the record plat on the agenda for consideration by the city council. This appeal procedure shall supersede and control over the appeal procedure described in section 142-8.
 - b. Disapproval of a record plat by the planning and zoning commission shall be deemed a refusal by the city to accept the offered dedications shown thereon. Approval of a record plat shall not be deemed an acceptance of the proposed dedications and shall not impose any duty upon the city concerning the maintenance or improvement of any such dedication until the proper authorities of the city have both given their written acceptance of the improvements and have actually appropriated the same by entry, use, or improvement.
 - c. *Variances.* A variance to the requirements of this section may be granted by the city council in accordance with the provisions of section 142-8 contained herein.
- (10) *Facilities agreement.* A facilities agreement, if required as described in section 142-37, 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 secretary.
 - (11) *Screening and buffering.* If screening and buffering is required for a proposed subdivision as specified within section 142-106 of this chapter, plans shall be submitted to the planning department concurrently with the submittal of a record plat. The screening and buffering plans shall be approved by the director of planning, prior to the approval of the record plat.
 - (12) *Development permit.* A development permit, as described in section 142-38, shall be issued by the ~~city engineer~~director of engineering prior to initiation of improvements. Before issuance of a development permit, the developer or his designated representative may be requested to meet with the ~~city engineer~~director of engineering and/or project inspector in a pre-construction conference.
 - (13) *Recording of the record plat.* The record plat shall be recorded in the map and plat records of the county by the director of planning after the acceptance of public improvements in subdivisions not requiring a facilities agreement and after all conditions of approval are satisfied, as determined by the director of

planning and the ~~city engineer~~director of engineering. The director of planning shall provide prints of the record plat to the affected city offices as they may require. The record plat shall not be returned or released to the subdivider until recorded as provided above.

- (14) *Release of covenants.* Upon satisfactory completion of the required improvements, the ~~city engineer~~director of engineering shall issue a release of covenants to the subdivider.
- (15) *Acceptance of improvements.* Following completion and final inspection of 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. The ~~city engineer~~director of engineering shall accept such improvements in writing and make payments to the developer as specified in the facilities agreement, if applicable.
- (16) *Final plats.* The city recognizes that there may be plats in the process of being approved or designed that were submitted prior to the effective date of the ordinance from which this section is derived. These plats may have been submitted as preliminary plats, approved by the appropriate authority under the previous ordinance, and phases of these developments may still be undeveloped and in the design process. Such final plats shall be submitted in accordance with the procedures defined herein, and shall conform to this section defined herein for record plats, and submitted to the planning and zoning commission for final approval.

(Ord. No. 2008-08-077, § 1, 8-5-2008; Ord. No. 2010-12-053, §§ 8, 9, 12-7-2010; Ord. No. 2012-11-056, § 12, 11-5-2012; Ord. No. 2013-04-033, § 3, 4-2-2013; Ord. No. 2014-09-062, § 7, 9-2-2014)

Sec. 142-77. - Minor plat.

- (a) In accordance with the V.T.C.A., Local Government Code § 212.0065, the city delegates to the director of planning the authority to approve minor plats and amendments to minor plats, which:
 - (1) Involve four or fewer lots;
 - (2) Front onto an existing street; and
 - (3) Do not require the creation of any new street or the extension of municipal facilities.
- (b) The director of planning may, for any reason, elect to present the minor plat to the planning and zoning commission for approval.
- (c) The director of planning shall not disapprove the minor plat and shall be required to refer any minor plat that he refuses to approve to the planning and zoning commission for consideration.
- (d) Documentation submitted for approval of minor plats shall meet the record plat requirements of section 142-76.
- (e) Schematic plans required. To assist in a complete and thorough review of the proposed minor plat, the following schematic plan types may be required, as determined by the director of planning. Such required plans must be submitted on separate sheets at the same scale as the minor plat.
 - (1) A plan showing existing topography with contour lines of five feet, or less, with the proposed lot layout shown;
 - (2) A plan showing the proposed layout, lot numbers, and setback lines for single family and duplex residential subdivisions;
 - (3) An exhibit showing the entire proposed subdivision layout on a single page will be required if a multiple page minor plat is submitted.

- (f) Screening and buffering. If screening and buffering is required for a proposed subdivision as specified within section 142-106 of this chapter, plans shall be submitted to the planning department concurrently with the submittal of a minor plat. The screening and buffering plans shall be approved by the director of planning, prior to the approval of the minor plat.
- (g) *Approval and variances.*
 - (1) The approval and variances provisions applicable to record plats (section 142-76) shall also apply to minor plats.

(Ord. No. 2008-08-077, § 1, 8-5-2008; Ord. No. 2012-11-056, § 13, 11-5-2012; Ord. No. 2013-04-033, § 3, 4-2-2013; Ord. No. 2014-09-062, § 8, 9-2-2014)

Sec. 142-78. - Minor replat.

- (a) Documentation submitted for approval of minor replats shall meet the minor plat requirements of section 142-77, except as follows:
 - (1) *Purpose statement.* A purpose statement shall be provided on the proposed minor replat. This statement shall provide a brief synopsis of the reason for the proposed plat.
- (b) *Screening and buffering.* If screening and buffering is required for a proposed subdivision as specified within section 142-106 of this chapter, plans shall be submitted to the planning department concurrently with the submittal of a minor replat. The screening and buffering plans shall be approved by the director of planning, prior to the approval of the minor replat.
- (c) *Approval and variances.*
 - (1) When a minor replat is found to conform to these regulations, or may be made to conform by making certain changes directed by the commission, a copy of the minor replat with such changes made thereon, and the approval thereof by the commission, conditioned as necessary on said changes, shall be transmitted to the subdivider. Approval of the minor replat as such shall in no way constitute final acceptance or approval of the subdivision.
 - (2) If the commission finds that the minor replat does not conform to these regulations, and that requested changes to make it conform are not acceptable to the subdivider, the commission shall have the authority to disapprove the minor replat.
 - (3) The subdivider at any time thereafter may submit a new design for commission approval following the same procedure as required for the original application.
 - (4) The variances provisions applicable to record plats (section 142-76) shall also apply to minor replats.
- (d) *Public hearing and property owner notification.*
 - (1) Prior to taking action on a proposed minor replat, the planning and zoning commission shall hold at least one public hearing thereon.
 - (2) If the proposed minor replat includes property that is zoned for residential uses for not more than two residential units per lot, notice of said 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 any property affected thereby, within not less than ten days before such hearing is held. Such notice may be served by using the last known address as reflected by the Collin Central Appraisal District, and depositing the notice, properly addressed and postage paid, in the United States mail.
 - (3) If the proposed minor replat includes property that is zoned for residential uses for not more than two residential units per lot, notice of said public hearing shall be given by publication one time in a newspaper

of general circulation in the city, stating the time and place of such hearing, which time shall not be earlier than 15 days from the first date of publication.

(Ord. No. 2008-08-077, § 1, 8-5-2008; Ord. No. 2012-11-056, § 14, 11-5-2012; Ord. No. 2013-04-033, § 3, 4-2-2013; Ord. No. 2014-09-062, § 9, 9-2-2014)

Sec. 142-79. - Amending plat.

(a) In accordance with V.T.C.A., Local Government Code § 212.0065, the City delegates to the director of planning the authority to approve amending plats under the following conditions:

- (1) The amending plat shall be signed by all persons owning property within the tracts for which the amending plat is submitted.
- (2) The director of planning may, for any reason, elect to present the amending plat to the planning and zoning commission for approval.
- (3) The director of planning shall not disapprove the amending plat and shall be required to refer any amending plat which he refuses to approve to the planning and zoning commission for consideration.
- (4) The amending plat shall be solely for one or more of the following purposes:
 - a. To correct an error in a course or distance shown on the preceding plat;
 - b. To add a course or distance that was omitted on the preceding plat;
 - c. To correct an error in a real property description shown on the preceding plat;
 - d. To indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
 - e. To show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
 - f. To correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
 - g. To correct an error in courses and distances of lot lines between two adjacent lots if:
 - Both lot owners join in the application for amending the plat;
 - Neither lot is abolished;
 - The amendment does not attempt to remove recorded covenants or restrictions; and
 - The amendment does not have a material adverse effect on the property rights of the other owners in the plat;
 - h. To relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
 - i. To relocate one or more lot lines between one or more adjacent lots if:
 - The owners of all those lots join in the application for amending the plat;
 - The amendment does not attempt to remove recorded covenants or restrictions; and
 - The amendment does not increase the number of lots;

j. To replat one or more lots fronting on an existing street if:

The owners of all those lots join in the application for amending the plat;

The amendment does not attempt to remove recorded covenants or restrictions;

The amendment does not increase the number of lots; and

The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

(b) A notice, a hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat. The documentation submitted for approval of amending plats shall meet the record plat requirements of section 142-76, in addition to the following items:

(1) *Purpose statement.* A purpose statement shall be provided on the proposed amending plat. This statement shall provide a brief synopsis of the reason for the proposed plat.

(c) *Approval and variances.*

(1) The approval and variances provisions applicable to record plats (section 142-76) shall also apply to amending plats.

(Ord. No. 2008-08-077, § 1, 8-5-2008; Ord. No. 2012-11-056, § 15, 11-5-2012; Ord. No. 2013-04-033, § 3, 4-2-2013; Ord. No. 2014-09-062, § 10, 9-2-2014)

Sec. 142-80. - Right-of-way vacation or abandonment.

(a) *Purpose.* From time to time, 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) *Public hearing and public notice.* Prior to the vacation of a public street or alley right-of-way, a public hearing shall be held at a city council meeting. 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 ten days before such hearing is held. Such notice shall be served by using the most recently approved municipal tax roll, and depositing the notice, properly addressed and postage paid, in the United States mail. Notice of the public hearing shall also be given by publication one time in a newspaper of general circulation in the city, stating the time and place of such hearing, which time shall not be earlier than 15 days from the first date of publication.

(c) *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, 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.

(d) *Ordinance adopted.* If the city council chooses to vacate or abandon a portion of the city's right-of-way, an ordinance shall be adopted and said 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.

report and the plat with the planning and zoning commission at or before the meeting where the conveyance plat is scheduled for consideration.

- (2) The approval of a conveyance plat authorizes the conveyance of the parcel(s) created thereon, but does not authorize any type of development on the property. The applicant and future owner(s) of the property remain obligated to comply with all provisions of this chapter upon future development of the property including, but not limited to, all platting requirements, required public improvements, utility extensions, street improvements, right-of-way and easement dedications, and all other applicable requirements of this chapter.
 - (3) The conveyance plat shall be recorded in the map and plat records of the county by the director of planning after the plat has received approval. The director of planning shall provide prints of the conveyance plat to the affected offices as they may require. The conveyance plat shall not be returned or released to the subdivider until it has been recorded as provided above and all fees associated with the filing of the plat have been paid to the city.
 - (4) Approval of a conveyance plat shall be valid for 12 months from the date of approval. If the conveyance plat has not been filed for record within the allotted 12 months, the plat's approval shall terminate and become void. However, the validity of a conveyance plat's approval may be extended once for a period not to exceed six months, subject to the approval of the director of planning.
 - (5) A variance to the requirements of this section may be granted by the city council in accordance with the provisions of section 142-8 of this chapter.
- (d) *Special approval standards and requirements.*
- (1) The scale, drawing size, features and certificates to be shown, and all other related information that must be provided on a record plat in accordance with section 142-76 of this chapter, shall be provided on a conveyance plat. All conveyance plats shall also feature the following notations:
 - a. CONVEYANCE PLAT ONLY: NOT FOR DEVELOPMENT
 - b. 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 record 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, record plat, minor plat or minor replat is a violation of the city's Code of Ordinances and State Law.
 - (2) 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 record plat, minor plat, or minor replat must be approved subsequent to the filing of said conveyance plat prior to the issuance of permits for development.
 - (3) A conveyance plat may be superseded by a revised conveyance plat or a record plat, minor plat, or minor replat, in total or in part, through compliance with the procedures and requirements of this chapter.
 - (4) 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 ~~city's Citystreet Engineering Design Manual~~ [Citystreet Engineering Design Manual](#), shall be dedicated to the city via the proposed conveyance plat.
 - (5) If a parcel is to be created adjacent to a hike and bike trail, water line, sewer line 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.

- (6) 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.

(Ord. No. 2011-04-026, § 2, 4-19-2011; Ord. No. 2012-11-056, §§ 16, 17, 11-5-2012; Ord. No. 2013-04-033, § 3, 4-2-2013; Ord. No. 2013-06-054, §§ 3—5, 6-4-2013; Ord. No. 2014-09-062, §§ 11, 12, 9-2-2014)

Sec. 142-82. - Administratively complete.

The official date of a plat submittal and the date on which the plat shall be considered administratively complete, thereby triggering the requirements of V.T.C.A, Local Government Code § 212.009 or any successor statute, shall be the date upon which the plat is determined to be in compliance with the general and administrative provisions of the Code of Ordinances by the director of planning and the director of engineering. The plat will then be approved by the director of planning or scheduled for consideration on the first available planning and zoning commission or city council meeting agenda, whichever body has approval authority, as determined by the date of acceptance for review and the calendar schedule as maintained by the director of planning.

(Ord. No. 2014-09-062, § 13, 9-2-2014)

Secs. 142-83—142-98. - Reserved.

ARTICLE IV. - DESIGN STANDARDS

Sec. 142-99. - Lots.

- (a) Lot dimensions shall be determined by the appropriate zoning classification. However, for lots within the extraterritorial jurisdiction of the city, no lot shall be less than 5,000 square feet.
- (b) For all lots, the following shall apply:
- (1) *Natural areas including creeks, wooded areas and flood plain.*
 - a. No property shall be subdivided through record platting or "phasing" in a manner which is intended to avoid or circumvent the developer's obligation to construct public improvements and/or dedicate required easements including, but not limited to, rights-of-ways, erosion hazard setbacks, roads, bridges, trails and parks.
 - b. Minimum usable lot depths for lots backing on natural drainage easements shall not be less than 80 feet measured between front lot line and easement.
 - c. Property located within any flood plain designation (subsequent to any reclamation) or which is subject to, or required to be designated as, an erosion hazard setback easement or another similarly related easement (hereinafter collectively referred to in this section as "no-build areas") shall be designated in a record plat as a common area or included in and platted as a part of a buildable lot. "Buildable lot" shall mean a lot of a size, shape, characteristics and topography which allows for the reasonable construction of improvements and structures allowed in the zoning classification in which it is located.
 - d. A property owners' association shall be established for the supervision, maintenance and restoration of the no-build areas that are included in a conveyance plat or which no-build areas are identified in a preliminary-final plat/replat or record plat of the entire parcel of property (the "parent tract") in

accordance with this paragraph. The ownership of any common areas containing such no-build areas shall be conveyed to the property owners' association in fee simple. An irrevocable perpetual easement for the supervision, maintenance and restoration of the no-build areas that are included in and record platted as a part of an otherwise buildable lot shall be conveyed to the property owners' association. The property owners' association shall be formed and established, in accordance with the city's requirements regarding the establishment of property owners' associations for the maintenance of other common areas, at or before the filing of the first record plat of all or a part of the property subject to such preliminary-final plat/replat. The property owners' association shall ultimately be responsible for the supervision, maintenance and restoration of all no-build areas within the property subject to such preliminary-final plat/replat, regardless of whether the no-build area is contained in a common area or on an otherwise buildable lot.

- e. The record plat for common areas and buildable lots containing no-build areas described in subparagraph (b)(1)c of this section shall be filed of record prior to or concurrent with the filing of record plats or conveyance plats, containing more than 50 percent of the parent tract's developable land area. The "parent tract's developable land area" shall mean that area lying outside of existing flood plains and erosion hazard setbacks or no-build areas.
- (2) *Lot shape.* Lots should be rectangular insofar as is practical. Sharp angles between lot lines should be avoided. The ratio of depth to width should not ordinarily exceed 2½ to one.
 - (3) *Lot facing.*
 - a. Each lot shall be provided with adequate access to an existing or proposed street by frontage on such street, or as provided for by an approved plat reflecting a series of mutual access easements connecting lots with no street frontage to a public street..
 - b. Wherever feasible, each lot should face the front of a similar lot across the street. In general, an arrangement placing facing lots at right angles to each other should be avoided.
 - c. For all single family and two family (duplex) residential lots, the following shall also apply:
 1. Lots that front to a street shall only back to an alley. No lot shall front and back to a street.
 2. Lots shall have frontage on a public street.
 3. No portion of the lot shall have a width of less than 24 feet.
 - (4) *Lot lines.* Side lot lines should be perpendicular or radial to street frontage and the following note may be used in lieu of bearings: "All side lot lines are perpendicular or radial to street frontage unless otherwise noted."
 - (5) *Lot numbering.* All lots are to be numbered consecutively within each block. Lot numbering may be cumulative throughout the subdivision if the numbering continues from block to block in a uniform manner that has been approved on an overall preliminary-final plat or preliminary-final replat.
 - (6) *Public improvements.* Irrespective of the phasing of development of any parent tract, whether by conveyance plat, record plat or otherwise, all public improvements required to serve the parent tract, or otherwise required by this Code, shall be constructed in conjunction with and as a condition of filing a record plat or conveyance plat with the county when the record plats or conveyance plats submitted to the city for approval contain more than 50 percent of the parent tract's gross developable land area, as defined in this section. In the alternative, the applicant may seek approval of the city manager to enter into a facilities agreement establishing the timing for the construction of such required public improvements and containing such other provisions as may be required by section 142-37 of this Code, as amended.

(Ord. No. 2008-08-077, § 1, 8-5-2008; Ord. No. 2008-11-105, § 1, 11-4-2008; Ord. No. 2010-12-053, § 11, 12-7-2010; Ord. No. 2012-11-056, § 19, 11-5-2012; Ord. No. 2013-04-033, § 3, 4-2-2013; Ord. No. 2013-04-034, § 2, 4-2-2013; Ord. No. 2014-09-062, § 14, 9-2-2014)

Sec. 142-100. - Blocks.

- (a) *Length.* The maximum block length for residential use shall be determined by the zoning district. If the zoning district does not specify a block length, the maximum block length for residential use shall be ~~1,200 feet, measured along the center of the block. 600 feet is a desirable minimum. Maximum block length along a thoroughfare shall be 1,600 feet, except under special conditions approved by the commission,~~ in accordance with the ~~e~~City Engineering Design Manual.
- (b) *Width.* ~~Blocks shall be wide enough to allow two tiers of lots of at least minimum depth, except when prevented by the size of the property or the need to back up to a thoroughfare.~~ Block width shall be in accordance with the requirements of the ~~e~~City Engineering Design Manual.
- (c) *Lettering.* Blocks are to be lettered consecutively within the overall plat and/or section of an overall plat as recorded.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-101. - Building lines.

The building line is a line beyond which buildings must be set back from a street right-of-way line or property line.

- (1) For subdivisions within the city limits, building lines shall be determined by the appropriate zoning classification.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-102. - Alleys.

- (a) The planning, design, construction and standards of all alleys, right-of-way improvements and any other related roadway improvements by any person, firm, public utility, corporation, or business in the city or in its extraterritorial jurisdiction shall conform to the requirements of the city ~~engineering~~street design manual, as it may now exist or may hereafter be amended.
- (b) The city ~~engineering~~street design manual, whether adopted in whole or in part, shall become part of the official alley design guidelines utilized by all persons designing alleys, right-of-way improvements, and any other related roadway improvements in the city or its extraterritorial jurisdiction, whether said person is subdividing property or constructing improvements without a subdivision.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-103. - Easements.

- (a) *Use.* Where necessary to provide access for the purposes of maintenance, construction, or other service, easements shall be provided for poles, wires, conduits, storm sewers, sanitary sewers, water lines, open drainage, floodplains, gas lines, or other utilities. Such easements may be required across parts of lots, including rear and side lot lines, where alleys are not provided.
- (b) *Size.* Where possible, easements shall be provided fully located upon one lot. ~~Where such is not feasible, easements shall be not less than 7½ feet, or 1½ multiplied by the depth of the line, whichever is greater, on each side of the lot line and shall be consistent with the guidelines of the City eEngineering dDesign mManual.~~ Where overhead utility service on poles is allowed, an additional easement of five feet on each side beginning at a plane 20 feet above the ground shall be provided. The full width of easements shall not be less than 15 feet at ground

level nor less than 25 feet above ground. ~~For pipes 30 inches or larger, the easement shall be 7½ feet from the edge of the pipe rounded up in five foot increments.~~ Erosion hazard setback easements shall be of a size as defined within the ~~City eEngineering dDesign mManual~~ stormwater management ordinance.

- (c) *Fire lanes.* Where adequate access for firefighting purposes may not otherwise be provided, easements for fire lanes shall be required. 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.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-104. - Reservations.

- (a) *Permitted uses.* No land contained in the proposed subdivision shall be reserved for any use other than a use permitted by the zoning ordinance for the district in which the land to be reserved is located.
- (b) *Designation on plat.* The specific use for which each parcel of land is to be reserved must be shown by appropriate label or description of the plat. Provision for abandonment of a reservation in the future as may be appropriate must likewise be shown on said plat.
- (c) *Parks and open space.* The location and size of parks and open space areas shall be in conformance with the comprehensive plan. All areas retained as floodway after approved development shall be reserved for public use, unless other provisions are approved by the city council.
- (d) *Schools.* The location and size of school sites shall be in conformance with the comprehensive plan and the recommendations of the applicable school district.
- (e) *Public facilities.* The location and size of sites for public buildings, major utility facilities, and related community facilities shall be in conformance with the comprehensive plan and the recommendations of the director of planning.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-105. - Improvements.

The improvements referenced herein must be constructed ~~and accepted by the city engineer~~ per the ~~eCity eEngineering dDesign mManual~~, standard construction details and specifications and accepted by the director of engineering prior to filing an associated plat for record with the county clerk, unless otherwise specified in an approved facilities agreement.

(1) *Monuments and markers.*

- a. Concrete monuments six inches in diameter and 24 inches long shall be placed on at least two block corners, boundary corners or angle points for each plat or each phase of a multi-platted area or subdivision. A one-half-inch iron reinforcing bar shall be embedded at least 18 inches in the concrete monument and placed at the exact intersecting point on the monument. The iron bar should extend from one-eighth to one-quarter of an inch above the concrete. The monuments shall be tied 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. The monuments shall be set at such an elevation that they will not be disturbed during construction and the top of the monument shall be not less than 12 inches below the finish ground elevation.
- b. Lot markers shall be one-half-inch reinforcing bar, 18 inches long, or approved equal, and shall be placed at all lot corners flush with the ground, or below ground if necessary in order to avoid being disturbed.

- c. Where no benchmark is established or can be found within 300 feet of the boundary of the subdivision, such benchmark shall be established as a monument, and shall be readily accessible and identifiable on the ground and shall be recorded on city bench mark datum.
- (2) *Underground utilities.* All distribution and service lines of electrical, telephone, television, and other wire carrier type utilities may be underground, except that the system of supply lines for multiple subdivision service by utilities may be overhead. Transformers, amplifiers, or similar devices associated with the underground lines shall be located upon the ground level.
 - (3) *Sidewalks.* Paved sidewalks shall be provided along and adjacent to both sides of all major thoroughfares, and along residential or local streets that are located immediately adjacent to a school site and for a distance of one block along such streets leading directly to a school site. On streets other than those above, sidewalks on one side of the street shall be provided.

~~Sidewalks shall meet the requirements of the engineering design manual, consist of four inches of concrete with #3 rebar spaced 18 inches on center both ways with a two inch leveling material below and one inch by four inch redwood expansion joint shall be provided every 40 linear feet, or as otherwise specified by the city engineer.~~
 - (4) *Hike and bike trails.* ~~Concrete h~~Hike and bike trails shall be provided, ~~as referenced in the parks and recreation section of the comprehensive plan adopted p~~Parks ~~m~~Master ~~p~~Plan, ~~shall be provided throughout the city in the locations specified on the hike and bike trails plan.~~

~~Hike and bike trails shall consist of five inches of concrete with #3 rebar spaced 18 inches on center both ways with a two inch leveling material below and one inch by five inch redwood expansion joint shall be provided every 40 linear feet, or as otherwise specified by the city engineer.~~
 - (5) *Street lighting.* Street lighting wires shall be underground in all subdivisions and developments. Where ownership of street lighting facilities such as poles and standards, luminaries, lamps, etc., will be retained by the electrical power supplier, the type of street lighting facilities to be installed shall be acceptable to both the city and the supplier of electrical power.
 - a. The subdivider or developer shall be fully responsible for the construction and installation of the required street light poles, fixtures and power line connections and wiring. The city shall be responsible for light maintenance and energy consumption on standard lighting upon acceptance of the subdivision and/or system.
 - b. Standard lighting is established as ~~shown in exhibit A, which is not set out herein but is available for inspection in the office of the city secretary, specified in the e~~City ~~e~~Engineering ~~d~~Design ~~m~~Manual.
 - ~~c. Acceptable fixtures shall be open bowl, cobra head, or shoebox style. All poles must be metal or an approved metal and fiberglass combination. Denver style poles with type G luminaries as manufactured by Union Metal may be used in special areas. If the Denver poles are used, the subdivider or developer must provide at least ten percent additional replacement fixtures and poles.~~
 - d. Systems using lights other than the standards set forth within this subsection may be approved if payment is made, at the time of platting or development, for the difference in the cost between operating and maintaining the proposed system and a standard system for a period of 20 years.
 - e. The subdivider or developer will be responsible for the installation, maintenance, and power consumption for all landscape lighting or any other device or fixture requiring electrical power.
 - (6) *Storm sewer and storm drainage facilities.* An adequate storm sewer system consisting of inlets, pipes and other underground drainage structures with approved outlets shall be constructed where the runoff of stormwater and the prevention of erosion cannot be accomplished satisfactorily by surface drainage facilities, and as required by the stormwater management ordinance. Storm drainage facilities shall be designed in accordance with provisions of the stormwater management ordinance as it now exists or as it may hereafter be amended.

- (7) *Streets and alleys.* The planning, design, construction and standards of all streets, alleys, right-of-way improvements and any other related roadway improvements by any person, firm, public utility, corporation, or business in the city or in its extraterritorial jurisdiction shall conform to the requirements of the ~~city street~~ City Engineering Design Manual, as it may now exist or may hereafter be amended.

The City Engineering Design Manual ~~street design manual~~ shall be utilized by all persons designing streets, right-of-way improvements, and any other related roadway improvements in the city or its extraterritorial jurisdiction, whether said person is subdividing property or construction without a subdivision.

- (8) *Sanitary sewers.* Sanitary sewer facilities shall be provided per the City Engineering Design Manual to adequately service the subdivision and conform to the city ~~Wastewater Collection System Master sewer~~ ~~Plan~~ Plan. Should the subdivision abut and use a sewer main of the city, the developer shall pay to the city, a pro rata charge as prescribed by ordinance for use of same.

~~a. All sewer pipe shall be PVC (solid wall) or approved equal. Sewer mains above 18 inches in diameter shall be PVC pipe closed profile, as approved by the city engineer.~~

~~b. A minimum of eight inch sewer pipe is required except that six inch lines will be acceptable in locations where so approved by the city engineer.~~

~~c. All joints shall be of the premolded type conforming to the applicable ASTM standard.~~

~~d. If possible, sewer lines shall be located in the alleys, streets, or easements and shall be five feet to 6½ feet deep to invert.~~

~~e. Should the subdivision abut and use a sewer main of the city, the developer shall pay to the city, a pro rata charge as prescribed by ordinance for use of same.~~

- (9) *Water.* Water systems shall have a sufficient number of outlets and shall be of sufficient size to furnish adequate domestic water supply, to furnish fire protection to all lots, and to conform to the ~~City Water Distribution~~ ~~Master water~~ ~~Plan~~ Plan. Water system facilities shall be provided per the City Engineering Design Manual. ~~mains shall be cement lined ductile iron pipe, AWWA specification C900 or approved equal and shall have a minimum cover of 42 inches and shall be of the mechanical joint or special rubber gasket pipe similar or equal to Tyton as manufactured by U.S. Pipe and Foundry, Bell Tite as manufactured by the Lone Star Steel Company, or Fastite as manufactured by the American Cast Iron Pipe Company.~~

- (10) *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 city master thoroughfare plan.

a. Only developments or subdivisions abutting or adjacent to a divided roadway, as such road is defined in the ~~city~~ City ~~transportation~~ ~~Comprehensive~~ ~~plan~~ Plan, shall be subject to this section.

b. The subdivider or developer shall be fully responsible for the construction and installation of the required landscaping and maintenance of the improvements for a period of one year. However, in the event that the ~~city engineer~~ director of engineering, in his sole discretion, determines that construction of improvements is impractical, the subdivider or developer shall pay an amount as specified in appendix A of the Code of Ordinances which may be amended from time to time by ordinance in-lieu-of constructing the required improvements. Frontage is wherever a property abuts the right-of-way of the divided thoroughfare, and separate frontages exist on each side of the thoroughfare. The fee in lieu of construction is collected once from each frontage. At the discretion of the ~~city engineer~~ director of engineering, the subdivider may 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 is less, if funds are available.

c. ~~Landscape plans and construction plans shall be subject to review and approval by the director of parks and recreation and/or city engineer~~ director of planning. The location of landscaping shall

conform to the ~~eCity eEngineering dDesign-mManual~~ and shall be placed to accommodate the ultimate number of traffic lanes. ~~Standard landscaping is established as follows:~~

- ~~1. One ornamental tree per 30 linear feet of median. Ornamental trees shall be a minimum two-inch caliper and eight feet in height at time of planting and shall be used primarily as accent trees at the median nose and dispersed within the canopy trees;~~
- ~~2. One canopy tree per 30 linear feet of median, with a minimum of four-inch caliper trunk, and a well formed canopy that is typical of the species. Canopy trees shall be planted no closer than 30 feet from median street lights;~~
- ~~3. Irrigation installation is to include bubblers or drip irrigation for all canopy and ornamental trees and irrigation to uniformly water the planting beds;~~
- ~~4. Planting beds shall be separated from turf grass using 14-gauge steel edging to define ground cover beds; and~~
- ~~5. Landscape plans and construction plans shall be subject to review and approval by the director of parks, recreation and open space and city engineer. The location of landscaping shall conform to the city street design standards and shall be placed to accommodate the ultimate number of traffic lanes.~~

- d. 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 benefit area, as that term is defined in chapter 130, article III, pertaining to roadway impact fees. Any fees not expended within ten years of collection shall be returned to the developer or subdivider that deposited the fees with the city.
- e. Notwithstanding the provisions of subparagraph (d) of this section 142-105, hereinabove, [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. 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 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.

(Ord. No. 2008-08-077, § 1, 8-5-2008; Ord. No. 2008-08-078, 8-19-2008; Ord. No. 2008-09-093, § 19, 9-16-2008; Ord. No. 2012-03-010, § 1, 3-20-2012; Ord. No. 2014-01-003, §§ 1, 2, 1-7-2014)

Sec. 142-106. - Screening and buffering of certain residential lots adjacent to streets.

- (a) *Intent and purpose.* The intent of this section is to provide screening and buffering guidelines in residential subdivisions adjacent to public thoroughfares. The intent is to create an aesthetically pleasing corridor which encourages harmony and discourages monotony, while ensuring safety and security and reducing noise and glare in neighborhoods. It is also the intent to encourage screening and buffering at a reasonable (moderate) cost with low to moderate maintenance requirements and to encourage sound planting principals including the use of indigenous plant material with reduced watering requirements. A variety of plant materials shall be provided in order to discourage monotony, subject to review and approval by the landscape administrator.
- (b) *Application.* Buffering shall be provided in the form of a common area wherever a residential lot would otherwise back or side to a street and shall be the minimum width indicated in table 1. Within that common area, screening as indicated in table 2 shall be provided. It is not necessary that the back or side of a residential lot physically touch or be immediately adjacent to the public thoroughfare in question or its right-of-way for compliance with this section 142-106 to be required.

The placement of an alley, parallel road, easement, fence, wall, common area, hardscaping, landscaping, or any other type of improvement, whether individually or in combination, to restrict the visibility of such residential lot and which screening and buffering does not meet the minimum requirements of this section 142-106 shall not circumvent, replace or otherwise satisfy the requirements of this section 142-106. Rather, the rear and/or side of any such residential lot shall be screened and buffered in accordance with the provisions of this section 142-106.

Notwithstanding the foregoing, a residential lot (a) that does not physically touch and is not immediately adjacent to a public thoroughfare or its right-of-way and (b) which residential lot is screened by future development or the residential lot is developed in a phase of development of a larger subdivision that has been pre-final platted and is being constructed in phases may be excepted from this requirement by the landscape administrator, in consultation with the director of engineering, if it is determined that the back or side of such residential lot will be screened from view by the development of a future phase of the larger pre-final platted subdivision of which the subject residential lot is a part.

Table 1

		Width of Required Common Area (Buffer)	
		Lots Backing a Street	Lots Siding a Street
Ultimate Width of Adjacent Street	< 50'	10'	0'
	< 60'	20'	0'
	< 80'	20'	20'
	> 80'	20'	20'

Table 2

<ul style="list-style-type: none"> • - Mandatory requirement ° - Additional requirement option (minimum one selection + mandatory requirement per alternative) * - If applicable 	Minimum One 3" Caliper Canopy Tree per 50 Linear Feet of Frontage	Minimum Two 1" Caliper Ornamental Trees per 50 Linear Feet of Frontage	Minimum 25% of Length of Screening to Have Bed of Shrubs & Groundcover	Minimum 50% of Length of Screening to Have Bed of Shrubs & Groundcover	Minimum 50% of Length to Have 3' Height Earth Berm	Fence Offsets (See note #1)
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a. Continuous 6' height masonry wall (See note #2)	•		•			*
b. Continuous 6' height wrought iron or tubular steel fence with masonry columns @ 20' o.c. (See note #2)	•	•	•	◦	◦	*
c. Continuous 6' height evergreen shrubs (See note #4)	•					
d. Maximum 3' height earth berming with additional 3' height evergreen shrubs (See note #3)	•					
e. Maximum 6' height earth berming (See note #3)	•	◦	•	◦		

Notes:

- (1) If 1000 feet or greater distance between openings - provide minimum one foot to three feet offset at a minimum of 100 feet - maximum 300-foot length.
 - (2) The color and style of masonry shall be consistent with the surrounding vicinity.
 - (3) Maximum 4:1 slope on berms. Additional common area dedications as required.
 - (4) Shrubs must reach required height within two full growing seasons or 18 months, whichever is less.
- (c) *Standards.* Screening shall be a minimum of six feet in height and shall not exceed the maximum height allowed for fences (except for living screens). In the case of a living plant screen, two full growing seasons to a maximum time of 18 months shall be allowed to attain the required height and screening characteristics specified above. Where the design of a residential subdivision along a street employs a combination of lots backing and siding toward the street, the plan shall provide for consistency of landscaping and fencing design and materials along both, the backing and siding lots so as to create an overall desirable effect. Walls or fences along the sides of lots which are continuous with walls or fences along adjacent backing lots shall be located within a common area and shall be maintained by the same entity.

- (d) *Irrigation.* An underground automatic irrigation system equipped with rain and freeze sensors and evapotranspiration (ET) weather based controllers shall be provided for all landscape planting areas. Irrigation systems shall comply with the city's water conservation ordinance as it exists or may be amended. Irrigation systems shall be designed for maximum irrigation efficiency, including the maximization of bubblers and rip emitters and the minimization of rotors and spray sprinklers.
- (e) *Conflicts.* No improvements shall conflict with vehicular or pedestrian traffic movement. No improvements, including trees or large shrubs which do not meet the guidelines established by the 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.
- (f) *Submittal.* Plans for screening and buffering shall be submitted concurrently with the applicant for minor plat, minor replat or record plat approval. Plans will be evaluated by the landscape administrator concurrently with the minor plat, minor replat or record plat consideration. Approval of the screening and buffering plans by the landscape administrator is required prior to the approval of a minor plat, minor replat or record plat.
- (g) *Administration.* The developer shall provide three complete sets of plans to the planning department which shall include, but not be limited to, the following information; location of berming, fencing, walls or landscaping; sidewalks; location of the street and property line; location of the screening and buffering area within the open space common area; location of existing and proposed utilities (water, sanitary sewer, electric, cable, gas, etc.); location of existing and proposed easements; construction details of the fencing or walls; specific plant materials being used (including common name, scientific name, quantity, size, spacing); planting details; berm details; and an irrigation plan; and any additional information as requested by the landscape administrator to assist in the complete and thorough review of the proposed plans. Sheet size shall be 24 inches by 36 inches with the scale not to exceed one inch equals 40 feet, or as determined by the landscape administrator. Construction drawings of all improvements shall be approved by the landscape administrator and the chief building official, prior to the installation of any proposed screening and buffering improvements.

Prior to the filing of the minor plat, minor replat or record plat, a compact disk (CD) with a copy of the as-built plans for the screening and buffering improvements shall be submitted to the engineering department in Adobe Acrobat (.pdf) format, subject to review and inspection by the landscape administrator.

- (h) *Certificate of acceptance.* A certificate of acceptance shall be required prior to filing of a plat with the county clerk. Upon completion of construction of the required screening and buffering improvements, the applicant for a plat shall request an inspection of said improvements from the landscape administrator. If the required screening and buffering is installed per the approved screening and buffering plan, the landscape administrator shall issue a certificate of acceptance. Where installation of landscaping is required to occur during a stage 3 or stage 4 drought situation as determined by the city subject to approval by the landscape administrator, the developer may provide the city with a letter of credit or some financial assurance determined by the landscape administrator equal to the cost of installing the landscaping which will remain in effect until the screening and buffering improvements are installed and accepted by the city. Once stage 3 restrictions are lifted, the landscaping required by the plan must be installed within six months, or the development shall be deemed to be in violation of this chapter and no additional building permits or certificates of occupancy will be issued.
- (i) *Maintenance.* Maintenance of the screening and buffering requirements mentioned herein shall be established prior to plat approval and shall be clearly outlined as part of the facilities agreement or as a condition of plat approval. A homeowners association (HOA) shall be responsible for maintenance of all landscaping, buffering, screening, irrigation and associated improvements adjacent to residential subdivisions along public [throughfares](#) thoroughfares.

(Ord. No. 2008-08-077, § 1, 8-5-2008; Ord. No. 2012-11-056, § 20, 11-5-2012; Ord. No. 2013-04-033, § 3, 4-2-2013; Ord. No. 2015-06-047, § 1, 6-2-2015)

Sec. 142-107. - Common areas and homeowners' associations.

- (a) In the event that common areas are to be a part of a plat, the common areas shall be shown on the record plat along with an adequate form for dedication thereof. This dedication form shall accomplish the following purposes:
 - (1) Save the title to common area properties for the benefit of the homeowners' association;
 - (2) Express a definite undertaking by the developer to convey the common properties to the homeowners' association; and
 - (3) Tie the covenants and homeowners' use provisions to the plat so that collection of fees and denying use is legally supportable.
- (b) Prior to recording the plat, the developer shall:
 - (1) Create an incorporated nonprofit homeowners' association; and
 - (2) Record covenants that automatically make every lot owner a mandatory member of the association, give the property owner the right to use the common property, and establish their voting rights and their obligations to pay assessments.
- (c) The homeowners' association's restrictive covenants shall provide for continuous maintenance and control of the common areas by a responsible body, in perpetuity, for the benefit of the homeowners without using public funds. Membership in the homeowners' association shall run with the title to each lot. That is, membership in the homeowners' association is not voluntary and its 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) Maintenance of the screening and buffering requirements mentioned herein shall be established prior to record plat approval and shall be clearly outlined as part of the facilities agreement or as a condition of plat approval. A homeowners association (HOA) shall be responsible for maintenance of all landscaping, buffering, screening, irrigation and associated improvements adjacent to residential subdivisions along public thoroughfares and shall have an HOA fee to be levied against each property owner within the subdivision. The HOA covenants shall include a provision that if the HOA defaults, the city shall have the rights of the association to either file a lien on property within the subdivision or assess property owners within the subdivision. This shall include the open space common area designated for screening and buffering. The developer shall establish the HOA, which meets the approval of the city attorney, prior to the acceptance of all public improvements. An open space common area, corresponding to the width requirements described in Exhibit A, shall be provided for this option.
- (e) The articles of incorporation of the homeowners association, its bylaws, and the restrictive covenants shall be submitted to the planning department for approval along with the record plat and shall be recorded as a part thereof.
- (f) In the approval of the above documents, the city shall determine that the proper legal position is ensured and that the proposed homeowners association will function properly both during and after the time in which the developer is active in the subdivision. The city may require the association to provide ongoing reporting of budgetary actions, financial reports, and collection activity on homeowners' assessments. Should the funding of the common areas maintenance not support the level of maintenance required by applicable ordinance, the city may require additional security for the provision of such maintenance.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Secs. 142-108—142-129. - Reserved.

ARTICLE V. - ENFORCEMENT

Sec. 142-130. - Authority of the ~~city engineer~~director of engineering.

- (a) The ~~director of engineering~~city engineer is hereby authorized and directed to promulgate rules, regulations, standards, and specifications for the construction, installation, design, location and arrangement of streets, right-of-way improvements, related roadway improvements, curbs, streetlights, ~~street sign~~traffic control devices, alleys, utility layouts, utility easements, sidewalks, water supply and distribution systems, fire hydrants, sewage disposal systems, drainage facilities, and other public improvements. He shall file same with the city secretary at least 30 days before they shall become effective. He may amend the same from time to time; provided that an amendment shall be filed with the city secretary at least 30 days before it becomes effective. No such rules, regulations, standards or specifications shall conflict with this chapter or any other ordinance of the city.
- (b) All such improvements shall be designed, constructed, installed, located, and arranged by the subdivider or person constructing streets, right-of-way improvements, or related roadway improvements in accordance with such rules, regulations, standards and specifications.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-131. - Inspection of construction.

- (a) The ~~director of city engineer~~director of engineering or his duly authorized representatives shall make periodic inspection of the construction of improvements for subdivisions. Inspection of improvements by the ~~director of engineering~~city engineer or his representative is not intended to and does not relieve the subdivider or his contractor from ensuring that the improvements are constructed in accordance with the approved plans, specifications, and all city ordinances. The subdivider or his contractor, shall maintain contact with the ~~director of engineering~~city engineer or his representative during construction of improvements.
- (b) No sanitary sewer, water or storm sewer pipe shall be covered without approval of the ~~director of city engineer~~director of engineering or his representative. No flexible base material, subgrade material, or stabilization shall be applied to the street subgrade without said approval. No concrete shall be poured nor asphaltic surface applied to the base without said approval.
- (c) The ~~director of engineering~~city engineer or his representative may at any time cause any construction, installation, maintenance, or location of improvements to cease when, in his judgment, the requirements of this chapter or the standards and specifications as hereinbefore provided have been violated and may require such reconstruction or other work as may be necessary to correct any such violation. The cost of materials testing shall be borne by the developer.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-132. - Maintenance bond.

The subdivider shall furnish a good and sufficient 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~~city engineer, 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 used therein, for a period of two full years from the date of final acceptance of the improvements. Final acceptance will be withheld until said maintenance bond is furnished to the city.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-133. - Filing and inspection charges.

- (a) The following schedule of fees and charges shall be paid to the city when any preliminary-final plat, preliminary-final replat, record plat, minor plat, minor replat, amending plat, or other filing is tendered to the planning and zoning commission or any other authorized board or agency of the city. Each of the fees and charges provided herein shall be paid in advance, except as noted otherwise, and no action of the commission or any other board or agency of the city shall be valid until the fees and charges shall have been paid to the city.
- (b) Except as hereinbefore provided, these fees and charges shall be charged on all plats and filings, regardless of the action taken by the commission or any other board or agency of the city, and whether the plat or filing is approved or denied by the city council:
 - (1) *Plat fees.* Plat fees shall be as determined from time to time by city council.
 - (2) *Other filings.* Other filings shall be as determined from time to time by city council

(Ord. No. 2008-08-077, § 1, 8-5-2008; Ord. No. 2008-08-078, 8-19-2008)

Sec. 142-134. - Penalty.

Any person, firm or corporation who shall violate any of the provisions of this chapter or who shall fail to comply with any provisions hereof shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed \$500.00, and each day that such violation continues shall constitute a separate offense and shall be punishable accordingly.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Secs. 142-135—142-152. - Reserved.

ARTICLE VI. - CONVEYANCE OF LAND FOR RECREATIONAL AREAS AND FACILITIES^[2]

Footnotes:

--- (2) ---

Charter reference— Authority of city to acquire property for playgrounds, § 7.

Sec. 142-153. - Purpose.

This article is adopted to ensure that adequate neighborhood and community parks are provided to meet the additional needs created by new residential development.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-154. - Scope.

The provisions of this article shall apply to all new residential development within the city after the effective date of the ordinance from which this article derives for which a plat is required to be submitted to the city for approval in accordance with state law and the ordinances of the city.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-155. - Exemptions.

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

- (1) Residential development for property to be located on a lot of record, approved prior to the effective date of the ordinance from which this article derives;
- (2) A record plat, a minor plat, or a replat which was approved prior to the effective date of the ordinance from which this article derives; or
- (3) 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.
- (4) Residential development within the MTC - McKinney Town Center zoning district. Please refer to Appendix G of the City of McKinney Zoning Regulations for open space standards specifically applicable to all new residential development within the MTC - McKinney Town Center zoning district.

(Ord. No. 2008-08-077, § 1, 8-5-2008; Ord. No. 2013-04-044, § 24, 4-22-2013)

Sec. 142-156. - General requirements.

- (a) *Conveyance or payment of money required.* The owner of any property to which this article applies, which is to be developed for residential purposes, shall convey land for park purposes or make a payment of money in lieu of land, or a combination of both, to the city at the time of subdivision for single family and duplex residential development or at time of issuance of a building permit for multi-family development, to provide for the recreational needs created by such development, in accordance with the provisions of this chapter.
- (b) *Proposed number of dwelling units to be submitted.* All plats, lots of record, replats, site plans or proposed improvements of land for new residential development required to be submitted to the city, shall indicate the number of proposed dwelling units to be constructed or placed within the development on such plat, lot of record, replat or site plan.
- (c) *Determination of requirements.* In reviewing any lot of record, plat, site plan or proposed improvements of land for a new residential development, the director of parks and recreation shall make a determination of whether a conveyance of land, payment of money in lieu of land or a combination of both shall be made to meet the requirements of this article.
- (d) *Factors considered.* In making a determination of whether a proposed conveyance of land, money in lieu of land or a combination of both shall be made to meet the requirements of this article, the director of parks and recreation shall determine what would be in the best interest of the city, based upon relevant factors which may include, but not be limited to, the following:
 - (1) Whether the proposed land to be conveyed for park purposes would be suitable as a neighborhood or community park;
 - (2) The parks and recreation master plan for the area in which the development is located;
 - (3) Whether the proposed land to be conveyed for park purposes is adjacent to an existing or proposed school site;
 - (4) Whether there is sufficient existing public or private park land in the area of the proposed development;
 - (5) Whether the park needs of the area where the proposed development is located would be best served by expanding or upgrading existing parks;

- (6) Land located adjacent to a greenbelt park/open space, which is intended to be preserved in its natural state; and
 - (7) The guidelines of the current city comprehensive plan.
- (e) *Suitability of proposed conveyance of land for park purposes.* A proposed conveyance of land to meet the requirements of this article shall generally be considered unsuitable for neighborhood or community park purposes if it has one or more of the following characteristics:
- (1) Generally, if more than 20 percent of the proposed park site is located within the 100-year floodplain, as shown on the latest flood insurance rate map or floodplain ordinance adopted by the city on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. The city may accept land that is composed of more than 20 percent floodplain if it is determined in the best interest of the city;
 - (2) The proposed park site dedication is less than ten acres for a neighborhood park or 40 acres for a community park, unless the proposed dedication is located in such a manner in which it could be combined with other dedications to create a park of adequate size; or
 - (3) It does not or would not front an improved public street or would not be readily accessible, in whole or in part, to the public.
- (f) *Combination of land and payment of money.* The director of parks and recreation may, when the best interest of the city would be served, require a combination of the dedication or conveyance of land and the payment of money in lieu of land to meet the requirements of this article, or total payment in lieu of land conveyance.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-157. - Conveyance of land requirements.

- (a) *Required.* When the director of parks and recreation determines that a conveyance of land shall be required, in whole or in part, to meet the requirements of this article, the following provisions shall apply:
- (1) *Amount.* Any required conveyance of land shall be in an amount proportionally equal to one acre per 50 residential units on all proposed residential developments as defined herein.
 - (2) *Manner and method.* Plats of subdivisions required to be submitted for approval by the city in accordance with V.T.C.A., Local Government Code §§ 212.001—212.017, shall show thereon a fee simple conveyance to the city of the land required by this article for park purposes as a condition to approval of such plat by the city, and the city may further require the conveyance of the park property by general warranty deed. As a condition to acceptance of the plat or deed by the city, the subdivider shall provide the city with an owner's title policy of insurance in an amount equal to the value of the land conveyed, which amount shall be determined by the city.
 - a. For single family, duplex residential and multi-family developments, the amount of land needed shall be based on one acre per 50 residential dwelling units or a portion thereof.
 - b. If any subdivision or site plan change results in an increase in the number of dwelling units allowed on a platted lot, the developer shall pay the difference as a fee in lieu of land dedicated to be paid prior to the filing of the replat or the issuance of a building permit.
 - (3) *Credit for prior dedications.*
 - a. Where a gift of land was made prior to the effective date of the ordinance from which this article is derived by the owner of land required to convey land under the provisions of this article, the former gift of land shall be credited on a per-acre basis toward the required conveyance provided by this article when the Council finds that:

The gift was made within five years of the effective date of the ordinance from which this article is derived;

The land given was within one-half mile of the new development for which land is required to be conveyed;

The land given is not being presently used for purposes incompatible with park purposes and is suitable for park purposes; and

A credit may be given for on-site improvements that are compatible with long range development plans for the proposed park.

- b. The credit provided for herein shall not be transferable and shall only be given to the donor of the land who is the owner of the property being developed for which a conveyance of land is required by this article, unless said prior conveyances were included as a part of an executed facilities and/or development agreement with the city and the developer.
- (4) *Credit for private recreation facilities.* Where private recreation facilities are built for the residents for the subdivision or development, a credit may be granted by the director of parks and recreation. The value of these private recreation facilities shall be determined by the director of parks and recreation but shall not exceed 50 percent credit and shall be consistent with credit guidelines to be promulgated as part of the city comprehensive plan and park master plan.
 - (5) *Credit for conveyance of floodplains.* In cases where floodplain land or property is proposed to be conveyed to satisfy the parkland requirements, a credit will be given based upon the following formula or ratio: three acres of floodplain shall equal one acre of nonfloodplain land.
 - (6) *Location.* The land required to be conveyed may be located inside or outside the boundaries of the development, as long as the land is so located and in such proximity to the development so as to serve or benefit persons residing therein, as approved by the director of parks and recreation.
- (b) *Improvements to be made.* The person required to convey land shall be responsible for, and pay the costs of, providing convenient access by improved streets, sidewalks and, adequate drainage improvements so that the site is suitable for the purpose intended, and shall provide water, sewer and electrical utilities to the property in accordance with the procedures applicable to other public improvements as specified in the subdivision ordinance of the city. However, the city council may waive, in whole or part, such required improvements where an amount of land in excess of the requirements of this article is conveyed, the value of which is equal to or greater than the cost of the improvements being waived. Such waivers shall be specified on a case-by-case basis in a facilities agreement between the developer and the city for the given subdivision.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-158. - Money in lieu of land.

Where the director of parks and recreation determines that a payment of money in lieu of land shall be made, the following provisions shall apply:

- (1) *Amount required to be paid.* Any payment of money required to be paid by this article shall be in an amount equal to the value of the property established by the most recent appraisal of all or part of the property made by the central appraisal district. Periodically the city may have an independent appraisal conducted for a sampling of properties to determine if the appraised value established by the central appraisal district is appropriate. The city council may adjust the amount assessed based on any difference between the value of property established by the central appraisal district and the value of property per the independent appraisal. The adjustment shall be a percentage change to all properties of the values established by the central appraisal district.

- (2) *Time of payment.* Any payment of money required herein shall be paid as a condition to the approval of any final plat or replat. Payment shall be made prior to the filing of the plat for single family and duplex residential developments and prior to the issuance of a building permit for multi-family developments, unless otherwise stated in a facilities agreement approved by the city.
- (3) *Parkland dedication fund.* All cash payments paid to the city in accordance with this article shall be deposited in a separate parkland dedication fund. The city shall account for all such payment with reference to each development for which the payment is made.
- (4) *Use of funds.* Any payments made to the parkland dedication fund may be used solely for the acquisition, development, expansion or upgrading of neighborhood or community parks located within the same park district or general area where the proposed development for which payment was made is located.
- (5) *Right to refund.* If all or part of the payments made for a development are not expended for the purposes authorized herein within six years of the date that 95 percent of all certificates of occupancy have been issued for the completed development of the property for which the payments were made, the person or entity who made such payments shall be entitled to a refund on all unexpended funds if a request for a refund in writing has been made within one year of entitlement. If no such timely request is made, the right to a refund of the unexpended funds shall be considered waived.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-159. - Penalties, sanctions and redeterminations.

- (a) *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 land 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 development to which this article applies until the required conveyance of land or payment of money in lieu of land is made to the city in accordance with this article.
- (b) *Permits and services to be withheld.* No building permits shall be issued for, and no permanent utility services shall be provided to, any land within any development to which this article applies until the required conveyance of land or payment of money in lieu of land is made to the city in accordance with this article.
- (c) *Redetermination of requirements for proposed additional dwelling units.* After the 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 council a revised zoning proposal for additional dwelling units for the development. Once the council has approved a zoning ordinance increasing the number of dwelling units allowed on a platted lot, the developer shall either convey the additional park land through a plat or replat or shall pay a fee in lieu of parkland for the additional dwelling units at the issuance of the building permits. Where a payment of money was originally made to meet the requirements of this article, the person proposing to construct additional dwelling units may be required to convey land 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 land shall be returned by the city.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-160. - 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 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.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Secs. 142-161—142-189. - Reserved.

ARTICLE VII. - PRIVATE STREET REGULATIONS

Sec. 142-190. - Intent and purpose.

- (a) It is the intent of these private street regulations:
 - (1) To allow private street developments to occur within the city on a limited and restrictive basis;
 - (2) To provide for private street developments as one type of residential development mechanism to allow the city to continue to be competitive in the development market; and
 - (3) To provide a broader variety of residential areas to meet the needs of the residents of the city.
- (b) There shall be no required minimum or maximum acreage size and/or number of lots within private street developments. However, minimums and maximums will be evaluated on a case-by-case basis through the specific use permit process.
- (c) The location of each private street development will be subject to the approval of the city council, through the specific use permit process, on a case-by-case basis, based on, among other matters, the criteria described in this article. An applicant who meets the stated criteria will not be entitled to the specific use permit as a matter of right, but shall only obtain approval for the specific use permit at the sole discretion of the city council.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-191. - Administrative procedure.

In order to qualify for consideration of a specific use permit for private streets, the applicant must satisfy the criteria set forth below.

- (1) *Zoning ordinance.* All applications for private street developments shall be processed through the specific use permit or planned development district procedure as specified herein and as stated within chapter 146 and as such chapter may be hereafter amended.
- (2) *Subdivision ordinance.* All applications for private street development shall also be processed through this chapter, and as such chapter may be hereafter amended.
- (3) *Board of adjustment.* Denial of approval of any private street development specific use permit by the city council shall be final and shall not be appealable to the zoning board of adjustment.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-192. - Guidelines for development.

The proposed development shall be evaluated with respect to the following guidelines as part of the review and approval process for all private street developments. Subsections (1), (2), and (3) of this section are mandatory and

are requirements for all private street developments. Subsections (4) through (7) of this section, 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.

- (1) The area shall be within the corporate limits of the city.
- (2) 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.
- (3) Area shall not disrupt an existing or proposed city public pedestrian pathway, hike and bike trail or park.
- (4) 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.
- (5) 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.
- (6) 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.
- (7) The proposed private street subdivision should not result in an overconcentration of such developments, to the extent of dominating the neighborhood development pattern.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-193. - General requirements.

- (a) The private street system must comply with ~~design standards of the City eEngineering dDesign mManual and the standards of~~ this chapter. All references in this chapter to "public right-of-way" shall apply to private street lots.
- (b) The private street system must provide 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.
- (c) The type of gate or controlled access mechanism is subject to the approval of the city's fire marshal.
- (d) If the private street development is designated solely for residential use, the specific use permit shall be subject to termination by the city council through applicable procedures, at such time as the development ceases to be used solely for residential purposes.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-194. - Specific requirements.

- (a) *Required wording on plat.* Each private street development plat shall contain the following wording on the face of the plat:

"The streets have not been dedicated to the public for public access nor been accepted by the City as public improvements, and the streets shall be maintained by the property owners association within the subdivision.

The streets shall always be open to emergency vehicles, public and private utility service personnel, the U.S. Postal Service and governmental employees in pursuit of their official duties."

- (b) *Gate type.* The type of gate or controlled access mechanism is subject to the approval of the city fire marshal.
- (c) *Issuance of specific use permit.* All approved specific use permits will become effective with the approval of the record plat.
- (d) *Public utility and storm sewer easement.* Private streets shall be located in a public utility and storm sewer easement. The width of the easement shall be the same as the required right-of-way width for a public street.
- (e) *Easements.* Private street developments shall provide the following easements:
 - (1) Public utility and storm sewer easements containing private streets and public utilities;
 - (2) Additional public utility easements required by public agencies;
 - (3) Pre-existing easements unaffected by the platting process; and
 - (4) Such private service easements, including, but not limited to, utilities, fire lanes, street lighting, government vehicle access, mail collection and delivery access, and utility meter reading access, as may be necessary or convenient.
- (f) *Access.* All private street developments shall be required to have a minimum of one point of access to a public street having a right-of-way width of at least 60 feet, unless specifically approved otherwise.
- (g) *Site plan.* For each private street development, a site plan shall be submitted and shall conform to section 146-45, site plan approval, with the exception of those exemptions listed in section 146-45, which shall not apply. In addition to the requirements of section 146-45, the following shall be submitted:
 - (1) A rendering of elevation of proposed structures, including description of proposed building materials, roof pitches, signage, and such other items as the city staff might reasonably request (said rendering of elevation of proposed structures does not refer to residential structures, but rather to other structures that are components of the private street development);
 - (2) An ~~illustration~~ illustration of the relationship of the development to the qualifying criteria section of this chapter/policy;
 - (3) An ~~illustration~~ illustration of the fencing, the guard house (if any) and entry way, and the location of any other items within the private street development; and
 - (4) An ~~illustration~~ illustration of the items outside the private street development, such as, but not limited to, entrance area, barriers, perimeter walls, exterior landscaping, and other elements as required by city staff.
- (h) *Impact fees.* As applicable, impact fees will be required as per chapter 130, articles II and III.
- (i) *Park dedication.* As applicable, park dedication requirements shall be made as per article VI of this chapter.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-195. - Conversion of public streets to private streets.

For existing developments to become private:

- (1) Permit application must contain signatures of all owners of existing lots that would be part of the proposed private street subdivision;
- (2) An applicant must purchase installed infrastructure and right-of-way from the city, and establish a reserve fund in accordance with section 142-197(b), reserve fund, within this chapter; and

- (3) An applicant must conform to all other provisions of this section and chapter.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-196. - Relationship to the city comprehensive plan.

The following components shall be evaluated when reviewing potential private street developments. This evaluation will aid in logical implementation of the current city comprehensive plan.

- (1) *Future land use plan.* Impact on land uses, their configuration, and function shall be examined as part of each request for a private street development.
- (2) *The ~~master park plan (MPP) and hike and bike trails plan (HBTP)~~ Parks and Recreation ~~Master Plan (PRMP)~~.* The proposed private street development shall be evaluated to assess the impact of private streets on access, including ingress and egress, and continuity of the hike/bike/jogging/open space linkage system within the community, as well as the functioning of other ~~MPP and HBTP~~ PRMP elements.
- (3) *The transportation plan (TP).* The proposed private street development will be evaluated to assess its impact on the efficiency, convenience, and safe functioning and implementation of the TP as outlined in the City Comprehensive Plan.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-197. - Property owners' association.

- (a) *Required.* Subdivisions with private streets shall have a property owners' association, the property owners' association shall own and be responsible for the maintenance of private streets and appurtenances. The property owners' association shall provide for the payment of dues and assessments required to maintain the private streets. The property owners' association documents must 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 record plat.
- (b) *Reserve fund.* The property owners' association 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 property owners' association infrastructure. This reserve fund shall not be commingled with any other property owners' association 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.
 - (1) The property owners' association 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.
 - (2) If the specific use permit is revoked or the private streets converted to public streets, the reserve fund shall become the property of the city.
- (c) *Membership requirements.* Every owner of a lot within the private street development shall be a member of the property owners' association.
- (d) *Required disclosures.* The property owners' association documents shall address, but shall not be limited to, the following four subsections:
 - (1) The property owners' association documents must indicate that the streets within the development are private, owned and maintained by the property owners' association and that the city has no obligation to maintain or reconstruct the private streets.

- (2) The property owners' association 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.
- (3) The property owners' association may not be dissolved without the prior written consent of the city.
- (4) Section 142-198(b) of these regulations shall be included in the property owners' association documents, to increase the opportunity for awareness of mandatory conversion of private streets to public streets.
- (e) *Assignment of property owners' association lien rights.* The property owners' association declaration shall provide that should the property owners' association fail to carry out its duties as specified in these regulations, the city or its lawful agents shall have the right and ability, after due notice to the property owners' association, to perform the responsibilities of the property owners' association if the property owners' association fails to do so in compliance with any of the provisions of these regulations or of any applicable city codes, regulations or agreements with the city and to assess the property owners' association or the lot owners for all costs incurred by the city in performing said responsibilities if the property owners' association fails to do so, and the city shall further have any and all liens and lien rights granted to the property owners' association to enforce the assessments required by the declaration, and/or to avail itself of any other enforcement actions available to the city pursuant to state or city codes and regulations. No portion of the property owners' association documents pertaining to the maintenance of the private streets may be amended without the written consent of the city.
- (f) *Services not provided.* The property owners' association documents shall note that certain city services shall not be provided on private streets. Among the services that will not be provided include: 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.
- (g) *Access required.* The property owners' association 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.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-198. - Conversion of private streets to public streets.

- (a) *Voluntary conversion.* The city may, but is not obligated to, accept private streets for public access and maintenance. The procedure must conform to all of the following provisions:
 - (1) The property owners' association must submit a petition signed by at least 51 percent of its members (or a greater number of signatures if required by the property owners' association document).
 - (2) All of the infrastructure must be in a condition that is acceptable to the city.
 - (3) All security stations, gates, and other structures not consistent with a public street development must be removed.
 - (4) All monies in the reserve fund must be delivered to the city.
 - (5) The subdivision plat shall be submitted to the city as a replat 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. An ordinance converting the private streets to public streets must be approved by the city council prior to the filing of said subdivision plat.
 - (6) The property owners' association documents must be modified and refiled to remove requirements specific to private street subdivisions.
- (b) *Mandatory conversion.*

- (1) The city will notify the property owners' association of violations of the private street regulations. Failure to bring the subdivision into compliance with the regulations may cause the city to revoke the special use permit for the private streets.
- (2) If the special use permit is revoked, the city may correct all remaining violations, remove the security stations and unilaterally re-file the subdivision plat 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 property owners' association and/or the property owners will be responsible for the amount of unpaid work.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-199. - Design standards.

- (a) *Required.* The design and construction of the infrastructure within a private street subdivision shall conform to the same rules, regulations, standards, and specifications established for public subdivisions and as regulated in the ~~city City street eEngineering design-Design manual~~Manual.
- (b) *Promulgation.* The ~~city engineer~~director of engineering is hereby authorized to promulgate rules, regulations, standards, and specifications for the design and construction of improvements unique to a private street subdivision.
- (c) *Filing.* The same shall be filed with the city secretary at least 30 days before they shall become effective.
- (d) *Amendments.* An amendment may be made from time to time; provided that the amendment is filed with the city secretary at least 30 days before it becomes effective.
- (e) *Savings clause.* No such rules, regulations, standards or specifications shall conflict with this or any other ordinance of the city.
- (f) *Structures.*
 - (1) Project perimeter fences at project entry access points, entry monuments, and security stations, may be erected within the public utility and storm sewer easement, provided they do not impede the installation, maintenance, repair, or replacement of public utilities and storm sewers within the easement.
 - (2) 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 the building line adjacent to the private street.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-200. - Maintenance.

- (a) The property owners' association shall be responsible for periodic inspection and maintenance of all infrastructure except utilities (water, sanitary sewer, storm sewer, gas, cable, telephone, and electric lines).
- (b) The city has no obligation to inspect or maintain a private street.
- (c) In the event that the property owners' association fails to make repairs required by the city, the city shall have the right, but not the obligation, to cause the repairs to be completed and collect the cost of the same from the property owners' association for said work.
- (d) If the property owners' association fails to maintain access as required in this article, the city may enter the subdivision and remove any gate or device, which is a barrier to access, at the sole expense of the property owners' association.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-201. - Condominium drives.

- (a) In order to provide for orderly development and provision of services, the director of planning or their designee may approve the creation of named condominium drives as part of a residential condominium project. These drives are not dedicated city streets and maintenance is solely the responsibility of the property owner.
- (b) If the director of planning does not approve the designation of the drives as condominium drives, the applicant may appeal the decision to city council as part of the plat approval process.
- (c) Proposed condominium drives shall be located within access/fire lane/utility easements as determined necessary by the ~~city engineer~~director of engineering and fire marshal.
- (d) Condominium drive names shall be approved by the ~~city engineer~~director of engineering.
- (e) Additionally, the city attorney shall review and approve the condominium documents associated with any proposed development that will include condominium drives.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-202. - Miscellaneous.

All references to ordinances shall also refer to all amendments to, substitutions or codifications thereof.

(Ord. No. 2008-08-077, § 1, 8-5-2008)

Sec. 142-203. - Cluster housing developments.

- (a) *Exceptions.* The following listed sections and subsections of this article shall not apply to certain private streets, known as motor courts, which provide access to not more than seven dwelling units each and which are within PD planned development districts for individually designed clusters of single family residence lots, and subject to specific development plans for lotting arrangement; access and circulation; parking; landscaping, transition and screening elements:
 - (1) Section 142-192(5);
 - (2) Section 142-193(1);
 - (3) Section 142-194(c);
 - (4) Section 142-194(e); and
 - (5) Section 142-199.
- (b) *Specific regulations.* A development with private motor courts as provided herein shall conform to the following:
 - (1) The development shall be specifically approved through a PD planned development district, instead of through a specific use permit within another district, and shall be not more than 12 acres in total area.
 - (2) Public utility and storm sewer easements shall be provided as needed for the development and surrounding area.
 - (3) The ~~city engineer~~director of engineering -is hereby authorized to establish rules, regulations, standards, and specifications for the design and construction of improvements unique to the specific private motor court subdivision, during the process of approval of the associated PD planned development district or subdivision plat.

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- (4) If a motor court has a paved area less than the usual standard for a local residential street, it shall have access from a street with a pavement width of not less than 31 feet, or such ~~greater~~ width as may be required by the city to provide for anticipated traffic flow or parking needs generated by the cluster housing development.

(Ord. No. 2008-08-077, § 1, 8-5-2008)