

DRAFT – 7-11-11

SUBDIVISION ORDINANCE

City of Terrell, Texas

**Ordinance No. _____
Adopted**

REVISIONS:

Ordinance 2255 – Original Ordinance adopted January 18, 2005

Ordinance xxxx – Minor Revisions – adopted September 6, 2011

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SUBDIVISION ORDINANCE
City of Terrell, Texas
Ordinance No. XXXX

ENACTING PROVISIONS:

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, AMENDING THE SUBDIVISION REGULATIONS, ORDINANCE NO. 2255, OF THE CITY OF TERRELL, TEXAS, AS ADOPTED ON JANUARY 18, 2005; ADOPTING NEW SUBDIVISION REGULATIONS FOR THE CITY OF TERRELL; EXTENDING THE SUBDIVISION REGULATIONS INTO THE CITY'S EXTRATERRITORIAL JURISDICTION IN ACCORDANCE WITH THE INTERLOCAL AGREEMENT, AUTHORIZED UNDER HOUSE BILL 1445, ENACTED BY THE TEXAS LEGISLATURE DURING ITS 77TH LEGISLATIVE SESSION, EXECUTED BETWEEN KAUFMAN COUNTY AND THE CITY OF TERRELL ON JANUARY 30, 2002; ADOPTING SUBCHAPTER B, CHAPTER 212 OF THE TEXAS LOCAL GOVERNMENT CODE WHICH ALLOWS FOR THE REQUIREMENT OF DEVELOPMENT PLATS IN THE CITY AND WITHIN ITS EXTRATERRITORIAL JURISDICTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING A PENALTY; AND PROVIDING FOR AN EFFECTIVE DATE.

THIS ORDINANCE IS HEREBY ADOPTED AS THE SUBDIVISION ORDINANCE OF THE CITY OF TERRELL, TEXAS. THE PREVIOUS SUBDIVISION REGULATIONS OF THE CITY, ORDINANCE NUMBER 2255, AS ADOPTED ON JANUARY 18, 2005, TOGETHER WITH AMENDMENTS THERETO, IS HEREBY REPEALED AND REPLACED BY THIS ORDINANCE, WHICH SHALL READ AS FOLLOWS:

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, THIS 16TH DAY OF AUGUST, 2011.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, THIS 6TH DAY OF SEPTEMBER, 2011.

HAL RICHARDS, MAYOR
CITY OF TERRELL, TEXAS

ATTEST:

JOHN ROUNSAVALL, CITY SECRETARY
CITY OF TERRELL, TEXAS

APPROVED AS TO FORM:

MARY GAYLE RAMSEY, CITY ATTORNEY
CITY OF TERRELL, TEXAS

I. GENERAL PROVISIONS

Section 1.1: Authority; Extension to Extraterritorial Jurisdiction

- 1.1 a. This Ordinance is adopted under the authority of the Constitution and laws of the State of Texas, including Chapter 212, Texas Local Government Code, being adopted after a public hearing on the matter held on March 29, 2004.
- b. The following rules and regulations are hereby adopted as the Subdivision Ordinance of the City of Terrell, Texas, also referred to herein as "this Ordinance". The City Council hereby extends the application of this Ordinance to the Extraterritorial Jurisdiction (ETJ) of the City of Terrell, in accordance with the Interlocal Agreement, authorized under House Bill 1445, enacted by the Texas Legislature during its 77th Legislative Session, executed between Kaufman County and the City of Terrell on January 30, 2002, as that area may exist from time to time. This Ordinance shall be applicable to the filing of plats and the subdivision of land, as that term is defined herein and in Chapter 212 of the Texas Local Government Code, within the corporate limits of the City of Terrell and its extraterritorial jurisdiction as they may be from time to time adjusted by annexation or disannexation. The City shall have all remedies and rights provided by said Chapter 212 with regard to the control and approval of subdivisions and plats both within the City and within its extraterritorial jurisdiction.

Section 1.2: Interpretation and Purpose

- 1.2 In the interpretation and application of the provisions of this Ordinance, it is the intention of the City Council that the principles, standards and requirements provided for herein shall be minimum requirements for the platting and developing of subdivisions within the City of Terrell and its extraterritorial jurisdiction. In the case of a conflict between this ordinance and the Technical Construction Standards and Specifications (TCSS), Comprehensive Plan (Future Land Use Map, Thoroughfare Plan, Capital Improvement Plan, Parks Master Plan, etc.), Zoning Ordinance, Building Codes, or Terrell Code of Ordinances the most restrictive ordinance shall prevail, however, the final determination shall be at the discretion of the City Engineer.

Minimum standards for development are contained in the City's Technical Construction Standards and Specifications (TCSS), the Zoning Ordinance, the Building Code, applicable articles of the Code of Ordinances, and in this Ordinance. However, the Comprehensive Plan (including the Future Land Use Plan, Thoroughfare Plan, Park and Open Space Plan, and other related plans) contains policies designed to achieve an optimum quality of development in Terrell and its extraterritorial jurisdiction. If only the minimum standards are followed, as expressed by the various ordinances regulating land development, a standardization of development will occur. This will produce a monotonous municipal setting and physical environment within the community. Subdivision design shall be of a quality that will carry out the purpose and spirit of the policies expressed within the Comprehensive Plan and within this Ordinance, and shall be encouraged to exceed the minimum standards required herein. *(This paragraph was moved up from below)*

The subdivision (i.e., platting) of land is the first step in the process of development. The distribution and relationship of residential, nonresidential and agricultural uses throughout the community, along with the system of improvements for thoroughfares, utilities, public facilities and community amenities, determine, in large measure, the quality of life enjoyed by the residents of the City. Health, safety, economy, amenities, environmental sensitivity, and convenience are all factors which influence and determine a community's quality of life and overall character. A community's quality of life is of the public interest. Consequently, the subdivision of land, as it affects a community's quality of life, is an activity where regulation is a valid function of municipal government. The regulations contained herein are intended to encourage the development of a quality municipal environment by establishing standards for the provision of adequate light, air, open space, storm water drainage, transportation, public utilities and facilities, and other needs necessary for ensuring the creation and continuance of a healthy, attractive, safe and efficient community that provides for the conservation, enhancement and protection of its human and natural resources. Through the application of these regulations, the interests of the public, as well as those of public and private parties, both present and future, having interest in property affected by this Ordinance, are protected by the granting of certain rights and privileges. By establishing a fair and rational procedure for developing land, the requirements in this Ordinance further the possibility that land will be developed for its most beneficial use in accordance with existing social, economic and environmental conditions.

The procedure and standards for the development, layout and design of subdivisions of land within the corporate limits and extraterritorial jurisdiction of the City of Terrell, Texas are intended to:

- a. Promote the development and the utilization of land in a manner that assures an attractive and high quality community environment in accordance with the Comprehensive Plan and the Zoning Ordinance of the City of Terrell **as applicable**;
- b. Guide and assist property owners and applicants in the correct procedures to be followed, and to inform them of the standards which shall be required;
- c. Protect the public interest by imposing standards for the location, design, class and type of streets, walkways (sidewalks), alleys, utilities and essential public services;
- d. Assist orderly, efficient and coordinated development within the City's limits and its extraterritorial jurisdiction;
- e. Provide neighborhood conservation and prevent the development of slums and blight;
- f. Integrate the development of various tracts of land into the existing community, and coordinate the future development of adjoining tracts;
- g. Provide that the cost of improvements to minimum standards which primarily benefit the tract of land being developed be borne by the owners or developers of the tract, and that the cost of improvements to minimum standards which primarily benefit the whole community be borne by the whole community as contained in this Ordinance;
- h. Ensure the most efficient and beneficial provision of public facilities and services for each tract being subdivided;
- i. Provide for compatible relationships between land uses and buildings; provide for the circulation of traffic throughout the municipality, having particular regard to the avoidance of

congestion in the streets and highways; provide for pedestrian circulation that is appropriate for the various uses of land and buildings; and provide the proper location and width of streets;

- j. Prevent pollution of the air, streams and bodies of water; assure the adequacy of drainage facilities; safeguard both surface and groundwater supplies, as well as natural resources and endangered or threatened plant and animal life; and encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability and beauty of the community and the value of the land;
- k. Preserve the natural beauty and topography of the municipality, and ensure development that is appropriate with regard to these natural features;
- l. Establish adequate and accurate records of land subdivision;
- m. Ensure that public or private facilities are available and will have sufficient capacity to serve proposed and future developments and citizens within the City and its extraterritorial jurisdiction;
- n. Protect and provide for the public health, safety and general welfare of the community;
- o. Provide for adequate light, air and privacy; secure safety from fire, flood and other danger; and prevent overcrowding of the land and undue congestion of population;
- p. Protect the character and the social and economic stability of all parts of the community, and encourage the orderly and beneficial development of all parts of the community;
- q. Protect and conserve the value of land throughout the community and the value of buildings and improvements upon the land, and minimize conflicts among the uses of land and buildings;
- r. Guide public and private policy and action in providing adequate and efficient transportation systems, public utilities, and other public amenities and facilities; and
- s. Encourage the development of a stable, prospering economic environment.

Section 1.3: Application of Regulations

- 1.3 a. No subdivision plat shall be recorded until a final plat, accurately describing the property to be conveyed, has been approved in accordance with this Ordinance and with other applicable City regulations (described in Subsection 1.3(b.) below). No building permit, certificate of occupancy, plumbing permit, electrical permit, flood plain permit, utility tap, or certificate of acceptance for required public improvements shall be issued by the City for any parcel of land or plat until:
 - 1. A final plat has been approved in accordance with this Ordinance; and
 - 2. All improvements required by this Ordinance have been constructed and accepted by the City of Terrell, or
 - 3. Assurances for completion of improvements have been provided in accordance with Section 6 of this Ordinance.

- b. Compliance with all City ordinances pertaining to the subdivision of land, shall be required prior to approval of any development application governed by this Ordinance. It is the property owner's responsibility to be familiar with, and to comply with **all applicable Federal, State and City codes and** ordinances. Applicable ordinances and other requirements include, but are not limited to, the following:
 1. **Comprehensive Plan**, which includes the Future Land Use Plan, Thoroughfare Plan, Park and Open Space Plan, and all other associated maps and plans;
 2. **Zoning Ordinance**;
 3. **Building Codes**;
 4. **Flood Damage Prevention Code**;
 5. **Fire Prevention Code**;
 6. **Other Applicable Chapters of the City's Code of Ordinances**; and
 7. **Storm Water Utility Ordinance**.
 8. **State and Federal codes under the administration of FEMA, TCEQ, TXDOT, TDLR or other agencies.**

c. Superseding Regulations

1. Upon adoption of this Subdivision Ordinance according to law, all other subdivision regulations of the City of Terrell previously in effect are hereby superseded, except as provided in Sections 1.5 and 1.6 below.

d. Amendments

1. For the purpose of protecting the public health, safety and welfare, City staff, the Planning and Zoning Commission and/or City Council may, from time to time, propose amendments to these regulations which shall then be approved or disapproved by the City Council at a public meeting, and which shall then be amended through adoption of an amending ordinance following due process and public hearing in accordance with the City Charter and State Law.

Section 1.4: Jurisdiction

- 1.4 The provisions of this Ordinance shall apply to the following forms of land subdivision and development activity within the City's limits and its extraterritorial jurisdiction (ETJ):
 - a. The division of land into two or more tracts, lots, sites or parcels; or
 - b. All subdivisions of land whether by metes and bounds division or by plat, which were outside the jurisdiction of the City's subdivision regulations in Kaufman County, Texas and which subsequently came within the jurisdiction of the City's subdivision regulations through:
 1. Annexation; or

2. Extension of the City's extraterritorial jurisdiction; or
- c. The combining of two or more contiguous tracts, lots, sites or parcels for the purpose of creating one or more legal lots in order to achieve a more developable site, except as otherwise provided herein; or
- d. When a building permit is required within the City or when development is proposed in the ETJ for the following uses:
 1. Residential single-family:
 - (a) Construction of a new single-family dwelling unit; or
 - (b) Moving of a primary structure or a main building onto a piece of property; or
 2. Nonresidential and multi-family:
 - (a) Construction of a new nonresidential or multi-family structure; or
 - (b) Additions, such as increasing the square footage of an existing building by more than ten percent (10%) of its gross floor area; or
 - (c) Moving a primary structure onto a piece of property; or
- e. For tracts where any public improvements are proposed; or
- f. Whenever a property owner proposes to divide land lying within the City or its extraterritorial jurisdiction into two or more tracts, and claims exemption from Subchapter A of Chapter 212 of the Texas Local Government Code for purposes of development, that results in parcels or lots all greater than five (5) acres in size; or in the event that development of any such tract is intended, and where no public improvement is proposed to be dedicated, he shall first obtain approval of a development plat for each such lot or tract that meets the requirements of Texas Local Government Code Chapter 212, Subchapter B, Regulation of Property Development, Sections 212.041 through 212.050, as may be amended. (See Section 2.7 of this Ordinance for requirements for development plats.)

Section 1.5: Exemptions

- 1.5 The provisions of this Ordinance shall not apply to:
- a. Development of land legally platted and approved prior to the effective date of this Ordinance, except as otherwise provided for herein (construction of facilities and structures shall conform to design and construction standards in effect at the time of construction) and for which no re-subdivision or new development is sought; or
 - b. A division of land under Subchapter 212. A in which each lot, parcel or tract is greater than five (5) acres, where each part has access and no public improvement, easement, or right-of-way is being dedicated, however, such divisions shall be required to have a Development Plat prepared and submitted to the city for approval under Subchapter 212.B and this Ordinance for each such lot or tract; or
 - c. Sale, inheritance, or gift of land by metes and bounds of tracts upon which no improvements, development, subdivision or alteration is occurring; or

- d. Existing cemeteries complying with all State and local laws and regulations; or
- e. Divisions of land created by order of a court of competent jurisdiction; or
- f. When a building permit is requested for unplatted or already platted parcels for one or more of the following activities:
 - 1. Replacement or reconstruction of an existing primary single-family or duplex structure, but not to exceed the square footage, nor deviate from the original location, of the original structure;
 - 2. Building additions, such as increasing the square footage of a residence or other structure, of not over sixty percent (60%) of the existing structure's value based on the Kaufman County Appraisal District's most recent appraisal and of not over ten percent (10%) of the gross floor area of the structure;
 - 3. Accessory buildings (as defined in the Zoning Ordinance);
 - 4. Remodeling or repair which involves no expansion of square footage; or
 - 5. Moving a structure off a lot or parcel, or for demolition permits.

Section 1.6: Pending Applications

- 1.6 All applications for plat approval, including final plats, that are pending on the effective date of this Ordinance and which have not lapsed shall be reviewed under the regulations in effect immediately preceding the effective date of this Ordinance.

Section 1.7: Interpretation; Conflict; Severability

- 1.7 a. Interpretation. In their interpretation and application, the provisions of the regulations contained in this Ordinance 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 this Ordinance. To the extent that this Ordinance and the Technical Construction Standards and Specifications (TCSS) promulgate standards or imposes restrictions or duties which differ from those imposed by other City ordinances, rules or regulations, and to the extent of any conflict or inconsistency the most restrictive ordinance shall prevail, however, the final determination shall be at the discretion of the City Engineer.
- c. Severability. If any part or provision of this Ordinance, or the application of this Ordinance to any person or circumstance, 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 City 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.

Section 1.8: Saving Provision

- 1.8 This Ordinance shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the City under any section or provision existing at the time of adoption of this Ordinance, or as vacating or annulling any rights obtained by any person, firm or corporation, by lawful action of the City except as shall be expressly provided in this Ordinance.

Section 1.9: Application for Variances to the Subdivision Regulations

- 1.9 a. Application for a Variance. The applicant, agent or owner of the property who has submitted an application subject to these regulations may petition the City Council for a variance to 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 a variance shall be submitted in writing to the Municipal Development Director by the petitioner at the time the complete subdivision application is filed for consideration by the City. The petition shall state fully the grounds for the variance, and all of the facts relied upon by the petitioner. The City staff shall prepare a report evaluating the request for a variance, and shall make its recommendation to the Planning and Zoning Commission. The Commission shall make its recommendation and the City Council shall finally act upon the petition for a variance in conjunction with the action taken by each on the subdivision application.
- c. Criteria for Approval. The City Council, considering recommendations by the Commission, may grant the variance to the standard or condition only upon finding that:
1. Granting the variance will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of other property, and the variance will not prevent the orderly subdivision of other property in the vicinity;
 2. The conditions upon which the request for a variance is based are unique to the property for which the waiver/suspension is sought, and are not applicable generally to other property;
 3. Because of the particular physical surroundings, shape and/or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;
 4. The variance will not in any manner vary the provisions of the Zoning Ordinance or Comprehensive Plan or any other adopted plan(s) or ordinance(s) of the City;
 5. An alternate design is not feasible, will not achieve the same result, relieve the hardship, or meet the intent of the standards and regulations prescribed herein.

Such findings of the City Council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the City Council meeting at which a variance is considered. A variance from any provision of this Ordinance may be granted only when in harmony with the general purpose and intent of this Ordinance so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary

hardship to the property owner or developer, standing alone, shall not be deemed to constitute undue hardship.

Section 1.10 Proportionality Appeal

a. *Definitions.* For purposes of this section:

1. *Public infrastructure improvement* means a water, wastewater, roadway, drainage or park facility that is a part of one or more of the City's public facilities systems.
2. *Public facilities system* means the collection of water, wastewater, roadway, drainage or park facilities owned or operated by or in behalf of the City for the purpose of providing services to the public, including existing and new developments.

b. *Purpose, Applicability & Effect*

1. *Purpose.* The purpose of a proportionality appeal is to assure that a requirement to dedicate, construct or pay a fee for a public infrastructure improvement imposed on a proposed plat as a condition of approval does not result in a disproportionate cost burden on the property owner, taking into consideration the nature and extent of the demands created by the proposed development on the City's public facilities systems.
2. *Applicability.* An appeal under this section may be filed by a property owner to contest any requirement to dedicate land, to construct improvements or to pay development fees, other than impact fees, for a public infrastructure improvement, which requirement is imposed under the City's Subdivision Regulations, whether the requirement is applicable under uniform standards, or is imposed pursuant to an individual evaluation of the proposed subdivision.

c. *Proportionality Determination by City Engineer.* Prior to a decision by the Planning and Zoning Commission on a construction plat or development plat application, or if no construction plat or development plat application is required, on a final plat application, the City Engineer shall prepare a report affirming that each public infrastructure improvement to be imposed as a condition of plat approval is roughly proportionate to the demand created by the development on the City's public facilities systems, taking into consideration the nature and extent of the development proposed.

1. In making his proportionality determination, the City Engineer may rely upon categorical findings pertaining to on-site improvements; the proposed or potential use of the land; the timing and sequence of development in relation to availability of adequate levels of public facilities; impact fee studies or other studies that measure the demand for services created by the development and the impact on the City's public facilities systems; the function of the public infrastructure improvements in serving the proposed development; the degree to which public infrastructure improvements to serve the subdivision are supplied by other developments; the anticipated participation by the City in the costs of such improvements, if any; reimbursements for the costs of public infrastructure improvements for which the proposed development is eligible; or any other information relating to the mitigating effects of the public infrastructure improvements on the impacts created by the development on the City's public facilities systems.

2. Based upon his proportionality determination, the City Engineer shall affirm that the public infrastructure improvement requirements of the Subdivision Regulations do not impose costs on the developer for such improvements that exceed those roughly proportionate to those incurred by the City in providing public facilities to serve the development.
 3. The City Engineer may promulgate any application requirements that may assist in making the proportionality determination required by this subsection.
- d. *Commission Determination.* The Commission shall take into account the City's Engineer's report concerning the proportionality of public infrastructure improvement requirements to be applied to a proposed plat application in making its decision on the plat application, and shall identify any variation to the requirements that are to be included as conditions to plat approval.
- e. *Appeals.*
1. *Who May Appeal.* An appeal to the City Council under this section may be filed by a property owner or the applicant for a plat, in which a requirement to dedicate land for, construct or pay a fee, other than an impact fee, for a public infrastructure improvement has been applied or attached as a condition of approval, or as grounds for denying the plat application.
 2. *Time for Filing and Request for Extension of Time.* The appeal shall be filed in writing within ten (10) days of the date the Planning and Zoning Commission takes action applying the public infrastructure improvement requirement to the plat application. The appeal shall be filed with the City Secretary and shall be forwarded to the City Council for consideration in conjunction with its deliberations on the plat application. The applicant may request postponement of consideration of the plat application by the City Council pending preparation of the study required by subsection (4), in which case the applicant shall also waive the statutory period for deciding plats for the time needed to decide the appeal by the City Council.
 3. *Form of Appeal.* An appeal under this section shall allege that application of the standard or the imposition of conditions relating to the dedication, construction or fee requirement is not roughly proportional to the nature and extent of the impacts created by the proposed development on the City's public facilities systems, or does not reasonably benefit the proposed development.
 4. *Study Required.* The appellant shall provide a study in support of the appeal that includes the following information within 30 days of the date of appeal, unless a longer time is requested:
 - f. Total capacity of the City's water, wastewater, roadway, drainage or park 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 proposed development is to be developed in phases, such information also shall be provided for the entire development proposed, including any phases already developed.
 - g. Total capacity to be supplied to the City's water, wastewater, roadway, drainage or park facilities system by the dedication of an interest in land, construction of improvements or fee

- contribution. If the plat application is proposed as a phased development, the information shall include any capacity supplied by prior dedication, construction or fee payments.
- h. Comparison of the capacity of the City's public facilities system(s) to be consumed by the proposed development with the capacity to be supplied to such system(s) by the proposed dedication of an interest in land, construction of improvements, or fee payment. In making this comparison, the impacts on the City's public facilities system(s) from the entire development shall be considered.
 - i. The amount of any City participation in the costs of oversizing the public infrastructure improvement to be constructed in accordance with the City's requirements.
 - j. Any other information that shows the alleged disproportionality between the impacts created by the proposed development and the dedication, construction or fee requirement imposed by the City.
 - k. *Land in Extraterritorial Jurisdiction.* Where the subdivision or the public infrastructure improvements are located in the extraterritorial jurisdiction of the City and are to be dedicated to a county under an interlocal agreement under Texas Local Government Code, Chapter 242, an appeal or study in support of the appeal shall not be accepted as complete for filing by the planning and zoning administrator unless the appeal or study is accompanied by verification that a copy has been delivered to the county in which the facilities are to be located.
 - l. *Processing Application.* The City Engineer shall evaluate the appeal and supporting study and shall make a recommendation to the City Council based upon the information contained in the study, any comments received from the county, and the City Engineer's analysis based upon the same factors considered in making his original proportionality determination. Where the appeal is for relief from dedication of rights-of-way for or construction of a facility in the City's extraterritorial jurisdiction that is to be dedicated to a county under an interlocal agreement under Texas Local Government Code, Chapter 242, the City Engineer shall coordinate a recommendation with the county responsible for reviewing plats in the county.
 - m. *Decision.* The City Council shall decide the appeal in conjunction with its decision on the plat application. The Council shall base its decision on the criteria listed in subsection (h), and may take one of the following actions:
 - 1. Deny the appeal, and impose the standard or condition on the plat application in accordance with the City Engineer's recommendation or the Planning and Zoning Commission's decision on the plat; or
 - 2. Deny the appeal, upon finding that the proposed dedication, construction or fee requirements are inadequate to offset the impacts of the subdivision on the public facilities system for water, wastewater, roadway, drainage or park improvements, and either deny the plat application or require that additional public infrastructure improvements be made as a condition of approval of the application; or
 - 3. Grant the appeal, and waive in whole or in part any dedication, construction or fee requirement for public infrastructure improvements to the extent necessary to achieve proportionality; or

4. Grant the appeal, and direct that the City participate in the costs of acquiring land for or constructing the public infrastructure improvement under standard participation policies.
- n. *Criteria for Approval.* In deciding an appeal under this section, the City Council shall determine whether the application of the standard or condition requiring dedication of an interest in land for, construction of, or payment of a fee for public infrastructure improvements is roughly proportional to the nature and extent of the impacts created by the proposed subdivision on the City's public facilities systems for water, wastewater, roadway, drainage or park facilities, and reasonably benefits the development. In making such determination, the Council shall consider the evidence submitted by the appellant, the City Engineer's report and recommendation, considering in particular the factors identified in subsection (c), and, where the property is located within the City's extraterritorial jurisdiction, any recommendations from the county. *Action Following Decision.* If the relief requested under the proportionality appeal is granted in whole or in part by the City Council, the dedication, construction or fee requirement initially imposed by the Planning and Zoning Commission as a condition of plat approval shall be modified accordingly, and the standards applied or the conditions attached to Commission's approval of the plat application shall be conformed to the relief granted. Thereafter, the appellant shall resubmit the plat application to the City Council within ninety (90) days of the date relief under the appeal is granted, in whole or in part, showing conformity with the City Council's decision on the appeal.
- o. *Expiration of Relief.* If an applicant for plat approval prevails on a proportionality appeal, but fails to conform the plat to the relief granted by the City Council within the ninety-day period provided, the relief granted by the City Council on the appeal shall expire.
 1. The Council may extend the time for filing the revised plat application for good cause shown, but in any event, the expiration date for the relief granted shall not be extended beyond one year from the date relief was granted on the appeal.
 2. If the plat application is modified to increase the number of residential units or the intensity of non-residential uses, the responsible official may require a new study to validate the relief granted by the City Council.
 3. If the plat application for which relief was granted is denied on other grounds, a new petition for relief shall be required on any subsequent application.

Section 1.11: Payment of All Indebtedness Attributable to a Specific Property

- 1.11 No person who owes delinquent taxes, delinquent paving assessments, delinquent fees, or any other delinquent debts, **liens** or obligations to the City of Terrell, and which are directly attributable to a piece of property, shall be allowed to receive approval for any plat or replat until the taxes, assessments, debts, **liens** or obligations directly attributable to said property and owed by the property owner or a previous owner thereof shall have been first fully discharged by payment, or until an arrangement satisfactory to the MDD has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that all taxes, assessments, debts, **liens** or obligations have been paid at the time of submission for any application for approval under this Ordinance.

Section 1.12: Right to Deny Hearing and Plat

- 1.12 The City may deny a hearing and any approval pursuant to this Ordinance if the applicant does not submit a complete application including all necessary submittals such as engineering plans and all information and fees required by this Ordinance or Chapter 212 of the Texas Local Government Code necessary to evaluate and approve the plat. The statutory requirement for action regarding a plat within thirty (30) days of being filed with the city (TLGC Ch. 212) does not apply unless the plat application is complete and meets all of the technical requirements required for approval.

Section 1.13: Misrepresentation of Facts

- 1.13 Misrepresentation of Facts. It shall be a violation of this Ordinance for any person to knowingly or willfully misrepresent, or fail to include, any information required by this Ordinance in any plat application or during any public hearing or meeting of the Commission or City Council. Such a violation shall constitute grounds for denial of the plat.

Section 1.14: Definitions

- 1.14 For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). Definitions not expressly prescribed herein are to be determined in accordance with customary usage in municipal planning and engineering practices. The word "shall" is always mandatory, while the word "may" is merely directory.
1. Addition. A lot, tract or parcel of land lying within the corporate boundaries or extraterritorial jurisdiction of the City which is intended for the purpose of subdivision or development.
 2. Administrative Officers or Officials. Any officer of the City referred to in this Ordinance by title, including but not limited to the City Manager, City Engineer, Municipal Development Director, City Secretary, Fire Chief, Police Chief, Public Works Official and Chief Building Official shall be the person so retained in that position by the City, or his or her duly authorized representative. This definition shall also include civil engineering, planning, legal, financial, traffic engineering and other consultants retained by the City to supplement or support existing City staff, as deemed appropriate by the City.
 3. Alley. A minor public right-of-way which provides a secondary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties that derive primary access from a street and which connects between two public streets. An alley is not a street as defined in this article and any lot frontage on an alley cannot be used for meeting lot frontage requirements. The length of an alley segment is to be measured from the right-of-way lines of the streets from which the alley is provided access, or from the center point of an intersection with another alley which connects to a street.
 4. Amended or Amending Plat. A revised plat correcting errors or making minor changes to a recorded plat in accordance with TLGC Ch. 212.016) (see also: Minor Plat and Replat).

5. Amenity. An improvement to be dedicated to the public or to the common ownership of the lot owners of the subdivision and providing an aesthetic, recreational or other benefit, other than those prescribed by this Ordinance.
6. Applicant. A person, **property owner, agent, or entity that has the legal entitlement or authority to submit** an application for an approval required by this Ordinance. Also sometimes referred to as “developer”, “subdivider”, or other similar term.
7. Application. A written request **utilizing a city approved form along with all of the technical data and submittals necessary** for an approval required by this Ordinance.
8. Approval (by City Council). Reference to approval by the City Council in this ordinance shall apply to construction plats and **certain replats which require either a public hearing or to be approved by a super majority (75% of the members) and shall not apply to final plats which is a simple administrative approval function of the Planning and Zoning Commission authorized** by the City Council.
9. Approval (by the Planning & Zoning Commission). The Planning and Zoning Commission serves in an advisory capacity to the City Council and shall be responsible for recommending approval (either with or without conditions) to the City Council with regard to construction plats, development plats and **certain replats which require either a public hearing or to be approved by a super majority (75% of the members)**. The Planning and Zoning Commission is the final authority responsible for approving final plats. **The Commission’s decision to deny any type of Final Plat may be appealed to the City Council upon submission a written request within ten (10) calendar days of the Commission’s ruling, otherwise the decision is final.**
10. Assurance. See Section 6.2.
11. Base Flood. The flood having a one percent (1%) chance of being equaled or exceeded in any given year.
12. Block Length or Street Length. For a residential subdivision, that distance measured along the centerline of the street from the intersection center point of one through street to the intersecting center point of another street, or to the midpoint of a cul-de-sac. The through street referred to above shall not be a cul-de-sac, a dead-end street, or a looped street, but shall be a street which clearly has two points of ingress from two different directions.
13. Bond. Any form of a surety bond in an amount and form satisfactory to the City.
14. Building Setback Line. The line within a property defining the minimum horizontal distance between a building or other structure and the adjacent street right-of-way line, **easement, property line, creek, or some other specific boundary** feature.
15. Capital Improvements Budget. **The annual budget appropriated or allocated towards the funding of the construction of projects identified in the Capital Improvements Program (CIP).**
16. Capital Improvements Program (CIP). The official proposed schedule, if any, of all future public projects listed together with cost estimates, as adopted by City Council.
17. City. The City of Terrell, Texas.

18. City Attorney. The term “City Attorney” shall apply only to such attorney, or firm of attorney, that has been specifically employed by the City to assist in legal matters. This term shall also apply if the City retains a person to perform the functions of City Attorney as an official City employee.
19. City Council. The duly elected governing body of the City of Terrell, Texas.
20. City Engineer. The term "City Engineer" shall apply only to such licensed professional engineer, or firm of licensed professional consulting engineers, that has been specifically employed by the City to assist in engineering-related matters. This term shall also apply if the City retains a person to perform the functions of City Engineer as an official City employee.
21. City Manager. The person holding the position of the City’s chief executive officer (e.g., City Manager), as appointed by the City Council, as the term is applicable to the City’s form of management (per the City Charter).
22. Commission. The Planning and Zoning Commission of the City.
23. Comprehensive Plan. The phrase "Comprehensive Plan" shall mean the Comprehensive Plan of the City and adjoining areas as adopted by the City Council, including all its revisions and Plan elements (including, but not limited to, the Future Land Use Plan, Thoroughfare Plan, Parks and Open Space Plan, etc.). This Plan indicates the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks, water and wastewater facilities, and other public and private developments and improvements.
24. Concept Plan. An exhibit accompanying an application for a Zoning Change request inside the corporate city limits in which a drawing of the overall conceptual layout of a proposed development, with sufficient details to show the anticipated plan of development. All platting must be in substantial conformance with the approved zoning concept plan (see separate Zoning Ordinance as adopted or amended).
25. Construction Plat (also “Preliminary Plat”). A preliminary plan subject to City Council approval of the proposed overall plan for subdividing, improving and developing a tract, showing in plan view the proposed street and lot layout, easements, dedications, topography, drainage, storm water management, water and sewer services and other pertinent features, with such notations as are sufficient to substantially identify the general scope and detail of the proposed development. Commercial construction plats shall also show a complete site plan of the development to include all structures, fire lanes, fire hydrant locations, parking, access, landscaped areas, loading areas, screening, fence locations, dumpster enclosures, signage, etc. Construction Plats shall include civil engineering plans for public improvements to be submitted along with the plat, in order to proceed with construction of the subdivision and its associated public improvements, subject to any additions, alterations, plan approval, construction release and final acceptance of public improvements by the City Engineer. Upon acceptance of the public improvements by the City a final plat may be prepared for approval and recording.
26. Contiguous. Lots are contiguous when at least one boundary line or point of one lot touches a boundary line, or lines, or point of another lot.
27. Cul-De-Sac. A street having only one outlet to another street, and terminated on the opposite end by a vehicular turnaround or “bulb”. The length of a cul-de-sac is to be measured from

the intersection centerpoint of the adjoining through street to the midpoint of the cul-de-sac bulb.

28. Dead-End Street. A street, other than a cul-de-sac, with only one outlet.
29. Easement. The word "easement" shall mean an area for restricted use on private property upon which the City or a public/private utility shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs and other improvements or growths which in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems within said easements. The City and public/private utilities shall, at all times, have the right of ingress and egress to and from and upon easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or part of their respective systems without the necessity at any time of procuring the permission of anyone.
30. Engineer. A person duly authorized and licensed under the provisions of the Texas Engineering Registration Act to practice the profession of engineering.
31. Engineering Plans or Drawings. The civil engineering plans, maps, and drawings accompanying a plat and showing the specific location and design of public improvements to be installed in the subdivision in accordance with the requirements of the City as a condition of approval of the plat.
32. Escrow. A deposit of cash with the City in accordance with this Ordinance.
33. Exactions. Contributions of land, improvements or cash (such as, parkland, future school sites, trails, off-site roadway improvements, storm water and drainage systems, oversizing water or sewer lines, off-site utility improvements, escrowed funds, etc.) provided by a developer and offered to be dedicated to the city to satisfy the requirements of this Ordinance. Exactions are actual physical improvements, escrowed monies, or dedications of real property which are collected from a developer/builder for the purpose of future construction of public improvements or purchasing land that are based on the rough proportionality of the demand for these services created by the new development.
34. FEMA. The Federal Emergency Management Agency of the U.S. Government.
35. Final Plat (also "Record Plat" or "As-Built Plat"). The one official and authentic map of any given subdivision of land prepared from actual field measurement and staking of all identifiable points by a registered surveyor or engineer, with the subdivision location referenced to a survey corner, and with all boundaries, corners and curves of the land division sufficiently described so that they can be reproduced without additional references. The final plat of any lot, tract or parcel of land shall be recorded in the land records of Kaufman County, Texas. Amended plats, replats, and minor plats are also considered types of final plats.
36. Governing Body. The City Council of the City of Terrell.
37. Improvement or Developer Agreement. A contract entered into by the applicant and the City, by which the applicant promises to complete the required public improvements within the subdivision or addition within a specified time period following final plat approval.

38. Land Study. This is the same as the initial engineering plans and site plan submitted in conjunction with the Construction Plat.
39. Land Planner. Persons, including surveyors or engineers, who possess and can demonstrate a valid proficiency in the planning of residential, nonresidential and other related developments, such proficiency often having been acquired by education in the field of landscape architecture or other specialized planning curriculum, or by actual experience and practice in the field of land planning, and who may be certified as a member of the American Institute of Certified Planners (AICP).
40. Lot (also Lot of Record). A platted divided or undivided tract or parcel of land having frontage on a public street, and which is, or which may in the future be, offered for sale, conveyance, transfer or improvement; which is designated as a distinct and separate tract and which is identified by a lot and block number or symbol in a duly approved subdivision plat which has been properly filed of record at the County.
41. Major Plat. All plats not classified as minor plats, including but not limited to subdivisions of more than four (4) lots, or any plat that requires the construction of a new street (or portion thereof), dedication of rights-of-way, easements or the extension of a municipal facility as required by this or any other City ordinance and are required to be approved by the Planning and Zoning Commission or City Council.
42. Major Subdivision. This is the same as a “Major Plat”.
43. Minor Plat. A subdivision involving four (4) or fewer lots, provided that the plat does not create any new street, right-of-way, easement nor the extension of any municipal facilities to serve any lot within the subdivision. Any property to be subdivided using a minor plat shall already be served by all required City utilities and services, and all lots will have access from a public roadway that has already been improved to City standards. Minor plats are administratively approved by designated City staff in accordance with this ordinance.
44. Minor Subdivision. This is the same as a “Minor Plat”.
45. Municipal Development Department. The term "Municipal Development Department" (MDD) shall apply only to such practicing, professional land planner, or firm of professional land planners, that has been specifically employed by the City to assist in planning and zoning related matters. This term shall also apply to any official City employee in the Municipal Development Department.
46. On-Site Facilities or Improvements. These are the existing or proposed facilities or improvements constructed within the property boundaries of the plat, and the existing or proposed facilities required to be constructed or improved immediately adjacent to the property that are needed to serve the development. Facilities and improvements include, but are not limited to, streets, alleys, water lines, sewer lines, storm drainage facilities, sidewalks, screening devices, and curbs and gutters.
47. Off-Site Facilities or Improvements. “Off-site” facilities shall mean those facilities or improvements that are required to serve the site but that are not located within the boundaries of the plat, and are not required to be constructed or improved immediately adjacent to the property to serve the development. These include street improvements (i.e. oversizing, turn lanes, medians, signaling, etc.), sewer lines, water lines and storm drainage facilities, as well as the excess capacity of facilities such as water storage tanks and wastewater treatment plants available for new development. The City is not obligated to bring offsite services to a

development unless one of the following funding mechanisms has been approved and executed by the City: a Developer's Agreement (DA) which provides for this provision in a cost sharing agreement, Tax Increment Finance (TIF) application, Economic Development Incentive (EDC) package or other formal funding instrument.

48. Overlength Street (or Alley). A street segment, or a cul-de-sac or alley segment, which exceeds the maximum length allowed by this Ordinance, as measured along the centerline of the street from the intersection centerpoint of one through street, which shall not be a cul-de-sac or dead-end or looped street, to the intersecting centerpoint of another through street or, in the case of a cul-de-sac, to the midpoint of the cul-de-sac. For an alley segment, the measurement shall be to the right-of-way lines of the streets from which the alley is provided access, including any alley turnouts, or from the centerpoint of an intersection with another alley which connects to a street.
49. Pavement Width. The portion of a street that is available for vehicular traffic. Where curbs are used, it is the portion from the back of one face curb to the back of curb.
50. Perimeter Street. Any existing or planned street which is adjacent to the subdivision or addition to be platted.
51. Person. Any individual, association, firm, corporation, governmental agency, political subdivision, or legal entity of any kind.
52. Planning and Zoning Commission. The Planning and Zoning Commission of the City of Terrell, Texas.
53. Plat. This means a construction plat, final plat, development plat, **minor**, amended plat or replat, as determined by the context.
54. Preliminary Plat. This is the same as a "Construction Plat". (See "Construction Plat".)
55. Private Street. A private vehicular access way, including **private** alleys, that is shared by and that serves two or more lots, which is not dedicated to the public, and which is not publicly maintained. **Subdivision plats with proposed private streets will be required to be submitted with a private Property Owner's Association Agreement with adequate provisions for private maintenance of private streets, alleys and other common areas.**
56. Property Owner (also known as "Applicant" or "Subdivider" or "Developer"). Any person or firm, association, syndicate, general or limited partnership, corporation, trust or other legal entity, or any agent thereof, that has sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this Ordinance. In any event, the term "property owner" shall be restricted to include only the owner(s) or authorized agent(s) of such owner(s), such as a developer, of land sought to be subdivided.
57. Public Improvements. Facilities, infrastructure and other appurtenances, typically owned and maintained by the City (but not necessarily located upon City-owned property or right-of-way, public improvements can be located upon private property), which serve a public purpose in providing a needed service or commodity, such as wastewater collection and treatment and water storage and distribution, and which protect the general health, safety, welfare and convenience of the City's citizens, including efficiency in traffic circulation and access for emergency services. Required public improvements may include, but shall not be limited to, street and alley paving, including any necessary median openings and left turn

lanes on major thoroughfares; water lines and pumping stations; sanitary sewer lines and lift stations; storm drainage structures and storm water management devices; water quality and erosion controls; screening and retaining walls; fire lane paving and fire hydrants; landscaping, where such is used for required screening or other required landscaped area, and associated irrigation system; and any required public sidewalks, street lights and street name signs. The term “public improvements” shall not include facilities or infrastructure of private providers of utility services other than water and wastewater, but shall be deemed to include facilities and infrastructure that the City would normally require of a development but which will be owned and maintained by an entity such as a homeowners association, as in the case of private streets.

58. Replatting or Replat. This is the re-subdivision of any part or all of a block or blocks of a previously platted subdivision, addition, lot or tract. A replat is a type of Final Plat which may require a public hearing and be approved by the City Council in accordance with State law.
59. Review. Shall be construed to mean “to read, analyze, assess and act upon” a development application.
60. Right-of-Way. A parcel of land occupied, or intended to be occupied, by a street or alley. Where appropriate, “right-of-way” may include other facilities and utilities such as sidewalks; railroad crossings; electrical, communication, oil and gas facilities, water and sanitary and storm sewer facilities; and any other special use. The use of right-of-way shall also include parkways and medians outside of the paved portion of the street. The usage of the term "right-of-way" for land 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 shall not be included within the dimensions or areas of such lots or parcels. Right-of-way may be owned by a local, state or federal government or agencies, railroads, or utility companies. (see “easement” for comparison)
61. Standard Street. A standard street is a street or road that meets or exceeds the minimum specifications in the City’s standard street specifications, and which is constructed to the ultimate configuration for the type of roadway it is designated for on the City’s Thoroughfare Plan and constructed according to the adopted TCSS.
62. Street. A right-of-way, whether public or private and however designated, which provides vehicular access to adjacent land. Streets may be of the following categories:
 - a) Major thoroughfares, also known as arterial streets or primary thoroughfares, which provide vehicular movement from one neighborhood to another or to distant points within the City, and including freeways or highways leading to other communities.
 - b) Collector streets, also known as feeder streets or secondary thoroughfares, which provide vehicular circulation within neighborhoods, and from local streets to major thoroughfares.
 - c) Local residential streets, also known as minor thoroughfares or streets, which primarily provide direct vehicular access to abutting adjacent property.
 - d) Private streets are streets which are owned and maintained by a homeowners association or property owners association, and which are not dedicated to the public.
63. Street Improvements. This means any street or thoroughfare, together with all appurtenances required by City regulations to be provided with such street or thoroughfare, and including but not limited to curbs and gutters, walkways (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 City will ultimately assume the responsibility for maintenance and operation.

64. Street Length. This means the same as “Block Length”.
65. Street Right-of-Way. The width of the right-of-way for any roadway is the shortest perpendicular distance between the lines which delineate the rights-of-way of the street.
66. Subdivision (also known as “Addition”). A division or re-division of any tract of land situated within the City’s corporate limits or its extraterritorial jurisdiction into two or more parts, lots or sites, for the purpose, whether immediate or future, of sale, division of ownership, or building development. “Subdivision” includes re-subdivisions of land or lots which are part of a previously recorded subdivision.
67. Submission Date. The submission date is when all necessary forms, fees, plans, information and copies have been submitted to the City, previewed for completeness, and deemed as “complete” by action of issuance of a fee receipt by the City.
68. Substandard Street. An existing street or road that does not meet the minimum specifications in the City’s standard street specifications, and which is not constructed to the ultimate configuration for the type of roadway it is designated for on the City’s Thoroughfare Plan.
69. Surety (or “Security” or “Assurance”). See Section 6.2.
70. Surveyor. A licensed land surveyor or a registered public land surveyor, as authorized by State statutes to practice the profession of surveying.
71. SWPPP. A Storm Water Pollution Prevention Plan (as in a set of engineering construction plans).

TCSS. The City of Terrell’s Technical Construction Standards and Specifications (TCSS), a copy of which is maintained and available for inspection at the City Hall, and which is incorporated herein by reference. The TCSS shall be comprised of the current edition. North Central Texas Council of Governments’ (NCTCOG’s) “Standard Specifications for Public Works Construction”, as amended . The TCSS shall include any additional **or locally amended** provisions or policies the City of Terrell implements that pertain to the construction of site improvements such as street, **fire lanes**, parking lot, driveway and sidewalk paving, storm drainage structures, utility lines and facilities, screening walls/fences, retaining walls, landscaping and irrigation improvements, street lighting or signage, restricted access (gated) entrances to any type of development, and other similar improvements.
72. TCEQ. The Texas Commission on Environmental Quality.
73. Temporary Improvements. Improvements built and maintained by the property owner that are needed to remedy a circumstance that is temporary in nature, such as a temporary drainage easement or erosion control device, that will be removed upon completion of the subdivision or shortly thereafter.
74. U.S. Army Corps of Engineers. The civil engineering branch of the U.S. Government.
75. Yard. The open area between building setback lines and lot lines.

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II. PROCEDURES

Section 2.1: Pre-Application Procedures

- 2.1 The applicant should avail himself or herself of the advice and assistance of the City's administrative officers in the **Engineering and** Municipal Development Departments, including its retained planning and engineering consultants (as applicable), and should consult early and informally with those officers and consultants before preparing **engineering** plans or any plat in order to save time and money, and to avoid potential unnecessary delays.

Prior to formal application for approval of a construction or final plat, the applicant **may** request and attend **one or more** pre-submittal conferences with the appropriate City official(s) in order to become familiar with the City's development regulations and the subdivision process **prior to committing resources to the project**. At the pre-submittal conference, the applicant may be represented by his or her land planner, engineer and/or surveyor. **Due to the inherent vagueness and incompleteness of early conceptual plans or designs which may or may not be feasible or in compliance with State and Local codes the developer/applicant shall be required to sign a waiver of any early vesting rights under Chapter 245 of the Texas Local Government Code prior to attending and pre-submittal conference with City staff.**

Section 2.2: Statutory Procedures

- 2.2 a. Zoning Requirements. A property within the City's corporate limits that is being proposed for platting or development must be properly zoned by the City prior to submission of an application for approval of any or plat. In addition, the proposed development layout or subdivision design shown on the proposed or plat must be in conformance with all standards and requirements prescribed in the City's **Comprehensive Plan**, Zoning Ordinance and this Ordinance.

Noncompliance with the requirements of the zoning district in which the subject property is located, or lack of the proper zoning, shall constitute grounds for denial of the plat.

Any plat submitted for approval by the City shall be in accordance with the City's **Comprehensive Plan and** Zoning Ordinance, if the property is located within the City's corporate limits, and, if the property is located within the City's corporate limits or extraterritorial jurisdiction, it shall be in accordance with the City's Comprehensive Plan, including all adopted water, sewer, storm drainage, future land use, park, recreation, open space and thoroughfare plans. All plats shall be prepared by a registered professional land surveyor.

- b. Classification of Subdivisions and Additions. Before any land is filed for record with the County Clerk, the property owner shall apply for and secure the appropriate City approval of the required subdivision plat, in accordance with the following procedures, unless otherwise provided within this Ordinance. **This subsection does not apply to development plats.**
1. Minor subdivisions may be approved for residential or nonresidential properties. Minor plat approval by the City Manager (or designee) requires the submission of a final plat drawing and other submission materials required by Section 2.11 of this Ordinance. ***Lots may be conveyed or sold only when the plat has been approved by the City and the final plat has been filed at Kaufman County.***

2. Major subdivisions may be approved for residential or nonresidential properties. The procedure for approval of a major subdivision depends upon whether the development is inside the corporate city limits or in the extra-territorial jurisdiction (ETJ) of the city and typically involves two to three steps:
 - i. **Within the City Limits:** All unplatted property will be required to have a Construction Plat approved by both the Planning and Zoning Commission (P&Z) and City Council and approval of a Final Plat by the P&Z which shall be subsequently filed with the County prior to the issuance of building permits and/or certificates of occupancy. Previously platted property being replatted will require a Final Replat which may require Council approval if State Law requires a public hearing or other certain conditions otherwise it may be approved by the P&Z.
 - ii. **Within the ETJ:** All unplatted property in which five (5) or more lots are proposed in the subdivision shall require a developer's agreement, construction plat and final plat. For four (4) or fewer lots or for replatting an existing subdivision a final plat only shall be submitted for approval in accordance with the instructions below.
 - iii. **Approval Procedures:** Sections 2.4 through 2.5 of this Ordinance provide the requirements for each. Major plat approval shall be in accordance with Sections 2.4 through 2.5 of this Ordinance. Upon completion of the required public improvements, or upon submission and City approval of the appropriate surety for public improvements, the property owner may submit the final plat for approval. All major subdivision plats must be reviewed by the Commission and approved by the City Council, pursuant to Sections 2.4 through 2.8 of this Ordinance. Lots may be sold only when the final plat has been approved by the City Council and the plat has been filed at Kaufman County. *If the land is required to be platted, no conveyance or sale of any portion or lot of the property may occur until after the final plat is approved by the City Council and filed at Kaufman County.*
- c. Submission Requirements For All Types of Plat Applications. In addition to the requirements outlined herein for each type of development application, the City may maintain separate ordinances, policies and procedures for the submission and processing of applications including, but not limited to, application forms, checklists, language blocks for plats, and other similar items. The forms and paperwork are available in the Municipal Development Office. These policies and procedures may be amended from time to time, and it is the applicant's responsibility to be familiar with, and to comply with, these policies and procedures.
- d. Official Submission Date and Completeness of Application For All Types of Plats.
 1. For the purpose of these regulations, the "official submission date" shall be the date upon which a complete application for approval of any type of plat, that contains all required elements mandated by the Texas Local Government Code, Section 212.004(b) and by this Ordinance, is submitted to the Municipal Development Department, after which the statutory period required for approval or disapproval of the plat shall commence. No application shall be deemed officially submitted until the Municipal Development Department determines that the application is complete and a fee receipt is issued by the City. Failure by the Municipal Development Department to make a determination of incompleteness within ten (10) calendar days following the date on which the application was first received by the City, shall result in the application being

deemed complete, and the “official submission date” shall become the 11th calendar day following initial receipt of the application by the City.

2. Plat applications which do not include all required information and materials, as outlined below and per other City development review policies which may change from time to time, will be considered incomplete, shall not be accepted for official submission by the City, and shall not be scheduled on a Commission agenda until the proper information is provided to City officials including the City’s retained planning and engineering consultants, if applicable.

e. Submission Procedures and City Review Process For All Types of Plats.

1. Submission Timing. A complete application for approval of any plat shall be submitted to the City at least twenty (20) calendar days, but no more than thirty (30) calendar days unless the applicant waives the 30-day requirement for action on the plat in writing, prior to the Commission meeting at which it is to be considered.

- i. Due to State-mandated notification requirements, any residential replat that requires public notification (see Section 2.8) shall be submitted to the City at least thirty (30) calendar days prior to the Commission meeting at which it is to be considered. Such replat application shall also be accompanied by a written waiver of the 30-day requirement for action on the plat due to timing constraints imposed by publication of the required notice in the City’s official newspaper.

2. Submission Materials. The application shall include a written application form which bears the original signature(s) of the property owner(s) of the subject property, along with the appropriate submission fee, the appropriate number of full size sets as stated on the application form, (available at City Hall), of full-size folded (24" x 36") **or** (18" x 24") prints of the plat, as required by the City’s current development review policies and requirements, and one 11" x 17" black-and-white reduction of the plat, a copy of any applicable development agreement pertaining to the subject property (if any), and any other applicable information and materials deemed appropriate by the City. **Signed, sealed and notarized reproducible copies of the plat to be used for filing purposes should not be submitted until notified to do so after all required approvals are complete. *All of the above materials and plans shall be submitted to the Municipal Development Department for review in order for the application to be deemed complete.***

The application shall be accompanied by a certificate or other satisfactory evidence from the Kaufman Tax Assessor Collector showing that all taxes have been paid on the subject property (required only at the time of final plat application), and that no delinquent taxes exist against the property, as shown in the Kaufman County deed records a Documentation shall also be included that shows no delinquent assessments, **or outstanding liens, citations,** fees, or other debts or obligations to the City and which are directly attributable to the subject property.

The application shall also be accompanied by an engineer’s summary report which describes, in as much detail as necessary, the following: the overall nature and scope of the proposed development, including zoning of the property, proposed use(s) and acreage of each proposed use, minimum lot sizes, widths and depths, number of lots to be created, and special amenities or facilities that will be included in the development; how the property will be served with required utilities and services; how storm water drainage will be handled; **100 year flood plain boundaries if located on any portion of the subject property;** and an itemization and description of any waivers/suspensions from

provisions of this Ordinance that will be sought. If the proposed development will have access points onto a major thoroughfare, the application shall also include a letter from the appropriate entity, such as TXDOT or Kaufman County, showing the City or County Thoroughfare Plan whichever is applicable, acknowledging and approving proposed driveway locations and corresponding median openings and left turn lanes, if applicable. Letters shall also be provided from each of the applicable utility service providers, including water, wastewater, gas, electricity, telephone, cable TV and solid waste, verifying their ability to provide an adequate level of service for the proposed development. A letter from the Terrell Independent School District may also be required that acknowledges the District(s) has been informed of the size (with respect to the anticipated number of homes and/or school-age children), location and timing of the proposed development, and that expresses any desire the District may have to obtain a future school site within any portion of the subject property. One copy of all of the above materials (and any associated plans) shall be submitted to the Municipal Development Department for review in order for the application to be deemed complete.

All plat drawings and other corresponding plans and drawings, including engineering plans and landscape and screening plans, shall be 24" by 36" in size, and shall be drawn to a standard engineering scale of no more than one hundred feet to the inch (1"=100') In cases of large developments which would exceed the dimensions of the sheet at one hundred foot (100') scale, plats may be on multiple sheets and in a format that will be acceptable for eventual filing at Kaufman County. If multiple sheets then a key sheet is needed. ***All of the above materials and plans shall be submitted for review by the Municipal Development Department in order for the application to be deemed complete for statutory purposes.***

3. City Staff Review. Upon official submission of a complete application for plat approval, the City shall commence technical review of the development proposal by forwarding a copy of the application and plat to development review team member departments which include, but shall not be limited to, the City Engineer, Public Works, Utilities, Fire Department, Police Services or Municipal Development Department. ***As noted above, it is the applicant's responsibility to submit one complete copy of any application (including all documents, application forms, plans, etc.) directly to the Municipal Development Department in order for the application to be considered complete.*** City development review team members shall review the plat and shall ascertain its compliance with these and other applicable City regulations. Following City staff review of the plat and supporting documents, and following discussions with the applicant on any revisions deemed advisable and the kind and extent of improvements to be installed, the applicant shall resubmit additional copies of the corrected plat (and engineering plans, if applicable) to the Municipal Development Department no later than ten (10) calendar days prior to the Commission meeting for final review and inclusion in the Commission packets. Failure to resubmit corrected copies of the plat back to the City in time shall be cause for the Municipal Development Department **to administratively deny the plat and remove it from the Commission's agenda** unless the 30 day waiver statement has been signed by the applicant. If, upon re-submission of the corrected plat to the City, the City Engineer determines that the application is still incomplete or is not correct to a reasonable extent, the plat application shall be subject to denial.

After the plat has been scheduled on an agenda (or at any time prior), the applicant may request, in writing, a waiver of the thirty (30) day approval requirement in order to allow him or her more time to correct deficiencies, address concerns, or otherwise improve the plat pursuant to the City's regulations. After receipt of the request, the City may delay

action on the final plat beyond thirty (30) calendar days following the official submission date.

4. Action by the Commission and City Council. The Commission shall review all subdivision plat applications (except minor plats and amended plats) and if in complete conformance with the provisions of this Ordinance and with all other applicable regulations of the City, then they shall be approved, except in the case of construction plats **or certain replats** which shall require City Council approval.

The Commission shall review each construction plat application and shall take action to either recommend approval of the construction plat application or approval of the application subject to certain conditions, or shall vote to deny the plat application, within thirty (30) calendar days following the official submission date unless the applicant has submitted a written waiver of the 30-day review/approval time pursuant to subsection 3 above. The City Council shall take action on the plat within thirty (30) calendar days following the Commission's action to recommend approval of the application (or approval with conditions). Affirmation of, or minor modifications to, the Commission's recommendation to approve the construction plat shall require a simple majority vote of the City Council members present and voting, **unless a protest has been filed by landowners of 20% of the affected property in accordance with State law, which shall then require an affirmative vote of three-fourths (3/4) of the City Council present to approve the plat.**

5. **Appeal.** If the Commission votes to disapprove (i.e., deny) a plat application, the Commission shall state such disapproval and the reasons therefore. The Commission's vote to deny a plat is final **unless a written appeal to the City Council is submitted within ten (10) business days of the Commission's action. A three-fourths (3/4) majority of the Council shall be required to overturn a recommendation for denial by the Commission.**

- f. Proof of Land Ownership. The City requires proof of land ownership prior to approval of any development application involving real property. Along with the application submission, the applicant shall provide written verification, such as a notarized statement or a power of attorney or other evidence satisfactory to the Municipal Development Department, that he or she is the owner of record of the subject land parcel or parcels, or is the property owner's authorized agent. The Municipal Development Department shall have the authority to determine what document(s) the City will require to prove ownership, such as one of the following:

1. General warranty deed;
2. Special warranty deed;
3. Title policy; or
4. Some other documentation that is acceptable to the City Manager (or designee).

If ownership cannot be conclusively established prior to the meeting date on which the development application will be heard, the City shall have the authority to deny the application on the basis of protecting the public interest. The applicant may resubmit a new development application, including the submission fees, for the property at any time following such denial.

- g. Lapse of Construction Plat Approval. The approval of a construction plat shall be effective for a period of three hundred sixty five (365) calendar days beyond the date that the plat was approved by the appropriate authority, except as otherwise provided herein. Unless a guarantee of public improvements has been approved by the City pursuant to Article VI of this Ordinance, by 12:01 a.m. on the 366th day following approval of the construction plat, the applicant must have completed the construction of the project and received final acceptance by the City as set forth below. If this is not accomplished, then the approved construction plat shall be deemed to have expired and shall become null and void, except for any phase for which a final plat has been approved, and a new construction plat application (along with all other required paperwork, plans, fees, etc.) must be submitted, reviewed and approved by the City in order to proceed with development of the property.
1. All of the following shall occur within three hundred sixty five (365) calendar days following construction plat approval: a. City Engineer's approval of engineering plans for all proposed public improvements; b) payment of all applicable site development related fees that are traditionally collected prior to release for site construction; and (c) an application for approval of the final plat has been submitted to the City within sixty (60) calendar days following completion of site construction and final acceptance by the City in order to avoid lapse of the approved construction plat (unless such is extended or reinstated pursuant to provisions in this Ordinance).
 2. In a phased development if the Construction Plat is allowed to lapse and become null and void for the initial phase, then all subsequent phases shall at that time become null and void as well. Each subsequent phase of the project must be completed and accepted by the City within three hundred sixty five (365) calendar days of the filing of the final plat for the previous phase. No subsequent phase shall begin construction until the final plat for the previous phase has been approved and filed with the County. If the final plat application for any phase has not been submitted to the City for approval in the time frame stated herein then the construction plat for all subsequent phases for which no final plat has been approved shall have been deemed to have expired and shall become null and void.
 3. In order to prevent the lapse of approval of a construction plat the owner may submit a request for alternate submittal deadlines expiration periods, or delayed construction of public infrastructure which may be approved only if a timeline for each phase is included in a written developer's agreement submitted with the construction plat for approval or in the absence of a developer's agreement a request for an extension, alternate expiration period or delay in construction of the public infrastructure for each phase is submitted prior to the lapse of the construction plat for approval by the City Council as provided in this ordinance. Any such request shall require security to be provided by the owner in accordance with Section 6 of this ordinance.
- h. Extension and Reinstatement Procedure. Sixty days prior to the lapse of approval for a plat, the property owner may petition the City to extend the plat approval. Such petition shall be considered at a public meeting before the Planning and Zoning Commission and City Council and the City Council at such meeting may grant an extension. If no petition for extension of plat approval is submitted by the property owner then the plat shall be deemed to have expired and shall become null and void.
1. In considering whether to grant a request for extension, the City Council shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval, and the extent to which newly adopted subdivision regulations would apply to the plat at that point in time. The City Council shall either extend the plat (either with or without conditions) or shall deny the request,

in which instance the originally approved plat shall be deemed to be null and void. The property owner must thereafter submit a new plat application for approval, and shall conform to the subdivision regulations then in effect.

2. The **City Council** may extend the plat approval subject to additional conditions based upon newly enacted City regulations or State legislation, or such as are necessary to ensure compliance with the original conditions of approval or to protect the public health, safety and welfare. The City Council may also specify a shorter time for extension of the plat than the original **365-day** approval period.
- i. Lapse of Approval of Engineering Plans. The approved engineering plans shall be valid for a period of three hundred and sixty-five (365) calendar days following approval by the City Engineer. The Commission may, upon written request by the applicant, grant an extension of up to an additional 365 calendar days, after which the engineering plans shall be subject to re-approval by the City Engineer if no construction has occurred.

j. Final Plat Timeline:

1. Final plat approved by the City Council but not yet filed at Kaufman County - Submission of the plat mylars, filing fees and other materials necessary to file the plat at the County shall be submitted to the City within thirty (30) calendar days of the date of final plat approval.
2. Final plat that has been filed at Kaufman County - Valid in perpetuity, unless the filed plat is properly amended or vacated pursuant to the provisions of this Ordinance. The City shall file all plats and replats at the County within 15days of receiving all required signed and sealed prints and documents for filing subsequent to approval by the City.

Section 2.3: Reserved.

Section 2.4: Procedures and Submission Requirements for Construction Plat Approval

- 2.4
- a. Following the pre-**submittal** conference (as described in Section 2.1 above) regarding the overall general development strategy for the property, the applicant shall have prepared a construction plat together with full engineering plans for the construction of the subdivision and all associated public improvements and other supplementary materials, as required by this Ordinance or by the City.
 - b. The construction plat **with full engineering plans shall include all of the property which the applicant proposes to develop. Any portion of land not included in the construction plat whether or not it is contiguous or under the same ownership shall not be considered a part of the same project and a separate application shall be required to be submitted for approval at such time the owner proposes to develop the land.**
 - c. **If any land subject to the construction plat is to be developed in phases, each phase shall then be approved for construction and after acceptance of the public infrastructure of such phase by the City a final plat shall then be submitted for approval in accordance with this ordinance.**
 - d. The applicant shall submit the construction plat, including full engineering plans and the appropriate assurances for the completion of all improvements, as per Article 6, to the Municipal Development Department. The Municipal Development Department shall schedule the construction plat for review and action by the Commission within thirty (30)

calendar days following the “official submission date” unless the applicant has submitted a written waiver of the 30-day review/approval time pursuant to subsection 2.2 (e) 3. The City Council shall take action on the plat within thirty (30) calendar days following the Commission’s action to recommend approval of the application (or approval with conditions). Affirmation of, or minor modifications to, the Commission’s recommendation to approve the construction plat shall require a simple majority vote of the City Council members present and voting.

- e. Approval of a construction plat by the City Council shall be deemed general approval of the street and lot layout shown on the construction plat (approval for construction of the necessary streets, water lines, sewer lines, and other required improvements and utilities shall be authorized only through the City Engineer’s approval of the engineering plans), and to the preparation of the final or record plat when construction of all required public improvements is nearing completion (or when appropriate surety for completion is provided to the City). Except as provided for herein, approval of the construction plat shall constitute conditional approval of the final plat when all conditions of approval and when all procedural requirements set forth in this Ordinance and State law have been met, and when construction of all improvements (or surety provided) are satisfactorily completed.
- f. Standards for Approval. No construction plat shall be recommended for approval by the Commission or approved by the City Council unless the following standards have been met:
 - 1. The plat substantially conforms with the Comprehensive Plan, Zoning Ordinance, and with other codes, studies and plans, as applicable;
 - 2. The layouts and engineering plans for required public improvements and City utilities have been submitted by the applicant for approval by the City Engineer (whether specifically stated or not, construction plat approval shall always be subject to any additions or alterations to the engineering plans as deemed necessary by the City Engineer, as needed, to ensure the safe, efficient and proper construction of public improvements within the subdivision); and
 - 3.
- g. No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the construction plat by the City or prior to issuance of all appropriate construction permits by the City and other appropriate entities or agencies. The applicant shall also provide copies of letters from applicable local utility companies stating that each utility company has reviewed the construction plat and stating any requirements, including easements, they may have. (This requirement may be deferred until the final plat is submitted if such deferral request is submitted to the City in writing and approved by the Municipal Development Department prior to the Commission meeting at which the construction plat will be considered.) **No excavation, grading, tree removal or site clearing activities shall occur prior to approval of the construction plat and the engineering plans.** However, preliminary grading or site preparation activities, such as limited excavation, filling, and removal or clearing of brush, undergrowth or man-induced debris, may be authorized by the City Engineer (or designee), at his or her discretion, if such request is submitted in writing by the property owner or developer, if such activities are in conformance with all applicable City ordinances and codes, and if such activities will not be detrimental to the public health, safety or general welfare (also see Section 6.8b.).

- h. Information Required Upon or With Construction Plat. The proposed construction plat and associated engineering plans shall show the following information (the construction plat itself shall only include those items marked in *italics* below -- other physical and engineering data shall be included in the engineering plans or as separate documents):
1. *A vicinity, or location, map that shows the location of the proposed development plat within the City (or within its ETJ) and in relationship to existing roadways;*
 2. *Boundary lines, abstract/survey lines, corporate and other jurisdictional boundaries, existing or proposed highways and streets (including right-of-way widths and easements), bearings and distances sufficient to locate the exact area proposed for the subdivision, and all survey monuments (identified and labeled; see Section 5.2 for specifications) including any required concrete monuments (per the City's Planner and/or Engineer); the length and bearing of all straight lines, radii, arc lengths, tangent lengths and central angles of all curves shall be indicated along the lines of each lot (curve and line data may be placed in a table format); accurate reference ties via courses and distances to at least one recognized abstract or survey corner or existing subdivision corner shall be shown;*
 3. *The name, location and recording information of all adjacent subdivisions (or property owners of adjacent unplatted property), including those located on the other sides of roads or creeks, 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, alleys, building setbacks, lot and block numbering, easements, and other features that may influence the layout of development of the proposed subdivision; adjacent unplatted land shall show property lines, the names of owners of record, and the recording information;*
 4. *The location, widths and names of all streets, alleys and easements (it shall be the applicant's responsibility to coordinate with appropriate utility entities for placement of necessary utility easements and for location of all streets and median openings on highways or arterial roadways), existing or proposed, within the subdivision limits and adjacent to the subdivision; a list of proposed street names shall be submitted (in the form of a letter or memo along with the application form) for all new street names (street name approval is required at the time the construction plat is approved);*
 5. *The location of all existing property lines, existing lot and block numbers and date recorded, easements of record (with recording information), buildings, existing sewer or water mains (can be shown on a separate sheet, if preferred), gas mains or other underground structures, or other existing features within the area proposed for subdivision;*
 6. *Proposed arrangement and square footage of lots (including lot and block numbers) and proposed use of same; proposed building lines; for nonresidential uses, the location and size of buildings (this information may be provided on a separate sheet, such as on an **engineering** plan or the final site plan; see the Zoning Ordinance);*
 7. *A title block within the lower right hand corner of the plat (and engineering plans) which shows the title or name under which the proposed subdivision is to be recorded; the name, address and phone number of the property owner(s); the name, address and phone number of the land planner, licensed engineer or registered professional land surveyor who prepared the plat/plans; the scale of the plat/plans; the date the plat/plan was prepared; and the location of the property according to the abstract or survey*

records of Kaufman County, Texas; the subdivision name shall not duplicate (or too closely phonetically replicate) the name of any other platted subdivision in Terrell, its ETJ, or other surrounding communities in Kaufman County or other recorded subdivisions in the official records of Kaufman County, but phasing identification is allowed to be similar to previous phases of that particular development (it is the property owner's responsibility to check the plat records of Kaufman County to ensure that the proposed subdivision name will not duplicate or sound too much like a subdivision name already in existence -- the City may, at its discretion, require a different subdivision name if there is potential for confusion by public safety officials or the general public);

8. *Sites, if any, to be reserved or dedicated for parks, schools, playgrounds, other public uses or for private facilities or amenities;*
9. *Graphic Scale, date, north arrow oriented to the top or left side of the sheet, and other pertinent informational data;*
10. *Contours with intervals of two feet (2') or less shown for the area, with all elevations on the contour map referenced to sea level datum; and the limits of any portion of the 100-year flood plain (pursuant to the flood study, if required by the City Engineer) that may be within or adjacent to (i.e., within 100 feet of) the property (final monumentation of the flood plain shall occur, and shall be shown, on the final plat prior to approval and filing at the County) - if no flood plain present, then a note stating this shall be shown on the plat;*
11. *Areas contributing drainage to the proposed subdivision shall be shown in the engineering plans; locations proposed for drainage discharge from the site shall be shown by directional arrows;*
12. *All physical features of the property to be subdivided shall be shown, including the location and size of all water courses, 100-year flood plain according to Federal Emergency Management Agency (FEMA) information, U.S. Army Corps of Engineers flowage easement requirements, ravines, bridges, culverts, existing structures, drainage area in acres or area draining into subdivisions (only in the engineering plans), the outline of major wooded areas or the location of major or important individual trees, and other features pertinent to subdivision;*
13. *Engineering plans of water and sewer lines and other infrastructure (including sizes) to be constructed in the subdivision; the proposed connections to distribution mains shall be indicated;*
14. *Proposed phasing of the development; where a subdivision is proposed to occur in phases, the applicant, in conjunction with submission of the construction plat, shall provide a schedule of development; the dedication of rights-of-way for streets and street improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision; the City shall determine whether the proposed streets and street improvements are adequate pursuant to standards herein established, and may require that a traffic impact analysis be submitted for the entire project or for such phases as the City determines to be necessary to adjudge whether the subdivision will be served by adequate streets and thoroughfares;*
15. *All construction plats shall be submitted in a legible format and shall be reproduced on a good grade blue line or black line paper;*

16. *Existing zoning of the subject property and all adjacent properties;*
17. *Minimum finished floor elevations of building foundations shall be shown for all lots;*
18. *Certificates and other language shall be included on the plat, pursuant to the following Subsections:*
 - (a) *A statement that the subdivided area is legally owned by the applicant.*
 - (b) *An accurate legal, such as by metes and bounds, description by bearings and distances (including necessary curve and line data), accurate to the nearest one hundredth of a foot, for all boundary, with descriptions correlated to permanent survey monument.*
 - (c) *A statement signed by the property owner(s) and acknowledged before a Notary Public as to the authenticity of the signatures, saying that the property owner(s) adopts the plat as shown, described and named, and that he/she does dedicate, in fee simple, to the public use forever the streets, alleys and easements shown on the plat. The property owner(s) further reserves any easement areas shown for mutual use of all public utilities desiring to use the same. Any public utility shall have the right to remove and keep removed all or any part of any vegetative growth or other appurtenance for construction or maintenance, or efficiency of its respective system in these easements and all or any part of, any growth or construction which in any way hinders or interferes with the right of ingress and egress to these easements for any necessary use without asking anyone's permission.*
 - (d) *The registered professional land surveyor's certificate, with a place for his or her signature.*
 - (e) *A place for plat approval signature of the Mayor (or Mayor Pro Tem, in the Mayor's absence) of the City Council, a place for the City Secretary to attest such signature, and the approval dates by the Planning and Zoning Commission and City Council.*
 - (f) *Following are similar certificates and languages to be used on the plat to accommodate the above requirements:*
 - (1) *Property Owner's Certificate (required):*

STATE OF TEXAS
COUNTY OF KAUFMAN

WHEREAS, [name] is the Owner of a tract of land situated in the [name] Survey, Abstract No. [number], Kaufman County, Texas; said parcel being (all of, a portion of, out of, etc.) a called [number] acre tract conveyed to [him by type of deed or other instrument] of record in Volume [number], Page [number], of the [type] records of Kaufman County, and being more particularly described by metes and bounds as follows:

(Enter property boundary description and area here.)

NOW, THEREFORE, KNOW ALL BY THE PRESENTS:

THAT I, [owner's name], as owner of the above described property, do hereby adopt this plat designating the tract as the [subdivision name], an addition to the City of Terrell (or 'Kaufman County' if the tract is outside the Terrell city limits), and do hereby dedicate to the use of the public forever the rights of way, public use areas and other easements shown thereon for the purposes indicated; THAT no buildings, fences or other obstructions shall be constructed or placed upon, over or across the said easements, except as may be permitted by the said City; THAT said easements may be for the mutual use and accommodation of all public utilities serving the property, unless an easement limits the use to particular utilities, with all uses being subordinate to that of the City of Terrell's; THAT the said City and public utilities shall have the right to remove and keep removed all or parts of any buildings, fences, trees, shrubs or other improvements or growths, which may in any way endanger or interfere with the construction, maintenance or efficiency of their respective systems located within said easements; and THAT the said City and public utilities shall at all times have the right of ingress to and egress from their respective easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, reading meters, and adding to or removing all or parts of their respective systems without the necessity at any time of procuring permission from anyone; and

THAT this plat is subject to all of the requirements of the subdivision regulations of the City of Terrell and the County of Kaufman, Texas.

WITNESS my hand this ____ day of _____, 20__.

(signature of property owner)

(NOTE that if the name of the person who signs the plat is not that of the property owner, as indicated by the preamble preceding the above legal description of the tract, then, the name of the person who is to sign the plat should be printed here, along with the signer's relationship to the property owner.)

(2) Surveyor's Certificate (required):

KNOW ALL MEN BY THESE PRESENTS:

That I, _____, do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments shown thereon as "set" were properly placed under my personal supervision in accordance with the Subdivision Ordinance of the City of Terrell.

(seal) _____
Signature of Registered Professional Land Surveyor
Registration No. _____
Date: _____

(3) Approval Block (required):

(6) Fire Lanes (to be used if applicable):

That the undersigned does hereby covenant and agree that he (they) shall construct upon the fire lane easements, as dedicated and shown hereon, a hard surface in accordance with the paving standards for fire lanes of the City of Terrell's TCSS and adopted Fire Code, and that he (they) shall maintain the same in a state of good repair at all times and keep the same free and clear of any structures, fences, trees, shrubs, or other improvements or obstruction, including but not limited to the parking of motor vehicles, trailers, boats or other impediments to the accessibility of fire apparatus. The maintenance of paving on the fire lane easements is the responsibility of the owner, and the owner shall post and maintain appropriate signs in conspicuous places along such fire lanes, stating "Fire Lane, No Parking or Standing." The local law enforcement agency(s) is hereby authorized to enforce parking regulations within the fire lanes, and to cause such fire lanes and utility easements to be maintained free and unobstructed at all times for fire department and emergency use.

(7) Access Easements (to be used if applicable):

The undersigned does covenant and agree that the access easement may be utilized by any person or the general public for ingress and egress to other real property, and for the purpose of general public vehicular and pedestrian use and access, and for fire department and emergency use in, along, upon and across said premises, with the right and privilege at all times of the City of Terrell, its agents, employees, workmen and representatives having ingress, egress, and regress in, along, upon and across said premises.

(8) Other Plat Language. *The plat shall include any other applicable language, such as for drainage, floodway or other special types of easements, or such as for a private street subdivision, as deemed appropriate and necessary by the City for the purpose of protecting the public health, safety and welfare. Applicable plat languages are available upon request at the City.*

- i. Engineering Plans. Along with the construction plat application, the applicant shall submit the required number of sets of the complete engineering plans for all streets, alleys (if any), storm sewers and drainage structures, water and sanitary sewer facilities, screening and retaining walls, landscaping and irrigation, and any other required public improvements for the area covered by the construction plat. The engineering plans shall also contain any plans deemed necessary to show or document compliance with the City's ordinances pertaining to nonpoint source pollution control, and any other applicable codes and ordinances of the City that are related to development of a land parcel. The engineering plans shall be on sheets no larger than 24" by 36" in size. Cost estimates for the completion of all public improvements shall also be submitted with the engineering plans for review (and approval, if necessary) by the City's Engineer.

For the purposes of this Ordinance, complete sets of engineering plans shall include the following plans or sheets (generally in this order), as well as any additional plans or sheets deemed necessary and requested by the City Engineer:

- Cover or title sheet (with list of all plans)
- Construction plat

- Final site plan (for nonresidential and multi-family projects only - see the Zoning Ordinance for specific requirements and approval procedures)
- Existing conditions plan (unless these items are shown on the construction plat itself), which shows existing topography, vegetation, tree inventory, existing natural and man-made physical features, etc.
- Existing tree and vegetation protection plan
- Grading, erosion control, and water quality control plans (including a SWPPP)
- Paving and storm drainage plans
- Utility plans for water, sanitary sewer, etc.
- Traffic control plans (if necessary)
- Screening and retaining wall plans
- Landscaping and irrigation plans (irrigation plan can be generalized, and must show 100% coverage of required landscape areas and use of double-check valves, automatic controllers, and automatic moisture- and freeze-sensors)

The applicant shall have these plans prepared by their own professional engineer(s), subject to approval of the plans by the City Engineer. The City Engineer (or designee) shall review, or cause to be reviewed, the plans and specifications and if approved, shall mark them “approved” and shall return one set to the applicant, and at least two (2) sets shall be retained in the City’s files. If not approved, then one set shall be marked with the objections noted (on the plans themselves and/or in memo format, a copy of which shall also be retained by the City) and returned to the applicant for correction, whereupon the applicant’s engineer shall correct the plans as requested and shall resubmit them back to the City Engineer for re-review. Once the engineering plans are approved by the City Engineer (as documented by an approval memo addressed to the applicant and copied to the City), the property owner shall provide additional sets of the approved plans to the City, as specified by the City Engineer, for use during construction. A full set of the City-approved and stamped engineering plans must be available for inspection on the job site.

After approval of the construction plat by the City Council, approval of the engineering plans and specifications by the City Engineer, and following procurement of all applicable permits from other appropriate agencies (such as TXDOT, TQEC, U.S. Army Corps of Engineers, FEMA and/or Kaufman County), the applicant shall cause a contractor(s) to install or construct the public improvements in accordance with the approved plans and the City’s TCSS and at the applicant’s expense (also see Article 6). The applicant shall employ engineers, surveyors or other professionals as necessary to design, stake, supervise, perform and complete the construction of such improvements, and shall cause his or her contractor to construct the said improvements in accordance with this Ordinance and with the City’s, and any other applicable agency’s design standards. **Verification of compliance with adopted Technical Construction Standards and Specifications (TCSS) shall be through inspections conducted by the City Engineer (or designee), approved third party consultants, qualified testing laboratories, or other approved qualified persons.** If the project will require a FEMA map revision, then the proposed plans shall also be reviewed for compliance with the City’s Flood Plain Management Regulations (Chapter 4 of the City’s Code of Ordinances, as amended) prior to approval of the construction plat and prior to any construction activities (including but not limited to grading, clearing, grubbing, brush removal, etc.) on the site.

Engineering plans shall be prepared by or under the direct supervision of a professional engineer licensed in the State of Texas, as required by State law governing such professions and in accordance with this Ordinance and the City’s Technical Construction Standards and Specifications (TCSS). All engineering plans submitted for City review shall be dated and shall bear the responsible engineer’s registration number, his or her designation of

"professional engineer" or "P.E.", and the engineer's **original** seal. Engineering plans shall be approved by the City Engineer only when such plans meet all of the requirements of this Ordinance and the TCSS.

Engineering plans shall be in conformance with the Technical Construction Standards and Specifications (TCSS) and with the requirements set forth herein. Engineering plans (in complete sets, as described above) showing paving and design details of streets, alleys, culverts, bridges, storm sewers, water mains, sanitary sewers and appurtenances, sidewalks, screening and retaining walls, landscape and irrigation plans (if appropriate), and other engineering details of the proposed subdivision at a scale of one inch equals 40, 50 or 100 feet (1" = 40', 50' or 100') horizontally and one inch equals 4, 5, or 10 feet (1" = 4', 5' or 10') vertically shall be submitted to the City Engineer (or designee) along with a copy of the construction plat of the subdivision. The scale and font size shall be such that when plans are produced in 11" by 17" half-size format, the plans are legible. The number of copies as specified by the City shall be submitted along with the construction plat submittal.

As part of the engineering plans, a drainage plan showing how the drainage of each lot relates to the overall drainage plan for the plat under consideration shall be submitted. The drainage plan shall be made available to each builder within the proposed subdivision and all builders shall comply with the drainage plan.

- k. Effect of Approval. Approval of a construction plat authorizes the property owner, upon fulfillment of all requirements and conditions of approval and upon construction of all required improvements (or submission of the proper assurances for construction of same, per Article 6), to submit an application for final plat approval (see Section 2.5).
- l. Revisions to Approved Construction Plat. It is generally recognized that minor revisions to the construction plat will probably be needed before the final plat is approved and filed at the County. Such minor revisions as slight enlargement or shifting of easements or lot lines, addition of private or franchise utility easements, correction of bearings or distances, correction of minor labeling errors, addition of erroneously omitted informational items and labels, etc. may occur on the final plat without having to re-approve the construction plat. Whether or not revisions are "minor" in nature is shall be determined by the Development Review Team. Major revisions, such as obvious reconfiguration of lot lines or easements, relocation of driveways or access easements or fire lanes, any modification to the perimeter or boundary of the property, and relocation or addition or deletion of any public improvement (including corresponding easement), shall necessitate re-submission and re-approval of the plat as a "revised construction plat" unless otherwise approved by the Municipal Development Department. The procedures for such re-approval shall be the same as for a construction plat, and such re-approval shall constitute a new project thus necessitating submission of a new application form, payment of new fees, compliance with amendments to this Ordinance which occurred since original construction plat approval, and other requirements.

Section 2.5: Procedures and Submission Requirements for Final Plat Approval

- 2.5 a. The final plat shall be in accordance with the construction plat, as approved, and shall incorporate all applicable conditions, changes, directions and additions imposed by the Planning and Zoning Commission and City Council upon the construction plat. The final plat shall not be approved by the Planning & Zoning Commission until all utilities, infrastructure, and other required improvements have been constructed in conformance with City standards and the engineering plans, as approved by the City Engineer, unless provisions are made for

the completion of the improvements in accordance with Section 6. The final plat shall not be submitted prior to approval of the construction plat (see Section 2.4 [d] for exception).

- b. Final plat applications which do not include the required data, completed application form, submission fee, number of copies of the plat, record drawings, letter stating satisfactory completion (of the public improvements) from the City, and other required information, including documentation that all required public improvements have been constructed and installed in accordance with City standards, letters from utility companies verifying their easements, and submission of the proper assurances or escrow funds for the completion of the improvements (per Article 6) will be considered incomplete, shall not be accepted for submission by the City, and shall not be scheduled on a Planning and Zoning Commission agenda until the proper information is provided to City staff.

c. Information Required on a Final Plat.

1. All information that is required for a construction plat (see Section 2.4(h)), except for information on the engineering plans, (provided that such plans were already submitted and approved with the construction plat); and other relevant information shall be shown on the final plat. Physical features of or on the land (such as topography, buildings, utility structures, water bodies and tree cover) shall not be shown on the final plat. In addition to these items, the final plat shall also provide a place for the County Clerk of Kaufman County to stamp the date and location where the plat will be filed (“Volume or Cabinet ____, Page or Slide ____”) in the lower right-hand corner of all sheets of the plat drawing near the title block.
2. All aspects of the final plat shall conform to the standards of Kaufman County for plats with respect to clarity, sheet size, lettering size and reproducibility, and the County’s formatting requirements for same shall control if different from this Ordinance. It is the applicant’s responsibility to be familiar with the County’s standards for filing plats and to comply with same. The City shall file the final plat or replat at the County within 15 days of receiving all required signed and sealed prints and documents for filing subsequent to approval by the City.

a) After approval of the plat by the municipal authority responsible for approving plats the applicant shall deliver the following documents for filing :

- Two (2) – 24”x36” prints (1 mylar, 1black/blue line; scale no more than 100’ per inch; no sepia or reverse readings) with original seals and signatures.
- Three (3) – 18”x24” prints (1 mylar, 2 black/blue line; scale no more than 100’ per inch; no sepia or reverse readings) with original seals and signatures.
- Current Tax Certificates for each parcel or receipt of paid taxes if between Sept.1 – Dec. 31.
- Filing fees – check made out to Kaufman County Clerk.

3. Approval Block (required). *The approval block used on the previously approved construction plat shall be modified and shown on the final plat, as follows:*

FINAL PLAT (P&Z approval only)

Approved by the City of Terrell for filing at the office of the County Clerk of Kaufman County, Texas.

5. Approval for Minor Plat:

MINOR PLAT

Approved by the City of Terrell for filing at the office of the County Clerk of Kaufman County, Texas.

This property is located in the corporate limits [or the extraterritorial jurisdiction] of the City of Terrell, Kaufman County, Texas.

APPROVED BY:

Municipal Development Department Date

City Engineer Date

ATTEST:

City Secretary _____
Date _____

6. Approval for Amended Plat:

AMENDED PLAT

Approved by the City of Terrell for filing at the office of the County Clerk of Kaufman County, Texas.

This property is located in the corporate limits [or the extraterritorial jurisdiction] of the City of Terrell, Kaufman County, Texas.

APPROVED BY:

Municipal Development Department Date

City Engineer Date

ATTEST:

City Secretary

Date _____

- d. Standards for Approval. No final plat shall be approved by the Commission unless the following standards have been met:
1. The plat substantially conforms with the approved construction plat and other studies and plans, as applicable;
 2. The construction and installation of required public improvements and City utilities has been completed and the improvements have been accepted by the City as conforming to the City's regulations and design standards TCSS (or the proper assurances for construction of the improvements have been submitted and approved by the City, per Article 6); and
 3. The plat conforms to the Comprehensive Plan and to applicable zoning, subdivision and any other applicable codes or ordinances of the City that are related to development of a land parcel.
- e. When all of the improvements are found to be constructed and completed in accordance with the approved plans and specifications and with the City's standards, and upon receipt by the City of Terrell of a maintenance bond or certificate of deposit in accordance with Section 6 of this Ordinance from each contractor, three sealed (3) sets of "AS BUILT" (or "Record Drawing") plans and one sealed (1) set of "As-Built" or "Record Drawing" mylars and a digital copy of all plans (in a format as determined by the City Engineer) shall be submitted with a letter stating the contractors' compliance with this Ordinance, and bearing sealed certification by the design engineer that all public improvements have been constructed in compliance with all City construction standards set forth in the TCSS and other applicable City design documents. After such letter and certification are received, the City shall receive and accept the title, use and maintenance of the improvements according to Section 6.7. The final plat shall not be approved or filed at the County prior to receipt of the above letter and certification and any other required items, nor prior to acceptance of the improvements by the City.
- f. Timing of Public Improvements.
1. The City Council (at the time of construction plat approval) may permit all or some of the public improvements to be installed, offered for dedication, or accepted by the City after approval of the final plat if there exists a compelling reason that is consistent with the public health, safety or welfare to do so (also see Article 6).

The City Council may permit or require the deferral of the construction of public improvements if, in its judgment, deferring the construction would not result in any harm to the public or would offer significant advantage in coordinating the site's development with adjacent properties and off-site public improvements. The deferred construction of any required public improvement(s) must be approved by the City Council at the time of construction plat approval, and the necessary assurances for

completion of the improvements, in accordance with Article 6, shall be a stipulation, or condition, of approval of the construction or final plat, as appropriate.

2. If the City Council does not require that all public improvements be installed, offered for dedication, or accepted by the City prior to approval of the final plat, the applicant shall provide assurances or security for the completion of the improvements or escrowed funds, as provided in Article 6.
- g. Effect of Approval. Approval of a final plat authorizes the property owner, upon fulfillment of all requirements and conditions of approval and upon completion of construction of all required improvements (or submission of the proper assurances for construction of same, per Article 6), to submit the final copies, or mylars, of the plat for filing at Kaufman County. Lots may be sold only when the final plat has been approved by the Planning and Zoning Commission and the plat has been filed at Kaufman County. ***No conveyance or sale of any portion or lot of the property may occur until after the final plat is approved by the City Council and filed at Kaufman County.***
- h. Revisions to Approved Final Plat Prior to Filing at the County. Occasionally, minor revisions are needed before the final plat can be filed at the County. Minor revisions such as correction of bearings or distances, correction of minor labeling errors, addition of erroneously omitted informational items and labels, etc. may occur on the record plat prior to filing it without the Commission having to re-approve the final plat. Whether or not revisions are “minor” in nature shall be determined by the Development Review Team. Major revisions, such as obvious corrections or reconfiguration of lot lines or easements, relocation of driveways or access easements or fire lanes, any modification to the perimeter or boundary of the property, and relocation or addition or deletion of any public improvement (including corresponding easement), shall necessitate re-submission and re-approval of the plat as a “revised final plat” unless otherwise approved by the Municipal Development Department, as applicable. The procedures for such re-approval shall be the same as for a final plat, and such re-approval may constitute a new project thus necessitating submission of a new application form, payment of new fees, compliance with amendments to this Ordinance which occurred since original final plat approval, and other requirements.
- i. Subsequent to final plat approval by the Planning and Zoning Commission, the applicant shall return copies of the final plat, as approved, along with any other required documents and necessary fees, to the Municipal Development Department within thirty (30) calendar days following approval, in accordance with requirements established by the City. All easements shall be included on the final plat, including the recording information for those easements that are filed or recorded as separate instruments, as required by utility companies and the City of Terrell prior to filing the final plat, and a copy of letters from each applicable utility company shall be submitted stating that the plat contains the proper easements. All necessary filing materials as required by the County Clerk of Kaufman County, in addition to the appropriate number of mylar copies and a computer disk containing the digital plat file(s) required and returned to the City with the required fees (see Section 2.5.c.2.a above for type, number and size of prints required for filing). If the required copies and materials are not returned to the City within the specified 30-day time frame, the approval of the final plat shall be null and void unless an extension is granted by the Commission. The City shall cause the final plat to be filed at the office of the County Clerk of Kaufman County within fifteen (15) calendar days following receipt of all filing materials, including filing fees.

Section 2.7: Development Plats

- 2.7 a. Authority. This Section is adopted pursuant to the Texas Local Government Code, Chapter 212, Subchapter B, Sections 212.041 through 212.050, as amended.
- b. Applicability. For purposes of this Section, the term "development" means the construction of any building, structure or improvement of any nature (residential or nonresidential), or the enlargement of any external dimension thereof. **The term "new development" means development not authorized under a prior plat or replat.** This Section shall apply to any land lying within the City or within its extraterritorial jurisdiction in the following circumstances:
1. The development of any tract of land which has not been platted or replatted prior to the effective date of this Ordinance, unless expressly exempted herein; or
 2. The development of any tract of land for which the property owner claims an exemption from the City's Subdivision Ordinance, including requirements to replat, which exemption is not expressly provided for in such regulations; or
 3. The development of any tract of land for which the only access is a private easement or street; or
 4. **Lots or tracts resulting from the** division of any tract of land resulting in parcels or lots each of which is greater than five (5) acres in size, and where no public improvement is proposed to be dedicated or constructed; or
 5. **New development of any previously platted lot for which no replatting is proposed, unless expressly exempted by this ordinance.**
- c. Exceptions. No development plat shall be required, where the land to be developed has received **approval of a final plat, construction plat** or replat prior to the effective date of this Ordinance or a final plat or replat has been filed in accordance with this ordinance, **and no new development is proposed for such lot.**
- d. Prohibition on Development. No development shall commence, nor shall any building permit, utility connection permit, electrical connection permit or similar permit be issued, for any development or land division subject to this Section, until a development plat has been reviewed by the Commission, approved by the City Council, and submitted to the City for filing at the County. Notwithstanding the provisions of this Section, the City shall not require building permits or otherwise enforce the City's Building Code in the City's extraterritorial jurisdiction in relation to any development plat required by this Subdivision Ordinance.
- e. Standards of Approval. The development plat shall not be approved until the following standards have been satisfied:
1. The proposed development conforms to all City plans, including but not limited to, the Comprehensive Plan, utility plans and applicable capital improvements plans;
 2. The proposed development conforms to the requirements of the Zoning Ordinance (if located within the City's corporate limits) and the Subdivision Ordinance;
 3. The proposed development is adequately served by public facilities and services, parks and open space in conformance with City regulations;

4. The proposed development will not create a safety hazard on a public roadway (such as by not providing adequate on-site parking or vehicle maneuvering space for a restricted-access/gated entrance);
 5. Appropriate agreements for acceptance and use of public dedications to serve the development have been tendered; and
 6. The proposed development conforms to the design and improvement standards contained in this Ordinance and in the City's TCSS, and to any other applicable codes or ordinances of the City that are related to development of a land parcel.
- f. Conditions. The City Council may impose such conditions on the approval of the development plat as are necessary to insure compliance with the standards in Subsection (e) above.
- g. Approval Procedure. The application for a development plat shall be submitted to the City in the same manner as a final plat (see Sections 2.4 and 2.5), and shall be approved, conditionally approved, or denied by the City Council following review and recommendation by the Planning and Zoning Commission in a similar manner as a final plat. Upon approval, the development plat shall be filed at the County by the City in the same manner as prescribed for a final plat (see Section 2.5), and approval of a development plat shall expire if all filing materials are not submitted to the Municipal Development Department and if the plat is not filed at the County within the time periods specified for a final plat.
- h. Submittal Requirements - In addition to all information that is required to be shown on a final plat (see Section 2.4), a development plat shall:
1. Be prepared by a registered professional land surveyor;
 2. Clearly show the boundary of the development plat;
 3. Be accompanied by a site plan showing each existing or proposed building, structure or improvement or proposed modification of the external configuration of the building, structure or improvement involving a change therein (the site plan shall also show all other site plan items listed in the City's Zoning Ordinance for informational purposes);
 4. Show all easements and rights-of-way within or adjacent to the development plat; and
 5. Be accompanied by the required number of copies of the plat, a completed application form, the required submission fee (per the City's current fee schedule), and a certificate or some other form of verification from the Kaufman County Central Appraisal District showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Section 1.10.

A copy of all application materials for a development plat shall be simultaneously submitted to the Municipal Development Department for review in the same manner as for a final plat, or the application shall be deemed incomplete.

Section 2.8: Replatting

- 2.8 a. Replat Required. Unless otherwise expressly provided for herein, a property owner who proposes to replat any portion of an already approved and filed final plat, other than to amend or vacate the plat, must first obtain approval for the replat under the same standards and by the same procedures prescribed for the final platting of land by this Ordinance and Texas Local Government Code Chapter 212. All improvements shall be constructed in accordance with the same requirements as for a construction or final plat, as provided herein. The City Engineer (or designee) may waive or modify requirements for a preliminary replat under certain circumstances where the proposed replat does not involve a large land parcel or an existing structure or business on the subject property, and where the proposed plat revisions are relatively simple in nature.
- b. Replatting Without Vacating Preceding Plat. A replat of a final plat or portion of a final plat may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:
1. Is signed and acknowledged by only the owners of the property being replatted;
 2. Is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard, by the Planning and Zoning Commission; and
 3. Does not attempt to amend or remove any covenants or restrictions previously incorporated in the final plat.
- c. Previous Requirements or Conditions of Approval Which Are Still Valid. In addition to compliance with (b) above, a replat without vacation of the preceding plat must conform to the requirements of this Section if:
1. During the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot; or
 2. Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.

Notice of the public hearing required under (b) above shall be given before the fifteenth (15th) calendar day before the date of the hearing by publication in an official newspaper or a newspaper of general circulation in Kaufman County. Notice of the public hearing shall also be given by written notice before the fifteenth (15th) calendar day before the date of the hearing, with a copy or description of any requested waivers/suspensions, sent to the property owners, as documented on the most recently approved ad valorem tax roll of the City, of lots that are in the original subdivision and that are within two hundred (200) feet of the lot(s) to be replatted. In the case of a subdivision in the extraterritorial jurisdiction, the most recently approved County tax roll shall be used. The written notice may be delivered by depositing the notice, properly addressed with appropriate postage paid, in a post office or postal depository within the boundaries of the City.

- d. If the property owner(s) of twenty percent (20%) or more of the total land area of lots to whom notice is required to be given under Subsection (b) above file with the City a written protest of the replatting before or at the public hearing, or if the replat requires a waiver/suspension as defined in Section 1.9, then approval of the replat will require the

affirmative vote of at least three-fourths (3/4) of the full Planning and Zoning Commission and City Council. For a legal protest, written instruments signed by the owners of at least twenty percent (20%) of the total land area of the lots or land immediately adjoining the area covered by the proposed replat and extending two hundred feet (200') from that area, but within the original subdivision, must be filed with the City prior to the close of the public hearing. In computing the percentage of land area subject to the "20% rule" described above, the area of streets and alleys shall be included.

- e. Compliance with Subsection (c.) above is not required for approval of a replat for any part of a preceding plat if the area to be replatted was designated or reserved for other than single- or two-family (i.e., duplex) residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat. For example, for a replat involving nonresidential property, a public meeting must be held, pursuant to Subsection (b.2.) above, but notice of the hearing does not have to appear in the newspaper and written notices do not have to be mailed to individual property owners within two hundred feet (200') of the subject property.
- f. Any replat which adds or deletes lots must include the original subdivision and lot boundaries. If a replat is submitted for only a portion of a previously platted subdivision, the replat must reference the previous subdivision name and recording information, and must state on the replat the specific lots which have changed along with a detailed "Purpose for Replat" statement.
- g. If the previous plat is vacated as prescribed in Section 212.013 of the Texas Local Government Code, as amended, and as provided in Section 2.10 of this Ordinance, a public hearing is not required for a replat of the area vacated. It would, instead, be submitted as a "final plat" and reviewed accordingly.
- h. The replat of the subdivision shall meet all the requirements for a final plat for a new subdivision that may be pertinent, as provided for herein.
- i. The title shall identify the document as a "Final Plat" of the "_____ Addition, Block _____, Lot(s) _____, Being a Replat of Block _____, Lot(s) _____ of the _____ Addition, an addition to the City of Terrell, Texas, as recorded in Volume/Cabinet _____, Page/Slide _____ of the Plat Records of Kaufman County, Texas".
- j. An application submittal for a replat shall be the same as for a final plat, and shall be accompanied by the required number of copies of the plat, a completed application form, the required submission fee (per the City's current fee schedule), and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Section 1.10. The replat shall also bear a detailed "Purpose for Replat" statement which describes exactly what has been changed on the plat since the original (or previous) plat was approved by the City and filed at the County.

A copy of all application materials for a replat shall be simultaneously submitted to the Municipal Development Department for review in the same manner as for a final plat, or the application shall be deemed incomplete.

- k. The replat shall be filed at the County in the same manner as prescribed for a final plat, and approval of a replat shall expire if all filing materials are not submitted to the Municipal Development Department, and if the replat is not filed at the County within the time periods specified for a final plat.

Section 2.9: Amending Plats

- 2.9 a. An amended plat shall meet all of the informational and procedural requirements set forth for a final plat, and shall be accompanied by the required number of copies of the plat, a completed application form, the required submission fee (per the City's current fee schedule), and a certificate or some other acceptable form of verification from the Kaufman County Central Appraisal District showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Section 1.10.

A copy of all application materials for an amending plat shall be simultaneously submitted to the Municipal Development Department for review in the same manner as for a final plat, or the application shall be deemed incomplete.

- b. Upon receipt of a favorable recommendation for approval from the Development Review Team, the City Manager (or designee) may approve an amending plat, which may be recorded and is controlling over the preceding or final plat without vacation of that plat, if the amending plat is signed by the applicants only and if the amending plat is for one or more of the purposes set forth in this Section **and in accordance with TLGC Ch. 212.016**. The procedures for amending plats shall apply only if the sole purpose of the amending plat is to:
1. Correct an error in a course or distance shown on the preceding plat;
 2. Add a course or distance that was omitted on the preceding plat;
 3. Correct an error in a real property description shown on the preceding plat;
 4. Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
 5. Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
 6. Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
 7. Correct an error in courses and distances of lot lines between two adjacent lots if:
 - (a) Both lot owners join in the application for amending the plat;
 - (b) Neither lot is abolished;
 - (c) The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and
 - (d) The amendment does not have a material adverse effect on the property rights of the owners in the plat;
 8. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
 9. Relocate one or more lot lines between one or more adjacent lots if:
 - (a) The owners of all those lots join in the application for amending the plat;
 - (b) The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and

- (c) The amendment does not increase the number of lots; or
10. To make necessary changes to the preceding plat to create six (6) or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
 - (a) The changes do not affect applicable zoning and other regulations of the City;
 - (b) The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and
 - (c) The area covered by the changes is located in an area that the City Council has approved, after a public hearing, as a residential improvement area.
- c. The City Manager (or designee) may, at his or her discretion and for any reason, elect to present the amending plat to the Planning and Zoning Commission for approval. ~~Any decision made on the amending plat by the City Manager (or designee) shall be approval of the plat.~~ Should the City Manager (or designee) refuse to approve the amending plat, then the plat shall be referred to the Commission for review, and the City Council for approval, within the time period required by State law.
 - d. Notice, a public hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.
 - e. The amended plat shall be entitled and clearly state that it is an "amended plat", and it shall include a detailed "Purpose for Amended Plat" statement which describes exactly what has been changed on the plat since the original (or previous) plat was approved by the City and filed at the County. It shall also state the specific lots affected or changed as a result of the amended plat, and shall include the original subdivision plat boundary. All references to "final plat" or "replat" shall be removed.
 - f. Other than noted above, the procedure for approval of plat amendment(s) shall be the same as in Section 2.5 or 2.8.
 - g. The amending plat shall be filed at the County in the same manner as prescribed for a final plat, and approval of an amending plat shall expire if all filing materials are not submitted to the City and if the plat is not filed at the County within the time periods specified for a final plat.

Section 2.10: Plat Vacation

- 2.10 a. By Property Owner. The property owner of the tract covered by a plat may vacate, upon approval by the Commission, 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 (instrument language is available from the City, upon request).
- b. By All Lot Owners. If some or all of the lots covered by 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.
- c. Criteria. The Planning and Zoning Commission may approve, the petition for vacation on such terms and conditions as are in accordance with Section 212.013 of the Texas Local Government Code (as amended), and as are reasonable to protect the public health, safety and welfare. As a condition of vacation of the plat, the Commission may direct the petitioners to

prepare and seek approval of a revised final plat in accordance with this Ordinance such that the property does not become “unplatted”.

- d. Effect of Action. On the execution and recording of the vacating instrument, the vacated plat shall have no effect. Regardless of the Commission's action on the petition, the property owner will have no right to a refund of any monies, fees or charges paid to the City nor to the return of any property or consideration dedicated or delivered to the City except as may have previously been agreed to by the Commission and City Council.
- e. City-Initiated Plat Vacation.
 1. General Conditions. The City Council, on its motion and following a public hearing on the matter, may vacate the plat of an approved subdivision or addition when:
 - (a) No lots within the approved plat have been sold within five (5) years following the date that the plat was signed by the City;
 - (b) The property owner has breached an improvement agreement and the City is unable to obtain funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by property owner or its successor; or
 - (c) The plat has been of record for more than five (5) years and the City determines that the further sale of lots within the subdivision or addition presents a threat to public health, safety or welfare, except that the vacation shall apply only to lots owned by the property owner or its successors.
 2. Procedure. Upon any motion of the Planning and Zoning Commission or City Council to vacate the plat of any previously approved subdivision or addition, in whole or in part, the City shall publish notice in a newspaper of general circulation in the County before the fifteenth (15th) day prior to the date of the public hearing at which the plat vacation shall be heard by the Commission. The City shall also provide written notice to all property owners within the subdivision or addition and to all members of the City Council. The notice shall state the time and place for a public hearing before the Commission, and subsequently before the City Council, on the motion to vacate the subdivision or addition plat. The Commission shall recommend approval, and the City Council shall approve, the plat vacation only if the criteria and conditions cited above are satisfied.
 3. Record of Plat Vacation. If the vacating of a plat is approved, the City shall cause a copy of the plat vacation instrument to be recorded in the office of the County Clerk of Kaufman County along with an exhibit showing a drawing of the area or plat vacated. The County Clerk shall write legibly on the vacated plat the word “vacated” and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded. If the City vacates only a portion of a plat, it shall cause a revised final plat drawing to also be recorded which shows that portion of the original plat that has been vacated and that portion that has not been vacated. On the execution and recording of the vacating instrument the vacated plat (or the vacated portion of the plat) has no effect.

Section 2.11: Minor Plats

- 2.11 a. A minor plat shall meet all of the informational and procedural requirements set forth for a final plat, and shall be accompanied by the required number of copies of the plat, a completed

application form, the required submission fee (per the City's current fee schedule), and a certificate or some other acceptable form of verification from the Kaufman County Tax Assessor/Collector showing that all taxes have been paid on the subject property and that no delinquent taxes, liens or other judgments exist against the property in accordance with Section 1.10. Minor plats are administratively approved by the City Manager (or designee), however, minor plats can only be approved if the following conditions are met:

1. The plat only involves four (4) or fewer lots.
2. Does not create or dedicate any new easements or right-of-way.
3. May not be used to abandon easements or right-of-way or portions thereof.
4. May not create lot sizes or lot dimensions that are not in accordance with the Zoning Ordinance.
5. May not remove any deed restrictions.

A plat application not meeting any of the above conditions shall be processed as a regular final plat or replat. A copy of all application materials for a minor plat shall be simultaneously submitted to the Municipal Development Department for review in the same manner as for a final plat, or the application shall be deemed incomplete.

- b. Upon receipt of a favorable recommendation for approval by the Development Review Team, the City Manager (or designee) may approve a minor plat, or may, for any reason, elect to present the minor plat to the Planning and Zoning Commission for consideration and approval. Any decision made on the minor plat by the City Manager (or designee) shall be approval of the plat. Should the City Manager (or designee) refuse to approve the minor plat, then the plat shall be referred to the Planning and Zoning Commission for review and approval, within the time period required by State law.
- c. Notice, a public hearing, and the approval of other lot owners are not required for the approval a minor plat.
- d. The minor plat shall be entitled and clearly state that it is a "minor plat."
- e. The minor plat shall be filed at the County in the same manner as prescribed for a final plat, and approval of a minor plat shall expire if all filing materials are not submitted to the City and if the plat is not filed at the County within the time periods specified for a final plat.

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III. SUBDIVISION DESIGN STANDARDS

Section 3.1: Streets

- 3.1 a. The arrangement, character, extent, width, grade and location of all streets shall conform to the City of Terrell's Thoroughfare Plan and TCSS, and shall be considered in their relation to existing and planned streets or driveways (whether within the City of Terrell, within its ETJ area, or within adjacent municipal or County areas), to topographical conditions, to public safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. Reserve or residual strips of land controlling access to or egress from other property, or to or from any street or alley, or having the effect of restricting or damaging the adjoining property for subdivision purposes, or which will not be taxable or accessible for improvements **are prohibited by both State law and by this ordinance** unless such are required by the City in the public interest (such as to enhance public safety or other public interest). All streets shall be constructed in accordance with Section 5 and with the City's TCSS.
- b. Proposed streets shall provide a safe, convenient and functional system for vehicular and pedestrian circulation, shall be properly related to the Thoroughfare Plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development. All streets shall be open and unobstructed at all times. The layout of the street network shall, to the greatest extent possible, be sited and aligned along natural contour lines, and shall minimize the amount of cut and fill on slopes in order to minimize the amount of land area that is disturbed during construction, thereby helping to reduce storm water runoff and preserve natural, scenic characteristics of the land.
- c. Adequacy of Streets and Thoroughfares.
1. Responsibility for Adequacy of Streets and Thoroughfares. The developer shall ensure that the subdivision is served by adequate streets and thoroughfares, and shall be responsible for the costs of rights-of-way and street improvements, in accordance with the following policies and standards, and subject to the City's cost participation policies on oversized facilities.
 2. General Adequacy Policy. Every subdivision shall be served by improved streets and thoroughfares adequate to accommodate the vehicular traffic to be generated by the development. Proposed streets shall provide a safe, convenient and functional system for traffic circulation; shall be properly related to the City's Thoroughfare Plan, road classification system, Comprehensive Plan and any amendments thereto; and shall be appropriate for the particular traffic characteristics of each development.
 3. Road Network. New subdivisions shall be supported by a road network having adequate capacity, ingress/egress, and safe and efficient traffic circulation. The adequacy of the road network for developments of one hundred (100) or more dwelling units, or for developments generating one thousand (1,000) or more "one-way" trips per day, or for developments involving collector or arterial streets not appearing on the City's adopted Thoroughfare Plan, shall be demonstrated by preparation and submission, prior to or along with the construction plat application, of a traffic impact analysis prepared in accordance with Subsection (f), Traffic Impact Analysis, which takes into consideration the need to accommodate traffic generated by the development, land to be developed in common ownership and other developed property. In the event that the property to be developed is intended as a phase in a larger development project, or constitutes a portion

of the land to be ultimately developed, the City Council may require a demonstration of adequacy pursuant to this Section for additional phases or portions of the property as a condition of approval for the proposed construction plat. In the event that the applicant submits a traffic impact analysis for an entire phased development project, the City may require an update of the study for each subsequent phase of the development which reflects any applicable changed conditions. If the construction plat is in conformance with the Thoroughfare Plan a traffic impact analysis is not required. The need and scope of the traffic impact analysis will be determined by the City Engineer.

4. Approach Roads and Access. All subdivisions with more than 50 lots or dwelling units must have at least two (2) points of vehicular access (primarily for emergency vehicles), and must be connected via improved roadways to the City's improved thoroughfare and street system by one or more approach roads of such dimensions and improved to such standards as are hereinafter set forth. Requirements for dedication of right-of-way and improvement of approach roads may be increased depending upon the size or density of the proposed development, or if such need is demonstrated by traffic impact analysis.
 - (a) "Two (2) points of vehicular access" shall be construed to mean that the subdivision has at least two (2) improved roads accessing the subdivision from the City's improved thoroughfare system, and the subdivision has at least two (2) road entrances. The City Council may, at its discretion and upon a finding that such will not compromise public safety or impede emergency access, accept a single median-divided entrance from the City's improved thoroughfare system provided that the median extends into the subdivision for an unbroken length of at least one hundred feet (100') to an intersecting internal street which provides at least two (2) routes to the interior of the subdivision. For example, the entrance street is not a dead-end or cul-de-sac, and it does not create a "bottleneck" allowing only one emergency route into the interior of the subdivision. Residential lots may not front onto any median-divided street section, and residential driveways may not be located in front of a median. (Also see Section 3.1.u.)
 - (b) The subdivision shall be designed to provide adequate emergency access for public safety vehicles. Each residential lot in the subdivision shall have a minimum frontage on a dedicated public street as required by applicable zoning or thirty feet (30'), whichever is greater, unless other provisions have been authorized through planned development approval. Each non-residential lot shall have a minimum frontage on a dedicated public street as required by applicable zoning or fifty feet (50'), whichever is greater, unless other provisions have been authorized through planned development approval.
5. Off-Site Improvements. Where traffic impact analysis demonstrates the need for such facilities, or where the City believes public safety is at risk, the property owner shall make such improvements to off-site collector and arterial streets and intersections as are necessary to mitigate traffic impacts generated by the development or in conjunction with related developments. The City may participate in the costs of oversize improvements with the property owner as set out herein, and subject to the City's cost participation policies on oversized improvements.
6. Street Dedications.
 - (a) **Dedication of Right-of-Way.** The property owner shall provide all rights-of-way required for existing or future streets, and for all required street improvements,

including perimeter streets and approach roads, as shown in the Thoroughfare Plan and as required by the TCSS or by other valid development plans approved by City Council. In the case of perimeter streets, additional needed right-of-way up to half of the total required right-of-way width for such streets shall be provided unless the proposed development is on both sides of the street, in which case the full right-of-way width shall be provided, or unless there is some other compelling reason to require more than half of the right-of-way width (such as, avoiding the infringement upon or demolition of existing structures, avoiding crossing a creek or flood plain or some other obstacle, or other similar circumstance) In some instances, more than half of the required width shall be required when a half street is impractical or unsafe and depending upon the actual or proposed alignment of the street, such as in the case of a curved street, as may be required by the City Council. (See Section 1.9)

- (b) **Perimeter Streets.** Where an existing half-street is adjacent to a new subdivision or addition, the other half of the street shall be dedicated, and an appropriate amount of the street shall be improved, by the developer of the new subdivision or addition. (See Section 1.9)
 - (c) **Slope Easements.** The dedication of easements, in addition to dedicated rights-of-way shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall be no steeper than four feet (4') horizontal run to one foot (1') vertical height, or a four-to-one (4:1) slope.
- 7. Street Construction. All streets and thoroughfares shall be constructed and paved to City standards and within rights-of-way as required by the Thoroughfare Plan and this Ordinance, and in accordance with the TCSS and other City standards as may be from time to time amended or adopted.
 - 8. Intersection Improvements and Traffic Control Devices shall be installed as warranted in accordance with the traffic impact analysis required by Subsection (f), or as may be required by the City for traffic safety and efficiency. Construction and design standards shall be in accordance with City standards and the TCSS.
 - 9. Phased Development. Where a subdivision is proposed to occur in phases, the applicant, in conjunction with submission of the construction plat, shall provide a schedule of development. The schedule shall set forth the intended plan of development and dedication of rights-of-way for streets and street improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision. The City shall determine whether the proposed streets and street improvements are adequate pursuant to standards herein established, and may require that a traffic impact analysis be submitted for the entire project or such phases as the City determines to be necessary to adjudge whether the subdivision will be adequately served by streets and thoroughfares.
 - 10. Private Streets. All private streets shall be designed and constructed in accordance with the City's standards for publicly dedicated streets. The term "private street" shall be inclusive of alleys, if such are to be provided within the subdivision. Private street names shall follow the current City Street Naming Policy as adopted or amended.
 - a. **Subdivision Eligibility Criteria.** Private streets shall be permitted only within a subdivision satisfying each of the following criteria:

The subdivision shall have no **more** than twelve (12) residential lots;

The streets to be restricted to private use are not intended for regional or local through traffic circulation (see subsection 3.1c.10.(b) below);

The subdivision is not located adjacent to an existing or approved public street subdivision that can be reasonably connected, even though the street connection would require construction of a bridge or culvert -- the two subdivisions shall be connected as public street subdivisions;

A mandatory property (homeowners) association, which includes all property to be served by the private streets, will be formed (see subsection 3.1c.10.(e) below).

- b. **Streets Excluded.** Streets that are shown on the City's Thoroughfare Plan as collectors (Types "D" and "E"), thoroughfares (Types "A," "B" and "C") or arterial (Type "AA") shall not be used, maintained or constructed as private streets, and a private street subdivision shall not cross or interfere with an existing or future collector or arterial street. Also, the Planning and Zoning Commission or City Council may deny the creation of any other private street if, in their sole judgment, the private street would:

Negatively affect traffic circulation on public streets, or

Impair access to the subject or adjacent property; or

Impair access to or from public facilities, including schools or parks; or

Cause possible delays in the response time of emergency vehicles.

- c. **Access Onto Public Thoroughfare.** A private street subdivision shall provide a minimum of seventy feet (70') of access frontage on a public collector or arterial street for subdivision entrances. No more than two (2) gated street entrances may intersect a thoroughfare that is designated on the City's Thoroughfare Plan as "Type "D" or larger within any one (1) mile segment. **(See Subsections j. and k. below for gate requirements)**

- d. **Parks and Greenbelts Excluded.** A private street subdivision shall not cross or interfere with an existing or future public pedestrian pathway, hike and bike trail, greenbelt or park as shown on the City of Terrell's Park Master Plan.

- e. **Property (Homeowners) Association Required.** Subdivisions developed with private streets shall have a mandatory property owners association which includes all property served by the private streets. The association shall own and be responsible for the maintenance of private streets, alleys, trails, sidewalks, private parks, common areas, medians, drainage facilities, amenities and appurtenances. The association documents must establish a reserve fund for the maintenance of streets and other improvements. The association documents shall be reviewed and approved by the City Attorney to ensure that they conform to this and other applicable City rules and regulations. The documents shall be filed of record prior to final plat approval. Lot deeds must convey membership in the association, and must provide for the payment of dues and assessments required by the association. The association may not be dissolved without the prior written consent of the City Council. No portion of the association documents pertaining to the maintenance of private streets and alleys, and assessments therefore, may be amended without the written consent of the City Council. **The City shall not enforce any private deed restrictions or property association rules or regulations which is a purely civil matter.**

- f. **Private Street Lot.** Private streets must be constructed within a separate lot owned by the property owners association. **All street lots, medians, common areas, etc. shall be labeled as "Lot [number], Block X" on the plat.** The street and alley lots must conform to the City's standards for public street rights-of-way. An easement covering the street lot shall be granted to the City providing unrestricted access to and use of the property for

any purpose deemed necessary by the City. This right shall also extend to all utility providers operating within the City. The easement shall also permit the City to remove any vehicle or obstacle within the street lot that may impair emergency access. Private streets, trails, alleys and sidewalks are considered to be access easements for all property owners within the subdivision to freely use for both vehicular and pedestrian traffic.

- g. **Construction and Maintenance Cost.** The City shall not pay for any portion of the cost of constructing or maintaining a private street.
- h. **Infrastructure/Utilities.** All water, sewer and drainage facilities, street lights, and traffic control devices (e.g., signs) placed within the private street lot shall be installed to City standards, and shall be dedicated to the City prior to filing the record plat for the subdivision. All private traffic control devices and regulatory signs shall conform to the “Texas Manual of Uniform Traffic Control Devices”. All City regulations relating to infrastructure financing, developer cost participation, and capital cost recovery shall apply to developments with private streets.

The metering for utilities such as water, gas and electricity shall be located on the individual lots to be served, not grouped together in a single (or multiple) centralized location (i.e., no centralized “gang-box” style metering stations).
- i. **Plans and Inspections.** Development applications for subdivisions with private streets must include the same plans and engineering information required for public streets and utilities. City requirements pertaining to inspection and approval of improvements shall apply, and fees charged for these services shall also apply. The City may periodically inspect private streets, and may require any repairs necessary to ensure efficient emergency access and/or to protect the public health, safety, convenience and welfare.
- j. **Restricted Access.** The entrances to all private streets must be clearly marked with a sign, placed in a prominent and visible location, stating that the streets within the subdivision are private, and that they are not maintained by the City. Guard houses, access control gates, and cross arms, if used, shall be constructed per subsection (k) below. All restricted access entrances must be manned twenty-four (24) hours every day, or they must provide an alternative means of ensuring access to the subdivision (preferably with an Opticom-type system for emergency access) by the City and other utility or public service providers (e.g., postal carriers, utility companies, etc.) with appropriate identification. If the association fails to maintain reliable access as required herein, the City may enter the subdivision and remove any gate or device which is a barrier to access at the sole expense of the association. The association documents shall contain provisions in conformity with this Section that may not be amended without the written consent of the City Council.
- k. **Access Restricted Entrance Design Standards.** Any private street which has an access control gate or cross arm must have a minimum uninterrupted pavement width of twenty-two feet (22’) at the location of the gate or access control device (both ingress and egress) regardless of the type of device used. If an overhead (e.g., lift-up) barrier is used, it must be a minimum of fourteen feet (14’) in height above the road surface, and this clearance height shall be extended for a minimum distance of fifty feet (50’) in front of and behind the location of the device. All gates and cross arms must be of a break-away design. A minimum vehicle stacking distance of fifty feet (50’) shall be provided from the right-of-way line of the public road from which the private street subdivision is accessed to the first vehicle stopping point, which is usually an access request keypad/telephone or guard’s window. Adequate distance shall be provided between the access request point(s) and the entry barrier (e.g., gate) to accommodate a vehicle turn-around as described below.

A paved turn-around space must be located in front of any restricted access entrance barrier (i.e., between the access request device and the barrier/gate) to allow vehicles that are denied access to safely exit onto public streets without having to back up (particularly into the public street upon which the entrance is located). The design and geometry (i.e., pavement width, inside radius, etc.) of such turn-around shall be such that it will accommodate smooth, single-motion U-turn movements by the following types of vehicles:

- (a) Larger passenger vehicles (e.g., vans, pick-up trucks, etc.);
- (b) Passenger vehicles with short trailers up to twenty-four feet (24') in length (e.g., small flatbed, camping or box-type trailers); and
- (c) The types of service and utility trucks that typically visit or make deliveries to neighborhoods that are similar to the proposed private street development (e.g., utility company vehicles, postal/UPS delivery trucks, two- to three-axle flatbed or box-type trucks used by contractors and moving companies, etc.).

Submission of additional drawings, plans and/or exhibits demonstrating that the proposed turn-around will work and that vehicle turn-around movements will not compromise public safety on the entry roadway or on the adjacent public street(s) may be required. The design of all proposed access restricted entrances (i.e., a site plan) must be submitted for review and approval by the City Engineer, Police Services and Fire Department along with the construction plans for the subdivision prior to construction and approval of the final plat.

- l. **Private Streets: Waiver of Services.** Certain City services may not be provided for private street subdivisions. Among the services that may not be provided are routine law enforcement patrols, enforcement of traffic and parking regulations, and preparation of accident reports. Depending upon the characteristics of the development and upon access limitations posed by the design of entrances into the subdivision, other services (such as sanitation) may not be provided as well.
- m. **Private Streets: Petition to Convert to Public Streets.** The property owners association may petition the City to accept private streets and any associated property as public and right-of-way upon written notice to all association members and upon the favorable vote of the majority of the membership. However, in no event shall the City be obligated to accept said streets as public. Should the City elect to accept the streets as public, then the City has the right to inspect the private streets and to access the lot owners for the expense of needed repairs concurrent with the City's acceptance of the streets. The City shall be the sole judge of whether repairs are needed. The City may also require, at the association's or the lot owner's expense, the removal of any guard houses, access control devices, landscaping or other aesthetic amenities located within the street lot or within any common area,
- n. **Private Streets: Hold Harmless.** The property owners association, as owner of the private streets and appurtenances, shall release, indemnify defend and hold harmless the City, and any other governmental entity, and any public utility entity for damages to the private streets that may be occasioned by the reasonable use of the private streets by same, and for damages and injury (including death) arising from the condition of the private streets, out of any use of access gates or cross arms, or out of any use of the subdivision by the City or governmental or utility entity.

d. Escrow Policies and Procedures.

1. Request for Escrow. Whenever this Ordinance requires a property owner to construct a street or thoroughfare, or other type of public improvement, the property owner may, if there exists unusual circumstances, such as a timing issue due to pending roadway improvements by another agency such as TxDOT or Kaufman County, that would present undue hardships or that would impede public infrastructure coordination or timing, petition the City to construct the street or thoroughfare, usually at a later date, in exchange for deposit of escrow as established in this Section. If more than one street or thoroughfare must be constructed in order to meet adequacy requirements for roadways, as demonstrated by a traffic impact analysis, the City Manager (or designee) may prioritize roadways for which escrow is to be accepted and require the deposit of all funds attributable to the development in escrow accounts for one or more of such affected roadways. The City Council shall review the particular circumstances involved (a traffic impact analysis may be required to facilitate the City Council's deliberations on the matter), and shall determine, at its sole discretion, whether or not provision of escrow deposits will be acceptable in lieu of the property owner's obligation to construct the street or thoroughfare with his or her development.
2. Escrow Deposit With the City. Whenever the City Council agrees to accept escrow deposits in lieu of construction by the owner of the property under this Ordinance, the property owner or developer shall deposit in escrow with the City an amount equal to the share of the costs of design, construction, permits, reviews and approvals, inspections, any additional land acquisition, and an appropriate (and realistic) inflation factor to ensure that the actual "future dollar" costs will be covered when actual construction occurs in the future. Such amount shall be reviewed by the City Engineer and approved by the City Manager and shall be paid prior to release of engineering plans by the City Engineer. The obligations and responsibilities of the property owner shall become those of the property owner's transferees, successors and assigns; and the liability therefore shall be joint and several.
3. Determination of Escrow Amount. The amount of the escrow shall be determined by using the maximum comparable "turnkey" bid price of construction of the improvements (including design, permits, reviews and approvals, inspections and any additional land acquisition that may be needed). Such determination of the escrow amount shall be made as of the time the escrow is due hereunder, and shall be subject to the review and approval of the City Manager (or designee) and the City Engineer.
4. Termination of Escrow. Escrows, or portions of escrowed amounts, which have been placed with the City under this Section and which have been held for a period of ten (10) years from the date of such payment or agreement, in the event that the City has not authorized the preparation of plans and specifications for construction of such roadway facilities for which the escrow was made, shall, upon written request, be returned to the property owner, along with one-half of its accrued interest. Such return does not remove any obligations of the property owner for construction of the required facilities if a building permit has not been issued on the subject lot or if a new building permit is applied for.
5. Refund. If any street or highway for which escrow is deposited is constructed by a party other than the City, or is reconstructed by another governmental authority at no cost to the City, the escrowed funds and accrued interest shall be refunded to the property owner or applicant who originally paid the escrow amount after completion and acceptance of the public improvements. In the event that a portion of the cost is borne

by the City and the other portion of the cost by another party or governmental authority, the difference between the property owner's actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.

6. Interest Limitation. If money is refunded within six (6) months of deposit, only the principal will be refunded. Monies returned after this date will be refunded with one-half of its accrued interest.

- e. Traffic Impact Analysis. Any proposed development project or plat involving a significant change as determined by the City Engineer to a proposed roadway alignment from that shown on the City of Terrell's Thoroughfare Plan or involving a development of one hundred [100] or more dwelling units, or for developments generating one thousand [1,000] or more "one-way" trips per day shall be preceded by submission, and approval of a traffic impact analysis performed by a qualified traffic engineer and as specified in Subsection (f) below. Such a proposed roadway alignment change shall also be preceded by an amendment to the City's Thoroughfare Plan showing the new proposed alignment. Failure to provide for such approvals prior to submission of a construction plat shall be grounds for denial of the plat application.

- f. Required Components of Traffic Impact Analysis. Whenever this Ordinance (or the City, in certain instances which do not meet the above criteria but which may significantly affect the public health, safety or welfare, such as a proposed subdivision that will only be accessed via substandard roadways which may pose an impediment to emergency response vehicles) requires submission and City Engineer approval of a traffic impact analysis, the following elements shall be included:
 1. General Site Description. The traffic impact analysis shall include a detailed description of the roadway network within one (1) mile of the site, a description of the proposed land uses, the anticipated states of construction, and the anticipated completion date of the proposed land development. This description, which may be in the form of a map, shall include the following items: (1) all major intersections; (2) all proposed and existing ingress and egress locations; (3) all existing roadway widths and rights-of-way; (4) all existing traffic signals and traffic-control devices; and (5) any other pertinent information required by the City Engineer.
 2. Proposed Capital Improvements. The traffic impact analysis shall identify any changes to the roadway network within one (1) mile of the site that are proposed by any government agency or other developer. This description shall include the above items as well as any proposed construction project that would alter the width or alignment of roadways affected by the proposed development.
 3. Roadway Impact Analysis.
 - (a) **Transportation Impacts:**
 - (1) *Trip Generation*. The average weekday trip generation rates (trip ends), the average weekend trip generation rates (for uses other than residential or institutional), the highest average a.m. and p.m. hourly weekday trip generation rates, and the highest hourly weekend generation rates (for uses other than residential or institutional) for the proposed use shall be determined based upon the trip generation rates contained in the most recent edition of the Institute of Transportation Engineers' Trip Generation book; or

shall be based upon data generated by actual field surveys of area uses comparable to the proposed use and approved by the City.

(2) *Trip Distribution.* The distribution of trips to arterial and collector roadways within the study area identified in Subsection 3.1f.1 (General Site Description) above shall be in conformity with accepted traffic engineering principles, taking into consideration the land use categories of the proposed development; the area from which the proposed development will attract traffic; competing developments (if applicable); the size of the proposed development; development phasing; surrounding existing and anticipated land uses, population and employment; existing and projected daily traffic volumes; and existing traffic conditions identified pursuant to Subsection 3.1f.1 above.

(b) **Adequacy Determination.** The roadway network included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing roadways identified as arterials and collectors can accommodate the existing service volume, and the service volume of the proposed development, and the service volume of approved but un-built developments holding valid, unexpired building permits at a level of service "C" or above.

4. Intersection Analysis.

(a) **Level of Service Analysis.** For intersections within the roadway traffic impact analysis area described in Subsection 3.1f.1 herein (General Site Description), a level of service analysis shall be performed for all arterial to arterial, arterial to collector, collector to arterial, and collector to collector intersections, and for any other pertinent intersections identified by the City. Also, level of service analyses will be required on all proposed site driveway locations for all nonresidential developments. The City may waive analysis of minor intersections and site driveway locations within the one-mile radius. The level of service analysis shall be based upon the highest hourly average a.m. or p.m. peak weekday volume or highest average hourly peak weekend volume as determined from a two-day survey of weekday volumes and, where necessary, a one-day survey of weekend volumes. The level of service analysis shall take into consideration the lane geometry, traffic volume, percentage of right-hand turns, percentage of left-hand turns, percentage (and typical size) of trucks, intersection width, number of lanes, signal timing and progression, roadway grades, pedestrian and bicycle flows, school routes, number of accidents, and peak hour factor.

(b) **Adequacy Analysis.** The intersections included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing intersections can accommodate the existing service volume, the service volume of the proposed development, and the service volume of approved but unbuilt developments holding valid, unexpired building permits at level of service "C" or above.

5. Effect of Adequacy Determination. If the adequacy determination for roadways and intersections indicates that the proposed development would cause a reduction in the level of service for any roadway or intersection within the study area identified in Subsection 3.1f.1 herein that would cause the roadway to fall below the level of service required hereby, the proposed development shall be denied unless the developer agrees to one of the following conditions:

- (a) The deferral of building permits until the improvements necessary to upgrade the substandard facilities are constructed;
 - (b) A reduction in the density or intensity of development;
 - (c) The dedication or construction of facilities needed to achieve the level of service required herein; or
 - (d) Any combination of techniques identified herein that would ensure that development will not occur unless the levels of service for all roadways and intersections within the traffic impact analysis study are adequate to accommodate the impacts of such development.
- g. Arrangement of Streets Not Shown on the Thoroughfare Plan. For streets that are not shown on the City's Thoroughfare Plan, such as local residential streets, the arrangement of such streets within a subdivision shall:
- 1. Provide for the continuation or appropriate projection of existing streets from or into surrounding areas;
 - 2. Conform to a plan for the neighborhood approved or adopted by the City to meet a particular situation where topographical or other conditions make continuance or conformity to existing streets impractical;
 - 3. Provide for future access, such as by stubbing streets for future extension, to adjacent vacant areas which will likely develop under a similar zoning classification or for a similar type of land use; and
 - 4. Not conflict in any way with existing or proposed driveway openings (including those on the other side of an existing or planned median-divided arterial, in which case new streets shall align with such driveway openings such that median openings can be shared).
- h. Residential collector streets and minor residential streets shall be laid out such that their use by through traffic will be discouraged, such as via circuitous routes or multiple turns or offsets, but such that access is provided to adjacent subdivisions.
- 1. Wherever the right-of-way width of a collector or residential street must transition to a greater or lesser width, such transition shall occur along the front, side or rear lot lines of adjacent lots (for a reasonable distance) and shall not occur within the street intersection itself. In other words, the right-of-way width shall be the same on both sides of the street intersection.
 - 2. To the greatest extent possible, the number of lots fronting along residential collector streets shall be minimized in order to ensure adequate traffic safety and efficiency. No more than twenty percent (20%) of the total centerline length of a collector street may have residential lots fronting onto the collector on each side of the street. For example, a collector street having a total centerline length (from one terminus to another) of 1,000 feet may have lots fronting onto it with a total frontage distance of 200 feet on each side of the street. Calculations shall be submitted with the construction plat application (and

provided to the Municipal Development Department) verifying that lots fronting onto a collector street do not exceed the above.

3. At least thirty percent (30%) of the total centerline length of all streets (including collector streets) within a residential subdivision containing 30 lots or more (or within each phase of a residential subdivision, unless otherwise approved by City to apply to the subdivision in its entirety rather than each individual phase) shall be curvilinear in design except the minimum centerline radius for residential streets shall be one hundred and fifty feet (150'). Calculations shall be submitted with the construction plat application (and provided to the Municipal Development Department) verifying that the above curvilinear street requirement is being met.
 - i. Where a subdivision abuts or contains an existing or proposed arterial street, the City may require marginal access streets, reverse frontage (lots which back onto the arterial), or such treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
 - j. Reserve strips controlling access to streets is a violation of State Law and shall be prohibited except where their control is required by the City in order to protect the health, safety and welfare of the public.
 - k. Intersecting, undivided streets with centerline offsets of less than one hundred and fifty feet (150') shall be avoided. Intersecting streets onto an existing or future divided roadway must be configured such that the centerline offset will accommodate the appropriate median opening and left-turn lanes (with required transition and stacking distances) on each divided roadway, and shall be aligned with any existing or proposed streets or driveways on the opposite side of the divided roadway (in order to share the median opening).
 - l. A street intersection with a major thoroughfare shall be at a ninety degree (90°) angle and shall be tangent for at least one hundred feet (100'). All other street intersections shall be laid out so as to intersect as nearly as possible at a ninety degree (90°) angle or radial to the centerline of the intersecting street for the full right-of-way width of the intersecting street, and tangent to the intersecting street for at least fifty feet (50'). No street shall intersect at an angle that is less than eighty-five degrees (85°).
 - m. Street right-of-way widths shall be as shown on the Thoroughfare Plan and as defined by the corresponding roadway cross-sections on the Thoroughfare Plan and in the City's TCSS Manual.
 - n. Construction of half streets shall be prohibited, except when essential to the reasonable development of the subdivision in conforming with the other requirements of this Ordinance and the Thoroughfare Plan, and where the City makes a determination that there is no immediate need to be gained by constructing the full street section since no access from the street will be needed by the subdivision in question. The City may determine that it would be more practical, or cost effective, to delay construction of the other half of a street until when the adjoining property is developed.

If the property owner is responsible for one-half (1/2) of the street, then the property owner shall either construct the facility along with his or her development or shall provide escrow for the construction cost of his or her share of the facility (including all applicable street appurtenances such as median openings, left turn lanes into the development, sidewalks with barrier-free ramps, drainage structures, etc.) unless the City participates in the construction of

the facility. Whenever a partial street has been previously platted along a common property line, the other portion of the street right-of-way shall be dedicated such that the right-of-way is increased to the street's ultimate planned width. Improvements shall be made to all on-site facilities as defined herein (see Definitions, Section 1.13).

- o. The maximum length of any block or street segment (including a looped street) shall be one thousand six hundred feet (1,600') and the minimum length of any block or street segment shall be four hundred feet (400'), as measured along the street centerline and between the point(s) of intersection with other through, but not dead-end or cul-de-sac, streets.
- p. A cul-de-sac street shall not be longer than six hundred feet (600'), and at the closed end shall have a turnaround bulb with an outside pavement diameter of at least eighty feet (80') and a right-of-way diameter of at least one hundred feet (100'). The length of a cul-de-sac shall be measured from the centerline of the intersecting street to the center-point of the cul-de-sac bulb.
- q. The City Council may approve, waivers/suspensions for over-length streets or cul-de-sacs, whether temporary or permanent, upon considering the following:
 - (a) Alternative designs;
 - (b) The effect of over length streets upon access, congestion, delivery of municipal services, and upon convenience to residents of the subdivision in traveling to and from their homes; and
 - (c) Means of mitigation, including but not limited to additional mid-block street connections, limitation on the number of lots to be served along an over length street segment or cul-de-sac, temporary (or permanent) points of emergency access, and additional fire protection measures.
- r. Except in unusual cases, no dead-end streets will be approved unless such dead-end streets are provided to connect with future streets on adjacent land. In the case of dead-end streets which will eventually be extended into the adjacent subdivision, no more than one lot (per side) can front onto the dead-end street stub unless a temporary turnaround bulb (with the appropriate temporary street easement) is provided at the end. A temporary dead-end street shall not exceed the maximum allowed length of a normal cul-de-sac, and the temporary turnaround bulb must be constructed like a cul-de-sac, as provided in Subsection (p) above (the City Engineer may authorize the use of asphalt or other durable paving material than concrete for the arc, or "wing", portions of the temporary turnaround bulb in order to minimize the cost of removing those portions later on). A note shall be placed on the final plat clearly labeling any temporary dead-end streets (if any) that will at some point be extended into the adjacent property, and signage shall be placed at the end of the constructed street stub, such as on the barricade, also stating that the street will be extended in the future. Signage and lettering must be large enough to be legible by a person with normal vision at a twenty-foot distance. Any required temporary turnaround easements shall be shown on the final plat along with their appropriate recording information, if they are off-site or established by separate instrument.
- s. New streets which extend existing streets shall bear the names of the existing streets, and shall be dedicated at equal or greater right-of-way widths than the existing streets for an appropriate transition length, if applicable.

- t. Construction of Streets. All streets shall be constructed in accordance with paving widths and specifications as set forth in the TCSS of the City of Terrell at the time at which the construction plat application is officially submitted and deemed a complete application.
- u. Points of Access. All subdivisions shall have at least two (2) points of access from improved public roadways (also see Section 3.1c.4). All residential developments shall provide no less than one (1) entrance for every seventy-five (75) lots, or portion thereof, including temporary dead-end stubbed streets that will eventually provide connections into adjacent future developments and thence to an arterial or collector street. Driveway access onto roadways shall be provided and designed in accordance with the City's TCSS and construction standards that are in effect at the time the construction plat application is officially submitted and deemed a complete application. ***Residential driveway cuts shall not be allowed on roadways that are larger than a residential collector street (60-foot right-of-way) unless specifically approved by City with the construction plat application.***

Section 3.2: Alleys

- 3.2 a. Service alleys in nonresidential districts, if provided or constructed by the developer, shall be a minimum right-of-way width of twenty-one feet (21') and a pavement width of sixteen feet (16'). In residential districts, alleys, if provided, shall be parallel, or approximately parallel, to the frontage of the street. Alleys in residential districts shall provide a minimum of fifteen feet (15') of right-of-way and ten feet (10') of pavement. **No lot shall be allowed to front on an alley in which the primary or only access is from an alley and no main or primary structure (front façade) shall face towards an alley.**
- b. General Design Standards for Alleys (if provided).
 - 1. Alleys shall be paved in accordance with the City of Terrell's TCSS and construction standards that are in effect at the time the construction plat application is officially submitted and deemed a complete application.
 - 2. Where the deflection of alley alignment occurs, the design of the paving and property line shall be as established by the TCSS.
 - 3. Dead-end or "hammerhead" alleys shall not be allowed. Alleys must have adequate turnouts and street entrances such that vehicular traffic flow is continuous and efficient. Where a temporary dead-end alley situation is unavoidable, a temporary turnaround bulb or turnout onto a street, either of which will need a temporary easement for street or alley purposes, shall be provided as determined by the City Engineer.
 - 4. Alleys may not exceed a maximum length of one thousand six hundred feet (1,600'), as measured along the centerline of the alley and between intersections with other alleys or entrances onto streets (at the right-of-way line of the street at the alley entrance). The Commission may recommend, and the City Council may approve, waivers/suspensions for over-length alleys upon consideration of the following:
 - (a) Alternative designs;
 - (b) The effect of over-length alleys upon access, congestion, delivery of municipal services, and upon convenience to residents of the subdivision in accessing rear driveways and in driving around to the front of their homes; and

- (c) Means of mitigation, including but not limited to additional mid-block alley turnouts, limitation on the number of lots to be served along a single alley segment, temporary points of access, and additional fire protection measures.
5. Alley intersections shall be perpendicular and at a ninety degree (90°) angle or radial to the intersecting alley centerline for the full alley right-of-way width. Intersection pavement design shall be of sufficient width and inside radius to accommodate waste collection and emergency vehicles. Intersections shall be three-way wherever possible and four-way intersections shall be avoided. No alley intersection serving more than four directions shall be allowed.

Section 3.3: Easements

- 3.3 a. The minimum width for City utility easements shall be fifteen feet (15') or as otherwise required by the City Engineer. The minimum width for City drainage easements shall be as required by the City Engineer. The width of easements for other utility providers, such as for gas, electric, telephone or cable television, shall be as required by that particular entity. It shall be the applicant's responsibility to determine appropriate easement widths required by other utility companies (also see Section 3.8). Wherever possible, easements shall be centered or along front or side lot lines rather than across the interior or rear of lots, particularly where no alleys will be provided behind the lots. No private utilities shall be allowed to be located in any public or private easement or right-of-way without the express written permission of the owner of the easement.
- b. Where a subdivision is traversed by a watercourse, drainageway or channel, there shall be provided a storm drainage easement or right-of-way conforming substantially with such course and of such additional width as may be designated by the City Engineer, subject to determination according to proper engineering considerations. The required width shall conform to the requirements set forth by the Federal Emergency Management Agency (FEMA), the U.S. Army Corps of Engineers, and/or the City. Parallel streets or parkways shall be required adjacent to certain portions of creek or drainageways to provide maintenance access and/or public access and visibility into public open space or recreation areas (see Section 4). The number of lots that back or side onto creeks, drainageways, public parks and open spaces, and public school sites shall be limited, and possibly prohibited, such that public access, visibility, safety and security within these areas are maximized. Other utilities may be permitted within a drainage or floodway easement only if approved by the City Engineer and any other applicable entity requiring the drainage or floodway easement.
- c. A lot's area shall be computed inclusive of all easements. However, there shall be a minimum buildable area, exclusive of required easements, buffer zones and setbacks for each lot. The minimum buildable area shall accommodate the minimum building size as required by the area regulations of the Zoning Ordinance or if the property is in the ETJ then the buildable area shall be an area one-half (1/2) of the lot size. The maximum buildable area shall not exceed the limits of allowable impervious area as delineated in the Zoning Ordinance or if the property is in the ETJ no more than 60% of the lot size shall be impervious cover. If the City disputes the buildable area of any lot, the applicant shall submit verification in writing that the buildable area is adequate for the type of housing product (or nonresidential building) proposed for that lot. Final approval of the allowed buildable area for any lot shall be by the Municipal Development Director.

- d. Where alleys are not provided in a residential subdivision, a minimum ten foot (10') wide utility easement shall be provided along the front of all lots, adjacent to and flush with the street right-of-way line for the potential placement of utility facilities.
- e. For new development, all necessary on-site easements shall be established on the subdivision plat and not by separate instrument, and they shall be labeled for the specific purpose, and to the specific entity if other than the City, for which they are being provided. Examples include, but are not limited to, the following: a water, sanitary sewer or drainage easement, which is dedicated to the City for a water or sanitary sewer line or for a drainage structure; an access easement, which is dedicated to the public for unrestricted access purposes; a fire lane easement, which is dedicated to the City and its fire suppression and emergency medical service providers for access purposes; an electrical, gas or telephone easement, which is dedicated to the specific utility provider that requires the easement; and so on.
- f. In all new residential developments (except in the Agricultural District) of ten (10) dwelling units or larger a five (5') feet wide pedestrian access/private franchise utility easement shall be located immediately outside and contiguous to the street right-of-way along the entire length of local streets only. The pedestrian access/ private utility easement shall be reserved for a mandatory four (4') feet wide sidewalk and private franchise utilities, such as, cable TV or telecommunication lines. The public parkway portion of the street right-of-way between the back of curb and the outer edge of the right-of-way shall be reserved for public utilities and landscaping. Both the public parkway and pedestrian access easement shall be constructed in accordance with the Local Street Section Alternate 'A' in the TCSS. Exceptions due to physical site constraints shall be considered only upon a written request to the City Engineer who shall prepare a report for City Council consideration. An exception shall not be for the entire subdivision but only to the extent of mitigating the demonstrated constraints.
- h. Visibility Easements: Whenever an intersection of two (2) or more public rights-of-way occurs, a triangular visibility area shall be created. The visibility easement for each type of intersection shall be as follows:
 - 1. Intersection of two major arterials: forty feet (40') from the intersection right-of-way;
 - 2. Intersection of a collector or residential street onto a major arterial: twenty-five feet (25') from the intersection right-of-way;
 - 3. Intersection of two collector or residential streets (or one of each): twenty feet (20') from the intersection right-of-way; and
 - 4. Intersection of two alleys: twenty feet (20') from the intersection right of way.

The maximum height of fences, walls, signs, and other similar fixed items shall be thirty inches (30") within the visibility easement. All landscaping (and any other fixed feature) within the triangular visibility area shall be designed to provide unobstructed cross-visibility at a level between thirty inches (30") and eight feet (8'). A limited number of single-trunked trees may be permitted in this area provided they are trimmed in such a manner that no limbs or foliage extend into the cross-visibility area. Landscaping, except grass and low ground cover, shall not be located closer than three feet (3') from the edge of any street pavement.

Section 3.4: Blocks

- 3.4 a. The length, width and shapes of blocks shall be determined with due regard to:
1. Provision of adequate building sites suitable to the special needs of the type of use contemplated;
 2. Zoning requirements as to lot sizes, setbacks and dimensions (if within the City's corporate limits); and
 3. Needs for convenient access, circulation, control and safety of street traffic and for pedestrians or bicyclists traveling to a public park or school site or other facility within or close to the neighborhood.
- b. Intersecting streets, which determine the lengths and widths of blocks, shall be provided at such intervals as to serve cross-traffic adequately, to provide adequate fire protection, and to conform to customary subdivision practices. Where no existing subdivision or topographical constraints control, the block lengths shall not exceed one thousand six hundred feet (1,600') in length. Where no existing subdivision or topographical constraints control, the blocks shall not be less than four hundred feet (400') in length; however, in cases where physical barriers or property ownership creates conditions where it is appropriate that these standards be varied, the length may be increased or decreased (through issuance of a waiver/suspension by the City with plat approval) to meet the existing conditions having due regard for connecting streets, circulation of traffic and public safety.

Section 3.5: Sidewalks

- 3.5 a. Pedestrian concrete walkways (sidewalks) not less than four feet (4') wide shall be required within a residential subdivision on both sides of **local** residential and collector streets, and sidewalks not less than five feet (5') wide shall be provided within all nonresidential developments and along all perimeter arterials, for both residential and nonresidential developments, as set forth in the City of Terrell's TCSS. Root barriers may be required underneath, and along with the construction of, all public sidewalks per the City's TCSS, particularly in locations where trees are (or will be) in close proximity to the sidewalk. Barrier-free ramps shall be constructed at all street intersections and at any other locations deemed appropriate by the City due to anticipated pedestrian travel patterns. **Sidewalks along local residential streets (except in the Agricultural District) shall be constructed within the five (5') feet wide pedestrian access/private franchise utility easement located just outside the street right-of-way; however, the sidewalk may be allowed to meander back and forth across the right-of-way line as long as no portion of the sidewalk is closer than five (5') feet from the back of curb. (See Alternate Street Sections – TCSS)** In certain instances, the City Council may, at its sole discretion, approve placement of the sidewalk adjacent or closer than five feet (5') to the curb provided that such placement benefits the general public by allowing more space for landscaping, such as for street trees, screening shrubs, and decorative walls and fences, and provided that the width is increased to a minimum of five feet (5') of sidewalk pavement or to such a width as may be needed in the interest of public safety.
- b. All sidewalks along a perimeter roadway or arterial are considered part of the overall development's required public improvements and shall be installed prior to acceptance of the subdivision by the City and prior to final plat approval, unless surety is provided, per Section

6. In any event, a Certificate of Occupancy will not be issued for any lot within the subdivision until the required sidewalks are in place or appropriate surety is provided.

The cost and provision of any perimeter sidewalks, such as along major thoroughfares, may be escrowed as a part of a developers agreement, if approved by the City Council. The City has the right, but not the obligation, to refuse escrow and to require paving of the sidewalks if, in its sole opinion, immediate provision of the sidewalks is necessary for safe pedestrian circulation or if it would otherwise protect the public health, safety, convenience or welfare.

Section 3.6: Lots

- 3.6 a. Lots shall conform to the minimum requirements of the established zoning district, if located within the City's corporate limits.
- b. Each lot on a subdivision plat shall front onto a dedicated, improved public street unless platted as an approved private street subdivision in accordance with this Ordinance (see Section 3.1c.10.). Lot width and access shall conform with the provisions of the City of Terrell's Zoning Ordinance (if within the City's limits), Comprehensive Plan, and any other applicable City code or ordinance. In all cases, single-family residential lots shall have a minimum of thirty feet (30') of frontage, and non-residential lots shall have a minimum of fifty feet (50') of frontage, along a dedicated, improved street **as measured at the right-of-way line.** **No lot shall front only upon an alley.**
- c. Irregular-shaped lots shall have sufficient width at the building line to meet lot width and frontage requirements of the appropriate zoning district (if within the City's limits), and shall provide a reasonable building pad without encroachment into front, side or rear yard setbacks or into any type of easement. Also, the rear width shall be sufficient to provide access for all necessary utilities, including access for driveways and solid waste collection when alleys are present (minimum 20-foot alley frontage). In general, triangular, severely elongated or tapered, "flag" or "panhandle" lots shall be avoided, and the City reserves the right to disapprove any lot which, in its sole opinion, will not be suitable or desirable for the purpose intended, which is an obvious attempt to circumvent the purpose and intent of lot configuration or lot width minimums, or which is so oddly shaped as to create a **hindrance** to the logical lot layout of surrounding properties.
- d. Side lot lines shall be at ninety degree (90°) angles or radial to street right-of-way lines to the greatest extent possible. The City reserves the right to disapprove any lot which, in its sole opinion, is shaped or oriented in such a fashion as to be unsuitable or undesirable for the purpose intended, or which is not attractively or appropriately oriented toward its street frontage.
- e. Double frontage lots shall be avoided, except where they may be essential to provide separation of residential development from traffic arterials, as defined in Section 3.1, or to overcome a specific disadvantage or hardship imposed by topography or other factors. Where lots have double frontage, building setback lines shall be established for each street side, and rear yard screening shall be provided in accordance with Section 5.7. Residential lots shall not back onto any residential street or collector street within a residential area or neighborhood, and shall not have more than one-half (1/2) of its perimeter boundaries along streets.
- f. Any lot in the City's ETJ shall not exceed a depth greater than four times its width.

- g. A lot's area shall be computed inclusive of all easements. However, there shall be a minimum buildable area, exclusive of required easements, buffer zones and setbacks for each lot. The minimum buildable area shall be an area one-half (1/2) of the required minimum lot size. If the City disputes the buildable area of any lot, the applicant shall submit verification in writing that the buildable area is adequate for the type of housing product (or nonresidential building) proposed for that lot. Final approval of the allowed buildable area for any lot shall be by the City.

Section 3.7: Building Lines

- 3.7 Front building lines shall be shown on any type of plat for all lots, and shall be consistent with the Zoning Ordinance requirements for the district in which the development is located (if subject to the City's zoning regulations) and with any other applicable City ordinance, respectively. For property that is not subject to the City's zoning regulations, such as property that lies within the City's extraterritorial jurisdiction, the minimum front building line (for a residential or nonresidential lot) shall be twenty-five feet (25'); except that where the property has public access with a width of less than fifty feet (50'), the minimum front building line shall be forty feet (40').

Section 3.8: Utility Services (not provided by the City of Terrell)

- 3.8 a. For purposes of this Section, the following meanings shall apply:
 - 1. "Utility services" - The facilities of any person, firm or corporation providing electric, natural gas, telephone, cable television, or any other such item or service for public use approved but not provided by the City of Terrell.
 - 2. "Feeder or feeder/lateral line" - High voltage supply electric lines carrying more than 69,000 volts that emanate from substations used to distribute power through an area to an unspecified number of customers.
 - 3. "Lateral lines" - Those electric or telephone lines used to distribute service from a feeder line to a single subdivision. These electric lines are normally connected to a feeder line through a sectionalizing device such as a fuse.
 - 4. "Service lines" - Those lines used to connect between the utilities' system or lateral lines and the end user's meter box.
- b. All subdivision plats and engineering plans submitted to the City of Terrell for approval shall provide for utility services such as electrical, gas, telephone and cable television utility lines, including lateral or service distribution lines, and wires to be placed underground. Feeder and other major transmission lines may remain overhead within the appropriate easements. However, an applicant shall endeavor and, whenever practical, the City shall require that feeder lines are placed away from major or minor thoroughfares or arterials, as shown on the Thoroughfare Plan. Whenever practical, feeder lines which are to be placed overhead shall not be placed along both sides of the street right-of-way. Verification of acceptance of easement locations and widths by the public utilities shall be provided to the City, by the applicant, prior to final plat approval by the City, and all easements shall be reviewed by the utility companies and by the City Engineer (for those to the City) prior to granting final approval for any residential subdivision affected by this Section. The applicant shall also, prior to final plat approval, provide a Letter of Commitment from each utility provider, such

as those providing electricity, gas, telephone and cable television, who will serve the development that said utility providers will ensure the provision of necessary infrastructure and service to all portions of the proposed development within twelve (12) months following final plat approval. Failure to submit such Letters of Commitment from utility providers shall constitute grounds for denial of the final plat application on the basis that there is no written assurance that the development can be served by essential utility services.

- c. Each of the utility companies shall be responsible for developing administrative policies, criteria for easement size, and cost reimbursement procedures for the installation and extension of their underground utilities. Nothing herein shall prohibit or restrict any utility company from recovering the difference in cost of overhead facilities and underground utilities from the property owner in accordance with the provisions of such utility's approved tariff. No utility company shall be required or permitted to begin construction of underground facilities unless and until the property owner or developer of the subdivision has made arrangements satisfactory to the specific utility company for the payment of such difference between the cost of overhead facilities and underground facilities.
- d. All electrical and telephone support equipment, including amplifiers and switching devices necessary for underground installations, shall be pad- or ground-mounted, or shall be placed underground and not overhead, unless the subdivision is served from perimeter overhead electrical facilities.
- e. Temporary construction service may be provided by overhead electric lines and facilities without obtaining a waiver/suspension or special exception, provided that when the underground utility service to any portion of a subdivision is completed, such overhead electric lines and facilities are promptly removed.
- f. Nothing in this Section shall be construed to require any existing facilities in place prior to the effective date of this Ordinance to be placed underground.
- g. The metering for utilities such as water, gas and electricity shall be located on the individual lots to be served, not grouped together in a centralized location(s), such as "gang-box" style metering stations, which shall not be permitted.
- h. The locations, widths and configurations of easements for any utility service provider other than the City of Terrell shall be determined, approved and acquired (if necessary) by the applicable utility service provider.
- i. All utility installations shall be subject to inspection by the City, and shall be in conformance with any applicable City design standards related to their placement within public rights-of-way within easements, or elsewhere in the City (including on private property).

Section 3.9: Water and Wastewater Facility Design

- 3.9 a. All new subdivisions shall be connected with the City's water system or other water supply system approved **by the City and** TCEQ, and shall be capable of providing water for health and emergency purposes, including fire protection. An alternative source of water may be used for irrigation purposes only and for a nonresidential use only (e.g., a public park, a public school, etc.), subject to City approval and provided that all appropriate permits are procured from the City, the U.S. Army Corps of Engineers, the TCEQ and any other applicable agency(s). Such alternative water source may not be used for potable (i.e., drinking) water supply under any circumstances or be connected to the City's supply system.

The design and construction of water system improvements and alternative water sources shall comply with the following standards:

1. Design and construction of a water source on the site shall be in accordance with applicable regulations of the Texas Commission on Environmental Quality (TCEQ).
 2. Design and construction of water service from the City shall be in accordance with the standards in the City's TCSS Manual, and in accordance with TCEQ standards, whichever is the most stringent requirement.
 3. Design and construction of a fire protection and suppression system shall be in accordance with the standards in the TCSS Manual, and in accordance with the City's Fire Department and Fire Code.
- b. All new subdivisions shall be served by the City's wastewater collection and treatment system. The design and construction of the wastewater system improvements shall be in accordance with the standards in the City's Code of Ordinances, TCSS Manual, and in accordance with TQEC standards and other applicable State codes whichever is the most stringent requirement. All new residential or commercial structures shall be required to connect to the City wastewater system if located within one hundred feet (100') of such service and any extension of existing lines in order to establish service shall be at the expense of the owner/subdivider. On-site wastewater systems (septic) shall only be allowed if City sewer services are not available within a reasonable distance and approval by the City or County as applicable shall be required prior to installation.
- c. The subdivider shall be responsible for:
1. Phasing of development or improvements in order to maintain adequate water and wastewater services;
 2. Extensions of utility lines (including any necessary on-site and off-site lines) to connect to existing utility mains of adequate capacity;
 3. Providing and/or procuring all necessary easements for the utilities (whether on-site or off-site);
 4. Providing proof to the City of adequate water and wastewater service;
 5. Providing provisions for future expansion of the utilities if such will be needed to serve future developments, subject to the City's oversize participation policies, if applicable;
 6. Providing all operations and maintenance of the private utilities, or providing proof that a separate entity will be responsible for the operations and maintenance of the utilities;
 7. Providing all fiscal security required for the construction of the utilities;
 8. Obtaining approvals from the applicable utility providers if other than the City; and
 9. Complying with all requirements of the utility providers, including the City.
- d. Extension of water and wastewater lines shall be made along the entire frontage of the subdivision adjacent to a street or thoroughfare. If the subdivision is not adjacent to a

thoroughfare, the extension of utilities shall be accomplished in such a manner as to allow future connections to said utilities by new subdivisions. If new subdivisions will never be constructed beyond a developing subdivision due to physical constraints, the City Council may waive the requirement for adjacent utility line construction at the time of construction plat approval and prior to construction of the subdivision (See Section 1.9).

- e. Installation, operations and maintenance of utilities not specifically referenced herein shall comply with regulations of the TCEQ and with any other applicable State rules and regulations, whichever is the most stringent requirement.

Section 3.10: Storm Water Collection and Conveyance Systems

- 3.10 a. System Design Requirements. Drainage improvements shall accommodate runoff from the upstream drainage area in its anticipated maximum “build-out” condition, and shall be designed to prevent overloading the capacity of the downstream drainage system. The City may require the phasing of development, the use of control methods such as retention or detention, or the construction of off-site drainage improvements in order to mitigate the impact of the proposed development. No storm water collection system shall be constructed unless it is designed in accordance with the City’s TCSS Manual by a licensed professional engineer, and unless it is reviewed and approved by the City Engineer. All plans submitted to the City Engineer for approval shall include a layout of the drainage system together with supporting calculations for the design of the system.
- b. All erosion and sedimentation controls shall conform to the TCSS Manual. For erosion and sedimentation control, the City uses the latest edition of “Storm Water Quality Best Management Practices for Construction Activities in North Central Texas” (by the NCTCOG), a copy of which is on file at the City.
- c. No person, individual, partnership, firm or corporation shall deepen, widen, fill, reclaim, reroute or change the course or location of any existing ditch, channel, stream or drainageway without first obtaining written permission of the City Engineer and any other applicable agency (such as FEMA or the U.S. Army Corps of Engineers) having jurisdiction. The City Engineer may, at his or her discretion, require preparation and submission of a CLOMAR or flood study for a proposed development if there are concerns regarding storm drainage on the subject property or upstream or downstream from the subject property. The costs of such study, if required, shall be borne by the developer.
- d. In order to help reduce storm water runoff, and resulting erosion, sedimentation and conveyance of nonpoint source pollutants, the layout of the street network, lots and building sites shall, to the greatest extent possible, be sited and aligned along natural contour lines, and shall minimize the amount of cut and fill on slopes in order to minimize the amount of land area that is disturbed during construction.
- e. No cross-street flow (i.e., perpendicular to traffic flow) of storm water runoff shall be permitted unless approved by the City Engineer. When and if such drainage flow is allowed, it must be across a concrete street (i.e., valley gutter) and as approved by the City Engineer.
- g. All storm water retention or detention facilities which are not located underground shall be designed using materials and techniques as established in the City’s TCSS Manual or as may be required by the City Engineer.

- h. Funding and priority for storm water improvements either in existing developed areas of the city or in conjunction with new development may be provided through developer's agreements, TIF funding, Storm Water Utility Fund, CIP or other funding mechanisms as approved by the City Council or other boards and commissions.

IV. PUBLIC SITES AND OPEN SPACES

Section 4.1: Areas for Public Use

- 4.1 a. The applicant shall give consideration to suitable and adequate sites for schools, parks, playgrounds, and other areas for public use or service so as to conform with the recommendations contained in the City's Comprehensive Plan; Park and Open Space Plan; and other applicable plans. Any provision for schools, parks or other public facilities shall be indicated on the construction and final plat, and shall be subject to approval by City Council.

Section 4.2: Protection of Drainage and Creek Areas

- 4.2 a. All creeks and drainage channels shall be preserved and protected in their natural condition wherever possible, unless significant storm drainage improvements are required by the City in these areas. All development adjacent to creeks and drainage channels shall be in accordance with the City's TCSS Manual, and with any other City policies or ordinances related to aesthetics or public access or enjoyment of creeks and waterways.
- b. Definitions and Methodology for Determining the Floodway Management Area (FMA). The definitions for "floodway" and "floodway fringe" shall correspond to those set forth by the Federal Emergency Management Agency (FEMA). For purposes of the National Flood Insurance Program, the concept of a floodway is used as a tool to assist the local community in the aspect of flood plain management. Under this concept, the area of the 100-year flood is divided into a floodway and floodway fringe. The floodway is the channel of a stream plus any adjacent flood plain areas that must be kept free of encroachment in order that the 100-year flood may be carried without substantial increases in flood heights as defined by FEMA. The area between the floodway and boundary of the 100-year flood is termed the floodway fringe. The floodway fringe is the area which can be used for development by means of fill according to FEMA and City engineering criteria.

For the purposes of this Ordinance, the Floodway Management Area (FMA) will correspond to the floodway, as defined by FEMA, or as may be modified pursuant to a flood study that is approved by FEMA.

- c. Areas Where an FMA is Required. Kings Creek and Bachelors Creek and their related tributaries and streams and all other drainage areas or regulated floodways as referenced on the applicable floodway and flood boundary map (Flood Insurance Rate Map, or FIRM) shall be included in the FMA. If FEMA does not specify a floodway zone in any of the creeks or their tributaries, it shall be the developer's responsibility to establish and identify the FMA. The determination shall be made by a licensed professional engineer and approved by the City Engineer. Where improvements to a drainage area are required by other ordinances of the City for the purpose of safety or other reasons related to drainage, those ordinances shall also be observed. The FMA is intended to apply to a creek or channel which is to remain open or in its natural condition unless otherwise approved by the City. The creek shall remain in its natural state unless improvements are permitted or required by the City due to the pending development of properties adjacent to or upstream of the required improvements.
- d. Ownership and Maintenance of the FMA. The area determined to be the FMA shall be designated on the construction plat. Approximate locations shall be shown on zoning change requests and zoning concept plan exhibits-- accurate locations of the FMA shall be

established on the construction plat and prior to site construction. At the City's option, the FMA shall be protected by one of the following methods:

1. Dedicated to the City of Terrell; or
2. Easement(s). Creeks or drainageways on tracts which have private maintenance provisions, other than single- or two-family platted lots, can be designated as the FMAs by an easement to the City on the construction plat (with the appropriate plat language, as required by the City). Subdivisions with platted single-family or two-family lots may designate the FMA by easement provided there are adequate maintenance provisions (such as by a mandatory homeowners association), but no lots or portions of lots may be platted in the easement unless specifically allowed by the City. The area designated as FMA may be identified by a tract number; or
3. Certain recreational uses normally associated with or adjacent to flood prone areas (no structures allowed in the FMA), such as golf courses or certain types of parks. The uses allowed shall be in conformance with the Zoning Ordinance and approved by the Planning and Zoning Commission and City Council.

Prior to acceptance of any drainageway as an FMA by the City, the area shall be cleared of all debris and brush (except for mature trees) and placed in a maintainable state. Floodway management areas dedicated to the City shall be left in a natural state except those areas designated for active recreational purposes and unless storm drainage requirements do not permit this to occur.

- e. Design Criteria. The following design criteria shall be required for development adjacent to the FMA:
 1. Adequate access shall be provided to and along the FMA for public and/or private maintenance. An unobstructed area a minimum of twenty feet (20') wide with a maximum 5:1 slope (five feet horizontal to one foot vertical), the length of the floodway shall be provided adjacent to or within the FMA. On the opposite side of the drainage area, an unobstructed area having a minimum width of five feet (5') shall be provided. If ownership is to the centerline of the drainage channel then the subdivider shall only be required to provide adequate access to one side.
 2. Lots in a single-family, PD single-family, or duplex residential zoning district shall not be platted within the FMA, and no more than ten percent (10%) of the linear length of the FMA (on each side) shall be allowed to have lots backing or siding onto it. If lots back or side onto an FMA, at least two (2) reasonable points of access to the FMA, each a minimum of twenty feet (20') in width, shall be provided. Streets, alleys and open-ended cul-de-sacs may qualify as access points if designed such that they are navigable by maintenance vehicles (e.g., alleys must be twenty-foot width). All areas of the FMA shall be accessible from the access points and shall be visible from access points. Lots used for multi-family dwellings may be platted in the FMA if the FMA is identified as an easement and is maintained as open space for use by the residents, and provided that access to the FMA is possible by City maintenance vehicles, should that need arise. If the FMA is to be public park land, then adequate public access and good public visibility shall also be provided to all portions of it.
 3. Public streets may be approved in the FMA by the City (if they conform to applicable engineering standards).

4. Linear public streets may be required to be constructed adjacent to some (or all) portions of the FMA to allow access for maintenance or recreational opportunities, and/or to allow increased visibility into creek areas for public safety and security purposes.
 5. Alternate designs to facilitate equal or better access may be permitted if approved by the City.
- f. Drainage channels which have been altered and are not in a natural condition can be exempted from an FMA and this Section at the discretion of the City Council and upon recommendation by the City Staff.

Section 4.3: Property Owners or Homeowners Associations

- 4.3 a. Applicability. When a subdivision contains either common open space or other improvements which are not intended to be dedicated to the City of Terrell for public use, such as private streets or screening walls, a private recreation facility, landscaped entry features or other private amenities, a property owners or homeowners association agreement consistent with State and other appropriate laws, must be submitted to and approved by the City Attorney. The Conditions, Covenants and Restrictions (CCRs) and the association documents, such as the articles of incorporation and association by-laws, shall be submitted to the City for review and approval along with the construction plat application, and shall be filed of record at the County prior to final plat approval in order to ensure that there is an entity in place for long-term maintenance of these improvements (also see Section 3.1c.10.(e)). Said documents must, at a minimum, include provisions which allow the City to take over the maintenance of common property, including but not limited to private streets and private recreation facilities, using association funds, if such action becomes necessary due to nonperformance or inaction by the association or if the association goes defunct. Provisions shall also be included which would, in the latter instance, convey ownership of the private streets (if any) and all other common areas to the City, and which would allow the City to remove any improvements or amenities from the common areas and sell any buildable land area, as residential lots, to recoup the City's expenses for maintenance or demolition of the improvements. Any monies that remain after the City has recovered all of its expenses shall be retained for future maintenance or upgrading of the streets, common areas (if any remain), screening walls, or other improvements within the subdivision. These provisions are not intended to allow the City to profit in any way from taking over the association's responsibilities or funds; they are only intended to allow the City to recoup its actual incurred expenses such that the general public, the taxpayers of the City, does not have to bear these costs.
- b. Membership. A property owners or homeowners association shall be an incorporated non-profit organization operating under recorded land agreements through which:
1. Each lot owner within the described land area is automatically a mandatory member; and
 2. Each lot is automatically subject to a charge for a proportionate share of the expenses for the property owners or homeowners association's activities, such as maintenance of common open spaces or private streets, or the provision and upkeep of common recreational facilities.

- c. Legal Requirements. In order to ensure the establishment of a proper property owners or homeowners association, including its financing, and the rights and responsibilities of the property or home owners in relation to the use, management and ownership of common property, the subdivision plat, dedication documents, covenants, and other recorded legal agreements must:
1. Legally create an automatic membership, non-profit property owners or homeowners association;
 2. Place title to the common property in the property owners or homeowners association, or give definite assurance that it automatically will be so placed within a reasonable, definite time;
 3. Appropriately limit the uses of the common property;
 4. Give each lot owner the right to the use and enjoyment of the common property;
 5. Place responsibility for operation and maintenance of the common property in the property owners or homeowners association;
 6. Place an association charge on each lot in a manner which will both ensure sufficient association funds and which will provide adequate safeguards for the lot owners against undesirable high charges;
 7. Give each lot owner voting rights in the association; and
 8. Identify land area within the association's jurisdiction including but not limited to the following:
 - (a) Property to be transferred to public agencies;
 - (b) The individual residential lots;
 - (c) The common properties to be transferred by the developer to the property owners or homeowners association; and
 - (d) Other parcels.
 9. Any governmental authority or agency, including, but not limited to, the City and the County, their agents, and employees, shall have the right of immediate access to the common elements at all times if necessary for the preservation of public health, safety and welfare. Should the property owners or homeowners association fail to maintain the common elements to City specifications for an unreasonable time, not to exceed ninety (90) days after written request to do so, then the City shall have the same right, power and authority to enforce the association's rules and to levy assessments necessary to maintain the common elements. The City may elect to exercise the rights and powers of the property owners or homeowners association or its Board, or to take any action required and levy any assessment that the property owners or homeowners association might have taken, either in the name of the property owners or homeowners association or otherwise, to cover the cost of maintenance (or the possible demolition, if such becomes necessary to preserve public safety or to ease maintenance burden) of any common elements.

10. The HOA must register with the Municipal Development Department a contact person authorized to receive and distribute information to the HOA Board of Directors and shall notify the City of any change in said contact person.
- d. Protective Covenants. Protective covenants shall be developed which, among other things, shall make the property owners or homeowners association responsible for:
 1. The maintenance and operation of all common property;
 2. The enforcement of all other covenants;
 3. The administration of architectural controls (if included); and
 4. Certain specified maintenance of exterior improvements of individual properties (if included).

The City is not responsible (i.e., has no jurisdiction) for enforcing protective covenants or deed restrictions.
- e. The association may not be dissolved without the prior written consent of the City Council.
- f. No portion of the association documents pertaining to the maintenance of screening walls, private streets and alleys, and assessments therefore, may be amended without the written consent of the City Council.

Section 4.4: Park Land & Public Facility Dedication

- 4.4 a. Areas for Public Use.
 1. The applicant shall give consideration to suitable sites for parks, playgrounds and other areas for public use so as to conform with the recommendations of the **adopted Terrell Parks, Recreation and Open Space Master Plan**. Any provision for parks and public open space areas shall be indicated on the construction and final plat, and shall be subject to approval by the City's Park Board and by City Council.
 2. All park and open space dedications and/or payment of park development fees shall be in accordance with the adopted Park Land Dedication Ordinance (Ord. No. 2187) and Parks and Open Space Master Plan as adopted or amended.
 3. No individual, partnership, firm, or corporation shall deepen, widen, fill, reroute or change the course or location of any existing ditch, channel, stream or drainageway, without first obtaining written permission of the City and any other agency having jurisdiction. (See Section 3.10)

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V. IMPROVEMENTS REQUIRED PRIOR TO ACCEPTANCE OF THE SUBDIVISION BY THE CITY

Section 5.1: Improvements, In General

- 5.1 a. The requirements of the Subdivision Ordinance as set forth below are designed and intended to ensure that, for all subdivisions of land within the scope of the Subdivision Ordinance, all improvements as required herein are installed properly and:
1. The City can provide for the orderly and economical extension of public facilities and services;
 2. All purchasers of property within the subdivision shall have a usable, buildable parcel of land; and
 3. All required improvements are constructed in accordance with City standards.
- b. Adequate Public Facilities Policy. The land to be divided or developed must be served adequately by essential public facilities and services. No subdivision shall be approved unless and until adequate public facilities exist or provision has been made for water facilities, wastewater facilities, drainage facilities, electricity and street facilities which are necessary to serve the development proposed, whether or not such facilities are to be located within the property being platted or off-site. This policy may be defined further and supplemented by other ordinances adopted by the City. Wherever the subject property adjoins undeveloped land, or wherever required by the City to serve the public good, utilities shall be extended to adjacent property lines to allow connection of these utilities by adjacent property owners when such adjacent property is platted and/or developed.
- c. Public improvements that are required by the City of Terrell for the acceptance of the subdivision by the City shall include, but are not limited to, the following:
1. Water and wastewater facilities;
 2. Storm water drainage, collection and conveyance facilities;
 3. Water quality, erosion and sedimentation controls;
 4. Streets;
 5. Street lights;
 6. Street signs;
 7. Alleys (generally not allowed in single-family residential subdivisions);
 8. Sidewalks, including barrier-free ramps at street intersections and other appropriate locations;
 9. Screening and/or retaining walls;
 10. Traffic control devices required as part of the project; and

11. Appurtenances to the above, and any other public facilities required as part of the proposed subdivision.
- d. All aspects of the design and implementation of public improvements shall comply with the City's current design standards and any other applicable City codes and ordinances, including preparation and submittal of engineering plans and construction inspection. The construction of all of the improvements required in this Ordinance shall conform to the latest edition of the City's TCSS, as may be amended, and to any other applicable City standards.
- e. Changes or Amendments to the TCSS and Other Construction or Design Documents. The Technical Construction Standards and Specifications (TCSS) will, from time to time, require revisions and updates to allow for changing construction technology. When changes are required, the TCSS may be amended by separate resolution. It is the applicant's responsibility to be aware of, and to conform with, all TCSS requirements (including amendments) that are in place as of the time a complete development application for a construction plat (including required engineering/construction plans) is received by the City.

Section 5.2: Monuments

- 5.2 a. In all subdivisions and additions, monuments shall be established at the corner of each block in the subdivision consisting of an iron rod or pipe not less than three quarters inch (3/4") in diameter and twenty-four inches (24") in length, and set flush with the top of the ground. Lot corner monuments shall be placed at all lot corners except corners which are also block corners, consisting of iron rods or pipes of a diameter of not less than one-half inch (1/2") and twenty-four inches (24") in length, and set flush with the top of the ground. In addition, curve point markers shall be established of the same specifications as lot corners. Each block corner monument shall include a cap with the surveyor's name and registration number attached to it. All block and lot corners shall be installed prior to the final acceptance of the subdivision by the City and prior to filing the plat at the County. All survey work around the boundary area, as well as within the subdivision, shall have an error of closure of one in 7,500 or less.
- b. A subdivision containing five (5) acres or more shall have at least two (2) monuments set by the surveyor, if not already existing, for two corners of the subdivision, and such monuments shall be located at opposite ends (or at widely separated corners) of the subdivision and clearly shown on the final plat prior to filing at the County. The final plat shall also show clear ties to existing monuments in the vicinity of the subdivision. The design and installation of monuments shall be in accordance with the City's TCSS.

Section 5.3: Street Lights

- 5.3 All street lighting shall be in conformance with the City's TCSS, , **Zoning Ordinance Section 40**, and any other applicable City codes. **The City adopted "Dark Sky" lighting standards in Dec. 2009 in the Zoning Ordinance update.**

Section 5.4: Street Names and Signs

- 5.4 a. Street names must be submitted to the City for review and approval in accordance with the City's **adopted policy** for the naming of streets. Proposed street names shall be submitted for

review along with (and as a part of) the construction plat application, and shall become fixed at the time of approval of the construction plat. Ancillary streets which derive their name from a collector or other major street, for example, Griffith Court or Griffith Circle, shall be required to connect to the main street in which the name is derived, in this case, Griffith Street. On the final plat, street names shall not be changed from those that were approved on the construction plat unless special circumstances have caused the major realignment of streets or a proposed street name(s) is discovered to have already been used elsewhere in the City, ETJ or in the same zip code (or some other similar eventuality). If additional street names are needed for the final plat, then they must be submitted for review and approval by the City, along with the final plat application. A fee may be established by the City for the changing of street names after approval of the construction plat.

- b. The names of corporations or businesses shall not be used as street names, unless approved by the City Council. The City will maintain a list of existing street names (and “reserved” street names that have been approved on a construction plat), and will update the list as new streets are platted. The City shall maintain a street name policy.
- c. New street names shall not duplicate existing street names either literally or in a subtle manner (for example, Smith Street vs. Smythe Street; Oak Drive vs. Oak Place vs. Oak Court vs. Oak Circle; Cascade Drive vs. Cascading Drive); shall not be so similar as to cause confusion between names (for example, Lakeside Drive vs. Lake Side Drive vs. Lake Siding Drive); and shall not sound like existing street names when spoken (for example, Oak Drive vs. Doak Drive vs. Cloak Drive; Lantern Way vs. Land Tern Way).
- d. New streets which extend existing streets shall bear the names of the existing streets. Streets crossing thoroughfares or other roadways shall bear the same name on both sides of the thoroughfare, wherever practical.
- e. The property owner shall provide payment for street name signs for the development (two signs for four-way intersections, and one sign for three-way intersections). The cost of each street name sign installation shall include the cost of the sign assembly, pole and all costs associated with installation. Payment by the property owner will be due prior to acceptance of the subdivision by the City. The City will provide and install all street name signs unless otherwise directed.
- f. Street name signs shall be installed in accordance with the City’s guidelines before issuance of a building permit for any structure on the streets approved within the subdivision.

Section 5.5: Street and Alley Improvements

- 5.5 a. All on-site facilities, such as internal streets and alleys shall be constructed by the developer at the developer's expense, unless otherwise allowed by this Ordinance. If the subdivision is adjacent to a planned or future or substandard arterial or collector street, as shown on the City’s Thoroughfare Plan, and derives access, whether direct or indirect, from said roadway, then the developer shall be required to design and construct his/her share of the roadway as well as any required median openings and left turn lanes needed to serve his or her subdivision (see Section 5.9). The City Council may, at its option, accept escrow funds in lieu of immediate roadway construction if the subdivision derives principal access from another improved roadway and if delaying construction or improvement of the road will not harm or otherwise inconvenience neighboring property owners or the general public. (See Section 1.9)

- b. All **fire lanes**, streets and alleys shall be constructed using reinforced concrete, unless otherwise approved by the City, and per the specifications in the City's TCSS.
- c. The minimum street and alley paving standards for which the construction shall be made by the developer are shown in the TCSS.
- d. In addition to the above mentioned minimum standards, barrier-free ramps for physically challenged persons shall be constructed at all street corners, driveway approaches, appropriate mid-block crosswalks, and in locations where accessible parking spaces are provided. All barrier-free ramps and other accessibility considerations shall comply with Section 228 of the Highway Safety Act, as currently amended, and with the Americans With Disabilities Act (ADA), as amended.
- e. All signs and barricades shall be in conformity with the TCSS, with ADA standards, and with specifications for uniform traffic control devices, as adopted by the City, by Kaufman County, by the Texas Department of Transportation, and by the Texas Department of Public Safety, as applicable.
- f. Approval is required prior to the installation of any driveway connecting to a public street. The City Engineer shall approve all (other than single-family) driveway cuts. **Further approvals may be required by TXDOT if driveway accesses a State controlled thoroughfare.** The minimum distance, as measured from the edge or curb of an intersecting street to the edge or curb of driveways, and not from the centerlines of the driveways, between driveway openings for multi-family and nonresidential developments shall be as set forth in the City's TCSS Manual. Driveways shall not be within the transition or stacking portion of a right turn lane, and shall be no closer than one hundred feet (100') to an intersecting thoroughfare or arterial street, as measured from the intersecting street's curb line, and no closer than fifty feet (50') to an intersecting residential or collector street. ***Residential driveways shall not be allowed on a major roadway (over 60 feet in right-of-way width, or Type "C" or above on the City's Thoroughfare Plan).***

Section 5.6: Retaining Wall Requirements, Construction Regulations, and Design Criteria

- 5.6 a. Retaining Wall Requirements. In general, the use of retaining walls shall be minimized, wherever possible, through minimal and balanced cut and fill on property. When property within or directly adjacent to a subdivision contains changes in elevation exceeding two feet (2') and the slope exceeds one unit vertical in four units horizontal, a retaining wall shall be required at the locations specified herein prior to the acceptance of the subdivision:
- 1. Location A. The grade change roughly follows a side or rear lot line.
 - 2. Location B. The grade change is adjacent to a proposed building site boundary.
 - 3. Location C. The grade change is adjacent to a water course or drainage easement.
- b. Retaining Wall Design and Construction. All retaining wall design and construction shall be in compliance with the provisions of the **International Building Code as adopted** and the TCSS of the City of Terrell, and shall be approved by the City Engineer. **Walls exceeding twenty-four inches (24") in height shall be required to be designed by a licensed professional engineer.**

- c. Retaining Wall Maintenance. Retaining walls shall be maintained by the owner of the property (either an individual or a homeowners association) where such retaining wall is located.
- d. Retaining walls shall not be constructed within any portion of a utility or drainage easement, unless approved by the City Engineer. It shall be the property owner's responsibility to maintain the retaining wall.

Section 5.7: Screening and Landscaping Construction Regulations, Requirements and Design Criteria

5.7 a. Screening.

- 1. Screening of the subdivision with either a masonry screen wall or a combination of berms and landscaping shall be required when any of the following conditions exist:

- Where subdivisions are platted so that the rear and/or side yards of single-family or two-family residential lots are adjacent to an arterial thoroughfare (greater than sixty feet (60') in right-of-way width on the Thoroughfare Plan);
- A four (4) lane collector street; are separated from a thoroughfare by an alley;
- Houses back up to a collector or residential street (which is not allowed unless specifically approved by City Council).

NOTE: the developer shall provide, at his or her sole expense, a minimum six-foot (6') tall masonry screening wall (also see Article 7 below), or some other alternative form of screening, if approved by City Council, according to the following alternatives and standards. All screening shall be adjacent to the right-of-way or property line and fully located on the private lot(s), including columns and decorative features. All forms of screening shall conform to the requirements of City ordinances and policies that govern sight distance for traffic safety. Any required screening device that is wholly or partially destroyed or damaged shall be replaced or repaired with the same materials and shall be finished such that its appearance is restored to how it was before being destroyed or damaged.

- 2. Screening Alternatives. Screening shall be provided in accordance with, and shall be constructed to, standards and criteria as set forth in the City's TCSS and other related City code(s) and policy(s). An alternative form of screening, in lieu of the six- to eight-foot tall masonry wall, may be approved by City Council on a landscaping/screening wall plan submitted with the construction plat application. Such possible alternatives may include, but may not be limited to, the following:
 - (a) Living/landscaped screen with decorative metal (e.g., wrought iron) fence sections with masonry columns;
 - (b) A combination of berms and living/landscaped screening, either with or without a decorative metal or "WoodCrete" type of fence with masonry columns;
 - (c) A combination of berms, decorative masonry retaining walls (no taller than six feet in height where facing or visible to a public street) and living/landscaped screening, either with or without a decorative metal or "WoodCrete" type of fence with masonry columns; or

- (d) Some other creative screening alternative may be approved if it meets the spirit and intent of this Section, if it is demonstrated to be long-lasting and generally maintenance-free, and if the City Council finds it to be in the public interest to approve the alternative screening device.

Any required screening device shall be, or shall achieve, at least six feet (6') in height and at least ninety percent (90%) opacity within three (3) years of initial installation/planting. Any landscaping used to achieve the purpose of required screening shall be equipped with an underground irrigation system with appropriate double-check valve(s), automatic controller(s), and automatic moisture and freeze sensors. Trees used for overstory screening shall be on a separate bubbler irrigation system that can be programmed to provide deep-watering of trees at intervals that may differ from the rest of the irrigation system.

The use of wood or other privacy fences immediately behind or abutting an alternative screening device that utilizes living screening elements (i.e., landscaping), berms, retaining walls and/or open (i.e., non-opaque) fence sections shall not be permitted due to the creation of a "no man's land" and subsequent maintenance nuisance in the area between the two devices/fences, and due to the detrimental visual appearance of this type of arrangement.

The use of any alternative form of screening in lieu of the masonry wall, particularly a device utilizing landscaping, shall require formation of a property/homeowners' association in accordance with Section 4.3 of this Ordinance.

3. A wall/screening maintenance easement at least five feet (5') in width shall be dedicated to a property owners association on the private lot side and adjacent to the entire length of the screening wall or device.
4. The screening wall/device shall be installed prior to approval of the final plat and prior to final acceptance of the subdivision (or appropriate surety provided, per Section 6 of this Ordinance). Landscape materials may be installed after the subdivision is accepted, upon approval of the Municipal Development Department, but in no case later than ninety (90) days following acceptance of the subdivision. Failure to properly install all components of a required screening wall or device within the allowed time frame, and without the appropriate developer's agreement and surety, shall constitute a violation of this Ordinance and the developer may be subject to a penalty pursuant to Article VIII of this Ordinance.
5. All plants, such as trees, shrubs and ground covers, shall be living and in sound, healthy, vigorous and growing condition, and they shall be of a size, fullness and height that is customary for their container or ball size, as per the latest edition of the "American Standard for Nursery Stock", by the American Association of Nurserymen, as may be amended.
6. All masonry, wrought iron, steel or aluminum screening wall or fence plans and details must be designed and sealed by a licensed professional engineer, and must be approved by the City Engineer. Masonry walls shall be in accordance with the City's design standards, and the use of "ThinWall" type of construction (i.e., that does not conform to the TCSS) shall be prohibited due to problems with inferior strength and the higher cost of long-term maintenance. Decorative metal fencing shall be solid stock, not tubular, and shall have masonry columns at a minimum spacing of forty (40) feet on center unless otherwise approved by the City.

7. The height of required screening devices, including spans between columns, shall be a minimum of six feet (6') and shall be no more than eight feet (8') tall. Decorative columns, pilasters, stone caps, sculptural elements, and other similar features may exceed the maximum eight-foot (8') height by up to two feet (2') for a total maximum height of ten feet (10') for these features, provided that such taller elements comprise no more than ten percent (10%) of the total wall length in elevation view. Features that are taller than ten feet (10') in height shall require City Council approval on the landscaping/screening plans submitted with the construction plat.
 8. Screening fences, walls and devices shall not be constructed within any portion of a utility or drainage easement unless specifically authorized by the City and by any other applicable utility provider(s). Any existing or proposed public utility that crosses or impacts a screening wall shall be properly encased as determined and approved by the City Engineer.
 9. All screening walls shall be maintained by a property or Homeowner's Association.
- b. Entryway Features (neighborhood identification).
1. Subdivisions in excess of ten (10) platted lots may provide a low maintenance landscaped entryway feature at access points from streets and thoroughfares into the subdivision. The entryway feature shall be placed on private property and within an easement identified for such use (limited portions of the feature or landscaping may be placed within the right-of-way, but only with City approval on the landscaping/screening plans), and shall observe all sight visibility requirements. Most of the feature or landscaping shall be located on private property so that long-term maintenance responsibility will be borne by the property owner or an approved homeowners association (see Section 4.3). Entryway features that are located mostly or entirely within City right-of-way shall only be allowed with City Council approval. Prior to City Council approval, the City may require the applicant to execute an agreement with the City that relieves the City of maintenance responsibility and that indemnifies and holds the City harmless for damage or injury incurred by or in conjunction with such features in the right-of-way.
 2. Design Requirements. The entryway feature shall include low maintenance, living landscaped materials as approved by the City. The design of the entryway feature shall also include an automatic underground irrigation system that is equipped with moisture- and freeze-sensors, and may also include subdivision identification, such as signage located on the wall. All plants shall be living and in a sound, healthy, vigorous and growing condition, and they shall be of a size, fullness and height that is customary for their container or ball size, as per the latest edition of the "American Standard for Nursery Stock", by the American Association of Nurserymen, as may be amended. Any walls or structures used in the entryway feature must conform to the City's regulations pertaining to maximum height within the front yard of residential lots (see the Zoning Ordinance) wherever the adjacent lot sides onto the arterial street and the wall will be located within the front yard setback area.
 3. The design of the entryway shall be in accordance with design policies in the City's TCSS. The design of the entry shall be reflected on the landscape, screening and irrigation plans submitted along with the engineering plans and the construction plat, and shall be approved by the City.

4. The maintenance of the entryway shall be the responsibility of the developer for a period of at least two (2) years or until building permits have been issued for eighty percent (80%) of the lots in the subdivision, whichever date is later. Following that period of time, maintenance responsibility shall be borne by the private property owner(s) upon whose lot(s) the entryway feature is located, or by an approved homeowners association (see Section 4.3). If, at some point in time, the maintenance responsibility shifts to the City, the City shall have the right to upgrade, reduce or eliminate entirely, at its sole option, the landscaping and other amenities in order to simplify or minimize the amount of time, effort and cost that maintenance of the entryway will require.
- c. Landscaping. All landscaping shall be in conformance with the City's Landscape Ordinance, as amended.
- d. Signage. All signage shall be in conformance with the City's Sign Ordinance as amended.

Section 5.8: Water and Wastewater Requirements

- 5.8 a. The installation of all water and wastewater lines shall be in conformance with Section 3.9 of this Ordinance.
- b. No final plat shall be approved for any subdivision within the City or its extraterritorial jurisdiction until the applicant has made adequate provision for a water system and a sanitary sewer system of sufficient capacity to adequately provide service to all tracts and lots within the area to be subdivided. The design and construction of the water system and of the sanitary sewer system to serve the subdivision shall be in conformance with the City's master plans for water and wastewater facilities and with the TCSS, and shall be approved by the City Engineer (also see Section 3.9).
- c. Water system mains of sufficient size and having a sufficient number of outlets to furnish adequate and safe domestic water supply and to furnish fire protection to all lots shall be provided. Water mains shall extend to the property line in order to allow future connections into adjacent undeveloped property.
- d. Services for utilities shall be made available to the property line of each lot in such a manner as will minimize the necessity for disturbing the street pavement and drainage structures when connections are made.
- e. Fire protection shall be provided in accordance with Section 3.9 of this Ordinance, with the City's TCSS Manual, and with any other City policy or ordinance pertaining to fire protection or suppression. The Fire Chief shall have the authority to approve the locations and placement of all fire hydrants and fire lanes and he or she may, at his or her discretion, modify fire hydrant spacing or fire lane placement based upon special design or distance circumstances. All required fire lanes shall be shown as "fire lane easements" on the construction and final plats, along with the applicable fire lane language block. Vertical construction (i.e., any building construction above foundation/slab level) shall not commence until all required fire lanes are properly installed and accepted by the City, nor until all fire hydrants have been installed, inspected, tested and accepted by the City.

Section 5.9: Improvement of Adjacent (Perimeter) Streets and Utilities

- 5.9 a. When a proposed subdivision, whether residential or nonresidential, abuts on one or both sides of an existing substandard street, or on a planned or future road as shown on the

Thoroughfare Plan, being substandard according to the then existing current Thoroughfare Plan, the developer shall be required to improve the subdividers share of the existing on-site facility as that term is defined herein, including appurtenant sidewalks, barrier-free ramps, storm drainage structures, screening and landscaping, median openings and/or left turn lanes (if a divided thoroughfare), water quality or erosion controls, and other utilities as defined in Section 1.13, to bring the same to City standards, or to replace it with a standard City street as determined by the traffic impact analysis, if required, at no cost to the City.

- b. The developer's share of improvements to a substandard perimeter road shall be eighteen and one-half feet (18.5') of pavement (including curb, if any), which is approximately equivalent to half of a collector street width (i.e., two through traffic lanes), along the entire front footage of the subdivision, unless the traffic impact analysis, if required, indicates that some other pavement width is needed to achieve and maintain an acceptable level of service on the roadway. If the subdivision is to be located on both sides of the roadway, eighteen and one-half feet (18.5') of pavement shall be constructed by the developer on each side of the road along the entire front footage of the subdivision on each respective side of the road, unless the traffic impact analysis determines otherwise. Design and construction of the roadway shall be in accordance with the City's Thoroughfare Plan (with respect to right-of-way width and general location, the TCSS Manual, and with any other applicable City codes and ordinances. Depending upon the specific roadway in question, and upon the traffic impact analysis results, any over-sizing above the eighteen and one-half foot (18.5') width shall be borne by the City, the County, the State or by some other entity. The City Council may, at its option, accept escrow funds in lieu of immediate roadway construction if the subdivision derives principal access from another improved roadway and if delaying construction and improvement of the road will not harm or otherwise inconvenience neighboring property owners or the general public. The City may defer construction for other reasons and request escrow or require the construction of a larger roadway section. If a larger roadway section is required the City shall participate in the cost of oversize construction in conformance with adopted policies or ordinances.
- c. The developer's share for major bridges and similar region-serving drainage structures and for railroad crossings (including the appurtenant roadway paving, sidewalks/pedestrian pathways, abutments, safety railings and cross-arms, median areas, etc.) shall be in accordance with the City of Terrell's policies for the construction of such facilities.
- d. Streets which dead-end at power lines or similar rights-of-way or easements, and which are intended for future extension across these rights-of-way or easements, shall be constructed in the right-of-way or easement for the entire distance across the right-of-way or easement, and shall be further restricted as set forth in Section 3.1 of this Ordinance. As with any other dead-end street, a note shall be placed on the final plat clearly labeling the dead-end streets that will, at some point, be extended across the power line easement (or right-of-way), and signage shall be placed at the end of the constructed street stub, such as on the barricade, also stating that the street will be extended in the future. Signage size and lettering shall be large enough to be legible by a person with normal vision at a distance of twenty feet (20').

Section 5.10: Storm Drainage and Water Quality Controls

- 5.10 a. An adequate storm sewer system consisting of inlets, pipes and other underground structures with approved outlets shall be constructed where runoff of storm water and the prevention of erosion cannot be accomplished satisfactorily by surface drainage facilities. Areas subject to flood conditions or inadvertent storm water retention, such as standing or pooling water, as

established by the City Engineer, will not be considered for development until adequate drainage has been provided.

- b. The criteria for use in designing storm sewers, culverts, bridges, drainage channels, and drainage facilities shall conform to Section 3.10 of this Ordinance. In no case shall drainage areas be diverted artificially to adjacent properties or across roadways. Storm water drainage from one lot onto another shall not be allowed unless such does not pose any harm or inconvenience to the downstream property owner(s), unless specifically approved by the City Engineer, and unless the necessary off-site drainage easement is procured on the affected property(s).
- c. The developer shall ensure that all drainage improvements within public easements or rights-of-way are functioning properly prior to the expiration of the maintenance bond. The developer shall be responsible for removing any significant build-up of sediment or debris from drainage improvements, with the exception of backlot and sidelot drainage swales, at the eleventh month of the second year for the required two-year maintenance bond for the applicable facilities. The City shall inspect the improvements to determine any maintenance or correction of deficiencies at the conclusion of this period.

VI. REQUIREMENTS FOR ACCEPTANCE OF SUBDIVISIONS BY THE CITY OF TERRELL

Section 6.1: Withholding City Services and Improvements Until Acceptance

- 6.1 a. The City hereby defines its policy to be that the City will withhold all City services and improvements of whatsoever nature, including the maintenance of streets and the furnishing of all other City services from any subdivision or property until all of the street, utility, storm drainage and other public improvements, as well as lot improvements such as retaining walls and grading and installation of improvements required for proper lot drainage and prevention of soil erosion on the individual residential lots, are properly constructed according to the approved engineering plans and to City standards, and until such public improvements are dedicated to and accepted by the City.

Section 6.2: Guarantee of Public Improvements

- 6.2 a. Property Owner's Guarantee. Before approving the final plat of a subdivision located all or partially within the City or its extraterritorial jurisdiction, the City must be satisfied that all required public improvements have been (or soon will be) constructed in accordance with the approved engineering plans and with the requirements of this Ordinance.
- b. Improvement Agreement and Guarantee. At the time of construction plat approval, the City Council may waive the requirement that the applicant complete and dedicate all public improvements prior to approval of the final plat, and may permit the property owner to enter into an 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 approved. The City Council may also require the property owner to complete or dedicate some of the required public improvements prior to approval of the final plat, and to enter into an improvement agreement for completion of the remainder of the required improvements during such two-year period. The improvement agreement shall contain such other terms and conditions as are agreed to by the property owner and the City.
- c. Improvement Agreement Required for Oversize Reimbursement. The City shall require an improvement agreement pertaining to any public improvement for which the developer shall request reimbursement from the City for oversize costs. The City Council has the authority to authorize the approval of such agreement as meeting the requirements of the City, and the City shall not withhold approval as a means of avoiding compensation due under the terms of this Ordinance. The City Engineer (or designee) is authorized to sign an improvement agreement on behalf of the City.
- d. Security. Whenever the City permits an applicant to enter into an improvement agreement, it shall require the applicant to provide sufficient security, covering the completion of the public improvements. The security shall be in the form of cash escrow or, where authorized by the City, a performance bond or letter of credit or other security acceptable to the City Council and the City Attorney, as security for the promises contained in the improvement agreement. Security shall be in an amount equal to one hundred percent (100%) of the estimated cost of completion of the required public improvements and lot improvements. The issuer of any surety bond and letter of credit shall be subject to the approval of the City Engineer and the City Attorney.

- e. Performance Bond. If the City Council authorizes the applicant to post a performance bond as security for its promises contained in the improvement agreement, the performance bond shall comply with the following requirements:
1. All performance bonds must be in the forms acceptable to the City Engineer and the City Attorney;
 2. All performance bonds must be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies", as published in Circular 570, as may be amended, by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury;
 3. All performance bonds must be signed by an agent, and must be accompanied by a certified copy of the authority for him or her to act;
 4. All performance bonds shall be obtained from surety or insurance companies that are duly licensed or authorized in the State of Texas to issue performance bonds for the limits and coverage required.

If the surety on any performance bond furnished by the applicant is declared bankrupt, or becomes insolvent, or its right to do business is terminated in the State of Texas, or the surety ceases to meet the requirements listed in Circular 570, the developer shall, within twenty (20) calendar days thereafter, substitute another performance bond and surety, both of which must be acceptable to the City.

The City may withhold building permits, certificate or occupancy permits or utility connections until such improvements are completed or other surety is provided to the City.

- f. Letter of Credit. If the City Council authorizes the applicant to post a letter of credit as security for its promises contained in the improvement agreement, the letter of credit shall:
1. Be irrevocable;
 2. Be for a term sufficient to cover the completion, maintenance and warranty periods, but in no event less than two (2) years;
 3. Require only that the City present the issuer with a sight draft and a certificate signed by an authorized representative of the City certifying to the City's right to draw funds under the letter of credit; and
 4. The warranty period for the work shall be for two years beyond the time required to complete the improvements.
- g. As portions of the public improvements are completed in accordance with the TCSS and the approved engineering plans, the applicant may make written application to the Municipal Development Department to reduce the amount of the original security. If the City is satisfied that such portion of the improvements has been completed in accordance with City standards, the City Manager may, but is not required to, cause the amount of the security to be reduced by such amount that he or she deems appropriate, so that the remaining amount of the security adequately insures the completion of the remaining public improvements.

Section 6.3: Temporary Improvements

- 6.3 a. The applicant shall build and pay for all costs of temporary improvements required by the City, and shall maintain those temporary improvements for the period specified by the City. Prior to construction of any temporary facility or improvement, the applicant shall file with the City a separate improvement agreement and escrow or, where authorized, a 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.
- b. Any temporary public improvement (e.g., a temporary cul-de-sac, alley turnout, drainage swale, erosion control device, etc.) shall be placed within an easement established specifically for that purpose. The recording information of the instrument establishing the temporary easement shall not be shown on the final plat unless the easement is a permanent easement for the subdivision prior to approval of the final plat. A temporary easement for a required public improvement shall not be abandoned without the City Engineer's approval and without written consent by the City.

Section 6.4: Government Units

- 6.4 a. 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 agents authorized to act in their behalf, agreeing to comply with the provisions of this Ordinance.

Section 6.5: Failure to Complete Improvements

- 6.5 a. For plats for which no improvement agreement has been executed and no security has been posted, if the public improvements are not completed within the period specified by the City, the plat approvals shall be deemed to have expired. In those cases where an improvement agreement has been executed and security has been posted, and the required public improvements have not been installed within the terms of the agreement, the City 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 may 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 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 property; or
 5. Exercise any other rights or remedies available under the law.

Section 6.6: Acceptance of Dedication Offers

- 6.6 Acceptance of formal offers for the dedication of streets, public areas, easements or parks shall be by authorization of the City Manager (or designee). The approval of a construction or final plat shall not, in and of itself, be deemed to constitute or imply the acceptance by the City of any public improvements required by the plat. The City may require the plat to be endorsed with appropriate notes to this effect.

Section 6.7: Maintenance and Guarantee of Public Improvements

- 6.7 The property owner shall maintain all required public improvements for a period of two (2) years following acceptance of the subdivision by the City, and shall also provide a two-year maintenance bond (warranty) for one hundred (100%) percent of the cost of improvements that all public improvements will be free from defects for a period of two (2) years following such acceptance by the City. Items to be maintained by the HOA shall be perpetual.

Section 6.8: Construction Procedures

- 6.8 a. A site development permit or other written authorization is required from the City prior to beginning any site development-related work in the City or its extraterritorial jurisdiction which affects erosion control, storm drainage, vegetation or tree removal, or a flood plain.
- b. Pre-construction Conference. The City shall require that all contractors participating in the construction meet for a pre-construction conference to discuss the project prior to release of a grading permit and before any filling, excavation, clearing or removal of vegetation and any trees that are larger than six inch (6") caliper. All contractors shall be familiar with, and shall conform with, applicable provisions of the City's landscape ordinance and requirements as may be applicable in the Zoning Ordinance.
- c. Conditions Prior to Authorization. Prior to authorizing release of a site development permit, the City Engineer shall be satisfied that the following conditions have been met:
1. The construction plat has been approved by the City Council (and any conditions of such approval have been satisfied);
 2. All required engineering documents are completed and approved by the City's Engineer;
 3. All necessary off-site easements and dedications required for City-maintained facilities and not shown on the plat must be conveyed solely to the City, such as by filing of a separate instrument, with the proper signatures affixed. The original of the documents and the appropriate fees for filing the documents at the County (per Kaufman County requirements and the City's submission guidelines, as may be amended from time to time) shall be returned to the Municipal Development Department prior to approval and release of the engineering plans by the City's Engineer;
 4. All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of approval of the City's Engineer, and at least one set of these plans shall remain on the job;
 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 City; and
 6. All applicable fees must be paid to the City.

- d. Nonpoint Source Pollution Controls and Tree Protection. All nonpoint source pollution controls, erosion controls, and tree protection measures and devices shall be in place, to the City's Engineer satisfaction, prior to commencement of construction on any property.

Section 6.9: Inspection and Acceptance of Public Improvements

- 6.9 a. General Procedure. The subdivider shall provide inspection service through his/her engineer to ensure that construction is being accomplished in accordance with the plans and specifications approved by the City Engineer. The subdivider shall notify the City Engineer forty-eight (48) hours prior to commencement of construction. This notice shall give the location and date of the start of construction. If the City Engineer determines it necessary, he/she shall have the right to inspect any construction work being performed to ensure that it is proceeding in accordance with the intent of the provisions of this ordinance. Any change in design that is required during construction should be made by the licensed professional 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 City Engineer. If the City's Engineer finds, upon inspection, that any of the required public improvements have not been constructed in accordance with the City's standards and TCSS, then the property owner shall be responsible for completing and correcting the deficiencies (at his/her expense) such that they are brought into conformance with the applicable standards.

Testing laboratory services will be arranged and paid for by the City. The City will pay for testing services only for those tests which indicate conformance with the approved specifications. All expenses for tests that fail to meet these specifications shall be borne by the developer. It shall be the responsibility of the developer's engineer to coordinate the scheduling of all required tests with the testing laboratory. Testing shall be conducted in accordance with the procedures set forth in TCSS for like work at the frequency specified thereon as directed by the City Engineer.

- b. Letter of Satisfactory Completion. The City will not deem required public improvements satisfactorily completed until the applicant's engineer or surveyor has certified to the City Engineer, through submission of detailed sealed "as-built", or record, drawings of the property which indicate all public improvements and their locations, dimensions, materials and other information required by the City Engineer, and until all required public improvements have been completed. The "as-builts" shall also include a complete set of sealed record drawings of the paving, drainage, water, sanitary sewer and other public improvements, showing that the layout of the lines and grades of all public improvements are in accordance with engineering plans for the plat, and showing all changes made in the plans during construction, and containing on each sheet an "as-built" stamp bearing the signature and seal of the licensed professional engineer and the date. One reproducible drawing of the utility plan sheets containing the as-built information shall also be submitted. The engineer or surveyor shall also furnish the City with a copy of the approved final plat and the engineering plans, if prepared on a computer-aided design and drafting (CADD) system, in such a digital format (on disk) that is compatible with the City Engineer's CADD system. When such requirements have been met to the City Engineers satisfaction, the City Engineer (or designee) shall thereafter make a recommendation to the Planning and Zoning Commission for consideration of satisfactory completion of the public improvements. Once the Commission votes its approval of satisfactory completion, the City Engineer (or designee) shall issue a letter of satisfactory completion.

Acceptance of the development shall mean that the developer has transferred all rights to all the public improvements to the City for use and maintenance. The City may, at its option, accept dedication of a portion of the required public improvements if the remaining public improvements are not immediately required for health and safety reasons, and if the property owner has posted a performance bond, letter of credit or cash bond in the amount of one hundred percent (100%) of the estimated cost of those remaining improvements for a length of time to be determined by the City. If the remaining public improvements are greater than ten thousand dollars (\$10,000.00) and are not completed within the determined length of time, the City will impose a penalty that equals ten percent (10%) of the performance bond, letter of credit, or cash bond. The obligation to complete the improvements remains with the developer, and all future building permits or certificates of occupancy will be withheld until the improvements are complete. If the remaining public improvements are less than ten thousand dollars (\$10,000.00), the developer shall pay the actual dollar amount. The length of time may be extended due to inclement weather or unforeseen delays by mutual agreement between the developer and the City.

Upon acceptance of the required public improvements, the City Engineer (or designee) shall submit a certificate to the developer stating that all required public improvements have been satisfactorily completed.

Section 6.10: Deferral of Required Improvements

~~6.10 a. The City Council may, upon petition of the property owner and favorable recommendation of the Planning and Zoning Commission, defer at the time of construction plat approval, subject to appropriate conditions, the provision of any or all public improvements as, in its judgment, are not required in the immediate interests of the public health, safety and general welfare.~~

~~b. Whenever a petition to defer the construction of any public improvements required under this Ordinance is granted by the City Council, the property owner shall deposit in escrow his or her share of the costs (in accordance with City participation and oversizing policies) of the future public improvements with the City prior to approval of the plat, or the property owner may execute a separate improvement agreement secured by a cash escrow or, where authorized, a letter of credit guaranteeing completion of the deferred public improvements upon demand of the City.~~

Section 6.11: Issuance of Building Permits and Certificates of Occupancy

6.11 a. No building permit shall be issued for a lot, building site, building or use unless the lot or building site has been officially recorded by a final plat approved by the City and filed for record at Kaufman County, and unless all public improvements, as required by this Ordinance for final plat approval, have been completed, except as may be permitted below:

1. A building “foundation only” permit may be issued for a nonresidential or multi-family development provided that a construction plat has been approved by the City Council, and provided that the engineering plans have been released by the City Engineer. However, the building permit shall not be issued and building construction shall not be allowed to surpass the construction of fire protection improvements. In other words, the building shall not proceed above the slab level until all required fire lanes have been completed, and until all water lines serving fire hydrants have been completed, inspected and tested.

2. The City Building Official may release some residential building permits for not more than ten percent (10%) of the lots within a new residential subdivision, provided that a construction plat has been approved by the City Council and the engineering plans have been approved by the City's Engineer, and provided that all public improvements have been completed for that portion of the development including, but not limited to, those required for fire and emergency protection, such as streets providing at least two points of emergency access, alleys, water lines serving fire hydrants, and other similar, required public safety improvements. ***No lot may be sold nor title conveyed until the final plat has been approved by the City and recorded at Kaufman County.***

3. No certificate of occupancy shall be issued for a building or the use of property unless all subdivision improvements have been completed and a final plat has been approved by the City and recorded at the County. Notwithstanding the above, the Municipal Development Department may authorize the conditional occupancy of a structure provided that an agreement providing cash escrow, a letter of credit, or other sufficient surety is approved by the Municipal Development Department for the completion of all remaining public improvements, and provided that the structure is safely habitable in accordance with the City's Building Codes.

VII. FILING FEES & PLAT RE-SUBMISSION REQUIREMENTS

Section 7.1: Schedule of Fees and Re-Submission Requirements

- 7.1 a. Fees and charges, as well as other submission requirements, for the submission of applications for the approval of any type of plat and for engineering review and inspection shall be as provided in the City's current fee schedule, and may be amended from time to time. It is the applicant's responsibility to obtain and comply with the City's current fee schedule and submission requirements.
- b. Such fees and charges shall be imposed and collected on all applications for approval of any type of plat, regardless of the action taken by the City Planning and Zoning Commission and City Council thereon. Such fees shall be collected for the purpose of defraying the costs of administrative, clerical, engineering, materials testing necessary to properly review and investigate plats and subdivision construction.
- c. Should a development proposal or plat application lapse or expire, or should it be denied by the Commission or the City Council, then that application ceases "pending" status and the project, and its corresponding series of development approvals and permits, shall be deemed to be ended, or "completed". Any re-application for any type of development approval for that property shall be considered commencement of a new project, and shall be accompanied by new application materials, including new submission fees, and shall conform to all applicable City ordinances in effect at the time of submission of the new application.

VIII. ENFORCEMENT; VIOLATIONS; PENALTIES

Section 8.1: Enforcement; Violations; Penalties

- 8.1 In addition to all other remedies and relief available to the City at law or in equity for a violation of this Subdivision Ordinance, the following non-exclusive forms of relief shall be available to the City:
- a. Violations and Penalties. Any person who violates any of these regulations for lands within the corporate boundaries of the City shall be subject to a fine of not more than two thousand dollars (\$2,000.00) per day, with each day constituting a separate violation, pursuant to the Texas Local Government Code, Chapter 54, as amended.
- 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 lands within the corporate boundaries of the City or within the City's extraterritorial jurisdiction. These remedies shall be in addition to the penalties described above.
- c. Withholding of Subdivision Acceptance. Pursuant to the provisions of Article VI, Requirements for Acceptance of Subdivisions by the City of Terrell, the City may refuse to grant

final acceptance of a subdivision that does not fully and completely comply with all terms and conditions of this Subdivision Ordinance including, but not limited to, the refusal to issue building permits and certificates of occupancy, and the refusal to connect the property to City utilities and services.

IX. EFFECTIVE DATE; ~~ADOPTION~~

Section 9.1: Effective Date

9.1 This Ordinance shall be effective as of the date of its adoption by the City Council of Terrell, Texas.

~~Section 9.2: Adoption of Ordinance~~

~~9.2 Passed and approved by the City Council of the City of Terrell, Texas, this 18th day of January, 2005.~~

~~Passed and adopted by the City Council of the City of Terrell, Texas, this 18th day of January, 2005.~~

Hal Richards, Mayor
City of Terrell, Texas

~~ATTEST:~~

John Rounsavall, City Secretary
City of Terrell, Texas

~~APPROVED AS TO FORM:~~

Mary Gayle Ramsey, City Attorney
City of Terrell, Texas