

**TOWN OF LAKEWOOD VILLAGE  
SUBDIVISION ORDINANCE 20-05**

**AN ORDINANCE OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS, REGULATING SUBDIVISIONS AND OTHER PROPERTY DEVELOPMENTS, PROVIDING FOR PRELIMINARY PLATS, FINAL PLATS, MINOR PLATS, VACATION OF PLATS, REPLATS AND AMENDMENT OF PLATS; PROVIDING FOR DEVELOPMENT PROCESS; PROVIDING FOR STANDARDS AND REQUIREMENTS; PROVIDING FOR STREETS AND DRAINAGE, WATER AND SEWER INFRASTRUCTURE; EXTENDING REGULATIONS TO THE TOWN'S EXTRATERRITORIAL JURISDICTION; PROVIDING SEVERABILITY CLAUSE; PROVIDING SAVINGS CLAUSE; PRESCRIBING PENALTIES FOR VIOLATIONS OF THE PROVISIONS OF THE ORDINANCE; PROVIDING A REPEALER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council ("Town Council") desires to amend Ordinance 14-13 and all other ordinances regarding the Town's rules and regulations for subdivisions and property development as authorized by Chapter 212, Texas Local Government Code, as amended; and

**WHEREAS**, the Town Council ("Town Council") desires to review for approval or disapproval of plans, plats, and replats filed with the Town as authorized by Chapter 212, Texas Local Government Code, as amended; and

**WHEREAS**, the Town Council finds that there is a public necessity requiring adoption of this ordinance, said public necessity being the need to establish rules and regulations for subdivisions and property development and extend such rules and regulations to the extraterritorial jurisdiction of the Town ("ETJ") to protect the public health, welfare and safety of the citizens of the Town and the ETJ; and

**WHEREAS**, the Town Council is authorized and empowered to require the developer to (i) design, install or improve streets, roads, water and sanitary sewer systems within the Town by constructing, extending, or enlarging such system, and is further authorized to adopt any rules and regulations appropriate to the exercise of such powers, and to (ii) protect the public health, welfare and safety of the citizens of the Town; and

**WHEREAS**, the Town Council is authorized and empowered to apply the Town's regulations for subdivisions and property development to its ETJ pursuant to Section 212.003 of the Texas Local Government Code; and

**WHEREAS**, the Town Council has conducted a public hearing on the application of the Town's regulations for subdivisions and property development to its ETJ, and the Town Council finds and determines that all required notices and hearings in this regard have been given and that

the meeting at which the public hearing has been held and at which this ordinance is being adopted were open to the public and conducted according to applicable law; and

**WHEREAS**, the Town Council hereby finds and determines that the adoption of this ordinance is in the best interests of the health, safety and welfare of the citizens of the Town.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS, THAT:**

**Section 1: Findings**

The findings set forth above are incorporated as if fully set forth herein.

**Section 2: Adoption**

The Subdivision Ordinance attached hereto in Exhibit A is hereby adopted as the subdivision ordinance for the Town.

**Section 3: Repeal**

Subdivision Ordinance 14-13 is hereby repealed in its entirety.

**Section 4: Penalty Clause**

1. Violation

A person who knowingly violates any provision of this chapter is guilty of separate offenses for each day during which the violation is continued. Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined by this ordinance.

2. Fine

Each offense is punishable by a fine of not more than two-thousand (\$2,000) nor less than two-hundred (\$200). The minimum fine established in this paragraph shall be doubled for the second conviction of the same offense within any 24-month period and tripled for the third and subsequent convictions of the same offense within any 24-month period. At no time shall the minimum fine exceed the maximum fine established in this paragraph.

**Section 5: Legal Rights**

The penal provision imposed under this Ordinance shall not preclude the Town of Lakewood Village from filing suit to enjoin the violation. The Town of Lakewood Village retains all legal rights and remedies available to it pursuant to local, state, and federal law.

## **Section 6: Severability**

### **1. Unconstitutional or Invalid Section**

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect.

### **2. Independent Sections**

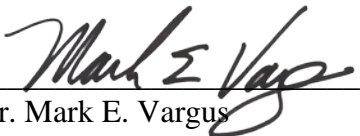
The Town hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and/or phrases be declared unconstitutional or invalid.

## **Section 7: Estoppel / Waiver**

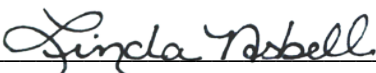
The failure of the Town to enforce any term or condition of this Ordinance shall not constitute a waiver or estoppel or any subsequent violation of this Ordinance.

## **Section 8: Effective Date**

**PASSED AND APPROVED** by the Town Council of the Town of Lakewood Village, Texas this the 13th day of February, 2020.

  
\_\_\_\_\_  
Dr. Mark E. Vargus  
Mayor

**ATTESTED:**

  
\_\_\_\_\_  
Linda Asbell, TRMC, CMC  
Town Secretary





## **SUBDIVISION ORDINANCE**

**First Public Hearing: May 22, 2014**  
**Second Public Hearing: June 12, 2014**  
**Third Public Hearing: November 13, 2014**  
**Adopted: November 13, 2014**

**First Public Hearing: February 13, 2020**  
**Adopted: February 13, 2020**

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## **SECTION 1: GENERAL PROVISIONS**

### **1.1. PURPOSE & APPLICABILITY**

#### **A. Purpose**

1. The development and subdivision of land, as they affect a community's quality of life, are activities for which regulation is a valid function of a municipal government. The regulations contained within this Subdivision Ordinance are intended to protect the interests of the public and of private parties by granting certain rights and privileges. The requirements in this Subdivision Ordinance are also intended to establish a fair and rational procedure for developing and subdividing land such that land will be developed in accordance with existing physical, social, economic and environmental conditions.
2. The provisions of this Subdivision Ordinance are intended to implement standards and requirements provided for herein, and shall be requirements for the platting and developing of subdivisions within the Town limits and its Extraterritorial Jurisdiction ("ETJ").
3. The provisions of this Subdivision Ordinance are intended to implement the following objectives:
  - a. Promote the development and the utilization of land in a manner that provides an attractive and high-quality community environment in accordance with the Comprehensive Plan, Outdoor Lighting Ordinance, and the Zoning Ordinance of the Town;
  - b. Guide and assist property owners and applicants in the correct procedures to be followed, and to inform them of the required standards;
  - c. Protect the public interest by having standards for, but not limited to, the location, design, class and type of streets, sidewalks, trails, alleys, utilities and essential public services;
  - d. Assist orderly, efficient and coordinated development within the Town's limits and its ETJ;
  - e. Integrate the development of various tracts of land into the community, and coordinate the future development of adjoining tracts;
  - f. Promote the most efficient and beneficial provision of public facilities and services for each tract being subdivided;
  - g. Provide for efficient traffic circulation throughout the municipality;
  - h. Provide for pedestrian circulation that is appropriate for the various uses of land and buildings;
  - i. Minimize pollution of the air, streams, bodies of water, and aquifers; promote the adequacy of storm drainage facilities; minimize erosion; safeguard both surface and groundwater supplies, as well as endangered or threatened plant and animal life in order to preserve the integrity, stability and beauty of the community and the value of the land;
  - j. Preserve the natural beauty and topography of public and private properties by encouraging where possible that natural features and land forms are incorporated into developments as amenities;
  - k. Establish adequate and accurate records of land subdivision;

- I. Provide for public or private facilities that are available and will have sufficient capacity to serve proposed developments and citizens within the Town and ETJ;
- m. Provide for adequate light, air and privacy; secure safety from fire, flood and other dangers; and prevent overcrowding of the land and undue congestion of population.

B. Applicability

1. The provisions of this Subdivision Ordinance apply to any division or development of land, combination of separate land parcels, and/or development of land within the corporate boundaries of the Town and within its ETJ.
2. No permit shall be issued for any building or structure on a property until a required plat has been approved and filed for record.

C. Subdivision Rules

The provisions of this Subdivision Ordinance, the standards governing constructed facilities applicable to plats in other portions of the Municipal Code of Ordinances, constitute the subdivision rules of the Town, which apply to applications for plat approval inside the Town limits and within the Town's ETJ.

D. Compliance with Town Plans and Ordinances Required

Compliance with all Town ordinances pertaining to the subdivision and development of land, and the Comprehensive Plan (where applicable), shall be required prior to approval of any application pursuant to this Subdivision Ordinance. All such ordinances and Comprehensive Plan shall be construed to mean those documents as they exist or may be amended. It is the property owner's responsibility to be familiar with, and to comply with, Town ordinances, the Comprehensive Plan, and the provisions of this Subdivision Ordinance. Applicable Town ordinances and plans with which all applications must comply include, but are not limited to the following:

1. Comprehensive Plan (including all associated maps and plans);
2. Zoning Ordinance;
3. Building Codes;
4. Outdoor Lighting Ordinance;
5. Flood Damage Prevention Ordinance;
6. International Fire Code; and
7. Federal, State and Local Environmental Regulations.

E. Restrictiveness

Where the regulations imposed herein are either more restrictive or less restrictive than comparable conditions imposed by any other provision of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards are the requirements that shall govern. Notwithstanding the foregoing, the Town may, but is not required to, seek enforcement of a more restrictive regulation imposed by a person or entity other than the Town.



## **SECTION 2: REVIEW BODIES**

### **2.1. TOWN COUNCIL**

#### **2.1.1. Authority for Deciding Applications**

The Town Council shall have the authority to act on the following types of applications:

1. Preliminary Plat;
2. Final Plat;
3. Replat;
4. Development Plat.

#### **2.1.2. Authority for Deciding Appeals**

The Town Council shall hear and decide the following appeals:

1. Any major waiver petition on an application for a Preliminary Plat, Final Plat or Replat;
2. Minor Plat or Amended Plat;
3. Any other appeal so authorized by this Subdivision Ordinance.

## **SECTION 3: AMENDMENTS**

The Town Council may from time to time, after public hearings required by law, amend, supplement, or change the regulations herein provided. All amendments shall require an affirmative vote by three fourths of all alderman of the governing body.

The Town Council may from time to time amend, supplement or change the text of the Development Application Handbook.

## **SECTION 4: FILING FEES AND CHARGES**

### **A. General**

Fees shall be paid to the Town when any application authorized by this Subdivision Ordinance is submitted to the Town. Each of the fees shall be paid in advance, and no action by the Town Council shall be valid until all required fees have been paid. Fees paid for the review and consideration of plats and applications under this Subdivision Ordinance are non-refundable.

### **B. Calculations & Charges**

1. All fees shall be as established by Town ordinance.
2. These fees shall be charged on all plats and applications authorized by this Subdivision Ordinance, regardless of the action taken by the Town and whether the application is approved, denied or closed.

## **SECTION 5: DEVELOPMENT APPLICATION SUBMITTAL & PROCESSING PROCEDURES**

### **5.1. PRE-SUBMITTAL MEETING**

#### **A. Option to Meet with the Director**

Prior to the official submission of an application for review and consideration, the applicant(s) has the option to request and attend a pre-submittal meeting with the Town.

**B. Meeting Request**

To schedule a pre-submittal meeting, the applicant shall make a request for a Pre-Submittal Meeting with the Town Secretary, and such request shall describe the type of development desired and/or the type of application that the applicant intends to submit. The applicant shall then be notified by the Town Secretary of the meeting time and place.

**C. Vested Rights**

There shall be no vested rights based on a pre-submittal meeting.

**D. Effect**

Following the pre-submittal meeting, the applicant may proceed with the submittal of an application.

**5.2. GENERAL APPLICATION CONTENTS**

**A. Application Contents**

All applications shall be submitted on a form supplied by the Town with the required information as stated on the application form. Incomplete applications shall not be accepted for filing and shall not be considered officially filed.

**1. Application Timing**

An application must be considered complete and officially filed in accordance with section 5.3 INITIATION, COMPLETE APPLICATION & EXPIRATION of this Subdivision Ordinance prior to being processed for review and consideration.

**2. Fees Required**

Every application shall be accompanied by the prescribed fee set forth in the Town's fee schedule, as approved by Town Council and as may be amended from time to time. The prescribed fee is not refundable.

**3. Delinquent Town Taxes on Property**

An application shall not be deemed complete, nor shall it be approved, if there are delinquent Town taxes on the subject property.

**B. Modification of Applications Prior to Approval**

The applicant may modify any complete application following its filing and prior to the expiration of the period during which the Town is required to act on the application.

**1. Modifications Requested by the Town**

If the modification is for revisions requested by the Town, and the modification is received at least eleven (11) calendar days prior to the time scheduled for decision on the application, the

application shall be decided within the original period for decision (from the original official filing date) prescribed by this Subdivision Ordinance.

## 2. Other Modifications

In all instances (e.g., when the applicant chooses to submit a revised application on his own accord because of a change in development decisions), submittal of the modified application shall be accompanied by a properly executed Waiver of Right to 30-Day Action in order to allow the Director adequate time to review the new information and modifications, and shall extend the time for deciding the application for a period equal to the time specified in this Subdivision Ordinance to decide the original application, commencing on the official filing date of the modified application.

## 5.3. INITIATION, COMPLETE APPLICATION & EXPIRATION

### A. Initiation by Owner

An application required under this Subdivision Ordinance may be initiated only by the owner of the land subject to the application, or by the owner's duly authorized representative. If the applicant is a representative of the property owner, the application shall include a written and notarized statement from the property owner, authorizing the representative to file the application on the owner's behalf.

### B. Applicability

The procedures within this section shall apply to all applications that are required by the Town and submitted in accordance with this Subdivision Ordinance.

### C. Determination of Completeness

Every application shall be subject to a determination of completeness by the responsible official for processing the application. An application must be complete in order to be accepted for review by the Town.

1. The application shall only be accepted by the responsible official for processing when it is accompanied by all documents required by, and prepared in accordance with, the requirements of this Subdivision Ordinance. A typographical error shall not, by itself, constitute an incomplete application.
2. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this Subdivision Ordinance.
3. A determination of completeness of an application shall be conducted in accordance with the following procedures:
  - a. The applicant shall be notified in writing within ten (10) business days if the submitted application is incomplete. Such notice shall be served by depositing it in the U.S. Postal Service, or by electronic mail transmission, before the tenth (10<sup>th</sup>) business day following submission of the application.

- b. If the application is determined to be incomplete, the notification shall specify the documents or other information needed to complete the application and shall state the date the application will expire if the documents or other information are not provided to the Town.
  - c. An application shall be deemed complete on the eleventh (11<sup>th</sup>) business day after the application has been received if notice is not served.
- 4. It is not guaranteed that an accepted, complete application will be approved, if after the application is deemed complete it is determined that the proposed plan does not comply with this Subdivision Ordinance.

**D. Re-Submittal After Notification of Incompleteness**

If the application is re-submitted after a notification of incompleteness, the application shall be processed upon receipt of the re-submittal. An additional determination of completeness shall be made thereafter as described in section 5.3.C Determination of Completeness. The statutory 30-day time frame for plat approvals shall begin when the Town deems the application is complete as described in section 5.3.G Official Filing Date.

**E. Waiver of Right to 30-Day Action**

**1. Request**

An applicant may submit in writing a Waiver of Right to 30-Day Action in relation to the decision time for plats of thirty (30) days, as mandated by State law.

**2. Requirements Maintained**

Submission of a Waiver of Right to 30-Day Action, and acceptance of such Waiver by the Town as part of an application, shall not be deemed in any way a waiver to any requirement within this Subdivision Ordinance. A waiver from requirements herein is a separate and distinct process.

**F. Expiration of Application**

- 1. The application shall automatically expire at the close of business of the forty-fifth (45<sup>th</sup>) calendar day after the date the application is received, and it will be returned to the applicant together with any accompanying documents and materials, if:
  - a. The Town provides to the applicant, not later than the tenth (10<sup>th</sup>) business day after the date the application is filed, written notice that specifies the necessary documents or other information, and the date the application will expire if the documents or other information is not provided; and
  - b. The applicant fails to provide the specified documents or other information necessary to comply with the Town's requirements relating to the application within the time provided in the notification.
- 2. An accepted application for which there has been no action taken by an applicant for ninety (90) calendar days shall be deemed expired and closed on the Town's initiative.

- a. If the application is of a type that can be administratively approved or denied, the responsible official shall notify the applicant in writing that the application is officially denied due to inaction.
- b. If the application is of a type that must be acted upon by the Town Council, the responsible official shall coordinate the application being placed on the agenda of the Town Council, as applicable, and the application shall then be formally denied by an official action of the Town Council, as applicable.

#### G. Official Filing Date

The 30-day time period established by State law, and by this Subdivision Ordinance, for processing and deciding an application shall commence on the official filing date. The official filing date shall be defined as the date the application is deemed complete by the Town in the manner prescribed by section 5.3.C Determination of Completeness.

### 5.4. APPLICATION PROCESSING, ACTION & NOTIFICATION FOLLOWING DECISION

#### A. Action By The Town

The Town shall initiate internal review and assessment of the application following the Town's development review procedures. The Town shall also, to the extent possible, work with the applicant by advising on and communicating revisions that may be necessary to bring the application into compliance with the Town regulations in preparation for consideration by the Town Council.

#### B. Decision

The Town shall approve, approve with conditions, or deny the application within the time period prescribed by this Subdivision Ordinance.

#### C. Conditions Attached

The Town may attach such conditions to the approval of an application as are reasonably necessary to ensure compliance with all applicable requirements of this Subdivision Ordinance.

#### D. Notification of Decision

The Town shall send written notice within fourteen (14) calendar days following the date of a decision on an application.

#### E. Notification of Appeal

Whenever an appeal is taken from a final decision on an application following a public hearing, or whenever the Town is to consider revocation of an application which was obtained following a public hearing, notice of the appeal or revocation proceeding shall be provided to the applicant.

### 5.5. PUBLIC HEARINGS

#### A. Setting the Hearing

When the Director determines that an application is complete and that a public hearing is required by this Subdivision Ordinance or by State law, the Director shall cause notice of such hearing to be

prepared and made in accordance with State law. The time set for the hearing shall conform to the time periods required this Subdivision Ordinance and by State law.

**B. Conduct of the Hearing**

The public hearing shall be conducted in accordance with State law. Any person may appear at the public hearing and submit evidence, either individually or as a representative of an organization. Each person who appears at a public hearing shall state his or her name and address, and if appearing on behalf of an organization, state the name of the organization for the record.

**C. Record or Proceedings**

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

**5.6. AMENDMENTS & EXPIRATION**

**A. Amendments/Revisions to an Approved Application**

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

**B. Time of Expiration**

1. Unless otherwise expressly provided by this Subdivision Ordinance, an approved application shall automatically expire two (2) years following the approval date of the application, and shall become null and void, and all activities under the application thereafter shall be deemed in violation of this Subdivision Ordinance, if:
  - a. The applicant fails to satisfy any condition that was imposed by this Subdivision Ordinance or as part of the approval of the application within the time limits established for satisfaction of such condition or term; or
  - b. The applicant fails to submit a subsequent complete application required by this Subdivision Ordinance within the time so required; or
2. If no time limit for satisfaction or conditions is specified in the decision on the application, the time shall be presumed to be two (2) years following the date the application was approved, except as provided in section 5.7 EXPIRATION FOR PROJECTS APPROVED PRIOR TO SEPTEMBER 1, 2005.

**C. Effect of Expiration**

Upon the expiration of an approved application, all previously approved applications for the same land shall also expire on the expiration date if the filing of an application was required to avoid expiration for the previously approved applications(s), except as provided in section 5.7 EXPIRATION FOR PROJECTS APPROVED PRIOR TO SEPTEMBER 1, 2005. Thereafter, a new application must be

submitted for consideration and approval subject to regulations in effect at the time the new applications is filed.

#### **5.7. EXPIRATION FOR PROJECTS APPROVED PRIOR TO SEPTEMBER 1, 2005**

##### **A. Two-Year Expiration Established**

Notwithstanding any other provision of this Subdivision Ordinance, for any approved application for which no expiration date was in effect on September 1, 2005, an expiration date of two (2) years following the date of approval of the application shall apply.

##### **B. Five-Year Expiration Established**

Notwithstanding any other provision of this Subdivision Ordinance, once an application has expired under section 5.7, all previously approved applications for the same land also shall expire no later than five (5) years following the date of filing of the first application for the project for which the expired application was filed.

### **SECTION 6: SUBDIVISION PROCEDURES**

#### **6.1. GENERAL SUBDIVISION & PLATTING PROCEDURES**

##### **A. Types of Plats Required**

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

##### **B. Replat**

A Replat in accordance with State Law and the provisions of sections 6.8 REPLATS AND AMENDING PLATS – GENERAL REQUIREMENTS and 6.9 REPLATS shall be required any time a platted, recorded lot is further divided or expanded, thereby changing the boundary and dimensions of the property. In the case of minor revisions to recorded plats, a Minor Plat or Amending Plat may also be utilized if allowed by State Law and if in accordance with section 6.7 MINOR PLATS and sections 6.8 REPLATS AND AMENDING PLATS – GENERAL REQUIREMENTS and 6.10 AMENDING PLATS respectively.

##### **C. Exemptions**

The following land divisions are exempt from the requirements of this Subdivision Ordinance that apply to plats:

1. Use of existing cemeteries complying with all State and local laws and regulations; and
2. A division of land created by order of a court of competent jurisdiction, provided however, that prior to construction of improvements, a Final Plat or Development Plat meeting the requirements of this Subdivision Ordinance shall be approved and recorded prior to the issuance of permits.

##### **D. Zoning**

Inside the Town limits, the following shall apply:

### 1. Conformance with Existing Zoning

All applications shall be in conformance with the existing zoning of the property.

### 2. Request to Rezone First

If an applicant seeks to amend the zoning for the property, the request to rezone the land shall be submitted and approved prior to acceptance of an application for filing unless as otherwise provided below.

- a. The applicant may request approval from the Town to submit an application simultaneous with the zoning change request, in which case the application for the zoning amendment shall be acted upon first, and provided that the application is accompanied by a properly executed Waiver to Right to 30-Day Action (due to the more lengthy time frame necessary to advertise and process zoning applications).
- b. In the event that the requested zoning amendment is denied, the application shall also be rejected or denied.

### 3. Site Plan Approval

Where Site Plan approval is required by the Town Council prior to development, no application for a Final Plat approval shall be accepted for filing until a Preliminary Site Plan has been approved for the land subject to the proposed plat.

## E. General Stages of Plat Approval & Staff Review

### 1. Two-Stage Process

The platting process typically involves two approval stages: Submission and approval of a Preliminary Plat, and a subsequent submission and approval of a Final Plat. However:

- a. An applicant may proceed with a Final Plat without an approved Preliminary Plat whenever:
  1. A Minor Plat is submitted; or
  2. A Preliminary Site Plan for the development is submitted and approved in accordance with the Zoning Ordinance.
- b. An applicant may submit a Construction Plat and a Final Plat simultaneously in lieu of a Preliminary Plat if appropriate surety are submitted along with the application.

### 2. Review by the Director

Unless otherwise specified under the regulations for a specific type of plat:

- a. The Director shall be responsible for a plat, and shall be responsible for the initial review of a plat for conformance with this Subdivision Ordinance and any other applicable ordinances of the Town.
- b. The Director shall review all applications for completeness.



- c. The Director shall review all applications that are deemed complete for conformance with this Subdivision Ordinance and with other applicable Town regulations.

## **6.2. PRELIMINARY PLATS**

### **A. Purpose**

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

### **B. Exceptions**

1. A Preliminary Plat is not required when a Minor Plat or Development Plat is submitted.
2. A Final Plat in accordance with section 6.3, along with Construction Plans in accordance with section 7.1, may be submitted in lieu of a Preliminary Plat if an Improvement Agreement and appropriate surety are submitted along with the application.

### **C. Accompanying Applications**

1. An application for a Preliminary Plat shall be accompanied by a Preliminary Drainage Plan, a Preliminary Utility Plan, and other plans if deemed necessary for thorough review by the Director or the Town Engineer. However, approval of each shall be separate and in accordance with section 6.2 PRELIMINARY PLATS with section 7.1 CONSTRUCTION PLANS.
2. The applicant shall furnish with the application to the Town a current title commitment issued by a title insurance company authorized to do business in Texas, a title opinion letter from an attorney licensed to practice in Texas, or some other acceptable proof of ownership, identifying all persons having an ownership interest in the property subject to the Preliminary Plat.

### **D. Action by Town Council**

1. The Town Council shall act within thirty (30) calendar days following the official date of the Preliminary Plat application unless the applicant submits a Waiver of Right to 30-Day Action as outlined in section 5.3 INITIATION, COMPLETE APPLICATION & EXPIRATION. If no decision is rendered by the Town Council within the thirty (30) day period described above or such longer period as may have been agreed upon, the Preliminary Plat, as submitted, shall be deemed to be approved.
2. Any one of the following actions will constitute a final action:
  - a. Approve the Preliminary Plat; or
  - b. Approve the Preliminary Plat with conditions, which shall mean that the Preliminary Plat shall be considered to have been approved once such conditions are fulfilled; or
  - c. Deny the Preliminary Plat.

### **E. Criteria for Approval**

The following criteria shall be used by the Town Council to determine whether the application for a Preliminary Plat shall be approved, approved with conditions, or denied:

1. The Preliminary Plat is consistent with all zoning requirements for the property, including any applicable Planned Development zoning standards;
2. The proposed provision and configuration of public improvements including, but not limited to, roads, water, wastewater, storm drainage, park facilities, open spaces, habitat restoration, easements and rights-of-way are adequate to serve the development, meet applicable standards of this Subdivision Ordinance, and conform to the Town's adopted master plans for those facilities;
3. The Preliminary Plat is in accordance with the Town's interlocal agreements with Denton County if the proposed development is located in whole or in part in the ETJ of the Town;
4. The Preliminary Plat has been duly reviewed by the Director;
5. The Preliminary Plat conforms to design requirements and construction standards;
6. The Preliminary Plat is consistent with the Comprehensive Plan, except where application of the Plan may conflict with State law.
7. The proposed development represented on the Preliminary Plat does not endanger public health, safety or welfare.
8. (moved to 6.4 Construction Plat)

F. Effect of Approval

The approval of a Preliminary Plat shall allow the applicant to proceed with the development and platting process by submitting Construction Plans and a Final Plat. Approval of the Preliminary Plat shall be deemed general approval of the subdivision's layout only, and shall not constitute approval or acceptance of Construction Plans or a Final Plat.

G. Appeal of the Decision on a Preliminary Plat Application

Refer to section 6.12 PLAT APPEALS.

H. Expiration

1. Two-Year Validity

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

2. Phased Developments – Partial Final Plat & Construction Plat

If a Final Plat and a Construction Plat for only a portion of the land area shown on the Preliminary Plat are approved by the end of the two (2) year period, the Preliminary Plat for the remainder of the land not included on the Final Plat and Construction Plat shall expire on such date.

### 3. Void if Not Extended

If the Preliminary Plat is not extended as provided in section 4.2.I Extension, it shall expire and shall become null and void.

#### I. Extension

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

##### 1. Decision by the Town Council

- a. The Town Council will review the extension request and shall approve it, approve it with conditions, or deny the extension request within thirty (30) calendar days following the official filing date of the request.
- b. Should the Town Council fail to act on an extension request within thirty (30) calendar days, the extension shall be deemed to be denied.

##### 2. Considerations

In considering an extension, the Town Council shall consider whether the following conditions exist:

- a. A Final Plat has been submitted and/or approved of any portion of the property shown on the Preliminary Plat;
- b. Construction Plans have been submitted and/or approved for any portion of the property shown on the Preliminary Plat;
- c. Construction is occurring on the subject property;
- d. The Preliminary Plat complies with new ordinances that impact the health, safety and general welfare of the community; and/or

##### 3. Conditions

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

##### 4. Appeal of Denial for Extension

The denial of an extension may be appealed to the Town Council. A written request for such appeal shall be received by the Town staff within fourteen (14) calendar days following the denial. The Town Council shall hear and consider such an appeal within thirty (30) calendar days following the receipt of the appeal request. The Town Council may affirm, modify or reverse the decision by a three-fourths majority vote. The decision of the Town Council is final.

#### J. Amendments to Preliminary Plat Following Approval

##### 1. Minor Amendments

Minor amendments to the design of the subdivision subject to an approved Preliminary Plat may be incorporated in an application for approval of a Final Plat without the necessity of filing a new application for re-approval of a Preliminary Plat. Minor amendments may only include minor adjustments in street or alley alignments, lengths and paving details, and minor adjustments to lot lines that do not result in creation of additional lots or any non-conforming lots (such as to Zoning standards), provided that such amendments are consistent with applicable approved prior applications.

##### 2. Major Amendments

All other proposed changes to the design of the subdivision subject to an approved Preliminary Plat shall be deemed major amendments that required submittal and approval of a new application for approval of a Preliminary Plat (including new fees, new review, new official filing date, etc.) before approval of Construction Plat and/or a Final Plat.

##### 3. Determination

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

#### K. Large Lots and Tracts

If the lots or tracts of land in a proposed development are large enough to suggest possible further subdivision in the future, or if portions of the property are not subdivided or developed immediately, the Preliminary Plat shall show how such large tracts or remainder portions of the property can be subdivided into conforming lots at a later time, and shall also show how streets can be extended and how median openings can be aligned and shared in the future.

### **6.3. FINAL PLATS**

#### A. Purpose

The purpose of a Final Plat is to ensure that the proposed subdivision and development of the land is consistent with all standards of this Subdivision Ordinance and other ordinances pertaining to the land use regulations, outdoor lighting regulations, the adequacy of public facilities, that public improvements to serve the subdivision or development have been installed and accepted by the Town or that provision for such installation has been made, that all other requirements and conditions have been satisfied or provided for to allow the Final Plat to be recorded.

#### B. Exceptions

A Final Plat is not required when a Minor Plat is submitted.

#### C. Ownership

1. The applicant shall furnish to the Town a current title commitment issued by a title insurance company authorized to do business in Texas, a title opinion letter from an attorney licensed to

practice in Texas, or some other acceptable proof of ownership, identifying all persons having an ownership interest in the property subject to the Final Plat.

2. The Final Plat shall be signed by each owner, or by the representative of the owners authorized to sign legal documents for the owners, effectively denoting that they are consenting to the platting of the property and the dedications and covenants that may be contained in the Final Plat. Such consent shall be subject to review and approval by the Town Attorney, and the applicant shall reimburse the Town for all related legal costs for the review. This reimbursement shall be paid in full prior to filing of the Final Plat.

**D. Complete Applications for Final Plats in Extraterritorial Jurisdiction (ETJ)**

Where the land to be platted lies within the ETJ of the Town in a county with which the Town has interlocal agreement under Texas Local Government Code, Chapter 242, a complete application shall be submitted to the Town.

**E. Accompanying Applications**

An application for a Final Plat may be accompanied by Construction Plans if also accompanied by an Improvement Agreement and appropriate surety in accordance with section 7.4 IMPROVEMENT AGREEMENTS AND SECURITY FOR COMPLETION. However, approval of each shall be separate and in accordance with this section for Final Plats and with section 7.1 CONSTRUCTION PLANS.

**F. Prior Approved Preliminary Plat**

The Final Plat and all accompanying data shall conform to the Preliminary Plat as approved by the Town Council, or as the Preliminary Plat may have been amended subsequently, if applicable, incorporation all conditions imposed or required by the Town Council, if applicable.

**G. Action by the Town Council**

1. The Town Council shall act within thirty (30) calendar days following the official filing date of Final Plat (unless the applicant submits a Waiver of Right to 30-Day Action as outlined in section 5.3.E Waiver of Right to 30-Day Action. If no decision is rendered by the Town Council within the thirty (30) day period described above or such longer period as many have been agreed upon, the Final Plat, as submitted, shall be deemed to be approved.
2. Any one of the following actions will constitute final action:
  - a. Approve the Final Plat; or
  - b. Approve the Final Plat with conditions, which shall mean that the Final Plat shall be considered to have been approved once such conditions are fulfilled; or
  - c. Deny the Final Plat.

**H. Criteria for Approval**

The following criteria shall be used by the Town Council to determine whether the application for a Final Plat shall be approved, approved with conditions, or denied:

### 1. Prior Approved Preliminary Plat

- a. The Final Plat conforms to the approved Preliminary Plat except for minor amendments that are authorized under section 4.2.J Amendments to Preliminary Plat Following Approval and that may be approved without the necessity of revising the approved Preliminary Plat;
- b. All conditions imposed at the time of approval of the Preliminary Plat, as applicable, have been satisfied;
- c. The Construction Plans conform to the requirements of section 7.1 CONSTRUCTION PLANS and have been approved by the Town Engineer;
- d. Where public improvements have been installed, the improvements conform to the approved Construction Plans and have been approved for acceptance by the Town Engineer;
- e. Where the Town Engineer has authorized public improvements to be deferred, an Improvement Agreement has been executed and submitted by the property owner in conformity with Section 7: CONSTRUCTION PLANS & PROCEDURES;
- f. The final layout of the subdivision or development meets all standards for adequacy of public facilities contained in this Ordinance;
- g. The Final Plat in Denton County meets the Town's standards to be applied under an interlocal agreement between the Town and Denton County under Texas Local Government Code, Chapter 242, where the proposed development is located in whole or in part in the ETJ of the Town and Denton County;

### 2. No Prior Approved Preliminary Plat

- a. The Final Plat conforms to all criteria for approval for a Preliminary Plat;
- b. The Construction Plans conform to the requirement of section 7.1 CONSTRUCTION PLANS and have been approved by the Town Engineer;
- c. An improvement Agreement or surety for installation of public improvements have been prepared and executed by the property owner in conformance with Section 7: CONSTRUCTION PLANS & PROCEDURES;
- d. The final layout of the subdivision or development meets all standards for adequacy of public facilities contained in this Ordinance;
- e. The Final Plat meets Denton County standards to be applied under an interlocal agreement between the Town and Denton County under Texas Local Government Code, Chapter 242, where the proposed development is located in whole or in part in the ETJ of the Town and Denton County;

### I. Procedures for Recordation Upon Approval

The applicant shall supply to Director the required number of signed and executed copies of the Final Plat that will be needed to file the Plat, upon approval, with Denton County (in the County's required

format) at least fourteen (14) calendar days prior to the Town Council meeting at which it will be considered for approval.

1. General

a. Signatures

After approval of the Final Plat, the Director shall procure the appropriate Town signatures on the Final Plat.

b. Recording Upon Performance

1. The Final Plat is approved by the Town;

2. All required public improvements have been completed and accepted by the Town (or an Improvement Agreement has been executed and appropriate surety provided in accordance with section 7.4 IMPROVEMENT AGREEMENTS AND SECURITY FOR COMPLETION;

3. All County filing requirements are met.

2. Submittal of Final Plat Where Improvements Installed

Where all required public improvements have been installed prior to recording of the Final Plat, the applicant shall meet all requirements in accordance with Section 7: CONSTRUCTION PLANS & PROCEDURES.

3. Submittal of Final Plat Where Improvements Have Not Been Installed

Where some of or all required public improvements are not yet completed in connection with an approved Final Plat, the applicant shall submit the Final Plat as approved by the Town Council, revised to reflect any conditions imposed by the Town Council as part of approval.

4. Update of Proof of Ownership

If there has been any change in ownership since the time of the Proof of Ownership was provided under section 4.3.C Ownership, the applicant shall submit a new consent agreement executed by each owner consenting to the platting of the property and the dedications and covenants contained in the plat. The title commitment or title opinion letter and consent agreement shall be subject to review and approval by the Town Attorney, and the applicant shall reimburse the Town for all related costs for review. This reimbursement shall be paid in full prior to filing of the Final Plat.

J. Effect of Approval

The approval of the Final Plat:

1. Supersedes any prior approved Preliminary Plat for the same land.

2. Authorizes the applicant to install any improvements in public rights-of-way in conformance with approved Construction Plans and under an Improvement Agreement, if applicable,

3. Authorizes the applicant to seek Construction Release and/or issuance of a Building Permit.

K. Appeal of Decision of Final Plat Application

Refer to section 6.12 PLAT APPEALS.

L. Revisions Following Recording/Recordation

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

**6.4. CONSTRUCTION PLAT**

A. Purpose

The purpose of the Construction Plat is to ensure that the proposed development of the land is consistent with all standards of this Subdivision Ordinance and all Town ordinances including those governing drainage, paving, utilities, storm water facilities, outdoor lighting regulations, and roadways.

B. Applicability

The Construction Plat shall be required for any proposed subdivision or development of land within the corporate boundaries and ETJ of the Town.

C. Action by the Council

1. Review the Construction Plat application, the findings of the Town engineer, and any other information available. From all such information, the Town Council shall determine whether the Construction Plat conforms to the regulations of this Subdivision Ordinance and other Town Ordinances.
2. Act within thirty (30) calendar days following the official filing date of Construction Plat (unless the applicant submits a Waiver of Right to 30-Day Action as outlined in section 5.3.E Waiver of Right to 30-Day Action. If no decision is rendered by the Town Council within the thirty (30) day period described above or such longer period as many have been agreed upon, the Construction Plat, as submitted, shall be deemed to be denied.
3. Take one of the following actions:
  - a. Approve the Construction Plat; or
  - b. Approve the Construction Plat with conditions, which shall mean that the Construction Plat shall be considered to have been approved once such conditions are fulfilled; or
  - c. Deny the Construction Plat.

D. Criteria for Approval

The following criteria shall be used by the Town Council to determine whether the application for a Construction Plat shall be approved, approved with conditions, or denied:

1. The layouts and engineering plans for required public improvements and Town utilities have been submitted by the applicant for approval by the Town engineer; and
2. The plat conforms to the Comprehensive Plan and to applicable Zoning and other Town regulations.



#### E. General Approval

The approval of the Construction Plat by the Town Council shall be deemed as general approval of the street and lot layout and shall constitute conditional approval of the final plat when all conditions of approval and procedural requirements have been met.

#### F. Floodplain Requirement

FEMA designated 100 year floodplain boundary, including finish floor elevation established a minimum of three feet above the calculated 100 year flood.

#### G. Initiation of Construction Work

Construction work shall not be initiated prior to the approval of the Construction Plat and Engineering Plans by the Town Council. Additionally, the applicant shall provide copies of letters from applicable utility providers stating that each utility provider has reviewed the Construction Plat and specified any requirements, including easements, they may have.

#### H. Appeal of Decision of Final Plat Application

Refer to section 6.12 PLAT APPEALS.

### **6.5. DEVELOPMENT PLAT**

#### A. Purpose

The purpose of a Development Plat is to ensure that the proposed development of the land is consistent with all standards of this Subdivision Ordinance.

#### B. Applicability

A Development Plat shall be required for property located within the corporate boundaries and ETJ of the Town under the following conditions:

1. The division of property into parts each of which is greater than five (5) acres in size and for which no public improvements are to be dedicated, and where each part has access from a public street, or;
2. The development of any property to be used for residential purposes which has not been included within a recorded plat since the Town's adoption of its initial subdivision ordinance, or;
3. The development of any property to be used for non-residential purposes that requires approval of a site plan under the Town's adopted zoning ordinance and which is not proposed to be divided into two or more tracts for sale or development. This requirement does not apply to any property for which a site plan was approved prior to the effective date of these subdivision regulations, which site plan remains in effect and for which no amendment is proposed, or;
4. Development of any property, where no division of such property into two or more parts is intended.

#### C. Exemptions

A Development Plat is not required for the following developments:

1. Total building area in the development does not exceed four-hundred (400) square feet in area, or;
2. Where the development does not require, as determined by the Town Engineer, any additional public improvements, additional public access, right-of-way, utility or drainage easement or covenants and no subdivision of land is proposed.

**D. Action by the Council**

1. Review the Development Plat application, the findings of the Director, and any other information available. From all such information, the Town Council shall determine whether the Development Plat conforms to the regulations of this Subdivision Ordinance.
2. Act within thirty (30) calendar days following the official filing date of Development Plat (unless the applicant submits a Waiver of Right to 30-Day Action as outlined in section 5.3.E Waiver of Right to 30-Day Action. If no decision is rendered by the Town Council within the thirty (30) day period described above or such longer period as many have been agreed upon, the Development Plat, as submitted, shall be deemed to be denied.
3. Take one of the following actions:
  - a. Approve the Development Plat; or
  - b. Approve the Development Plat with conditions, which shall mean that the Development Plat shall be considered to have been approved once such conditions are fulfilled; or
  - c. Deny the Development Plat.

**E. Criteria for Approval**

The following criteria shall be used by the Town Council to determine whether the application for a Development Plat shall be approved, approved with conditions, or denied:

1. The layouts and engineering plans for required public improvements and town utilities have been submitted by the applicant for approval by the Town engineer; and
2. The plat conforms to the Comprehensive Plan and to applicable Zoning and other Town regulations; and
3. The Development Plat meets Town standards to be applied under an interlocal agreement between the Town and Denton County under Texas Local Government Code, Chapter 242, where the proposed development is located in whole or in part in the ETJ of the Town and Denton County.

**F. Appeal of Decision of Final Plat Application**

Refer to section 6.12 PLAT APPEALS.

**6.6. CONVEYANCE PLATS**

**A. Purpose**

The purpose of the Conveyance Plat is to subdivide land and to provide recordation of same, for the purpose of conveying (i.e., selling) the property without developing it. A Conveyance Plat may be used to convey the property or interests therein; however, a Conveyance Plat does not constitute approval for any type of development on the property. An application for a Conveyance Plat shall not be considered an application for a permit nor the commencement of a project under Chapter 245 of the Texas Local Government Code.

**B. Applicability**

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

1. To record the remainder of a tract that is larger than five (5) acres, and that is created by the final platting of a portion of the property, provided that the remainder is not intended for immediate development.
2. To record the subdivision of property into parcels, five (5) acres or smaller in size, that are not intended for immediate development, provided all required public improvements exist to the Town's current standards prior to approval and minimum frontage requirements are met. All public rights-of-way must be dedicated and all abutting streets and utilities must be installed and accepted by the Town. Installation of on-site improvements may be delayed if development of other tracts is not affected.

**C. Review**

Unless otherwise specified within this section for specific requirements for a Conveyance Plat, a Conveyance Plat shall be processed and approved using the same timing and procedures, including recordation, as specified for a Final Plat. Procedures to appeal a decision on a Conveyance Plat shall also be processed and considered as described in section 6.12 PLAT APPEALS.

**D. Subsequent Filing of a Final Plat**

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

**E. Conveyance Plat Requirements**

1. No building or development permits shall be issued nor permanent utility service provided for land that has only received approval as a Conveyance Plat; a Final Plat must be filed for building and development permits and for utility service. Notwithstanding the above, the Town may authorize temporary building permits, temporary occupancy permits, and temporary utility service.
2. A Conveyance Plat may be superseded by a revised Conveyance Plat or a Final Plat in total or in part through compliance with the procedures and requirements of this Subdivision Ordinance.

**F. Standards for Approval**

1. Access

All lots created by a Conveyance Plat shall have frontage and access to an existing or proposed public street, defined on the Major Thoroughfare Plan, or an existing standard street meeting Town construction standards and accessing the existing Town street system. All lots created by a Conveyance Plat shall provide points of access as required by the Zoning Ordinance and/or by this Subdivision Ordinance.

## 2. Dedication of Rights-of-Way

Dedication of rights-of-way shall be required in accordance with the Engineering Standards.

### G. Effect of Approval

The approval of a Conveyance Plat authorizes conveyance of the lot(s) created thereon, but does not authorize any type of development on the property. The applicant and future owner(s) of the property remain obligated to comply with all provisions of this Subdivision Ordinance upon future development of the property including, but not limited to, all requirements for platting, required public improvements, utility extensions, street improvements or assessments, right-of-way and easement dedications, and all other requirements of this Subdivision Ordinance as they exist at the time of application for development is submitted to the Town.

## 6.7. MINOR PLATS

### A. Purpose

The purpose of a Minor Plat is to simplify division of land under certain circumstances outlined in State law.

### B. Applicability

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

1. The proposed division results in fewer than four (4) lots; and
2. All lots in the proposed subdivision front onto an existing public street and the construction or extension of a street is not required to meet the requirements of this Subdivision Ordinance; and
3. Except for right-of-way widening and easements, the plat does not require the extension of any municipal facilities to serve any lot within the subdivision.

### C. Application Requirements

The requirements for the submittal of a Minor Plat shall be the same as the requirements for a Final Plat, as described in section 6.3 FINAL PLATS.

### D. Review by the Director

1. Initiate review of the plat and materials submitted;
2. Request written comments from partnerships such as Emergency Services and the Town Engineer if deemed necessary.

### E. Action by the Town Council

1. Determine whether the Minor Plat meets the regulations of this Subdivision Ordinance.
2. Act within thirty (30) calendar days following the official filing date of a completed application for a Minor Plat unless the applicant submits a Waiver of Right to 30-Day Action as outlined in section 5.3.E. Waiver of Right to 30-Day Action. If no decision is rendered by the Director within thirty (30) day period described above or such longer period as may have been agreed upon, the Minor Plat, as submitted, shall be deemed to be approved.
3. Take one of the following actions:
  - a. Approve the Minor Plat;
  - b. Approve the Minor Plat with conditions, which shall mean that the Minor Plat shall be considered to have been approved once such conditions are fulfilled; or
  - c. Deny the Minor Plat.

**F. Criteria for Approval**

The following criteria shall be used by the Town Council to determine whether the application for a Minor Plat shall be approved, approved with conditions, or denied:

1. The Minor Plat is consistent with all zoning requirements for the property (if applicable), any approved Improvement Agreement (if applicable), and all other requirements of this Subdivision Ordinance that apply to the plat;
2. All lots to be created by the plat already are adequately served by improved public street access and by all required Town utilities and services, if applicable;
3. The ownership, maintenance and allowed use of all designated easements have been stated on the Minor Plat; and
4. Except for right-of-way widening and easements, the plat does not require the extension of any municipal facilities to serve any lot within the subdivision.

**G. Procedures for Recordation Following Approval**

The procedures for recordation of a Minor Plat shall be the same as the procedures for recordation of a Final Plat, as described in section 6.3 FINAL PLATS.

**H. Appeal of Decision of Minor Plat Application**

Refer to section 6.12 PLAT APPEALS.

**I. Revisions Following Approval**

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

**6.8. REPLATS AND AMENDING PLATS – GENERAL REQUIREMENTS**

**A. Applicability and Terminology**

1. The procedures outlined in this section and subsequent sections 6.9 REPLATS, 6.10 AMENDING PLATS and 6.11 PLAT VACATION shall apply only if a property owner seeks to change any portion of a plat that has been filed of record with Denton County
2. The term "Replat" includes changes to a recorded Final Plat, whether the change is effected by replatting without vacation, replatting by vacating the recorded plat and approving a new application, or approving an Amending Plat.

**B. Town Action Required**

Unless otherwise specified, any change to a recorded plat shall be subject to approval by the Town Council.

**C. Construction Management**

If the subdivision is replatted and requires construction of additional improvements, the provisions of Section 7: CONSTRUCTION PLANS & PROCEDURES shall apply. If the subdivision as replatted does not require any appreciable alteration or improvement of utility installations, streets, building setback lines, etc., then no Construction Plans shall be required.

**D. Application and Approval Procedures**

Unless otherwise specified, application and all related procedures and approvals, including recordation, for a Replat or Amending Plat shall be the same as specified for a Final Plat, as described in section 6.3 FINAL PLATS.

**6.9. REPLATS**

**A. Purpose & Applicability**

A Replat of all or portion of a recorded plat may be approved in accordance with State law without vacation of the recorded plat, if the Replat:

1. Is signed and acknowledged by only the owners of the property being replatted;
2. Is approved after a public hearing; and
3. Does not propose to amend or remove any covenants or restrictions previously incorporated in the recorded plat.

**B. General Notice and Hearing Requirements**

Published notice of the public hearing on the Replat application shall be given in accordance with section 5.5 PUBLIC HEARINGS and State law, if applicable. The public hearing shall be conducted by the Town Council.

**C. Partial Replat Application**

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

**D. Special Replat Requirements**

### 1. Applicability

A Replat without vacation of the preceding plat, in accordance with State law, must conform to the requirements of this section if:

- a. During the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot; or
- b. Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.

### 2. Exception

The requirements of this section shall not apply to any approval of a Replat application for a portion of a recorded plat if all of the proposed area sought to be replatted was designated or reserved for usage other than for single family residential usage. Such designation must be noted on the recorded plat or in the legally recorded restriction applicable to such plat.

### 3. Notice and Hearing

- a. Publication in an official newspaper or a newspaper of general circulation in the applicable Town or unincorporated area (as applicable) in which the proposed replat property is located; and
- b. By written notice, with a copy of Section 212.015(c) of the Texas Local Government Code (as amended) attached, forwarded by the Town to the owners of lots that are in the original subdivision and that are within two hundred (200) feet of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision within the ETJ, the most recently approved applicable county tax roll of the property upon which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the Town.

### 4. Protest

If the Replat application is protested in accordance with this section, approval of the Replat shall require the affirmative vote by three fourths of the alderman of Town Council. For a legal protest, written instruments signed by the owners of at least twenty (20%) percent of the area of the lots or land immediately adjoining the area covered by the Replat application and extending two hundred (200) feet from the area, but within the original subdivision, must be filed with the Town Council prior to the close of the public hearing. The area of streets shall be included in the area computations.

### E. Review and Consideration

The review and approval processes for a Replat shall be the same as the review and approval processed for a Final Plat (except for the public hearing and notice requirements described in section 4.7.D.3, which are outlined in section 6.3 FINAL PLATS. The Director shall be responsible for review and the Town Council shall decide the Replat application. Procedures to appeal a decision on a Replat shall be processed and considered the same as described in 6.12 PLAT APPEALS.

#### F. Effect

Upon approval and recording of the Replat, it is controlling over the previously recorded plat for the portion replatted.

### 6.10. AMENDING PLATS

#### A. Purpose

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

#### B. Applicability

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

1. Correct an error in a course or distance shown on the preceding plat;
2. Add a course or distance that was omitted on the preceding plat;
3. Correct an error in a real property description shown on the preceding plat;
4. Indicate monuments set after the death, disability or retirement from practice of the engineer or surveyor responsible for setting the monuments;
5. Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to the location or character of the preceding plat;
6. Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
7. Correct an error in courses and distances of lot lines between two adjacent lots if:
  - a. Both lot owners join in the application for amending the plat;
  - b. Neither lot is abolished;
  - c. The amendment does not attempt to remove recorded covenants or restrictions; and
  - d. The amendment does not have a material adverse effect on the property rights of the other owners in the plat;
8. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
9. Relocate one or more lot lines between one or more adjacent lots if:
  - a. The owners of all those lots join in the application for amending the plat;
  - b. The amendment does not attempt to remove recorded covenants or restrictions; and
  - c. The amendment does not increase the number of lots;



10. Make necessary changes to the preceding plat to create six (6) or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:

- a. The changes do not affect applicable zoning and other regulations of the municipality; and
- b. The changes do not attempt to amend or remove any covenants or restrictions;

11. Replat one or more lots fronting on an existing street if:

- a. The owners of all those lots join in the application for amending the plat;
- b. The amendment does not attempt to remove recorded covenants or restrictions;
- c. The amendment does not increase the number of lots; and
- d. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

C. Certificates of Correction

Certificates of Correction are prohibited.

D. Notice

In accordance with State law, the approval and issuance of an Amending Plat shall not require notice, hearing or approval from other lot owners.

E. Review by the Director

- 1. Initiate review of the plat and materials submitted.
- 2. Request written comments from partnerships such as Emergency Services and the Town Engineer if deemed necessary.

F. Action by the Town Council

- 1. Determine whether the Amending Plat meets the regulations of this Subdivision Ordinance.
- 2. Act within thirty (30) calendar days after the application is deemed complete per section 5.3.G Official Filing Date.
- 3. Take one of the following actions:
  - a. Approve the Amending Plat;
  - b. Approve the Amending Plat with conditions, which shall mean that the Amending Plat shall be considered to have been approved once such conditions are fulfilled; or
  - c. Deny the Amending Plat.

G. Procedures for Recordation Following Approval

The procedures for recordation of an Amending Plat shall be the same as the procedures for recordation of a Final Plat, as described in section 6.3 FINAL PLATS.

H. Effect

Upon approval, an Amending Plat shall be recorded and is controlling over the previously recorded plat without vacation of the plat.

I. Appeal of Decision on Amending Plat Application

Refer to section 6.12 PLAT APPEALS.

**6.11. PLAT VACATION**

A. Purpose

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

B. Initiation of a Plat Vacation

1. By the Property Owner

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

2. By all Lot Owners

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

3. Town Council

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

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

C. Notice

Published notice of the public hearing on the Plat Vacation application shall be given in accordance with section 5.5 PUBLIC HEARINGS and State law. The hearing shall be conducted by the Town Council.

D. Review by the Director

1. Initiate a review of the Plat Vacation application and materials submitted.

2. Request written comments from partnerships such as Emergency Services and the Town Engineer if deemed necessary.

**E. Action by the Town Council**

1. Determine whether the Amending Plat meets the regulations of this Subdivision Ordinance.
2. Act within thirty (30) calendar days after the application is deemed complete per section 5.3.G Official Filing Date.
3. Take one of the following actions:
  - a. Approve the Amending Plat;
  - b. Approve the Amending Plat with conditions, which shall mean that the Amending Plat shall be considered to have been approved once such conditions are fulfilled; or
  - c. Deny the Amending Plat.

**F. Procedures for Recordation Following Approval**

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

**G. Effect**

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

**6.12. PLAT APPEALS**

**A. Appeal of the Decision on a Plat Application**

**1. Initiation of an Appeal**

The applicant may appeal the decision of the Director by submitting a written notice of appeal to the Town staff within fourteen (14) calendar days following the date of the decision.

- a. A letter stating the reasons for the appeal, citing the specific applicable sections(s) of the Subdivision Ordinance, shall be submitted by the applicant.

## 2. Council Decision

The Town Council shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date on which the notice of appeal is submitted to the Town staff. The Town Council may affirm, modify or reverse the decision by a three-fourths majority vote. The decision of the Town Council is final.

## **SECTION 7: CONSTRUCTION PLANS & PROCEDURES**

### **7.1. CONSTRUCTION PLANS**

#### **A. Purpose**

Require public improvements be installed to serve a development in accordance with all Subdivision ordinance standards.

#### **B. Submitting Plans**

Plans shall be submitted in accordance with Engineering Services requirements, as provided in the Development Application Handbook. Incomplete plans shall not be accepted and such plans shall be returned to the applicant. Where a Construction Plat is required by this Subdivision Ordinance, the Construction Plans shall be submitted as a part of the application for a Construction Plat.

#### **C. Action by the Town Engineer**

The Town Engineer shall review and shall take the following actions:

1. Approve the Construction Plans;
2. Approve the Construction Plans with conditions, which shall mean that the Construction Plans shall be considered to have been approved once such conditions are fulfilled; or
3. Deny the Construction Plans.

#### **D. Approval Required & Timing of Construction**

Construction Plans must be approved in accordance with this section prior to the approval and/or recordation of the Final Plat, unless otherwise stated within this Subdivision Ordinance.

#### **E. Criteria for Approval**

1. The plans are consistent with the approved Preliminary Plat, or the proposed final Plat;
2. The plans conform to the subject property's zoning and Planned Development standards (including zoning design standards and outdoor lighting regulations), and to the standards for adequate public facilities; contained in this Subdivision Ordinance and all other applicable municipal codes.

#### **F. Effect**

Approval of Construction Plans authorizes the applicant to schedule a Pre-Construction Meeting in accordance with section 7.1 CONSTRUCTION PLANS and apply for Construction Release in accordance with section 7.1.I Construction Release.

#### G. Expiration

The approval of the Construction Plans shall remain in effect for a period of one (1) year from the date of approval, or for the duration of the construction of the project, provided that progress toward completion on the project continues to be demonstrated, unless the Plans are extended in accordance with section 7.1.H Extension.

#### H. Extension

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

##### 1. Action by the Town Engineer

- a. The Town Engineer will review the extension request, and shall approve, approve with conditions, or deny the extension request within thirty (30) calendar days following the official filing date.
- b. Should the Town Engineer fail to act on an extension request within thirty (30) calendar days, the extension shall be deemed to be approved.

##### 2. Consideration

The Town Engineer shall extend Construction Plans approval for a period of six (6) additional months beyond the Plans' expiration date if:

- a. A Final Plat has been submitted, approved or filed of record for any portion of the property shown on the Construction Plans;
- b. The Construction Plans comply with new ordinances that impact the health, safety and general welfare of the community;
- c. Demonstrable forward progress has been made to proceed with construction or required improvement; and
- d. An Improvement Agreement, if applicable, is still valid and in full effect.

##### 3. Conditions

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

##### 4. Total Extension

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

#### I. Construction Release

Upon approval of the Preliminary Plat and Construction Plans, receipt of all documentation (e.g., insurance information, bonds, etc.) and fees required by the Town Engineer, and after the Pre-Construction Meeting with the Town, the Town Engineer shall release the plans for construction if all

Town requirements pertaining to the construction have been met. The Construction Release shall remain in effect for a period of one (1) year from the date of issuance, or for the duration of construction of the project, provided that progress toward completion of the project continues to be demonstrated. Expiration, and possible extension, of the construction Release shall be the same as for the Construction Plans.

## **7.2. PRE-CONSTRUCTION MEETING**

### **A. Requirement**

The applicant(s) shall attend a Pre-Construction Meeting with the Town Engineer following the approval of Construction Plans and prior to commencement of any construction on the property.

### **B. Purpose**

The purpose of the Pre-Construction Meeting is to discuss administrative, communication, and operating procedures for project construction prior to Construction Release or issuance of a Building Permit. A list of typical inspection items, procedures and acceptance criteria for items in public right-of-way and easements will also be furnished to the applicant.

### **C. Notice**

The applicant shall receive written notice from the Town Engineer that Construction Plans have been approved and that the project is eligible for a Pre-Construction Meeting.

### **D. Effect**

Following the Pre-Construction Meeting and upon approval of the Construction Plans and full compliance with all pre-construction requirements, the Town Engineer shall authorize Construction Release, allowing the applicant to commence with construction of the project. The applicant may also be issued a Building Permit, if appropriate, provided that a Building Permit application has been submitted and approved and all other Building Permit requirements have also been met.

## **7.3. TIMING OF PUBLIC IMPROVEMENTS**

### **A. Completion Prior to Final Plat Approval & Recordation**

Completion of all required public improvements, in accordance with the approved Preliminary Plat and the approved Construction Plans, shall occur prior to Final Plat approval and recordation. A Final Plat shall not be accepted for filing, nor shall it be considered for approval, prior to completion of such improvements except as provided in section 7.3.B.

### **B. Completion After Final Plat Approval & Recordation**

The Town Engineer, upon written request by the applicant, may allow construction of public improvements after Final Plat approval and recordation. Such postponement shall be conditioned on execution of an Improvement Agreement and provision of security, in accordance with section 7.4 IMPROVEMENT AGREEMENTS AND SECURITY FOR COMPLETION. It shall be at the Town Engineer's discretion to determine whether postponing construction of public improvements until after Final

Plat approval and recordation is appropriate, and therefore, whether financial guarantee is acceptable through an Improvement Agreement.

**C. Deferral of Obligation**

The Town Engineer may defer the developer's obligation to dedicate rights-of-way for, or to construct, public improvements to serve a new development upon execution of an Improvement Agreement and upon provision of adequate security.

**D. Phased Development**

If the development is being platted and constructed in phases, improvements shall be completed as platted areas are approved and phases are constructed. Refer to section 4.2.H Expiration for details regarding phased development and Preliminary Plat validity.

**E. Easements for Utility Providers**

The applicant is responsible for contacting all utility providers prior to beginning construction, and for securing all necessary easements for the same prior to Final Plat approval and recordation. The applicant's engineer shall provide the Town Engineer with written certification that all necessary easements are secured for the various utility providers, and such easements shall be shown on the Final Plat with the recording information for each.

**F. Off-Site Easements**

All necessary off-site easements required for installation of required off-site public improvements to serve the development shall be acquired by the applicant prior to the Pre-Construction Meeting, or prior to approval and recordation of the Final Plat, whichever occurs first. Off-site easements shall be conveyed and recorded at Denton County by an instrument approved by the Town. If the property on which the off-site easement is required has been platted, a replat is required to dedicate the easement.

**7.4. IMPROVEMENT AGREEMENTS AND SECURITY FOR COMPLETION**

**A. Improvement Agreement and Security for Completion**

When any of the required public improvements will be postponed and constructed after Final Plat approval and recordation, the Final Plat shall not be accepted for filing, nor shall it be approved, unless and until the applicant enters into an Improvement Agreement by which the applicant:

1. Will complete improvements;
2. Warrants the improvements for a period of two (2) years following final acceptance by the Town;
3. Provides a maintenance bond in the amount of one hundred and ten percent (110%) of the costs of the improvements for such period;
4. Provides provisions for securing the obligations of the agreement consistent with section 7.4.E Security for Completion of Improvements; and

5. Outlines other terms and conditions as are agreed to by the applicant and the Town, or as may be required by this Subdivision Ordinance.

**B. Agreement to Run with the Land**

The Improvement Agreement shall provide that the covenants and other items of the agreement contained therein shall run with the land and shall bind all successors, heirs and assignees of the applicant. All existing owners shall be required to execute the agreement or provide written consent to the covenants and other items contained in the agreement.

**C. Action by the Town Engineer**

The Town Engineer shall review the Improvement Agreement, and shall approve it, approve it with conditions, or deny it. The agreement shall also be subject to review by the Town Attorney prior to any approval by the Town Engineer, and the applicant shall reimburse the Town for all related legal costs for review. This reimbursement shall be paid in full prior to filing of the Final Plat.

**D. Appeal of Decision**

The applicant may appeal the Town Engineer's decision on the Improvement Agreement to the Town Council by submitting written notice of appeal to the Town within fourteen (14) calendar days following the date of such decision. The Town Council shall hear and decide the appeal within thirty (30) calendar days following receipt of the notice of appeal. The Town Council may only overturn the Town Engineer's decision with an affirmative vote by four voting members of the Town Council. The Town Council's decision is final.

**E. Security for Completion of Improvements**

**1. Type of Security**

When any of the required public improvements will be constructed after approval and recordation of the Final Plat, the applicant shall guarantee proper construction of such postponed improvements, in accordance with the Town's design standards and with this Subdivision Ordinance, by a bond executed by a surety company holding a license to do business in the State of Texas, and acceptable to the Town, on the form provided by the Town. The performance bond shall be approved as to form by the Town Attorney;

**2. Estimated Cost & Security Approval**

Security shall be issued in the amount of one hundred and ten percent (110%) of the cost to construct and complete all required public improvements to the Town's standards as estimated by the applicant's professional engineer, and as approved the Town Engineer. Security shall be subject to the review and approval of the Town Attorney. The applicant shall reimburse the Town for all related legal costs for review. This reimbursement shall be paid in full prior to filing of the Final Plat.

**3. Security for Construction in Extraterritorial Jurisdiction (ETJ)**



Where all or some portion of the proposed development is located in the Town's ETJ, the security shall be in a form and shall contain such terms as are consistent with the Town's interlocal agreements with Denton County under Texas Local Government Code, Chapter 242.

#### **F. Escrow Policies and Procedures**

##### **1. Request for Escrow**

The Town may require or the developer may petition the Town to defer required improvements in exchange for a deposit of escrow. An example may include a timing issue due to pending street improvements by another agency such as TxDOT. The Town Engineer may require studies and other information to support the developer's request to escrow.

##### **2. Escrow Deposit with the Town**

When the Town Council requires or agrees to accept escrow deposits, the developer shall deposit in escrow with the Town an amount equal to one hundred and ten percent (110%) of the total "turnkey" costs including, but not limited to, the design, permitting, acceptance and inflation costs related to the improvement(s). The Town Council shall review and approve the amount, which shall be approved and paid prior to recordation of the Final Plat.

##### **3. Town Usage of Escrowed Funds**

The Town may also use the escrowed funds in participation with another entity (such as TxDOT, Denton County, etc.) to jointly construct the public improvement(s).

##### **4. Termination of Escrow**

Escrows, or portions of escrowed amounts, which remain unused after a period of ten (10) years following the date of such payment shall, upon written request, be returned to the developer. Such return of escrowed funds does not remove any obligations of the developer for construction of the required improvement(s).

##### **5. Refund**

If all or portion of a street or other type of public improvement for which escrow is deposited is constructed by a party other than the Town, the remaining unused escrowed funds, upon written request, be refunded to the developer after completion of the Town acceptance of street or public improvement.

##### **6. Interest on Escrowed Funds**

When escrowed funds are returned or refunded to the escrowing developer, the Town shall retain all of the interest accrued by the funds.

##### **7. Escrow Fee Agreement**

The Town Council may require an escrow fee agreement be executed.

#### **7.5. INSPECTION, MAINTENANCE & ACCEPTANCE OF PUBLIC IMPROVEMENTS**

##### **A. Inspections**

1. The Town Engineer shall inspect the construction of improvements while in progress, as well as upon completion. The applicant, or the applicant's contractor, shall maintain contact with the Town Engineer during construction of improvements.
2. Construction shall be in accordance with the approved Construction Plans. Any significant change in design required during construction shall be made by the applicant's engineer, and shall be subject to approval by the Town Engineer.
3. If the Town Engineer finds, upon inspection, that any of the required public improvements have not been constructed properly and in accordance with the approved Construction Plans, the applicant shall be responsible for completing and/or correction of the public improvements to bring such into compliance.

**B. Maintenance During Construction**

The applicant shall maintain all required public improvements during construction of the development.

**C. Submission of Record Drawings**

The Town shall accept required public improvements when the applicant's engineer has certified to the Town Engineer, through submission of detailed "record" drawings of the project and filed copies of any off-site easements, unless otherwise noted within the Subdivision Ordinance, that the public improvements have been built in accordance with the approved Construction Plans. The Town shall not accept improvements until the Final Plat is approved by the Town Council and recorded at Denton County. Each record drawing sheet shall show all changes made in the plans during construction, and on each sheet, there shall be a "record" stamp bearing the signature of the engineer and date.

**D. Acceptance or Rejection of Improvements by the Town**

**1. Responsible Official**

The Town Engineer shall be responsible for inspecting all required public improvements shown in the Construction Plans, and for accepting completed subdivision improvements intended for dedication to the Town.

**2. Final Inspection**

After completion of all improvements, franchise utilities, outdoor lighting, grading, and erosion control, the Town Engineer, and other designated representatives (as applicable) will perform a final inspection.

**3. Letter of Final Acceptance**

If all improvements are completed, inspected, tested (if applicable), and determined by the Town to be in conformance with this Subdivision Ordinance and the Town's design standards, then the Town Engineer shall issue a Letter of Final Acceptance to the applicant, thereby notifying the applicant of the Town's acceptance.

**4. Meaning of Acceptance**

Acceptance of the improvements shall mean that the applicant has transferred all rights to all the public improvements to the Town for title, use and maintenance.

5. Rejection

The Town Engineer shall reject those improvements that fail to comply with the Town's standards and specifications. The Town shall enforce the guarantee provided by agreement(s).

E. Disclaimer

Approval of a Preliminary Plat or Final Plat by the Town Council, or Construction Plans by the Town Engineer, shall not constitute acceptance of any of the public improvements required to serve the subdivision or development. No public improvements shall be accepted for dedication by the Town except in accordance with this section.

F. Acceptance of Improvements for Land in Extraterritorial Jurisdiction (ETJ)

Where the improvements to be constructed under an Improvement Agreement are located within the Town's ETJ and are to be dedicated to Denton County, the Town Engineer shall inform Denton County that the public improvements have been constructed in accordance with approved Construction Plans, and are ready for acceptance by Denton County.

G. Maintenance Bond Following Acceptance

The applicant shall furnish to the Town Engineer a sufficient maintenance bond with a reputable and solvent corporate surety registered with the State of Texas, in favor of the Town, to indemnify the Town against any repairs. The bond shall be in effect for two (2) years from the date of final acceptance of the entire project. The bond, which is part of the requirements for final acceptance, shall be a minimum of one hundred and ten percent (110%) of the value of the work constructed. Final acceptance shall be withheld until said maintenance bond is furnished to the Town in a form acceptable by the Town Attorney. Once the maintenance bond has been examined and approved by the Town Attorney, the Town Attorney shall certify the bond is valid and enforceable as provided by law prior to recommending acceptance by the Town Engineer. The applicant shall reimburse the Town for all related legal costs for review. This reimbursement shall be paid in full prior to filing of the Final Plat.

## **SECTION 8: SUBDIVISION REQUIREMENTS**

### **8.1. GENERAL STANDARDS**

A. Conformance to Standards

1. Public Improvements

Proposed public improvements serving new development shall conform to and be properly related to the public facilities elements of the Comprehensive Plan and, other adopted master plans for public facilities and services, and applicable capital improvements plans, and shall at a minimum meet the service levels specified in such plans.

2. Plats within the Town

Plats within the Town, and corresponding Construction Plans, shall provide for thoroughfares as shown in the Comprehensive Plan. The alignment and right-of-way width of all proposed thoroughfares shall be in general conformance with the Comprehensive Plan. Minor adjustments to thoroughfare alignments may be allowed without amending the Comprehensive Plan if the Town believes the new alignment meets the spirit and intent of the Comprehensive Plan and will not compromise public safety or traffic efficiency. The design and construction of all proposed thoroughfares shall be in conformance with the Town's adopted Construction Standards, and shall be subject to approval by the Town Engineer. Such approvals shall be required prior to any Plat approval.

### 3. Water and Wastewater

The design and construction of the water system and wastewater system to serve the development shall be in conformance with the Town's master plans, Texas Commission on Environmental Quality (TCEQ) guidelines, and the Town's adopted Construction Standards, and shall be subject to approval by the Town Engineer prior to approval of the Construction Plans and the Final Plat.

### 4. Storm Drainage

The design and construction of the storm drainage system to serve the development shall be in conformance with the Town's master plans and adopted Construction Standards, and shall be subject to approval by the Town Engineer prior to approval of the Construction Plans and the Final Plat.

## B. Adequate Public Facilities

### 1. Adequate Services for Areas Proposed for Development

Land proposed for development in the Town shall be served adequately by essential public facilities and services, including but not limited to water distribution, wastewater collections and treatment, roadways, pedestrian circulation, storm drainage conveyance, and park and recreational facilities. Land shall not be approved for platting or development until adequate public facilities necessary to serve the development exist or provisions have been made for the facilities.

#### a. Street Access

A Plat will not be approved unless all the proposed lots have safe reliable street access for daily use and emergency purposes.

1. A Plat will not be approved unless all of the proposed lots have direct access to an improved public street (or a public street that will be improved during construction of the proposed development) to the Town's minimum design and paving standards.
2. Except for lots which are provided access from an approved cul-de-sac, all lots within a development shall have at least two (2) means of access or approach. Where development phasing or constraints of the land prevent the provision of a second, separate means of access, the Town may accept a temporary street connection provided that a second permanent access point can be reasonably anticipated with future development of adjacent properties.

3. For properties situated adjacent to an existing or planned median-divided thoroughfare, at least one (1) of the required access points shall occur at, or through access easement connection to, a median opening.

b. Water

A Plat will not be approved unless all of the proposed lots are connected to a public water system which is capable of providing adequate water for health and emergency purposes.

1. Except for lots along an approved cul-de-sac, all lots shall be provided service connections from a looped water main providing water flow from two (2) directions or sources.
2. Water service shall be sufficient to meet the fire flow requirements of the proposed development.
3. The Town may require the phasing of development and/or improvements to the water system to ensure adequate fire protection.
4. The total system capacity of water production, storage and distribution to be determined by Town's historical usage.

c. Wastewater

A Plat will not be approved unless all of the proposed lots are served by a wastewater collection and treatment.

1. The projected wastewater discharge of a proposed development shall not exceed the proposed capacity of the wastewater system.
2. The Town may require the phasing of development and/or improvements to the sanitary sewer system so as to maintain adequate wastewater capacity.

d. Storm Drainage

Increased storm water runoff attributable to new development shall not cause impacts to adjoining, upstream or downstream properties. Impacts are defined as an increase in runoff between pre and post development. Where the projected runoff from a new development exceeds runoff from pre development conditions, the Town may require the phasing of a development, the use of control methods such as retention or detention, obtaining off-site drainage easements, and/or the construction of off-site drainage improvements as means of mitigation.

2. Property Owner's Responsibilities

The property owner shall be responsible for, but not limited to the following:

a. Dedication and Construction of Improvements

1. The property owner shall dedicate all rights-of-way and easements for, and shall construct and extend, all necessary on-site public improvements for water distribution, wastewater collection and treatment, streets, storm drainage conveyance, and other improvements that are

necessary to adequately serve each phase of a proposed development at service levels that are consistent with the Town's applicable master facilities plans and construction design standards.

2. Following the determination required by Texas Local Government Code section 212.904, the property owner shall construct and extend all proportional off-site public improvements for water distribution, wastewater collection and treatment, streets, storm drainage conveyance, and other improvements that are necessary to adequately serve each phase of a proposed development at service levels that are consistent with the Town's applicable master facilities plans and construction design standards.

b. Abutting Substandard Streets

Where a substandard street abuts or traverses a proposed development, the Town may require, in accordance with Texas Local Government Code section 212.904, the property owner to dedicate additional right-of-way and to improve the street to the Town's current design and construction standards as set forth in the Comprehensive Plan. Such requirements to improve the substandard street to the Town's current standards shall only be imposed following the careful review of factors including, but not limited to:

1. The impact of a new development on the street;
2. The timing of the development in relation to need for a street; and
3. The likelihood that adjoining property will develop in a timely manner.

c. Facilities Impact Studies

The Town may require that a developer prepare a comprehensive Traffic Impact Analysis (TIA), flood or drainage study or downstream assessment, or other facilities impact study(ies) in order to assist the Town in determining whether a proposed development will be supported with adequate levels of public facilities and services concurrent with the demand for the facilities created by the development. The study(ies) shall identify, at a minimum:

1. The adequacy and capacities of existing facilities;
2. The nature and extent of current deficiencies; and
3. The public improvements that will be needed to meet adequate levels of service assuming the development at the intensity proposed in the application.

The study(ies) shall be subject to approval by the Town Engineer prior to approval of the Preliminary Plat and the Construction Plans. The Town also may require, at the time of approval of subsequent application (e.g., Final Plat), an update of a facilities impact study(ies) approved in connection with a prior application (e.g., Preliminary Plat).

d. Future Extension of Public Facilities

The property owner shall make provisions for future expansion of public facilities as needed to serve future developments, subject to Texas Local Government Code section 212.904.

e. Operations and Maintenance of the Public Facilities

The Town shall provide for all operations and maintenance of public facilities within the corporate boundaries.

f. Fiscal Security

The property owner shall provide all fiscal security required for the construction of the public facilities;

g. Approvals from Utility Providers

The property owner shall obtain all necessary approvals from the applicable utility providers other than the Town, and shall submit written verification of such approvals to the Town with the Construction Plans; and

h. Compliance with Utility Providers

The property owner shall comply with all requirements of the utility providers, including the Town and applicable drainage districts.

3. Rough Proportionality; Fair Share

There is a direct correlation between the increased demand on public facilities and systems that is created by a new development, and the Town's requirements to dedicate rights-of-way and easements and to construct a fair and proportional share of public improvements that are necessary to offset such impacts such that new development does not negatively affect the Town as a whole. The Town requires that a new development project contribute its fair and proportional share of such costs.

## 8.2. WATER & WASTEWATER REQUIREMENTS

### A. Water and Wastewater Standards

#### 1. Construction Plans

Plans for construction of all water and wastewater facilities required by these regulations shall be prepared in accordance with the regulations of the Texas Commission of Environmental Quality (TCEQ), national Sanitation Foundations (NSF), Texas Department of Insurance, Insurance Services Office, the Town's adopted Construction Standards, and the Town's current adopted Fire Code, which are incorporated by reference and made a part hereof. Plans for the improvements must be prepared by a licensed engineer and accepted by the Town Engineer.

#### 2. Construction Requirements

- a. All public water and wastewater mains shall be located in the frontage of the property along streets, or in easements adjacent to the development in order provide service to adjacent property;
- b. The minimum easement width for water or wastewater mains shall be fifteen (15) feet, or as determined by the Town Engineer. Where it is necessary for water and wastewater facilities to be located within the same easement, the easement shall be a minimum of twenty (20) feet in width, or as determined by the Town Engineer.

- c. No portion of a structure (including, but not limited to, walls, foundations, porches/patios and porch/patio covers, canopies, roof extensions, overhangs, chimneys, fire flues, etc.) shall encroach over or into any easement, except that wall-attached window awnings, "bay" style windows, and roof eaves shall be allowed to encroach into an easement a maximum of twenty-four inches (24) upon approval by the Town Engineer.
- d. A water or wastewater easement between two lots must be evenly distributed both lots.
- e. Easements shall be dedicated for exclusive use for water and wastewater facilities and shall be shown on the Final Plat for the specific purpose intended. When it is necessary for additional utilities to be placed within an easement, additional width shall be provided and the easement shall be labeled for its intended purpose on the Final Plat.

### 3. Acquisition of Easements

The developer shall be responsible for the acquisition of all required off-site easements. If the developer is unable to acquire the necessary off-site easement, the Town shall be provided with easement or right-of-way survey documents and exhibits, documentation, including evidence of a reasonable offer made to the affected property owner. Upon receiving a written request for assistance, the Town may, at its option, acquire these easements either through negotiations or through condemnation in the appropriate situations. The developer shall reimburse the Town for the costs of acquiring the necessary easements including but not limited to attorney fees, expert fees and title searches.

### B. Preliminary Utility Plan

Concurrent with the submission of a preliminary plat, replat or minor plat, the developer shall submit a map or plan showing the location and size of water and wastewater mains, which will be required to provide adequate service and fire protection to the lots specified in the proposed plat. Plans and specifications for fire hydrant systems shall be submitted to the Fire Marshall for review prior to construction.

#### 1. Plan Document

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

#### 2. Coordination with other Utility Providers

##### a. Preliminary Plat

When the subdivision is located in an area served by a utility provider other than the Town, the developer must provide a water system analysis.

##### b. Minor Plat or Replat

- 1. When a subdivision is located in an area served by utility providers other than the Town, the developer must provide a letter from the utility provider stating that the facilities existing in the area to provide adequate domestic and fire protection. If the Town has reason to believe that there may be water supply or pressure concerns, a water system analysis may be required.



c. Final Plat

The Final Plat will not be filed with Denton County until a letter has been provided from the utility provider stating that they have accepted the plans for construction.

C. Miscellaneous Requirements

1. No building shall be constructed over an existing wastewater, lateral, water main or storm drain unless approved in writing by the Town Engineer and approved by the Town Council.
2. Ownership and maintenance of water and wastewater mains and service connections shall be regulated as follows:
3. Water or wastewater service lines shall not cross any adjacent lot. The public main shall be extended so as not to require the service to extend across another lot. Water and wastewater service lines shall be maintained by the property owner.
4. Public water and wastewater mains adjacent to federal, state, or county roadways shall be constructed outside the right-of-way in a separate easement unless otherwise agreed to by those agencies and the Town.

D. Water

1. Design & Construction

a. Installation of Water Facilities

Where water is to be provided through the Town system, the property owner shall install adequate water facilities, including fire hydrants, in accordance with the adopted Fire Code, the current Rules and Regulations for Public Water Systems of the Texas Commission of Environmental Quality (TCEQ), the firefighting standards of the Texas Board of Insurance and the Town's Construction standards. If any such requirements conflict, the most stringent requirement shall apply.

b. Facilities for Health and Safety Emergencies; Alternative Water Sources

All water facilities connected to the Town's water system shall be capable of providing water for health and emergency purposes, including fire protection and suppression. The design and construction of water system improvements and alternative water sources shall also comply with the following standards:

1. Design and construction of a water source on the site shall be in accordance with applicable regulations of the Texas Commission of Environmental Quality (TCEQ);
2. Design and construction of a fire protection and suppression system shall be in accordance with the Town's Fire Department and adopted Fire Code.

2. Location

a. Shown on Construction Plans

The location and design of all fire hydrants, all water supply improvements and the boundary lines of special districts, private systems and certified water service areas, including all improvements proposed to be served, shall be shown on the Construction Plans.

b. Extension of Lines

Extension of water lines shall be made along the entire frontage of the development adjacent to a street. If the subdivision is not adjacent to a street, the extension of water lines shall be accomplished in such a manner as to allow convenient future connections to said lines by new subdivisions.

c. Waiver for Requirement

If new subdivisions will never be constructed beyond a developing subdivision due to physical constraints, the Town Engineer may approve a Minor Waiver for this requirement in accordance with section 9.1 PETITION FOR WAIVERS of this Subdivision Ordinance prior to action on the Construction Plans or prior to action on any plat.

3. Cost of Installation

The cost of installing all water supply improvements to be made by the developer, including off-site improvements, shall be included in the performance guarantees and Improvement Agreement.

4. Cost of Extension

Where the Town's water distribution system is not planned to be extended in time to serve a proposed new development, all necessary water facilities to serve such development shall be provided by and at the expense of the developer. If oversizing of a water facility is deemed necessary by the Town Engineer for future developments, then the Town may participate in such oversizing costs as part of a Development Agreement.

5. Individual Wells

a. Within the Town's ETJ

The property owner must submit with the Preliminary and Final Plat applications a certificate from a professional engineer who is registered, or a geoscientist who is licensed, to practice in the State of Texas verifying the adequacy of the proposed well water supply and potability prior to Preliminary Plat and Construction Plans approvals.

b. Compliance with Other Regulations

Installation, operations and maintenance of individual wells shall comply with Town standards, regulation of the Texas Commission on Environmental Quality (TCEQ), and any other applicable County or State rules and regulations. In the event of conflict among these regulations, whichever is the most stringent shall apply.

E. Wastewater

1. Extension of and Connection to the Town's Wastewater Collection System

Extension of, and connection to, the Town's sanitary sewer system shall be required for all new developments within the Town's limits. The Town is not in any way obligated to any extension of municipal sewers outside of the Town's CCN boundary.

## 2. Design & Construction

It is the policy of the Town to require all wastewater collection lines to have gravity flow. The use of lift stations and force mains is prohibited unless a gravity design is impractical, as determined by the Town Engineer. The location, design and sizing of all wastewater improvements shall be shown on the Construction Plans and are subject to approval by the Town Engineer.

## 3. Cost of Installation

The cost of installing all wastewater improvement to be made by the developer, including off-site improvements, shall be included in the performance guarantees and Improvement Agreement, if applicable.

## 4. Extension

### a. Cost

Where the Town's wastewater system is not planned to be extended in time to serve a proposed new development, all necessary wastewater facilities to serve such development shall be provided by and at the expense of the developer. If oversizing of a wastewater facility is deemed necessary by the Town Engineer, the Town may participate in such oversizing costs as part of a Development Agreement.

### b. Future Extensions

Pipe stub-outs shall be located in manholes to facilitate the future extension of wastewater lines.

## 5. On-Site Wastewater Disposal Systems in the ETJ

- a. Wastewater systems shall provide adequate sewage disposal for all lots, tracts, parcels and structures in the development that cannot be connect to the Town's sewer system.
- b. All on-site wastewater disposal systems shall be designed, permitted, constructed, operated and maintained in compliance with all applicable local, County and State regulations, and a permit for such system shall be acquired prior to Preliminary Plat and Construction Plans approvals.
- c. In order to protect the public health, safety and welfare, an existing on-site wastewater disposal system shall be upgraded, or reconstructed if necessary, to comply with the Town's standards by the owner, at the owner's expense, if the operation of the facility does not comply with government regulations or if it causes objectionable odors, unsanitary conditions, pollution, etc.

## 8.3. DRAINAGE AND ENVIRONMENTAL STANDARDS

### A. Drainage and Storm Water Management Standards

#### 1. Easements

Drainage easements shall be dedicated for public drainage features in accordance with requirements of the Town's adopted Construction Standards. Drainage easements and features shall be included as a portion of buildable (habitable structure) lot(s) and not as a lot by itself unless specifically authorized by the Town Engineer. Storm drainage easements shall be located along side property lines shall be split across the property line between two (2) lots or tracts.

## 2. Storm Water Quality

Designs for a new development shall manage storm water in a manner that protects water quality by addressing the development's potential to cause erosion, pollution, siltation, and sedimentation in the natural creeks. The goal is to maintain after development, to the maximum extent practicable, the predevelopment characteristics in the Major Creek, which ultimately receives storm water runoff from the development. The design all storm water discharges are subject to approval by the Town Engineer.

## 3. Storm Water Runoff

Storm water runoff shall be calculated anticipating a fully developed watershed. The Comprehensive Plan, existing land use, and zoning maps shall be used to determine fully developed conditions. The Town Engineer reserves the right to review the determination of fully developed conditions and may require revisions.

### B. Storm Water Management Plan

1. A storm water manage plan (SWMP) shall be prepared for all developments in accordance with the requirements set forth in the Town's Development Application Handbook. The purpose of the SWMP is to identify permanent water quality feature opportunities for the development.
2. The SWMP shall be prepared in coordination with the drainage plan on all projects where both are required. The preliminary SWMP and the drainage plan may be shown on the same sheet. When a drainage plan is not required, the SWMP shall indicate the existing drainage patterns and runoff coefficients and the proposed changes to these items.
3. The SWMP must comply with the standards and criteria outlined in the Town's adopted Construction Standards. The plan must satisfy the storm water management portion of the Storm Water Pollution Prevention Plan (SWPPP) that is required for construction activities; however, the SWMP is not a substitution for SWPPP. The Town's review of the preliminary SWMP does not constitute acceptance of the final SWMP of final development plans.
4. The developer shall provide a SWMP plan for the area proposed for development. For amended plats or plats with a previously accepted preliminary SWMP, the accepted SWMP shall be enforced unless a revised preliminary SWMP is required.
5. Three (3) paper copies of the SWMP plan shall be submitted with the submittal of a preliminary plat, replat, or minor plat for review and acceptance. Upon acceptance of the plan, the plan shall be signed, sealed, and dated by the engineer, or shall contain a statement showing the engineer's name and license number and affirming the plan was prepared under the direction of the engineer and that the plan is preliminary.

### C. Drainage Plan

1. This plan shall show the watershed affecting the development and how the runoff from the fully-developed watershed will be conveyed to, through, and from the development. It must comply with the Town's adopted Construction Standards.
2. For any property involved in the development process, a drainage plan shall be provided, at the developer's expense, for the area proposed for development. For property with a previously accepted drainage plan, the accepted drainage plan may be submitted and enforced unless a revised drainage plan is required by the Town due to lot reconfiguration or other conditions created by the new plat. The Town Engineer may waive the requirement for a drainage plan if the submitted plat is not anticipated to cause any significant change in runoff characteristics from a previously accepted drainage study or for single residential properties where no drainage problems are anticipated. If the applicant requests a waiver in writing, a copy of any previous drainage plan shall be provided.
3. Three (3) paper copies of the drainage plan shall be submitted with the submittal of preliminary plat, replat, or minor plat for review and acceptance. The plan shall be stamped by and dated by the engineer.

### D. Floodplain Development Requirements

All developments proposed adjacent to or within the 100-year floodplain shall be in accordance with the Town's Flood Hazard Prevention Ordinance and this Subdivision Ordinance.

## **8.4. STREET REQUIREMENTS**

### A. Basic Policy

#### 1. Street Improvements

In platting a new development, the property owner shall provide additional right-of-way needed for existing or future streets as shown on the Comprehensive Plan.

#### 2. Improvement of Existing Substandard Streets

- a. When a proposed residential or nonresidential development abuts one or both sides of an existing substandard street, the developer shall be required to improve the substandard street and its appurtenances to bring the same to Town standards, or to replace it with a standard Town street, at no cost to the Town other than as may be provided in the Town's cost-sharing policies, including the Town's Impact Fee Ordinance that are in effect at the time of the Final Plat approval.
- b. The developer may request a Major Waiver or may file a proportionality appeal if the requirements for improving an existing substandard street imposed by this section would result in unnecessary hardship or would be disproportional to the impacts generated by the development on the Town's street system.

#### 3. New Streets

All new streets shall, at minimum, be built to a width and design which will adequately serve that development, and shall be concrete paved with a sub base constructed of crushed stone/concrete and utilize a Geo-Textile liner.

#### 4. Development Fees

All fees due on the project shall be paid in accordance with the Town's Impact Fee Ordinance or Development Agreement.

### B. Street Design

#### 1. Conformity to the Comprehensive Plan

The general location of streets shall conform to the Comprehensive Plan. For streets that are not shown on the Comprehensive Plan, such as the local residential streets, the arrangement of such streets shall:

- a. Provide for the continuation or appropriate projection of existing streets or street stubs from or into surrounding areas;
- b. Conform to any plan for the neighborhood approved or adopted by the Town to address a particular situation where topographical or other conditions make continuance or conformity to existing streets impractical;
- c. Not conflict with existing or proposed streets or driveway openings, including those on the opposite side of an existing or planned thoroughfare. New streets shall align with opposite streets and driveway opening such that median openings can be shared.

#### 2. Relation to Adjoining Street System

The proposed street system shall extend all major streets and such existing secondary and local streets as may be necessary for convenience of traffic circulation and emergency ingress and egress.

#### 3. Street Names, Street Name Signs and Traffic Control Signs

##### a. Street Names

New streets shall be named so as to provide name continuity with existing streets, and so as to prevent conflict or "sound-alike" confusion with similar street names. All street names shall be approved by the Town prior to any Plat approval, and prior to approval of the Construction Plans.

##### b. Cost of Signs

All costs associated with the purchase and installation of street name and traffic control signs shall be the responsibility of the developer.

##### c. Town Standards

All street name signs and traffic control signs shall conform to the Town's details for street name sign design and the latest edition of the Texas "Manual of Uniform Traffic Control Devices".

#### 4. Traffic Studies

The Town Engineer may require a Traffic Impact Analysis (TIA) when any proposed site plan or subdivision plan:

- a. Would expect to generate over one hundred (100) directional trips during the peak hour of traffic generator or the peak hour on the adjacent streets;
- b. Over seven hundred fifty (750) trips in an average day; or
- c. High traffic volumes on surrounding roads that may affect movement to and from the proposed development.
- d.

#### 5. Stub Streets

- a. Connections are required to adjacent vacant properties at locations as approved by the Town Engineer.
- b. A note shall be clearly placed on the Final Plat indicating that the stub street will be extended with the future development.
- c. All stub streets shall have a sign prominently posted at the terminus of the street to indicate that the street will be extended in the future. Installation and cost of the sign shall be the responsibility of the developer.

#### 6. Street Connectivity

- a. New developments shall provide street connections to adjacent developments, as determined by the Town, allowing access between developments of neighborhood traffic and to enhance pedestrian and bicycle connectivity as recommended in the Comprehensive Plan.
- b. The use of cul-de-sac streets shall be limited within new developments to the greatest extent possible. The Fire Chief and the Town shall have the authority to determine whether or not the use of cul-de-sacs in a development meets the intent of this section during Town review and consideration of the Preliminary Plat.

#### 7. Street Lighting

Street lighting shall be provided at all street intersections and furthest extensions of cul-de-sacs.

### 8.5. EASEMENTS, LOT & BLOCK DESIGN, MONUMENTS, SUBDIVISION NAMES, FRANCHISE UTILITIES

#### A. Easements

The type, size and location of easements shall be determined by the Town Engineer. All existing and proposed easements shall be shown on the Preliminary and Final Plats. All easements shall be labeled on the Final Plat and dedicated for the specific purpose intended.

## B. Zoning Compliance

All lots shall conform to the zoning district requirements, unless located in the ETJ in which they shall comply with the agreements between the Town and Denton County.

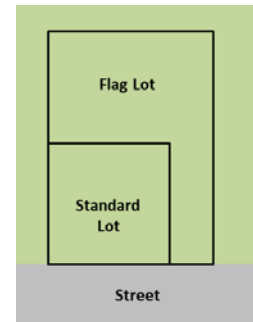
## C. Residential Lots Adjacent to Drainage Areas

Lots shall be exclusive of any portion of a natural drainage area, maintenance access, and/or erosion hazard setback. Retaining walls may be allowed on lots adjacent to natural drainage areas as approved by the Town Engineer.

## D. Lot Shape

The Town reserves the right to disapprove any lot which, in its opinion, will not be suitable or desirable for the purpose intended, or which is so oddly shaped as to create a hindrance to the logical lot layout of surrounding properties and/or create an irregular building envelope. The following requirements shall also apply.

1. Lots shall be generally rectangular in shape. Sharp angles between lot lines shall be avoided. Flag lots are prohibited.
2. Irregularly shaped lots shall have sufficient width at the building line to meet minimum lot width and frontage requirements for the appropriate zoning district, and shall provide the minimum building pad required by zoning without encroachment into front, side or rear yard setbacks or into any type of easement.



**Figure 1: Flag Lots**

## E. Lot Lines

### 1. Side Lot Lines

Side lot lines shall be at ninety degree (90°) angles or radial to street right-of-way lines to the greatest extent possible.

### 2. Lot Lines and Jurisdictional Boundaries

All lot lines shall, to the greatest extent possible, align along county, school district and other jurisdictional boundary lines such that lots are fully within one county, school district or other jurisdiction.

### 3. Lot Buildability

Any portion of a lot that is non-buildable for any reason shall be clearly shown as such on the Preliminary and Final Plats. A "Lot Buildability" detail shall be submitted along with the Preliminary and Final Plats, and shall verify that the buildable portion of such a lot can accommodate a dwelling or main structure that complies with applicable Town zoning regulations, if located within the Town's limits, and building code.

## F. Lot Frontages



### 1. Street Frontage

Each lot shall have adequate access to a street by having frontage on such a street that is not less than sixty feet (60) at the street right-of-way, or otherwise specified in the Zoning Ordinance or a Planned Development (PD) Ordinance, if applicable. Lots fronting onto an eyebrow or bulb portion of a cul-de-sac shall have a minimum frontage of forty feet (40) at the street right-of-way line.

### 2. Double Frontage

#### a. Single Family

Double frontage lots are prohibited, except that single family lots may back or side onto a Type C2U thoroughfare or larger with appropriate screening. Where lots back or side onto a Type C2U thoroughfare or larger, no driveway access is allowed onto the thoroughfare from the rear or side of the lot.

b. Where lots have frontage on more than one street, a front building line shall be established for each street.

### 3. Lots Facing Other Lots

Whenever feasible, each residential lot shall face the front of a similar lot, or shall face a park or open space if one exists or is planned across the street. In general, an arrangement placing adjacent lots at right angles to each other should be avoided.

## G. Lots in Relation to Parks/Open Space

All lots that are located directly across a street from a park/open space shall face onto the park/open space.

## H. Lot & Block Numbering

All lots within each phase of a development are to be numbered consecutively within each block. Each block shall have an alpha designation.

## I. Building Lines

Building lines shall not be shown on the Preliminary and Final Plats.

## J. Subdivision Names

New subdivisions shall be named so as to prevent conflict or "sound-alike" confusion with the names of other subdivisions. The subdivision name shall be approved by the Town prior to any Plat approval, and prior to approval of the Construction Plans.

## K. Franchise Utility Policy

### 1. General Requirements

The Town may require easements for poles, wires, conduits, gas, telephone, cable TV or other utility lines if necessary.

### 2. Locations

Utilities shall be located in easements provided adjacent to the street rights-of-way along the front of lots or tracts.

### 3. Ground-Mounted Equipment

Ground-mounted equipment shall not be placed in visibility, access or maintenance easements.

## 8.6. SUBDIVISION AMENITIES

### A. Requirements

Where amenities are proposed in conjunction with a development, such amenities shall be reviewed and approved in accordance with the following:

1. Preliminary plans and illustrations, along with a written statement of such concepts, shall be submitted for review and approval with the Preliminary Plat.
2. Plans for amenities shall then be incorporated into the Screening Plan and/or Landscape Plan for submittal as part of the Construction Plans.
3. Structural elements shall display the seal of a licensed professional engineer and shall be considered for approval by the Town.
4. Town review and approval of plans for amenities shall be required prior to issuance of a Letter of Final Acceptance for the subdivision improvements.

### B. Design of Amenities

The design amenities shall conform to the following:

1. Entry features shall be constructed entirely on public property, and shall not extend over a public right-of-way. An entry feature having a water pond, fountain or other water feature shall only be allowed if approved by the Town Council and the Fire Chief.
2. No entry feature, other than screening walls or extensions of screening walls, may be constructed on any portion of a single-family lot(s). All such features shall be constructed on lots that are platted as "non-buildable" lots and dedicated to the Town for maintenance.
3. Entry features shall not encroach into visibility easements or otherwise impair pedestrian or vehicular visibility.

### C. Maintenance of Amenities

The Town shall be responsible for the maintenance of all amenities and landscaping constructed for a subdivision located within the corporate boundaries.

Property Owners Associations or Homeowner Associations which require mandatory membership and who require mandatory fees, dues, levies or monetary assessments are prohibited.

## 8.7. PUBLIC PARKS & OPEN SPACES

### A. General Requirements

Parks shall be easy to access and open to the public view so as to benefit area developments, enhance the visual character of the Town, protect public safety, and minimize conflict with adjacent land uses. The following guidelines shall be used in designing development around or adjacent to parks and adjacent development:

1. Parks and Open Spaces

Parks shall be bounded by a street(s) or by other public uses unless otherwise specified in this Subdivision Ordinance, the Zoning Ordinance or a Planned Development (PD) ordinance.

2. Residential Lots

Single-family residential lots shall be oriented such that they front or side onto parks and open spaces and they do not back to them.

3. Access to Parks and Open Spaces

A proposed development adjacent to a park or open space shall not be designed to restrict public visibility or reasonable public access to the park or open space from other area developments. Street connections to existing or future adjoining subdivisions shall be required to provide reasonable access to parks and open space areas.

B. Streets Abutting A Park

Streets abutting a park or open space area shall be built in accordance with the Comprehensive Plan, the standards of this Subdivision Ordinance and all other applicable construction standards and ordinances. The Town may, however, require any residential street built adjacent to a park or open space to be constructed to accommodate possible on-street parking for park users and to prevent traffic congestion.

1. Abutting Street Oversizing

When park or open space land is acquired by the Town, the Town shall require at least sixty (60) feet of right-of-way to be dedicated to provide for an abutting street unless otherwise approved by the Town.

C. Park Reservation and Dedication

Land for neighborhood and linear parks shall be reserved and dedicated in accordance with the Town's adopted Master Plans and the area for such parks shall be determined in accordance with the Town's park dedication ordinance.

D. Site Criteria

Neighborhood and linear park sites shall be of suitable size, dimension, topography and general character to meet the design criteria specified by the Town and as determined in accordance with the Town's park dedication ordinance.

E. Minimum Park Improvements

Unless waived by the Town Council, neighborhood and linear parks shall be improved by the developer prior to a Letter of Final Acceptance being issued by the Town. Minimum park improvements, as determined by the Town, shall include:

1. Grading and clearance of unwanted vegetation, structures or improvements;
2. Installation of storm drainage and stream erosion controls;
3. Establishment of turf and planting trees;
4. Installation of perimeter streets and street lights in compliance with the Outdoor Lighting Ordinance;
5. Provision of water and sewer service to location(s) on the park site as determined by the Town.

**F. Additional Voluntary Park Improvements**

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

**G. Completion of Land Dedication and Improvements**

Park land shall be dedicated to the Town concurrently with the filing of an approved Final Plat or Replat. All improvements specified in the Improvement Agreement, if applicable, shall be completed prior to approval of the Final Plat or Replat, except where future performance is provided for in the Improvement Agreement.

**H. Hike-and-Bike Trail Requirements**

**1. Requirements**

Hike-and-Bike trails shall be in accordance with the Town's adopted master plans.

**2. Future Trails and Access for New Developments**

When a development is adjacent to an undeveloped property, a pedestrian access stub-out in conjunction with a street connection to the edge of the development shall be required to allow for future access between developments.

**SECTION 9: RELIEF PROCEDURES**

**9.1. PETITION FOR WAIVERS**

**A. Purpose**

The purpose of a petition for a Waiver to a particular standard or requirement of this Ordinance, as such are applicable to Plats or Construction Plans for a project, is to determine whether or not such particular standard or requirement should be applied to an application or project.

**B. Definitions**

Waivers shall be classified as “minor” or “major”, as defined in section 10.2 WORDS AND TERMS DEFINED of this Subdivision Ordinance.

**C. Authority**

**1. Minor Waiver**

A Minor Waiver is acted upon by the Town or the Town Engineer. An appeal to a decision on a Minor Waiver may be considered by the Town Council.

**2. Major Waiver**

A major Waiver is acted upon by the Town Council. The Town Council’s decisions are final.

**D. Applicability**

1. An applicant may request a Waiver of a particular standard or requirement applicable to a Preliminary Plat, to Construction Plans, or where no Preliminary Plat application has been submitted for approval, to a Final Plat or Replat. A Waiver petition shall be specific in nature, and shall only involve relief consideration for one particular standard or requirement. An applicant may, if desired, submit more than one Waiver petition if there are several standards or requirements at issue.
2. A petition for a Waiver shall not be accepted in lieu of a proportionality appeal or a vested rights petition. If there is a question as to whether a proportionality appeal or vested rights petition is required instead of a petition for a Waiver, such determination shall be made by the Town.

**E. Submission Procedures**

1. A request for a Waiver shall be submitted in writing by the applicant with the filing of a Preliminary Plat, Construction Plans, Final Plat or Replat, as applicable. No Waiver may be considered or granted unless the applicant has made such written request.
2. The applicant’s request shall state the grounds for the Waiver request and all of the facts relied upon by the applicant. Failure to do so, will result in denial of the application unless the applicant submits a Waiver of Right to 30-Day Action in accordance with section 5.3.E Waiver of Right to 30-Day Action.

**F. Criteria**

1. A Waiver to regulations within this Subdivision Ordinance may be approved only when undue hardship will result from strict compliance to the regulations.
2. The Town and/or Town Engineer shall take into account the following factors:
  - a. The nature of the proposed land use involved and existing uses of the land in the vicinity;

- b. The number of persons who will reside in the proposed development; and
  - c. The effect of such Waiver might have upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.
3. No Waiver shall be granted unless the Town and/or Town Engineer finds:
- a. That there are special circumstances or conditions affecting the land involved or other constrains such that the strict application of the provisions of this Subdivision Ordinance would deprive the applicant of the reasonable use of his or her land; and
  - b. That the Waiver is necessary for the preservation and enjoyment of a substantial property right of the applicant, and that the granting of the Waiver will not be detrimental to the public health, safety or welfare or injurious to other property in the area; and
  - c. That the granting of the Waiver will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this Subdivision Ordinance.
4. A Waiver may be granted only when in harmony with the general purpose and intent of this Subdivision Ordinance so that the public health, safety and welfare may be secured and substantial justice is done. Financial hardship to the applicant shall not be deemed to constitute undue hardship.
5. No Waiver shall be granted unless it represents the minimum degree of variation of requirements necessary to meet the needs of the applicant.
6. The Town and/or Town Engineer shall not authorize a Waiver that would constitute a violation of, or conflict with, any other valid ordinance, code, regulation, master plan or Comprehensive Plan of the Town.
7. Any falsification of information by the applicant shall be cause for the Waiver request to be denied. If the Waiver request is approved based upon false information, whether intentional or not, discovery of such false information shall nullify prior approval of the Waiver, and shall be grounds for reconsideration of the Waiver request.

G. Burden of Proof

The applicant bears the burden of proof to demonstrate that the requirement for which a Waiver is requested, if uniformly applied, imposes an undue hardship or disproportionate burden of the applicant. The applicant shall submit the burden of proof with the original submittal.

H. Decision

The Town and/or Town Engineer shall take one of the following actions:

- 1. Deny the petition, and impose the standard or requirement as it is stated in this Subdivision Ordinance; or
- 2. Grant the petition, and waive in whole or in part the standard or requirement as it is stated in this Subdivision Ordinance.

I. Notification of Decision on Petition

The applicant shall be notified of the decision on the Waiver within fourteen (14) calendar days following the decision.

J. Appeal

1. Initiation of an Appeal

The applicant may appeal a waiver decision of the Town and/or Town Engineer as allowed in this Subdivision Ordinance. The written request to appeal shall be submitted to the Town within fourteen (14) calendar days following the denial decision.

2. Appeal to the Town Council

The Town Council shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date on which the notice of appeal is submitted to the Town. The Town Council may affirm, modify or reverse the decision with an affirmative vote by four voting members of the Town Council. The Town Council's decision is final.

K. Effect of Approval

Following the granting of a Waiver, the applicant may submit or continue the processing of a Plat or Construction Plans, as applicable. The Waiver granted shall remain in effect for the period the Plat or Construction Plans are in effect, and shall expire upon expiration of either or both of those applications. Extension of those applications shall also result in extension of the Waiver.

## **SECTION 10: DEFINITIONS**

### **10.1. GENERAL**

Terms which are used in this Ordinance and are not specifically defined shall be given their ordinary meaning, unless the context requires or suggests otherwise. In the case of ambiguity or uncertainty concerning the meaning of a particular term, whether or not defined, the Town staff shall have the authority to assign an interpretation which is consistent with the intent and purpose of this Ordinance, or an interpretation which is consistent with previous usage or interpretation.

### **10.2. WORDS AND TERMS DEFINED**

Alley: a right of way which provides secondary access to multiple properties, generally in the rear of the property and used for the purpose of service access and not intended for general travel.

Block: property designated on an officially recorded map existing within well-defined and fixed boundaries within a subdivision and usually being an area surrounded by streets or other features such as parks, railroad rights-of-way or municipal boundary lines which make it a unit.

Building: a structure for the support or shelter of any use or occupancy.

Building Inspector: the officer or other designated authority charged with the administration and enforcement of this Code.

Building Line: means a line established, in general, parallel to a property line, over which no part of a building shall project, except as otherwise provided in this Ordinance.

Council: the Town Council for the Town of Lakewood Village.

Easement: a right given by the owner of a parcel of land to another person's, public agency or Private Corporation for specific and limited use of that parcel.

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

Floodplain: area subject to inundation by flood, having a given percentage of probability of occurrence in any given year, based on existing conditions of development within the watershed area.

Front Yard: that portion of a lot between the front lot line and the front building line.

Height: the vertical distance measured from grade to the highest point of the structure.

Lot: a designated parcel, tract, or area of land established by a plat and to be used, developed or built upon as a unit.

Lot Depth: the length of a line connecting the mid-point of the front and rear lot lines.

Lot Line: a property line that divides one lot from another lot or from a public or private street or any other public space.



Lot Width: the length of a line, drawn perpendicular to the lot depth line at its point of intersection with the front yard line, connecting the side property lines.

Open Space: any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public use or enjoyment or for the private use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

Platted Lot Line: a lot line that has been recorded with the official recording agency.

Public Street: any street in the Town of Lakewood Village that is not private.

Rear Yard: that portion of a lot between the rear lot line and the rear building line.

Side Yard: that portion of a lot line between the side lot lines and the side building lines.

Street Line: the right-of-way of a street.

Structure: that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Tree: a plant having a permanently woody main stem or trunk, ordinarily growing to a considerable height, and usually developing branches at some distance from the ground.

TXDOT: Texas Department of Transportation.

Variance: an adjustment in the application of the specific regulations of this title to a particular piece of property, which property, because of special circumstances uniquely applicable to it, is deprived of privileges commonly enjoyed by other properties in the same vicinity and zone, and which adjustment remedies disparity in privileges.

Waiver, Major: A significant change to both the standards and intent of this Subdivision Ordinance, which involves Town Council approval.

Waiver, Minor: A minor change to the standards, but not the intent, of this Subdivision Ordinance, which requires the Town or the Town Engineer approval unless otherwise noted.

Yard: that portion of a lot which is required to be unoccupied and unobstructed from the ground to the sky, except as otherwise provided in this Ordinance.

## **End of Exhibit A**

### **ADOPTION AND SUMMARY OF AMENDMENTS**

<b>Ordinance Number</b>	<b>Date</b>	<b>Summary</b>
20-05	February 13, 2020	<ul style="list-style-type: none"><li>• Required compliance with Outdoor Lighting Ordinance</li></ul>
14-13	November 13, 2014	<ul style="list-style-type: none"><li>• Updated layout and reorganized</li><li>• Updated defined terms</li><li>• Updated process for replats</li><li>• Updated section for street requirements</li><li>• Updated section for drainage</li><li>• Updated section for proportional costs of utilities and public facilities</li><li>• Moved fees to a consolidated Town ordinance.</li><li>• Added Construction Plat</li><li>• Added Development Plat</li></ul>
13-07	June 13, 2013	REPEALED