CITY OF LINDALE, TEXAS
SUBDIVISION ORDINANCE

Includes amendments through December 31, 2006
and 2007 Amendments to Sections 1-12, 1-13 and 1-24
and Proposed Repeal of Sections 2-51– 2-59 (Parks)

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CITY OF LINDALE, TEXAS SUBDIVISION ORDINANCE
ORDINANCE NO. 05-_____

AN ORDINANCE TO PROMOTE THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE CITY BY REGULATING THE SUBDIVISION OF LAND IN THE CITY AND THE CITY'S EXTRATERRITORIAL JURISDICTION; ESTABLISHING PROCEDURES FOR THE PREPARATION AND APPROVAL OF A SUBDIVISION PLAT, REPLAT, AMENDMENT OF A PLAT AND VACATION OF A PLAT; ESTABLISHING SUBDIVISION DESIGN REQUIREMENTS; ESTABLISHING PROCEDURES FOR DEDICATION AND ACCEPTANCE OF PUBLIC IMPROVEMENTS; PROVIDING ENFORCEMENT AND IMPOSING PENALTIES; ESTABLISHING RULES OF CONSTRUCTION AND REPEALING PRIOR INCONSISTENT ORDINANCES.

ARTICLE 1 GENERAL ADMINISTRATIVE RULES AND PLAT REQUIREMENTS

PART 1 GENERAL ADMINISTRATIVE RULES

Section 1-1 Title

The City of Lindale, Texas Subdivision Ordinance may be cited as the Lindale Subdivision Ordinance.

Section 1-2 Purpose

The regulations contained in this ordinance are designed to promote the health, safety, morals, or general welfare of the City and the safe, orderly, and healthful development of the City. § 212.002 Texas Local Government Code.

Section 1-3 Application

(a) Except as otherwise provided in this ordinance or by state law, the provisions of this ordinance apply to Subdivision Plats and the subdivision of land within the City and extraterritorial jurisdiction of the City. § 212.003 Texas Local Government Code.

(b) These regulations shall apply to:

1. Subdivision Plats;

2. The division of a tract of land into two (2) or more Lots or parts;

3. The division of a tract of land previously subdivided into two or more Lots or parts and not recorded, that were subject to and not in accordance with adopted City subdivision regulations in effect at the time the land was subdivided or platted;

4. The dedication or vacation of Streets , Alleys, parks or other parts of a tract of land for public use or for the use of purchasers or owners of lots fronting on or adjacent to Streets, Alleys, parks or other parts of the tract of land, §212.004(a) Texas Local Government Code;

5. The amendment of a Subdivision Plat;

6. A replat of all or part of a recorded Subdivision; or

7. The vacation of a recorded Subdivision Plat.

(c) These regulations shall not apply to:

1. Land legally platted and approved prior to the Effective Date of this ordinance;

2. A division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated; §212.004(a) Texas Local Government Code;

3. Existing cemeteries that comply with state and local laws and regulations;

4. Division of land created by order of a court of competent jurisdiction; or

5. Subdivision development that is exempt by state law.

Section 1-4 Definitions

In this ordinance–

"*Administrative Officer*" means the person appointed by the City Council to perform the duties prescribed by this and other ordinances. The Administrative Officer may be assisted by one or more employees of the City, serving at the direction of the Administrative Officer.

"*Alley*" means a public service space or roadway which affords a secondary means of access to a Lot, and not intended for general traffic circulation.

"*Building Line*" means a line on a Lot that is parallel to a Lot Line that marks the minimum horizontal distance from the Lot Line that a principal building or structure is permitted to be located.

"*City*" means the City of Lindale, Texas.

"*City Engineer*" means the registered professional engineer or firm of registered professional engineers appointed by the City Council by ordinance to serve as City engineer. §22.071 Texas Local Government Code.

"*Commission*" means the Lindale Planning and Zoning Commission.

"*Compound curve*" means a curve consisting of two simple curves joined together and curving in the same direction. A simple curve is a curve that follows the arc of a circle.

"*Comprehensive Plan*" means the Lindale Second Century Comprehensive Plan.

"*Day*" means calendar day.

"*Dedicatory Instrument*" means each governing instrument covering the establishment, maintenance, and operation of a Subdivision. The term includes a declaration or similar instrument subjecting real property to Restrictive Covenants, bylaws, or similar instruments governing the administration or operation of a Property Owners' Association, to properly adopted rules and regulations of the Property Owners' Association, or to all lawful amendments to the covenants, bylaws, instruments, rules, or regulations.

"*Effective Date*" means the date that this ordinance was adopted by the City Council in accordance with §212.002 and 212.003 of the Texas Local Government Code.

"*Lot*" means a piece, parcel, tract or plot of land established by Plat or as otherwise permitted by law, to be owned, used, built upon or developed.

"*Lot Line*" means a recorded boundary line or property line that divides a Lot from another Lot or from a Street or Alley.

"*Private Park*" means a park located in a subdivision with private streets that is not accessible to the general public.

"*Private Street*" means a right-of-way contained within a gated subdivision or development that is owned and maintained by the property owners in the gated subdivision or development and which provides a primary means of access to a Lot within the gated subdivision or development, but does not include an Alley or private driveway or easement.

"*Property Owners' Association*" means an incorporated association owned by the owners of the property covered by the dedicatory instrument and through which the owners, or the board of directors or similar governing body, manage or regulate the residential subdivision, planned unit development, or similar planned development.

"*Restrictive covenant*" means any covenant, condition, or restriction contained in a dedicatory instrument, whether mandatory, prohibitive, permissive, or administrative

"*Street*" means a public right-of-way, however classified or designated, which provides a primary means of access to a Lot, but does not include an Alley or private driveway or easement.

Arterial Boulevard means a primary Street or major thoroughfare with no center turn lane which is designed to move a large volume of traffic.

Arterial Street means a primary Street or major thoroughfare with a center turn lane which is designed to move a large volume of traffic.

Collector Street means a street intended to move traffic from minor or local streets to or toward Arterial Boulevards, Arterial Streets and other major thoroughfares.

Half Street means street that has less than the full right of way and pavement width as required by this ordinance.

Rural Arterial means a primary Street or major thoroughfare in a largely rural area which is designed to move a large volume of traffic.

"*Subdivision*" means the division of a tract of land by metes and bounds, deed, contract for deed, lease or any other instrument or method, into two or more Lots or parts for the purpose of offer, sale, lease, development , or division of ownership. Subdivision does not include the division of land into parts greater than five acres, which are exempt from platting under §212.004 of the Texas Local Government Code.

Section 1-5--1-10 Reserved.

PART 2 SUBDIVISION PLAT REQUIRED AND REQUIREMENTS TO BEGIN CONSTRUCTION

Section 1-11 Final Subdivision Plat Required

(a) A plat of a Subdivision within the City or the City's extraterritorial jurisdiction shall not be recorded until a Final Subdivision Plat has been prepared in accordance with these regulations and approved by the Commission and City Council. §212.006(a) Texas Local Government Code.

(b) No person shall contract for the sale of, deed or otherwise transfer a Lot in a Subdivision which is located within the City or its extraterritorial jurisdiction prior to the recording of the Final Subdivision Plat where the Lot is located.

(c) No change, erasure, modification or revision shall be made to a Final Subdivision Plat after it has been approved by the Commission and City Council unless the change, erasure, modification or revision is submitted and approved by the Commission and City Council in accordance with the requirements of this ordinance and other state law.

(d) A person shall not obtain a Building Permit to develop a Lot in a proposed Subdivision within the City until a Final Subdivision Plat has been recorded and the Streets, curbs and gutters and water, sewer, and storm water drainage facilities have been substantially completed in accordance with the construction plans approved for the Subdivision by the City Engineer. A person shall not begin construction work on a Lot in a proposed Subdivision in the City's extraterritorial jurisdiction until a Final Subdivision Plat has been recorded and the Streets, curbs and gutters and water, sewer, and storm water drainage facilities for the Subdivision have been substantially completed in accordance with the construction plans approved for the Subdivision by the City Engineer. For purpose of this sub-section, a Street shall be considered substantially complete when there is an all weather driving surface consisting of concrete, at least 1 ½ inches of ACP, or a chip seal over primed flexible base.

Section 1-12 Requirements to Begin Construction of Public Improvements

(a) A person shall not begin construction work on the public improvements for a proposed Subdivision prior to the recording of a Final Subdivision Plat **that has been approved in accordance with this Ordinance**.

(b) A person shall not begin construction work on the public improvements for a proposed Subdivision until the City has been provided:

1. A performance and payment bond executed by a reputable and solvent corporate surety, holding a license to do business in the state, or an irrevocable letter of credit from a federally insured financial institution in favor of the City, equal to the projected cost of constructing the public improvements for the Subdivision, including Streets, Street lights and signs, sidewalks, curbs and gutters, water, sewer, and storm water drainage facilities, to indemnify the City against any claims, costs or expenses to complete the construction work; and

2. Engineering studies prepared by a licensed engineer stating the projected cost of constructing the public improvements for the Subdivision, including Streets, Street lights and signs, sidewalks, curbs and gutters, and water, sewer, and storm water drainage facilities.

3. An inspection deposit equal to three (3%) percent of the performance and payment bond. The City shall place the inspection deposit into an interest bearing account. The inspection deposit shall be used to pay actual and reasonable costs and expenses incurred by the City for the City Engineer to inspect the public improvements within the Subdivision as required by Section 4-12(d). Any surplus that remains in the account after the actual and reasonable costs and expenses have been paid for the City Engineer to inspect the public improvements shall be returned to the applicant. If the actual and reasonable costs and expenses incurred by the City for the City Engineer to inspect the public improvements exceeds the inspection deposit and any interest earned thereon, then the owner/developer shall be responsible for the difference.

Section 1-13 Certification for Public Utilities

(a) Except as otherwise provided by state law, neither the City nor any other public utility service provider as defined by §212.012(b) of the Texas Local Government Code shall serve or connect any land with water, sewer, electricity, gas or other utility service unless the City or other public utility service provider is presented or holds a certificate issued in accordance with this Section and §212.0115 of the Texas Local Government Code.

(b) The City Council authorizes the Administrative Officer to make the determinations required by this Section and issue certificates in accordance with this Section. §212.0115(I) Texas Local Government Code.

(c) On the approval of a Final Subdivision Plat by the City Council, the Administrative Officer shall issue to the person applying for the approval a certificate stating that the Final Subdivision Plat has been reviewed and approved by the Commission and City Council. §212.0115(b) Texas Local Government Code.

(d) On the written request of an owner of land or public utility service provider that identifies the land by metes and bounds or other legal description, the Administrative Officer shall make the following determinations regarding the owner's land or the land in which the public utility service provider is interested that is located within the City or the City's extraterritorial jurisdiction:

1. Whether a Subdivision Plat is required; and

2. If a Subdivision Plat is required, whether it has been prepared in accordance with this ordinance and reviewed and approved by the Commission and City Council. §212.0115(c) and (d). Texas Local Government Code.

(e) If the Administrative Officer determines in response to a request made under this Section that a Subdivision Plat is not required, the Administrative Officer shall issue to the owner of the land or public utility service provider a written certification that a Subdivision Plat is not required.

(f) If the Administrative Officer determines in response to a request made under this Section that a Subdivision Plat is required, that it has been prepared, reviewed and approved by the Commission and City Council, the Administrative Officer shall issue to the owner of the land or the public utility service provider a written certification that a Subdivision Plat is required, that it has been prepared, reviewed and approved by the Commission and City Council. §212.0115(e) Texas Local Government Code.

(g) The Administrative Officer shall make a determination in response to a request made under this Section within twenty (20) days after the date the request is received and shall issue a certificate, if appropriate, within ten days after the date the determination is made. §212.0115(f) Texas Local Government Code.

(h) The decision of the Administrative Officer under this section is appealable to the City Council. §212.0115(I) Texas Local Government Code.

Section 1-14–1-20. Reserved.

PART 3 PROCEDURE FOR SUBMITTING A SUBDIVISION PLAT

Section 1-21 Land Plan

(a) Except as provided in Section 1-26, a Land Plan shall be submitted to the Administrative Officer for a proposed Subdivision.

(b) A Land Plan shall include--

1. The name of the Subdivision, the name of the owner of the tract of land, the scale, the date, and a North point;

2. The boundary lines of the tract to be subdivided shown in a bold line for easy identification, with courses, angles, and distances and approximate acreage.

3. The proposed plan of subdivision for the entire tract of land, even though it is to be developed in units or phases;

4. The location and size of proposed blocks and lots and the location and width of proposed Streets, Alleys or other public ways, and areas to be dedicated for public use;

5. The location and width of existing Streets and Alleys on or adjoining the property to be subdivided and within 200 feet of the property to be subdivided;

6. The names of Streets shown on the plan; and

7. The proposed use of the property.

(c) Seven (7) copies of the Land Plan shall be submitted drawn on sheets not less than seventeen by twenty two inches (17" x 22") and to a scale of:

twenty feet to the inch (1" = 20') if the tract contains less than five (5) acres;

fifty feet to the inch (1" = 50') if the tract contains five acres (5) or more but less than twenty five (25) acres;

one hundred feet to the inch (1" = 100') if the tract contains twenty five (25) acres or more but less than fifty acres (50);

two hundred feet to the inch (1" = 200') if the tract contains fifty (50) acres or more.

The Land Plan shall also be submitted on a 3.5" High Density (HD) MS DOS format diskette or a compact disc. The Land Plan shall be submitted in a .dwg format or compatible format.

(d) The Land Plan shall be submitted to the Administrative Officer not less than ten (10) days nor more than thirty (30) days before the Commission meeting at which it will be reviewed. If the submission is complete as required by Subsection (b) and (c) of this Section then the Administrative Officer shall note the date of submission on each copy of the Land Plan and deliver a copy of the Land Plan to each Commission member as soon as possible but not less than seven (7) days before the meeting at which it will be reviewed.

(e) If the submission is not complete then the Administrative Officer shall return the Land Plan and accompanying materials to the applicant with a written notice of any deficiencies. The Land Plan may be resubmitted with the deficiencies corrected in accordance with Subsection (d) of this Section.

(f) The purpose of the Land Plan is to allow the Commission an opportunity to review the proposed Subdivision in relation to existing Subdivisions, Streets, Alleys and other public ways and areas already dedicated for public use, and to make recommendations concerning the location of Streets, Alleys and other public ways and areas to be dedicated for public use in the proposed Subdivision prior to the submission of a Preliminary Plat or Final Subdivision Plat.

(g) A Land Plan that is not submitted in accordance with this Section shall not be reviewed by the Commission.

Section 1-22 Preliminary Subdivision Plat

(a) Except as provided in Section 1-26, a Preliminary Subdivision Plat must be approved by the Commission before a Final Subdivision Plat is submitted to the Commission. If the Preliminary Subdivision Plat is not submitted as required by this Section then the Preliminary Subdivision Plat shall not be accepted for consideration by the Commission.

(b) The Preliminary Subdivision Plat shall include–

1. A title block that includes the name of the subdivision, name of the surveyor who prepared the Preliminary Subdivision Plat , the name of the property owner of the tract of land, the scale, the date, a North point, and approximate acreage;

2. The boundary lines of the tract to be subdivided drawn in a bold line for easy identification with courses, angles, and distances;

3. The proposed plan of subdivision for the entire tract, even though the tract is to be developed in units or phases;

4. The location and size of proposed blocks and lots and the location and width of proposed Streets, Alleys or other public ways, and areas to be dedicated for public use;

5. The location and width of existing Streets, Alleys or other public ways on or adjoining the property to be subdivided and within 200 feet of the property to be subdivided;

6. The names of existing and proposed Streets;

7. The location and width of existing and proposed easements for public utilities and the location of existing public utility lines including water, gas, sewer, and electricity on the property to be subdivided and within 200 feet of the property to be subdivided;

8. The location and size of proposed ditches, culverts, drain pipes or other structures for storm water drainage and the direction of flow for storm water drainage;

9. The location of existing buildings, signs or other structures, blocks, lots, building lines, and physical features including water courses, ravines, bridges, culverts, and drain pipes on the property to be subdivided and within 200 feet of the property to be subdivided;

10. The location of property lines and names of record owners of property located within 200 feet of the property to be subdivided; and

11. The following notice on the face of the Preliminary Subdivision Plat: "Preliminary Subdivision Plat for Review Purpose Only."

(c) The Preliminary Subdivision Plat and Seven (7) copies of the Preliminary Subdivision Plat shall be submitted drawn on sheets not less than seventeen by twenty two inches (17" x 22") and to a scale of:

twenty feet to the inch (1" = 20') if the tract contains less than five (5) acres;

fifty feet to the inch (1" = 50') if the tract contains five acres (5) or more but less than twenty five (25) acres;

one hundred feet to the inch (1" = 100') if the tract contains twenty five (25) acres or more but less than fifty acres (50);

two hundred feet to the inch (1" = 200') if the tract contains fifty (50) acres or more.

If a Land Plan was submitted then the Preliminary Subdivision Plat shall be drawn on the same scale as the Land Plan.

Where more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire Subdivision at the appropriate scale shall be attached to the Preliminary Subdivision Plat and each copy of the Preliminary Subdivision Plat. If more than one sheet is necessary then the sheets shall be numbered and match lines shall be provided on each sheet.

The Preliminary Subdivision Plat shall also be submitted on a 3.5" High Density (HD) MS DOS format diskette or a compact disc. The Preliminary Subdivision Plat shall be submitted in a .dwg format or compatible format.

(d) The Preliminary Subdivision Plat shall be accompanied by --

1. A completed Subdivision application;

2. The required fee as scheduled by the City Council;

3. A letter from the City Street and Utility Department and each public utility service provider responsible for providing water, sewer, electricity, gas or other utility service to the proposed Subdivision, stating that the provider has knowledge of the proposed Subdivision and is aware of the Utility Easements that will be required; and

4. A vicinity map showing a sufficient area to locate the proposed Subdivision in relation to Arterial Streets of the City.

(e) The Preliminary Subdivision Plat and accompanying materials shall be submitted to the Administrative Officer not less than ten (10) days nor more then (30) days before the Commission meeting at which it will be reviewed. If the submission is complete as required by Subsection (c) and (d) of this Section then the Administrative Officer shall note the date of submission on each copy of the Preliminary Subdivision Plat and deliver a copy of the Preliminary Subdivision Plat to each Commission member as soon as possible but not less than seven (7) days before the meeting at which it will be reviewed.

(f) If the submission is not complete then the Administrative Officer shall return the Preliminary Subdivision Plat and accompanying materials to the applicant with a written notice of any deficiencies. The Preliminary Subdivision Plat may be resubmitted with the deficiencies corrected in accordance with Subsection (e) of this Section.

(g) The Commission shall review and take action on the Preliminary Subdivision Plat within thirty days from the date of submission as noted on the Preliminary Subdivision Plat.

(h) The Commission shall--

1. Approve the Preliminary Subdivision Plat;

2. Approve the Preliminary Subdivision Plat conditioned on changes or additions to be included in the Final Subdivision Plat that are identified in writing by the Commission; or

3. Disapprove the Preliminary Subdivision Plat, identifying in writing any changes or additions which must be made to the Preliminary Subdivision Plat before it is resubmitted to the Commission.

(i) Approval of a Preliminary Subdivision Plat is effective for a period of two years and is conditioned on the submission of a Final Subdivision Plat. If a Final Subdivision Plat is not timely submitted in accordance with Section 1-23 then the Preliminary Subdivision Plat shall be deemed disapproved as of the date of the meeting at which it was first reviewed by the Commission. A proposed Final Subdivision Plat that is submitted more than two years after the Commission's approval of the Preliminary Subdivision Plat shall be a Preliminary Subdivision Plat.

Section 1-23 Final Subdivision Plat Submitted to Commission

(a) The Final Subdivision Plat shall be submitted to the Commission in accordance with this Section. The Final Subdivision Plat shall conform generally to the Preliminary Subdivision Plat and shall incorporate all changes and additions required by the Commission.

(b) The Final Subdivision Plat shall include only that portion of the approved Preliminary Subdivision Plat that the owner or developer intends to record and develop.

(c) The Final Subdivision Plat shall include--

1. A title block that includes the name of the subdivision, name of the surveyor responsible for preparing the Final Subdivision Plat , name of the property owner of the tract of land, the scale, the date, a North point, and the acreage included in the Final Subdivision Plat.

2. A description of the Subdivision by metes and bounds; §212.004(b)(1) of the Texas Local Government Code.

3. Information sufficient to locate the Subdivision with respect to a corner of the survey or tract or an original corner of the original survey of which it is a part. §212.004(b)(2) of the Texas Local Government Code.

4. The shape and exterior boundaries of the Subdivision drawn in a bold line for easy identification, completely and accurately determined by courses, angles and distances, obtained by an accurate survey in the field.

5. The location and dimensions of all blocks, lots, Streets, Alleys, Sidewalks and areas to be dedicated for public use, angles of intersection and building lines. Linear dimensions shall be expressed in feet and decimals of a foot; angular dimensions shall be shown by bearings. Curved boundaries shall be fully described and all essential information given; circular curves shall be defined by actual radius and not by degree of curve. The blocks and Lots shall be consecutively numbered. §212.004(b)(3) of the Texas Local Government Code.

6. The location and dimensions of easements for public utility services including water, sewer, electricity, and gas. Recorded easements shall also be shown by the volume and page number where the easement is recorded.

7. The location and dimensions of easements for storm water drainage.

8. The location of all Streets, Alleys and Sidewalks adjacent to the Subdivision, accurately related to the lines of the Subdivision.

9. The names of all existing and proposed Streets.

10. The names of adjoining subdivisions with location of lot lines and designation of adjoining lots by block and lot numbers, and all easements, and principal lines, survey lines and *corners*, landmarks and physical features including watercourses and associated flood plains, ravines, bridges, culverts, and drain pipes on all property adjoining the Subdivision accurately related to the lines of the Subdivision by distances and bearings or angles so as to orient the Subdivision to adjoining subdivisions, easements and principal lines, survey lines and corners, landmarks and physical features within the immediate area.

11. The location and description of the type of monuments set, designated by appropriate symbol.

12. A certificate of ownership and dedication of all Streets, Alleys, easements, and public areas, to the public use forever, signed and acknowledged before a Notary Public by the owners of the land; §212.004(c) of the Texas Local Government Code.

13. The certificate of the Registered Public Surveyor who surveyed, mapped, and placed the monuments on the land, sworn to before a Notary Public.

(d) The Final Subdivision Plat and fifteen (15) copies of the Final Subdivision Plat shall be submitted drawn on sheets not less than seventeen by twenty two inches (17" x 22") and to a scale of:

twenty feet to the inch (1" = 20') if the Subdivision contains less than five (5) acres;

fifty feet to the inch (1" = 50') if the Subdivision contains five acres (5) or more but less than twenty five (25) acres;

one hundred feet to the inch (1" = 100') if the Subdivision contains twenty five (25) acres or more but less than fifty acres (50);

two hundred feet to the inch (1" = 200') if the Subdivision contains fifty (50) acres or more.

Where more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire Subdivision at the appropriate scale shall be attached to the Final Subdivision Plat and each copy of the Final Subdivision Plat. If more than one sheet is necessary then the sheets shall be numbered and match lines shall be provided on each sheet.

The Final Subdivision Plat shall also be submitted on a 3.5" High Density (HD) MS DOS format diskette or a compact disc. The Final Subdivision Plat shall be submitted in a .dwg format or compatible format.

(e) The Final Subdivision Plat shall be accompanied by --

1. A completed Subdivision application;

2. The required fee as scheduled by the City Council;

3. Engineering construction plans for all public improvements including Streets, sidewalks, curbs and gutters, water drainage, and water and sewer facilities. The plans shall include but shall not be limited to pressure drop calculations, design volume of each water pipe segment, capacity of sanitary sewer and storm sewer capacity.

4. Letter from the City Engineer certifying that the construction plans for all public improvements comply with the Construction Design Requirements in Article 3 of this Ordinance.

5. A signed statement from the property owner certifying that all public improvements shall be constructed according to the construction plans within two years from the date the Final Subdivision Plat is recorded;

6. A Title Policy or Title Letter on the tract of land included in the Final Subdivision Plat identifying all record property owners and interests in the property;

7. A letter from each lien holder and any other party that has an interest in the tract of land included in the Final Subdivision Plat, consenting to the Subdivision of the tract of land;

8. Easements for all public utilities including water, gas, sewer, and electricity as required by the City or public utility service provider;

9. Dedicatory Instruments containing any covenants or restrictions applicable to the Subdivision;

10. A declaration establishing the duties and responsibilities of a Property Owners' Association for a residential subdivision, if required by this ordinance;

11. A proposed Developer Agreement in accordance with Section 2-58, if required by this ordinance; and

12. Tax certificates showing that all property taxes have been paid to the current year.

(f) The Final Subdivision Plat and accompanying materials shall be submitted to the Administrative Officer not less than ten (10) days nor more then (30) days before the Commission meeting at which it will be reviewed. If the submission is complete as required by Subsection (d) and (e) of this Section then the Administrative Officer shall immediately mark each copy of the Final Subdivision Plat as "filed" and note the filing date on each copy of the Plat. The Administrative Officer shall deliver a copy of the Final Subdivision Plat to each Commission member as soon as possible but not less than seven (7) days before the meeting at which it will be reviewed.

(g) If the submission is not complete then the Administrative Officer shall return the Final Subdivision Plat and accompanying materials to the applicant with a written notice of any deficiencies. The Final Subdivision Plat may be resubmitted with the deficiencies corrected in accordance with Subsection (f) of this Section.

(h) The Commission shall review and take action on the Final Subdivision Plat within thirty days from the filing date. The filing date as noted on the copies of the Final Subdivision Plat by the Administrative Officer is the date the Plat is filed for purposes of calculating the thirty day time period within which the Commission must act on the Plat under §212.009(a) of the Texas Local Government Code.

(*i*) The Commission shall--

1. Approve the Final Subdivision Plat;

2. Approve the Final Subdivision Plat conditioned on changes or additions to be made to the Plat; or

3. Disapprove the Final Subdivision Plat.

(j) The Commission shall certify its action in writing and retain a copy for its records together with the completed Subdivision application. If the Final Subdivision Plat is approved conditioned on changes or additions to be made to the Plat then the required changes or additions shall be stated in the certificate of action taken by the Commission. Upon request from the owner of property affected by the Commission's action, the Commission shall certify the reasons for its action in writing. §212.009(e) Texas Local Government Code.

(k) If the Final Subdivision Plat is approved then the Commission shall endorse the face of the Final Subdivision Plat with a certificate indicating its approval and the date. The certificate shall be signed by the Commission's presiding officer and attested by the Commission's secretary or signed by a majority of the Commission members. §212.009(c) Texas Local Government Code.

(l) If the Final Subdivision Plat is approved by the Commission conditioned on changes or additions to be made to the plat then the Commission shall not endorse the face of the Final Subdivision Plat with a certificate indicating its approval until the Final Subdivision Plat has been amended to include the required changes or additions.

Section 1-24 Final Subdivision Plat Presented to the City Council

(a) A Final Subdivision Plat must be approved by the Commission or approved conditioned on changes or additions to be made to the Plat before it is presented to the City Council. A Final Subdivision Plat shall be presented to the City Council in accordance with this Section and acted on by the City Council within thirty days after approval by the Commission. A Final Subdivision Plat that has been approved by the Commission or approved conditioned on changes or additions to be made to the Plat shall be placed by the Administrative Officer on the agenda for the next regularly scheduled City Council meeting. The Administrative Officer shall deliver a copy of the Final Subdivision Plat and the Commission's written certificate of action approving the Plat to the Mayor, City Secretary and each member of the City Council as soon as possible but not less than **five (5)** days before the City Council meeting at which it will be considered.

(b) Not less than ten days before the City Council meeting at which the Final Subdivision Plat will be considered by the City Council, the applicant shall submit to the Administrative Officer:

1. The Final Subdivision Plat and ten (10) copies of the Final Subdivision Plat containing any changes or additions required by the Commission, drawn on sheets the same size and to a scale that is the same as the Final Subdivision Plat presented to the Commission. Where more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire Subdivision at the appropriate scale shall be attached to the Final Subdivision Plat and each copy of the Final Subdivision Plat. If more than one sheet is necessary then the sheets shall be numbered and match lines shall be provided on each sheet. Note: If no changes or additions to the Final Subdivision Plat were required by the Commission then no additional copies of the Final Subdivision Plat should be submitted to the Administrative Officer; and

2. Articles of Incorporation and bylaws for a Property Owners' Association if a Property Owners' Association is required.

(c) The City Council shall:

1. Approve the Final Subdivision Plat; or

2. Disapprove the Final Subdivision Plat.

(d) The City Council shall certify its action in writing and retain a copy for its records together with a copy of the completed Subdivision Application. Upon request from the owner of property affected by the City Council's action, the City Council shall certify the reasons for its action in writing. §212.009(e) Texas Local Government Code.

(e) If the Final Subdivision Plat is approved by the City Council then the City Council shall endorse the face of the Final Subdivision Plat with a certificate indicating its approval and the date. The certificate shall be signed by the Mayor and attested by the City Secretary or signed by a majority of the City Council members. §212.009(c) Texas Local Government Code.

(f) The Administrative Officer shall not release the Final Subdivision Plat to be recorded with the County Clerk of Smith County until the Final Subdivision Plat has been endorsed by the Commission and the City Council indicating their approval.

Section 1-25 Standard for Approving Final Subdivision Plat

The Commission and City Council shall approve a Final Subdivision Plat that is submitted according to the requirements of this ordinance and complies with all applicable regulations of this ordinance. §212.010 Texas Local Government Code.

Section 1-26 Submission of a Single Subdivision Plat

A Final Subdivision Plat may be submitted to the Commission pursuant to Section 1-23 without a Land Plan or Preliminary Subdivision Plat if:

1. The tract of land is to be divided into no more than four (4) Lots or parts;

2. The Subdivision does not propose to create, extend or vacate a Street or Alley;

3. The proposed development does not require any drainage improvements; and

4. The proposed development is consistent with the regulations for the zoning district where it is located and will not result in a request for a variance.

A Final Subdivision Plat submitted under this Section shall comply with all of the requirements of Section 1-23.

Section 1-27 Recording an Approved Final Subdivision Plat

(a) Within fifteen days after the Final Subdivision Plat is released for recording by the Administrative Officer, the owner of the property shall cause the Final Subdivision Plat and related documents including easements and Dedicatory Instruments to be recorded in the records of the Smith County Clerk's office.

(b) Within thirty days after the Final Subdivision Plat has been released for recording, the owner of the property shall provide to the Administrative Officer a certified copy of the recorded Final Subdivision Plat and related documents.

Section 1-28--1-30. Reserved.

PART 4 AMENDMENT OR REPLAT OF A SUBDIVISION PLAT

Section 1-31 Amendment of Subdivision Plat

(a) An application to amend a Final Subdivision Plat that has been approved by the Commission and City Council may be submitted to the Commission in accordance with this Section, provided the Amended Plat is signed by the applicants only and is solely for one or more of the following purposes:

1. To correct an error in a course or distance shown on the Plat;

2. To add a course or distance that was omitted on the Plat;

3. To correct an error in a real property description shown on the Plat;

4. To indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;

5. 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 Plat;

6. To correct any other type of scrivener or clerical error or omission previously approved including Lot numbers, acreage, Street names, and identification of adjacent recorded Plats;

7. To correct an error in courses and distances of Lot Lines between two adjacent Lots if both Lot owners join in the application to amend the Plat, neither Lot is abolished, recorded covenants or restrictions are not to be removed and the amendment does not have a material adverse effect on the property rights of other owners in the Plat;

8. To relocate a Lot Line to eliminate an inadvertent encroachment of a building or other improvement on a Lot Line or easement;

9. To relocate one or more Lot Lines between one or more adjacent Lots if the owners of all those Lots join in the application to amend the Plat, recorded covenants or restrictions are not to be removed, and the amendment does not increase the number of Lots;

10. To make necessary changes to the Plat to create six or fewer Lots in the Subdivision or a part of the Subdivision covered by the Plat if the changes do not affect zoning or other regulations of the City, recorded covenants or restrictions are not to be amended or removed, and the area covered by the changes is located in an area that the Commission and City Council have approved, after a public hearing, as a residential improvement area;

11. To replat one or more Lots fronting on an existing Street if the owners of all those Lots join in the application to amend the plat, recorded covenants or restrictions are not to be removed, the amendment does not increase the number of Lots, and the amendment does not require a new Street or make necessary the extension of City facilities.

§212.016 Texas Local Government Code.

(b) An Amended Plat shall--

1. Be clearly labeled as an "Amended Plat";

2. Identify the Final Subdivision Plat that is to be amended including any recording information if it has been recorded; and

3. Specify the reason for the amendment to the Final Subdivision Plat.

(c) The Amended Plat and fifteen (15) copies of the Amended Plat shall be submitted drawn on sheets not less than seventeen by twenty two inches (17" x 22") and to a scale of:

twenty feet to the inch (1" = 20') if the Subdivision contains less than five (5) acres;

fifty feet to the inch (1" = 50') if the Subdivision contains five acres (5) or more but less than twenty five (25) acres;

one hundred feet to the inch (1" = 100') if the Subdivision contains twenty five (25) acres or more but less than fifty acres (50);

two hundred feet to the inch (1" = 200') if the Subdivision contains fifty (50) acres or more.

Where more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire Subdivision to be amended at the appropriate scale shall be attached to the Amended Plat and each copy of the Amended Plat. If more than one sheet is necessary then the sheets shall be numbered and match lines shall be provided on each sheet.

The Amended Plat shall also be submitted on a 3.5" High Density (HD) MS DOS format diskette or a compact disc. The Amended Plat shall be submitted in a .dwg format or compatible format.

(d) The Amended Plat shall be accompanied by--

1. A completed Subdivision application;

2. The fee as scheduled by the City Council; and
3. Fifteen copies of the Final Subdivision Plat that is to be amended., drawn on sheets and to a scale that is the same as the Amended Plat.

(e) The Amended Plat and accompanying materials shall be submitted to the Administrative Officer not less than ten (10) days nor more then (30) days before the Commission meeting at which it will be reviewed. If the submission is complete as required by Subsection (c) and (d) of this Section then the Administrative Officer shall note the date of submission on each copy of the Amended Plat. The Administrative Officer shall deliver a copy of the Amended Plat and Final Subdivision Plat that is to be amended to each Commission member as soon as possible but not less than seven (7) days before the meeting at which the amendment will be considered.

(f) If the submission is not complete then the Administrative Officer shall return the Amended Plat and accompanying materials to the applicant with a written notice of any deficiencies. The Amended Plat may be resubmitted with the deficiencies corrected in accordance with Subsection (e) of this Section.

(g) The Commission shall review and take action on the Amended Plat within thirty days from the date of submission as noted on the Amended Plat. The Commission shall–

1. Approve the Amended Plat; or

2. Disapprove the Amended Plat.

(h) An Amended Plat submitted in accordance with this Section may be approved without notice, a hearing or the approval of other Lot owners. §212.016(b) Texas Local Government Code.

(i) If the Amended Plat is approved by the Commission then the the Commission shall endorse the face of the Amended Plat with a certificate indicating its approval and the date. The certificate shall be signed by the Commission's presiding officer and attested by the Commission's secretary or signed by a majority of the Commission members.

(j) If an Amended Plat is approved by the Commission then the Administrative Officer shall place the Amended Plat on the agenda for the next regularly scheduled City Council meeting and deliver a copy of the Amended Plat and Final Subdivision Plat that is to be amended to the Mayor, City Secretary and each member of the City Council as soon as possible but not less than seven (7) days before the City Council meeting at which it will be considered.

(k) The City Council shall review and take action on the Amended Plat within thirty days after the Amended Plat is approved by the Commission. The City Council shall--

1. Approve the Amended Plat; or

2. Disapprove the Amended Plat.

(l) If the Amended Plat is approved by the City Council then the City Council shall endorse the face of the Amended Plat with a certificate indicating its approval and the date. The certificate shall be signed by the Mayor and attested by the City Secretary or signed by a majority of the City Council members.

(m) Promptly after an Amended Plat has been approved by the Commission and City Council, the owner of the property shall cause the Amended Plat to be recorded in the records of the Smith County Clerk's office. Within thirty days after the Amended Plat has been approved, the owner of the property shall provide to the Administrative Officer a certified copy of the recorded Amended Plat.

(n) An Amended Plat approved in accordance with this Section and recorded is controlling over the preceding Subdivision Plat without vacation of the preceding Subdivision Plat. §212.016(a) Texas Local Government Code.

Section 1-32 Replat of a recorded Subdivision Plat

(a) An application to replat all or part of a recorded Subdivision shall be submitted and approved in accordance with the requirements for a Subdivision Plat under Sections 1-22 through 1-26 of this Ordinance and this Section. §212.001 Texas Local Government Code.

(b) An application to replat all or part of a recorded Subdivision shall, in addition to the requirements of Subsection (a) of this Section--

1. Be accompanied by fifteen copies of the recorded Subdivision Plat or part that is to be re-platted, drawn on sheets and to a scale that is the same as the proposed replat; and

2. State whether during the preceding five years, any of the area to be re-platted was limited by a zoning classification to residential use for not more than two residential units per Lot or any Lot in the recorded Subdivision Plat was limited by deed restrictions to residential use for not more than two residential units per Lot.

(c) A replat of all or part of a recorded Subdivision that is approved by the Commission and City Council pursuant to the requirements of this ordinance and recorded in the records of the Smith County Clerk's office is controlling over the preceding Plat without vacation of the preceding Plat if the replat:

1. Is signed and acknowledged by only the owners of the property being re-platted;

2. Is approved by the Commission and City Council, after a public hearing on the matter, at which parties in interest and citizens have an opportunity to be heard; and

3. Does not attempt to amend or remove any covenants or restrictions. §212.014 Texas Local Government Code.

(d) If, during the preceding five years, any of the area to be re-platted was limited by a zoning classification to residential use for not more than two residential units per Lot or any Lot in the preceding Plat was limited by deed restrictions to residential use for not more than two residential units per Lot then notice of the hearing required under Subsection (c) of this Section shall be given more than 15 days before the date of the hearing. Notice shall be given by publication in an official newspaper or a newspaper of general circulation in Smith County and by written notice, with a copy of Subsection (e) of this Section attached to the notice, to the owners of Lots in the original subdivision and within 200 feet of the Lots to be re-platted, as indicated on the most recently approved City tax roll or in the case of a subdivision in the extraterritorial jurisdiction, the most recently approved Smith County tax roll of the property upon which the replat is requested. The written notice may be delivered by depositing it, properly addressed with postage prepaid, in a post office or postal depository within the City. §212.015(b) Texas Local Government Code.

(e) If the proposed 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 Commission and City Council. 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 Commission prior to the close of the public hearing. §212.015(c) Texas Local Government Code.

(f) In computing the percentage of land area under Subsection (e) of this Section, the area of Streets and Alleys shall be included. §212.015(d) Texas Local Government Code.

(g) Compliance with Subsection (e) and (f) of this Section is not required for the approval of a replat of part of a preceding Plat if the area to be re-platted was designated or reserved for other than single or duplex family residential use by notation on the last legally recorded Plat or in the legally recorded restrictions applicable to the Plat. §212.015(e) Texas Local Government Code.

Section 1-33--1-40 Reserved.

PART 5 VACATION OF A SUBDIVISION PLAT

Section 1-41 Procedures to Vacate a Plat

(a) An instrument to vacate a recorded Subdivision Plat shall be submitted and approved in the same manner as prescribed for the submission and approval of a Final Subdivision Plat under Section 1-23 and 1-24 of this ordinance. §212.013(a) Texas Local Government Code.

(b) The owners of a tract of land covered by a recorded Subdivision Plat may submit an application to vacate the Plat at any time before a Lot in the Plat is sold. §212.013(a) Texas Local Government Code.

(c) If Lots in a recorded Subdivision Plat have been sold then an application to vacate the Plat or any part of the Plat must be signed and filed by all of the owners of the Lots in the Plat. §212.013(b) Texas Local Government Code.

(d) The Commission or City Council may deny an application to vacate a Plat that abridges or destroys any right in a public improvement including a Street, Alley, or other public way or area dedicated for public use deemed necessary to serve the surrounding area.

(e) A recorded Subdivision Plat is vacated when a signed, acknowledged instrument declaring the Plat vacated is approved in accordance with this ordinance and state law and recorded by the Smith County Clerk. The vacated Plat has no effect. §212.013(d) Texas Local Government Code.

(f) The Smith County Clerk shall write legibly on the vacated Plat the word "Vacated" and shall enter on the Plat a reference to the volume and page number where the vacating instrument is recorded. §212.013(c) Texas Local Government Code.

Section 1-42-1-50 Reserved

ARTICLE 2 SUBDIVISION DESIGN REQUIREMENTS

PART 1 RIGHT-OF-WAY, STREETS, AND SIDEWALKS

Section 2-1 Right-Of-Way Requirements

(a) The owner shall be required to dedicate street right-of-way in accordance with this Section for all streets within or at the perimeter of the subdivision as a prerequisite for plat approval. In the event that a major state or county thoroughfare or Arterial Boulevard or Arterial Street with four through lanes lies within or directly adjacent to a development, the development shall only be required to dedicate such right-of-way as required for a Collector Street or as reasonably relates to the need created by and the benefit received by that development.

(b) Except as otherwise provided by this Section, street right-of-way shall comply with Table-1.

Table-1. STREET RIGHT-OF-WAY.

Type of Street	Number of Through Lanes	Minimum Right-of-Way Width	Median	Center Turn Lane	Planting Strip	Sidewalk	Curb and Gutter
Arterial Boulevard	6	130 ft.	Y	N	Y	Y	Y
Arterial Boulevard	4-6	130 ft.	Y	N	Y	Y	Y
Arterial Street	4	100 ft.	N	Y	Y	Y	Y
Arterial Street	2	82 ft.	N	Y	Y	Y	Y
Rural Arterial	2	60 ft.	N	N	N	N	N
Collector Street	4	82 ft.	N	N	Y	Y	Y
Collector Street	2	60 ft.	N	N	Y	Y	Y
Non-Residential Alley	1	30 ft.	N	N	N	N	N
Residential Alley	1	25 ft.	N	N	N	N	N

(c) Additional right-of-way may be required at intersections where adjacent property is zoned commercial, industrial or other high intensity use for the purpose of providing free right turns, center turn lanes, or other beneficial alignments which are intended to alleviate existing or potential traffic congestion.

(d) If a turn lane is added to an existing Collector Street with two through lanes then the minimum right of way width shall be seventy (70) feet.

Section 2-2 Street System Requirements

(a) General Requirements: The arrangement, character, extent, width, grade and location of all Streets shall conform to the requirements of this Ordinance and the City's Comprehensive Plan.

(b) Continuity of Street Systems: Proposed streets for a subdivision shall be effectively related to the present and future street system and development of the surrounding area. Any proposed streets shall provide for appropriate continuation or completion of any existing streets, whether constructed or dedicated, which project to the limits of a proposed subdivision or are adjacent to the subdivision.

(c) Adequate Emergency Access: Each subdivision shall have at least two (2) planned points of ingress and egress. The Commission may require more than two access points if the configuration, number of lots, or other factors create the need for additional access points.

(d) Controlling Access Strips: The reservation of private ownership of strips of land at the end of or alongside proposed or existing streets which are intended solely or primarily for the purpose of controlling access to property not included in the subdivision is prohibited.

(e) Half-Streets: Half-streets are prohibited.

(f) Private Streets: Public streets shall not be converted to Private Streets. A subdivision that will contain Private Streets shall comply with the Private Street standards in Section 2-4.

(g) Alleys: Alleys are allowed.

(h) Driveway Access: The following limitations on driveway access shall be observed:

1. Access Prohibited: To minimize traffic hazards created by numerous intersections along major thoroughfares, where a residential subdivision will abut on or contain an existing or proposed Arterial Boulevard or Arterial Street, the plan shall be designed so that direct vehicular access from any residential lot to such Arterial Boulevard or Arterial Street is prohibited. Where other means of access are not available or permitted, Alleys or private easements for access shall be provided. The street system should be designed to allow a minimum of individual access drives to Collector Streets.

2. High Density Residential Access: For the benefit of traffic safety in areas of high density residential development, high density residential subdivisions shall be designed to provide rear entry access from a private access easement where the characteristics of the particular subdivision render such access appropriate for the benefit of the public health, safety and welfare.

3. Plat Requirement: The following note may be required on the face of any plat intended to be filed in the County Plat Records.

"No lot within this addition shall be allowed driveway access onto _____ Street"

(i) Street Names: Streets shall be named so as to provide continuity with existing Streets. Streets which are not an extension of an existing Street shall be named so as to prevent conflict or confusion with identical or similar names used in other parts of the City.

Section 2-3 Street Design Requirements

(a) Curvilinear Design Requirements:

1. Except as otherwise provided in this Section, all Collector Streets in a residential subdivision with lots of less than one acre in size shall be designed in a curvilinear manner.

2. Curvilinear design is not required for Collector Streets in a residential subdivision with lots of less than one acre if :

a. the Commission determines that the shape or topography of the land, existing zoning or the pattern of the adjacent street system would make the provision of such curvilinear streets impractical;

b. the subdivision contains ten (10) or less acres of land and was not acquired or conveyed out of a larger tract of land without benefit of plat approval and recording in accordance with the provisions of this ordinance;

c. the subdivision is part of and conforms to an unexpired preliminary plat approved prior to the date of the approval of this ordinance; or

d. the street is a cul-de-sac.

3. Curvilinear Design Standards: If curvilinear design is required pursuant to subsection (a)(1) of this Section then fifty percent (50%) or more of the lot frontage along the street shall be on a street with a maximum centerline radius of eight hundred (800) feet.

(b) Design Speed: The alignment and design of streets should be such that Arterial Boulevards and Arterial Streets have a safe running speed of 40 miles per hour and Collector streets with four (4) through lanes have a safe running speed of 30 miles per hour, and Collector Streets with two (2) through lanes have a safe running speed of 20 miles per hour.

(c) Intersecting Angles: No street intersecting an Arterial Boulevard or Arterial Street shall vary from a 90 degree angle of intersection by more than 10 degrees. Intersections involving a Collector street shall not vary from 90 degrees by more than 20 degrees.

(d) Intersection Offsets: The number of Collector Street offsets should be minimized but, when approved, should offset a minimum distance of one lot width when measured at the building line. At the intersection of two Arterial Boulevards or Arterial Streets, no offsets shall be permitted.

(e) Hierarchy of Street Pattern: Where a development will abut or contain an existing or proposed Arterial Boulevard or Arterial Street, a plan shall be approved which will provide a minimum number of intersections along each Arterial Boulevard or Arterial Street. Arterial Boulevards and Arterial Streets should be intersected only by other Arterial Boulevards or Arterial Streets rather than Collector Streets. There shall be a minimum of two thousand feet (2,000') between intersections of Arterial Boulevards, Arterial Streets and/or Collector Streets. Collector Streets with two (2) through lanes may intersect an Arterial Boulevard or Arterial Street only upon specific approval of the City Engineer and the Commission. Collector Streets should be planned to serve only local traffic.

(f) Horizontal Alignment:

1. Centerline Radius: Table 2 shows the minimum centerline radius that is allowed in the design of each type of street.

2. Common Tangents: Reverse Circular Curves having a common tangent shall be separated by a tangent section in accordance with Table 2 for each type of street. See Addendum 1.

(g) Vertical Alignment:

1. Minimum Grades: No street shall be designed to a grade less than 0.5 of one percent (1%).

2. Maximum Grades: Table 2 shows the maximum grade that is allowed in the design of each type of street.

3. Vertical Curve Lengths: In order to maintain adequate sight distance, the minimum length of a vertical curve that is required in the design of each type of street is shown in Table 2.

Table-2 HORIZONTAL AND VERTICAL ALIGNMENT

Type of Street (including turn lanes)	Minimum Centerline Radius	Minimum Tangent Between Curves	Maximum Grade	Minimum Length of Vertical Curves
Arterial Boulevard-6 lanes	1400 ft.	300 ft.	4.0%	50 ft. for each algebraic difference in grade
Arterial Boulevard-4 lanes	1000 ft.	200 ft.	6.0%	
Arterial Street-5 lanes	600 ft.	100 ft.	8.0%	
Arterial Streets-3 lanes	500 ft	75 ft.	9.0%	
Collector Street-4 lanes	600 ft.	100 ft.	8.0%	
Collector Street-2 lanes	400 ft.	50 ft.	10.0%	

4. Profile grades shall be set on top of curbs.

5. Top of curb profile shall be set low enough for adjacent lots to drain into the street. Curb separation shall not exceed crown height except super-elevated curves of divided Arterial Streets shall be designed with a straight grade from median curb to outside curb rather than a parabolic crown on each lane.

6. Buried pipe, cables, or other obstructions shall not penetrate into the subgrade of a street and an additional six inches of cover shall be provided whenever possible.

(h) Exception for Existing Topographic Features: In the case of existing topographic features which prohibit the reasonable use of the design requirements set forth in Subsections (a) through (g) of this Section, consideration will be given for an exception to the design requirements. The owner or developer shall submit to the Administrative Officer an accurate topographic map of the area in question showing the proposed design and identifying in writing the design requirement for which an exception is requested. The request for an exception shall be made at the time the Land Plan is submitted to the Commission in accordance with Section 1-21 of this Ordinance. This subsection shall not be interpreted to permit the development of land that is inherently unsuitable for the use proposed. Furthermore, any exception shall not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this Ordinance.

(i) Cul-de-Sacs: Except as otherwise provided in this Section, a maximum number of ten (10) dwelling units should be included on a cul-de-sac street permanently designed as such. Additionally, the length of the Cul-de-Sac should not exceed 500 feet or be less than 150 feet in length, when measured from the centerline of the Street it intersects with to the center point of the cul-de-sac. However, density of development, topography, lot sizes and other significant factors will be considered by the Commission in determining the appropriate length of a cul-de-sac street. A cul-de-sac shall have a turnaround at the closed end with a minimum right of way diameter of one hundred twenty (120) feet and a minimum pavement diameter of ninety (90) feet in a residential subdivision and a minimum right of way diameter of one hundred thirty (130) feet and a minimum pavement diameter of one hundred (100) feet in a non-residential subdivision. A cul-de-sac shall not have more than four lots touching the circumference of the closed end of the cul-de-sac. The two lots that are the greatest distance from the Street that intersects with the cul-de-sac shall have a minimum of seventy two (72) degrees angle between the lot lines measured from the center point of the closed end of the cul-de sac. See Addendum 2. Curvilinear design may be used in a cul-de-sac but is not required.

(j) Dead-End Streets:

1. Future Connections: Dead end streets shall be permitted only where a future extension or connection is to be made. Street stubs shall be provided into adjacent property at a minimum of 1,000 feet apart.

2. Drainage Improvements: Proper provision shall be made for adequate storm drainage at the ends of dead end streets.

3. Barricades: Appropriate barricades and other traffic controls shall be installed by the developer at dead ends to ensure traffic safety.

4. Temporary Turnaround Easements: In the event that a dead-end street is allowed, an adequate temporary turnaround easement shall be shown on the Final Plat. The following note should be placed on the Plat: "cross-hatched area is temporary easement for turnaround until street is extended (give direction) in a recorded plat." The temporary turnaround easement shall have a minimum diameter of one hundred (100) feet in a residential subdivision and one hundred twenty (120) feet in a non-residential subdivision. The temporary turnaround shall have a minimum pavement diameter of eighty (80) feet in a residential subdivision and one hundred (100) feet in a non-residential subdivision.

(k) Block Lengths: Except as otherwise provided in this Section, residential and industrial blocks should not be longer than 1,200 feet and commercial blocks should not be longer than 1,000 feet. Extremely short block lengths should be avoided as well to eliminate the potential for increased traffic congestion created by too many intersections. The optimum block length is 900 feet. However, the length, width and shape of blocks shall be determined with due regard to:

1. Provision for adequate building sites suitable to the special needs of the type of use contemplated;

2. Zoning regulations applicable to the Subdivision, if located within the City;

3. Needs for convenient access, circulation, control and safety of street traffic; and

4. The topography of the land to be subdivided.

The Commission or City Council may require a public walkway midway in a block for the purpose of allowing pedestrian access to parks, schools, etc. The minimum width of the right-of-way for a public walkway (other than sidewalks) shall be six feet (6'). The entire right-of-way for a public walkway shall be paved.

(l) No compound curves shall be allowed.

Section 2-4 Private Streets in Residential Subdivisions

(a) Maintenance Cost: A homeowner's association is responsible for the cost of maintenance of private streets. The City shall have no responsibility for and shall not pay for any portion of the cost of maintaining a private street.

(b) City Services: The City has no obligation to maintain private streets. Depending on the characteristics of the proposed private street subdivision, the City may not provide certain other services. Among the services which may not be provided are routine police patrols, enforcement of traffic and parking ordinances, and preparation of accident reports.

(c) Maintenance Standards: Maintenance, amenities, and landscaping of private streets shall conform to the same standards regulating the maintenance, amenities, and landscaping of public streets.

(d) Grant of Easements: A utility, drainage, and emergency access easement shall be granted to the City and other utility companies in private streets:

1. providing unrestricted use of the property for utilities and their maintenance;

2. extending easement rights to all utility providers including telecable companies operating within the City;

3. providing the City with the right of access for any purpose related to the exercise of a governmental service or function, including but not limited to fire and police protection, inspection and code enforcement and garbage collection; and

4. permitting the City to remove any vehicle or obstacle within the private street lot that impairs emergency access.

(e) City Assumption of Maintenance: The City shall be the sole judge of whether repairs to a private street are needed. If a homeowner's association, its successors or assigns, fail or refuse to adequately maintain private streets and related appurtenances, the City shall have the right, but not the obligation, to assume temporarily the duty of performing the association's maintenance obligations at any time after the expiration of sixty (60) days after receipt by the association, its successors or assigns of written notice from the City specifying the nature and extent of the failure to maintain. Notice under this subsection shall be sent by certified mail return receipt requested.

1. Upon assuming such maintenance obligations, the City shall have the right to collect, when they become due, the assessments levied by the homeowner's association for the purposes of repairing and maintaining the private streets and related appurtenances, and if necessary, the City shall have the right to enforce the payment of delinquent assessments in the manner set forth in the association's documents.

2. The City shall also have the right to levy an assessment upon each lot on a pro rata basis for the cost of such maintenance, which assessment shall constitute an assessment lien upon the lot against which each assessment is made.

3. Under no circumstances, shall the City be liable to the association or any lot owner or their respective heirs, successors or assigns for negligent acts or omissions relating in any manner to maintaining, improving and preserving the private streets and related appurtenances.

(f) Access Restrictions: The entrances to all private streets shall be marked with a sign stating that it is a private street. Either a guard house or an access control device such as a gate or cross arm shall be constructed at each entrance. All restricted access entrances shall be manned 24 hours every day, or an alternative means shall be provided of ensuring access to the subdivision by the City and other utility service providers with appropriate identification. If the association fails to maintain reliable access as required to provide city services, the City shall have the right to enter the subdivision and remove any gate or device which is a barrier to access at the sole expense of the association.

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

1. The street must have a minimum uninterrupted pavement width of 24 feet at the location of the access control device.
2. If an overhead barrier is used, it shall have a minimum height above the road surface as required by the International Fire Code for fire lanes.

3. The design of all gates, cross arms and access control devices, including automatic opening systems and manual backup systems, shall be approved by the Lindale Volunteer Fire Department before installation.

4. The gates, cross arms, and access control devices shall be tested and accepted by the Lindale Volunteer Fire Department before being put into operation.

5. Gate designs may incorporate one or two gate sections to meet the required minimum width of 24 feet.

6. If the entrance incorporates a median, guard shack, or similar structure that necessitates a divided gate arrangement, the gate and street pavement widths may be reduced if approved by the Lindale Volunteer Fire Department. This approval shall be contingent upon the subdivision with private streets having a second approved means of access, but in no case shall any single gate or street pavement have a clear opening of less than 15 feet.

(h) Visitor Entrance Design Standards: At least one entrance to a subdivision with private streets shall be equipped for visitor access. In addition to the above Restricted Access Entrance Design Standards, the visitor entrance shall be equipped with a call or code box located at least 50 feet from the boundary of the subdivision to provide for visitors calling in an automobile queuing. A turn-around space with a minimum outside radius of 30 feet shall be located between any call or code box and the access control device to allow vehicles denied access to safely exit onto public streets in a "head out" position. A sign shall be erected next to the edge of such turn around space to prohibit vehicle parking in such space. A residents entrance used in combination with a visitor entrance shall comply with the requirements of this paragraph. See Addendum 3.

(i) Resident Only Entrance Design Standards: In addition to the above Restricted Access Entrance Design Standards, an access control device that requires residents to use a key, card, or code to gain access shall setback internally a minimum of 50 feet from the boundary of the subdivision to provide for automobile queuing; except, that resident entrances equipped with an electronic opener that allows residents to remotely open the access control device and enter the subdivision without having to stop are exempted from this requirement. A sign shall be erected next to any resident entrance that does not meet the 50 foot setback requirement of this paragraph and does not provide a turn-around space with a minimum outside radius of 30 feet to indicate that it is for resident use only and not for visitors.

(j) Cost of Design Standards: The homeowner's association shall pay the cost of complying with required design standards.

Section 2-5 Sidewalks

(a) General Provisions: The purpose of this section is to provide for the orderly, safe and healthful construction of sidewalks within the City and to promote the health, safety and general welfare of the community. In order to carry out these purposes, it is hereby declared to be the policy of the City to guide and regulate sidewalk construction within the City.

(b) Requirements:

1. General Requirements. Any new development in the City shall provide for the location and construction of sidewalks as provided in this section. This shall include the dedication of necessary right-of-way or public access easement and the construction of sidewalks according to the specifications provided herein.

2. Residential Requirements:

a. Applicability: Sidewalks shall be required in all residential subdivisions with average lot sizes of less than one acre platted or re-platted after the effective date of this ordinance. A proposed Pedestrian Access Plan must be included as an element of any Land Plan, or in the case where no Land Plan is required, with the Final Plat and shall be processed concurrently with the Land Plan or Final Plat. The Pedestrian Access Plan shall demonstrate a method for the safe and effective movement of pedestrians within the subdivision and to and from adjoining parks, schools, places of worship and other high pedestrian areas.

b. Time of Construction:

i.....Owners/homebuilders: Each owner/home builder within a residential subdivision platted after the effective date of this ordinance shall construct sidewalks at the time of construction of the house. In those circumstances where a sidewalk would impact the construction of driveways and

access walks, the sidewalks shall be constructed before the City's final building inspection. A certificate of occupancy will not be issued until required sidewalks are constructed.

ii. .....Developers: Sidewalks shown in the Pedestrian Access Plan to be constructed within common areas shall be constructed by the developer during the construction of the streets.

3. Non-residential Requirements:

a. Applicability: A proposed Pedestrian Access Plan must be included as an element of any Land Plan and shall be processed concurrently with the Land Plan, or in the case where no Land Plan is required, with the Final Plat. The Pedestrian Access Plan shall demonstrate a method for the safe and effective movement of pedestrians both within the subdivision and to and from adjoining parks, schools, places of worship and other high pedestrian areas.

b. Time of Construction: Each developer and/or builder of a non-residential subdivision platted after the effective date of this ordinance shall construct sidewalks at the time the streets are constructed. In those circumstances where a sidewalk would impact the construction of driveways and access walks, the sidewalks shall be constructed before the City's final building inspection. A certificate of occupancy will not be issued until required sidewalks are in place.

(c) Sidewalk Specifications:

1. Sidewalk Size and Locations: All sidewalks shall be at least four feet wide, and shall be located between the curb or grade line of the public street and the right-of-way line or public access easement if approved by the city, no closer than two (2) feet to the curb or grade line. The Commission may request the owner or developer to alter alignment so that the sidewalk meanders within the area between the curb and right-of-way line.

2. Construction Specifications:

a. Concrete Requirements: Concrete for sidewalks shall have a minimum compressive strength of three thousand (3,000) psi at twenty-eight (28) days. The quantity of mixing water shall not exceed six and one-half (6 ½) U.S. gallons per sack (ninety-four (94) lbs.) of Portland cement. The slump of the concrete shall not exceed four (4) inches. A minimum content of five (5) sacks of cement per cubic yard of concrete is required. Sidewalks shall be at least four (4) inches thick.

b. Reinforcement: Sidewalks shall be reinforced with 3/8 inch No. 3 bars set on 24-inch centers.

c. Expansion and Control Joints: One-half-inch pre-molded bituminous expansion joints with No. 4 (½-inch nominal diameter) smooth dowels shall be spaced at twenty-foot intervals. See Addendum 3. Where new work abuts driveways, pavement, curbs or any other work, expansion joints shall be filled with pre-molded bituminous expansion joint filler or redwood at least one-inch nominal thickness and shall extend six (6) inches deep over the entire width of the concrete sections. Bars used in this joint shall be sleeved to allow for the movement of concrete on the bars. The bars shall be smooth three-eighth (3/8) inch No. 3 bars minimum. No deformed bars shall be allowed. Sidewalk control joints shall be grooved three-eights (3/8) inch deep on four-foot centers. A 2 inch stripe shall be painted in a contrasting color at each control joint. See Addendum 4.

d. Sidewalk Finish: The surface of the sidewalk shall have a monolithic broom finish. In no case shall the surface be left slick or with a glossy finish. The edges of the sidewalk control joints and expansion joints shall be tooled to a smooth finish not less than two (2) inches in width. Exposed edges of the sidewalk shall be rounded with an edger to a radius of one-half (½) inch. Cut control joints are not allowed and shall not be used. See Addendum 5.

e. Fire Hydrant Locations: Where a sidewalk is to be constructed and a fire hydrant would be within the forms, the forms shall curve around the fire hydrant such that the walk misses the fire hydrant by a minimum distance of one (1) foot. A transition of 10 feet is required in and out of curved areas. See Addendum 6.

f. Service and Meter Boxes: Where a sidewalk is to be built and a water meter box would be within the forms, a precast, concrete box shall replace the plastic box. This box shall have a hinged metal lid and be

set at an elevation that will be equal to the finish grade of the sidewalk. If the builder so chooses, the builder may move the water meter box outside the forms at the builders expense.

g. Drainage: All sidewalks shall be built at an elevation that will not impede or be otherwise detrimental to proper lot drainage, with natural grade preferred.

3. Wheel-Chair Access Ramps

a. Location: A wheel-chair access ramp must be constructed at any point a proposed sidewalk intersects a city street with the exception of walks leading from the street to the door of a residence. Access ramps must be constructed with a maximum 1" wide expansion material between the street and ramp flush with the finish grade.

b. Grade: Care shall be taken to ensure a uniform grade meeting Americans with Disabilities Act requirements on the ramp, free of sags and short grades. Access ramps shall be built to grades no greater than 1 ft. of fall per 12 feet in length. Access ramps shall be control joined with joints on 2" centers aligned perpendicular to the slope of the ramp.

c. Surface Finish: Surface texture of the ramp shall be obtained by coarse brooming, perpendicular to the slope of the ramp. The ramp shall have a contrasting color to the color of the sidewalk.

d. Curb and Gutter: The normal gutter line shall be maintained through the area of the ramp. Curb cuts for ramps shall be located as shown on street plans or as approved by the City Engineer.

Section 2-6--2-10 Reserved.

PART 2 EASEMENTS

Section 2-21 Location and Labeling

Easements for utilities, drainage, walkways, access and other comparable purposes shall generally be located along the side, rear or front lot lines and/or drainage flow lines and shall be labeled "Utility Easement", "Drainage Easement", "Pedestrian Access Easement", "Common Access Easement", "Maintenance and Access Easement", "Emergency Access Easement" or other specifically appropriate labeling on the Final Plat.

Section 2-22. Utilities

Easements for water, sewer and electrical utilities shall be a minimum of ten feet (10') in width and may, where practical, be centered on lot lines unless otherwise recommended by the City Engineer.

Section 2-23. Drainage

(a) Easements for drainage, under normal conditions, shall be measured from the centerline of creeks, ditches or drainage channels, and shall be of width sufficient to adequately serve the intended purposes.

(b) The Developer shall be responsible for obtaining necessary easements for construction on private property. It shall be the responsibility of the developer to adequately contain and control discharge until the point that it can be released without adversely affecting adjacent property.

Section 2-24 Access for Pedestrian or Bicycle Traffic

The City may require, in order to facilitate access from streets to schools, parks, playgrounds, or other nearby streets, perpetual unobstructed access easements for pedestrian or bicycle traffic.

Section 2-25 Private Streets as Emergency Access and Utility Easements

Private streets shall be labeled as "Emergency Access & Utility Easements" in order to facilitate access for police, fire and other public safety and governmental vehicles and personnel and franchise utility and solid waste disposal vehicles and personnel.

Section 2-26 Dedication

Easements dedicated on the plat shall be deemed dedicated to the public and to the City unless specified otherwise.

Section 2-27. Offsite Easements

Any necessary easements not shown on the plat shall be procured by separate instrument and shall be the developer or property owner's responsibility. If the developer or property owner cannot obtain a required offsite easement, then the developer or property owner may request that the City assist in the acquisition. The developer must make an offer in writing, based on the fair market value of the easement, to the property owner from whom the easement is being acquired. In any event, all costs of obtaining the easement shall be the responsibility of the developer or property owner and the City must be reimbursed for any costs incurred including its attorney's fees, condemnation award and any fees or expenses of litigation whether at the trial or the appellate level or both.

Section 2-28. Common Access Easements

In an effort to reduce the congestion created by a number of drives along streets while maintaining adequate access to developments, the City may require that "Common Access Easements" be dedicated at the corners of lots not intended for low-medium density residential developments when adjacent to lots of a similar use. These easements will typically be 16 feet in width and 35 feet in length but may vary given the shape of particular tract.

Section 2-29 Public Landscape Easements

A public landscape easement ten feet (10') in width shall be dedicated adjacent to public right-of-way in the City for all Arterial Boulevards and Arterial Streets as shown on the Comprehensive Plan. This easement shall be used to facilitate coordinated tree and/or landscape plantings along the City's thoroughfares or for the purpose of planting replacement trees due to necessary removal of established trees for street expansion or other public improvements within existing right-of-way. This is not a required easement and cannot be required by the City as a part of a Developer's Agreement or by any other means when located outside of the City. It is intended that the Public Landscape Easement shall overlap any required buffer-yard and further that provisions of a Public Landscape Easement shall have no bearing on the planting requirements of the buffer-yard. Adequate space shall be reserved for placement of utilities.

Section 2-30–2-40 Reserved.

PART 3 LOT AND SURVEY MONUMENT REQUIREMENTS

Section 2-41 Lot Requirements

(a) Every lot shall abut on a public street or a private street except as may be allowed by Zoning Ordinance for Planned Unit Developments.

(b) All lots, regardless of zoning or whether or not zoned, that are not served by a public or quasi-public community sewer system, shall contain a minimum lot area as required in the Zoning Ordinance or by state law to support a private septic tank and leach field, but shall not under any circumstance be less than one-half acre. A subdivision may, at the discretion of the Council, be deemed to be served by a public sewer system if a Developer Agreement has been executed with the City outlining provisions for extending public sewer service to the subdivision and providing for payment by the developer of all required approach main, connection and impact fees necessary to acquire the service.

(c) Except as otherwise provided in this Ordinance, double fronted residential lots shall not be allowed. However, a double fronted residential lot with frontage on an Arterial Boulevard or Arterial Street shall be allowed if no access is permitted from the lot to the Arterial Boulevard or Arterial Street.

(d) All side lot lines shall be perpendicular to the right-of-way lines or radial in the case of a cul-de-sac or curvilinear design.

(e) With the exception of lots or tracts in the Manufactured Home District, a row or tier of lots having a minimum lot width of 125 feet at the rear property line shall be provided adjacent to the following:

1. any property that is currently zoned or platted residential where all of the lots are a minimum of one acre; and

2. any property shown on the approved Comprehensive Plan to be designated for lots of one acre or larger in size.

(f) For the purposes of sub-section (e), the minimum lot width shall be measured along the lot line common to the adjacent property. If the lot line is comprised of two or more segments, the 125' shall be measured as follows:

1. For deflection angles 30 (degrees) and less, the length of the line segments may be summed to meet the 125' requirement; and

2. For deflection angles greater than 30 (degrees), the length of the line segments may be summed to meet the 125' requirement; however, the minimum length for each segment shall be 100'.

(g) Buffer lots: With the exception of lots in the Manufactured Home District, minimum 30,000 square foot lots shall be required on all lots adjacent to platted property zoned residential and consisting of lots with a minimum of one acre.

(h) All corner lots within the city limits shall have front setback lines on both streets as required by the Zoning Ordinance.

(i) All lots within the City limits shall meet the requirements of the City of Lindale Zoning Ordinance.

(j) Except as otherwise provided in this sub-section, blocks shall be platted to allow two tiers of Lots. If a block can not be platted to allow two tiers of Lots or the Lots of a Block are adjacent to an Arterial Boulevard or Arterial Street then the block shall be platted to allow a single tier of Lots.

Section 2-42 Sight Triangle

(a) A sight triangle shall be the triangle created by connecting a point which is 10 feet along the right-of-way at the intersection and a point extending away from the intersection a distance of forty (40) feet. See Addendum 7. This line shall extend
by projection to the back of curb on improved streets or the edge of pavement on unimproved streets along both streets impacted. The sight triangle shall include all area between the above defined line and the street pavement.

(b) Except as otherwise provided in this Section, there shall be no tree, shrub, plant, sign, soil, fence, retainer wall or other view obstruction having a height greater than two (2) feet within the sight triangle except for a pad transformer three (3) feet in height, within the sight triangle as defined in sub-section (a). The height shall be measured above a line drawn between the top of curb or edge of the pavement of both streets at the point where the referenced line intersects the top of the curb or edge of the pavement (the "measurement line").

(c) The restriction under sub-section (b) shall not apply to trees within the sight triangle, provided the trees are trimmed at all times so that no branch or growth is less than seven (7) feet above the measurement line.

(d) Final Subdivision Plat Requirement: A Final Subdivision Plat that has one or more intersections of public right-of-way shown on the plat shall have the following statement on the face of the plat prior to filing in the County Plat Records.

"The owners of all corner lots shall maintain sight triangles in accordance with the City of Lindale Subdivision Ordinance."

Section 2-43 Monuments and Markers

(a) Permanent Survey Reference Monuments: Concrete monuments, eight (8) inches in diameter and twelve (12) inches long, shall be placed on all boundary corners which are adjacent to existing dedicated right-of-way. A 5/8" diameter iron rod having a minimum length of 18" shall be placed flush with the top and at the center of the concrete monument. The monuments shall be set at such an elevation that they will not be disturbed during construction and the top of the monument shall be flush with or just below the finished ground elevation. See Addendum 7.

(b) Permanent Geo-referenced Survey Monuments: The requirements of this section shall apply only to Final Subdivision Plats involving ten or more lots. The developer's surveyor shall provide a letter certifying the horizontal positioning in state plane coordinates of two intervisible permanent survey monuments described in sub-section (a) prior to the acceptance of the subdivision. The purpose of this requirement is to geo-reference the subdivision by state plane coordinates.
(c) Installation of Monuments: Except as otherwise provided in this Section, monuments shall be installed before the recording of the Final Subdivision Plat. A person shall not obtain a Building Permit to develop a Lot in a proposed Subdivision

within the City until a Final Subdivision Plat has been recorded and all required monuments have been installed. A person shall not begin construction work on a Lot in a proposed Subdivision in the City's extraterritorial jurisdiction until a Final Subdivision Plat has been recorded and all required monuments have been installed.

(d) Monuments in Streets: When the placement of monuments in streets is postponed until the streets are completed, adequate survey ties to the boundary line shall be shown on the Final Subdivision Plat in order that monuments may be correctly located and installed following the paving of the streets.

(e) Benchmark Monuments on Headwalls: A brass cap approximately 2" in diameter shall be placed on top and at the upstream drainage end of all culvert headwalls within or at the perimeter of the subdivision. Prior to acceptance of the subdivision, the developer's surveyor shall provide a letter certifying the elevation of the brass cap (NGVD 1929).

Section 2-44–2-50 Reserved.

PART 4 PARKS AND RECREATION AREAS

Section 2-51 – 2-59 Repealed.

Section 2-60–2-70 Reserved.

PART 5 PROPERTY OWNERS' ASSOCIATION

Section 2-71 Property Owners' Association Required in Certain Residential Subdivisions

A residential subdivision with one or more private streets or private parks shall provide for the creation of a Property Owners' Association. A Property Owners' Association must be organized as a Texas nonprofit corporation under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes). The duties and responsibilities of the Property Owners' Association and restrictions applicable to the subdivision shall be established in a declaration that is submitted to the City Council prior to approval of the Final Subdivision Plat by the City Council. The declaration shall be made a part of the Final Subdivision Plat documents and shall comply with this Part and state law.

Section 2-72 Requirements of a Property Owners' Association

(a) The Property Owners' Association shall be organized so that:

1. Each Lot owner in the subdivision automatically becomes a member;

2. Each Lot owner is automatically subject to a charge for a proportionate share of the expenses required to maintain the private streets and private parks;

3. Each Lot owner has the right to use and enjoy the private streets and private parks;

4. Each Lot owner has voting rights in the Property Owners' Association;

5. The Property Owners' Association has the responsibility to maintain the private streets and private parks; and

6. The Property Owners' Association is responsible for the enforcement of the covenants and restrictions applicable to the subdivision.

(b) Title to all private streets and parks shall be transferred to the Property Owners' Association when the Final Subdivision Plat is recorded.

(c) The board of directors or trustees of the Property Owners' Association must be elected or appointed in accordance with the applicable provisions of the restrictions and the association's articles of incorporation or bylaws.

(d) A Property Owners' Association shall record in Smith County a management certificate, signed and acknowledged by an officer or the managing agent of the Association, stating:

(1) the name of the subdivision;

(2) the name of the Association;

(3) the recording data for the subdivision;

(4) the recording data for the declaration;

(5) the mailing address of the Association or the name and mailing address of the person managing the Association; and

(6) any other information the Association considers appropriate. §209.004 Texas Property Code.

Section 2-73 Records of a Property Owners' Association

(a) A Property Owners' Association shall make the books and records of the Association, including financial records, reasonably available to a Lot owner in the Subdivision in accordance with Section B, Article 2.23, Texas Non-Profit Corporation Act. §209.005(a) Texas Property Code and Article 1396-2.23, Vernon's Texas Civil Statutes.

(b) An attorney's files and records relating to the association, excluding invoices requested by a Lot owner are not: (1) records of the Association; (2) subject to inspection by the Lot owner; or (3) subject to production in a legal proceeding. §209.005(b) Texas Property Code

Section 2-74--2-80 Reserved.

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ARTICLE 3 CONSTRUCTION DESIGN REQUIREMENTS

PART 1 STREET PAVING AND DRAINAGE

Section 3-1 Purpose

The purpose of this Part is to guide the engineer in design and preparation of plans and specifications for the construction of public paving and drainage improvements. All paving and drainage improvements shall be designed and constructed in accordance with standard details of the Texas Department of Transportation (TxDOT) and this Part. Drainage facilities shall be designed using TxDOT culvert and storm drain design standards unless otherwise approved by the City. Materials and construction methods for paving and drainage work (technical specifications) shall conform to "State Department of Highways, Streets and Bridges," except where specifically superseded herein. Where any questions arise as to the interpretations of the standards of design, the decision of the City Engineer will be final.

Section 3-2 Roadway Design

a. Roadway Pavement Section Design: The City does not have a typical or standard pavement section, therefore, this Subsection presents the method for the thickness design of roadway pavements. It contains the design requirements for various street widths and traffic conditions, various subgrade support soils, and various types of pavement materials. Pavement design options are based on a combination of the these variables.

1. Step 1: Determine the structural support of the roadway's existing subgrade. The subgrade strength is defined by having a California Bearing Ratio Test (CBR) performed in accordance with ASTM Method D 1883-73 (Standard Test method for Bearing Ratio of Laboratory – Compacted Soils) by a geotechnical and construction materials testing lab. Locations of borings to obtain soil samples are to be placed along the proposed roadway to provide a representative view of the existing subgrade. Laboratory tests are to be performed on these representative soil samples to determine natural moisture content, liquid and plastic limits, and percent passing the No. 200 sieve. These tests are to be performed in accordance with ASTM Methods D 2216, D 4318, and D 422, respectively. Additional CBR tests are to be performed where above lab test on soil samples of the existing subgrade reveal variations in the subgrade soil according to the "Unified Soil Classification." Unified Soil Classifications are to be determined using procedures in accordance with ASTM Method D 2487. Additional CBR tests are to be performed on soil samples where roadway sub-grades produce cuts into varying subgrade soils. The existing subgrade shall always be able to provide a stable working platform when the soil is compacted to a density of 95% of standard proctor at optimum moisture content according to ASTM Method D 698. All organic and unstable material is to be removed during construction and replaced with select fill.

2. Step 2: Identify the class of the street to be built. Street classifications are determined by the following attributes: Comprehensive Plan, Zoning if located in the City, existing and future traffic volumes, and truck usage (See Table 5). Choose the street type which matches the design roadway's attributes. If a design roadway's attributes fall between street classes, for example, a street that has both residential and commercial zoning, choose the street class which produces the most stringent pavement design .

Table-5.

Class of Street	Zoning	Maximum Avg. Vehicles per Day	Percent Trucks	Average Gross Weight	Single Axle Load Limit
Arterial	All zones	24,300	15	30,000 lbs.	20,000 lbs.
Collector Street	Residential	9,600	5		
Collector Street	Commercial	11,200	15		
Collector Street	Industrial	9,600	20		
Cul-de-Sac	Residential	500	2	20,000 lbs.	

3. Step 3: Determine the total thickness of the pavement section for each type of pavement design. Three pavement design tables are provided, (see tables 6-8); one for flexible base pavement (table 6), one for full-depth hot mix asphaltic concrete pavement (table 7), and one for concrete pavement (table 8). Each design table is divided into street classification columns and subgrade CBR% rows. Using the street class identified in Step 2, follow this column down until it intersects the subgrade CBR% rows determined in Step 1. This number represents the total thickness of pavement section, in inches, to be used.

Table-6. FLEXIBLE BASE PAVEMENT DESIGN (DESIGN PERIOD = 20 YEARS)

TOTAL PAVEMENT SECTION					
SUBGRADE OR SUBBASE CBR %	ARTERIAL BOULEVARD 100 ft. and 70 ft.	ARTERIAL STREET 70 ft. and 52 ft.	RURAL ARTERIAL 30 ft.	COLLECTOR 52 ft., 40 ft. and 30 ft.	RESIDENTIAL CUL-DE-SAC
2	39 inches	38 inches	36.5 inches	35 inches	32 inches
3	31 inches	30 inches	29 inches	27.5 inches	24 inches
4	25 inches	24.5 inches	24 inches	23 inches	21 inches
5	21.5 inches	21 inches	20.5 inches	19.5 inches	18 inches
6	19 inches	18.5 inches	18 inches	17.5 inches	16 inches
7	17.5 inches	17 inches	16.5 inches	16 inches	14 inches
8	16 inches	15.5 inches	15 inches	14.5 inches	13 inches
9	15 inches	14.5 inches	14 inches	13.5 inches	12 inches
10	13..5 inches	13 inches	13 inches	12.5 inches	11 inches
12	12 inches	11.5 inches	11 inches	10.5 inches	9.5 inches
15	10 inches	10 inches	9.5 inches	9 inches	8 inches
20	10 inches	9.5 inches	9 inches	8 inches	7.5 inches
25	10 inches	9.5 inches	9 inches	8 inches	7.5 inches
MINIMUM SURFACE AND BASE SECTION					
HMAC BASE	3 7	2.5 7	2 7	2 6	2 5.5
MINIMUM STABILIZED SUBBASE SECTION					
6	6	6	6	6	6
FLEXIBLE BASE SPECIFICATIONS					
Texas State Department of Highways & Public Transportation "1982 Standard Specifications for Construction of Highways, Streets, and Bridges" Items 248 & 249 shall govern except California Bearing Ratio Tests will replace Triaxial Classes and the maximum PI=9. The base shall be compacted to a density of 95% of modified proctor at optimum moisture content according to ASTM Method D 1557.					
Grade	1,2	1,2	1,2	1,2,3	1,2,3
Minimum CBR % of Base	80	70	70	60	40

Table 7. FULL DEPTH HMAC PAVEMENT DESIGN (DESIGN PERIOD = 20 YEARS)

TOTAL PAVEMENT SECTION					
SUBGRADE OR SUBBASE CBR %	ARTERIAL BOULEVARD 100 ft. and 70 ft.	ARTERIAL STREET 70 ft. and 52 ft.	RURAL ARTERIAL 30 ft.	COLLECTOR 52 ft., 40 ft. and 30 ft.	RESIDENTIAL CUL-DE-SAC
2	16.5 inches	16 inches	15.5 inches	14 inches	12.5 inches
3	14 inches	13.5 inches	13.5 inches	12 inches	10.5 inches
4	12.5 inches	12 inches	12 inches	10.5 inches	9.5 inches
5	11.5 inches	11 inches	11 inches	9.5 inches	8.5 inches
6	10.5 inches	10 inches	10 inches	9 inches	8 inches
7	10 inches	9.5 inches	9.5 inches	8.5 inches	7.5 inches
8	9.5 inches	9 inches	9 inches	8 inches	7.5 inches
9	9 inches	8.5 inches	8.5 inches	7.5 inches	7 inches
10	9 inches	8.5 inches	8 inches	7.5 inches	6.5 inches
12	8 inches	8 inches	7.5 inches	7 inches	6 inches
15	7.5 inches	7.5 inches	7 inches	6.5 inches	5.5 inches
20	7 inches	7 inches	7 inches	6 inches	5.5 inches
25	7 inches	7 inches	6.5 inches	6 inches	5.5 inches
MINIMUM SURFACE AND BASE SECTION					
TYPE "D"	3	2.5	2	2	1.5
TYPE "B"	4	4.5	4.5	4	4
MINIMUM STABILIZED SUBBASE SECTION					
	6	6	6	6	6

Hot Mix Asphaltic Concrete (HMAC) Specifications:
Texas State Department of Highways & Public Transportation "1993 Standard Specifications for Construction of Highways, Street, and Bridges" Item 340 with coarse aggregate being crushed so that a minimum of 50% of particles retained on # 4 sieve shall have more than on crushed face when tested in accordance with Test Method Tex-413 A (Particle Count).

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Table 8. CONCRETE PAVEMENT DESIGN (DESIGN PERIOD = 35 YEARS)

TOTAL PAVEMENT SECTION					
SUBGRADE OR SUBBASE CBR %	ARTERIAL BOULEVARD 100 ft. and 70 ft.	ARTERIAL STREET 70 ft. and 52 ft.	RURAL ARTERIAL 30 ft.	COLLECTOR 52 ft. , 40 ft. and 30 ft.	RESIDENTIAL CUL-DE-SAC
2	11 inches	11 inches	10 inches	9 inches	7 inches
3	10 inches	10 inches	9 inches	8 inches	6 inches
4	10 inches	10 inches	9 inches	8 inches	6 inches
5	9 inches	9 inches	8 inches	7 inches	6 inches
6	9 inches	9 inches	8 inches	7 inches	6 inches
7	9 inches	9 inches	8 inches	7 inches	6 inches
8	9 inches	9 inches	8 inches	7 inches	6 inches
9	9 inches	9 inches	8 inches	7 inches	6 inches
10	8 inches	8 inches	8 inches	7 inches	5 inches
12	8 inches	8 inches	7 inches	6 inches	5 inches
15	7 inches	7 inches	7 inches	6 inches	5 inches
20	7 inches	7 inches	7 inches	6 inches	5 inches
25	7 inches	7 inches	6 inches	6 inches	5 inches
MINIMUM STABILIZED SUBBASE SECTION					
	6	6	6	6	6
Concrete Specifications: Texas State Department of Highways & Public Transportation "1993 Standard Specifications for Construction of Highways, Streets and Bridges," Item 360 within a minimum compression strength of 3000 PSI at 28 days (5 sacks of cement per cubic yard) with # 3 rebar on 18" c-c each way.					

4. Step 4: Determine the thickness of base. The minimum surface thickness is found at the bottom of each street class column. To obtain the thickness of base, subtract the surface thickness from the total thickness of the pavement section. On roadways that have an existing subgrade CBR% greater than 12, step four often provides the most economical design and the design process could be stopped, (see Example Problem 1), however, for roadways that have subgrade CBR% less than 12, the design process should continue to provide an economical design.

5. Step 5: Select a suitable subbase material if the process is continued. Subbase material can be the existing subgrade treated with lime or cement, or a select fill material, such as iron ore topsoil. The subbase material is sampled and the subbase strength is defines by having a CBR test performed.

6. Step 6: Determine the new thickness of base and surfacing. Taking into action the subbase CBR% value and using the pavements design table again, follow the same street class column down until it intersects the thickness, in inches, of base and surfacing. The base thickness is found by subtracting the surface thickness from the total thickness of base and surfacing.

7. Step 7. Determine the thickness of the subbase material selected in Step 5. This is found by subtracting the total thickness of base and surfacing in Step 6 from the total thickness of base and surfacing in Step 6 from the total thickness of the pavements section in Step 3. However, the minimum thickness of a subbase material is six (6") inches.

8.. Step 8: Determine the overall pavement section design. Add the surface thickness and base thickness found in Step 7 (see Example 2). To determine the most economical and efficient roadway pavement design, the above process should be performed using each pavement design table, varying the subbase materials, and then applying current construction costs.

9. Step 9: Design submittal. Submit on the forms provided (see Form 1) the roadway pavement section designs performed and the road way pavement design recommended to the City Engineer for his approval. Also submit the results of the CBR test performed by a geotechnical and construction materials testing lab.

(b) Pavement width: Pavement widths shall in no case be less than the widths shown in the following table:

Table-9. PAVEMENT WIDTH

Type of Street	Minimum Right of Way Width	Minimum Paving Width	Median	Center Turn Lane
Arterial Boulevard 6 lanes	130 ft.	100 ft.	Y	N
Arterial Boulevard 4 -6 lanes	130 ft.	70 ft.	Y	N
Arterial Street 4 lanes	100 ft.	70 ft.	N	Y
Arterial Street 2 lanes	82 ft.	52 ft.	N	Y
Rural Arterial	60 ft.	30 ft.	N	N
Collector Street 4 lanes	82 ft.	52 ft.	N	N
Collector Street 2 lanes	70 ft.	40 ft.	N	Y
Collector Street 2 lanes	60 ft.	30 ft.	N	N
Non-Residential Alley	30 ft.	20 ft.	N	N
Residential Alley	25 ft.	15 ft.	N	N

Dimensions are from face of curb to face of curb or edge of pavement centered in right-of-way.

(c) Curb and gutter is required on all streets within and abutting the subdivision.

(d) Curb returns shall have a minimum radius of 20 feet measured from the face of the curb. Greater radii may be required in skewed intersections or in industrial developments. Curb returns for driveways shall have a minimum radius of 10 feet.

(e) Concrete valley gutters are required if storm water runoff is allowed to cross through an intersection.

Section 3-3 Drainage Design Requirements

(a) All storm water flow calculations and design of drainage structures to be constructed within the City shall be prepared in accordance with this Ordinance and policies set forth by the FEMA National Flood Insurance Program, the Environmental Protection Agency, and US Army Corps of Engineers. All hydro logic and hydraulic design shall conform to Texas Department of Transportation (TxDOT) hydraulic design criteria except as noted herein. All storm drainage studies and drainage structure design shall be prepared by a registered professional engineer.

(b) Hydrology

1. Floods are usually considered in terms of peak runoff or discharge in cubic feet per second (cfs) and hydro graphs as discharge per time. For the design of facilities such as storm drain systems, culverts, and bridges, peak discharge shall be used. Where flood routing or detention storage is designed, discharge hydro graphs shall be provided.

2. Drainage Area: Drainage area size and shape should be determined using field surveys and/or topographic maps. Topography, soil type, vegetative cover, and future land use need to be considered when estimating runoff characteristics.

3. Design Frequency: Table 10 presents the minimum design frequency to use for each structure type.

Table-10. MINIMUM DESIGN FREQUENCY

Structure Type	Design Frequency	Check Flood
Curb Inlets	5 yr	25 yr
Sag Grate or Drop Inlets	25 yr	50 yr
Storm sewer pipe	25 yr	50 yr
Culverts	25 yr	50 yr
Bridges	50 yr	100 yr and/or overtop up to 500 yr
Drainage channels	50 yr	
Concrete lined channels	25 yr	

4. Hydro logic Methods: One of the following hydro logic methods shall be used to calculate ultimate design discharges.

a. Rational Method: The Rational Method should be used for estimating discharges for drainage areas up to 200 acres and is limited to simple watersheds where no significant flood storage occurs.

The Rational formula is expressed as: $Q = CIA$

where:

Q = maximum rate of runoff (cfs)
C = runoff coefficient
I = average rainfall intensity (in./hr.)
A = drainage area (acre)

Table 11 suggests ranges of runoff coefficient (C) values that shall be used in calculating runoff.

Table-11.

Drainage Area Type	Runoff Coefficient (C)
Business	
downtown areas	0.70 – 0.95
Industrial	
light	0.40 – 0.80
heavy	0.60 – 0.90
Residential	
single family < 1acre	0.40 – 0.50
single family > 1acre	0.30 – 0.50
multi-units	0.40 – 0.60
apartments	0.50 – 0.70
Parks, cemeteries	0.15 – 0.25
Schools, playgrounds	0.30 – 0.40
Unimproved properties	0.20 – 0.35
Lawns	0.15 – 0.25
Streets	0.85 – 0.95
Roofs	0.75 – 0.95

The rainfall intensity (I) is the average rainfall rate in in./hr. for a specific rainfall duration and selected frequency. The duration shall be assumed to be equal to the time of concentration. Intensity for a given frequency is calculated using the following equation:

$$I = \frac{b}{(t_c + d)^e}$$

where:

t_c = time of concentration in minutes

e,b,d = coefficients for specific frequencies based on rainfall frequency-duration data contained in the National Weather Service Technical Paper 40 (TP 40)

Minimum time of concentration (t_c) shall be 10 minutes to limit occurrences where the calculated rainfall intensity is unrealistically high.

b. NRCS Runoff Curve Number Methods: The Natural Resource Conservation Service (formerly Soil Conservation Service) developed the runoff curve number method as a means of estimating the amount of rainfall appearing as runoff.

Technical Release 20 (TR 20) employs the Runoff Curve Number Method and a dimensionless unit hydro graph to provide estimation of peak discharges and runoff hydro graphs from complex watersheds. The procedure is applicable when the effects of urbanization, channel storage, flood control storage, and multiple tributaries.

Technical Release 55 (TR 55) is a simplified form of TR 20 and is used for estimating peak discharges for small watersheds where the time of concentration is less than 10 hours. TR 55 also includes a unit hydro graph procedure.

5. Hydro logic Method Selection

a. The hydro logic method selected for use must be in conformance with the conditions of the watershed.

b. Unit hydro graph methods using TR 20, HEC-1, or HEC-HMS shall be used when there are appreciable flood control facilities within the watershed.

c. Rational Method or TR 55 shall be used for drainage areas less than approximately 200 acres.

d. TR 55 may be used on any watershed where the time of concentration is less than 10 hours, except in those instances where unit hydro graph is required.

(c) Hydraulics: Design of culverts, storm sewer, bridges, storm drains and other hydraulic facilities shall be in accordance with generally accepted engineering practice.

1. Inlets shall be designed such that the ponded width of the street flow does not encroach on the middle 10-foot width of roadway and does not overtop the curb during a 25-year frequency storm. Open channels and flumes from curb will not be allowed.

2. All storm sewer pipe shall be reinforced concrete pipe conforming to ASTM-76, unless otherwise approved by the City Engineer. Minimum pipe size shall be 18 inches inside diameter. All storm sewer pipe not in roadway right of way shall be located in an easement unless otherwise approved by the City Engineer.

3. Minimum inlet opening is 5 feet and shall conform to TxDOT standard inlet details unless otherwise approved by the City Engineer. All inlets shall have manhole rings and covers.

4. Drainage basins shall not be diverted into other drainage basins.

5. The drainage outfall shall be included in the design of storm sewer or culvert structures.

Sections 3-4--3-10 Reserved.

PART 2 WATER AND SEWER IMPROVEMENTS

Section 3-11 Water Improvements

An adequate water system to serve the subdivision shall be designed and constructed by the owner or developer. The water system shall comply with the minimum standards set forth in Addendum 9.

Section 3-12 Sewer Improvements

An adequate sewer system to serve the subdivision shall be designed and constructed by the owner or developer. The sewer system shall comply with the minimum standards set forth in addendum 10.

Sections 3-13--3-20 Reserved.

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ARTICLE 4 DEDICATION AND ACCEPTANCE OF PUBLIC IMPROVEMENTS

PART 1 DEDICATION OF PUBLIC IMPROVEMENTS

Section 4-1 Dedication Required

(a) Except as otherwise provided in this Section, every owner of property to be subdivided shall be required to dedicate to the City that portion of such property as is necessary for the orderly development of streets, utilities, drainage improvements, parks and other public uses.

(b) Every owner of property to be subdivided with Private Streets or Private Parks shall be required to convey title to all Private Streets and Private Parks to a Property Owners' Association in accordance with Section 2-62.

Section 4-2 Offer of Dedication and Effect of Approval or Disapproval of Subdivision Plat

(a) A dedication of public improvements shown on a Final Subdivision Plat shall be considered an offer of dedication which may be withdrawn by the developer prior to approval of the Final Subdivision Plat by the Commission and City Council. Upon approval of the Final Subdivision Plat by the Commission and City Council, the offered dedication shall remain open until refused or accepted by the City.

(b) The approval of a Subdivision Plat by the Commission or City Council is not an acceptance of any proposed dedication and does not impose on the City any duty regarding the maintenance or improvement of any dedicated part.

(c) The disapproval of a Subdivision Plat by the Commission or City Council is a refusal by the City of the proposed dedication in the Subdivision Plat. §212.011 Texas Local Government Code.

Section 4-3--4-10 Reserved.

PART 2 CONSTRUCTION AND ACCEPTANCE OF PUBLIC IMPROVEMENTS

Section 4-11 Construction Requirements for Public Improvements

(a) Public improvements for the subdivision, including Streets, Street lights and signs, sidewalks, curbs and gutters and water, sewer, and storm water drainage facilities shall be furnished, installed and constructed in accordance with the requirements of this Ordinance and the construction plans approved for the Subdivision by the City Engineer.

(b) Each Lot shall be served by available public utilities including water, sewer, gas and electricity.

Section 4-12 Inspections

(a) The construction of all public improvements including Streets, Street lights and signs, sidewalks, curbs and gutters and water, sewer, and storm water drainage facilities shall be subject to inspection during the construction process. Prior to beginning construction the developer shall contact the City Street and Utility Department and establish an inspection schedule for the Subdivision. The inspection schedule shall divide the construction work into stages which must be completed and inspected before additional work is performed.

(b) Upon completion of construction, the developer shall certify in writing to the Administrative Officer that construction of the public improvements is complete and provide the Administrative Officer with as-built construction drawings of the public improvements.

(c) Within thirty (30) days after the Administrative Officer receives as-built drawings for the public improvements in a Subdivision and a certification from the developer that public improvements are complete, the Administrative Officer shall deliver to the City engineer:

1. A copy of the engineering construction plans approved for the Subdivision;

2. A copy of the as-built drawings of the public improvements;

3. A copy of all inspection reports; and

4. A written request for a final inspection and report on the public improvements.

(d) The City engineer shall inspect the public improvements and file a report with the Administrative Officer containing the results of the inspection. Any variance between the engineering construction plans approved for the Subdivision and the public improvements constructed shall be noted on the inspection report by the City engineer. The City engineer shall recommend whether the public improvements should be accepted. The City shall not accept any proposed dedication of public improvements until the completed improvements have been inspected and a report has been filed by the City engineer. The owner and/or developer shall be responsible for the reasonable cost of the inspection performed by the City Engineer.

Section 4-13 Maintenance Bond

The City shall not accept any proposed dedication of public improvements that will become the maintenance responsibility of the City until the City has been provided a maintenance bond in an amount equal to fifty (50) percent of the final cost of the public improvements for the subdivision, including Streets, Street lights and signs, sidewalks, curbs and gutters and water, sewer, and storm water drainage facilities. The maintenance bond shall be executed by a reputable and solvent corporate surety, holding a license to do business in the state, in favor of the City to indemnify the City against any claims, costs or expenses for repairs which may become necessary to any part of the construction work performed in connection with the Subdivision, arising from defective workmanship or materials used in the construction work for a period of two years from the date the public improvements are accepted by the City.

Section 4-14 Digital Data Requirements

Prior to the City's acceptance of the public improvements in a Subdivision, the developer shall provide a digital computer file or files of the Subdivision containing the coordinate geometry for the Subdivision boundaries, lot lines, right of-way, street centerlines and easements in a format and on media compatible with the City 's Auto-CADD or Arc View GIS software system. This requirement shall only apply to Final Subdivision Plats of ten or more lots.

Section 4-15 Acceptance by the City Council

(a) Not less than five days before the City Council meeting at which the proposed dedication of public improvements will be considered, the Administrative Officer shall deliver to the Mayor, City Secretary and each Council member a copy of :

1. The written certification from the developer that construction of the public improvements is complete; and

2. The final inspection report of the City engineer.

(b) The City Council shall accept or reject the proposed dedication of public improvements of a Subdivision. The City Council may accept all of the public improvements of a Subdivision or only a portion of the public improvements or reject all of the public improvements.

(c) Within ten days after the City Council acts on the proposed dedication of public improvements, the Administrative Officer shall send written notice to the developer that the public improvements in the Subdivision have been accepted or rejected. The notice shall be sent by certified mail return receipt requested and shall–

1. identify the name of the Subdivision;

2. specify which improvements were accepted by the City and which were rejected by the City; and

3. if improvements were rejected by the City then identify the reasons why the improvements were rejected.

(d) The developer shall be responsible for the maintenance of public improvements accepted by the City Council for a period of two years from the date the City Council accepts the public improvements under this Section.

Section 4-17--4-20 Reserved.

ARTICLE 5 ENFORCEMENT AND CONSTRUCTION OF ORDINANCE

PART 1 ENFORCEMENT

Section 5-1 Civil Enforcement

(a) At the request of the City Council, the City attorney or other attorney representing the City may file an action in a court of competent jurisdiction to;

1. Enjoin a violation or threatened violation of a requirement of this ordinance by the Owner of a Tract of Land; or

2. Recover damages from the Owner of a Tract of Land in an amount adequate for the City to undertake any construction or other activity necessary to bring about compliance with the requirements of this ordinance.

(b) "Owner of a Tract of Land" as used in this Section does not include the owner of an individual Lot in a subdivided tract of land. §212.018 Texas Local Government Code.

(c) If any Subdivision exists, that is subject to the requirements of this ordinance, for which a Final Subdivision Plat has not been approved by the Commission and City Council and recorded in accordance with this ordinance, the City Council may approve a resolution that:

1. Identifies each property owner of the nonconforming Subdivision;

2. Describes the property in the nonconforming Subdivision by metes and bounds or other legal description; and

3. Specifies the provisions of this ordinance with which the Subdivision fails to comply.

(d) The Administrative Officer shall cause a certified copy of the resolution approved by the City Council under Subsection (c) of this Section to be filed in the Official Records of Smith County. A copy of the resolution shall be delivered to each property owner. The resolution may be delivered by depositing it, properly addressed with postage prepaid, in a post office or postal depository within the City.

(e) If the property owner subsequently complies with the requirements of this ordinance then the City Council shall approve a resolution describing the property by metes and bounds or other legal description and reciting that the property is no longer in violation of the requirements of this ordinance. The prior resolution shall be identified by the volume and page number where it is recorded in the Official Records of Smith County. The Administrative Officer shall cause a certified copy of the resolution approved under this Subsection to be filed in the Official Records of Smith County.

(f) Nothing contained in this Section shall limit any other remedy provided to the City by state law.

Section 5-2 Criminal Offense and Penalty

(a) A person commits an offense if the person violates Section 1-11 of this ordinance.

(b) A person who commits an offense under this ordinance is guilty of a misdemeanor, punishable by a fine of not more than $500.00. §54.001(b) Texas Local Government Code.

(c) This Section does not apply to a violation in the City's extraterritorial jurisdiction. §212.003(b) *Texas Local Government Code.*

Section 5-3 Disclaimer

(a) All of the regulations provided in this Ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. The Mayor, any member of the City Council or a City Official or employee charged with the enforcement of this Ordinance, acting for the City in the discharge of his or her duties, shall not thereby render himself or herself personally liable; and he or she is relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his or her duties.

(b) This ordinance shall not be construed to relieve from or lessen the responsibility of any person subdividing property for any damages to persons or property that may accrue as a result of an act or by reason of an act or omission by such person in subdividing property under this ordinance, nor shall the City be held to assume any such liability by reason of an act or omission of the Mayor, any member of the City Council or a City Official or employee required or permitted under this ordinance.

Section 5-4 Preservation of Rights

All rights and remedies of the City of Lindale are expressly reserved and saved as to any and all violations of the provisions of Ordinance No. 83-10 or any other ordinances affecting platting or the subdivision of land which have accrued at the time of the effective date of this Ordinance.

Section 5-5--5-10 Reserved.

PART 2 CONSTRUCTION OF ORDINANCE

Section 5-11 Rules of Construction

The following rules of construction shall apply to this ordinance:

(a). In case of any conflict between the text and any caption, illustration, summary table or illustrative table, the text shall prevail.

(b). The word "shall" is always mandatory and not discretionary.

(c). The word "may" is permissive.

(d). Words used in the present tense shall include the future; and words used in the singular shall include the plural and the plural the singular, unless the context clearly indicates the contrary.

(e). The phrase "used for" includes "arranged for," "designed for," "maintained for," "provided for" or "occupied for."

(f). "Person" includes an individual, a corporation, a partnership, an unincorporated association, and any other similar entity.

(g). Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions or events connected by the conjunction "and", "or" or "either.... or," the conjunction shall be interpreted as follows:

1. "and" indicates that all the connected items, conditions, provisions or events shall apply;

2. "or" indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination;

3. "either....or" indicates that the connected items, conditions, provisions, or events shall apply singularly but not in combination.

(h). "Includes" shall not limit a term to the specified examples, but is intended to extend its meaning to all instances or circumstances of like kind or character.

Section 5-12 Severability

(a) If any article, part, section, subsection, paragraph, sentence or phrase of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction then such portion of this ordinance shall be deemed a separate and independent provision and shall not affect the validity of the remaining portions of this ordinance.

(b) If any court of competent jurisdiction shall judge invalid or unconstitutional the application of any article, part, section, subsection, paragraph, sentence or phrase of this ordinance to a particular property, building or structure then such judgment shall not affect the application of that article, part, section, subsection, paragraph, sentence or phrase to any other property, building or structure.

Section 5-13 Repeal of Prior Ordinances

Except as otherwise provided herein, this Ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City; and this Ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed. Ordinance No. 83-10 (Subdivision Regulations), Ordinance No. 83-19 (Amending the Subdivision Ordinance), Ordinance No. 93-02 (Curb Requirements), Ordinance No. 07-2001 (Bond Requirements), Ordinance No. 04-2002 (Street and Drainage Requirements), and Ordinance No. 15-2003 are hereby repealed in their entirety.

Section 5-14 –5-20 reserved.

APPROVED THIS _____ DAY OF _____, 2007, BY THE CITY COUNCIL OF THE CITY OF LINDALE.

_____
MAYOR, CITY OF LINDALE

_____
OWEN SCOTT
SECRETARY, CITY OF LINDALE