

CHAPTER 10

SUBDIVISION REGULATION

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ARTICLE 10.100 GENERAL PROVISIONS*

Sec. 10.101 Title

This chapter shall be known and may be cited as "The Town of Sunnyvale Subdivision and Property Development Regulations."

Sec. 10.102 Purpose

The purposes of this chapter are:

- (1) To protect and provide for the public health, safety, and general welfare of the town.
- (2) To guide the future growth and development of the town in accordance with the comprehensive plan.
- (3) To ensure safety from fire, flood, and other danger; and to prevent overcrowding of the land and undue congestion of population.
- (4) To guide public and private development in order to provide adequate and efficient transportation, water, sewerage, drainage, and other public requirements and facilities.
- (5) To provide for the circulation of traffic and pedestrians required for the beneficial use of land and buildings and to avoid congestion throughout the town.
- (6) To establish reasonable standards of design and procedures for platting to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of platted land.
- (7) To ensure that adequate public facilities and services are available and will have sufficient capacity to serve the proposed subdivision or development and that the community will be required to bear no more than its fair share of the cost of providing the facilities and services.
- (8) To prevent the pollution of streams and ponds; to ensure the adequacy of drainage facilities; to safeguard the water table, and to encourage the wise use and management of natural resources, and enhance the stability and beauty of the community and the value of the land.
- (9) To provide for open spaces through the most efficient design and layout of the land.
- (10) To remedy the problems associated with inappropriately platted lands, including premature subdivision, incomplete subdivision and scattered subdivision.

*State law reference—Regulation of subdivision and property development, V.T.C.A., Local Government Code, ch. 212.

Sec. 10.103 Authority

This chapter is adopted under the authority of the constitution and laws of the state, including particularly and without limitation chapter 212, subchapters A and B, of the Texas Local Government Code. The rules and regulations herein adopted apply equally to the subdivision and development of land within the corporate limits and within the extraterritorial jurisdiction of the town.

(Ordinance 340 adopted 5/29/01)

Sec. 10.104 Jurisdiction

(a) Duty of landowner to plat property.

(1) Subdivision plats.

- (A) Plat required. Except as expressly exempted by these subdivision and property development regulations under subsection (a)(1)(B), or unless a development plat is required under subsection (a)(2) the owner of a tract of land located within the corporate limits or in the extraterritorial jurisdiction of the town who divides the tract into two or more parts to lay out a subdivision or any addition, building or lot, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts must have a plat of the subdivision approved in accordance with this chapter. A division of a tract under this subsection includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method.

(Ordinance 340 adopted 5/29/01; Ordinance 419B, sec. 2, adopted 4/10/06)

(B) Exemptions. The following divisions of land do not require approval by the town:

- (i) The creation of a leasehold for a space within a multi-occupant building or a commercial building site which does not abut a public street, provided that the property is a part of an approved subdivision or development plat and regulated in accordance with the site plan requirements of the town, and such plat has been amended as may be required to add easements or otherwise serve the leasehold. For purposes of this section, a leasehold abuts a public street if it is immediately adjacent to a public street or if it is so close to a public street that no usable property lies between the leasehold and the public street.
- (ii) The creation of a leasehold for agricultural use of the subject property, provided that the use does not involve the construction of a building(s) to be used as a residence or for any purpose not directly related to agricultural use of the land or crops or livestock raised thereon.

- (iii) The division of property through inheritance, the probate of an estate, or by a court of law and not for purposes of development.
 - (iv) The division of land into parts each of which is greater than five (5) acres in size for which no public improvement is to be dedicated and where each part has access from a public street.
 - (v) Remainder tracts, except to the extent required for purposes of supplying information needed for evaluation of the proposed development.
- (2) Development plats.

(A) Plat required. The owner of a tract of land located within the corporate limits or in the extraterritorial jurisdiction of the town who proposes to develop such tract, shall prepare a development plat in accordance with sections 10.308 and 10.309 of these regulations prior to commencement of development and prior to issuance of any building permit or connection of any utility, under the following circumstances:

- (i) The property owner proposes to divide the tract into parts each of which is greater than five (5) acres in size and for which no public improvement is to be dedicated, and where each part has access from a public street; or
- (ii) 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, Ordinance No. 59, adopted August 8, 1983; or
- (iii) The development of any property to be used for nonresidential purposes which 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 tract 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
- (iv) Development of any remainder tract, where no division of such tract into two or more parts is intended.

(B) Exemptions. A development plat is not required for the following developments:

- (i) Where the total building area in the development does not exceed 400 square feet in area.
- (ii) Where the development does not require, as determined by the town engineer, any additional public improvements, additional public access, rights-of-way, utility or drainage easements or covenants and no subdivision of land is proposed.

- (b) Subsequent divisions. Approval of a subdivision plat pursuant to section 10.104(a)(1) shall be required prior to sale, lease or development of any tract for which a development plat has been previously approved and for which division into two or more parts subsequently is proposed by the property owner, unless such division is exempt pursuant to section 10.104(a)(2).
- (c) Remainders. The owner of a tract or parcel who seeks to divide the land into two or more parts for purposes of sale, lease or development may designate one part which is not be developed as a remainder tract. Such tract shall be clearly identified by the term "remainder" and shall be deemed not to be part of the subdivision or development plat.
- (d) Platting information. A written request may be directed to the commission for information concerning whether a plat is required under these regulations, in accordance with section 212.0115, as amended, of the Texas Local Government Code.
- (e) Legal description. Except as provided above, no land may be subdivided or platted through the use of any legal description other than with reference to a plat approved by the council in accordance with these regulations.
- (f) Prohibition. Except as provided above, no land shall be divided for purposes of sale, lease, or transfer, nor shall land be developed until the property owner has obtained approval of a final subdivision plat or development plat as required by these regulations.
- (g) Withholding public improvements. The town shall withhold all public improvements and utilities, including the maintenance of streets and the provision of sewage facilities and water service, from all tracts, lots or additions, the platting of which has not been officially approved and for which a certificate of compliance has not been issued pursuant to section 10.307(g).
- (h) Limitation on permits. No building permit or certificate of occupancy shall be issued for any parcel or tract of land until such property has received final plat or development plat approval and is in substantial conformity with the provisions of these subdivision and property development regulations, and no private improvements shall take place or be commenced except in conformity with these regulations.

(Ordinance 340 adopted 5/29/01)

Sec. 10.105 Interpretation, conflict, separability and vested rights

- (a) Interpretation. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.
- (b) Conflict with other laws. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law except as provided in these regulations. Where any provisions of these regulations imposes restrictions different from those imposed by any other provision of these regulations, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.
- (c) Separability. If any part or provision of these regulations or the application of these regulations to any person or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application

directly involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The council hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.

(d) Determination of vested rights.

(1) Vested rights petition.

- (A) A qualified party shall be required to file a vested rights petition to determine whether one or more standards of these subdivision and property development regulations should not be applied to a preliminary or final plat application by operation of state law, or whether certain plats are subject to expiration.
- (B) Applicability. A vested rights petition may be filed with an application for a preliminary or final plat application. A vested rights petition also may be filed to prevent expiration of certain plats pursuant to this chapter.
- (C) Effect. Upon granting of a vested rights petition in whole or in part, the plat application shall be decided in accordance with the standards specified in the relief order based on prior subdivision requirements or development standards, or the approved plat otherwise subject to expiration shall be extended.

(2) Petition requirements.

- (A) Who may petition. A vested rights petition may be filed by a property owner or the owner's authorized agents, including the applicant, with a preliminary or final plat application, or by the holder of a plat subject to expiration pursuant to this chapter.
- (B) Form of petition. The vested rights petition shall allege that the petitioner has a vested right for some or all of the land subject to the plat application under Texas Local Government Code, chapter 245 or successor statute, or pursuant to Texas Local Government Code, section 43.002 or successor statute, that requires the town to review and decide the application under standards in effect prior to the effective date of the currently applicable standards. The petition shall include the following information and documents:
 - (i) A narrative description of the grounds for the petition;
 - (ii) A copy of each approved or pending development application which is the basis for the contention that the town may not apply current standards to the plat application which is the subject of the petition;
 - (iii) The date of submittal of the plat application, or of a development plan pursuant to which the plat was subsequently filed, if different from the official filing date established under this chapter;
 - (iv) The date the project for which the application for the plat was submitted was commenced;

- (v) Identification of all standards otherwise applicable to the plat application from which relief is sought;
 - (vi) Identification of the standards which the petitioner contends applies to the plat application;
 - (vii) Identification of any current standards which petitioner agrees can be applied to the plat application at issue;
 - (viii) A copy of any prior vested rights determination by the town involving the same land; and
 - (ix) Where the petitioner alleges that a plat subject to expiration under this chapter should not be terminated, a description of the events, including any plat or other development applications on file, that should prevent such termination.
- (C) Time for filing petition. A vested rights petition shall be filed with a plat application for which a vested right is claimed, except that the petition may be filed before the date of expiration of a plat subject to expiration as provided herein.
- (3) Processing of petition and decision.
- (A) Responsible official. The responsible official shall process the vested rights petition. A copy of the petition shall be forwarded to the town attorney following acceptance.
 - (B) Decision by commission. On petition the planning and zoning commission shall render a decision on the vested rights petition in conjunction with its decision on the plat application, based upon the report and recommendation of the responsible official.
 - (C) Appeal of decision on petition. The petitioner or any interested person may appeal the commission's decision on the vested rights petition within ten (10) working days of the date of such decision to the town council. An appeal under this subsection stays acceptance of filing of any related development applications.
 - (D) Decision by town council. The town council on appeal shall decide the vested rights petition. The request must be accompanied by a waiver of the time for decision on the plat application imposed under these subdivision and property development regulations pending decision by the council, which shall stay further proceedings on the application. The council shall decide the petition, after considering the responsible official's report and the decision by the planning and zoning commission within thirty (30) calendar days of receipt of the notice of appeal.

- (4) Action on petition and order.
- (A) Action on the petition. The decision-maker on the vested rights petition may take any of the following actions:
- (i) Deny the relief requested in the petition, and direct that the plat application shall be reviewed and decided under currently applicable standards;
 - (ii) Grant the relief requested in the petition, and direct that the plat application shall be reviewed and decided in accordance with the standards contained in identified prior subdivision and property development regulations; or
 - (iii) Grant the relief requested in part, and direct that certain identified current standards shall be applied to the plat application, while standards contained in identified prior subdivision and property development regulations also shall be applied; or
 - (iv) For petitions filed pursuant to this chapter, determine whether the approved plat should be terminated, or specify the expiration date or the conditions of expiration for such plat.
- (B) Order on petition. The responsible official's report and each decision on the vested rights petition shall be memorialized in an order identifying the following:
- (i) The nature of the relief granted, if any;
 - (ii) The approved or filed plat application(s) or other development application(s) upon which relief is premised under the petition;
 - (iii) Current standards which shall apply to the plat application for which relief is sought;
 - (iv) Prior standards which shall apply to the plat application for which relief is sought, including any procedural standards;
 - (v) The statutory exception or other grounds upon which relief is denied in whole or in part on the petition;
 - (vi) For petitions filed pursuant to this chapter, determine whether the approved plat should be terminated, and specify the expiration date or the conditions of expiration for the plat.
- (5) Criteria for approval. The decision-maker shall decide the vested rights petition based upon the following factors:
- (A) The nature and extent of prior plat or other development applications filed or approved for the land subject to the petition;

- (B) Whether any prior vested rights determinations have been made with respect to the property subject to the petition;
 - (C) Whether any prior approved applications for the property have expired or have been terminated in accordance with law;
 - (D) Whether any statutory exception applies to the standards in the current subdivision and property development regulations from which the applicant seeks relief;
 - (E) Whether any prior approved plat or other development applications relied upon by the petitioner has expired;
 - (F) For petitions filed pursuant to this chapter, whether any of the events preventing expiration have occurred.
- (6) Application following relief order. Following the town's final decision on the vested rights petition, the property owner shall conform the plat application for which relief is sought to such decision. If the plat application on file is consistent with the relief granted on the vested rights petition, no revisions are necessary. Where proceedings have been stayed on the plat application pending referral of the vested rights petition to the town council, proceedings on the application shall resume after the town council's decision on the vested rights petition.
- (7) Expiration. Relief granted on a vested rights petition shall expire on occurrence of one of the following events:
- (A) The petitioner or property owner fails to submit a required revised plat application consistent with the relief granted within thirty (30) days of the final decision on the petition;
 - (B) The plat application for which relief was granted on the vested rights petition is denied under the criteria made applicable through the relief granted on the petition; or
 - (C) The plat application for which relief was granted on the vested rights petition expires.

(Ordinance 408, sec. 2, adopted 8/22/05)

Sec. 10.106 Amendment to subdivision and property development regulations

For the purpose of protecting the public health, safety and general welfare, the council may from time to time propose amendments to these regulations which shall then be approved or disapproved by the council at a public hearing.

Sec. 10.107 Effect on pending plats

All applications for subdivision or development plat approval, including final plats, pending on the effective date of these regulations, together with any subsequently filed plat applications which are deemed to be vested, shall be reviewed under subdivision and property development

regulations in effect immediately preceding the date of adoption of these regulations, and such regulations shall be kept in effect for such purpose.

Sec. 10.108 Enforcement

(a) Violations and penalties. Any person who violates any of these regulations for lands within the corporate boundaries of the town shall be subject to a fine in accordance with the general penalty provision in section 1.109 of this code.

(b) Civil enforcement. Appropriate civil actions and proceedings may be maintained in law or in equity to prevent unlawful construction, to recover damages, to impose additional penalties, to restrain, correct, or abate a violation of these regulations, whether such violation occurs with respect to land within the corporate boundaries of the town or within the town's extraterritorial jurisdiction. These remedies shall be in addition to the penalties described above.

Sec. 10.109 Filing fees

A schedule of filing fees for the town may be obtained from the town secretary or a designated assistant and may be found in the fee schedule in the appendix of this code. All filing fees and charges must be paid in advance and no action of the planning and zoning commission or the town council shall be valid until the fees shall have been paid to the officer designated herein.

Sec. 10.110 Incorporation of design manuals

The following design standards and specifications are incorporated by reference into this chapter: All manuals referred to in the town code, chapter 3, building regulations, the town engineering design manual, and the town design criteria manual.

ARTICLE 10.200 DEFINITIONS

Sec. 10.201 Usage

(a) For the purpose of these regulations, certain numbers, abbreviations, terms, and words shall be used, interpreted and defined as set forth in this article.

(b) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense and words used in the plural include the singular.

(c) The word "shall" wherever used in this article will be interpreted in its mandatory sense; the word "may" shall be deemed as permissive.

Sec. 10.202 Words and terms defined

Abandonment. The relinquishment of property, or a cessation of the use of property, by the owner with the intention neither of transferring rights to the property to another owner nor of resuming the use of the property.

Addition. A subdivision.

Amending plat. A revised plat correcting errors or making minor changes to the original recorded final plat as defined in Tex. Loc. Gov't Code Ann. section 212.016.

Amenity. An improvement providing an aesthetic, recreational or other benefit.

Base flood elevation. The flood having a one percent chance of being equaled or exceeded in any given year. The base flood shall be determined by using a fully developed watershed and the criteria for a 100 year storm.

Block. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad right-of-way, shorelines of waterways, or boundary lines of municipalities.

Bond. Any form of a surety bond in an amount and form satisfactory to the town.

Building. Any structure or building for the support, shelter and enclosure of persons, animals, chattels, or movable property of any kind.

Capital improvements program. A proposed schedule of future capital improvement projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

Cluster option development. A residential development project containing a mix of dwelling types and/or lot sizes, approved subject to a concept plan and a development plan under zoning regulations in effect immediately prior to adoption of the 2000 zoning regulations.

Comprehensive plan. The planning document described in chapter 211 of the Texas Local Government Code and being the comprehensive plan of the town and adjoining areas recommended by the planning and zoning commission and approved by the town council, as may be amended from time to time.

Concept plan. A plan for development which enables the town to evaluate major impacts of a proposed development pursuant to chapters 10 of the zoning regulations, or predecessor zoning regulations.

Contiguous. Lots are contiguous when at least one boundary line of one lot touches a boundary line or lines of another lot.

County. Either Dallas County, Texas, or Kaufman County, Texas, depending on whether a proposed subdivision or development or part thereof is located in such county.

Developer. The person, business, corporation or association responsible for the development of the subdivision, development plat, or addition. In most contexts the terms developer and property owner are used interchangeably in these regulations.

Development. Any man-made change to improved or unimproved real estate, including but not limited to, construction, enlargement or improvements of buildings, other structures, streets, alleys, paved surfaces, drainage facilities, park facilities or utilities. Development does not include agricultural activities.

Development exaction. Any dedication of land or easements for, construction of, or contribution toward construction of a public improvement required as a condition of approval of a subdivision or development plat by the town pursuant to these regulations.

Development plan. The plan authorizing development in a planned zoning district pursuant to the standards and procedures of chapters 10 and 25 of the zoning regulations, or predecessor zoning regulations.

Development plat. A map of a development authorized under subchapter B of chapter 212 of the Tex. Loc. Gov't Code, to be submitted and approved by the town pursuant to standards established in section 10.307 of these regulations. Development plat also refers to the land to be developed, depending on the context.

Drainage way. All land areas needed to allow passage of the base flood, including sufficient access above the base flood elevation along each side of the parallel to the natural or excavated channel.

Easement. An interest in the real property of another which is the dominant estate and is a right to use such real property for the purposes specified therein.

Engineer. A person duly authorized under the provisions of the Texas Engineering Practice Act, heretofore or hereafter amended, to practice the profession of engineering.

Escrow. A deposit of cash with the town in accordance with town policies.

Final plat. The map of a subdivision or development plat to be recorded after approval by the town council and any accompanying material and additional requirements as described in these regulations.

Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood plain. An area of land lying below the 100-year water surface elevation. Flood plains include but are not limited to those areas designated on FEMA-FIA maps, town maps or any other area with a ground elevation below the one hundred year water surface elevation.

Lot. A tract, plot or portion of a subdivision or development plat occupied or to be occupied by a building and its accessory buildings, or open space, park improvements or other facilities to be privately held and maintained, such as may be required under these or other development regulations, and having its principal frontage upon a public street or officially approved place.

Minor plat. A plat involving not more than four lots fronting on an existing street, which does not require the creation of any new street or extension of municipal facilities and which meets the requirements of section 10.302 of these regulations.

Municipal facility. An improvement owned and maintained by the town.

Mutual access easement. An officially approved, privately maintained drive, constructed to town street standards, open to unrestricted and irrevocable public access, serving two or more lots as their primary means of access.

Off-site improvement. Improvements required to be made on an area not included within the plat application, which are required to be made to serve the proposed development with adequate public facilities, including but not limited to, road widening and upgrading, stormwater facilities, and traffic improvements.

One hundred (100) year water surface elevation (100-Yr NB E1). That water surface elevation established by hydrologic/hydraulic analysis of a stream, river, creek, or tributary, using the 100-year fully developed watershed, based upon the 100-year rainfall event.

On-site sewerage facilities. Facilities acceptable to the state natural resources conservation commission and other regulatory agencies having jurisdiction over the treatment and disposal of wastewater on an individual lot and which do not require a waste discharge permit. On-site sewerage facilities includes septic tanks, treatment tanks, drain fields, absorption beds, evapotranspiration beds and alternative treatment systems.

Performance bond; and/or surety bond. Bond required to ensure the completion of a development project pursuant to Texas Local Government Code, section 212.073.

Perimeter street. Any existing or planned street which abuts the subdivision or development to be platted. Perimeter streets may be included within or located outside the land to be platted.

Planned commercial district. A zoning district that allows a mix of retail, office, and civic uses within an urban framework which is small in scale and compatible with adjacent developments pursuant to a concept plan, as authorized under chapter 17 of the zoning regulations.

Planned residential overlay district. An overlay zoning district that combines with standard residential zoning districts (base districts) that allows development of a residential project containing a mix of dwelling types and/or lot size, which units are clustered to achieve higher density than otherwise would be authorized within the base zoning district, pursuant to a concept plan, as authorized under chapter 10 of the zoning regulations.

Planned zoning district. A planned commercial district, a planned residential overlay district, or any other zoning district authorized under the town's zoning regulations that requires approval of a concept plan prior to development within the district.

Planning and zoning commission. The agency appointed by the town council as an advisory body to it relative to zoning, platting and planning matters and the physical development of the town and its environs and designated as the planning and zoning commission.

Plat. The map of a proposed subdivision or development plat, as the context may indicate.

Preliminary plat. The preliminary drawing or drawings, described in these regulations, indicating the proposed layout of the subdivision or development plat to be submitted to the town council for approval.

Property owner. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land comprising the

subdivision or development, or any representative or agent thereto, who has express written authority to act on behalf of such owner.

Public improvement. Any drainage way, roadway, parkway, sidewalk, utility, street light, pedestrian way, off-street parking area, fire lane, lot improvement, open space, buffer, screen, park, public trail, right-of-way, easement, or other facility for which the town or other governmental entity will ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established or that affects the health, safety or welfare of general public.

Public improvement agreement. A contract entered into by the developer and the town by which the developer promises to complete the required public improvements within the subdivision or development within a specified time period following final plat approval.

Record drawings. Drawings that show, according to the best construction records available, the location of all public utilities constructed to serve the subdivision or development.

Remainder. The residual land left after platting of a portion of a tract.

Replatting. Any change in an approved or recorded plat, except as permitted as an amended plat, that affects any street layout on the map or area reserved or dedicated thereon for public use or any lot line, or that affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions or developments pursuant to Tex. Local Gov't Code sections 212.014–015 or sections 212.041, et seq. Replatting includes the combination of lots into a single lot for purposes of development.

Resubdivision. The replatting of an approved subdivision plat.

Right-of-way. A parcel of land occupied or intended to be occupied by a street or alley, and where appropriate, other facilities and utilities including sidewalks, railroad crossings, electrical, communication, oil or gas, water or sanitary or storm sewer facilities, or for any other special use. The use of right-of-way shall also include parkways and medians outside of pavement. The usage of the term "right-of-way for platting purposes" shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees or any other use involving maintenance by a public agency shall be dedicated to the public use by the maker of the plat on which such right-of-way is established.

Security. The letter of credit, cash escrow or first and prior lien on the property provided by the applicant to secure its promises in the public improvement agreement.

Standard street. A street or highway that meets or exceeds the requirements of the engineering design manual and complies with the thoroughfare plan and the functional classifications in the comprehensive plan.

Standard zoning district. Any residential or nonresidential district established pursuant to the town's zoning regulations that is neither a planned zoning district or an overlay zoning district.

Street. A public thoroughfare which affords the principal means of access to property, including any road or other thoroughfare except an alley as defined herein.

Street improvement. Any street or thoroughfare, together with all appurtenances required by town regulations to be provided with such street or thoroughfare, including but not limited to: sidewalks; drainage facilities to be situated in the right-of-way for such street or thoroughfare; traffic control devices; street lights; and street signs for which facilities the town will ultimately assume the responsibility for maintenance and operation.

Subdivider. Any person who:

- (1) Having an interest in land causes it, directly or indirectly, to be divided into a subdivision or platted as an addition; or who
- (2) Directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest, lot, parcel, site, unit, or plat in a subdivision or development; or who
- (3) Engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or addition or any interest, lot, parcel site, unit or plat in a subdivision or development; and who
- (4) Is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.

Subdivision. The division of any tract or parcel of land into two or more lots, for the purpose of, whether immediate or future, offer, sale, or lease or for the purpose of development, except as expressly exempted pursuant to section 10.104. Subdivision also includes resubdivision. Subdivision also refers to the land to be so divided, as the context may indicate.

Substandard street. An existing street or highway that does not meet the minimum requirements of the engineering design manual and/or does not comply with the thoroughfare plan or the Functional Classifications in the comprehensive plan.

Surveyor. A registered professional land surveyor licensed under the laws of the state.

Temporary improvement. Improvements built and maintained by an owner during construction of the development of the subdivision or addition and prior to release of the performance bond or improvements required for the short term use of the property.

Thoroughfare plan. The official plan for streets and thoroughfares for the town, including transportation goals and policies, functional street classifications and the transportation system diagram, contained in the town's adopted comprehensive plan.

Town administrator. Person appointed by the council to manage town affairs pursuant to the town code, article 9.100.

Town engineer. The duly authorized engineer of the town.

Zoning application. An application for a tentative or final development plan, site development plan or site plan.

Zoning regulations. The town's 2000 zoning regulations adopted January 31, 2000, as amended, or zoning standards in effect immediately prior to the adoption of such regulations, and which remain in effect for purposes of evaluating development applications exempted by such regulations.

ARTICLE 10.300 PLATTING PROCEDURE

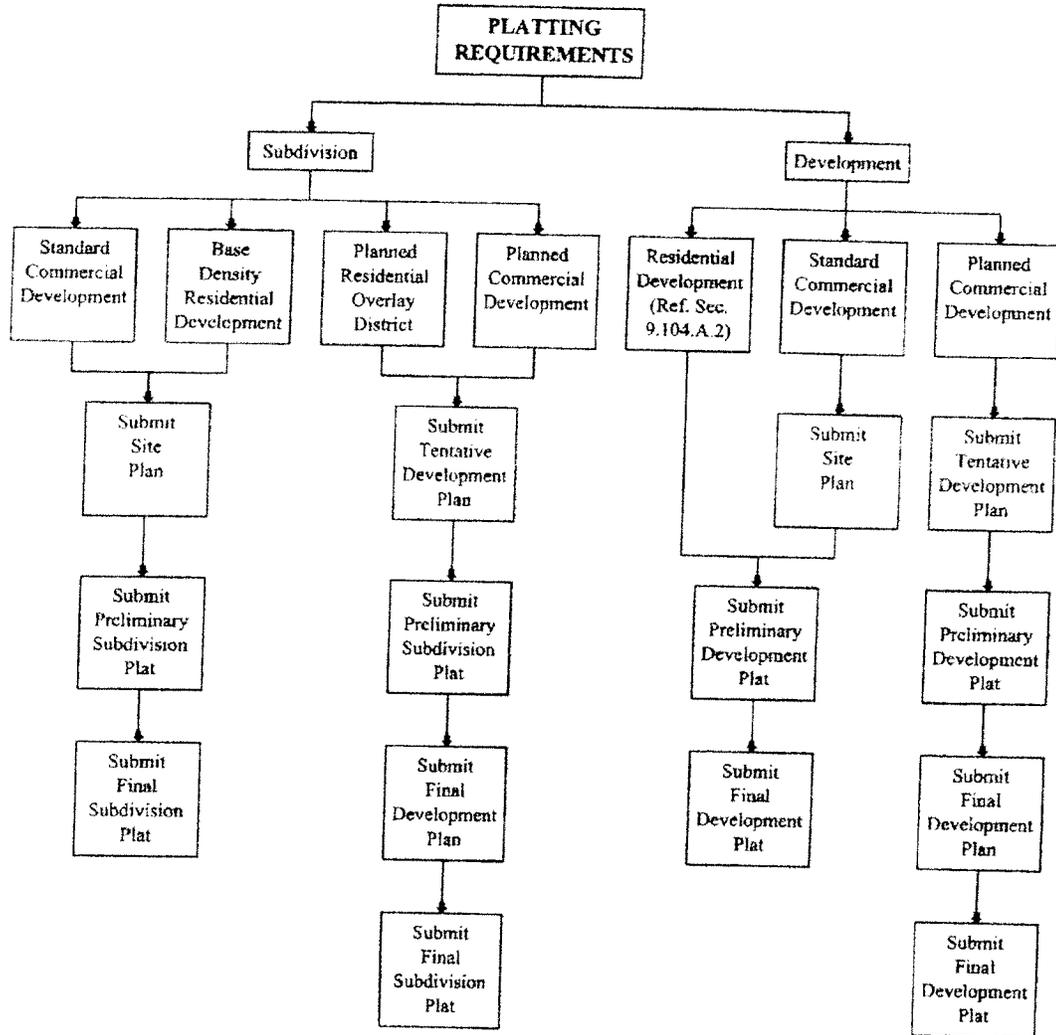
Sec. 10.301 Coordination of zoning and platting applications

(a) Coordination required. Approval of applications for subdivision and development plats shall be coordinated with approval of zoning applications. The development process described in this section is illustrated in Chart 10.301, which is incorporated herein by reference. In no case shall a subdivision or development plat application be accepted for filing until any pending zoning application for the same land has been finally approved.

(b) Development in planned zoning districts. The following sequence of approval of zoning and platting applications is required for development within a planned residential overlay district or a planned commercial district established under the town's 2000 zoning regulations, as amended, or within a cluster option development approved under predecessor regulations. Whenever a subdivision or development plat application follows in sequence a zoning application listed in this section, such application shall not be accepted for filing until the zoning application has been approved and the proposed subdivision or development plat is consistent with such approved zoning application.

- (1) Within planned residential overlay districts or cluster option developments, development applications shall be submitted in the following sequence:
 - (A) Tentative development plan
 - (B) Preliminary subdivision plat
 - (C) Final development plan
 - (D) Final subdivision plat
- (2) Within planned commercial districts, development applications shall be submitted in the following sequence:
 - (A) Tentative development plan
 - (B) Preliminary subdivision or development plat

Figure 1 Chart 10.301



(C) Final development plan

(D) Final subdivision or development plat

(c) Development in standard zoning districts. The following sequence of approval of zoning and platting applications is required for development within standard zoning districts. Whenever a subdivision or development plat application follows in sequence a zoning application listed in this section, such application shall not be accepted for filing until the zoning application has been approved and the proposed subdivision or development plat is consistent with such approved zoning application.

- (1) For proposed residential developments within a standard zoning district, development applications shall be submitted in the following sequence:

- (A) Site development plan
 - (B) Preliminary subdivision or development plat
 - (C) Final subdivision or development plat
- (2) For proposed nonresidential developments within a standard zoning district, development applications shall be submitted in the following sequence:
- (A) Site plan
 - (B) Preliminary subdivision or development plat
 - (C) Final subdivision or development plat
- (d) Consistency required. No application for a subdivision plat or development plat shall be approved on land for which there is an approved development plan, site development plan or site plan unless the proposed plat conforms to such approved zoning application for the development.
- (e) Filing prohibited. A subdivision or development plat application shall be accepted for filing only after approval of the applicable zoning application identified in the sequences in sections 10.301(b) and 10.301(c). A platting application maybe accepted for review with the zoning application that immediately precedes the platting application in sequence only if the applicant submits an unconditional waiver of all time limitations imposed by these regulations or state law for processing such application.
- (f) Conditions. Conditions attached to approval of a development plan, site development plan or site plan shall be the basis for imposition of consistent conditions on preliminary subdivision or development plat applications.
- (g) Replats included. The provisions of this section apply equally to replats.

Sec. 10.302 Statutory procedure

- (a) Time for action on plat. The commission, or the council as required by these regulations, shall take final action on each complete application for a preliminary or final subdivision or development plat, including applications for replats, within thirty (30) days after the date the complete application for plat approval is officially filed.
- (b) Official filing date. The date from which the time period in subsection (a) above commences to run shall be the date the plat is deemed filed in accordance with this section. The acceptance or processing by any town official of a plat application prior to the official filing dates established in this section hereby is deemed to be null and void and, upon discovery, shall be grounds for denial of such plat application.
- (1) Official filing date for commission. The official filing date for plats to be initially reviewed by the commission shall be the date on which the town administrator or his designee certifies in writing that the plat application is complete in accordance with the regulations governing submission requirements in this article. No application for plat approval shall be deemed filed with the commission until the administrator or his designee has certified the application as complete.

- (2) Official filing date for council. the official filing date for council review shall be the date final action is taken on the plat application by the commission.
 - (3) Official date for modified plat application. If the applicant elects to withdraw the plat application in order to make modifications recommended by the commission or to satisfy conditions attached by the council, the official filing date shall be the date on which the town administrator or his designee certifies in writing that the modified plat application is complete in accordance with the regulations governing submission requirements in this article.
 - (4) Official date for minor plat application. The official filing date for minor plat applications shall be the date on which the town administrator or his designee certifies in writing that the plat application is complete and qualifies as a minor plat application, in accordance with the regulations governing submission requirements in this article.
- (c) Compliance procedure. The administrator shall place the plat application on a regularly scheduled or specially called meeting of the commission or council, as the case may be, prior to the expiration of thirty (30) days following the official filing date. The commission or council shall approve, conditionally approve or deny such application within such period.

Sec. 10.303 Master plats

- (a) Master plat applications. A property owner may elect to divide property into phases for purposes of development through the use of a master plat, which shall be processed as an application for preliminary subdivision plat approval. Master plats may only be submitted for residential development within a standard zoning district. No master plat application shall be accepted for filing until a site development plan has been approved for the property. The master plat application shall be consistent with the approved site development plan.
- (b) Schedule for phased development. Master plats shall be accompanied by a schedule summarizing the intended plan of development in phases and the proposed dedication of land or rights-of-way for and construction of public improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision. All phases of the development shall be included in the preliminary plat application. Any contiguous land owned by the applicant that is not intended to be a part of the proposed staged development shall be identified with the designation "remainder tract." A remainder tract shall be identified on the plat application, but shall not be included within the boundaries of the proposed plat.
- (c) Expiration of master plats. Master plats shall expire as provided in section 10.306(h)(2).

Sec. 10.304 Remainder tracts

- (a) Remainder tracts shall not be considered lots and shall not be included within the boundaries of the preliminary plat. Approval of a preliminary plat shall not constitute approval of development on a remainder tract.
- (b) Information accompanying a preliminary plat application for remainder tracts shall be deemed to be an aid to the commission and the council in taking action on the preliminary plat application and may be used to determine whether development of the land subject to the plat will

be adequately served by public facilities and services and is otherwise in compliance with these regulations, taking into account the development of the property as a whole. Based upon such information, the commission or the council may require that additional land be included in the preliminary plat in order to satisfy the standard in these regulations.

Sec. 10.305 Pre-platting conference

Prior to the filing of a preliminary plat application, the owner may request a pre-platting conference with the town administrator or his designee for familiarization with the town's subdivision and property development regulations and the relationship of the proposed subdivision or development to the comprehensive plan, zoning regulations and engineering design manual. At such meeting, the general character of the development may be discussed, and items may be included concerning zoning, the availability of existing and demand for new utility service, street requirements, and other pertinent factors related to the proposed subdivision or development. At the pre-platting conference, the subdivider may be represented by his/her land planner, engineer, or surveyor.

Sec. 10.306 Procedure for preliminary subdivision plat approval

(a) Purpose and applicability.

(1) Purpose. The purpose of the preliminary subdivision plat is to assure conformity of the proposed development with requirements and conditions imposed in approved zoning applications for the land subject to the proposed plat and to evaluate construction plans for public improvements or to provide adequate security for construction of the same.

(2) Applicability. A preliminary subdivision plat shall be required for any subdivision that is not a minor subdivision.

(b) Application requirements. Fifteen (15) copies of the proposed preliminary subdivision plat shall be submitted to the town administrator, and shall be accompanied by the same number of copies of additional documents set forth in subsection (2), unless otherwise provided therein. The preliminary subdivision plat shall be prepared by or under the supervision of a registered professional land surveyor in the state and shall bear his/her seal, signature and date on each sheet. No application for a preliminary subdivision plat shall be certified as complete by the town administrator unless the application is accompanied by the following:

(1) Preliminary subdivision plat contents. The proposed preliminary subdivision plat shall be submitted on sheets a maximum size of twenty-four (24) inches by thirty-six (36) inches and drawn to a scale of one hundred (100) feet to the inch, or in the case of small subdivisions, fifty (50) feet to the inch. In cases of large developments which would exceed the dimensions of the sheet at a one hundred (100) foot scale, preliminary subdivision plats may be two hundred (200) feet to the inch. The plat shall contain the following graphic information:

(A) The boundary lines with accurate distances and bearings and the exact location and width of all existing or recorded streets intersecting the boundary of the tract. The bearing system used for the plat shall be shown.

- (B) True bearings and distances to the nearest established survey lines and established subdivisions and additions, which shall be accurately described on the plat.
- (C) Accurate ties to the abstract and survey corners as required by state surveying law and the amount of acreage in each abstract shown.
- (D) The exact layout including:
 - (i) Proposed streets and alleys with names, sidewalks, easements, blocks, parks, etc., with principal dimensions.
 - (ii) The length of all arcs, radii, internal angles, points of curvature, length, and bearings of the tangents.
 - (iii) All easements for rights-of-way provided for public services or utilities and any limitations of the easements.
 - (iv) All lot numbers and lines with accurate dimensions in feet and hundredths of feet and with bearings and angles to street alley lines.
- (E) The exact location of all contiguous property owned or controlled by the applicant. A separate drawing may be submitted for this purpose.
- (F) The location of all existing property lines, buildings, sewer or water mains, fire hydrants, gas mains or other underground structures, easements of record or other existing features within the area proposed for subdivision.
- (G) A designation of the zoning district(s) for the land included within the subdivision plat.
- (H) All physical features of the property to be subdivided or developed, including location and size of all water courses, ravines, bridges, culverts, existing structures, drainage area in acres or acreage draining into subdivisions and additions, and other features pertinent to subdivision. The outline of wooded areas or the location of important individual trees may be required.
- (I) The angle of intersection of the centerlines of all intersecting streets which are intended to be less than ninety (90) degrees.
- (J) Covenants and restrictions - draft of any protective covenants whereby the subdivider proposes to regulate land use or development standards in the subdivision, or in which land is to be dedicated to a homeowners association.
- (K) The accurate outline of all property which is offered for dedication for public use with the purpose indicated thereon, and of all property that may be reserved by deed covenant for the common use of the property owners in the subdivision.
- (L) The name and location of a portion of adjoining subdivisions or developments shall be drawn to the same scale and shown in dotted lines adjacent to the tract

proposed for subdivision in sufficient detail to show accurately the existing streets and alleys and other features that may influence the layout and development of the proposed subdivision. Where adjacent land is not subdivided, the owner's name of the adjacent tract shall be shown.

- (M) Front setback lines.
 - (N) Special restrictions including, but not limited to, water line, sanitary sewer line, drainage, and landscape easements; fire lanes; screening; buffering; standard notes for floodway, if applicable; finished floor elevation for lots adjacent to a floodway, within a floodplain or having an on-site sewerage facility; and other standard notes.
 - (O) Contours at five (5) foot intervals, except on terrain with less than two (2) percent grade in which event contours at two (2) foot intervals are required.
 - (P) Proposed name of the subdivision.
 - (Q) Name, address and phone number of the property owner and the name of the surveyor who prepared the plat.
 - (R) North arrow, scale, site location map and date.
 - (S) Certification by a surveyor to the effect that the plat represents a survey made by him and that all the monuments shown thereon actually exist, and that their location, size, and material description are correctly shown, and that the survey correctly shows the location of all visible easements and rights-of-way and all rights-of-way, easements and other matters of record affecting the property being platted.
 - (T) A notation in the legend labeling the document "Preliminary Plat" and identifying the scale.
 - (U) Designation of remainder tracts (shown outside the boundaries of the area to be platted).
 - (V) For master plats, designation of the boundaries of each phase.
- (2) Accompanying documents.
- (A) Preliminary plats shall be accompanied by a lot grading plan drawn at a scale of one hundred (100) feet to one (1) inch. Lot grading plans shall clearly show drainage patterns and elevations sufficient to determine drainage patterns and finished grade slopes. Lot grading plans shall be consistent with any open space or reclamation plans approved under the zoning regulations.
 - (B) Boundary survey closure and area calculations shall be included.
 - (C) Additional documents necessary for dedication or conveyance of easements or rights-of-way as required by the town to satisfy adequate public facilities

standards shall be provided. The town may, in some instances, require the conveyance of fee simple title for certain rights-of-way.

- (D) 15 copies of approved tentative development plans, site development plans or site plans for the land included within the preliminary plat and remainder tracts shall be submitted.
 - (E) Floodplain reclamation permit application.
 - (F) A receipt shall be submitted with the preliminary plat showing that the filing fees as prescribed by the town council have been paid.
 - (G) For master plats, a schedule summarizing the intended plan of development in phases and the proposed dedication of land or rights-of-way for and construction of public improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision.
 - (H) For remainder tracts, the zoning designation for the tract and any pending applications for rezoning, tentative development plans, site development plans or site plans shall be provided. Information also shall be provided illustrating the location of all existing and proposed water, wastewater roadway, and drainage easements or facilities located or proposed within the boundaries of the remainder tract.
 - (I) Preliminary construction plans consistent with approved zoning applications and the proposed preliminary subdivision plat shall be submitted.
- (3) Format for documents. All documents shall be submitted in both printed and electronic versions unless otherwise specified. For maps and plats, the prints shall be both on full size 24" x 36" sheets and on approximately half-size (11" x 17" sheets). Other supporting documents shall be printed on 8½" x 11" sheets.
- (A) Electronic formats for maps and plats shall be one of the following:
 - (i) AutoCAD drawing files - DWG format
 - (ii) AutoCAD data exchange - DXF format
 - (iii) Bitmapped - BMP format at a resolution of not less than 600 dpi.
 - (iv) JPEG - at a resolution of not less than 600 dpi.
 - (v) Encapsulated PostScript - EPS format
 - (vi) TIFF - at a resolution of not less than 600 dpi.
 - (B) Electronic formats for text and photographic documents shall be one of the following:
 - (i) Microsoft Word

- (ii) Corel WordPerfect
 - (iii) Microsoft Powerpoint
 - (iv) Electronic formats listed above except AutoCAD
- (C) Electronic copies may be submitted on 3.5" floppy disks (small projects only) or on a CD (for large projects).
- (c) Staff review and distribution.
- (1) Determination of completeness. The town administrator or his designee shall determine whether the preliminary subdivision plat application is complete within ten (10) working days of the date the application is submitted. The administrator shall provide the applicant with written notification of his determination. If the application is incomplete, the administrator shall return the application to the applicant with an explanation of additional items or documents that must be provided before the application can be considered complete. If the application is complete, the administrator shall file the application with the commission for decision and place the application on the agenda of a regularly scheduled or specially called meeting of the commission.
 - (2) Distribution for review. Preliminary subdivision plats and other required documents shall be distributed by the town administrator to the following:
 - (i) Planning and zoning commission (7 printed copies). Electronic copies are not required.
 - (ii) Town council (6 printed copies). Electronic copies are not required.
 - (iii) Town administrator (6 printed copies, 1 electronic copy and one 11"x17" reduced scale print).
 - (iv) Town engineer (2 printed copies, 1 electronic copy and one 11"x17" reduced scale print)
 - (v) TXU Electric or Farmers Electric Co-Op (1 printed copy).
 - (vi) TXU Gas (1 printed copy).
 - (vii) Southwestern Bell Telephone Company (1 printed copy).

At least six (6) days prior to the meeting of the planning and zoning commission at which the preliminary subdivision plat application is to be considered, each agency listed above other than town officials shall submit written recommendations concerning the plat application to the town administrator for consideration by the commission.

- (3) Report. A written report containing recommendations on the proposed preliminary subdivision plat shall be prepared by the town engineer, incorporating the comments of the town administrator and other officials and agencies to whom a request for

review has been made. The report of the town engineer shall be submitted to the planning and zoning commission prior to the commission's review of the plat application. Any fee for reviewing the proposed plat application by the town engineer shall be charged to the applicant.

(d) Standards for approval. Neither the commission nor the council shall recommend approval of, approve or conditionally approve a preliminary subdivision plat unless the following standards have been met:

- (1) The plat conforms to approved zoning applications for the land subject to the preliminary subdivision plat and any conditions attached thereto.
- (2) The plat conforms to the goals and policies of the Sunnyvale Comprehensive Master Plan and the thoroughfare plan incorporated therein.
- (3) Easements or rights-of-way for all public water, sanitary sewer, roadway and drainage facilities have been designated.
- (4) Fire lanes access easements or street rights-of-way have been provided for access to all fire hydrants and fire department connections.
- (5) Easements have been designated for all landscaped buffers, public trails and open space.
- (6) The plat meets all other requirements of these subdivision and property development regulations.
- (7) Provision for public facilities adequate to serve the development of the property in accordance with article 10.300 of these regulations has been made.
- (8) Construction plans are complete and consistent with approved zoning applications and the preliminary subdivision plat.
- (9) For master plats, each phase of the development is to be supported by timely provision of adequate public facilities.
- (10) Payment of applicable fees and escrows has been made.

(e) Approval procedures.

- (1) Action by commission. The commission shall consider and take action on the preliminary subdivision plat application at a regularly scheduled or specially called meeting. Following review of application, the commission shall recommend approval of the application as submitted, approval of the application subject to conditions, or denial of the application. The action of the planning and zoning commission shall be noted on two (2) copies of the preliminary subdivision plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the applicant and the other retained in the files of the town staff. A notation of the action taken on each preliminary subdivision plat application and requisite reasons therefor shall be entered in the minutes of the planning and zoning commission.

- (2) Processing of plat following commission recommendation. Following action by the commission recommending approval, approval subject to conditions or denial of the preliminary subdivision plat application, the town administrator shall place the application on the agenda of a regularly scheduled or specially called meeting of the town council for review. The preliminary subdivision plat application, together with the recommendations established by the planning and zoning commission, shall be forwarded to the town council for its consideration. Six (6) additional copies of the application shall be submitted to the town council through the town administrator not less than fifteen (15) days prior to the town council meeting at which the plat is to be considered. The applicant's failure to have a representative at the meeting shall be grounds for disapproval of the application.
- (3) Withdrawal of plat. Following a recommendation of conditional approval or denial of the preliminary subdivision plat application by the commission, the applicant may elect within five (5) working days of the commission's action to withdraw the plat application in order to prepare amendments or modifications responsive to the commission's recommendation. Written notice of withdrawal shall be sent to the town administrator within such period. In such event, the town administrator shall not schedule the plat application for consideration by the town council. Upon resubmission of the modified preliminary subdivision plat application, the plat shall be considered by the commission as a new application.
- (4) Council action. After review of the preliminary subdivision plat application, all staff reports, the commission's recommendations and the record of proceedings before the commission, and following consideration of all materials presented at the public meeting, the town council shall approve, approve subject to conditions, or deny the preliminary subdivision plat application. The action of the council shall be noted on two (2) copies of the preliminary subdivision plat. One (1) copy shall be returned to the applicant and the other retained in the town files.
- (5) Conditions. In order to assure that the preliminary subdivision plat application is in compliance with standards for approval, the commission in its recommendation to the council or the council in taking action on the application may identify requirements or attach conditions to be satisfied prior to final subdivision plat approval.
- (f) Effect of council action.
 - (1) Approval or conditional approval of a preliminary subdivision plat application by the council constitutes authorization for the town engineer to release construction plans following review and final approval. Upon release of the construction plans, the town engineer shall issue a certificate indicating the construction plans have been released and construction of the public improvements are thereafter authorized and that grading by the property owner may commence. Additional certificates may be issued by the town engineer authorizing the construction of private utilities on a phased schedule.
 - (2) Approval of a preliminary subdivision plat application also authorizes the property owner, upon fulfillment of all requirements and conditions of approval, to submit an application for final plat approval. Conditional approval of the preliminary plat by the town council, however, shall not constitute approval of the final plat.

- (3) If the town council denies the preliminary subdivision plat application, the applicant may not file a substantially similar application for a period of six (6) months following such denial.
- (g) Amendments to preliminary plat.
- (1) Proposed amendments. At any time following approval of a preliminary subdivision plat application by the town council, and before the expiration of such approval, a property owner may request an amendment.
 - (A) A minor amendment shall include minor changes of street and alley alignments, lengths, and paving details, the adjustment of lot lines not resulting in new lots, and variation from other details of the original preliminary plat as may be designated by the planning and zoning commission, provided that such changes comply with these regulations. Major amendments include all other proposed changes.
 - (B) The commission may approve or deny a minor amendment subject to the standards in these regulations. Major amendments shall be approved under the same procedures and standards required for approval of the original preliminary subdivision plat application.
 - (2) Approval. The commission shall recommend and the council shall approve, conditionally approve or deny any proposed major amendment and may make any modifications to the terms and conditions of preliminary subdivision plat approval reasonably related to the proposed amendment.
 - (3) Retaining previous approval. Unless the previous preliminary subdivision plat has been withdrawn, if the applicant is unwilling to accept the proposed amendment under the terms and conditions required by the town, the applicant may withdraw the proposed amendment and the previously approved preliminary subdivision plat shall remain in effect, subject to all conditions of approval and subject to expiration dating from the original approval.
- (h) Expiration of approval, extension and reinstatement procedure.
- (1) Expiration of preliminary subdivision plat. Unless a shorter time is required by the town's zoning regulations or by conditions attached to the original approval of the application, the approval of a preliminary subdivision plat application shall remain in effect for a period of two (2) years from the date that the application was approved or conditionally approved by the town council, during which period the applicant shall submit and receive approval for a final subdivision plat for the land subject to the preliminary subdivision plat. If a final subdivision plat application has not been approved within two-year period, the preliminary subdivision plat approval shall expire and such plat shall be null and void. Thereafter, the property owner shall be required to obtain approval for a new preliminary subdivision plat subject to the then existing Sunnyvale zoning, subdivision and property development regulations prior to development of the land.
 - (2) Master plats. An application for final subdivision plat shall be submitted and approved for the initial phase of an approved master plat within two years from the

date the master plat was approved or conditionally approved by the town council. Thereafter, for each subsequent phase of the development, an application for final subdivision plat shall be submitted and approved within two years from the date the preceding phase of the master plat was approved or conditionally approved by the town council. If a final subdivision plat application has not been approved within such two-year period for any phase of the master plat, preliminary subdivision plat approval for such phase and all succeeding phases shall expire and such preliminary subdivision plats shall be null and void. Thereafter, the property owner shall be required to obtain approval for a new preliminary subdivision plat for all such expired phases of the original master plat, subject to the then existing Sunnyvale zoning, subdivision and property development regulations prior to development of the land.

- (3) Extension of approval. At least sixty (60) days prior to the expiration of approval for the preliminary subdivision plat, the property owner may petition the town council to extend or reinstate the approval. Such petition shall be considered and decided at a public meeting of the council prior to expiration of the preliminary subdivision plat.
 - (A) In determining whether to grant such request, the council shall take into account the reasons for delay in development of the land, the ability of the property owner to comply with any conditions attached to the original approval and the extent to which newly adopted subdivision and property development regulations shall apply to the plat. The council shall extend the plat or deny the request, in which instance the plat shall expire in accordance with this section.
 - (B) The council may extend the time for expiration of the plat for a period not to exceed one (1) year.

Sec. 10.307 Procedure for final subdivision plat approval

- (a) Purpose and applicability.
 - (1) Purpose. The purpose of a final subdivision plat is to enable recordation of the subdivision of property that includes the elements and is in compliance with the requirements of Tex. Loc. Gov't Code ch. 212 and that meets the requirements of these subdivision and property development regulations.
 - (2) Applicability. A final subdivision plat shall be required for all subdivisions of property.
- (b) Timing of public improvements.
 - (1) Unless the town council authorizes deferral of such obligations pursuant to subsection (2), all public improvements serving a subdivision shall be installed, offered for dedication and accepted by the town prior to approval of the final subdivision plat by the council. All landscaping, buffering, screening and erosion control measures shall be completed and be in good condition as determined by the town.
 - (2) The town council upon petition by the applicant, or upon its own motion, may permit or require the deferral of the construction of public improvements if, in its sole

judgment, deferring the construction would not result in any harm to the public, or offer significant advantage in coordinating the site's development with adjacent properties and off-site public improvements. If the council authorizes deferral of construction of some or all public improvements required to support the subdivision, provision for constructing and assuring construction of such improvements shall be made in accordance with article 10.400 prior to the approval of the final subdivision plat by the council.

(c) Application requirements. Twenty-five (25) copies of the final subdivision plat, together with a reproducible transparent drawing, prepared to a scale of 1"=100' or larger, shall be submitted to the town administrator, and shall be accompanied by the same number of copies of additional documents set forth in subsection (2), unless otherwise provided therein. The final subdivision plat shall be prepared by or under the supervision of a registered professional land surveyor in the state and shall bear his/her seal, signature and date on each sheet. No application for a final subdivision plat shall be certified as complete by the town administrator unless the application is accompanied by the following:

(1) Final subdivision plat contents. When more than one sheet is used for a plat, a key map showing the entire subdivision at smaller scale with block numbers and street names shall be shown on one of the sheets or on a separate sheet of the same size. The final subdivision plat shall contain the following graphic information:

(A) All requirements set forth for preliminary subdivision plats in section 10.306(b)(1), except the following:

(i) Existing or proposed buildings and utilities.

(ii) Physical features.

(iii) Contours.

(B) The name of the owner and/or subdivider and of the surveyor responsible for the plat and the following language:

Notice: Selling a portion of this addition by metes and bounds is a violation of the town ordinance and state law and subject to fines and withholding of utilities and building permits.

(C) The name of the subdivision or development and adjacent subdivisions or developments, the names of streets (to conform wherever possible to existing street names) and number of lots and blocks, in accordance with a systematic arrangement. In case of branching streets, the lines of departure shall be indicated.

(D) An accurate boundary survey of the property, with bearings and distances, referenced to survey lines and established subdivisions or developments, and showing the lines of adjacent lands and the lines of adjacent streets and alleys, with their width and names. Street, alley and lot lines in adjacent subdivisions or developments shall be shown in dashed lines. The bearing system used for the plat shall be shown.

- (E) Location of proposed lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimal fractions of feet, with the length of radii and arcs of all curves, all angles, and with all other engineering information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points. The plat shall be marked with a notation indicating formal offers of dedication.
- (F) The location of building lines on front and side streets and the location of utility easements.
- (G) The accurate location, material, and size of all monuments approved by the town engineer. For all subdivisions or developments, global positioning systems (GPS) shall be used to establish the location of a minimum of two corners of the subdivision. The establishing of the location of one additional monument by GPS may be required for each additional twenty acres or fraction thereof for developments that are larger than twenty acres. These monuments shall be tied vertically and horizontally to the town's existing GPS coordinate system. All GPS coordinates shall be determined such that the maximum error does not exceed 0.05 feet. Elevations and the location of all other subdivision corner monuments shall be established to at least third order accuracy.
- (H) The following certificates shall be placed on the plat in a manner that will allow them to be clearly visible on the final plat.

RECOMMENDED FOR APPROVAL BY THE PLANNING AND ZONING
 COMMISSION OF SUNNYVALE, TEXAS, on the ____ day
 of _____, 20__.

ATTEST:

 Chairman

 Town Secretary

APPROVED BY THE TOWN COUNCIL OF SUNNYVALE, TEXAS, on the
 day of _____, 20__.

ATTEST:

 Mayor

 Town Secretary

(2) Accompanying documents.

- (A) An instrument of dedication shall be provided that is signed and acknowledged by the owner or owners and by all other parties who have a mortgage or lien interest in the property, showing all restrictions, reservations and/or easements, if any, to be imposed and reserved in connection with the addition. Easements shall be provided for all landscaped areas, open space areas, public trails, utilities and drainage ways, whether within the platted area or off-site, that will allow but not require the town to maintain these areas.

- (B) A certificate of dedication shall be provided incorporating irrevocable offers of dedication to the public of all streets, public highways, alleys, parks, easements, and other land intended for public use, signed by the owner or owners and by all other parties who have a mortgage or lien interest in the property. The certificate of dedication shall incorporate the standard easement language of the town as jointly prepared by the town attorney and the town engineer. All deed restrictions that are to be filed with the plat shall be submitted with the final plat.
 - (C) A tax certificate showing that all taxes then due have been paid on the property shall be provided.
 - (D) Certification shall be provided by a surveyor, duly licensed by the state, that the plat represents a survey be made, and that all the necessary survey monuments are correctly shown thereon, in accordance with section 10.501(e).
 - (E) Three (3) sets of final construction plans shall be provided. Unless a public improvement agreement has been executed in accordance with section 10.401, the final subdivision plat also shall be accompanied by one Mylar reproducible and electronic set of "record drawings" prepared in accordance with section 10.403 and meeting the town engineering design manual of the construction plans for all water, sanitary sewer, drainage and paving facilities and any other public improvements required to serve the subdivision.
 - (F) A certified grading plan prepared by a registered professional land surveyor showing finished grade elevations and demonstrating that the completed grading is consistent with the approved grading plan shall be provided.
 - (G) Certification or approval of the plat by all electric, gas and telephone companies that will serve the development shall be provided and that all easements that are required by these utility companies have been described on the plat.
 - (H) If a public improvement agreement is proposed in lieu of construction of public facilities, a complete draft of the public improvement agreement prepared in accordance with section 10.401 of these regulations, together with a security authorized in section 10.401 in a form satisfactory to the town attorney and in an amount established by the town council upon recommendation of the town engineer, shall be provided. The agreement shall include a provision that the property owner shall comply with all terms of the final subdivision plat approved by the council.
 - (I) A plat fee, together with other authorized fees applicable to the development, in an amount as set by the town council.
- (3) Format for documents. Unless otherwise specified, all documents shall be submitted in both printed and electronic versions as required by section 10.306(b).

- (d) Staff review and distribution.
- (1) Determination of completeness. The town administrator or his designee shall determine whether the final subdivision plat application is complete within ten (10) working days of the date the application is submitted. The administrator shall provide the applicant with written notification of his determination. If the application is incomplete, the administrator shall return the application to the applicant with an explanation of additional items or documents that must be provided before the application can be considered complete. If the application is complete, the administrator shall file the application with the commission for decision and place the application on the agenda of a regularly scheduled or specially called meeting of the commission.
 - (2) Distribution for review. Final subdivision plats and other required documents shall be distributed by the town administrator to the following:
 - (A) Planning and zoning commission (7 printed copies). Electronic copies are not required.
 - (B) Town council (6 printed copies). Electronic copies are not required.
 - (C) Town administrator (6 printed copies, 1 electronic copy and one 11"x17" reduced scale print).
 - (D) Town engineer (2 printed copies, 1 electronic copy and one 11"x17" reduced scale print)
 - (3) Report. A written report containing recommendations on the proposed final subdivision plat shall be prepared by the town engineer, incorporating the comments of the town administrator and other officials. The report of the town engineer shall be submitted to the planning and zoning commission prior to the commission's review of the plat application. Any fee for reviewing the proposed plat application by the town engineer shall be charged to the applicant.
- (e) Standards for approval. Neither the commission nor the council shall recommend approval of or approve a final subdivision plat unless the following standards have been met:
- (1) The plat substantially conforms to the preliminary subdivision plat, if a preliminary subdivision plat was required, including master plat requirements for phasing and provision of adequate public facilities.
 - (2) The plat satisfies conditions attached to approval of the preliminary subdivision plat.
 - (3) Required public improvements have been constructed and accepted or a public improvement agreement has been accepted by the town providing for the subsequent completion of improvements.
 - (4) The plat conforms to approved zoning applications for the land subject to the final subdivision plat and any conditions attached thereto.

- (5) The plat meets all other requirements of these subdivision and property development regulations.
 - (6) Payment of all fees has been made.
- (f) Approval procedures.
- (1) Action by commission. The commission shall consider and take action on the final subdivision plat application at a regularly scheduled or specially called meeting. Following review of the application, the commission shall recommend approval or denial of the application. In denying the application, the commission may identify conditions that, if satisfied, would lead to approval of the application. The action of the planning and zoning commission shall be noted on two (2) copies of the final subdivision plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the applicant and the other retained in the files of the town staff. A notation of the action taken on each final subdivision plat application and requisite reasons therefor shall be entered in the minutes of the planning and zoning commission.
 - (2) Processing of plat following commission action. Following action by the commission recommending approval or denial of the final subdivision plat application, the town administrator shall place the application on the agenda of a regularly scheduled or specially called meeting of the town council for review. The final subdivision plat application, together with the recommendations established by the planning and zoning commission, shall be forwarded to the town council for its consideration. Seven (7) additional copies of the final subdivision application shall be submitted to the town council through the town administrator not less than fifteen (15) days prior to the town council meeting at which the plat is to be considered. The applicant's failure to have a representative at the meeting shall be grounds for disapproval of the application.
 - (3) Withdrawal of plat. Following a recommendation of denial of the final subdivision plat application by the commission, the applicant may elect within five (5) working days of the commission's action to withdraw the plat application in order to prepare amendments or modifications responsive to the commission's recommendation. Written notice of withdrawal shall be sent to the town administrator within such period. In such event, the town administrator shall not schedule the plat application for consideration by the town council. Upon resubmission of the modified final subdivision plat application, the plat shall be considered by the commission as a new application.
 - (4) Council action. After review of the final subdivision plat application, all staff reports, the commission's recommendations and the record of proceedings before the commission, and following consideration of all materials presented at the public meeting, the town council shall approve, deny or deny subject to reconsideration the final subdivision plat application. In denying the application subject to reconsideration, the council shall identify conditions that, if satisfied, would lead to approval of the application. The action of the council shall be noted on two (2) copies of the final plat. One (1) copy shall be returned to the applicant and the other retained in the town files. Notation of the action taken on the final subdivision plat application and the requisite reasons therefor shall be entered in the minutes of the council.

- (g) Effect of council action.
- (1) Effect of approval. Approval of a final subdivision plat application by the town council shall serve as certification that the plat complies with these subdivision and property development regulations. Approval of the application also shall authorize the mayor to execute any public improvement agreement submitted with the application. The owner shall be notified in writing that the final subdivision plat has been approved.
 - (2) Right to record. An approved and signed final plat may be filed with the County as a record of the subdivision of land, and the dedication of rights-of-way, easements and other covenants and may be used to reference lots and interests in property thereon defined for the purpose of conveyance and development as allowed by these regulations.
 - (3) Denial with reconsideration. Denial of a final subdivision plat application by the town council subject to reconsideration shall authorize the applicant to file a modified application with the town council without prior review by the commission. In such event, the official filing date shall be the date the date on which the town administrator certifies that the modified final subdivision plat application is complete.
 - (4) Denial without reconsideration. Denial of a final subdivision plat application by the town council without recourse to reconsideration shall require the applicant to prepare a new application in accordance with the requirements and subject to the procedures of this section, provided that such application is finally approved prior to expiration of the approved preliminary subdivision plat.
- (h) Signing and recording of final plat.
- (1) When a public improvement agreement and security are required, the mayor and the town engineer shall endorse approval on the final plat after the agreement and security have been approved by the council, and all the conditions pertaining to the final plat have been satisfied.
 - (2) When installation of public improvements is required prior to approval of the final plat, the mayor and engineer shall endorse approval on the final plat after all conditions of approval have been satisfied and all public improvements satisfactorily completed. There shall be written evidence that the required public facilities have been installed in a manner satisfactory to the town as shown by a certificate signed by the town engineer stating that the necessary dedication of public lands and installation of public improvements has been accomplished.
 - (3) It shall be the responsibility of the town administrator to file the final plat with the county clerk. Simultaneously with the filing of the final plat, the town administrator shall record such other agreements of dedication and legal documents as shall be required to be recorded by the town attorney. The final plat, bearing all required signatures, shall be recorded after final approval and within ten (10) working days of its receipt. One (1) copy of the recorded final plat will be forwarded to the property owner by the town administrator.

- (4) A developer or subdivider, at his/her option, may obtain approval of a portion or a section of a subdivision provided he/she meets all the requirements of this article with reference to such portion or section in the same manner as is required for a complete subdivision. In the event a subdivision and the final plat thereof is approved by the town council in sections, each Final Plat of each section is to carry the name of the entire subdivisions, but is to bear a distinguishing letter, number or subtitle. Block numbers shall run consecutively throughout the entire subdivision, even though such subdivision may be finally approved in sections.

Sec. 10.308 Procedures for preliminary development plat approval

(a) Purpose and applicability.

- (1) Purpose. The purpose of the preliminary development plat is to assure conformity of the proposed development with requirements and conditions imposed in approved zoning applications for the land subject to the proposed plat and to evaluate construction plans for public improvements or to provide adequate security for construction of the same.
- (2) Applicability. A preliminary development plat shall be required for any development that is specified in section 10.104(a)(2).

(b) Application requirements. Fifteen (15) copies of the proposed preliminary development plat shall be submitted to the town administrator, and shall be accompanied by the same number of copies of additional documents set forth in subsection (2), unless otherwise provided therein. The preliminary development plat shall be prepared by or under the supervision of a registered professional land surveyor in the state and shall bear his/her seal, signature and date on each sheet. No application for a preliminary development plat shall be certified as complete by the town administrator unless the application is accompanied by the following:

- (1) Preliminary development plat contents. The proposed preliminary development plat shall be submitted on sheets a maximum size of twenty-four (24) inches by thirty-six (36) inches and drawn to a scale of fifty (50) feet to the inch, or in the case of small developments, twenty (20) feet to the inch. In cases of large developments which would exceed the dimensions of the sheet at a fifty (50) foot scale, preliminary development plats may be one hundred (100) feet to the inch. The plat shall contain the following graphic information:
 - (A) The boundary lines with accurate distances and bearings and the exact location and width of all existing or recorded streets intersecting the boundary of the tract. The bearing system used for the plat shall be shown.
 - (B) True bearings and distances to the nearest established survey lines and established subdivisions and additions, which shall be accurately described on the plat.
 - (C) Accurate ties to the abstract and survey corners as required by Texas surveying law and the amount of acreage in each abstract shown.
 - (D) The exact layout including:

- (i) Proposed streets and alleys with names, sidewalks, easements, blocks, parks, etc., with principal dimensions.
- (ii) The length of all arcs, radii, internal angles, points of curvature, length, and bearings of the tangents.
- (iii) All easements for rights-of-way provided for public services or utilities and any limitations of the easements.
- (iv) Lot lines with accurate dimensions in feet and hundredths of feet and with bearings and angles to street alley lines.
- (v) The exact location of all contiguous property owned or controlled by the applicant. A separate drawing may be submitted for this purpose.
- (vi) The location of all existing property lines, buildings, sewer or water mains, fire hydrants, gas mains or other underground structures, easements of record or other existing features within the area proposed for development.
- (vii) A designation of the zoning district(s) for the land included within the development plat.
- (viii) All physical features of the property to be subdivided or developed, including location and size of all water courses, ravines, bridges, culverts, existing structures, drainage area in acres or acreage draining into the development, and other features pertinent to development. The outline of wooded areas or the location of important individual trees may be required.
- (ix) Covenants and restrictions - draft of any protective covenants whereby the subdivider proposes to regulate land use or development standards in the development.
- (x) The accurate outline of all property which is offered for dedication for public use with the purpose indicated thereon.
- (xi) The name and location of a portion of adjoining subdivisions or developments shall be drawn to the same scale and shown in dotted lines adjacent to the tract proposed for development in sufficient detail to show accurately the existing streets and alleys and other features that may influence the layout and development of the proposed development. Where adjacent land is not subdivided, the owner's name of the adjacent tract shall be shown.
- (xii) Front setback lines.
- (xiii) Special restrictions including, but not limited to, water line, sanitary sewer line, drainage, and landscape easements; fire lanes; screening; buffering; standard notes for floodway, if applicable; finished floor

elevation for lots adjacent to a floodway, within a floodplain or having an on-site sewerage facility; and other standard notes.

- (xiv) Contours at five (5) foot intervals, except on terrain with less than two (2) percent grade in which event contours at two (2) foot intervals are required.
 - (xv) Proposed name of the development.
 - (xvi) Name, address and phone number of the property owner and the name of the surveyor who prepared the plat.
 - (xvii) North arrow, scale, site location map and date.
 - (xviii) Certification by a surveyor to the effect that the plat represents a survey made by him and that all the monuments shown thereon actually exist, and that their location, size, and material description are correctly shown, and that the survey correctly shows the location of all visible easements and rights-of-way and all rights-of-way, easements and other matters of record affecting the property being platted.
 - (xix) A notation in the legend labeling the document "Preliminary Plat" and identifying the scale.
 - (xx) Designation of remainder tracts (shown outside the boundaries of the area to be platted).
- (2) Accompanying documents.
- (A) Preliminary plats shall be accompanied by a lot grading plan drawn at a scale of fifty (50) feet to one (1) inch. Lot grading plans shall clearly show drainage patterns and elevations sufficient to determine drainage patterns and finished grade slopes. Lot grading plans shall be consistent with any open space or reclamation plans approved under the zoning regulations.
 - (B) All other accompanying documents required for preliminary subdivision plats.
- (3) Format for documents. All documents shall be submitted using the format required for preliminary subdivision plats.
- (c) Staff review and distribution.
- (1) Determination of completeness. The town administrator or his designee shall determine whether the preliminary development plat application is complete within ten (10) working days of the date the application is submitted. The administrator shall provide the applicant with written notification of his determination. If the application is incomplete, the administrator shall return the application to the applicant with an explanation of additional items or documents that must be provided before the application can be considered complete. If the application is complete, the administrator shall file the application with the commission for decision and place the

application on the agenda of a regularly scheduled or specially called meeting of the commission.

- (2) Distribution for review. Preliminary development plats and other required documents shall be distributed by the town administrator as required for Preliminary Subdivision Plats.

At least six (6) days prior to the meeting of the planning and zoning commission at which the preliminary development plat application is to be considered, each agency listed above other than town officials shall submit written recommendations concerning the plat application to the town administrator for consideration by the commission.

- (3) Report. A written report containing recommendations on the proposed preliminary development plat shall be prepared by the town engineer, incorporating the comments of the town administrator and other officials and agencies to whom a request for review has been made. The report of the town engineer shall be submitted to the planning and zoning commission prior to the commission's review of the plat application. Any fee for reviewing the proposed plat application by the town engineer shall be charged to the applicant.

(d) Standards for approval. Neither the commission nor the council shall recommend approval of, approve or conditionally approve a preliminary development plat unless the following standards have been met:

- (1) The plat conforms to approved zoning applications for the land subject to the preliminary development plat and any conditions attached thereto.
- (2) The plat conforms to the goals and policies of the Sunnyvale Comprehensive Master Plan and the thoroughfare plan incorporated therein.
- (3) Easements or rights-of-way for all public water, sanitary sewer, roadway and drainage facilities have been designated.
- (4) Fire lanes access easements or street rights-of-way have been provided for access to all fire hydrants and fire department connections.
- (5) Easements have been designated for all landscaped buffers, public trails and open space.
- (6) The plat meets all other requirements of these subdivision and property development regulations.
- (7) Provision for public facilities adequate to serve the development of the property in accordance with article 10.300 of these regulations has been made.
- (8) Construction plans are complete and consistent with approved zoning applications and the preliminary development plat.
- (9) Payment of applicable fees and escrows has been made.

(e) Approval procedures.

- (1) Action by commission. The commission shall consider and take action on the preliminary development plat application at a regularly scheduled or specially called meeting. Following review of application, the commission shall recommend approval of the application as submitted, approval of the application subject to conditions, or denial of the application. The action of the planning and zoning commission shall be noted on two (2) copies of the preliminary development plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the applicant and the other retained in the files of the town staff. A notation of the action taken on each preliminary development plat application and requisite reasons therefor shall be entered in the minutes of the planning and zoning commission.
- (2) Processing of plat following commission recommendation. Following action by the commission recommending approval, approval subject to conditions or denial of the preliminary development plat application, the town administrator shall place the application on the agenda of a regularly scheduled or specially called meeting of the town council for review. The preliminary development plat application, together with the recommendations established by the planning and zoning commission, shall be forwarded to the town council for its consideration. Six (6) additional copies of the application shall be submitted to the town council through the town administrator not less than fifteen (15) days prior to the town council meeting at which the plat is to be considered. The applicant's failure to have a representative at the meeting shall be grounds for disapproval of the application.
- (3) Withdrawal of plat. Following a recommendation of conditional approval or denial of the preliminary development plat application by the commission, the applicant may elect within five (5) working days of the commission's action to withdraw the plat application in order to prepare amendments or modifications responsive to the commission's recommendation. Written notice of withdrawal shall be sent to the town administrator within such period. In such event, the town administrator shall not schedule the plat application for consideration by the town council. Upon resubmission of the modified preliminary development plat application, the plat shall be considered by the commission as a new application.
- (4) Council action. After review of the preliminary development plat application, all staff reports, the commission's recommendations and the record of proceedings before the commission, and following consideration of all materials presented at the public meeting, the town council shall approve, approve subject to conditions, or deny the preliminary development plat application. The action of the council shall be noted on two (2) copies of the preliminary development plat. One (1) copy shall be returned to the applicant and the other retained in the town files.
- (5) Conditions. In order to assure that the preliminary development plat application is in compliance with standards for approval, the commission in its recommendation to the council or the council in taking action on the application may identify requirements or attach conditions to be satisfied prior to final development plat approval.

(f) Effect of council action.

- (1) Approval or conditional approval of a preliminary development plat application by the council constitutes authorization for the town engineer to release construction plans following review and final approval. Upon release of the construction plans, the town engineer shall issue a certificate indicating the construction plans have been released and construction of the public improvements are thereafter authorized and that grading by the property owner may commence.
- (2) Approval of a preliminary development plat application also authorizes the property owner, upon fulfillment of all requirements and conditions of approval, to submit an application for final plat approval. Conditional approval of the preliminary plat by the town council, however, shall not constitute approval of the final plat.
- (3) If the town council denies the preliminary development plat application, the applicant may not file a substantially similar application for a period of six (6) months following such denial.

(g) Amendments to preliminary plat.

- (1) Proposed amendments. At any time following approval of a preliminary development plat application by the town council, and before the expiration of such approval, a property owner may request an amendment.
 - (A) A minor amendment shall include minor changes of street and alley alignments, lengths, and paving details, the adjustment of lot lines not resulting in new lots, and variation from other details of the original preliminary plat as may be designated by the planning and zoning commission, provided that such changes comply with these regulations. Major amendments include all other proposed changes.
 - (B) The commission may approve or deny a minor amendment subject to the standards in these regulations. Major amendments shall be approved under the same procedures and standards required for approval of the original preliminary development plat application.
- (2) Approval. The commission shall recommend and the council shall approve, conditionally approve or deny any proposed major amendment and may make any modifications to the terms and conditions of preliminary development plat approval reasonably related to the proposed amendment.
- (3) Retaining previous approval. Unless the previous preliminary development plat has been withdrawn, if the applicant is unwilling to accept the proposed amendment under the terms and conditions required by the town, the applicant may withdraw the proposed amendment and the previously approved preliminary development plat shall remain in effect, subject to all conditions of approval and subject to expiration dating from the original approval.

- (h) Expiration of approval, extension and reinstatement procedure.
- (1) Expiration of preliminary development plat. Unless a shorter time is required by the town's zoning regulations or by conditions attached to the original approval of the application, the approval of a preliminary development plat application shall remain in effect for a period of two (2) years from the date that the application was approved or conditionally approved by the town council, during which period the applicant shall submit and receive approval for a final development plat for the land subject to the preliminary development plat. If a final development plat application has not been approved within two-year period, the preliminary development plat approval shall expire and such plat shall be null and void. Thereafter, the property owner shall be required to obtain approval for a new preliminary development plat subject to the then existing Sunnyvale zoning, subdivision and property development regulations prior to development of the land.
 - (2) Extension of approval. At least sixty (60) days prior to the expiration of approval for the preliminary development plat, the property owner may petition the town council to extend or reinstate the approval. Such petition shall be considered and decided at a public meeting of the council prior to expiration of the preliminary development plat.
 - (A) In determining whether to grant such request, the council take into account the reasons for delay in development of the land, the ability of the property owner to comply with any conditions attached to the original approval and the extent to which newly adopted subdivision and property development regulations shall apply to the plat. The council shall extend the plat or deny the request, in which instance the plat shall expire in accordance with this section.
 - (B) The council may extend the time for expiration of the plat for a period not to exceed one (1) year.

Sec. 10.309 Procedure for final development plat approval

- (a) Purpose and applicability.
- (1) Purpose. The purpose of a final development plat is to enable recordation of the development of property that includes the elements and is in compliance with the requirements of Tex. Loc. Gov't Code Ch. 212 and that meets the requirements of these subdivision and property development regulations.
 - (2) Applicability. A final development plat shall be required for all property developments specified in section 10.104(a)(2).
- (b) Timing of public improvements.
- (1) Unless the town council authorizes deferral of such obligations pursuant to subsection (2), all public improvements serving a development shall be installed, offered for dedication and accepted by the town prior to approval of the final development plat by the council. All landscaping, buffering, screening and erosion control measures shall be completed and be in good condition as determined by the town.

- (2) The town council, upon petition by the applicant or upon its own motion, may permit or require the deferral of the construction of public improvements if, in its sole judgment, deferring the construction would not result in any harm to the public, or offer significant advantage in coordinating the site's development with adjacent properties and off-site public improvements. If the council authorizes deferral of construction of some or all public improvements required to support the development, provision for constructing and assuring construction of such improvements shall be made in accordance with article 10.400 prior to the approval of the final development plat by the council.
- (c) Application requirements. Twenty-five (25) copies of the final development plat, together with a reproducible transparent drawing, prepared to a scale of 1"= 50' or larger, shall be submitted to the town administrator, and shall be accompanied by the same number of copies of additional documents set forth in subsection (2), unless otherwise provided therein. The final development plat shall be prepared by or under the supervision of a registered professional land surveyor in the state and shall bear his/her seal, signature and date on each sheet. No application for a final development plat shall be certified as complete by the town administrator unless the application is accompanied by the following:
- (1) Final development plat contents. When more than one sheet is used for a plat, a key map showing the entire development at smaller scale with street names shall be shown on one of the sheets or on a separate sheet of the same size. The final development plat shall contain the following graphic information:
- (A) All requirements set forth for preliminary development plats in section 10.308(b)(1), except the following:
- (i) Existing or proposed buildings and utilities.
 - (ii) Physical features.
 - (iii) Contours.
- (B) The name of the owner and/or subdivider and of the surveyor responsible for the plat and the following language:
- Notice: Selling a portion of this addition by metes and bounds is a violation of the town ordinance and state law and is subject to fines and withholding of utilities and building permits.
- (C) The name of the development and adjacent subdivisions or developments, the names of streets (to conform wherever possible to existing street names) and number of lots and blocks, in accordance with a systematic arrangement. In case of branching streets, the lines of departure shall be indicated.
- (D) An accurate boundary survey of the property, with bearings and distances, referenced to survey lines and established subdivisions or developments, and showing the lines of adjacent lands and the lines of adjacent streets and alleys, with their width and names. Street, alley and lot lines in adjacent subdivisions or developments shall be shown in dashed lines. The bearing system used for the plat shall be shown.

- (E) Location of proposed development, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimal fractions of feet, with the length of radii and of arcs of all curves, all angles, and with all other engineering information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points. The plat shall be marked with a notation indicating formal offers of dedication.
- (F) The location of building lines on front and side streets and the location of utility easements.
- (G) The accurate location, material, and size of all monuments approved by the town engineer. For all developments, global positioning systems (GPS) shall be used to establish the location of a minimum of two corners of the development. The establishing of the location of one additional monument by GPS may be required for each additional twenty acres or fraction thereof for developments that are larger than twenty acres. These monuments shall be tied vertically and horizontally to the town's existing GPS coordinate system. All GPS coordinates shall be determined such that the maximum error does not exceed 0.05 feet. Elevations and the location of all other development corner monuments shall be established to at least third order accuracy.
- (H) The following certificates shall be placed on the plat in a manner that will allow them to be clearly visible on the final plat.

RECOMMENDED FOR APPROVAL BY THE PLANNING AND ZONING COMMISSION OF SUNNYVALE, TEXAS, on the _____ day of _____, 20__.

ATTEST:

Chairman

Town Secretary

APPROVED BY THE TOWN COUNCIL OF SUNNYVALE, TEXAS, on the day of _____, 20__.

ATTEST:

Mayor

Town Secretary

(2) Accompanying documents.

- (A) An instrument of dedication shall be provided that is signed and acknowledged by the owner or owners and by all other parties who have a mortgage or lien interest in the property, showing all restrictions, reservations and/or easements, if any, to be imposed and reserved in connection with the addition. Easements shall be provided for all landscaped areas, open space areas, public trails, utilities and drainage ways, whether within the platted area or off-site, that will allow but not require the town to maintain these areas.

- (B) A certificate of dedication shall be provided incorporating irrevocable offers of dedication to the public of all streets, public highways, alleys, parks, easements, and other land intended for public use, signed by the owner or owners and by all other parties who have a mortgage or lien interest in the property. The certificate of dedication shall incorporate the standard easement language of the town as jointly prepared by the town attorney and the town engineer. All deed restrictions that are to be filed with the plat shall be submitted with the final plat.
 - (C) A tax certificate showing that all taxes then due have been paid on the property shall be provided.
 - (D) Certification shall be provided by a surveyor, duly licensed by the state, that the plat represents a survey he made, and that all the necessary survey monuments are correctly shown thereon, in accordance with section 10.501(e).
 - (E) Three (3) sets of final construction plans shall be provided. Unless a public improvement agreement has been executed in accordance with section 10.401, the final development plat also shall be accompanied by one Mylar reproducible and electronic set of "record drawings" prepared in accordance with section 10.403 and meeting the Town of Sunnyvale engineering design manual of the construction plans for all water, sanitary sewer, drainage and paving facilities and any other public improvements required to serve the development.
 - (F) A certified grading plan prepared by a registered professional land surveyor showing finished grade elevations and demonstrating that the completed grading is consistent with the approved grading plan shall be provided.
 - (G) Certification or approval of the plat by all electric, gas and telephone companies that will serve the development shall be provided and that all required easements have been described on the plat.
 - (H) If a public improvement agreement is proposed in lieu of construction of public facilities, a complete draft of the public improvement agreement prepared in accordance with section 10.401 of these regulations, together with a security authorized in section 10.401 in a form satisfactory to the town attorney and in an amount established by the town council upon recommendation of the town engineer, shall be provided. The agreement shall include a provision that the property owner shall comply with all terms of the final development plat approved by the council.
 - (I) A plat fee, together with other authorized fees applicable to the development, in an amount as set by the town council.
- (3) Format for documents. Unless otherwise specified, all documents shall be submitted in both printed and electronic versions as required for preliminary subdivision plats.

- (d) Staff review and distribution.
- (1) Determination of completeness. The town administrator or his designee shall determine whether the final development plat application is complete within ten (10) working days of the date the application is submitted. The administrator shall provide the applicant with written notification of his determination. If the application is incomplete, the administrator shall return the application to the applicant with an explanation of additional items or documents that must be provided before the application can be considered complete. If the application is complete, the administrator shall file the application with the commission for decision and place the application on the agenda of a regularly scheduled or specially called meeting of the commission.
 - (2) Distribution for review. Final development plats and other required documents shall be distributed by the town administrator to the following:
 - (A) Planning and zoning commission (7 printed copies). Electronic copies are not required.
 - (B) Town council (6 printed copies). Electronic copies are not required.
 - (C) Town administrator (6 printed copies, 1 electronic copy and one 11"x17" reduced scale print)
 - (D) Town engineer (2 printed copies, 1 electronic copy and one 11"x17" reduced scale print).
 - (3) Report. A written report containing recommendations on the proposed final development plat shall be prepared by the town engineer, incorporating the comments of the town administrator and other officials. The report of the town engineer shall be submitted to the planning and zoning commission prior to the commission's review of the plat application. Any fee for reviewing the proposed plat application by the town engineer shall be charged to the applicant.
- (e) Standards for approval. Neither the commission nor the council shall recommend approval of or approve a final development plat unless the following standards have been met:
- (1) The plat substantially conforms to the preliminary development plat, if a preliminary development plat was required, including provision of adequate public facilities.
 - (2) The plat satisfies conditions attached to approval of the preliminary development plat.
 - (3) Required public improvements have been constructed and accepted or a public improvement agreement has been accepted by the town providing for the subsequent completion of improvements.
 - (4) The plat conforms to approved zoning applications for the land subject to the final development plat and any conditions attached thereto.

- (5) The plat meets all other requirements of these subdivision and property development regulations.
- (6) Payment of all fees has been made.
- (f) Approval procedures.
 - (1) Action by commission. The commission shall consider and take action on the final development plat application at a regularly scheduled or specially called meeting. Following review of the application, the commission shall recommend approval or denial of the application. In denying the application, the commission may identify conditions that, if satisfied, would lead to approval of the application. The action of the planning and zoning commission shall be noted on two (2) copies of the final development plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the applicant and the other retained in the files of the town staff. A notation of the action taken on each final development plat application and requisite reasons therefor shall be entered in the minutes of the planning and zoning commission.
 - (2) Processing of plat following commission action. Following action by the commission recommending approval or denial of the final development plat application, the town administrator shall place the application on the agenda of a regularly scheduled or specially called meeting of the town council for review. The final development plat application, together with the recommendations established by the planning and zoning commission, shall be forwarded to the town council for its consideration. Seven (7) additional copies of the final development application shall be submitted to the town council through the town administrator not less than fifteen (15) days prior to the town council meeting at which the plat is to be considered. The applicant's failure to have a representative at the meeting shall be grounds for disapproval of the application.
 - (3) Withdrawal of plat. Following a recommendation of denial of the final development plat application by the commission, the applicant may elect within five (5) working days of the commission's action to withdraw the plat application in order to prepare amendments or modifications responsive to the commission's recommendation. Written notice of withdrawal shall be sent to the town administrator within such period. In such event, the town administrator shall not schedule the plat application for consideration by the town council. Upon resubmission of the modified final development plat application, the plat shall be considered by the commission as a new application.
 - (4) Council action. After review of the final development plat application, all staff reports, the commission's recommendations and the record of proceedings before the commission, and following consideration of all materials presented at the public meeting, the town council shall approve, deny or deny subject to reconsideration the final development plat application. In denying the application subject to reconsideration, the council shall identify conditions that, if satisfied, would lead to approval of the application. The action of the council shall be noted on two (2) copies

of the final plat. One (1) copy shall be returned to the applicant and the other retained in the town files. Notation of the action taken on the final development plat application and the requisite reasons therefor shall be entered in the minutes of the council.

(g) Effect of council action.

- (1) Effect of approval. Approval of a final development plat application by the town council shall serve as certification that the plat complies with these subdivision and property development regulations. Approval of the application also shall authorize the mayor to execute any public improvement agreement submitted with the application. The owner shall be notified in writing that the final development plat has been approved.
- (2) Right to record. An approved and signed final plat may be filed with the county as a record of the dedication of rights-of-way, easements and other covenants and may be used to reference interests in property thereon defined for the purpose of conveyance and development as allowed by these regulations.
- (3) Denial with reconsideration. Denial of a final development plat application by the town council subject to reconsideration shall authorize the applicant to file a modified application with the town council without prior review by the commission. In such event, the official filing date shall be the date the date on which the town administrator certifies that the modified final development plat application is complete.
- (4) Denial without reconsideration. Denial of a final development plat application by the town council without recourse to reconsideration shall require the applicant to prepare a new application in accordance with the requirements and subject to the procedures of section 10.307, provided that such application is finally approved prior to expiration of the approved preliminary development plat.

(h) Signing and recording of final plat. Signing and recording final development plats shall be subject to the procedures for final subdivision plats.

Sec. 10.310 Petition for hardship exception

(a) Petition for exception. The applicant for a subdivision application or the owner of the property subject thereto may petition the town council for exception of any standard of this subdivision ordinance or the imposition of a condition related thereto, where the petitioner alleges that unreasonable hardships will result from strict compliance with such standard or condition.

(b) Procedures. A petition for an exception shall be submitted in writing to the town administrator (or his designee) by the petitioner at the time the subdivision application is filed for the consideration by the planning and zoning commission. The petition shall state fully the grounds for the application, and all of the facts relied upon by the petitioner. The town staff shall prepare a report evaluating the request for exception and make its recommendation to the commission. The commission shall make its recommendation and the town council shall finally act on the petition for an exception in conjunction with the action taken by each on the subdivision application.

(c) Criteria for approval. The town council, following recommendation by the planning and zoning commission, may grant or conditionally grant the exception only upon finding that:

- (1) Granting the exception will not be detrimental to the public safety, health or welfare, and will not be injurious to other property;
- (2) The conditions upon which the request for a exception is based are unique to the property for which the exception is sought, and are not applicable generally to other property;
- (3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the standard is strictly applied;
- (4) The exception will not result in variation of the provisions of the zoning ordinance or comprehensive plan, future land use plan, thoroughfare plan, water and wastewater master plans, or other adopted plans; and
- (5) The exception is not contrary to the intent and purpose of these subdivision regulations.

(d) Conditions. In approving a exception, the town council may require such conditions as will, in its judgment, secure substantially the purposes described in section 10.102.

Sec. 10.311 Petition for relief

(a) Petition for relief. The applicant for a subdivision application or the owner of the property subject thereto may petition the town council for relief from the application of any provision of this subdivision chapter that requires dedication of an interest in land for rights-of-way or construction of capital improvements in order to provide adequate water, wastewater, roadway or drainage facilities to serve the proposed subdivision, or the imposition of a condition related thereto. The petition must allege that application of the provision or the imposition of conditions relating to the provision and requiring such dedication of land or construction of capital improvements is not roughly proportional to the nature and extent of the impacts created by the proposed development on the town's water, wastewater, roadway or drainage facilities system, as the case may be, or does not reasonably benefit the proposed development. The petition may also allege that the application of the provision or the imposition of conditions relating to the provision deprives the applicant or the property owner of the economically viable use of the land, or of a vested property right.

- (1) Prior to decision by the commission on a subdivision application subject to this section, an applicant who proposes to challenge the application of a provision that requires dedication of an interest in land for rights-of-way or construction of capital improvements to serve the proposed subdivision, or the imposition of conditions related thereto, shall file a notice of intent to appeal such determination to the town council. Approval of such subdivision application by the commission shall include a condition that approval is subject to the council's decision on the petition for relief.
- (2) If a petition for a exception from the requirements of this subdivision chapter pursuant to section 10.310 has been filed by the petitioner, the petition for relief may be submitted in conjunction with the council's review of such request.

- (3) If the subdivision application otherwise may be finally decided by an administrative officer or the commission, the petition for relief shall be submitted by the petitioner within ten (10) days of receiving the staff report applying the requirement or imposing the condition.
- (b) Study required. The applicant or property owner shall provide a study in support of the petition for relief that includes the following information:
- (1) Total capacity of the town's water, wastewater, roadway or drainage facilities system to be utilized by the proposed development, employing standard measures of capacity and equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the development. If the subdivision application is part of a phased development project, such information also shall be provided for the entire development proposed, including any phases already developed.
 - (2) Total capacity to be supplied to the town's water, wastewater, roadway or drainage facilities system by the proposed dedication of an interest in land for rights-of-way or construction of capital improvements. If the subdivision application is part of a phased development project, the information shall include any capacity supplied by prior dedications or construction of capital improvements.
 - (3) The study supplied by the petitioner shall be evaluated by town staff, who shall make its recommendation to the town council based upon the information contained in the study and any additional information related to the petition produced by the staff. In evaluating the petition, the staff shall take into account the maximum amount of any impact fees to be assessed against the development, as well as any traffic impact, drainage or other adequate facilities studies evaluating the impacts of the development or similar developments on the town's water, wastewater, roadway or drainage facilities systems.
- (c) Action on petition. The town council shall consider the petition and determine whether the application of the provision requiring dedication of an interest in land for rights-of-way or construction of capital improvements in order to provide adequate water, wastewater, roadway or drainage facilities to serve the proposed subdivision, or the imposition of a condition related thereto, is roughly proportional to the nature and extent of the impacts created by the proposed development on such public facilities systems, and reasonably benefits the development. In making such determination, the town council shall consider the evidence submitted by the applicant or property owner and the staff's recommendation. If the petition also alleges that the proposed dedication or construction requirements constitute a deprivation of the economically viable use of the land or of a vested property right, the council also shall resolve such issues. Following such determinations, the council may take any of the following actions:
- (1) Deny the petition for relief, and impose the requirement or condition; or
 - (2) Deny the petition for relief, upon finding that the proposed dedication or construction requirements are inadequate to offset the impacts of the development on community water, wastewater, roadway or drainage facilities, and either deny the subdivision application or require that additional dedications of rights-of-way for or improvements to such facilities systems be made as a condition of approval of the application; or

- (3) Grant the petition for relief, and waive in whole or in part any dedication or construction requirement that is not roughly proportional; or
- (4) Grant the petition for relief, and direct that the town participate in the costs of acquiring right-of-way for or constructing such facility pursuant to standard participation policies.

Sec. 10.312 Amended plats, replats, resubdivision and vacation of plats

(a) Replats without vacation. Replat of a subdivision, or a portion thereof, may be recorded and shall be deemed controlling over the preceding plat of the subdivision without vacation of that plat when:

- (1) The replat has been signed and acknowledged by only the owners of the property being replatted; and
- (2) The replat does not attempt to amend or remove any covenants, easements or restrictions contained in the preceding plat; and
- (3) The replat, following public hearing, is approved in accordance with the procedures and standards applicable to the preceding plat under this article.

(b) Filing time. Filing time for replats shall be governed by section 10.302.

(c) Special replat requirements.

(1) Circumstances. The following additional requirements for approval shall apply, in any replatting of a subdivision or development, without vacating the preceding plat, if any of the proposed area to be replatted was, within the immediate preceding five (5) years, limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot, or if any lot in the immediate previous subdivision was limited by deed restrictions to residential use for not more than two (2) residential units per lot.

(2) Notice. Notice of public hearings shall be given in advance, in the following manner:

(A) Publication before the 15th day before the date of the public hearing in the official newspaper of the town.

(B) Written notice of such public hearing, together with a copy of protest provisions, forwarded by the council to owners of lots (as the ownerships appear on the last approved ad valorem tax roll of the town) that are in the original subdivision and that are within 200 feet of the lots to be replatted before the 15th day before the date of public hearing. Such notice may be served by depositing the same, properly addressed and postage prepaid, in a postal depository within the town or at the post office in Forney.

(3) Protest. Where the proposed replat requires an exception, upon written petition signed by the owners of at least 20% of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that

area, but within the original subdivision, and which petition is filed prior to the close of the public hearing, approval of the replat shall require the affirmative vote of at least three-fourths (3/4) of the members of the council present at the hearing. In computing percentages of ownership, each lot in such subdivision shall be considered equal to all other lots, regardless of size or number of owners, and the owners of each lot shall be entitled to cast only one (1) vote per lot. In computing the percentage of land area under this section, the area of streets and alleys shall be included.

- (4) Provided, however, compliance with subsection (3) shall not be required for approval of a replatting or resubdividing of a portion of a prior plat, if all of the proposed area sought to be replatted or resubdivided was designated or reserved for usage other than for single- or duplex-family residential usage, by notation on the last legally recorded plat or in the legally recorded restriction applicable to such plat.

(d) Amending plats.

- (1) The council may, upon petition of the property owner or developer, approve and issue an amending plat which is signed by the applicants only unless otherwise required to the contrary, and which is for one or more of the purposes set forth in this section, and such approval and issuance shall not require notice, hearing, or approval of other lot owners. This subsection shall apply only if the sole purpose of the amending plat is:
- (A) To correct an error in any course or distance shown on the preceding plat;
 - (B) To add any course or distance that was omitted on the preceding plat;
 - (C) To correct an error in the description of the real property shown on the preceding plat;
 - (D) To indicate monuments set after death, disability, or retirement from practice of the surveyor charged with responsibilities for setting monuments;
 - (E) To show the proper location or character of any monument which has been changed in location or character or which originally was shown at the wrong location or incorrectly as to its character on the preceding plat;
 - (F) To correct any other type of scrivener or clerical error or omission as previously approved by the town planning and zoning commission or council; such errors and omissions may include, but are not limited to, lot numbers, acreage, street names, and identification of adjacent recorded plats;
 - (G) To correct an error in courses and distances of lot lines between two adjacent lots where both lot owners join in the application for plat amendment and **neither lot is abolished, provided that such amendment does not attempt to remove recorded covenants or restrictions and does not have a material adverse effect on the property rights of the other owners in the plat;**
 - (H) To relocate a lot line in order to cure an inadvertent encroachment of a building or improvement on a lot line or on an easement;

- (I) To relocate one or more lot lines between one or more adjacent lots where the owner or owners of all such lots join in the application for the amending plat, provided that such amendment does not:
 - (i) Attempt to remove recorded covenants or restrictions; and
 - (ii) Increase the number of lots.
- (J) To replat one or more lots fronting on an existing street where the owner or owners of all such lots join in the application for the amending plat, provided that such amendment does not:
 - (i) Attempt to remove recorded covenants or restrictions;
 - (ii) Increase the number of lots; and
 - (iii) Create or require the creation of a new street or make necessary the extension of municipal facilities.
- (2) Procedures. Amending plats may be approved by the council by a majority vote at a regularly or specially scheduled public meeting without notice, public hearing or approval of other lot owners.
- (e) Plat vacation.
 - (1) By property owner. The property owner of the tract covered by a plat may vacate, upon the approval of the council, the plat at any time before any lot in the plat is sold. 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.
 - (2) By all lot owners. If lots in the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.
 - (3) Criteria. The council shall approve the petition for vacation on such terms and conditions as are reasonable to protect public health, safety and welfare. As a condition of vacation of the plat, the council may direct the petitioners to prepare a revised final plat in accordance with these regulations.
 - (4) Effect of action. On the execution and recording of the vacating instrument, the vacated plat shall have no effect. Regardless of the council's action on the petition, the property owner or developer will have no right to a refund of any monies, fees or charges paid to the town nor to the return of any property or consideration dedicated or delivered to the town except as may have previously been agreed to by the council.
 - (5) Government initiated plat vacation.
 - (A) General conditions. The council, on its motion, may vacate the plat of an approved subdivision or development when:

- (i) No lots within the approved final plat have been sold within five (5) years from the date that the plat was signed by the chairman or the mayor;
 - (ii) The property owner has breached a public 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;
 - (iii) The plat has been of record for more than five (5) years and the council determines that the further sale of lots within the subdivision or development 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.
- (B) Procedure. Upon any motion of the council to vacate the plat of any previously approved subdivision or development, in whole or in part, the council shall publish notice in the town's official newspaper and provide personal notice to all property owners within the subdivision or development and shall also provide notice to the council. The notice shall state the time and place for a public hearing on the motion to vacate the subdivision or development plat. The council shall approve the vacation only if the criteria in subsection (e)(3) above are satisfied.
- (C) Record of notice. If the council adopts a resolution vacating a plat in whole, it shall record a copy of the resolution in the county clerk's office. If the council adopts a resolution vacating a plat in part, it shall cause a revised final plat to be recorded which shows that portion of the original plat that has been vacated and that portion that has not been vacated.

(Ordinance 340 adopted 5/29/01)

Sec. 10.313 Engineering/construction inspection fees

- (a) The following engineering/construction inspection fees are hereby established and each property development applicant shall pay the following:
- (1) Fees charged by the town engineering firm to review plats and other engineering matters and such fees shall be paid immediately; and
 - (2) An engineering/construction inspection fee of two percent (2%) of the contract costs of improvements to be maintained by the town, and such fee shall be paid after town council approval of the preliminary plat. The fee shall be based on a percentage of the estimated cost of public improvements, including but not limited to water, sanitary sewer, lift stations, storm sewer, drainage structures, bridges, culverts, paving, and any other facility or improvement that is to be maintained by the town.
- (b) The applicant shall submit with the preliminary plat, a cost estimate of all public improvements that has been prepared by a licensed professional engineer. The town engineer shall review the cost estimate and shall file with the town administrator an approved cost

estimate. The town engineer's approved cost estimate shall be used to compute the engineering/construction inspection fee.

(c) The engineering/construction inspection fees shall be due and payable no later than within five working days after the preliminary plat has been approved by the town council. If a preliminary plat is not required by the town, the fee shall be due and payable within five working days after the site plan has been approved and before the building permit is issued. No construction of public improvements shall be permitted until the engineering/construction inspection fee has been deposited in the appropriate account of the town's financial institution.

(d) The above fees are nonrefundable and are charged for the processing of the application. Filing of final plats, and/or the issuance of building permits and certificates of occupancy may be withheld until all fees are paid.

(e) Approval of plans, plats or construction shall not relieve the applicant of his obligations under the town codes to construct and maintain the improvements in accordance with such town codes.

(Ordinance adopting Code)

Sec. 10.314 Complete application review (plats)

- (a) Completeness determination. Every application for approval of a master plat, preliminary plat or final plat shall be subject to a determination of completeness by the responsible official. An oral application shall not be accepted for processing nor deemed complete. No application shall be accepted for processing unless it is accompanied by all documents required by and prepared in accordance with the requirements of these subdivision and property development regulations. The responsible official from time to time may identify additional requirements for a complete application that are not contained within but are consistent with the application contents and standards set forth in the subdivision and property development regulations. The responsible official also may promulgate a fee for review of the application for completeness.
- (b) Incompleteness as grounds for denial. The processing of an application by any town official or employee prior to the time the application is determined to be complete shall not be binding on the town as the official acceptance of the application for filing, and the incompleteness of the application shall be grounds for denial or revocation of the application. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of these subdivision and property development regulations.
- (c) Pre-application conference. A property owner may request a pre-application conference with the responsible official for purposes of identifying requirements that are applicable to a proposed plat. The request shall be made in writing on a form prepared by the responsible official and shall state that any proposed development concept discussed at the pre-application conference is not intended as a plan of development or application for plat approval.
- (d) Time for making determination. Following submission of a written plan of development or plat application, the responsible official shall make a determination in writing whether the plan or application constitutes a complete application for a master plat, preliminary plat or final plat not later than the tenth business day after the date the application is submitted. The determination 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 is not provided.

- (e) When deemed complete. A written application for approval of a master or a preliminary plat that is filed on or after April 27, 2005, or any subsequent preliminary final plat application filed after approval of such master plat or preliminary plat, shall be deemed complete on the 11th business day after the application has been received, if the applicant has not otherwise been notified that the application is incomplete.
- (f) Time for completing application. If an application for plat approval is not completed on or before the 45th day after the application is submitted to the responsible official for processing the application in accordance with his or her written notification, the application will be deemed to have expired and it will be returned to the applicant together with any accompanying documents. Thereafter, a new application for approval of the master plat, preliminary plat or final plat must be submitted. The town may retain any fee paid for reviewing the application for completeness.
- (g) Sequence of applications. Notwithstanding any other provision of this code to the contrary, an application for a master plat, preliminary plat or final plat shall not be considered complete unless accompanied by a copy of the zoning ordinance or other certification verifying that the proposed use for which the application is submitted is authorized by the zoning district in which the property is located.
- (h) Vested rights. For purposes of determining a vested rights petition pursuant to section 10.105(d), no vested rights accrue solely from the filing of an application that has expired pursuant to this section, or from the filing of a complete application that is subsequently denied.
- (i) Official filing date. The time period established by state law or these subdivision and property development regulations for processing or deciding an application shall commence on the date that a complete application has been accepted by the town for filing, which date shall be deemed the official filing date.

(Ordinance 408, sec. 3, adopted 8/22/05)

ARTICLE 10.400 ASSURANCE FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS

Sec. 10.401 Required improvements and public improvement agreement

- (a) Completion of improvements.
 - (1) Except as provided below, before the final plat is approved by the town council, all applicants shall be required to complete, to the satisfaction of the town engineer, all street, sanitary, and other public improvements, as well as lot improvements on the individual residential lots of the subdivision or addition as required in these regulations. The required improvements shall be those specified and approved by the council in the preliminary or final plat. Where required by the provisions of this chapter, said final plat shall dedicate those public improvements to the town. As used in this section, "lot improvements" refers to grading and installation of improvements required for proper drainage and prevention of soil erosion.
 - (2) As a condition of preliminary plat approval, the council may require the property owner to deposit in escrow a sufficient deed describing by metes and bounds street

rights-of-way and necessary easements required by these regulations, conveying such rights-of-way and easements to the town, pending acceptance of improvements by the town and recordation of the final plat. In the event the property owner is unable to complete said improvements, and such improvements are deemed necessary for the preservation of the public health and safety, the town may compel the delivery of the deed in order to complete the improvements as required.

- (b) Public improvement agreement and guarantee of completion of public improvements.
- (1) Public improvement agreement. The council, upon recommendation of the town administrator, may waive the requirement of subsection (a) above and may permit the property owner to enter into a public improvement agreement by which the property owner covenants to complete all required public improvements no later than two (2) years following the date upon which the final plat is signed. The council may also require the property owner to complete and dedicate some required public improvements prior to approval of the final plat and to enter into a public improvement agreement for completion of the remainder of the required improvements during such two-year period. The owner shall covenant to maintain the required public improvements for a period of two (2) years following acceptance by the town of all required public improvements and shall provide a maintenance bond in the amount of 100% of the costs of the improvements for such period as required in section 10.404. The public improvement agreement shall contain such other terms and conditions as are agreed to by the property owner and town. The agreements relative to any subdivision or development shall not be considered as complete until three (3) sets of record drawings, one (1) set of mylars, and an electronic (CAD) copy for such drawings for all streets and utilities including street lighting in the subdivisions, certified by the developer's engineer, are filed with the town administrator. Nothing in this section shall nullify the town's obligation to participate in the construction of oversize facilities in accordance with article 10.400.
 - (2) Covenants to run with the land. The public improvement agreement shall provide that the covenants contained in the agreement shall run with the land and bind all successors, heirs and assignees of the property owner. The public improvement agreement shall be recorded in the land records of the appropriate county. All existing lienholders shall be required to subordinate their liens to the covenants contained in the public improvement agreement. However, the town shall deliver a release to bona fide third party purchasers of individual lots once all required public improvements have been completed to the town's satisfaction.
 - (3) Public improvement agreement and security to include lot improvements. For residential subdivisions, the public improvement agreement shall include security sufficient to guarantee completion of all lot improvement requirements including, but not limited to, soil preservation, removal of debris and waste, and all other lot improvements required for the subdivision. Whether or not a building permit or certificate of occupancy has been issued, the town may enforce the provisions of the public improvement agreement where the provisions of this section or any other applicable law, ordinance, or regulation have not been met.
 - (4) Security. Whenever the town permits a property owner to enter into a public improvement agreement, it shall required the owner to provide sufficient security, to

ensure completion of the required public improvements. The security shall be in the form of one of the following:

- (A) A cash escrow; or
- (B) A letter of credit drawn upon a state or national bank. Said letter of credit shall be:
 - (i) Irrevocable;
 - (ii) Be of a term sufficient to cover the completion, maintenance and warranty periods, but not less than two years; and
 - (iii) Require only that the town present the issuer with a sight draft and a certificate signed by an authorized representative of the town certifying to the town's right to draw funds under the letter of credit; or
- (C) A first and prior lien on the property.

Said securities shall be issued in the amount of 110% of the funds estimated by the town engineer to be necessary to pay for all promises and conditions contained in the public improvement agreement. In addition to all other security, for completion of those public improvements where the town participates in the cost, the owner shall provide a performance bond from the contractor, with the town as a co-obligee. The issuer of any surety bond and letter of credit shall be subject to the approval of the town administrator and the town attorney.

- (5) As portions of the public improvements are completed in accordance with the Standard Specifications for Public Works Construction, as published by the North Central Texas Council of Governments (NCTCOG), the town addendum thereto, and the approved construction plans, the owner may make application to the town administrator to reduce the amount of the original letter of credit or cash escrow. If the administrator, with the concurrence of the town engineer, is satisfied that such portion of the improvements has been completed in accordance with town standards, s/he may cause the amount of the letter of credit or cash escrow to be reduced by such amount that s/he deems appropriate, so that the remaining amount of the letter of credit or cash escrow adequately insures the completion of the remaining public improvements.

(c) Temporary improvements. The property owner shall build and pay for all costs of temporary improvements required by the council and shall maintain those temporary improvements for the period specified by the council. Prior to construction of any temporary facility or improvement, the owner shall file with the town a separate public improvement agreement and escrow, or, where authorized, letter of credit, in an appropriate amount for temporary facilities, which agreement and escrow or letter of credit shall ensure that the temporary facilities will be properly constructed, maintained, and removed.

(d) Governmental units. Governmental units to which these contract and security provisions apply may file, in lieu of the contract and security, a certified resolution or ordinance from

officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this article.

(e) Failure to complete improvements. For plats for which no public improvement agreement has been executed and no security has been posted, if the public improvements are not completed within the period specified by the town, the preliminary plat approval shall be deemed to have expired. In those cases where a public improvement agreement has been executed and security has been posted and required public improvements have not been installed within the terms of the agreement, the town may:

- (1) Declare the agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;
- (2) Suspend final plat approval until the public improvements are completed and record a document to that effect for the purpose of public notice;
- (3) Obtain funds under the security and complete the public improvements itself or through a third party;
- (4) Assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision or development for which public improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete the public improvements on the tract;
- (5) Exercise any other rights available under the law.

(f) Acceptance of dedication offers. Acceptance of formal offers of dedication of street, public areas, easements, and parks shall be by authorization and written notification to the town engineer. The approval by the council of a plat, whether preliminary or final, shall not of itself be deemed to constitute or imply the acceptance by the town of any street, easement, or park shown on the plat. The council may require the plat to be endorsed with appropriate notes to this effect.

Sec. 10.402 Construction procedures

(a) Construction of all public works projects shall be in accordance with the most recent version of Standard Specifications for Public Works Construction issued by the North Central Texas Council of Governments, as may be amended in the town addendum to the NCTCOG Standard Specifications for Public Works Construction.

(b) Preconstruction conference. The town engineer may require that all contractors participating in the construction shall meet for a preconstruction conference to discuss the project prior to beginning work.

(c) Conditions prior to authorization. Prior to authorizing construction, the town engineer shall be satisfied that the following conditions have been met:

- (1) The preliminary plat shall be completed to the requirements of the council at the time of approval.

- (2) All required plans and contract documents shall be completed and filed with the town administrator.
- (3) All necessary off-site easements or dedications required for town maintained facilities, not shown on the final plat must be conveyed solely to the town, with proper signatures affixed. The original of the documents, and filing fees as determined by the town administrator, shall be returned to the town administrator prior to approval and release of the engineering plans.
- (4) All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of release of the town engineer. These plans shall remain on the job site at all times.
- (5) A complete list of the contractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times must be submitted to the town administrator or town engineer.
- (6) All applicable fees must be paid to the town.

Sec. 10.403 Inspection of public improvements

(a) General procedure. Construction inspection shall be supervised by the town engineer. Construction shall be in accordance with the approved plans, standard specifications and standard details of the town. Any change in design required during construction should be made by the engineer whose seal and signature are shown on the plans. Another engineer may make revisions to the original engineering plans if so authorized by the owner of the plans and if those revisions are noted on the plans or documents. All revisions shall be approved by the town engineer. If the town engineer finds upon inspection that any of the required public improvements have not been constructed in accordance with the town's construction standards and specifications, the property owner shall be responsible for completing and/or correcting the public improvements.

(b) Certificate of satisfactory completion. The town will not accept dedication of required public improvements until the applicant's engineer has certified to the town engineer, through submission of a detailed "as-built" survey plat of the property, the location, dimensions, materials, and other information required by the council or town engineer. The "as-builts" shall also include a complete set of drawings of the paving, drainage, water, sanitary sewer, or other public improvements, showing that the layout of the line and grade of all public improvements is in accordance with construction plans for the plat. Each as-built sheet shall show all changes made in the plans during construction and on each sheet there will be an as-built stamp bearing the signature of the engineer and date.

The engineer shall provide to the town one reproducible drawing of each of the utility plan sheets containing the as-built information. When such requirements have been met the town engineer, on behalf of the town, shall thereafter accept the public improvements for dedication in accordance with the established procedure. Acceptance of the development shall mean that the developer has transferred all rights to all the public improvements to the town for use and maintenance. The town engineer may, at his or her discretion, accept dedication of a portion of the required public improvements, provided adequate surety has been given for the completion of all of the required public improvements. Upon acceptance of the required public improvements, the town engineer shall submit a certificate to the developer stating that all required public improvements have been satisfactorily completed.

"As-built" drawings shall be submitted in the following formats:

- (1) Mylar reproducible drawings - 1 set
- (2) Full size prints - 3 sets
- (3) Electronic drawings in AutoCAD, Microstation or other format acceptable to the town engineer - 1 set

Sec. 10.404 Maintenance of improvements

(a) The owner shall maintain all required public improvements during construction of the development including all drainage and erosion control facilities. All development and construction activities shall be conducted in a manner to prevent damage to adjacent property. The owner shall construct and maintain all facilities in a manner to prevent damage to the adjacent property throughout the construction of the project and for two years after final acceptance of the project by the town.

(b) The owner shall covenant to maintain the required public improvements for a period of two (2) years following acceptance by the town of all required public improvements and shall provide a maintenance bond in the amount of 100% of the costs of the improvements for such period. All improvements located within an easement or right-of-way shall be bonded.

Sec. 10.405 Issuance of building permits and certificates of occupancy

(a) No building permit shall be issued for a lot or building site unless the lot or site has been officially recorded by a final plat approved by the town and all public improvements as required by the council have been completed, as attested to by the town engineer through the issuance of a certificate of completion, except as permitted below:

(1) Building permits may be issued for nonresidential and multi-family development provided that a preliminary plat is approved by the town and construction plans have been released by the town engineer. Building construction will not be allowed to surpass the construction of fire protection improvements.

(2) The town engineer may authorize the town administrator to issue residential building permits for a portion of a subdivision, provided that all public improvements have been completed and accepted for that portion of the development, including but not limited to those required for fire and emergency protection, and a development agreement has been approved by the town for completion of all remaining public improvements.

(b) No certificate of occupancy shall be issued for a building or the use of property unless all public improvements have been completed for the phase of the subdivision or development in which the property is located and accepted and a final plat approved by the town has been recorded.

ARTICLE 10.500 REQUIREMENTS FOR PUBLIC IMPROVEMENT AND DESIGN

Sec. 10.501 General requirements

- (a) Plats straddling municipal boundaries. Whenever access to the subdivision or development is required across land in another municipality, the council may request assurance from that municipality's attorney that access is legally established, and from its Engineer that the access road is adequately improved, or that a bond has been duly executed and is sufficient in amount to assure the construction of the access road. In general, lot lines should be laid out so as not to cross municipal, county or school district boundary lines.
- (b) Character of the land. Land that the council finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features which will be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision or development and/or its surrounding areas, shall not be subdivided or platted unless adequate methods are formulated by the owner and approved by the council, upon recommendation of the town engineer, to solve the problems created by the unsuitable land conditions.
- (c) Adequate public facilities policy. The land proposed for subdivision or development must be served adequately by essential public facilities and services. Land shall not be approved for platting unless and until adequate public facilities exist or provision has been made for water facilities, wastewater facilities, drainage facilities and transportation facilities which are necessary to serve the development proposed, whether or not such facilities are to be located within the property being platted or offsite. This policy may be defined further and supplemented by other ordinances adopted by the town.
- (1) Conformance to plans. Proposed public improvements shall conform to and be properly related to the transportation and public facilities element of the town's adopted comprehensive plan, other adopted master plans for public facilities and services, and applicable capital improvements plans.
 - (2) Water. All platted lots must be connected to a public water system which is capable of providing water for health and emergency purposes, including adequate fire protection.
 - (3) Wastewater. All platted lots must be served by an approved means of waste water collection and treatment. The town may require the phasing of development and/or improvements in order to maintain adequate wastewater capacity. Additional standards and requirements are defined in section 10.509.
 - (4) Streets. Proposed streets shall provide a safe, convenient and functional system for vehicular and pedestrian circulation and shall be properly related to the Plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development. Additional standards and requirements are defined in section 10.507.
 - (5) Drainage. Drainage improvements shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent overloading the capacity of the downstream drainage system. The town may require the phasing of development, the use of control methods such as retention or detention, and/or the

construction of off-site drainage improvements in order to mitigate the impacts of the proposed development. Additional standards and requirements are defined in section 10.509.

- (6) Other facilities. Adequate sites and convenient access for schools, parks, playgrounds, and other community services indicated in the town's comprehensive plan shall be related to the character and uses of the surrounding properties in accordance with the intent, policies and provisions of this chapter.
- (7) Phasing. The town may require the phasing of development or improvements in order to maintain current levels of service for existing public services and facilities or for other reasons based upon maintaining the health, safety and general welfare of the town's inhabitants. The council shall determine whether the proposed public facilities and services are adequate pursuant to standards herein established.
- (d) Subdivision or development name. The proposed name of the subdivision or development shall not duplicate, or too closely approximate phonetically, the name of any other subdivision or development in the area covered by these regulations and shall, where possible correspond to named subdivisions or developments in the immediate vicinity. The council shall have final authority to approve the name of the subdivision or development based upon the recommendation of the administrator or town engineer.
- (e) Survey.
 - (1) The surveyor, responsible for the plat, shall place permanent monuments at each corner of the boundary survey of the subdivision or development. These monuments shall be a four (4) inch diameter concrete post three (3) feet long; a steel rod five-eighths (5/8") inch in diameter imbedded twelve (12") inches in the monument, flush with the top, placed in the exact intersecting points of the corner. The monuments shall be set at ground level or at such an elevation that they will not be disturbed during the construction, and the top of the monument shall not be more than twelve (12) inches below finished ground level.
 - (2) GPS monuments shall be constructed of a four (4) inch diameter reinforced concrete monument at least 6 feet deep set flush with the ground. A brass or aluminum disc shall be set in the top of the monument and shall have the monument number, elevation and registration number of the surveyor stamped in the disc. The surveyor shall determine the state plane coordinates and elevation of the monument and file a survey report with the town showing this information.
 - (3) Markers shall be set at all block corners, street and alley curve points and angle points along the boundaries and also within the subdivision. These markers shall be a five eighths (5/8) inch reinforcing bar, eighteen (18) inches long. The markers shall be set at ground level or at such an elevation that they will not be disturbed during the construction, and the top of the marker shall not be more than twelve (12) inches below finished ground level.
 - (4) Where no bench mark is established or can be found within one thousand (1000) feet of the boundary of the subdivision, such bench marker shall be established to sea level datum. Said bench mark shall be established, shall be readily accessible and identifiable on the ground, and set as a separate monument of the same concrete

construction as described for GPS monuments with the elevation engraved on a bronze plate embedded flush in the top surface of the monument. Large subdivisions may require more than one bench mark; in any event, such marks shall be no more than two thousand six-hundred forty (2,640) feet apart or within two thousand six hundred forty (2,640) feet of a previously established bench mark. All such bench marks shall be recorded on the final plat. Where GPS monuments meet this requirement, no additional benchmarks are required.

- (5) All lot corners shall be located and marked with one-half (1/2) inch reinforcing bar, eighteen (18) inches in length, and shall be placed flush with the ground or counter sunk, if necessary, in order to avoid being disturbed.
- (6) Iron rods, one-half (1/2) inch in diameter and eighteen (18) inches long, shall be placed on all boundary corners, block corners, curve points, and angle points in water line, sanitary sewer line and drainage facility easements as well as floodway boundaries.

(F) Facility design.

- (1) Streets, thoroughfares, drainage facilities, water lines, sanitary sewer lines and other such facilities which are to be owned, operated and/or maintained by the town shall be designed in accordance with the guidelines of the town engineering design manual ("design manual").
- (2) The standards set forth in the design manual are intended to be minimum requirements. The project developer shall be responsible for determining if more stringent requirements are necessary for a particular development.
- (3) In cases where the design manual standards do not cover all aspects of a development, the developer will be expected to provide designs and facilities in accordance with good engineering practice and to cause to be constructed facilities utilizing first class workmanship and materials.

(g) Floodplain regulation. All subdivision or development activity as regulated by this article shall be subject to the flood damage prevention regulations, article 3.1200 of the town code, and to the floodplain reclamation and preservation provisions contained in sections 19.17 and 20.4 of the zoning ordinance.

Sec. 10.502 Lot design and improvement standards

(a) Lot arrangement. The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the zoning regulations, building code and other applicable ordinances, laws and regulations. Driveway access shall be provided to buildings on the lots from an approved street, alley or public way.

(b) Lot dimensions. Lot dimensions shall comply with the minimum standards of the zoning regulations as determined in each district or computed through cluster option development or planned residential overlay district standards. All lots on building sites shall conform to the minimum standards for the area, width and depth prescribed by the zoning regulations for the district or districts in which the subdivision or development is located. In general, noncluster

development and nonplanned residential overlay district development lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. Dimensions of corner lots shall be large enough to allow for erection of buildings. Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for the off-street parking, landscaping, and loading facilities required for the type of use and development contemplated, as established in the zoning regulations. Lot dimensions shall be measured at the property line, except that for residential lots located on cul-de-sac circles or at the corners of a loop street, lot width shall be measured at the front building line and one side lot line may be less than the minimum required by the zoning district, provided the lot meets width and area requirements.

In general, the depth of a residential lot should not exceed four times the width of the lot, unless topographic or environmental characteristics create a condition best addressed by an excessive lot depth.

(c) Double frontage residential lots. Double frontage and reversed frontage lots shall be avoided except where necessary to separate residential development from traffic arterials or to overcome specific disadvantages of topography and orientation. The town may impose additional buffering and/or screening requirements for these lots.

(d) Soil preservation and final grading. Top soil shall not be removed from residential lots or used as spoil, but shall be redistributed so as to provide at least six (6) inches of cover on the lots, parkways and medians. Permanent erosion control measures shall be provided throughout the development prior to final acceptance of the improvements. Soil preservation shall consist of the following:

- (1) All street rights-of-way, regardless of slope, all finished grade slopes that are steeper than 1 foot vertical to 6 feet horizontal (6:1), and the flow lines of all drainage ditches and swales shall be completely covered with erosion control matting as specified in the North Texas Council of Governments Construction (N.C.T.C.O.G) BMP Manual.
- (2) Grass shall be established on the slopes of all drainage channels that are steeper than 6:1. Grass shall meet the requirements of the standard specifications of the Texas Department of Transportation.
- (3) Other erosion protection methods as described in the N.C.T.C.O.G. BMP Manual shall be used to control all erosion in the development. All erosion protection methods shall be approved by the town engineer.

(e) Minimum lot and floor elevations. Minimum lot and floor elevations shall be established as follows:

- (1) Lots abutting a natural or excavated channel shall meet the specific standards for flood hazard reduction established in section 3.1218 of the town code.
- (2) Where lots do not abut a natural or excavated channel, minimum floor elevations shall be a minimum of one (1) foot above the street curb or edge of alley, whichever is higher, unless otherwise approved by the town's engineering division. A lot grading plan is required. With permission of the town engineer, the minimum finished floor elevation may be lower than the street curb, roadway or alley provided

the floor elevation is at least one-foot above the rim elevation of the downstream manhole of the sanitary sewer system that serves the lot.

- (3) Where lots are served by on-site sewerage facilities that rely on the gravity flow of wastewater, the minimum finished floor elevations shall be not less than 4.5 feet above the highest elevation of the ground at the drainfield, absorption bed or evapotranspiration bed unless otherwise permitted by the town engineer.
- (f) Debris and waste. No cut trees, timber, debris, large rocks or stones, junk, rubbish or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street at the time of final acceptance by the town engineer, and removal of those items and materials shall be required prior to such acceptance. No items and materials as herein described shall be left or deposited in any area of the subdivision or development at the time of expiration of any public improvement agreement or acceptance of dedication of public improvements, whichever is sooner. However, dirt or topsoil may be stockpiled on a property at a location approved by the town engineer.

Sec. 10.503 Nonresidential plats

- (a) Design principles. In addition to these regulations, which are appropriate to all platting, the applicant shall demonstrate to the satisfaction of the council that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles shall be observed:
 - (1) Proposed nonresidential parcels shall be suitable in area and dimensions to the types of nonresidential development anticipated.
 - (2) Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon, but in no case shall be less than the design standards embodied in the master thoroughfare plan.
 - (3) Residential areas shall be protected from potential nuisance from a proposed nonresidential plat by means of screening or other physical separation as further described in chapter 20 of the zoning regulations.
 - (4) Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or future residential areas.
- (b) Frontage and access standards. All nonresidential lots established following the effective date of this chapter shall meet the following frontage and access criteria:
 - (1) Frontage. All nonresidential lots abutting an arterial or higher thoroughfare shall have a minimum 200 linear feet. All nonresidential lots abutting a collector or lower thoroughfare shall have a minimum of 150 feet of frontage.
 - (2) Curb cuts. All nonresidential lots shall have access to the public street system by a driveway onto a public street or, in certain instances subject to review by the town engineer, by a driveway onto a dedicated mutual access easement. Curb cuts shall be located in accordance with the master thoroughfare plan, engineering design manual and other applicable ordinances. Access drives shall be a minimum fifty (50) feet in distance from any street intersection and a minimum one hundred (100) feet from any

intersection which is signalized or which in the opinion of the town engineer will require future signalization, unless approved by the town engineer.

- (3) Median openings. Median openings shall be located in accordance with the master thoroughfare plan and other applicable ordinances. Generally, median openings shall not be spaced closer than 350 feet centers nor closer than 250 feet from an intersection. If direct access to a median opening is not available, lots shall have indirect access through a mutual access easement between adjacent properties. Such mutual access shall be indicated on the plat whenever possible.

Sec. 10.504 Sidewalks, bikeways, alleys and landscaping

- (a) Sidewalks and bikeways.
 - (1) Sidewalks. Sidewalks shall conform to the configuration specified in the engineering design manual.
 - (2) Pedestrian accesses. The council may require, in order to facilitate pedestrian access from the streets to schools, parks, playgrounds, or other nearby streets, perpetual unobstructed easements at least fifteen (15) feet in width. Easements shall be indicated on the plat.
 - (3) Bikeways. Hike and bike sidewalks (bikeways) shall be constructed along streets designated for hike and bike trails. Bikeways shall be constructed in the manner and locations specified in the engineering design manual. Bikeways shall be built by the owner at the time of site development, or the owner may petition for the town to construct such facilities, subject to escrow policies stated in article 10.400 et. seq. of these regulations.
 - (4) Alleys.
 - (A) Alleys shall be constructed for residential lots twenty thousand (20,000) square feet or less in size, unless expressly waived in accordance with procedures for cluster option developments or planned residential overlay districts in the zoning regulations or through exception procedures in section 10.310 of these regulations. Alleys shall not be required in a subdivision if the depth of all the tracts and lots exceeds five hundred (500) feet or face or front on an existing street or thoroughfare.
 - (B) Alleys shall be designed in accordance with the standards included in the town Engineering Design Manual.
 - (5) Landscaping. Landscaping, buffering and screening improvements shall be required along certain roadways in conformance with standards established in section 20.5 of the zoning regulations, or as provided in cluster option developments, planned residential overlay districts, or planned commercial districts established pursuant to the town's zoning ordinance.

Sec. 10.505 Fire lanes and fire department access

- (a) Access to fire hydrants and other fire suppression equipment. All fire hydrants shall be accessible by the town's fire trucks and equipment from a dedicated public street or a fire lane. The distance from fire hydrants to the edge of pavement for public streets shall not exceed five feet unless otherwise permitted by the town engineer. The distance from the edge of the fire lane to fire hydrants and standpipe and fire department connections shall not exceed five feet unless otherwise permitted by the fire chief.
- (b) Fire lane design requirements. The width of all fire lanes shall not be less than twenty-four feet wide. Fire lanes shall be paved with a minimum of six inches of reinforced concrete. The minimum inside radius of a curve or turn shall not be less than 30 feet. A standard SU-20 design vehicle shall be able to travel from a public street along all fire lanes, be able to reach within five feet of all fire hydrants, and exit back onto a public street without backing up.
- (c) Dead-end fire lanes. Dead-end fire lanes may be used only to obtain the required access to buildings, not to fire hydrants nor fire department connections and the maximum length of a dead-end fire lane shall not exceed 150 feet. All dead-end fire lanes shall include a turn around and the end of the fire lane for a SU-20 vehicle with vehicle backing allowed.

Sec. 10.506 Water facilities standards

- (a) Adequate water facilities. Water systems serving the subdivision or development shall connect with the town's water supply and distribution system. Water facilities shall be installed to adequately serve each lot and shall be sized to conform to the town's water distribution master plan and other requirements of the town. The town may require owners to provide a water study, including adequate engineering data to support water demand projections before final plans will be approved.
- (b) Design and construction requirements. Design of water systems shall be in accordance with the town's Engineering Design Manual. No water system will be constructed unless all plans have been reviewed and approved by the town to assure compliance with these requirements. All design and construction will be done under the inspection of the town and in accordance with established town policies and practices.
- (c) Extension policy. The developer shall extend all water mains and appurtenances necessary to connect the development with the town's water supply and distribution system and shall extend such mains and appurtenances to all property lines of the subdivision or development to allow connection to these facilities by adjoining property owners in accordance with the town's approved plans. Authority to extend water mains to serve newly subdivided or platted land shall be granted by the town only upon a determination by the administrator that all facilities necessary to adequately serve the development are in place or will be in place prior to the issuance of occupancy permits for structures developed on such land.
- (d) Minimum size mains. Water mains shall be located and sized in accordance with the engineering design manual.
- (e) Fire protection. Water service must be sufficient to meet fire flow requirements of the proposed development for domestic and industrial purposes, except where a suitable alternative means of fire protection is approved by the town.

(f) Fire hydrants - number and locations. A sufficient number of fire hydrants shall be installed to provide hose stream protection for every point on the exterior wall of the building. There shall be sufficient hydrants to concentrate the required fire flow, as recommended by the publication "Fire Suppression Rating Schedule" published by the insurance service office, around any building with an adequate flow available from the water system to meet this required flow. In addition, the following guidelines shall be met or exceeded:

- (1) Single family and duplex residential. As the property is developed, fire hydrants shall be located at all intersecting streets and at intermediate locations between intersections at a maximum spacing of 500 feet between fire hydrants as measured along the route that fire hose is laid by a fire vehicle.
- (2) Multi-family residential. As the property is developed, fire hydrants shall be located at all intersecting streets and at intermediate locations between intersections at a maximum spacing of 300 feet as measured along the length of the center line of the roadway, and the front of any structure at grade and shall be no further than 400 feet from a minimum of two (2) fire hydrants as measured along the route that a fire hose is laid by a fire vehicle.
- (3) Other districts. As the property is developed, fire hydrants shall be located at all intersecting streets and at intermediate locations between intersections at a maximum spacing of 300 feet as measured along the length of the center line of the roadway, and the front of any structure at grade and shall be no further than 400 feet from a minimum of two (2) fire hydrants as measured along the route that a fire hose is laid by a fire vehicle.
- (4) Protected properties. Fire hydrants required to provide a supplemental water supply for automatic fire protection systems shall be within 100 feet of the fire department connection for such system.
- (5) Fire hydrants shall be installed along all fire lane areas as follows:
 - Nonresidential property or use
 - (A) Within 150 feet of the main entrance.
 - (B) Within 100 feet of any fire department connection.
 - (C) At a maximum intermediate spacing of 300 feet as measured along the length of the fire lane.
- (6) Generally no fire hydrant shall be located closer than fifty (50) feet to a nonresidential building or structure unless approved by the town engineer.
- (7) In instances where access between the fire hydrant and the building which it is intended to serve may be blocked, extra fire hydrants shall be provided to improve the fire protection. Railroads, expressways, major thoroughfares and other man-made or natural obstacles are considered as barriers.