
TABLE OF CONTENTS

Chapter 110 SUBDIVISIONS..... 2

ARTICLE I. IN GENERAL.....2

ARTICLE II. ADMINISTRATION9

ARTICLE III. PLATS12

ARTICLE IV. PRELIMINARY PLAT15

ARTICLE V. FINAL PLAT17

ARTICLE VI. MINOR PLAT18

ARTICLE VI. REPLAT19

ARTICLE VIII. AMENDING PLAT20

ARTICLE IX. TECHNICAL SPECIFICATIONS FOR PLAT DRAWINGS21

ARTICLE XI. DESIGN CRITERIA24

ARTICLE X. REQUIRED IMPROVEMENTS28

ARTICLE XIII. ADEQUACY OF PUBLIC FACILITIES; PROPORTIONALITY35

ARTICLE XIX. IMPACT FEES.....42

Chapter 110 SUBDIVISIONS

ARTICLE I. IN GENERAL

Sec. 110-1. Title of chapter.

The regulations of this chapter are hereinafter known, cited and referred to as "Subdivision Regulations of the City of North Richland Hills, Texas," and they are a part of the Code of Ordinances of the city.

Sec. 110-2. Authority of chapter provisions.

The subdivision regulations of this chapter are adopted pursuant to the powers granted and limitations imposed by the laws of the State of Texas, including the statutory authority granted in Texas Local Government Code, Chapter 212.001 et seq, and all other relevant laws of the State of Texas. The subdivision regulations of this chapter are adopted pursuant to the provisions of Article XIV of the Home Rule Charter for the city.

Sec. 110-3. Purpose of chapter.

The regulations contained in this chapter are adopted to promote and encourage the development of high quality subdivisions by establishing standards for the provision of adequate light, air, open space, stormwater drainage, transportation, public utilities, and suitable building lots. Through the application of these regulations, the interests of the public, as well as those public and private parties, both present and future, having interest in property affected by these regulations are protected by establishing fair and rational procedures for developing land.

These regulations are designed and intended to achieve the following purposes and are to be administered to:

- (a) Protect and provide for the public health, safety, and general welfare of the community by promoting the sustainable development of the city.
- (b) Guide the future growth and development of the city in accordance with these regulations, the comprehensive plan and its constituent elements, and all other development-related ordinances of the city.
- (c) Provide for adequate light, air, and privacy; secure safety from fire, flood, and other danger; and to prevent overcrowding of the land and undue congestion of population.
- (d) Protect and conserve the value of land throughout the city.
- (e) Provide an efficient transportation network, having particular regard to minimizing traffic congestion, improving traffic safety and flow; ensuring that traffic generated from proposed development can be adequately and safely served by the existing and future street system; and ensuring connectivity of the street network and neighborhoods.
- (f) Establish reasonable standards of design and procedures for platting to further the orderly layout and use of land; and to ensure proper legal descriptions and monumentation of platted land.
- (g) Ensure that public and private developments are served by adequate public facilities and services with sufficient capacity for efficient transportation, water, sanitary sewer, drainage, and other public requirements and facilities, and that development bears its fair share of the cost of providing the facilities and services.

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- (h) Ensure the adequacy of drainage facilities; and to encourage the wise use and management of natural resources throughout the city to preserve the integrity, stability, and beauty of the community and the value of the land.
 - (i) Preserve the topography of the city and ensure appropriate development with regard to natural features.
 - (j) Address 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.
 - (k) Remedy the problems associated with illegally subdivided lands and/or previously platted lands, including premature subdivision, incomplete subdivision, or piecemeal and fragmentary subdivision of land.

Sec. 110-4. Policy.

To carry out the purpose of the regulations of this chapter, it is hereby declared to be the policy of the City to consider the subdivision of land, and its subsequent development, as subject to the control of the municipality, pursuant to the comprehensive plan, for the orderly, planned, efficient, and economical development of the city. Furthermore, it is the policy of the City that:

- (a) Land may not be subdivided, for purposes of development, until proper provision has been made for drainage, water, sewerage, and transportation facilities.
- (b) All public improvements must conform to and be properly related to the comprehensive land use plan of the city and the design manual.
- (c) These regulations supplement and facilitate the enforcement of provisions and standards contained in all other development-related ordinances adopted by the city.

Sec. 110-5. General construction of language.

Unless the context clearly indicates otherwise, the following rules apply in interpreting the terms and provisions of this chapter.

- (a) *Meanings and intent.* All provisions, terms, phrases, and expressions contained in this chapter are construed according to the general purposes set forth in Sec. XXXX, and the specific purpose statements set forth throughout this chapter. When, in any specific section of this chapter, a different meaning is given for a term defined for general purposes in this chapter, the specific section's meaning and application of the term will control.
- (b) *Headings, illustrations, and text.* In the event of a conflict or inconsistency between the text of this chapter and any heading, caption, figure, illustration, table, or map, the text will control.
- (c) *Lists and examples.* Unless otherwise specifically indicated, lists of terms or examples that use terms such as "for example," "including," and "such as," or similar language are intended to provide examples and are not exhaustive lists of all possibilities.
- (d) *Computation of time.* References to days are calendar days unless otherwise stated.
- (e) *References to other regulations/publications.* Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it is construed as a reference to the most recent edition of such resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

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- (f) *Delegation of authority.* Any act authorized by this chapter to be carried out by a specific official of the City may be carried out by a designee of such official.
 - (g) *Technical and non-technical terms.* Words and phrases are construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law are construed and understood according to such meaning.
 - (h) *Mandatory and discretionary terms.* The words “shall,” “must,” and “will” are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words “may” and “should” are permissive in nature.
 - (i) *Tenses, plurals, and gender.* Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

Sec. 110-6. Definitions.

- (a) *Generally.* All definitions of words contained herein shall correspond with the most appropriate definitions appearing in the Merriam-Webster's Collegiate Dictionary, unless specifically defined in this section.
- (b) *Words and terms.* The following words, terms and phrases, when used in this chapter, have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Adequate public facilities. The minimum level of service required for transportation, utilities, drainage, park and other city services to serve the proposed development, taking into account surrounding development.

Alley. A minor public right-of-way or private access primarily designed to serve as secondary means of access to the side or rear of properties whose principal frontage is on some other street.

Amending plat. A plat correcting errors or making minor changes to the original recorded plat, as permitted by the Texas Local Government Code.

Arterial street. A major road serving as the primary route between key destinations within the city and adjacent cities. Arterial streets primary function of throughput rather than access.

Assessment. The determination of the amount of the maximum impact fee per service unit which can be imposed on new development pursuant to this article.

Block. A tract of land bounded by streets, or by a combination of streets, public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities and containing one or more building sites.

Bond. A form of security other than a cash deposit to be used as surety or as a guarantee.

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

Building line. A line established beyond which no part of a building shall project, except as otherwise provided in the zoning chapter of this Code.

Building official. The officer of the city charged with responsibility for issuing building permits and enforcing the building code.

Building permit. Written permission issued by the city for the construction, repair, alteration or addition of a structure associated with an increase of one or more service units.

Capital improvement. Water supply, treatment and distribution facilities, and wastewater collection and treatment facilities that have a life expectancy of five or more years and are owned and operated by or on behalf of the city.

Capital improvements advisory committee. The city's planning and zoning commission.

Capital improvements plan. A plan contemplated by this article that identifies capital improvements or facility expansions for which impact fees may be assessed.

City. The City of North Richland Hills, Texas.

City Council. The legislative governing body of the city having the power to adopt and amend these regulations.

City engineer. A registered professional engineer on the city staff or a consulting firm of registered professional engineers designated to represent the city.

Collector street. A major road intended to serve as a conduit between local roadways and the network of arterial streets *Comprehensive land use plan.* A written document adopted by the City Council as the official guide for future development, and containing the development policies of the city and a map of the city showing a graphic representation of the proposed uses of the various land areas of the city .

Construction plans. The maps or engineering drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the Design Manual.

Credit: The amount of the reduction of an impact fee for fees, payments or charges for or construction of the same type of facility.

Cul-de-sac. A street with an approved turnaround having only one common entry and exit.

Dead-end street. A street, other than a cul-de-sac, with only one outlet.

Design Manual. The city Public Works Design Manual, as amended, that establishes minimum criteria for the design of public works/utilities.

Developer. The owner or agent representing the owner of any property being proposed for subdivision, regardless of the number of lots.

Development Review Committee. A committee composed of municipal department representatives charged with providing technical services in the administration of development-related ordinances of the city.

Easement. Authorization by a property owner for the use by another, and for a specified purpose, of a designated part of the property. such as a drainage easement, utility easement or a public access easement.

Exaction requirement. A requirement imposed as a condition for approval of a plat, preliminary plat, building permit, planned development district or other development application to:

- (1) Dedicate an interest in land for a public infrastructure improvement;
- (2) Construct a public infrastructure improvement; or
- (3) Pay a fee in lieu of constructing a public infrastructure improvement.

Facility expansion. The expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new capital improvement, in order that the existing facility may serve new development. The term does not include the repair, maintenance, modernization, or expansion of an existing facility to better serve existing development.

Final plat. The instrument that becomes the official, accurate permanent record of the division of land.

Final plat approval or approval of a final plat. The point at which the applicant has complied with all conditions of approval and the plat has been released for filing with the county clerk.

Flag lot. A lot configuration where the perimeter lot geometry reflects the shape of a flag or panhandle, where the narrow or elongated part of the lot abuts a public street and widens to accommodate a buildable development site.

Fort Worth access fee. The fee imposed upon the City of North Richland Hills by the City of Fort Worth for providing water and/or sanitary sewer service to new development contained within the incorporated city limits and to which service is provided either directly or indirectly by the City of Fort Worth water and/or sanitary sewer system(s)

Frontage. The side or sides of a lot abutting a street right-of-way.

Impact fee. A charge or assessment imposed as set forth in this article against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. The term includes amortized charges, lump-sum charges, capital recovery fees, contributions in aid of construction, and any other fee that functions as described by this definition. The term does not include:

- (1) Dedication of land for public parks or payment in lieu of the dedication to serve park needs;
- (2) Dedication of rights-of-way or easements or construction or dedication of on-site or off-site water distribution, wastewater collection or drainage facilities, or streets, sidewalks, or curbs if the dedication or construction is required by a valid ordinance and is necessitated by and attributable to the new development;
- (3) Lot or acreage fees to be placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or sewer mains or lines; or
- (4) Other pro rata fees for reimbursement of water or sewer mains or lines extended by the political subdivision.

However, an item included in the capital improvements plan may not be required to be constructed except in accordance with Section 395.019(2), Texas Local Government Code, and an owner may not be required to construct or dedicate facilities and to pay impact fees for those facilities.

Land use assumptions. A description of the service area and projections of changes in land uses, densities, intensities, and population in the service area over at least a ten-year period which has been adopted by the city and upon which the capital improvements plan is based.

Local street. A road intended to provide direct access to individual properties and to provide right-of-way for sewer, water, and storm drainage systems.

Lot. A platted parcel of land intended to be separately owned or developed, and that is recorded in the property records of Tarrant County, Texas. The term lot includes the words building site, parcel, plot, or tract.

Meter equivalent. The flow capacity of a water meter compared to the base three-fourths-inch meter. The water meter equivalents shown on Conversion Table 2 and in the Impact Fees Capital Improvements Plan serve as the standardized measure of use or generation attributable to the new unit of development.

Minor plat. A subdivision resulting in four or fewer lots and that does not require the creation of any new public street or the extension of municipal facilities.

New development. The subdivision of land; the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of a structure; or any use or extension of the use of land; any of which increases the number of service units.

Off-site (subdivisions). Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

Offsite (impact fees). Located entirely on property which is not included within the bounds of the plat being considered for impact fee assessment.

Onsite (impact fees). Located at least partially on the plat which is being considered for impact fee assessment.

Owner. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to, or sufficient proprietary interest in, the land sought to be subdivided under these regulations.

Person. Any individual, association, firm, corporation, governmental agency, or political subdivision.

Planning and Zoning Commission. The appointed body having authority to approve or disapprove subdivision plats in accordance with these regulations and state statutes.

Planning division. The division designated with the responsibility of accepting subdivision plats for the city and preparing the necessary documentation for the Planning and Zoning Commission.

Preliminary plat. A preliminary plan or map indicating the proposed arrangement of streets, lots, easements, public facilities, and other spaces in the development.

Public facilities system. With respect to water, wastewater, roadway, drainage or parks, the facilities owned or operated by or on behalf of the city to provide services to the public, including existing and new developments and subdivisions.

Public improvement. Facilities such as streets, streetlights, street signs, signals, pavement markings, sidewalks, water lines, sewer lines, storm drain systems, parks, or other similar facilities constructed within public right-of-way, public easements, or City properties for use by the public.

Public infrastructure improvement. A water, wastewater, roadway, drainage or park facility that is a part of one or more of the city's public facilities systems.

Replat. A revision of existing platted lots, or existing platted lots in combination with existing tracts, for the purpose of creating a new lot configuration.

Right-of-way. A legally established area or strip of land, either public or private, on which an irrevocable right of passage has been recorded, and which is occupied or intended to be occupied by a street, utility service, water main, sanitary or storm sewer main, or other similar use.

Right-of-way width. The distance between property lines measured at right angles to the centerline of the street.

Service area. The entire area within the corporate limits of the city to be served by the capital improvements and facilities expansions specified in the capital improvements plan.

Service unit. The three-fourths-inch water meter equivalent as shown on Conversion Table 2 in Appendix A as Table 3.5 in the Impact Fees Capital Improvements Plan which serves as the standardized measure of use or generation attributable to the new unit of development based on historical data and trends applicable to the city during the previous ten years.

Subdivision. The division of a tract of land into parcels for the purpose of selling, conveying, transferring, leasing, or developing the property, and including the dedication of streets, alleys and easements.

Wastewater facility. An improvement for providing wastewater collection and treatment, including, but not limited to, land or easements, treatment facilities, lift stations, or interceptor mains. Wastewater facility excludes sanitary sewer lines or mains which are constructed by developers, the costs of which are reimbursed from pro rata charges paid by developers or owners of property in other subdivisions as a condition of connection to or use of such facility.

Water facility. An improvement for providing water supply, treatment, and distribution service, including, but not limited to, land or easements, water treatment facilities, water supply facilities or water distribution lines. Water facility excludes water lines or mains which are constructed by developers, the costs of which are reimbursed from pro rata charges paid by developers or owners of property in other subdivisions as a condition of connection to or use of such facility.

Sec. 110-7. Official city map.

The Planning Division is responsible for maintaining an official city map that indicates all subdivisions, lots, and street names. The official city map shall include the names of all streets and street suffix classifications. Where street name inconsistencies exist from one subdivision to another, the official city map indicates the generally accepted street name, its proper spelling, and suffix classification. The Planning Division is responsible for assigning street addresses for each lot and address ranges for each block in coordination with the fire marshal.

Sec. 110-8. Conformance with applicable rules and regulations.

The subdivision regulations of this chapter are held to be the minimum requirements for the development of a subdivision within the city. In addition to the requirements established herein, all subdivision plats must conform to the following:

- (a) All applicable state statutory provisions contained in Texas Local Government Code, chapter 212.
- (b) The zoning ordinance, building and housing codes, and other applicable development codes of the city.
- (c) The official comprehensive land use plan; capital improvements program; master drainage plan; parks, recreation, and open space plan; transportation plan; and any other official plan adopted by the city council that influences the subdivision of property in the city.
- (d) Any regulations of the city and county health departments and appropriate state agencies.

- (e) The regulations of the state department of transportation when the subdivision abuts a state-maintained highway.
- (f) The standards, codes and regulations adopted for administration by the Building Official.

Sec. 110-9. Jurisdiction and applicability.

These subdivision rules and regulations apply to all subdivisions of land and all land development activities located within the city limits.

Sec. 110-10. Conflicts with public and private provisions.

- (a) This chapter is intended to complement other city, state, and federal regulations that affect land development. This chapter is not intended to revoke or repeal any other public law, ordinance, rule or regulation, statute, or permit.
- (b) This chapter is not intended to revoke or repeal any easement, deed restriction, covenant, or any other private agreement. In no case is the City to be obligated to enforce the provisions of any easement, deed restriction, covenant, or other agreements between private parties.

Secs. 110-11—110-40. Reserved.

ARTICLE II. ADMINISTRATION

Sec. 110-41. Building permits.

- (a) *Plat required.* A building permit for residential or commercial construction will not be issued for any primary building on any parcel of property unless a final plat has been approved and filed for record in the deed records of the county, except as follows:
 - (1) Where a primary residential structure exists, a building permit to repair or renovate the existing residential structure without adding new square footage may be issued on an unplatted lot, provided that the value of such proposed construction, including the cumulative value of any proposed and all previously permitted construction permits on the primary structure, does not exceed 50 percent of the current value of the existing structure, excluding the value of the land. Construction permits as used herein do not include electrical, plumbing, or similar non-construction activities.
 - (2) A building permit for electrical, plumbing, fence or similar non-construction activities may be issued on an unplatted lot in any zoning district except for building permits which include structural enclosures.
 - (3) A building permit for an accessory structure may be issued on an unplatted lot on agriculturally zoned property provided regulations of Section 118-293 of the zoning ordinance have been met.
 - (4) Where a primary nonresidential structure exists, a building permit to construct an addition to, or renovation of, the existing nonresidential structure may be issued on an unplatted lot, provided that the value of such proposed construction, including the cumulative value of any proposed and all previously permitted construction permits on the primary structure, does not exceed fifty (50) percent of the current value of the existing structure, excluding the value of the land.

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- (b) *Adequate public facilities.* A building permit for a primary building will not be issued until adequate public facilities have been installed and received approval from the public works department.
 - (c) *Model homes.* A building permit may be issued for a single-family dwelling to be used as a model home when, in the opinion of the Building Official and the public works director, adequate public facilities have been made available.

Sec. 110-42. Modifications and waivers.

- (a) The Planning and Zoning Commission may approve modifications or waivers from these regulations upon written request from the applicant stating the grounds for such modification or waiver. Where the Planning and Zoning Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations, or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve modification of or waivers to these subdivision regulations. Such a finding will not have the effect of nullifying the intent and purpose of these regulations.
- (b) The Planning and Zoning Commission may not approve modifications or waivers unless it makes findings based upon the evidence presented to it in each specific case that:
 - (1) The conditions upon which the request for a modification or waiver is based are unique to the property and are not applicable generally to other properties;
 - (2) A tract has peculiar physical surroundings, severe topographical conditions, or unique environmental qualities worthy of protection;
 - (3) Where a hardship to the owner would result rather than a mere inconvenience; or
 - (4) The modification or waiver will not have an adverse effect on the intent of these provisions or the comprehensive land use plan.
- (c) The applicant has the right to appeal the disapproval of a waiver or modification to the City Council.

Sec. 110-43. Enforcement of chapter regulations.

- (a) The Planning Division is responsible for enforcement of the administrative and development provisions of these regulations. Where a determination of these regulations conflicts with a request by a developer, the Planning and Zoning Commission may rule and decide on these questions.
- (b) It is unlawful for any property owner, or agent of any property owner, to lay out, subdivide or plat any land into lots, blocks, and streets within the city, or to sell property therein and thereby, that has not been subdivided according to the ordinances of the city.
- (c) The subdivision of any lot or any parcel of land using a metes and bounds description for the purpose of sale, transfer, or lease with the intent of creating a building lot by evading these regulations, is considered a violation of this article. All such described subdivisions are subject to all the requirements contained in these regulations.
- (d) The City may refuse to authorize or make utility connections on the grounds set forth in Texas Local Government Code Section 212.012, as amended.
- (e) A building permit will not be issued for the construction of a building upon any lot unless such lot has been officially recorded by an approved plat in accordance with this chapter. A building permit will not be issued for the construction of a building upon any lot unless all required public improvements have been constructed and accepted by the City. Notwithstanding the foregoing, the City may,

pursuant to administrative policy, issue building permits for residential structures prior to the City's final acceptance of the required public improvements.

- (f) Approval of a final plat is not deemed an acceptance of the proposed dedications and does not impose any duty upon the City concerning the maintenance or improvement any such dedicated parts until the proper authorities of the City have both given their written acceptance of the improvements and have actually appropriated the same by entry, use, or improvements.

Sec. 110-44. Amendments.

- (a) *Generally.* This chapter may be amended, supplemented, changed, modified, or repealed upon approval of an ordinance by the City Council. The City Council may not enact any proposed amendment until the Planning and Zoning Commission makes its final report to the City Council. The City Council may refer proposed amendments to the Planning and Zoning Commission for recommendation.
- (b) *Initiation.* An amendment may be initiated upon a majority vote of the City Council, or upon a majority vote of the Planning and Zoning Commission.
- (c) *Public hearing required.* The Planning and Zoning Commission and the City Council must conduct a public hearing on all proposed amendments to these regulations. The public hearing must be advertised in a newspaper having general circulation in the city at least ten days prior to the public hearing.

Sec. 110-45. Requirements for completeness determination.

- (a) Every application for approval of any type of plat or plan for development is subject to a determination of completeness by the Director of Planning.
- (b) An application shall not be considered complete and accepted for processing unless it is accompanied by all documents required by and prepared in accordance with the requirements of this section. For a determination of completeness to be issued, an application must include the following:
 - (1) A completed application form signed by the owner or the owner's authorized agent;
 - (2) Every item, study and document required by this chapter for the type of plat application being submitted; and
 - (3) A nonrefundable application submittal fee, as specified in the fee schedule.
- (c) The Planning Division must adopt a written list of all documentation and other information that the City requires to be submitted with a plat application.
- (d) A determination of completeness does not constitute a determination of compliance with the substantive requirements of this section.

Sec. 110-46. Determination of completeness; expiration.

- (a) Not later than the tenth business day after the date an application for plat approval or a plan for development is submitted, the Director of Planning must make a written determination whether the application constitutes a complete application. This must include a determination that all information and documents required by this subdivision ordinance for the type of plat being submitted or other requirements have been submitted. A determination that the application is incomplete must be

provided to the applicant within such time period at the address listed on the application. The determination must specify the documents or other information needed to complete the application and must state that the application will expire if the documents or other information is not submitted within forty-five (45) days after the date the application was submitted.

- (b) An application for approval of a plat or plan filed on or after the effective date of this section is deemed complete for the purpose of determining rights under the Texas Local Government Code, Chapter 245, on the eleventh business day after the application has been received, if the applicant has not otherwise been notified that the application is incomplete. For purposes of this section, the applicant is deemed to have been notified if the City has mailed a copy of the determination as provided in subsection (d). A determination of completeness does not constitute a determination of compliance with the substantive requirements of this section or that the time for completing plat, development plan or zoning change review has begun.
- (c) The processing of an application by any city employee prior to the time the application is determined to be complete is not binding on the City as the official acceptance of the application for filing. The incompleteness of an application is grounds for denial of the application regardless of whether a determination of incompleteness was mailed to the applicant.
- (d) An application for plat approval is deemed to expire on the 45th day after the application is submitted to the Director of Planning for processing if the applicant fails to provide documents or other information necessary to meet the requirements of the subdivision ordinance or other requirements as specified in the determination provided to the applicant. Upon expiration, the application will be returned to the applicant together with any accompanying documents. Thereafter, a new application for plat approval must be submitted.
- (e) No vested rights accrue solely from the filing of an application that has expired pursuant to this section, or from the filing of a complete application that is subsequently denied.

Secs. 110-47—110-70. Reserved.

ARTICLE III. PLATS

Sec. 110-71. Subdivision Plat Required.

It is unlawful for any individual, person, association, firm, corporation or organization owning a tract of land located within the corporate limits of the city to hereafter divide the same tract into two or more parts to lay out a subdivision, to lay out a building lot, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts for purpose of development without having a plat of the subdivision prepared and approved according to these subdivision regulations.

A division of a tract includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method for purpose of development. A division of land under these regulations does not include a division of land into parts greater than five acres, where each part has access, and no public improvement is being dedicated.

The provisions of these subdivision regulations apply to any development that is intended as a single lot, tract or parcel where a primary structure will be located. Furthermore, no land may be subdivided for purposes of

development until the plat has received approval from the appropriate approving authority, and the approved plat has been filed with the county clerk.

Sec. 110-72. Classification of plat submittals.

Whenever a subdivision of land is proposed, the Planning Division will determine which type of plat application is required.

Sec. 110-73. General platting procedures.

The general procedures for obtaining approval of a subdivision plat for unplatted property include the following steps completed in the sequence listed below:

- (a) *Zoning change.* The approval of a zoning district change is required where the current zoning classification is not compatible with the type of development being proposed. This procedure may be concurrent with the submittal of a minor plat or amending plat.
- (b) *Preliminary plat.* The approval of a preliminary plat is a prerequisite to submitting a final plat. The minimum requirements for a preliminary plat submittal are contained in Article IV, Preliminary Plat.
- (c) *Approval of public infrastructure plans.* The approval of public infrastructure plans is a prerequisite to submitting a final plat. The minimum requirements for public infrastructure plans are contained in the Public Works Design Manual.
- (d) *Final plat.* Upon approval of public infrastructure plans, an application for approval of a final plat may be submitted. Approval of a final plat is required prior to the filing of a final plat with the county clerk. The minimum requirements for a final plat submittal are contained in Article V, Final Plat.
- (e) *Construct public improvements.* Upon approval of the final plat and authorization from the public works director, the developer may proceed with the construction of all public improvements. The requirements for public improvements are contained in Article X, Required Improvements.
- (f) *Recording of plat.* Upon completion and acceptance of public improvements, the final plat may be filed with the county clerk.

Sec. 110-74. Approval authority.

The Planning and Zoning Commission is the municipal authority responsible for approving plats pursuant to Texas Local Government Code, Section 212.006. The approval authority for specific subdivision plat types is further defined below.

- (a) *Preliminary plats.* The Planning and Zoning Commission must approve, conditionally approve, or disapprove a preliminary plat application in accordance with this chapter. Additionally, the City Council must approve, approve with conditions, or disapprove a preliminary plat application in accordance with this chapter.
- (b) *Final plat.* The Planning and Zoning Commission must approve, conditionally approve, or disapprove a final plat application in accordance with this chapter.
- (c) *Minor plat, replat, and amending plat.* The Director of Planning is authorized to approve, conditionally approve, or disapprove a minor plat, replat, or amending plat application. The Director may, for any reason, elect to present the plat to the Planning and Zoning Commission to approve, conditionally approve, or disapprove the plat.

Sec. 110-75. Application for approval.

A person desiring approval of a plat must apply to and file a copy of the plat with the Planning Division. The lack of information under any item specified herein, or incorrect information supplied by the applicant is cause for disapproval of the plat. See also Section 110-45 regarding requirements for completeness determination.

- (a) *Application form and content.* The subdividing owner, or authorized agent, must submit an application for a subdivision plat to the city on forms provided by the Planning Division. Written consent is required from the legal owner of the property if the applicant is not the owner of record.
- (b) *Submittal dates.* Applications for subdivision plats may be submitted on specific dates established by the Planning Division. An application for a subdivision plat will not be accepted until it has been determined that the submittal is complete and in conformance with the requirements of this article.
- (c) *Taxes and liens paid.* Prior to the consideration of a subdivision plat by the City, any delinquent taxes and any outstanding liens due to the city must be paid.
- (d) *Application fee.* Every applicant for a subdivision plat must pay the applicable fee at the time of submittal. The fee must include any recording fees required by the county clerk's office. Application fees are established by a separate ordinance approved by the city council.

Sec. 110-76. Plat review, generally

The following provisions apply to all subdivision procedures in this chapter.

- (a) *Initiation.* The City must review and take final action on any plat application within thirty (30) days of the application being filed in accordance with the procedures and timelines provided in Texas Local Government Code, Section 212.009. The prescribed period for reviewing a plat does not begin until the plat application is determined to be complete in accordance with Section 110-45.
- (b) *Staff review.* The Development Review Committee must examine all plats accepted for review for compliance with these regulations, the zoning ordinance, building and housing codes, and other applicable development codes of the city. The Committee must provide a written statement of conditions for the conditional approval or reasons for disapproval of the plat.
- (c) *Decisions and post-decision actions.* The authority responsible for approving the plat may either approve, approve with conditions, or disapprove the plat.
 - (1) If the plat is conditionally approved or disapproved, the reasons for such conditions or disapproval must be provided in writing in accordance with Texas Local Government Code, Section 212.0091.
 - (2) The applicant may submit a response to the conditionally approved or disapproved plat. The approving authority must approve or disapprove the response within fifteen (15) calendar days in accordance with Texas Local Government Code, Section 212.0093.

Sec. 110-77. Official filing and recording of plats.

Upon approval of a plat, the plat may be submitted for recording subject to the following.

- (a) The applicant must submit recording fees, the required number of copies of the plat, and other items required for plat execution, as determined by the Director of Planning, to the city for recording with the county. The Director will obtain the necessary signatures or certifications required for the type of plat.
- (b) Plats will be recorded with the Tarrant County Clerk after:

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- (1) All conditions of approval have been met;
 - (2) All required public improvements have been completed and accepted by the City, as applicable;
 - (3) All necessary fiscal agreements approved by the City have been fully executed by all parties;
 - (4) All applicable fees, assessments, and delinquent taxes have been paid; and
 - (5) All County filing requirements have been met.

Sec. 110-78. Vacation of plats.

All actions for vacation of a plat must be consistent with applicable state statutes as contained in Texas Local Government Code, Chapter 212.

Sec. 110-79. Plats straddling municipal boundaries.

Whenever access to a subdivision is necessary or required across land situated in an adjacent municipality, written approval from the affected city may be required.

Secs. 110-80—110-100. Reserved.

ARTICLE IV. PRELIMINARY PLAT

Sec. 110-101. General requirements

- (a) *Purpose.* The preliminary plat procedure provides a mechanism to determine the general layout of the subdivision, the adequacy of public facilities needed to serve the intended development, and the overall compliance of the development with applicant development codes.
- (b) *Platting land under same ownership.* Every preliminary plat must include all the land that the applicant proposes to subdivide, and all contiguous land owned under the same ownership. This requirement is intended to aid the Planning and Zoning Commission to determine the need for public improvements, easements, and future right-of-way reservations that may be required on portions of the land not being proposed for development.
- (c) *Phasing of development.* The preliminary plat must include any phasing of the proposed development, with each phase numbered sequentially and in the proposed order of development. The proposed utility and drainage layout for each phase must be designed in a manner that the phases can be developed sequentially. Final plats of each phase must conform to the approved overall layout and phasing unless a new preliminary plat is submitted.

Sec. 110-102. Documents required.

All applications must be submitted to the Planning Division. The application is subject to completeness review and must include all documents listed below.

- (a) *Subdivision plat application.* A completed application form provided by the Planning Division and signed by the owner or the owner's authorized agent.

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- (b) *Preliminary plat drawing.* The required number of copies of the preliminary plat drawing as indicated on the preliminary plat application. The preliminary plat drawing must contain, at a minimum, all the information required by Section 110-201 (Requirements for all plat drawings) and Section 110-202 (Additional requirements for preliminary plat drawings).
 - (c) *Preliminary drainage analysis.* A preliminary drainage analysis of the subdivision area to determine the need for drainage facilities within the area being considered for development or off-site on adjacent properties. The preliminary drainage analysis must conform to the technical specifications contained in the Public Works Design Manual.
 - (d) *Preliminary utility layout.* A preliminary utility layout showing the general location and approximate sizes of all existing and proposed public utilities. The size of all proposed water and sewer lines will be determined using methods prescribed in the Public Works Design Manual.
 - (e) *Tree preservation plan.* If protected trees are present on the property, a tree preservation plan must be submitted as required by Chapter 114 (Vegetation) Article II Trees of the Code of Ordinances.

Sec. 110-103. Review and decision.

- (a) The Planning and Zoning Commission must approve, conditionally approve, or disapprove the preliminary plat application in accordance with Section 110-74 (Approval authority) and with the approval criteria in Section 110-104 (Preliminary plat approval criteria).
- (b) The City Council must approve, conditionally approve, or disapprove the preliminary plat application in accordance with Section 110-74 (Approval authority) and with the approval criteria in Section 110-104 (Preliminary plat approval criteria).
- (c) Scope of approval.
 - (1) *Expiration of approval.* The approval of a preliminary plat is valid for one year, unless a final plat application is submitted for all or part of the area covered by the preliminary plat. If only a portion of the preliminary plat is submitted for final plat action, those areas not platted within three years of the date of preliminary plat approval will be considered and void.
 - (2) *Extension of preliminary plat approval.* The Planning and Zoning Commission may approve a one-year extension of time upon written request by the owner. In determining whether to grant a request, the Commission must consider the reasons for the requested extension, the ability of the applicant to comply with any conditions attached to the original approval, whether the extension is likely to result in timely completion of the project, and the extent to which any newly adopted regulations should be applied to the proposed development.

Sec. 110-104. Preliminary plat approval criteria.

In reviewing a preliminary plat application, the Planning and Zoning Commission and City Council must consider the general criteria in Article XI (Design Criteria) and whether the preliminary plat:

- (a) Provides a layout of lots, roads, driveways, utilities, drainage, and other public facilities and services designed to minimize the amount of disturbance to sensitive natural areas or other community resources.
- (b) Provides evidence of public water and sewer system connections;
- (c) Identifies and adequately mitigates known natural hazard areas; and,

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- (d) Proposes reasonable project phasing in terms of adequate infrastructure capacity.

Sec. 110-105. Grading of site prior to final plat approval.

Following preliminary plat approval, the developer may request written approval from the City Engineer to commence construction to the grades and elevations required by the preliminary plat.

Secs. 110-106—110-130. Reserved.

ARTICLE V. FINAL PLAT

Sec. 110-131. General requirements

- (a) *Purpose.* The final plat process assures that the development of the land subject to the plat is consistent with all land development standards and that public improvements to serve the development have been installed and accepted by the City or that provision for such installation has been made.
- (b) *Conformity with preliminary plat.* The final plat must conform to the approved preliminary plat and incorporate all conditions of approval.

Sec. 110-132. Documents required.

All applications must be submitted to the Planning Division. The application is subject to completeness review and must include all documents listed below.

- (a) *Subdivision plat application.* A completed application form provided by the Planning Division and signed by the owner or the owner's authorized agent.
- (b) *Final plat drawing.* The required number of copies of the final plat drawing as indicated on the final plat application. The final plat drawing must contain, at a minimum, all the information required by Section 110-201 (Requirements for all plat drawings) and Section 110-203 (Additional requirements for replat, minor plat, amending plat, and final plat drawings).
- (c) *Public improvements.* A certificate of approval of public infrastructure plans or approved waiver of public infrastructure plans must be submitted.
- (d) *Tax certificates.* Original tax certificates from the Tarrant County tax office must be submitted. The certificates must include all property within the plat boundary and indicate that taxes have been paid.

Sec. 110-133. Review and decision.

- (a) The Planning and Zoning Commission must approve, conditionally approve, or disapprove the final plat application in accordance with Section 110-74 (Approval authority) and with the general criteria in Article XI (Design Criteria).
- (b) Upon approval of the final plat, the plat may be submitted for recording in accordance with Section 110-77 (Official filing and recording of plats).

Secs. 110-134—110-150. Reserved.

ARTICLE VI. MINOR PLAT

Sec. 110-151. General requirements

- (a) *Purpose.* The minor plat process is intended to simplify the platting process for qualifying subdivisions consistent with the provisions of state laws.
- (b) *Applicability.* When a tract or parcel of land has not been previously platted and filed of record, the owner may elect to submit a minor plat whenever the tract:
 - (1) is to be subdivided into four or fewer lots;
 - (2) fronts on an existing street;
 - (3) does not require the creation of any new street or the extension of municipal facilities; and,
 - (4) does not require a public hearing for filing of record.

Sec. 110-152. Documents required.

All applications must be submitted to the Planning Division. The application is subject to completeness review and must include all documents listed below.

- (a) *Subdivision plat application.* A completed application form provided by the Planning Division and signed by the owner or the owner's authorized agent.
- (b) *Minor plat drawing.* The required number of copies of the plat drawing as indicated on the plat application. The plat drawing must contain, at a minimum, all the information required by Section 110-201 (Requirements for all plat drawings) and Section 110-203 (Additional requirements for replat, minor plat, amending plat, and final plat drawings).
- (c) *Tax certificates.* Original tax certificates from the Tarrant County tax office must be submitted. The certificates must include all property within the plat boundary and indicate that taxes have been paid.

Sec. 110-153. Review and decision.

- (a) The Director of Planning must approve or conditionally approve a minor plat, in accordance with Section 110-74 (Approval authority), provided the plat conforms to the requirements of this chapter.
- (b) If the Director of Planning determines that the minor plat does not comply with the requirements of this code, the Director may disapprove the plat. The Director must provide the applicant with written notification and an explanation of why the plat does not comply with the requirements of this chapter. The applicant has the right to appeal the disapproval to the Planning and Zoning Commission.
- (c) The Director may, for any reason, elect to present the plat for approval to the Planning and Zoning Commission.

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- (d) Upon approval of the minor plat, the plat may be submitted for recording in accordance with Section 110-77 (Official filing and recording of plats).

Secs. 110-154—110-170. Reserved.

ARTICLE VI. REPLAT

Sec. 110-171. General requirements

- (a) *Purpose.* The replat process is used for replatting any portion of an approved final plat, other than to amend or vacate the plat.
- (b) *Applicability.* A replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of the plat if the replat:
- (1) is signed and acknowledged by the owners of the property being replatted;
 - (2) is approved by the appropriate authority for approving plats in accordance with Section 110-74 (Approval authority); and
 - (3) does not attempt to amend or remove any covenants or restrictions.

Sec. 110-172. Documents required.

All applications must be submitted to the Planning Division. The application is subject to completeness review and must include all documents listed below.

- (a) *Subdivision plat application.* A completed application form provided by the Planning Division and signed by the owner or the owner's authorized agent.
- (b) *Replat drawing.* The required number of copies of the plat drawing as indicated on the plat application. The plat drawing must contain, at a minimum, all the information required by Section 110-201 (Requirements for all plat drawings) and Section 110-203 (Additional requirements for replat, minor plat, amending plat, and final plat drawings).
- (c) *Public improvements.* A certificate of approval of public infrastructure plans or approved waiver of public infrastructure plans must be submitted.
- (d) *Tax certificates.* Original tax certificates from the Tarrant County tax office must be submitted. The certificates must include all property within the plat boundary and indicate that taxes have been paid.

Sec. 110-173. Review and decision.

- (a) The Director of Planning must approve or conditionally approve a replat, in accordance with Section 110-74 (Approval authority), provided the plat conforms to the requirements of this chapter.
- (b) If the Director of Planning determines that the replat does not comply with the requirements of this code, the Director may disapprove the plat. The Director must provide the applicant with

written notification and an explanation of why the plat does not comply with the requirements of this chapter. The applicant has the right to appeal the disapproval to the Planning and Zoning Commission.

- (c) The Director may, for any reason, elect to present the replat for approval to the Planning and Zoning Commission.
- (d) If any of the area to be replatted was zoned for or limited by deed restriction to residential use for not more than two residential units per lot, and the proposed replat requires a modification or waiver, a public hearing must be held by the Planning and Zoning Commission as required by Section 212.015, Texas Local Government Code.
- (e) Upon approval of the replat, the plat may be submitted for recording in accordance with Section 110-77 (Official filing and recording of plats).

Secs. 110-174—110-190. Reserved.

ARTICLE VIII. AMENDING PLAT

Sec. 110-191. General requirements

- (a) *Purpose.* The amending plat process is intended to provide a method to correct minor errors and to make minor adjustments to a recorded plat consistent with the provisions of state law.
- (b) *Applicability.* An amending plat may be considered for one or more of the purposes prescribed in Texas Local Government Code, Section 212.016.

Sec. 110-192. Documents required.

All applications must be submitted to the Planning Division. The application is subject to completeness review and must include all documents listed below.

- (a) *Subdivision plat application.* A completed application form provided by the Planning Division and signed by the owner or the owner's authorized agent.
- (b) *Amending plat drawing.* The required number of copies of the plat drawing as indicated on the plat application. The plat drawing must contain, at a minimum, all the information required by Section 110-201 (Requirements for all plat drawings) and Section 110-201 (Additional requirements for replat, minor plat, amending plat, and final plat drawings).
- (c) *Tax certificates.* Original tax certificates from the Tarrant County tax office must be submitted. The certificates must include all property within the plat boundary and indicate that taxes have been paid.

Sec. 110-193. Review and decision.

- (a) The Director of Planning must approve or conditionally approve an amending plat, in accordance with Section 110-74 (Approval authority), provided the plat conforms to the requirements of this chapter.

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- (b) If the Director of Planning determines that the amending plat does not comply with the requirements of this code, the Director may disapprove the plat. The Director must provide the applicant with written notification and an explanation of why the plat does not comply with the requirements of this chapter. The applicant has the right to appeal the disapproval to the Planning and Zoning Commission.
 - (c) The Director may, for any reason, elect to present the amending plat for approval to the Planning and Zoning Commission.
 - (d) Upon approval of the amending plat, the plat may be submitted for recording in accordance with Section 110-77 (Official filing and recording of plats).

Secs. 110-194—110-200. Reserved.

ARTICLE IX. TECHNICAL SPECIFICATIONS FOR PLAT DRAWINGS

Sec. 110-201. Requirements for all plat drawings.

Every plat drawing must include the information contained in this article.

- (a) *Adjacent properties.* All property lines, streets, and easements on lands immediately adjacent to and contiguous with the perimeter of the proposed subdivision and extending 100 feet from the perimeter must be shown with the names of the owners. If the adjacent properties are platted, the names of adjoining subdivisions and the names of adjoining streets must be shown.
- (b) *Building setback lines.* Front building setback lines must be indicated by dashed lines on all lots in accordance with the requirements of the zoning chapter for the appropriate zoning district. Side yard building setback lines must be indicated by dashed lines on the side yards of lots with side street frontage. Additional building setbacks may be required by the Planning and Zoning Commission when sound planning principles apply. Existing building setback lines on adjacent properties must be shown, where applicable.
- (c) *City limit lines.* The location of the corporate limit boundaries of the city or any adjacent city must be shown on the plat drawing where applicable.
- (d) *Date.* The date on which the drawing was prepared must be shown on the plat drawing.
- (e) *Easements.* The location and dimension of all existing or proposed easements must be shown on the plat drawing and indicating whether such easement is for any specific purpose. General easements for the use of public utilities of not less than seven and one-half feet (7.5 feet) in width must be provided along each side of all rear property lines. If necessary for the extension of water or sewer mains, storm drainage, or other utilities, easements of greater width may be required along lot lines or across lots. In all cases, easements must connect with easements already established on adjoining properties or extend to connect with a public right-of-way. Lots must not be designed with an easement or easements that prevents proper development and full utilization of the lot as a suitable building site for the intended zoning district.
- (f) *Lot and block numbering.* All lots and blocks must be consecutively numbered or lettered in alphabetical order. The blocks in subdivisions bearing the same name must be numbered or lettered

consecutively through the several sections or phases. Lettering for blocks must be larger and bolder than lot numbers or circled to make identification clear.

- (g) *Map sheet size.* Map sheets must be Arch C or Arch D in size. Sheets must be numbered in sequence if more than one sheet is used and provided with match lines.
- (h) *North arrow.* A north arrow indicating the approximate true north must be predominantly placed near the scale.
- (i) *Ownership/developer.* The name, address, and telephone number of the current legal owner, and the name, address, and telephone number of the developer, if other than the owner, must be shown on the plat drawing.
- (j) *Plat notes and conditions.* When appropriate, the drawing must include a listing of any plat notes and plat conditions in a readily identifiable location with each note numbered consecutively.
- (k) *Public use areas.* The location and dimensions of all property proposed to be set aside for park use, or other public or common reservation must be shown on the plat drawing, with designation of the purpose thereof, and conditions, if any, of the dedication or reservation.
- (l) *Scale.* The drawing must be prepared at a numerical scale no greater than one inch equals 100 feet. At the discretion of the Planning Division, the plat may be drawn at a numerically smaller scale, i.e., one inch = 50 feet, one inch = 40 feet, etc., if the plat can still be drawn on the required sheet size. A graphic scale symbol must be placed on the drawing.
- (m) *Street names.* All existing and proposed street names must be shown on the plat drawing. New street names must be sufficiently different in sound and in spelling from other road names in the city to not cause confusion. A road which is, or planned, as a continuation of an existing road must bear the same name.
- (n) *Street right-of-way.* The width of all existing and proposed public street rights-of-way must be shown on the plat drawing and comply with the minimum requirements contained in the design manual and the transportation plan. Dimensions must be shown for all curves. The distance from the centerline of any existing roadway of a boundary street to the proposed subdivision must be shown to determine the adequacy of right-of-way along the route and to determine if additional right-of-way is necessary to accommodate the proposed street. Sufficient iron pins must be found or set and shown on the drawing together with dimensions to adequately describe all perimeter streets.
- (o) *Subdivision boundary.* The proposed subdivision boundary lines must be shown in heavy lines to provide a differentiation with the internal features of the area being proposed for platting. The location and dimensions of all boundary lines of the property must be expressed to the nearest hundredth foot.
- (p) *Subdivision name.* The name of the proposed subdivision with letters predominantly larger than those used elsewhere must be shown on the drawing within the title block. The proposed name of the subdivision must not be a duplication of any existing subdivision name, whether by spelling or pronunciation, or similar to any other subdivision within the city unless the proposed subdivision is contiguous with a subsequent filing or a replat of an existing subdivision. The Planning and Zoning Commission has final authority to designate the name of the subdivision.
- (q) *Surveyor information.* The name, address and telephone number of the professional land surveyor who prepared the plat drawing must be shown on the plat drawing. The plat drawing must include the seal of a registered professional land surveyor in the state of Texas.

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- (r) *Title block.* Preceding the name of the subdivision a title block must be included indicating whether the plat is a preliminary plat, final plat, replat, minor plat, or amending plat.
 - (s) *Vicinity location map.* A small vicinity location map must be shown on the plat drawing. The vicinity location map must be drawn at an approximate scale of one inch = 2,000 feet, and show sufficient streets, collector and arterial street names, and major features of the surrounding area to locate the area being subdivided.
 - (t) *Surveyor's certification.* Every plat drawing must include a surveyor's certification of compliance by a registered professional land surveyor. The certification must indicate that the plat is true and correct and prepared from an actual survey on the ground conducted by the surveyor.

Sec. 110-202. Additional requirements for preliminary plat drawings.

In addition to the minimum information required of all plat drawings contained in Section 110-201, every preliminary plat drawing must include the information contained in this section.

- (a) *Permanent structures.* The location and general outline of any existing permanent or temporary structures with sufficient dimensions to determine building line encroachments must be shown on the plat drawing.
- (b) *Sectionalizing or phasing of plats.* The plat drawing must indicate any sectionalizing or phasing of the proposed subdivision. Thereafter, plats of subsequent units of the subdivision must conform to the approved overall layout and phasing, unless a new preliminary plat is submitted. However, a subsequent reduction of a phase may be considered, provided that it conforms to the original street arrangement.
- (c) *Lot dimensions.* The approximate dimensions of all proposed or existing lots with sufficient detail to verify compliance with the requirements of the zoning chapter must be shown on the plat drawing.
- (d) *Floodplain features.* The location of the 1% Chance or 100-year flood limits, if applicable, must be shown on the preliminary plat drawing. If any portion of the subdivision is located in a FEMA designated Special Flood Hazard Area (SFHA), the developer must comply with the flood damage prevention article of the Code of Ordinances.
- (e) *Certificate of approval.* Every preliminary plat drawing must contain a certificate of approval by the Planning and Zoning Commission and City Council in a format prescribed by the Planning Division.

Sec. 110-203. Additional requirements for replat, minor plat, amending plat, and final plat drawings.

Every replat, minor plat, amending plat, or final plat drawing must include the following information in addition to the minimum information required of all plat drawings contained in Section 110-201.

- (a) *Metes and bounds description.* A written metes and bounds description of the property must be shown on the plat drawing that will readily determine the location, bearing, and length of all perimeter boundary lines, and be capable of reproducing such lines upon the ground with a closure error of less than 1:25,000. The legal description must include reference to an original survey or subdivision corner and the Texas NAD83 State Plane Coordinate System. The legal description must include the acreage of the total area of the proposed subdivision and be consistent with the subdivision boundary. The description must reference the last instrument conveying title to each parcel of property involved in the proposed subdivision, giving grantor, grantee, date, and land records reference.

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- (b) *Global positioning system (GPS) horizontal control survey.* The plat drawing must include the NAD83 Texas State Plane Coordinates for a minimum of two corners of the subdivision. The coordinates must be determined by a survey tied to the city's GPS monuments located within the city.
 - (c) *Lot dimensions.* The exact dimensions of all proposed or existing lots and the perimeter boundary of the subdivision must be shown on the plat drawing.
 - (d) *Lot areas.* The area for each lot expressed in square feet must be shown on the plat drawing. This information may be shown in tabular form on the plat.
 - (e) *Irregular side lot lines.* Side lot lines that are not perpendicular to the street right-of-way must be labeled with bearing and distance.
 - (f) *Permanent structure encroachments.* Any permanent structures that encroach any building setback lines and that will remain after completion of the development must be shown on the drawing with appropriate dimensions.
 - (g) *Drainage easements.* The location of any drainage easements must be shown on the plat drawing. If any portion of the subdivision is located in a FEMA designated Special Flood Hazard Area (SFHA), the developer will be required to comply with the flood damage prevention article of the Code of Ordinances.
 - (h) *Certification of approval.* Every replat, minor plat, amending plat, or final plat must contain a certificate of approval appropriate to the type of plat and in a format prescribed by the Planning Division.
 - (i) *County certification.* Any certification block required by the county clerk's office for filing must be shown on the plat drawing.
 - (j) *Dedication certificate.* Every replat, minor plat, amending plat, or final plat must contain an owner's certificate of dedication, signed and notarized, stated as follows:

KNOW ALL MEN BY THESE PRESENTS:

That, I, (owner's name) do hereby certify that I am the legal owner of the above described tract of land and do hereby convey to the public for public use, the streets, alleys, rights-of-way, and any other public areas shown on this plat.

STATE OF TEXAS

COUNTY OF TARRANT

Before me, the undersigned notary public in and for said county and state on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and considerations therein expressed, and in the capacity therein stated.

Secs. 110-204—110-230. Reserved.

ARTICLE XI. DESIGN CRITERIA

Sec. 110-231. Conformity with zoning regulations.

The minimum area and dimensions of all lots must conform to the requirements of the applicable zoning district as contained in the zoning chapter of this Code (chapter 118).

Sec. 110-232. Generally.

Every subdivision plat must be reviewed by the city for conformance with the design criteria contained in this article. It is recognized that suitability characteristics vary from site to site, and the Planning and Zoning Commission may provide oversight in the interpretation, application, and enforcement of these criteria.

- (a) *Access from major thoroughfares.* Where a residential subdivision borders or contains an existing or proposed thoroughfare as shown on the transportation plan, residential lots must not, where possible, derive access directly from an existing or proposed C2U collector street, or larger. Nonresidential lots that have frontage onto or derive access directly from an existing or proposed C2U collector street, as shown on the Transportation Plan, must have driveway locations that comply with the spacing requirements contained in the Public Works Design Manual, unless otherwise approved by the City Engineer.
- (b) *Alleys.* Unless permitted by the property's zoning designation, the use of a public alley is limited to nonresidential subdivisions. Where existing alley right-of-way exists, lots may be platted adjacent to and gain access from the alley right-of-way.
- (c) *Block depths.* Blocks must have sufficient depth to provide for two tiers of lots of appropriate depths. Exceptions to this prescribed block depth may be permitted in blocks adjacent to major streets, railroads, waterways, or city limit lines.
- (d) *Block lengths.* Block lengths in residential areas must not exceed 15 times the minimum lot width required in the zoning district or 1,000 feet long without an intersection with another street. Blocks designed for industrial uses may be of such length and width as determined suitable and appropriate for the intended use. In blocks longer than 1,000 feet, the dedication of an easement through the block may be required to accommodate utilities, drainage facilities, or pedestrian traffic. When such an easement is required, additional width must be included in the adjacent lots.
- (e) *Buildable area.* Every residential lot proposed for development must contain a buildable area of at least 125 percent of the minimum structure square footage required for the applicable zoning district. The buildable area must be situated out of the 1% Chance Special Flood Hazard Area.
- (f) *Character of the land.* Land that is unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features that will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas, may not be subdivided or developed until adequate methods are formulated by the developer and approved by the City to solve the problems created by the unsuitable land conditions.
- (g) *Conformity with comprehensive plan.* Plats and proposed public improvements must conform to the comprehensive Land Use Plan and its constituent elements, including but not limited to, the Transportation Plan; Parks, Recreation & Open Space Master Plan; small area plans; urban design plans; and all other applicable development-related plans and ordinances of the city.
- (h) *Corner clip.* At all street intersections, a minimum ten-foot by ten-foot corner clip sidewalk and utility easement or right-of-way dedication diagonal to the street right-of-way lines must be provided.
- (i) *Corner lots.* Additional lot width must be provided for corner lots to allow for two street frontage setback lines.
- (j) *Cul-de-sac length.* A street may not be designed to be dead ended without the installation of a cul-de-sac designed and constructed in accordance with Public Works Design Manual standards. A cul-

de-sac street must not exceed 500 feet in length, as measured along the street centerline from the projected curb intersection to the farthest curb location.

- (k) *Double frontage lots.* Double frontage and reversed frontage lots are discouraged except where necessary to provide separation of residential development from collector or arterial streets or to overcome specific disadvantages of topography and orientation. Conditions may be placed on the plat to limit the facing of main structures on or limit driveway access from any collector or arterial street.
- (l) *Drainage easements.* Lot lines must be drawn to the center of the drainage easement. Any lot intended to be used as a buildable lot that contains a drainage easement must be designed to have a buildable area of at least 125 percent of the minimum square footage required for the applicable zoning district.
- (m) *Flag lots.* Flag lots are expressly prohibited, unless:
 - (1) The proposed lot configuration is needed to abate an unusual property accessibility constraint not created by the applicant;
 - (2) The property has acute topographical conditions or constraints; or,
 - (3) The unusual adjacent property boundary configuration constrains the arrangement of an otherwise standard lot configuration.

Where any the above items are present, the Planning and Zoning Commission may grant a waiver to allow such configuration, provided the following conditions are met:

- (1) The waiver does not circumvent the normal platting of streets or public and emergency access;
 - (2) The waiver does not prevent the extensions of streets to adjacent unsubdivided property;
 - (3) The lot width is not less than fifty (50) feet in width at its frontage connection with the adjacent public street; and,
 - (4) The narrow or elongated part of the flag does not exceed one hundred (100) feet in length, measured from the connecting street frontage to where the lot widens into a flag shape to create a suitable building area.
- (n) *Frontage on improved roads required.* A subdivision will not be approved unless the area to be subdivided has a minimum of fifty (50) feet of contiguous frontage on and access to an existing public street, and such access meets the minimum street construction requirements contained in the Public Works Design Manual.
- (o) *Grading and lot drainage.* Grading and lot drainage must comply with the requirements and standards contained in the Public Works Design Manual. Residential lots must be graded in a manner that will not allow runoff to cross more than two lots, including the lot on which the drainage originates, before it enters a street or drainage easement. If this is not possible, then a drainage easement must be dedicated, and any necessary facilities be constructed and installed by the developer. Lots must be laid out to provide positive drainage away from all buildings. Individual lot drainage must be coordinated with the general storm drainage pattern for the area.
- (p) *Intersection angles.* Spacing of intersections along major streets must comply with the requirements and standards contained in the Public Works Design Manual. Not more than two streets may intersect at any one point unless specifically approved by the Planning and Zoning Commission. Proposed new intersections along one side of an existing street must coincide with any existing

intersections on the opposite side of such street. Streets must be laid out to intersect as nearly as possible at right angles. Intersections that are not right angles must use the following criteria:

- (1) A proposed intersection of two new streets at an angle of less than 75 degrees is not permitted. An oblique street intersection or curved street approaching an intersection should be approximately at right angles for at least 100 feet therefrom.
 - (2) Street jogs with centerline offsets of less than 150 feet are not permitted, except where the intersected street has separated dual drives without median breaks at either intersection.
- (q) *Lot dimensions.* The minimum area and dimensions of all lots must conform to the requirements of the applicable zoning district as contained in the zoning chapter of this Code (chapter 118). Side lot lines must be located at right angles to street lines or as a radial. Lot lines that are not at right angles to street lines, or shown as a radial, must contain a bearing notation. Dimensions of corner lots must be large enough to allow for the construction of buildings, observing the minimum front and side yard setback from both streets. The depth and width of properties reserved or laid out for business, commercial, or industrial purposes must be adequate to provide for the off-street parking and loading facilities required for the intended type of use and development.
- (r) *Masonry screening walls.* Masonry screening walls must be constructed adjacent to any residential thoroughfare designated as C4U Major Collector or larger on the Transportation Plan. Screening walls must not be constructed within the street right-of-way. A two and one-half foot (2.5) screening wall easement must be provided on the plat drawing.
- (s) *Multiple entrance and exit locations.* The use of two or more entrance and exit locations is required when the subdivision contains thirty (30) or more lots.
- (t) *Rights-of-way.* Right-of-way widths must be consistent with those shown on the Transportation Plan. Right-of-way widths in excess of the standards designated on the Transportation Plan may be required whenever, due to topography, additional width is necessary to provide adequate earth slopes.
- (u) *Water bodies.* If a tract being subdivided contains a water body or portion thereof, lot lines shall be drawn to distribute the entire ownership of the water body among adjacent lots.

If a water body is intended to be situated on its own lot, then the lot must be numbered according to the numbering sequence of the subdivision. Any lot intended to be used as a buildable lot which includes a water body shall contain a buildable area that is, at a minimum, 125 percent of the minimum square footage required for the applicable zoning district.

- (v) *Common access easements.* To the maximum extent practicable, common access easements will be required between and/or across any lots zoned, used and/or planned by the Land Use Plan for nonresidential purposes and fronting on arterial and collector streets in order to minimize the total number of access points along those streets and to facilitate traffic flow between lots. The easements must be provided on the final plat, minor plat, replat, or amending plat of the subject properties, or be recorded by separate instrument with Tarrant County.

The common access easement must be at least twenty (20) feet wide. The easement must encompass existing and proposed driveways and extend across the entire width of the property to provide access to adjacent properties. The location must be approved by the Director of Planning.

Maintenance of any common access easement is the responsibility of the property owner or property owner's association, as applicable. When an easement is created by plat, a maintenance note must be added to the plat acknowledging maintenance responsibility. When the easement is

created by separate instrument, the maintenance responsibility must be acknowledged within the separate instrument.

Secs. 110-233—110-250. Reserved.

ARTICLE X. REQUIRED IMPROVEMENTS

Sec. 110-251. General infrastructure policy.

- (a) The developer must install all water and sewer systems, street and drainage facilities, and any other facilities required by these regulations that are necessary for the proper development of the subdivision. The design, construction, and inspection of any public or semipublic improvements is a requirement of the developer. All such facilities must be designed and constructed in accordance with the Public Works Design Manual and conform to the general layout of the master plan water, sanitary sewer, drainage, or transportation.
- (b) When required by master plans for water, sanitary sewer, drainage, or transportation, the facilities must be sized in excess of that as required by city capital improvements plans. Where oversizing of public facilities is required, or where the relocation of public facilities is required, or where specific public or semipublic improvements are necessary for the proper development of the subdivision, the developer of the proposed subdivision must construct or relocate said public or semipublic facilities.
- (c) When a tract of land is proposed for development and public improvements are to be installed between or paralleling two or more tracts of land under different ownership, and participation is required by both owners, the developer desiring to plat their land first must comply with the following:
 - (1) If the public improvements are required for the actual development of the subdivision, then the first developer is responsible for obtaining the necessary right-of-way or easements from the adjoining property owner or owners and for installing those improvements at their own expense.
 - (2) If the improvements are not required for the actual development of the subdivision, then the developer must provide, within their subdivision, all the easements or right-of-way necessary for the improvements.
 - (3) Reserve 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 do not meet the minimum standards of the zoning district in which it lies, or which will not be taxable or accessible for special improvements, are prohibited in any subdivision.

Sec. 110-252. Water facility requirements.

The developer must furnish, install, construct, or extend, at their own expense, water distribution facilities necessary for the development of the subdivision. The water system must provide individual service to every lot in the subdivision. All water mains constructed within a proposed subdivision must be extended to the perimeter of the proposed subdivision to allow for future extension of the water system into adjacent properties. The water system must be designed and constructed in accordance with the specifications contained in the Public Works

Design Manual. All water system improvements must conform to the city's current water distribution system capital improvements plan.

Sec. 110-253. City participation in water and sewer system oversizing.

Where oversizing of water and sewer system improvements is required by the capital improvements plan, city participation in any proposed water or sewer line must be in accordance with the provisions of the water and sewer impact fee ordinance. City participation is not available for water lines that are not part of the proposed improvements contained in the capital improvements plan.

Sec. 110-254. Fire hydrant requirements.

The developer must install, at their own expense, enough fire hydrants to provide fire protection service to every lot in the subdivision. The fire hydrant system must be designed according to the specifications contained in the Public Works Design Manual. The layout of the system is subject to approval by the City Engineer and Fire Marshal.

Sec. 110-255. Sewer facility requirements.

The developer must furnish, install, construct, or extend, at their own expense, sewer collection facilities necessary for the proper development of the subdivision. The sewer system must provide individual service to every lot in the subdivision. All sewer mains constructed within the proposed subdivision must be extended to the perimeter of the proposed subdivision to allow for future extension of the sewer system into adjacent properties regardless of whether such extensions are required for service within the subdivision. The sewer system must be designed and constructed in accordance with the specifications contained in the Public Works Design Manual. Where considered necessary by the City Engineer, the facilities must be sized in excess of that dictated by the Public Works Design Manual, to provide for the future growth and expansion of the city systems. All sanitary sewer installations must conform to the city's wastewater system capital improvements plan.

Sec. 110-256. City participation in sewer system oversizing.

Where oversizing of sewer system improvements is required by the capital improvements plan, city participation in any proposed sewer line must be in accordance with the provisions of the water and sewer impact fee ordinance. City participation is not available for sewer lines that are not a part of the proposed improvements contained in the capital improvements plan.

Sec. 110-257. Construction in public rights-of-way.

- (a) *Utilities to be in rights-of-way or easements; underground utilities, exceptions.* All public utilities must be constructed within a public street right-of-way or an appropriate public utility easement. When a proposed water or sewer line or a drainage facility will be placed adjacent to a public road maintained by the Texas Department of Transportation, a separate specific use easement document must be provided for each utility or drainage facility. Public utilities must be placed underground in new subdivisions absent a compelling demonstration that this requirement is unreasonable or unfeasible.
- (b) *Underground utilities at rear of lot (October 13, 2003, to November 10, 2003).* In residential subdivisions with final plats approved on or after October 13, 2003, and on or before November 10, 2003, underground electric utilities may be allowed in an easement not greater than 10 feet wide along the front or side property lines as long as above-ground electrical transformers and other electrical appurtenances in such subdivisions do not exceed 36 inches in height, are placed on a concrete pad not exceeding 18 square feet in area enclosed on three sides by living evergreen plant

screening at least 10 inches higher than the transformer, but not exceeding four and one-half feet in height, with the open side away from the nearest street. The owner of the lot where the transformer is located is responsible for the initial planting of the plant screening, which must be in place prior to final inspection of the house on such lot. In the event the homeowner's association wishes to install the plant screening, it may do so before any home receives final inspection. The homeowner's association is responsible for the maintenance of the screening in either case. The foregoing requirements are exclusive, and the remaining subsections of this section shall not apply.

- (c) *Underground utilities at rear of lot (after November 10, 2003).* In residential subdivisions platted after November 10, 2003, all new residential subdivisions require electrical, telecommunications and cable facilities, including new service drops, to be placed underground in an easement at the rear lot line. Where rear lot utilities are located on corner lots, above ground appurtenances must be located a maximum of five feet from the side building line.
- (d) *Transformers.* All electrical transformers must be accessible by a seven (7) foot wide dedicated Oncor utility easement that extends to the transformer. Physical access to the transformer will be provided via a five-foot wide removable fence panel or gate located in the easement. Property owners will be responsible for providing security for the transformer and will make sure that the transformer is free from obstruction. The city will make reasonable efforts through communication and code enforcement to assure that residents provide unobstructed access including unlocked gates. The necessity for removal of minimal fencing and/or landscaping within easements to permit the replacement of facilities, appurtenances, and equipment is considered to be within the definition of reasonable access.

Transformers and other appurtenances shall not exceed 36 inches in height and transformers shall be placed on a concrete pad not exceeding 18 square feet in area. Fire hydrants and traffic signal controllers are exempted from the rear lot or tract line requirement.

In all cases, before construction of facilities commence, the easement shall be reduced to final grade, at developer's sole cost and expense. Additionally, if such easement is located within a floodplain, the entire surface of the easement shall be raised above the floodplain elevation, at developer's sole cost and expense, before construction of the facilities commences. Sight visibility easements and horizontal clear triangles are not appropriate locations for the placement of aboveground facilities, appurtenances, and equipment as they would create safety concerns by blocking or impairing the visibility of vehicular traffic.

- (e) *Exceptions.* Exceptions to the rear lot location may be granted by providing facts and circumstances to the Planning and Zoning Commission to demonstrate rear lot utility location is not technically or environmentally feasible. Since the impact of technical and environmental factors may differ, exceptions for each utility will be considered separately and on a stand-alone basis.
- (f) *Requirements for nonrear lot locations.* Service lines, aboveground appurtenances and equipment locations for utility service approved by the Planning and Zoning Commission for other than the required rear lot locations must follow the guidelines below:
 - (1) Underground utility service lines must be located within a 10 foot wide easement, equally divided and paralleling the side property line of two adjacent lots. Aboveground electrical transformers and other utility appurtenances located within such easements must be located five feet from the front building setback line.
 - (2) Transformers will be hinged to provide for rear service access. Access to the rear must be free from obstructions. Additionally, the use of surface "hand boxes" versus pedestals for electric utilities is required.

- (3) Screening of the above ground appurtenance by a live vegetative screen is recommended for the street front and sides of the pad. Maintenance of the optional screening shall be the responsibility of the owners of the adjacent lots where the appurtenance is located.
- (4) In situations where the grade requires retaining walls, the transformer pad will be located on the lower grade and the retaining walls will be "jogged" to accommodate the transformer pad and provide adequate service access.
- (5) Exceptions to any requirement must be resolved at the preliminary plat stage.

Nothing herein shall be construed as to require utility companies to place underground existing or new electric facilities, nor to prohibit the upgrading, reconstruction or reconductoring of existing overhead facilities in the city's public rights-of-way.

Sec. 110-258. Street right-of-way dedication.

Each subdivision plat must dedicate public street right-of-way of sufficient width to comply with the standards contained on the Transportation Plan and the following requirements:

- (a) All street rights-of-way must be integrated with the existing and proposed system of thoroughfares and rights-of-way.
- (b) Every lot must front on a public right-of-way that complies with the width shown on the Transportation Plan or, when approved by the city, an acceptable public access easement.
- (c) Street rights-of-way must be configured to allow for future access to adjacent properties. When the adjacent property develops, street connections to the existing access points must be provided.

Sec. 110-259. Street improvement requirements.

The developer must construct, at their own expense, street facilities necessary for the development of the subdivision. The street system must provide access to every lot in the subdivision, and comply with the following:

- (a) All street surfaces within or abutting the proposed subdivision must be paved, with curbs and gutters installed, and otherwise constructed in accordance with the standards and specifications contained in the Public Works Design Manual.
- (b) All paving must be constructed to the width specified by the functional classification of streets as contained in the Transportation Plan.
- (c) Dead end streets are permitted only where a future extension or connection is anticipated or planned into adjacent property. If the dead end is greater than 150 feet measured from the property line, a turnaround facility is required. The developer is responsible for acquiring the right-of-way or easement and constructing the turnaround. The turnaround will be considered temporary until the street is extended or a permanent cul-de-sac is constructed. The turnaround may be constructed without curb and gutter but must meet all other design criteria.
- (d) Where dead end streets are provided for future extensions or connections into adjacent properties, the developer of the adjacent property must tie into and extend the street into the adjacent development.

Sec. 110-260. City participation in thoroughfare street improvements.

- (a) The city will only participate in the construction costs of a collector or arterial street as designated by the Transportation Plan and located in conventional single-family residential areas. When the City

Engineer has determined that the need for additional street capacity is not directly attributable to the traffic pattern of the proposed development, the city may participate in the portion of the roadway in excess of 36 feet, measured from curb face to curb face. The developer must pay for 36 feet of roadway, including any extra depth of pavement, curb and gutter for both sides, all excavation required, all subgrade preparation, and all other costs involved in the street construction, including engineering costs.

- (b) When a street is required to be constructed with extra width or special conditions by the city for aesthetic value or special circumstances, the city will participate on the same basis as in thoroughfare considerations. Where the oversizing of the street is at the discretion of the developer for aesthetic purposes or special considerations, participation is not allowed.
- (c) In non-single-family residential areas, when existing development would require additional strength design or additional width of pavement to accommodate expected traffic use, city participation is not allowed.

Sec. 110-261. Sidewalk requirements.

The developer must construct, at their own expense, sidewalk facilities necessary for the development of the subdivision. The sidewalk system must provide appropriate curb ramps adjacent to all public street rights-of-way. Sidewalk construction and placement must conform to the following:

- (a) Sidewalks must be designed and constructed in accordance with the standards and specifications contained in the Transportation Plan and Public Works Design Manual.
- (b) Sidewalks are required on all street frontages.
- (c) All side yard sidewalks and rear yard sidewalks adjacent to perimeter streets must be constructed by the developer as part of the public improvements for the development.
- (d) On individual lots, front yard sidewalks and sidewalks on the side yard of corner lots must be constructed by the builder for each lot prior to completion of any primary structure.

Sec. 110-262. Masonry screening wall requirements (semipublic improvement).

The developer of a newly platted residential or nonresidential subdivision or resubdivision of lots adjacent to a C4U Major Collector thoroughfare, or larger, as shown on the Transportation Plan, must comply with the screening wall requirements as provided in this section.

- (a) The developer of any lot located in a newly platted residential subdivision, or resubdivision of existing residential lots adjacent to a C4U Major Collector thoroughfare, or larger, must construct a masonry or concrete screening wall along and adjacent to said thoroughfare. However, a replat of an existing one lot residential subdivision on any street is exempt.
- (b) The developer of any lot located in a newly platted nonresidential subdivision, or resubdivision of lots, which have a rear property line adjacent to a C4U Major Collector, or larger, must construct a masonry or concrete screening wall along and adjacent to said thoroughfare.
- (c) The masonry or concrete screening wall must be constructed in a manner consistent with the standards and specifications contained in the Public Works Design Manual. Any combination of ornamental metal and landscaping at street intersections, or entrances to subdivisions, is considered an acceptable alternate material. Except for landscaping materials, masonry or concrete screening wall or its foundation is prohibited within the street right-of-way.

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- (d) Any masonry screening wall constructed within the city which is not required by subsection (a) or subsection (b) of this section must be constructed in a manner consistent with the standards and specifications contained in the Public Works Design Manual.

Sec. 110-263. Drainage improvement requirements.

The developer must furnish, install, construct, or extend, at their own expense, all storm sewers and drainage structure facilities necessary for the development of the subdivision. All drainage improvements must be constructed in accordance with the criteria established in the Public Works Design Manual. All public drainage facilities must be constructed within a public drainage easement.

Sec. 110-264. Off-site drainage.

In respect to off-site drainage, the following provisions apply:

- (a) The developer is be responsible for all runoff from fully developed property upstream of the proposed development.
- (b) Where a drainage study indicates that additional runoff from the developing property will overload downstream drainage facilities and result in adverse impacts, the city may withhold approval of the development until appropriate provisions have been made. These provisions include any drainage design or construction plans necessary to accommodate the off-site drainage problem.

Sec. 110-265. Street lighting.

The developer must furnish, install, construct or extend, at their own expense, street lighting facilities necessary for the development of the subdivision. The street lighting system must comply with the location and spacing requirements for street lighting systems contained in the Public Works Design Manual.

Sec. 110-266. City-Developer agreements.

- (a) In the event that the developer of a proposed subdivision requests participation by the city in the construction of the public facilities, and that participation is approved by the City Council, and the total participation costs by the city exceed \$5,000.00, then the developer must execute a City-Developer Agreement. In developments where, by reason of city policy, the City Council deems it advisable to participate in the community facilities being constructed to the extent of \$5,000.00 or more, the contract for such construction must be advertised for bids in accordance with the city's Charter and will require the execution of a City-Developer Agreement as noted above. The developer must deposit with the City the funds or acceptable security as required by the applicable city ordinances required to pay their portion of the construction costs prior to the construction. It is the responsibility of the developer's engineer to prepare all contract documents for the use of the City and the contractor, as well as all copies of the engineering plans for the bidding and construction of the project.
- (b) 2On projects not requiring a City-Developer Agreement, the final plat approval authorizes the developer to proceed with construction of the water, sewer, street drainage, and traffic facilities required by the engineering plans, provided that such plans have been approved by the City Engineer. All construction must be in accordance with the applicable sections of this chapter. The developer may choose their own contractor subject to the contractor executing the necessary bonds with the city and payment of the inspection fees required for each portion of the public facilities.

Sec. 110-267. Temporary improvements.

The developer must build and pay for all costs of temporary improvements required by the City Engineer and must maintain same for a period specified by the city.

Sec. 110-268. Maintenance bond requirements.

Prior to beginning construction, the developer's contractor is required to file a maintenance bond with the City in an amount and form satisfactory to the City Engineer, in order to ensure the satisfactory condition of the required improvements for a period of two years after the date of their acceptance by the City.

Sec. 110-269. Public works construction authorization required.

Construction must not start on any street, sidewalk, drainage, utility or public improvement until authorized by the City Engineer and a two-year maintenance bond has been issued for all facilities in the subdivision or the approved phase of the said subdivision.

Sec. 110-270. Inspection of proposed public facilities.

The Public Works Department will provide for inspection of required public improvements during construction and ensure their satisfactory completion. If the City Engineer finds upon inspection that any of the required improvements have not been constructed in accordance with city construction standards and specifications, the developer will be notified that building permits will not be issued until all inconsistencies have been corrected. All construction debris or waste must be removed from all areas of the subdivision prior to the issuance of the letter of completion of public improvements by the City Engineer.

Sec. 110-271. Final walk-through and construction debris.

The developer must arrange for a final walk-through inspection with the City Engineer. Cut trees, timber, debris, rocks, stones, junk, rubbish, or other waste materials of any kind must not be buried in any land or left or deposited on any lot or street at the time of completion of public facilities. Removal of all debris and waste is required prior to approval and acceptance of all public improvements and prior to the issuance of any building permit or certificate of occupancy.

Sec. 110-272. Letter of completion of public improvements.

- (a) The City will not accept dedication of required improvements until the City Engineer has provided written certification that all required improvements have been satisfactorily completed in accordance with construction plans for the subdivision and are ready for dedication to the city and are free and clear of any and all liens and encumbrances. Upon such approval and recommendation, the city will thereafter accept the improvements for dedication.
- (b) Upon approved completion of the construction of the public facilities, the developer's engineer must provide the City Engineer a complete set of as-built documents of the project along with a complete accounting of all construction units as-built and the total project cost. The City Engineer will then issue a letter of completion of public improvements to the developer and authorize the release of the subdivision for the issuance of building permits.

Sec. 110-273. Installation of permanent field monuments

- (a) *Generally.* The developer must place permanent reference monuments in the subdivision as required herein and under the direction of a registered land surveyor or professional engineer. All

such monuments must be set flush with or below the ground and planted in such a manner that they will not be generally disturbed.

- (b) *Subdivision boundaries.* The external boundaries of a subdivision must be documented in the field by monuments of not less than four inches square or five inches in diameter, and marked on top with a cross, brass plug, iron rod, or other durable material securely embedded; or by iron rods or pipes not less than 18 inches in length and one-half inch in diameter. These monuments must be placed at all corners of the subdivision boundary, at each end of all curves, at the point where a curve changes its radius, at all angle points in any line, and at all angle points along a meandering line.
- (c) *Internal block corners.* Permanent monuments must be placed at all internal block corners, street intersections, street angle points and curves tangents by iron rods or pipes at least 18 inches long and one-half inch in diameter.
- (d) *Lot corners.* Permanent monuments must be placed at the corners of all lots in the field by iron rods 18 inches long and one-half inch in diameter.

Secs. 110-274—110-300. Reserved.

ARTICLE XIII. ADEQUACY OF PUBLIC FACILITIES; PROPORTIONALITY

Sec. 110-301. Purpose and policy.

- (a) These subdivision regulations of the city are designed and intended to achieve the following purposes and will be administered so as to:
 - (1) Promote the health, safety, morals and general welfare of the community and the safe, orderly and healthful development of the city;
 - (2) Establish adequate policies and procedures to guide development of the city;
 - (3) Provide for the establishment of minimum specifications for construction and engineering design criteria for public infrastructure improvements to maintain land values, reduce inconveniences to residents of the area, and to reduce related unnecessary costs to the city for correction of inadequate facilities that are designed to serve the public;
 - (4) Ensure that development of land and subdivisions is of such nature, shape and location that utilization will not impair the general welfare;
 - (5) Ensure against the dangers of fires, floods, erosion, landslides, or other such menaces;
 - (6) Preserve the natural beauty and topography of the city and to ensure appropriate development with regard to these natural features;
 - (7) Realistically and harmoniously relate new development of adjacent properties;
 - (8) Provide the most beneficial circulation of traffic throughout the city, having particular regard to the avoidance of congestion in the streets and highways, and pedestrian traffic movements; and to provide for the proper location and width of streets;
 - (9) Ensure that public facilities for water supply, drainage, disposal of sanitary and industrial waste, and parks are available for every building site and with adequate capacity to serve

the proposed subdivision before issuance of a certificate of occupancy or release of utility connections or final inspection within the boundaries of the plat;

- (10) Assure that new development adequately and fairly participates in the dedication and construction of public infrastructure improvements that are necessitated by or attributable to the development or that provide value or benefit that makes the development feasible;
 - (11) Help prevent pollution, assure the adequacy of drainage facilities, control storm water runoff, safeguard the water table, and encourage the wise use and management of natural resources throughout the city and its extraterritorial jurisdiction in order to preserve the integrity, stability, and beauty of the community and the value of the land; and
 - (12) Provide for open spaces through the most efficient design and layout of the land, while preserving the land use intensity as established in the zoning ordinance of the city.
- (b) To carry out the purposes hereinabove stated, it is declared to be the policy of the city to guide and regulate the subdivision and development of land in such a manner as to promote orderly growth both within the city and where applicable.
 - (c) Land must not be platted until proper provision has been made for adequate public facilities for roadways, drainage, water, wastewater, public utilities, capital improvements, parks, recreation facilities, and rights-of-way for streets.
 - (d) Proposed plats or subdivisions that do not conform to the policies and regulations will be denied, or, in lieu of denial, disapproved conditioned on conformance with conditions.
 - (e) There is an essential nexus between the requirement to dedicate rights-of-way and easements and/or to construct public works improvements in connection with a new subdivision and the need to offset the impacts on the city's public facilities systems created by such new development.

Sec. 110-302. Adequate public facilities.

- (a) Land proposed to be subdivided must be served adequately by essential public facilities and services, including water and wastewater facilities, roadway and pedestrian facilities, drainage facilities and park facilities. An application for a plat or development may be denied unless adequate public facilities necessary to support and serve the development exist or provision has been made for the facilities, whether the facilities are to be located within the property being platted or offsite.
- (b) It is necessary and desirable to provide for dedication of rights-of-way and easements for public works improvements to support new development at the earliest stage of the development process.
- (c) The city desires to assure both that impacts of new development are mitigated through contributions of rights-of-way, easements and construction of capital improvements, and that a new development be required to contribute not more than its proportionate share of such costs.
- (d) Proposed public works improvements serving new development must conform to and be properly related to the public facilities elements of the city's adopted master plan, other adopted master plans for public facilities and services, and applicable capital improvements plans, and must meet the service levels specified in such plans.

Sec. 110-303. Minimum standards.

- (a) The standards established in Article X (Required improvements) of this chapter and Article III of Chapter 94 (Neighborhood parkland dedication requirements) of the Code of Ordinances and other ordinances of the city for dedication and construction of public works improvements and

infrastructure are based upon engineering studies and historical usages and demands by different categories of development. These regulations identify certain minimum requirements and sizes for utilities, roadways, parks, and other facilities that the City Council has determined to be necessary in order to provide the minimum level of service necessary to protect or promote the public health, safety, and welfare and to assure the quality of life currently enjoyed by the citizens of North Richland Hills. It is the intent of these regulations that no development occurs until and unless these minimum levels of service are met. Therefore, each subdivision in the city is required to dedicate, construct and/or upgrade required facilities and infrastructure to a capacity that meets these minimum levels.

- (b) For each category of public infrastructure, a minimum standard of infrastructure, and in some cases, service level, has been developed based upon historic studies and construction projects of the city and other cities. These minimum standards take into consideration the soil conditions and topographic configuration of the city, the use and impact analyses of the North Central Texas Council of Governments in developing standard specifications for public works installation, and other historical use and performance experiences of the city that reflect the minimum level of facilities and services that must be built to meet the health, safety and welfare of the citizens of North Richland Hills.
- (c) In order to maintain prescribed levels of public facilities and services for the health, safety and general welfare of its citizens, the city may require the dedication of easements and rights-of-way and/or construction of on-site and/or off-site public works improvements for water, wastewater, road, drainage, or park facilities to serve a proposed subdivision, or require the payment of fees in lieu thereof. If adequate levels of public facilities and services cannot be provided concurrent with the schedule of development proposed, the city may deny the subdivision until the public facilities and services can be provided or require that the development be phased so that the availability and delivery of facilities and services coincides with the demands for the facilities created by the development.
- (d) Whenever the City Council determines that levels of service in excess of these minimum standards are necessary in order to promote the orderly development of the city, the owner will qualify for reimbursement for any costs in excess of the minimum levels of service through city participation, to the extent funds are available by a pro rata reimbursement policy or other means adopted by the city.

Sec. 110-304. Adequacy of specific facilities.

- (a) All lots to be platted must be connected to a public water system that has the capacity to provide water for domestic use and emergency purposes, including adequate fire protection.
- (b) All lots to be platted must be served by an approved means of wastewater collection and treatment. The City may require the phasing of development and/or improvements in order to maintain adequate wastewater capacity.
- (c) Proposed roads must provide a safe, convenient and functional system for vehicular, bicycle, and pedestrian circulation and must be properly related to the applicable Transportation Plan and any amendments thereto and must be appropriate for the particular traffic characteristics of each proposed subdivision or development. New subdivisions must be supported by a thoroughfare network having adequate capacity, and safe and efficient traffic circulation. Each development must have adequate access to the thoroughfare network. The City may require the phasing of development and/or improvements in order to maintain a safe, convenient and functional system of roads for vehicular and pedestrian circulation.

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- (d) Drainage improvements serving new development must 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, the construction of off-site drainage improvements, or drainage impact fees in order to mitigate the impacts of the proposed subdivision.

Sec. 110-305. Improvement of adjacent and abutting existing streets and utilities.

In the case of existing adjacent or abutting roads, the City may require that the entire right-of-way be dedicated and/or improved to the City's design standards, based upon factors including the impact of the proposed subdivision on the road, safety to the traveling public, conditions and life expectancy of the road, the impact of the proposed subdivision on other roads, the timing of this development in relation to need for improving the road, the impact of the traffic on the road and city's roadway system as a whole.

Sec. 110-306. Timing of dedication and construction.

- (a) The City will require an initial demonstration that a proposed subdivision will be adequately served by public facilities and services at the time for approval of the first development application that portrays a specific plan of development, including but not limited to a petition for establishing a planned development zoning district, or other overlay zoning district; or a developer's agreement; or an application for a preliminary or final plat.
- (b) The obligation to dedicate rights-of-way and/or to construct one or more public works improvements to serve a new subdivision may be deferred until approval of a subsequent phase of the subdivision, at the sole discretion of the City Engineer, upon written request of the property owner, or at the City's own initiative. As a condition of deferring the obligation, the City may require that the subdivider include provisions in the developer's agreement, specifying the time for dedication of rights-of-way for and/or construction of public works improvements serving the subdivision.

Sec. 110-307. Proportionality determination by city's engineer.

- (a) Prior to a decision by the Planning and Zoning Commission on a preliminary plat application, or if no preliminary plat application is required, on a final plat application, or any other application for which an exaction requirement is a condition of approval, the City Engineer must prepare a written statement affirming that each exaction requirement to be imposed as a condition of approval is roughly proportionate to the demand created by the subdivision or development on the applicable public facilities system of the city, taking into consideration the nature and extent of the development proposed. In making this determination, the City Engineer may consider the following:
 - (1) Categorical findings of the North Central Texas Council of Governments in developing standard specifications for public infrastructure improvements;
 - (2) The proposed and potential use of the land;
 - (3) The timing and sequence of development in relation to availability of adequate levels of public facilities systems;
 - (4) Impact fee studies, traffic impact studies, drainage studies or other studies that measure the demand for services created by developments and the impact on the city's public facilities system;

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- (5) The function of the public infrastructure improvements in serving the proposed subdivision or development;
 - (6) The degree to which public infrastructure improvements necessary to serve the proposed subdivision are supplied by other developments;
 - (7) The anticipated participation by the City in the costs of necessary public infrastructure improvements;
 - (8) The degree to which acceptable private infrastructure improvements to be constructed and maintained by the applicant will offset the need for public infrastructure improvements;
 - (9) Any reimbursements for the costs of public infrastructure improvements for which the proposed subdivision is eligible; and/or
 - (10) Any other information relating to the impacts created by the proposed subdivision or development on the City's public facilities systems.
- (b) Based upon the proportionality determination, the City Engineer must affirm that the exaction requirements of the subdivision ordinance, or other ordinance requiring the permit, as applied to the proposed subdivision or development, do not impose costs on the applicant for public infrastructure improvements that exceed those roughly proportionate to the impact of the proposed subdivision or development.
 - (c) The City Engineer may require that the applicant, at their expense, submit any information or studies that may assist in making the proportionality determination.

Sec. 110-308. Rough proportionality determination of Planning and Zoning Commission and City Council.

- (a) The Planning and Zoning Commission and City Council must consider the City Engineer's report concerning the proportionality of the exaction requirements in making a decision on a plat application. The Commission and the City Council may consider the City Engineer's report in granting a modification or waiver to the requirements of the subdivision ordinance.
- (b) The city official responsible for issuing a permit for which an exaction requirement is imposed as a condition of approval must consider the City Engineer's report concerning the proportionality of the exaction requirements in making its decision as to whether to grant the permit.

Sec. 110-309. Rough proportionality appeal.

- (a) An applicant for a preliminary or final plat or for a permit which imposes an exaction requirement as a condition of approval may file an appeal to contest any exaction requirement, other than impact fees, imposed as a condition of approval or in which the failure to comply is grounds for denying the plat application pursuant to the subdivision ordinance.
- (b) The purpose of a proportionality appeal is to assure that an exaction requirement imposed on a proposed plat or development as a condition of approval does not result in a disproportionate cost burden on the applicant, taking into consideration the nature and extent of the demands created by the proposed subdivision or development on the City's public facilities systems.

Sec. 110-310. Appeals procedure.

- (a) An applicant for a preliminary or final plat or an applicant seeking approval for any other permit or zoning for which an exaction requirement is imposed must file a written appeal with the City

Secretary within ten (10) days of the date the Planning and Zoning Commission or the City official responsible for issuing the permit takes action applying the exaction requirement. This may include denial of the permit or plat.

- (b) A separate appeal form must be submitted for each exaction requirement for which relief is sought. The City Secretary will forward the appeal to the City Council for consideration.
- (c) A developer's agreement may not be executed by the City until the time for appeal has expired or, if an appeal is filed, until the City Council has made a determination with respect to the appeal.
- (d) The appeal must state the reasons that application of the exaction requirement is not roughly proportional to the nature and extent of the impact created by the proposed subdivision or development on the City's public facilities systems and does not reasonably benefit the proposed subdivision or development.
- (e) The appellant must submit to the City Engineer a copy of a study in support of the appeal that includes, with respect to each specific exaction requirement appealed, the following information within 30 days of the date of appeal, unless a longer time is requested:
 - (1) Total capacity of the City's water, wastewater, roadway, drainage, or park system, as applicable, to be utilized by the proposed subdivision or 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 subdivision. If the proposed subdivision is to be developed in phases, such information must be provided for the entire development, including any phases already developed;
 - (2) Total capacity to be supplied to the City's public facilities systems for water, wastewater, roadway, drainage or parks, as applicable, by the exaction requirement. This information must include any capacity supplied by prior exaction requirements imposed on the development;
 - (3) Comparison of the capacity of the applicable City public facilities systems to be consumed by the proposed subdivision or development with the capacity to be supplied to such systems by the proposed exaction requirement. In making this comparison, the impacts on the City's public facilities systems from the entire subdivision or development must be considered;
 - (4) The amount of any City participation in the costs of oversizing the public infrastructure improvements to be constructed by the applicant in accordance with the City's requirements;
 - (5) Comparison of the minimum size and capacity required by City standards for the applicable public facilities systems to be utilized by the proposed subdivision or development with the size and capacity to be supplied by the proposed exaction requirement; and
 - (6) Any other information that shows the alleged disproportionality between the impacts created by the proposed development and the exaction requirement imposed by the City.
- (f) The City Engineer must evaluate the appeal and supporting study and make a recommendation to the City Council based upon the analysis of the information contained in the study and utilizing the same factors considered by the engineer in making the original proportionality determination.

Sec. 110-311. City Council decision.

- (a) The City Council must decide the appeal within thirty (30) days of the date of final submission of any evidence by the applicant. Upon receipt of the final submission of evidence from the applicant, the City Secretary must schedule a time and date for the City Council to consider the appeal and shall notify the applicant at the address specified in the appeal form of the time, date and location at which the City Council will consider the appeal.
- (b) The applicant will be allotted time, not to exceed thirty (30) minutes, to present testimony at the City Council meeting. The Council must base its decision on the criteria listed in subsections 110-301(a) and 110-310(e) and may:
 - (1) Deny the appeal and impose the exaction requirement in accordance with the City Engineer's recommendation or the Planning and Zoning Commission's decision on the plat or other development application; or
 - (2) Grant the appeal, and waive in whole or in part an exaction requirement to the extent necessary to achieve proportionality; or
 - (3) Grant the appeal, and direct that the City participate in the costs of acquiring land for or constructing the public infrastructure improvement.
- (c) In deciding an appeal, the City Council must determine whether application of the exaction requirement is roughly proportional to the nature and extent of the impact created by the proposed subdivision on the City's public facilities systems for water, wastewater, roadway, drainage, or park facilities, as applicable, and reasonably benefits the subdivision. In making such determination, the Council must consider:
 - (1) The evidence submitted by the applicant;
 - (2) The City Engineer's report and recommendation, considering in particular the factors identified in subsections 110-301(a) and 110-310(e); and
 - (3) If the property is located within the City's extraterritorial jurisdiction, any recommendations from Tarrant County.
- (d) The City Council may require the applicant or the City Engineer to submit additional information that it deems relevant in making its decision.

Sec. 110-312. Action following decision of City Council.

- (a) If the City Council finds in favor of the applicant and waives the exaction requirement as a condition of plat approval or modifies the exaction requirement to the extent necessary to achieve rough proportionality, the applicant must resubmit the plat application to the Planning Division or City official responsible for issuing the permit within thirty (30) days of the date the City Council takes action, with any modifications necessary to conform the plat with the City Council's decision. The applicant will not be deemed to have prevailed in the event that the City Council modifies the exaction requirement.
- (b) If the City Council finds in favor of an applicant for any other permit and waives the exaction requirement as a condition of permit approval or modifies the exaction requirement to the extent necessary to achieve rough proportionality, the applicant must resubmit the permit application to the responsible official within thirty (30) days of the date the City Council takes action, with any modifications necessary to conform the application with the City Council's decision. Failure to do so will result in the expiration of any relief granted by the City Council.

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- (c) If the City Council denies the appeal, the plat application must be placed on the agenda of the Planning and Zoning Commission within 30 days of the City Council's decision.
 - (d) If the rough proportionality appeal was submitted appealing the imposition of an exaction requirement for a plat application, and City Council grants relief to an applicant but the applicant fails to conform the plat to the City Council's decision within the 30-day period provided, the relief granted by the city council on the appeal will expire.
 - (e) If the plat application is modified to increase the number of residential dwelling units or the intensity of nonresidential uses, the City Engineer may require a new study to validate the relief granted by the City Council.
 - (f) If the plat application for which relief was granted is denied on other grounds, a new appeal will be required on any subsequent application.

Sec. 110-313. Appeal of City Council decision.

An applicant may appeal the decision of the City Council to the county or district court of the county in which the development is located within thirty (30) days of the date that the Council issues its final decision. In the event that the applicant prevails in such action, the applicant will be entitled to attorneys' fees and costs, including expert witness fees.

Secs. 110-314—110-350. Reserved.

ARTICLE XIX. IMPACT FEES

Sec. 110-351. In general; purpose; policy.

This article is adopted pursuant to the provisions of Chapter 395, Texas Local Government Code, as well as under the authority of Article 11, Section 5 of the Texas Constitution. This article implements a policy of the City to impose fees upon each new development project to pay the costs of constructing capital improvements and facility expansions necessary to serve new development.

Sec. 110-352. Definitions.

See Section 110-6 (Definitions).

Sec. 110-353. Capital Improvements Advisory Committee.

- (a) The Capital Improvements Advisory Committee will consist of the city Planning and Zoning Commission. If the Commission does not include at least one representative of the real estate, development or building industry who is not an employee or official of a political subdivision or governmental entity, the City Council must appoint at least one such representative as an ad hoc voting member of the Committee.
- (b) The Capital Improvements Advisory Committee serves in an advisory capacity and is established to:
 - (1) Advise and assist the adoption of land use assumptions;
 - (2) Review the capital improvements plan and file written comments;
 - (3) Monitor and evaluate implementation of the capital improvements plan;

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- (4) File semi-annual reports with respect to the progress of the capital improvements plan and report to the city council any perceived inequities in implementing the plan or imposing the impact fee; and
 - (5) Advise the city staff and Council of the need to update or revise the land use assumptions, capital improvements plan and impact fee.
- (c) All professional reports concerning the development and implementation of the capital improvements plan must be made available to the Committee.
- (d) The Capital Improvements Advisory Committee must elect a chairperson to preside over its meetings and a vice-chairperson to serve in their absence. All meetings of the Committee must be open to the public and posted at least 72 hours in advance. Robert's Rules will, insofar as applicable, govern the conduct of the Committee's business. A majority of the membership of the Committee will constitute a quorum.

Sec. 110-354. Periodic updates required.

The land use assumptions and capital improvements plan upon which impact fees are based must be updated at least every five years, beginning with the next such update to be on or before March 7, 2015. Alternatively, the City Council may, pursuant to the provisions of Section 395.0575 of the Local Government Code, make a determination that an update is not required.

Sec. 110.355. Adoption of updated land use assumptions, capital improvements plan and impact fees; impact fee required.

- (a) The 2010 land use assumptions, capital improvements plan and impact fees proposed by staff and on file in the office of the City Secretary along with the tables referred to herein are hereby adopted.
- (b) A building permit will not be granted to new construction of any property, nor will any original water or sewer service connection be made unless or service commenced unless and until impact fees required by this article are assessed and collected or a contract providing for payment as approved by the City entered into.

Sec. 110-356. Assessment of impact fees.

- (a) Assessment of the impact fee per service unit will occur as set forth in Section 110-357 (Collection of impact fees).
- (b) Additional impact fees or increases in fees will not be assessed unless the number of service units to be developed on the tract increases. Should the service units be increased, impact fees will be increased in an amount equal to the current impact fee per service unit multiplied by the difference in number of service units.

Sec. 110-357. Collection of impact fees.

- (a) At the time building permits are requested (or, if property is to be connected to mains without such permits, at the time connection to mains is requested), the number of service units will be determined from the number of residential meters using, if necessary, the meter equivalency tables in Appendix A (Fee schedule) in the Code of Ordinances.

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- (b) The amount of the impact fee due will be determined by multiplying the number of service units times the amounts of the impact fees together with the applicable Fort Worth access fee for water and wastewater contained in Appendix A (Fee schedule) in the Code of Ordinances.
 - (c) The impact fee due must be collected at the time a building permit is issued or, if connection is to occur without a permit, prior to connection to the city main.
 - (d) The determination of impact fees will be reduced by any allowable credits for the category of capital improvements as provided by Section 110-358 (Credits).
 - (e) The owner of property for which there is a recorded plat may enter into a written agreement with the City providing for the time and method of payment of impact fees, which agreement will prevail over any contrary provision of this article.
 - (f) Impact fees may be assessed, but not collected, for property where service is not available unless:
 - (1) The City commits to commence construction of necessary facilities identified in the capital improvements plan within two years and have service available in a reasonable time not exceeding five years;
 - (2) The City agrees in writing to permit the owner of the property to construct or finance the required capital improvement or facility expansion and agrees that the costs incurred or funds advanced will either:
 - a. Be credited against the impact fees otherwise due from the new development;
 - b. Reimburse the owner for such costs from impact fees paid from other new developments that will use such capital improvements or facility expansions in which case fees may be reimbursed to the owner at the time collected; or
 - c. The owner voluntarily requests that the City reserve capacity to serve future development and the city, and the owner enter into a valid written agreement.

Sec. 110-358. Credits.

- (a) Any construction of, contributions to, or dedications of any facility appearing on the capital improvements plan which is required to be constructed by the owner as a condition of development will be credited against the impact fees otherwise due for the same category of impact fees otherwise due from the development.
- (b) The amount of each credit for required construction of a facility on the capital improvements plan will be calculated by multiplying fifty (50) percent by the number indicated in the column titled "10-Year (2009-2019)" of Table 3-3 of Exhibit B for water infrastructure projects and the column titled "10-Year (2009-2019)" of Table 3-4 of Exhibit B for wastewater infrastructure projects.
- (c) As an alternative to the foregoing, the City and the owner may enter into an agreement providing that in addition to the credit, the owner will be reimbursed for all or a portion of the costs of such facilities from pro rata charges collected from others who connect to such facilities and from impact fees as received from other new developments that will use such capital improvements or facility expansions. Pro rata charges paid will be credited against impact fees in the same manner as expenditures for facilities constructed as set forth in subsection (b) hereinabove above.
- (d) An owner is entitled to a credit against any category of impact fee as provided in any written agreement between the city and the owner.

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- (e) Credit for construction of any facility must not exceed the total amount of impact fees due from the development for the same category of improvements.

Sec. 110-359. Expenditure and accounting for fees and interest.

- (a) All impact fees collected must be deposited in interest bearing accounts clearly identifying the category of capital improvements or facility expansions within the service area for which the fee is adopted.
- (b) Interest earned must be credited to the account and is subject to the same restrictions on expenditures as the funds generating such interest.
- (c) Impact fees and the interest earned thereon may be spent only for the purposes for which such fee was imposed as shown in the capital improvements plan.
- (d) The records of the accounts into which impact fees are deposited must be open for public inspection and copying during ordinary business hours.

Sec. 110-360. Refunds.

- (a) On the request of an owner of the property on which an impact fee has been paid, impact fees must be refunded if existing facilities are available and service is denied or if the City failed to commence construction of facilities required for service within two years of payment of the fee or if such construction is not completed within a reasonable time, but not in any event in more than five years from the date of payment of the fee.
- (b) Any impact fee funds not expended within ten years after payment must be refunded.
- (c) Refunds must bear interest calculated from the date of collection to the date of refund at the statutory rate set forth in Section 302.002, Texas Finance Code.
- (d) All refunds must be made to the record owner of the property at the time the refund is paid. However, if the impact fees were paid by another political subdivision or governmental entity, payment must be made to the political subdivision or governmental entity.
- (e) The owner of the property on which an impact fee has been paid or another political subdivision or governmental entity that paid the impact fee has standing to sue for a refund under this section.

Sec. 110-361. Certification of compliance required.

- (a) Each year the City imposes an impact fee it must submit a written certification verifying compliance with this chapter to the attorney general each year not later than the last day of the city's fiscal year.
- (b) The certification must be signed by the mayor of the city and include a statement that reads substantially similar to the following: This statement certifies compliance with the Texas Local Government Code chapter 395.
- (c) In the event the City fails to submit a certification as required by this section, it is liable to the state for a civil penalty in an amount equal to ten percent of the amount of the impact fees erroneously charged. The attorney general may collect the civil penalty and deposit the amount collected to the credit of the housing trust fund.