

# **CITY OF KAUFMAN**

## **Subdivision Ordinance**

**VOLUME 1**



**City of Kaufman, Texas**

Adopted April 22, 2024  
Ordinance O-05-24  
2024



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## ARTICLE 02.03.000 ..... GENERAL SUBDIVISION AUTHORITY OF THE CITY

### SEC. 02.03.001 ...AUTHORITY, PURPOSE & APPLICABILITY.

(a) **Authority.** The regulations of this Chapter are authorized under the TEXAS LOCAL GOVERNMENT CODE, CHAPTER 212 (including SUBCHAPTER B), as amended, and the City's Charter. The provisions of this Chapter expressly extend to all areas inside the City limits and throughout the City's extraterritorial jurisdiction (ETJ), as either may be adjusted in the future, and as provided in the City's interlocal agreement with Kaufman County, in accordance with CHAPTER 242 of the TEXAS LOCAL GOVERNMENT CODE, as amended.

(b) **Purpose.**

- (1) The development and subdivision of land, as they affect a community's quality of life, are activities for which regulation is a valid function of municipal government. The regulations contained within this Chapter are intended to protect the interests of the public and of private parties by granting certain rights, privileges, and obligations. The requirements in this Ordinance are also intended to establish a fair and rational procedure for developing and subdividing land such that land will be developed in accordance with existing physical, social, economic, and environmental conditions.
- (2) The provisions of this Ordinance are intended to implement standards and requirements provided for herein and shall be requirements for the Platting and developing of subdivisions within the City and its ETJ.
- (3) The provisions of this Ordinance are intended to implement the following objectives:
  - i. Promote the development and the utilization of land in a manner that provides an attractive and high-quality community environment in accordance with the *Comprehensive Plan*, the *Zoning Ordinance*, and other development-related ordinances of the City;
  - ii. Assist orderly, safe, efficient, and coordinated development within the City's limits and its ETJ;
  - iii. Guide and assist Property Owners, Developers, and Applicants in the correct procedures to be followed, and to inform them of the required standards and regulations;
  - iv. Protect the public interest by having standards that include, but are not limited to, the location, design, class and type of streets, sidewalks, trails, alleys, utilities, and essential public services;
  - v. Integrate the development of various tracts of land into the community and coordinate the future development of adjoining tracts;
  - vi. Promote the most efficient and beneficial provision of public facilities and services for each tract being subdivided;
  - vii. Provide for compatible relationships between land uses and buildings;
  - viii. Provide for efficient traffic circulation throughout the municipality;
  - ix. Provide for pedestrian and bicyclist movement that is appropriate within the context of various uses of land and buildings;
  - x. Minimize pollution of the air, streams, bodies of water, and aquifers; promote the adequacy of storm drainage facilities; minimize erosion; safeguard both surface and groundwater supplies, as well as natural resources and endangered or threatened plant and animal life; and encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability, and beauty of the community and the value of the land;
  - xi. Preserve the natural beauty and topography of public and private properties by encouraging the incorporation of natural features and landforms into

- xii. developments as amenities;
- xiii. Establish processes that ensure accurate records of land subdivision;
- xiv. Provide for necessary infrastructure that will have sufficient capacity to serve existing and future developments as well as current and future citizens within the City and its ETJ;
- xv. Provide for adequate light, air, and privacy; safety from fire, flood, and other dangers; and prevent overcrowding of the land and undue congestion of population;
- xvi. Encourage the development of residential areas that incorporate a range of housing and lifestyle choices;
- xvii. Provide that the cost of improvements to meet minimum standards which primarily benefit the tract of land being developed be borne by the Owners and/or Developers of the tract, and that the cost of improvement to meet minimum standards which primarily benefit the whole community be borne by the whole community as contained in this Ordinance; and
- xviii. Provide for the City's overall public health, safety, welfare, orderly development, compatibility with existing development and managed, responsible management of infrastructure.

(c) **Applicability.**

- (1) The provisions of this Chapter, as authorized by CHAPTER 212 of the TEXAS LOCAL GOVERNMENT CODE (TLGC), including the *Standards of Design and Construction (SDC)* shall apply to the following forms of land subdivision and development activity within the City's limits and its extraterritorial jurisdiction (ETJ):
  - i. Any non-exempt (see Section 02.03.031(d), *Exemptions*) division of land, into two (2) or more tracts, lots, sites, or parcels; or
  - ii. The combining of two or more continuous tracts, lots, sites, or parcels for the purpose of creating one or more legal lots in order to achieve a more developable site, except as otherwise provided herein; or
  - iii. Any division or partition of land for the purpose of development or for laying out lots or building lots, or any lots and streets, alleys or parts or other portions intended for public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto; or
  - iv. For tracts where any Public Improvements are proposed; or
  - v. All subdivisions of land whether by metes and bounds division or by Plat, which were outside the jurisdiction of the City's subdivision regulation in Kaufman County, Texas and which subsequently came within the jurisdiction of the City's subdivision regulations through:
    - a. Annexation; or
    - b. Extension of the City's ETJ; or
  - vi. A plan or proposal to divide land lying with the City or its ETJ into two (2) or more tracts, and claims exemption from SUBCHAPTER A of CHAPTER 212 of the TEXAS LOCAL GOVERNMENT CODE for purposes of development that results in parcels or lots all greater than five (5) acres in size; or in the event that development of any such tract is intended, and where no Public Improvement is proposed to be dedicated, shall first obtain approval of a Development Plat that meets the requirements of the TEXAS LOCAL GOVERNMENT CODE CHAPTER 212, SUBCHAPTER B, Regulation of Property Development, as amended.
- (2) No permit shall be issued for any building or structure on a property until a Plat has been approved unless specifically exempted herein.

- (3) Any Land Preparation requires a Plat. The Director of Development Services may allow the submission of a grading permit Application, for review and approval, prior to approval of the associated Plat.
- (4) An addition or minor modification to an existing dwelling unit on a tract of land that is not a lot of record. The Director of Development Services may allow a minor modification for the first home on unplatted acreage.
- (5) The provisions of this chapter apply to all properties in the City limits and the ETJ, at all times, whether in conjunction with or in absence of a Plat Application.

(d) **Subdivision Rules.** The provisions of this Chapter, the standards governing constructed facilities applicable to Plats in other portions of the Kaufman Code of Ordinances, the technical standards contained in the *Standards of Design and Construction*, and the adopted plans and Ordinances of the City identified in this Chapter, constitute the *subdivision* rules of the City, which apply to Applications for Plat approval inside City limits and within the City's ETJ.

(e) **Appendix 1, Standards of Design and Construction.** The City of Kaufman adopted Appendix 1, *Standards of Design and Construction*, and these standards, as they exist or may be amended, shall remain in force of law and effect, and are herein incorporated into this Chapter. These standards may be drafted or revised, from time to time, at the discretion and determination of the Director of Public Works and/or the City Engineer, with approval by the City Council. As these revised standards are approved and adopted by the City Council, said standards shall be included and substituted for the existing *North Central Texas Council of Governments Technical Construction Standards and Specifications manual (TCS manuals)* and the *City of Kaufman Drainage Design Manual*, and shall thereafter have the same force of law and effect as if originally adopted hereby. Any individual may request to receive written notice of any new or amended provision to these standards by providing said request in writing to the Director of Development Services. A copy of the current *Standards of Design and Construction*, as amended, shall be kept on file and available for review with the Director of Development Services office and on the City's website.

(f) **Compliance with City Plans & Ordinances Required.** Compliance with all City ordinances pertaining to the subdivision and development of land, and the *Comprehensive Plan* (where applicable), shall be required prior to approval of any Application pursuant to this Chapter. All such ordinances and the *Comprehensive Plan* shall be construed to mean those documents as they exist or may be amended. It is the Applicant's responsibility to be familiar with, and to comply with, City ordinances, the *Comprehensive Plan*, and the provisions of this Chapter. Applicable City ordinances and plans with which all Applications must comply include, but are not limited to, the following and all amendments thereto:

- (1) *Comprehensive Plan* (Ordinance No. O-08-14), as amended;
- (2) *Zoning Ordinance* (Code of Ordinances of the City, Chapter 118, *Zoning Ordinance* No. O-02-07), as amended;
- (3) *Parks, Recreation and Open Space Master Plan* (Ordinance No. O-15-19), as amended;
- (4) *Kaufman Trail Concept Master Plan* (Ordinance No. 0-09-22), as amended;
- (5) *Appendix 1, Standards of Design and Construction, as amended*;
- (6) *Flood Damage Prevention* (Ordinance O-42-22), as amended;
- (7) *Kaufman County Thoroughfare Plan, as amended*;
- (8) *Kaufman County Subdivision and Land Development Regulations, as amended*;

- (9) *International Building, Electrical, Energy Conservation, Existing Building, Fire, Fuel Gas, Mechanical, Plumbing, Property Maintenance, Residential, Swimming Pool and Spa, and other related codes* (Ordinance No. O-28-19); as amended
- (10) *Impact Fee Ordinance for Water Facilities* (Ord. No. O-33A-19), as amended;
- (11) *Impact Fee Ordinance for Roadway Facilities* (Ord. No. O-33B-19), as amended;
- (12) Federal, State, County and Local Environmental Regulations, as amended; and
- (13) Other applicable portions of the *Kaufman Code of Ordinances*, as amended.

(g) **Special Provisions.**

- (1) The City of Kaufman does not issue permits for the installation of septic tanks in the ETJ or within the corporate City Limits. The City of Kaufman has an interlocal agreement with Kaufman County to issue permits for installation of septic tanks and to perform inspections at the time of installation and thereafter on an annual basis.
  - i. Permits for septic tanks are limited to lots that are greater than one (1) net acre (or usable open space) in size, exclusive of the house footprint, Right-of-Way, ponds, floodplain areas, drainage easements and utility easements and not located within 300 feet of a City wastewater collection line, unless otherwise allowed by the Director of Public Works and/or the City Engineer based upon projected loads and use.
  - ii. Citizens may elect to connect to a wastewater collection line that is greater than 300 feet from the property but must individually bear the cost of the installation.
  - iii. A septic system shall not be installed upon any lot in a subdivision for which an associated Plat has not been approved and filed for record, or upon any lot in a subdivision in which the standards contained herein or referred to herein have not been complied with in full.
  - iv. All septic systems shall be permitted, inspected, and meet all the adopted Kaufman County Subdivision and Land Development Regulations regarding septic systems, as amended.
- (2) No building permit shall be issued by the City for any construction that will expand a structure's footprint on a lot in a subdivision for which an associated Plat has not been approved, nor for construction on a lot or for any structure on a lot within a subdivision in which the standards contained herein or referred to herein for the lot and/or the structure have not been complied with in full.
- (3) The City shall not authorize any other person, nor shall the City itself repair, maintain, install, or provide any streets or public utility services in any subdivision for which the standards contained herein, or referred to herein, have not been complied with in full.
- (4) No supply of any water, gas, electricity, or wastewater collection service shall be provided to a subdivision for which associated Plat has not been approved, nor in which the standards contained herein or referred to herein have not been complied with in full.
- (5) In accordance with applicable law, the City may institute appropriate action in a court of competent jurisdiction to enforce the provisions of this ordinance or the standards referred to herein with respect to any violation thereof which occurs within the City, within the extraterritorial jurisdiction (ETJ) of the City as such jurisdiction is determined under the Municipal Annexation Act, or within any area subject to all or a part of the provisions of this Chapter.
- (6) If any subdivision exists for which an associated Plat has not been approved, or in which the standards contained herein or referred to herein have not been complied with in full, the City Council may pass a resolution reciting the fact that such noncompliance or failure to

secure an associated Plat approval, and reciting the fact that the provisions of paragraphs (1), (2), (4) and (5) of this section will apply to the subdivision and the lots therein. The City Secretary shall, when directed by the City Council, cause a certified copy of such resolution under the corporate seal of the City to be filed in the Deed Records of Kaufman County. If full compliance and the associated Plat approval are secured after the filing of such resolution, the City Secretary shall forthwith file an instrument, in the Deed Records of the county stating that paragraphs (1), (2), (4) and (5) no longer apply.

- (7) The provisions of this section shall not be construed to prohibit the issuance of permits to any lots upon which a residential building exists and was in existence prior to passage of this Chapter, or to prohibit the repair, maintenance, or installation of any street or public utility services for any residential building, or abutting any such lot, the last recorded conveyance of which prior to passage of this ordinance was by metes and bounds, and/or any subdivision, or lot therein, recorded or unrecorded, which subdivision was in existence prior to the passage of this ordinance.

#### **SEC. 02.03.002 ...ENFORCEMENT; VIOLATIONS, & PENALTIES.**

- (a) **Observation of Construction.**
  - (1) The City of Kaufman, or its duly authorized representative, is authorized to make periodic observation of the construction of improvements for subdivisions. Inspection of improvements by the Director of Public Works and/or the City Engineer or their designee, is not intended to and does not relieve the Developer or his contractor, from ensuring that the improvements are constructed in accordance with the approved plans and specifications for development. The Developer or his contractor shall maintain contact with the Director of Public Works and/or the City Engineer or their designee during construction of improvements.
  - (2) No wastewater, water, or stormwater pipe shall be covered without approval of the City or its duly authorized representative. No flexible base material, subgrade material, or stabilization shall be applied to the street subgrade without City approval. No concrete shall be poured, nor asphaltic surface applied to the base, without approval of the Director of Public Works and/or the City Engineer or their designee.
  - (3) The City of Kaufman, or its duly authorized representative, may at any time cause any construction, installation, maintenance, or location of improvements to cease when, in their judgment, the requirements of this Article or the standards and specifications as herein provided have been violated. Reconstruction or other work as may be necessary to correct any such violation may be required by City at the expense of the Developer. The cost of materials testing shall be borne by the Developer.
- (b) **Maintenance Bond/Financial Assurances.** For maintenance bond and other financial assurance requirements, refer to Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements* of this Chapter.
- (c) **Filing, Plat & Other Fees.**
  - (1) The required application fees for any Plat or other development-related application filing shall be paid to the City by the Applicant at the time the application is made. Each of the fees and charges provided herein shall be paid in advance, and no action of the City Manager, Planning & Zoning Commission, City Council, or any other board or agency of the City shall be valid until the fees and charges have been paid to the City.
  - (2) Except as herein provided, these fees and charges shall be charged on all Plats and filings,

regardless of the action taken by the City Manager, Commission, Council or any other board or agency of the City and whether the Plat or filing is approved or denied. All fees are listed as shown in the City's adopted Fee Schedule and/or other applicable ordinances of the City.

- (3) The required County filing fees shall be Paid by the Applicant to the City prior to the recordation of any Plat, easement, agreement, or other instrument required for the development by the City.
- (4) All required reimbursement of engineering reviews, attorney reviews, financial consultant reviews, or other third-party reviews associated with a development, shall be paid by the Applicant to the City in accordance with the terms of a Professional Services Agreement, or as otherwise invoiced to the Applicant by the City after the City is issued an invoice by a third-party service provider. The City may withhold plat recordation and/or building permitting until all outstanding review costs are paid by the Applicant.

(d) **Violations and Penalties.** Any person who violates any of these regulations for lands within the corporate boundaries of the City and/or within the Extraterritorial Jurisdiction (ETJ) shall be subject to a fine of not more than two-thousand dollars (\$2,000.00) per day, with each day constituting a separate violation, pursuant to the TEXAS LOCAL GOVERNMENT CODE, CHAPTER 54, as amended.

- (1) **Civil Enforcement.** Appropriate civil actions and proceedings may be maintained in law or in equity to prevent unlawful construction, to recover damages, to impose additional penalties, to restrain, correct, or abate a violation of these regulations whether such violation occurs with respect to lands within the corporate boundaries of the City or within the City's ETJ. These remedies shall be in addition to the penalties described above.

(e) **Misrepresentation of Facts Unlawful.**

- (1) **Misrepresentation of Facts.** It shall be unlawful for any person to misrepresent knowingly or willfully, or fail to include, any information required by the Chapter on any Application for annexation, zoning, development, or subdivision of property.
- (2) **Penalties and Exceptions.** If any Applicant for such hearing or any owner of property subject to such hearing, shall allow such hearing before the Planning and Zoning Commission, Parks and Recreation Board, and/or the City Council to be heard in violation of any of the provisions of this Chapter, such person shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a penalty as per Section 02.03.002(d), *Violations and Penalties*.

#### **Sec. 02.03.003 ...PAYMENT OF ALL INDEBTEDNESS TO A SPECIFIC PROPERTY.**

- (a) No person who owes delinquent taxes, delinquent paving assessments, or any other delinquent debts or obligations to the City of Kaufman, the Kaufman Independent School District, or Kaufman County, and which are directly attributable to a piece of property, shall be allowed to record an approved Plat until the taxes, assessments, debts and/or obligations directly attributable to said property and owed by the owner or previous owner thereof shall have been first fully discharged by payment, or until an arrangement satisfactory to the City Manager has been made for the payment of such debts or obligations. It shall be the Applicant's responsibility to provide evidence or proof that all taxes, assessments, debts and/or obligations have been paid.

#### **Sec. 0.03.004 to Sec. 02.03.009. RESERVED**

## ARTICLE 02.03.010 ..... AUTHORITY OF DECISION-MAKERS

### SEC. 02.03.011 ...GENERAL PROVISIONS.

(a) **Source of Authority.** Authority under this Chapter shall be vested in and delegated to the officials and decision-makers designated in Section 02.03.012, *Responsible Official Assigned*, and under the City's Charter, the Constitution and laws of the State of Texas, and the Kaufman Code of Ordinances. This authority shall be deemed supplemental to any other authority lawfully conferred upon the officials and decision-makers. The omission of a citation in this Chapter to any authority conferred upon the officials and decision-makers under the City's Charter, the Constitution or laws of the State of Texas, or the Kaufman Code of Ordinances, or the failure to identify in this Article authority conferred by other provisions of this Chapter, shall not be construed as limiting the actions of such officials and decision-makers taken in accordance with and in reliance upon such authority.

(b) **Implied Authority.** The officials and decision-makers shall have all implied authority necessary to carry out the duties and responsibilities expressly delegated by CHAPTER 212 of the TEXAS LOCAL GOVERNMENT CODE as amended, and this Chapter, to the extent that the implied authority is not in conflict with the expressly delegated authority.

(c) **Limitation on Authority.**

- (1) **City Policy.** It is the policy of the City that the standards and procedures applicable to development of property within the City limits and within the City's extraterritorial jurisdiction (ETJ) are as stated in this Chapter, notwithstanding any representation by any City official summarizing, paraphrasing, or otherwise interpreting such standards to the contrary, whether generally or as applied to development of specific property.
- (2) **Representations.** The Applicant shall not rely on any representation made by an employee of the City, a member of an appointed board or Commission, or a member of the City Council concerning the likelihood of an outcome of that official's decision or the decision of an appointed board, Commission, or City Council, on any Application that has yet to be filed or is pending before the City. An official may, however, convey information concerning that official's position on a pending Application in accordance with his role as the Responsible Official for such Application or as the City staff contact person.
- (3) **Effect of Comprehensive Plan or Development Standards on Liability Claims.** The City's approval of an Application under the standards and procedures of this Chapter does not guarantee or ensure that development of the property in accordance with the standards will prevent, minimize, or mitigate harm to adjoining property. A person who undertakes development activities shall not rely on the City's approval of an Application as ensuring that the development activities will not result in harm to adjoining property. The regulations contained in this Chapter constitute an exercise of the City's governmental authority, and approval of an Application shall not give rise to any liability on the part of the City or its officers, agents, and employees, nor will an approval release the Applicant from any liability for harm arising out of development of the property under applicable law.
- (4) **Exceptions.** Except as expressly provided for in this Chapter, no official, board or Commission of the City, or the City Council, shall have authority to waive any requirement or standard for an Application. Any attempted exception of a requirement or standard for an Application in contravention of this section shall hereby be deemed null and void, and, upon discovery, shall be grounds for revocation of a permit or approved Application.

(d) **Conflict in Authority.** If any of the provisions of this Chapter are in apparent conflict, the Director of Development Services shall, after due consideration as to the purpose and intent of each conflicting provision, make a determination as to which provision shall apply. The Director of

Development Services shall make every effort to be fair and consistent in such interpretations and their decision may beAppealed to the City Manager (see Section 02.03.016, *City Manager & Other Officials*), unless otherwise noted within.

#### **SEC. 02.03.012 ...RESPONSIBLE OFFICIAL ASSIGNED.**

- (a) **Responsible Official.** The Responsible Official shall be the Director of a designated City department who is assigned responsibility under this Chapter for taking the following actions with regard to a particular type of Application authorized under this Chapter:
  - (1) Accepting the Application for filing, and processing an Application;
  - (2) Reviewing and making recommendations concerning an Application;
  - (3) Seeking advice of other City departments, and coordinating any recommendations from such departments concerning an Application;
  - (4) Determining a request for exemption;
  - (5) Preparing reports to and advising any board, Commission or the City Council that has responsibility for making recommendations on or approving/denying an Application;
  - (6) Promulgating additional or modified policies, standards, and administrative rules for adoption by the City Council that apply to an Application;
  - (7) Initiating enforcement actions concerning compliance with the standards applicable to an Application and the conditions imposed thereon; and
  - (8) Taking all other actions necessary for administration of the provisions of this Chapter with respect to an Application, petition, approval, or Appeal.
- (b) **Delegation.** The responsible official may delegate the official authority under this Chapter to subordinate employees, who shall thereupon be deemed the responsible official for purposes of carrying out the delegated duties.

#### **SEC. 02.03.013 ...DIRECTOR OF DEVELOPMENT SERVICES.**

- (a) **Responsible Official.** The Director of Development Services is the responsible official for the following types of Applications, waivers, exceptions, and petitions:
  - (1) Review of Application and accompanying exhibits and documents;
  - (2) Compile staff report, including a staff recommendation for approval, approval with condition(s) or denial, for any type of Plat;
  - (3) Process written request for extension of a Preliminary Plat approval, as outlined in Section 02.03.034, *Preliminary Plats*;
  - (4) Time extensions for Construction Plans, as outlined in Section 02.03.041(i), *Extension of Expiration Date*;
  - (5) Appeal of a staff decision on any Application;
  - (6) Certain types of Vested Rights petition for an Application for which the Director of Development Services is the initial decision-maker, as outlined in Section 02.03.087, *Vested Rights*; and
  - (7) Certain types of Minor Exceptions (related to construction requirements), as outlined in Section 02.03.086, *Exceptions & Minor Modifications*.
- (b) **Final Decision-Maker.** The Director of Development Services is the final decision-maker for the following types of Applications (subject to any Appeal):

- (1) Conveyance Plat, as outlined in Section 02.03.032, *Conveyance Plats*;
- (2) Minor Plat, as outlined in Section 02.03.036, *Minor Plats*;
- (3) Amending Plat, as outlined in Section 02.03.038, *Amending Plats*;
- (4) Extension for a Preliminary Plat approval, as outlined in Section 02.03.034, *Preliminary Plats*;
- (5) Extension for Construction Plans approval; as outlined in Section 02.03.041(i), *Construction Plans*;
- (6) Certain types of Minor Modifications (related to construction requirements), as outlined in Section 02.03.086(d), *Modifications, Appeals & Exceptions*; and
- (7) Certain types of vested rights petitions, as outlined in Section 02.03.087, *Vested Rights*; and
- (8) Grading Permit, as outlined in Section 02.03.042, *Grading Permit*.

(c) **Appeals.** Notwithstanding the foregoing subsection, the Director of Development Services may defer its decision-making authority under this Section as outlined in Section 02.03.086(c), *Modifications, Appeals and Exceptions* to City Council. Additionally, the Developer may Appeal Minor and/or Major Modifications as outlined in Section 02.03.086(d) or (e), *Modifications, Appeals and Exceptions*.

#### **SEC. 02.03.014 ...RESERVED.**

#### **SEC. 02.03.015 ...DIRECTOR OF PUBLIC WORKS AND CITY ENGINEER.**

(a) **Responsible Official and Initial Decision-Maker.** The Director of Public Works and/or the City Engineer as applicable is the responsible official for the review and/or approval of the following types of Applications:

- (1) Construction Plans, including all engineering plans and related construction tasks, and approval of contracts for Public Improvements, including without limitation cost estimates for Public Improvement construction, as outlined in Section 02.03.041, *Construction Plans*;
- (2) Construction Releases, as outlined in Section 02.03.041(j), *Construction Plans*;
- (3) Appeal of a staff decision related to an Application for which the Director of Public Works is the responsible official;
- (4) Certain types of Minor Modifications (related to construction requirements), as outlined in Section 02.03.086(d), *Modifications, Appeals and Exceptions*;
- (5) Certain types of Vested Rights petition for an Application for which the Director of Public Works is the responsible official, as outlined in Section 02.03.087, *Vested Rights*; and
- (6) *Reviews the Parks and Open Space Master Plan*, park land dedication, and makes recommendations to the Parks and Recreation Board and implements the Board's decisions.

(b) **Final Decision-Maker.** The Director of Public Works in conjunction with the City Engineer is the final decision-maker for the following types of Applications (subject to any Appeal):

- (1) Approval of Construction Plans, including engineering plans and related construction management tasks, and approval of contracts for Public Improvements, including sufficiency of cost estimates for Public Improvements construction;
- (2) Construction Release; and
- (3) Certain types of Vested Rights petitions for an Application for which the Director of Public

Works is the initial decision-maker as outlined in Section 02.03.087 *Vested Rights*.

- (c) **Appeals.** Notwithstanding the foregoing subsection, the Director of Public Works and/or the City Engineer may defer its decision-making authority as outlined in Section 02.03.086, *Modifications, Appeals and Exceptions*. Additionally, the Developer may Appeal Minor and/or Major Modifications as outlined in Section 02.03.086(d) or (e), *Modifications, Appeals and Exceptions*.

#### **SEC. 02.03.016 ...CITY MANAGER & OTHER CITY OFFICIALS.**

- (a) **City Manager.** Any decision that cannot be resolved initially by the Director of Development Services, or the Director of Public Works and/or the City Engineer, shall beAppealed to the City Manager or his designee, who is the appellate decision-maker for any Appeal for which the Director of Development Services, or the Director of Public Works and/or the City Engineer is responsible. A decision of the City Manager may beAppealed as outlined in Section 02.03.086, *Modifications, Appeals and Exceptions*.
- (b) **Fire Chief.** No provision contained in this Chapter shall be deemed or interpreted as a limitation on the Fire Chief's exclusive authority as set forth in the International Fire Code, especially as the decision relates to health and safety issues.
- (c) **Other City Officials.** The City Attorney and any other official delegated responsibilities under this Chapter or other provisions of the Code of Ordinances are authorized to take all actions necessary to carry out their responsibilities in accordance with the requirements and limitations prescribed herein.

#### **SEC. 02.03.017 ...PARKS AND RECREATION BOARD.**

- (a) **Organization, Powers, & Duties.** The Parks and Recreation Board (also referred to as the "Board") shall hold meetings and have the powers and duties as provided for in the Code of Ordinances of the City (Code of Ordinances, Chapter 10, Division 2 *Streets, Parks and Other Public Ways and Place, Parks, and Recreation*, as amended), and as authorized by CHAPTER 211 AND 212 OF THE TEXAS LOCAL GOVERNMENT CODE. Such powers and duties shall include exercising all the authority and control conferred by law relating to Platting.
- (b) **Staff Liaison.** The Director of Public Works shall act as the staff liaison to the Parks and Recreation Board and shall abide by the City's usual record-keeping and retention policies for boards and commissions, as amended, in maintaining records of the Parks and Recreation Board's meetings and actions.
- (c) **Authority to Recommend Park Land Dedications and Fees.** The Parks and Recreation Board is the recommending body and shall have the authority to make a recommendation to the City Council regarding park land dedications, the development of park facilities, and fees in lieu of park land dedications & improvements:
  - (1) Dedication of Land for Park Use;
  - (2) Dedication of Open Space in Lieu of Park Land Dedication;
  - (3) Fee in Lieu of Park Land Dedication;
  - (4) Residential Park Development Fees;
  - (5) Open Space Development Fees; or
  - (6) Construction of Park Improvements in Lieu of Park Development Fee;
- (d) **Authority to Recommend Prior Dedication or Absence of Prior Dedication.** Depending on circumstances, additional proportionate dedication (or fees in lieu) may be required for the

increase in dwelling units from what was originally proposed and may be either land dedication or money in lieu of land or development. At the discretion of the City Council, any former gift of land or cash to the City may be credited towards eventual land dedication or development requirement imposed on the Developer. The Parks and Recreation Board shall make recommendations to City Council in exercising its discretion under this section.

**SEC. 02.03.018 ...PLANNING & ZONING COMMISSION.**

- (a) **Organization, Powers, & Duties.** The Planning & Zoning Commission (also referred to as the "Commission") shall hold meetings and have the powers and duties as provided for in the Code of Ordinances of the City (Code of Ordinances, Chapter 118, *Zoning*, as amended), and as authorized by CHAPTER 211 AND 212 OF THE TEXAS LOCAL GOVERNMENT CODE. Such powers and duties shall include exercising all the authority and control conferred by law relating to Platting.
- (b) **Staff Liaison.** The Director of Development Services shall act as the staff liaison to the Commission and shall abide by the City's usual record-keeping and retention policies for boards and commissions, as amended, in maintaining records of the Planning & Zoning Commission's meetings and actions.
- (c) **Authority to Recommend Applications.** The Commission is the recommending body and shall have the authority to make a recommendation to the City Council on the following types of Applications:
  - (1) Preliminary Plats;
  - (2) Land Studies;
  - (3) Final Plats;
  - (4) Replats (at a public hearing);
  - (5) Development Plats;
  - (6) All other types of Plats, with the exception of Conveyance Plats, Minor Plats and Amending Plats (which may be approved by the Director of Development Services, unless deferred to the Commission); and
- (d) **Authority to Recommend Major Modifications/Exceptions.** The Commission is the recommending body and shall have the authority to make a recommendation to the City Council on the following exceptions:
  - (1) Any Major Modification/Exception petition on an Application for a Land Study, Preliminary Plat, Final Plat, Replat, or Development Plat;
  - (2) Any Conveyance Plat, Minor Plat, or Amended Plat that is deferred by the Director of Development Services, as outlined in Section 02.03.032(i), *Deferral of Decision on Conveyance Plat Application*, Section 02.03.036(i), *Deferral of Decision on Minor Plat Application*, or Section 02.03.038(j), *Deferral of Decision on Amending Plat Application*, as applicable;
  - (3) Any other requirement so authorized by this Ordinance.
- (e) **Authority to Approve or Deny Requests to Extend the Review of Plat Applications.** The Commission is the final authority to act on the following types of requests:  
Written requests made by the Developer fifteen (15) calendar days prior to the Commission's meeting date for a thirty (30) calendar day extension for further review, and consideration of proposed plat Applications.

**SEC. 02.03.019 CITY COUNCIL.**

(a) **Authority for Deciding Applications.** The City Council shall have the final authority to act on the following types of Applications:

- (1) Preliminary Plats;
- (2) Land Studies;
- (3) Final Plats;
- (4) Replats (at a public hearing);
- (5) Development Plats;
- (6) All other type of Plats, with the exception of Conveyance Plats, Minor Plats and Amending Plats (which may be approved by the Director of Development Services, unless deferred to the Planning & Zoning Commission); and
- (7) Written requests made by the Developer fifteen (15) calendar days prior to the Commission's meeting date for a thirty (30) calendar day extension for further review, consideration of proposed plat Applications.

(b) **Authority for Deciding Appeals.** The City Council shall hear and decide Appeals from final decision-makers (Director of Development Services, Director of Public Works and/or the City Engineer, and City Manager) who:

- (1) Deferred its decision-making authority as outlined in Section 02.03.013(c) *Appeals*, and Section 02.03.015(c), *Appeals* ;
- (2) Received a petition from the Developer Appealing for relief from a final decision that could not be resolved by City staff, relative to Section 02.03.013(b), *Final Decision-Maker*, Section 02.03.015(b), *Final Decision-Maker*, and Section 02.03.016(a) *City Manager*.

(c) **Authority for Deciding Major Modifications/Exceptions.** City Council shall hear and decide the following Major Modifications/Exceptions after receiving a recommendation from the Planning & Zoning Commission:

- (1) Any Major Modification/Exception petition on an Application for a Preliminary Plat, Land Study, Final Plat, Replat, or Development Plat;
- (2) Any Conveyance Plat, Minor Plat, or Amended Plat that is deferred by the Director of Development Services, as outlined in Section 02.03.032(i), *Deferral of Decision on Conveyance Plat Application*, Section 02.03.036(i), *Deferral of Decision on Minor Plat Application*, or Section 02.03.038(j), *Deferral of Decision on Amending Plat Application*, as applicable;
- (3) Any Minor Modification Petition, as outlined in Section 02.03.086(d), *Modifications, Appeals and Exceptions* after the final Appeal decision of the City Manager on an Application for a Plat or for Construction Plans.
- (4) Any Major Modification/Exception Petition as outlined in Section 02.03.086(e), *Modifications, Appeals, and Exceptions* on an Application for Construction Plans;
- (5) Any other requirement so authorized by this Chapter.

**SEC. 02.03.020 ...RESERVED.**

## ARTICLE 02.03.020 SUBMITTAL PROCESS

### SEC. 02.03.021 ...PRE-SUBMITTAL OR PRE-DEVELOPMENT MEETING (DEVELOPMENT REVIEW COMMITTEE MEETING).

- (a) **Development Review Committee Meeting – Pre-Application Submittal.** Prior to the submission of an Application for development, including without limitation Plats, Construction Plans, Development Agreements, Annexation Applications, Zoning Applications, Site Plan Applications, and commercial building permit plans, for review and consideration, Applicants are required to contact the Development Services staff to schedule a Development Review Committee (DRC) Meeting. The Development Services Director, at his discretion, may waive the DRC meeting requirement when determined unnecessary due to the size of the development, the adequacy of existing available infrastructure, Staff's familiarity with the property and/or project and prior conversations with the Applicant, and/or other development issues.
- (b) **Members of DRC.** Members of the DRC are made up of representatives from the departments that have direct communication with all aspects of the development process, including but not limited to Development Services (including the Planning & Building Safety Divisions), the City Manager's Office, the City Engineer, Fire, and Public Works. The Economic Development Corporation, the Police Department, the Finance Department, the City Attorney, the City's financial consultant(s), and partner agencies (i.e. County, ISD, TxDOT, utility service providers, etc.) may also be included on an as-needed basis.
- (c) **Meeting Request.** To schedule a DRC Meeting, the Applicant shall request a DRC Meeting with the Development Services staff using the official pre-development meeting application form, and such request shall describe the type of development desired and/or the type of Application intended for submittal, along with an initial concept plan. The Applicant shall then be notified by the Development Services staff of the time and place for the requested meeting.
- (d) **Vested Rights.** The purpose of the DRC meeting is to have a general discussion regarding applicable City requirements in order to alert the Applicant to the ordinances, requirements, procedures, timeframes, and development applications that apply to a potential project, as well as any site-specific circumstances or challenges associated with a particular property or project proposal. Neither the holding of a DRC meeting nor review of documents at a DRC meeting under this section should be construed as the filing of an Application for permit or plan for development. Therefore, there shall be no vested rights conveyed based upon attendance at, or submission of documents at, a DRC Meeting.
- (e) **Effect.** Following the DRC Meeting, the Applicant may proceed with the submittal of the appropriate Application(s), for development.

### SEC. 02.03.022 ...APPLICATION CONTENTS.

- (a) **Application Contents Generally.** All Applications shall be submitted on the City-designated Application form approved by the Development Services Director and shall include all required information and exhibits as stated on the Application form, and the City's adopted Table 02.0.113, *Required Plat Features* in order to be considered complete. An incomplete Application shall not be deemed filed for purposes of determining vested rights and is subject to expiration in accordance with CHAPTER 245 of the TEXAS LOCAL GOVERNMENT CODE, as amended, or other applicable law.
- (b) **Application Timing/Completeness.**
  - (1) Application Timing. The date and timeframe for submittal of all Applications will be established at the discretion of the Director of Development Services.
  - (2) Complete Application. In accordance with CHAPTER 245 of the TEXAS LOCAL

GOVERNMENT CODE (TLGC), as amended, and other applicable law, a permit Application filed with the City shall expire on or after the forty-fifth (45<sup>th</sup>) day after the date the Application is filed if:

- i. The Applicant fails to provide documents or other information necessary to comply with the technical requirements relating to and conforming with the form and content of the City's permit Application; and
- ii. On or before the tenth (10<sup>th</sup>) business day after the date the Application is filed, the City provides the Applicant with written notice of the failure the Applicant to comply with the requirements of subparagraph (i), and the written notice specifies the necessary documents or other information and the date the Application will expire if the documents or other information is not provided, and
- iii. The Applicant fails to provide the specified documents or other information within the time provided in the notice

(c) **Fees Required.** Every Application shall be accompanied by the prescribed fees set forth in the City's approved Fee Schedule, as approved by City Council and as may be amended from time to time. Fees are not refundable and are not a guarantee of approval. Review of the Application will not begin until the appropriate fees have been received from the Applicant and processed by the City.

#### **SEC. 02.03.023 ... DEVELOPMENT APPLICATION SUBMITTAL PROCESS.**

- (a) **Initiation by Owner.** An Application required under this Chapter shall be initiated only by the owner(s) of the land subject to the Application, or by the owner's duly authorized representative(s). If the Applicant is a representative of the property owner, the Application shall include a written notarized statement from the owner, authorizing the representative to file the Application on the owner's behalf or such additional documentation that the City determines necessary to verify the owner's authorization.
- (b) **Applicability.** The procedures within this Chapter shall apply to all Applications that are required by the City and submitted in accordance with this Chapter.
- (c) **Official Filing Date.** The submission date established by the City upon which a Plat Application is filed in accordance with this Chapter shall be the "official filing date" for purposes of determining the time frame within which the city is required to act upon a Plat to approve, approve with conditions, or deny.
- (d) **Owners Dedication Language.** Refer to the Plat checklist for the appropriate owner dedication language which shall be included on the Plat and all other appropriate Plat signature block wording and form.
- (e) **Land Study Checklist.** A Land Study checklist containing the required features for a Land Study Exhibit in conjunction with specific associative Plats as described in Section 02.03.033 *Land Study Procedures and Requirements* is included in Table 02.03.0112 *Required Land Study Features*, attached hereto, and incorporated herein.
- (f) **Plat Checklist.** A Plat checklist containing the required features for each type of Plat Application is included in Table 02.03.113 *Required Plat Features*, attached hereto, and incorporated herein. In addition to any other requirements of this Chapter or other applicable ordinance, all Plats shall include the required items listed for each Plat type in the Plat check list.

#### **SEC. 02.03.024 ... DEVELOPMENT APPLICATION REVIEW AND ASSESSMENT.**

- (a) **Action by Responsible Official.** After the submission of a development Application regulated by this Chapter, the Responsible Official for an Application shall initiate internal (i.e., by City departments)

review and assessment of the Application according to the City's development review procedures. The Responsible Official shall also, to the extent possible, work with the Applicant by advising on and communicating revisions that shall be necessary to bring the Application into compliance with City regulations in preparation for consideration by the appropriate decision-maker.

(b) **Rewvisions to Exhibits.** The Responsible Official shall enumerate to the Applicant such revisions to the exhibits as are necessary to bring the exhibits into compliance with this Chapter. Such revisions shall be made by the Applicant or his agent in a timely fashion as directed by the Responsible Official and prior to any stated deadline necessary to allow for the review of the revised exhibits and for the inclusion of the revised exhibits in the agenda packet for the recommending or approving body.

#### **SEC.02.03.025 ....DEVELOPMENT APPLICATION APPROVAL**

(a) **Decision.** The decision-maker for the Application as identified in this Chapter shall approve, approve with conditions, or deny the Application within the time period prescribed by this Chapter.

(b) **Conditions Attached.** The decision-maker shall attach such conditions to the approval of an Application as are reasonably necessary to ensure compliance with all applicable requirements of this Chapter. These conditions of approval shall be completed prior to the Plat being filed for record in Kaufman County.

(c) **Notification of Decision – Conditional Approval or Disapproval.** When the Commission or the City Council conditionally approves or disapproves a plan or Plat under this Chapter, the Director of Development Services shall provide the Applicant a written statement of the conditions for the conditional approval or reasons for disapproval articulating each specific condition for the conditional approval or reasons for disapproval. Such notice shall include conditions or reasons directly related to the requirements upon which the conditional approval or disapproval relate and include a citation to the applicable federal, state, or local ordinance or regulation that is the basis for the conditional approval or disapproval.

#### **SEC. 02.03.026 ...AMENDMENTS /REVISIONS OF APPROVED APPLICATIONS.**

(a) **Amendments/Revisions to an Approved Application.** Unless another method is expressly provided by this Chapter, any request to amend or revise an approved Application shall be considered a new Application, which must be considered in accordance with the procedures governing the original Application and the standards in effect at the time such new Application is filed with the City.

#### **SEC. 02.03.027 ..... EXPIRATION OF CURRENT DEVELOPMENT APPLICATIONS.**

(a) **Expiration of Preliminary Plats and Construction Plans.**

(1) Unless otherwise expressly provided by this Chapter, an approved Application for a Preliminary Plat or Construction Plans shall automatically expire one (1) year following the approval date of the Application (see Section 02.03.041(h), *Expiration of Construction Plans*), and shall become null and void, and all activities under the Application thereafter shall be deemed in violation of this Chapter, if:

- i. The Applicant fails to satisfy any condition that was imposed by this Chapter or as part of the approval of the Application or that was made under the terms of any Development or Facilities Agreement, within the time limits established for satisfaction of such condition or term; or
- ii. The Applicant fails to submit a subsequent complete Application required by this Chapter within the time so required; or
- iii. A Facilities Agreement has not been approved for the development.

- (2) The Director of Development Services may extend the time of expiration for the Preliminary Plat or Construction Plans by one (1) year if the Applicant has requested the extension in writing and listed the cause for the delay. Any further extension of the expiration date shall be considered by the City Council and the Council's decision shall be final.
- (3) If no time limit for satisfaction of conditions is specified in the decision on the Application, the time shall be presumed to be two (2) years following the date the Application was approved, except as provided through a vested rights petition.
- (4) An expiration date may differ from the first anniversary of approval upon approval of a different date being determined pursuant to a vested rights petition as outlined in Section 02.03.087, *Vested Rights*.

(b) **Effect of Preliminary Plat and Construction Plan Expiration.** Upon the expiration of an approved Preliminary Plat or Construction Plan Applications, all previously approved Applications for the same land shall also expire on the expiration date if the filing of a Development Application was required to avoid expiration for the previously approved Application(s), except as provided in Section 02.03.028, *Expiration of Development Applications Approved Prior to the Establishment of this Subdivision Ordinance*. Thereafter, a new Application must be submitted for consideration and approval subject to regulations in effect at the time the new Application is filed.

**SEC. 02.03.028 ...EXPIRATION OF DEVELOPMENT APPLICATIONS APPROVED PRIOR TO THE ESTABLISHMENT OF THIS SUBDIVISION ORDINANCE.**

- (a) **Two-Year Expiration Established.** Notwithstanding any other provision of this Chapter, for any approved Development Application for which no expiration date was in effect on the date this Chapter was duly adopted by City Council, an expiration date of two (2) years following the date of approval of the Application shall apply, unless the Applicant files a written petition before such date for a vested rights determination pursuant to Section 02.03.087, *Vested Rights*, alleging that progress has been made toward completion of the project for which the Application subject to expiration was filed. If a vested rights petition is timely filed and subsequently approved, the City Council shall determine the expiration date of the Application in deciding the petition.
- (b) **Five-Year Expiration Established.** Notwithstanding any other provision of this Chapter, once a Development Application has expired as described above, all previously approved Applications for the same land also shall expire no later than five (5) years following the date of filing of the first Application for the project for which the expired Application was filed, unless the Applicant files a written petition before such date for a vested rights determination pursuant to Section 02.03.087, *Vested Rights*. If a vested rights petition is timely filed and subsequently approved, the City Council shall determine the expiration date of the previously approved Applications in deciding the petition.

**SEC. 02.03.029 .....RESERVED.**

## ARTICLE 02.03.030 ..... SUBDIVISION PROCEDURES AND PLAT TYPES

### SEC. 02.03.031 ...SUBDIVISION PROCEDURES & PLAT TYPES.

#### (a) Approval Required.

- (1) Unless and until any Plat, Construction Plan, or Replat shall have been first approved in the manner provided by law, it shall be unlawful for any person, firm, corporation, or organization to construct or cause to be constructed any streets, utilities, buildings, or other improvements to any tract of land within the City limits or the ETJ; and any official of the City shall not issue any permit for such improvements or to serve or connect said land, or any part thereof, or for the use of the owners, or purchasers of said land, or any part thereof, with any public utilities such as water, wastewater, lights, gas, etc., which may be owned, controlled, distributed, franchised, or supplied by the City.
- (2) Where the land to be Platted lies within the ETJ of the City, pursuant to the existing or amended interlocal agreement with Kaufman County under State law, a complete Application shall be submitted to the City.
- (3) No building permits will be issued for the construction of any building on any unplatte land within the City. Minor repair permits may be issued for an existing structure. When additions, alterations, or repairs increase the lot coverage or reduce the distance of structures from surrounding property lines on previously unplatte property, the land upon which such building or structure is located shall be Platted in accordance with the provisions of this Chapter.

#### (b) Improvements Required.

- (1) Responsibility for Improvements. All the improvements required under these regulations, or improvements specified in the *Comprehensive Plan* and other adopted plans of the City, or improvements which, in the judgment of the Director of Public Works and/or the City Engineer, are necessary for the adequate provision of streets, utilities, drainage, services, and facilities to the subdivision and to the surrounding areas of the City, shall be constructed at the sole expense of the Developer, unless otherwise provided for and approved by City Council. All improvements required by this ordinance shall be constructed after the Plat is filed for record with the Kaufman County Clerk's office. All the improvements required by this ordinance shall be constructed and recommended for approval by the Director of Public Works and/or the City Engineer prior to acceptance by City Council, unless otherwise specified in a binding contractual Facilities and/or Development Agreement approved by City Council. Payment for any and all improvements that are not to be made at the time of the primary construction of the subdivision or development shall be made a part of the signed and executed Facilities and/or Development Agreement.
- (2) Plats Prior to Development. Plats shall not be used as a mechanism to establish boundaries without the dedication of required infrastructure, such as public utility Easements, drainage Easements, Right-of-Way dedication, and any other requirement of this Chapter. Platting of property is reserved for those properties that are anticipating immediate development, with the exception of Conveyance Plats.

#### (c) Types of Plats Required. The following Plat types shall be required for subdivision or development as specified in Section 02.03.001, *Authority, Purpose & Applicability* or as otherwise specified in this Chapter.

- (1) Final Plat or a Minor Plat. A Final Plat, or Minor Plat, shall be approved prior to commencement of any new development or construction project and in accordance with Section 02.03.035, *Final Plats* or Section 02.03.036, *Minor Plats*.

- (2) Preliminary Plat. A Preliminary Plat shall be required prior to Final Plat as outlined in Section 02.03.034, *Preliminary Plats*.
- (3) Conveyance Plat. A Conveyance Plat may be approved but no vertical construction shall occur as outlined in Section 02.03.032, *Conveyance Plats*, until an associated Final Plat or Minor Plat is approved.
- (4) Development Plat. A Development Plat shall be approved prior to any land subdivision that is subject to these regulations including new development on an existing unplatted parcel prior to commencement of any new development or construction project as outlined in Section 02.03.039 *Development Plats* (see the definition of Plat, Development in Section 02.03.0100 for more details).
- (5) Replat. A Replat in accordance with State Law and the provisions of Section 02.03.037, *Replats*, shall be required any time a Platted, recorded lot is further divided, combined, or expanded, thereby changing the boundary and dimensions of the property.
- (6) Amending Plats. In the case of minor revisions to recorded Plats or lots, an Amending Plat may be utilized if allowed by State Law and if in accordance with Section 02.03.037, *Replats*, and 02.03.038, *Amending Plats*, respectively.
- (7) Plat Vacations. In the case where a recorded Plat may need to be nullified in its entirety by the property owner, all lot owners, or by City initiation if deemed necessary to protect the health, safety, and welfare of the public, or as otherwise allowed by State law and if in accordance with Section 02.03.0391, *Plat Vacation*.
- (8) Right-of-Way Vacation, Abandonment and Relinquishment Plat. In the case where vehicular circulation needs and traffic patterns change, Right-of-Way previously dedicated to or acquired by the City may no longer be necessary and can be vacated if allowed by State Law and if in accordance with Section 02.03.392, *Right-of-Way Vacation, Abandonment and Relinquishment Plat*.

(d) **Exemptions.** The Platting provisions of this Chapter shall not apply to:

- (1) Existing cemeteries complying with all State and local laws and regulations; or
- (2) New cemeteries or expansion of existing cemeteries; or
- (3) Development of a lot of record for which a legally approved and recorded Plat was filed of record in the Plat Records of Kaufman County, Texas prior to April 22, 2024; or
- (4) Sale, inheritance, or gift of land by metes and bounds of tracts upon which no improvements, subdivision, or alteration is occurring; or
- (5) A division of land created by order of a court of competent jurisdiction, provided however, that prior to construction of improvements, a Plat meeting the requirements of this Ordinance shall be approved and recorded prior to the issuance of permits; or
- (6) When a building permit is requested for unplatted, or already Platted parcels for the following activities:
  - i. Replacement or reconstruction of an existing primary single-family or duplex structure, but not to exceed the square footage of the original structure; or
  - ii. Single-family residential additions (i.e.; increasing square footage of structure) of not over twenty percent (20%) of the gross floor area; or
  - iii. Single-family residential accessory buildings; or
  - iv. Remodeling or repair (i.e., no expansion of square footage); or
  - v. Moving a structure off of a lot or parcel, or for demolition permits.

(e) **Zoning.** A property within the City's corporate limits that is being proposed for Platting or

development must be properly zoned by the City prior to submission of an Application for approval of any concept plan or Plat. In addition, the proposed development layout or subdivision design shown on the proposed concept plan, where required, and/or Plat must be in conformance with all standards and requirements prescribed in the City's *Zoning Ordinance* and this Chapter.

- (1) Conformance with Existing Zoning. All Applications shall be in conformance with the existing zoning on the property, as applicable.
- (2) Request to Rezone Prior to Platting. If an Applicant seeks to change the zoning for the property, the request to rezone the land shall be submitted and approved prior to acceptance of an Application for any type of Plat for recordation unless as otherwise provided below:
  - i. It is not necessary to rezone the tract prior to the submittal and approval of a Conveyance Plat which is exclusively for the purpose of the sale of land and not as a precursor to development; or
  - ii. It is not necessary to zone or rezone the tract prior to the submittal and approval of any Plat within the City's ETJ, since the ETJ is not subject to the *Zoning Ordinance*.

(f) **Stages of Plat Approval, Staff Review, & Approval.**

- (1) Preliminary and Final Plats. The process of Platting land not previously Platted typically involves two approval stages: submission and approval of a Preliminary Plat (and a Land Study as may be required by Section 02.03.033, *Land Study Requirements*) or Conveyance Plat (under certain circumstances); and subsequent submission and approval of an associated Final Plat. However:
  - i. An Applicant may proceed with the Final Plat process without an approved Conveyance Plat or Preliminary Plat if one of the following conditions apply:
    - a. A Minor Plat is sufficient for submittal; or
    - b. The tract in question is less than two acres in size; or
    - c. The property will be entirely developed in one phase.
  - ii. After approval of Construction Plans for a development described above in subsection 02.03.031(f)(i)(a=, b, and c), an Applicant may submit a Final Plat (or Minor Plat) in lieu of a Preliminary Plat, if a Facilities Agreement and appropriate surety (see Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements*) are submitted along with the Application as required by the City.
- (2) Staff Review. Unless otherwise specified under the regulations for a specific type of Plat:
  - i. The Director of Development Services shall be the responsible official for processing a Plat and shall be responsible for the initial review of a Plat for conformance with this Chapter and any other applicable ordinances of the City;
  - ii. The Director of Development Services shall direct the City Engineer and other City departments as deemed necessary, to review all Applications for conformance with this Chapter and with other applicable City regulations and supply to the Applicant a list of revisions necessary for compliance with this Chapter and other applicable City regulations, if warranted;
  - iii. Determine whether the Plat substantially conforms to an associated Conveyance Plat, Preliminary Plat, or other applicable Land Study and/or concept plan associated with any approved Planned Development District, Facilities Agreement and/or Development Agreement;
  - iv. The Director of Development Services shall provide and make available the Plat exhibit and reports to the Commission and Council for review;
  - v. Schedule the Plat for consideration on the agenda of the next available meeting of the Commission and Council; and
  - vi. Make a recommendation to the Commission and Council to approve, approve with

conditions, or deny the Plat (with reasons for the denial and citations to the particular regulations noted)

vii. Record Plats at the Kaufman County Clerk's office upon approval by the Responsible Official and after all signatures have been obtained, all recording fees have been paid, and all other requirements are met.

(3) **Approval.** Authority for the approval of Plats is granted by the State to the City Council with recommendation from the Planning & Zoning Commission.

(4) **Signatures Required on Filed Plats.** When any Plat is prepared for filing with Kaufman County, each copy to be certified by the County shall be signed by both the Mayor, the Planning and Zoning Commission Chairperson for Preliminary, Final, Development Plats, Replats, Vacation Plats and Right-of-Way Vacation Plat. The City Manager or designee shall sign Conveyance, Minor and Amending Plats approved administratively. All signatures shall be attested by the City Secretary.

(5) **Building Permit.** All conditions of Plat approval shall be satisfied; all public land, rights-of-way, or easements shall be dedicated; and all Public Improvements shall be completed and installed in accordance with City's specifications and accepted by City prior to the issuance of a building permit unless otherwise approved as part of a Facilities or Development Agreement.

### **SEC.02.03.032 ....CONVEYANCE PLATS**

(a) **Purpose.** There are several purposes of a Conveyance Plat:

- (1) To subdivide land and to provide for recordation of same, for the purpose of conveying (i.e., selling) the property without developing. A Conveyance Plat may be used to convey the property or interests therein; however, a Conveyance Plat does not constitute approval for any type of development on the property. A Conveyance Plat is an interim step in the subdivision and development of land.
- (2) To record a tract that is not intended for immediate development.
- (3) To record the subdivision of property into parcels, five (5) acres or smaller in size, that are not intended for immediate development.

(b) **Exemptions.**

- (1) A Conveyance Plat is not required when the following conditions apply:
  - i. The subdivision of the property into parcels greater than five (5) acres, that are not intended for immediate development.

(c) **Subsequent Filing of a Final Plat.** No Final Plat processed and approved in association with a Conveyance Plat shall be filed without the concurrent or prior filing of the associated approved Conveyance Plat for the remainder of the subject property.

(d) **Conveyance Plat Limitations.**

- (1) A Conveyance Plat may be used within the corporate city limits to add to an existing tract that cannot meet the minimum lot requirement, but it shall not create a future lot that will not meet the minimum lot size.
- (2) No building or development permit shall be issued, nor permanent utility service provided for land that has only received approval as a Conveyance Plat. A Final Plat, Minor Plat or Development Plat must be filed prior to issuance of a building permit and for permanent utility service.
- (3) No utility service shall be provided for lots conveyed in the City's ETJ that has only received approval as a Conveyance Plat. A Final Plat, Minor Plat or Development Plat shall be filed

prior to permanent utility service.

- (4) A Conveyance Plat may be superseded by a revised Conveyance Plat or a Final Plat in total or in part through compliance with the procedures and requirements of this Ordinance for approval of a Final Plat.

- (5) A Conveyance Plat shall not take the place of a Preliminary Plat.

(e) **Accompanying Applications.**

- (1) The Applicant shall furnish as part of the Conveyance Plat acceptable proof of ownership, identifying all persons having an ownership interest in the property that is the subject of the Conveyance Plat;
- (2) The Conveyance Plat Application shall be signed by each owner, or by the representative of the owners authorized to sign legal documents for the owners, effectively denoting that they are consenting to the Platting of the property and to the dedications, reservations, and covenants that may be contained in the Conveyance Plat. Such consent shall be subject to review and approval by the City Attorney, and the Applicant shall provide documentation requested by the City for use in determining legal ownership of the property, and shall reimburse the City for all related legal costs for review. This reimbursement shall be paid in full as a condition of approval, if applicable;
- (3) The Director of Development Services, the Director of Public Works and/or the City Engineer may require the submission of additional documents as set forth on the City's adopted Table 02.03.113, *Required Plat Features*;
- (4) Specific feature requirements for the Conveyance Plat exhibit are outlined in Table 02.03.113, *Required Plat Features*; and
- (5) The Conveyance Plat and all accompanying data shall conform to all conditions imposed or required at time of approval, and/or per any previously approved concept plan, an associated Facilities and/or Development Agreement, and/or a Planned Development district.

(f) **Standards for Approval.** The following criteria shall be used by staff to determine whether the Application of a Conveyance Plat shall be recommended for approval, approval with conditions, or denial:

- (1) All documentation required as outlined above in Section 02.03.032(e) Accompanying Applications;
- (2) The Conveyance Plat meets all applicable County standards to be applied under an interlocal agreement between the City and Kaufman County under State law, where the proposed Plat is located in whole or in part in the ETJ of the City and in the County;
- (3) The Applicant has provided to the City original, stamped tax certificate(s) from the Kaufman County Tax Assessor indicating that all taxes, assessments, debts and/or obligations from each taxing entity have been paid for the current year for all properties included in the Plat;
- (4) The Conveyance Plat is consistent with the *Comprehensive Plan*, and any other approved plan or regulation, except where Application of the *Plan* may conflict with State law (e.g., land use in the ETJ);
- (5) All lots located within the corporate city limits shall meet the minimum requirements for the district in which the lot is located in addition to other applicable provisions of the City's *Zoning Ordinance*, including all applicable Planned Development zoning standards;
- (6) The Plat shall comply with all requirements contained within an approved Facilities Agreement and/or Development Agreement, as applicable;

- (7) **Frontage.** All lots created by a Conveyance Plat shall front onto a public street meeting the requirements of this Chapter and the *Thoroughfare Plan*, and the construction of a new street or the extension of an existing street or Alley is not required. All lots created by a Conveyance Plat located within the City's ETJ and all lots fronting on a County-maintained roadway shall meet the County's minimum lot frontage requirements;
- (8) **Access.** All lots created by a Conveyance Plat shall have Access to an improved public street that meets the City's minimum design and paving standards applicable thereto. All lots created by a Conveyance Plat shall provide points of Access as required by the *Zoning Ordinance* and/or by this Chapter, including without limitation driveway standards. Notwithstanding the foregoing, in the event of a conflict between the Access requirements set forth herein and those set forth in the regulations of Planned Development District, the regulations of the Planned Development District shall control. All lots created by a Conveyance Plat in the City's ETJ or fronting on a County-maintained roadway shall provide points of Access as required by the County's Fire Marshal and/or County Engineer;
- (9) **Reservation of Rights-of-Way.** Conveyance Plats must provide for the reservation of future Rights- of-Way of planned roadways, in accordance with the *Thoroughfare Plan* and State law. Right-of-Way reservation provides the property owner's acknowledgement of and notice to future property owners of the future intended use of such reserved land for Right-of-Way for public thoroughfares and streets specified on Kaufman County's and/or the City's *Thoroughfare Plan* or other type of mobility or transportation plan approved by City Council. The requirement for reservation and dedication shall be included in a Plat note and shall be determined in accordance with the *Thoroughfare Plan* as allowed by law. Reservation of Right-of-Way does not grant any right or interest in the property to the City, State, or other government entity. The final alignment of such roadways shall be adjusted upon Final Platting in order to meet the standards of the *Standards of Design and Construction* and to comply with the City's and/or County's *Thoroughfare Plan* in effect at the time of Final Platting. A Plat note reflecting compliance with the requirements of this section shall be included on each Conveyance Plat;
- (10) **Dedication of Rights-of-Way.** Dedication of Right-of-Way shall be required where a Conveyance Plat is used to record the remainder of a tract created by the Final Platting of a portion of that property. The required Right-of-Way dedication shall be limited to that which is necessary to provide Access to the property proposed for the Final Plat approval and to complete turn lanes, intersections, and transitions in road pavement width resulting from development of the property proposed for the Final Plat approval in the amount and quantity determined to be roughly proportional to the impact of the development (see Section 02.03.088, *Rough Proportionality*, for more information). The Director of Public Works, and/or the City Engineer, or Fire Marshal may require a temporary paved turn-around if a street is stubbed pending future construction;
- (11) Compliance with specific feature requirements for the Conveyance Plat exhibit as outlined in Table 02.03.113, *Required Plat Features*; and
- (12) The proposed Conveyance Plat does not endanger public health, safety, or welfare.

(g) **Action by Staff.**

- (1) Initiate review of the Conveyance Plat and materials and/or documents outlined in Section 02.03.033(e), *Accompanying Applications* submitted along with any other plans necessary for review by the Director of Development Services, the Director of Public Works and/or the City Engineer as set forth on the City's adopted Table 02.03.113, *Required Plat Features*;
- (2) Prepare written review comments statute and request comments also be provided from the

City Engineer and other City departments, as deemed necessary, which will be submitted to the Applicant for compliance and revisions; Process the review of subsequent resubmittals to ensure all review comments have been addressed to ensure compliance with the applicable regulations;

- (3) Determine whether the Conveyance Plat substantially conforms to the requirements of this Chapter, the zoning requirements (as applicable), the requirements of Kaufman County (as applicable), any approved concept plan,, and any associated Facilities Agreement and/or Development Agreement;
- (4) Determine that the requirements of submission have been met and accept the Conveyance Plat; and
- (5) Approval of a Conveyance Plat is outlined below in Section 02.03.033(i) Approval of Conveyance Plat.

(h) **Action by Director of Development Services.** The Director of Development Services shall:

- (1) Determine that the requirements of submission have been met and, if so, accept the Conveyance Plat, which shall begin the thirty (30) calendar day process;
- (2) The Director of Development Services is authorized to take one of the following actions:
  - i. Approve the Conveyance Plat and submit to appropriate City officials for signatures;
  - ii. Approve the Conveyance Plat with conditions, which shall mean that the Conveyance Plat shall be considered to have been approved once such conditions are fulfilled; or
  - iii. Defer the Conveyance Plat to the Commission for consideration and recommendation to Council prior to the expiration of the required thirty (30) day approval period.

(i) **Approval of Conveyance Plats.** The Director of Development Services is authorized to approve, approve with conditions, or disapprove Conveyance Plats. However, the Director of Development Services may defer the decision of any Conveyance Plat for any reason to the Commission and Council in accordance subsection 02.03.032(j), *Deferral on Conveyance Plat Application*. Conveyance Plats may be approved on the Consent Agenda.

(j) **Deferral of Decision on Conveyance Plat Application.** The Director of Development Services may defer the Conveyance Plat Application to the Commission for consideration and recommendation to Council.

- (1) Planning and Zoning Commission.
  - i. Consider the Conveyance Plat Application, the findings and recommendation of staff, and any other information available. From all such information, the Commission shall determine whether the Conveyance Plat conforms to the regulations of this Chapter;
  - ii. Act within thirty (30) calendar days following the official submittal date of the Conveyance Plat Application in accordance with State law;
  - iii. The Commission shall, upon simple majority vote, make a recommendation for one of the following actions:
    - a. Recommend for approval the Conveyance Plat;
    - b. Recommend for approval the Conveyance Plat with conditions (including a citation to ordinance, statute, or regulations that is the basis for the conditions), which shall mean that the Conveyance Plat shall be considered to have been approved once such conditions are determined by the City to be fulfilled; or
    - c. Recommend for denial the Conveyance Plat with reasons for denial (including a citation to ordinance, statute, or regulation that is the basis for the denial);
    - d. Approve or deny an extension of consideration of the Conveyance Plat upon

receipt of a written request by the Plat Applicant for a thirty (30) day extension when received fifteen (15) days prior to the meeting date.

(2) **Council Decision.** The decision of the Council is final.

- i. The recommendation of the Commission shall be submitted to the City Council for consideration and decision. The Council shall, upon simple majority vote, take one of the following actions:
  - a. Approve the Conveyance Plat;
  - b. Approve the Conveyance Plat with conditions (including a citation to ordinance, statute, or regulations that is the basis for the conditions), which shall mean that the Conveyance Plat shall be considered to have been approved once such conditions are determined by the City to be fulfilled; or
  - c. Deny the Conveyance Plat with reasons for denial (including a citation to ordinance, statute, or regulations that is the basis for the conditions).

(k) **Procedures for Recordation Following Approval.** The Applicant shall supply to the Development Services Department the required number of original signed and executed copies of the Conveyance Plat documents (whether Mylar or paper originals, as required by both the City and Kaufman County) that shall be needed to file the Plat, upon approval, with Kaufman County. All documents and signatures shall be originals and no copies of the exhibits or signatures will be accepted.

(1) **General.**

- i. *Signatures.* After approval of the Conveyance Plat, the Director of Development Services shall procure the appropriate City signatures on the Conveyance Plat.
- ii. *County Requirements.* It is the responsibility of the Applicant to comply with the Platting requirements of Kaufman County, including but not limited to:
  - a. Supplying the required number of Plat originals in the requested plat types and sizes;
  - b. Providing space on each Plat page for the County's recording information;
  - c. Providing tax certificates for the current tax year indicating all taxes have been paid on the subject property for the current tax year; and
  - d. Payment of the recording fee.
- iii. *Recording Upon Approval.* The Conveyance Plat shall be recorded by the City after:
  - a. The Conveyance Plat is approved by the City and all conditions have been satisfied;
  - b. The signed and executed originals of the Plat in the requested quantities, types, and sizes, along with the current tax certificates and recording fee are provided to the City by the Applicant;
  - c. All required City signatures have been obtained; and
  - d. All Kaufman County filing requirements are met.

(l) **Effect of Approval**

- (1) The approval and recordation of a Conveyance Plat authorizes the sale of the lot(s) created thereon but does not authorize any type of development on the property. The Applicant and future owner(s) of the property remain obligated to comply with all provisions in this Chapter upon future development of the property including, but not limited to, all requirements for Platting, required Public Improvements, utility extensions, street improvements or assessments, Right of Way and Easement dedication, and all other requirements in this Chapter;
- (2) Neither reservation nor dedication of Right-of-Way shall relieve the Developer from obligations for street construction or assessments associated with public street improvement programs;

- (3) Easements for Access, utilities, and drainage may be recorded on Conveyance Plats;
- (4) No building permit shall be issued, nor permanent utility service provided, for land which has only received approval as a Conveyance Plat.

- (m) **Revisions Following Approval.** Revisions submitted by the Applicant following Conveyance Plat approval shall only be processed and approved as a new Conveyance Plat, Preliminary Plat or Final Plat, as applicable.

#### **SEC.02.03.033 ....LAND STUDY PROCEDURES AND REQUIREMENTS.**

- (a) **Purpose.** The purpose of the Land Study is to allow the Planning and Zoning Commission and City Council to review an exhibit showing all proposed road, thoroughfare and collector street patterns; land use; environmental issues; conformance to the *Comprehensive Plan, Zoning Ordinance, Future Land Use Plan, Park Land Dedication, Thoroughfare Plan* (City's and Kaufman County's), and other applicable plans and regulations; and the property's relationship to adjoining subdivisions or properties. The Land Study exhibit shall be used to assist in evaluating the impacts of developing the land to be Platted on provision of supporting public facilities and services, the environment, provision of open space and recreational opportunities, and the general health, safety, and welfare of the community.
- (b) **Applicability.** A Land Study shall be submitted in conjunction with the following circumstances:
  - (1) In conjunction with a Preliminary Plat Application for any tract of land twenty-five (25) acres or more, or for a smaller tract, where the land is part of a larger parcel twenty-five (25) acres or more, which is ultimately to be developed under this Chapter; or
  - (2) In conjunction with a Development Plat for any tract of land twenty-five (25) acres or more, or for a smaller tract, where the land is part of a larger parcel twenty-five (25) acres or more which is ultimately to be developed under this Chapter; or
  - (3) Where an existing or proposed road or thoroughfare is proposed to be realigned:
    - i. The Director of Development Services has the authority to override this requirement if the realignment is deemed to be insignificant.
- (c) **Extent of Area Required for Land Study.**
  - (1) When the Preliminary Plat or Development Plat designates the land to be developed in phases, the Land Study exhibit shall include the entire property from which the phase is being subdivided and an approximate development schedule.
- (d) **Accompanying Applications.**
  - (1) The Applicant shall furnish as part of the Land Study acceptable proof of ownership, identifying all persons having an ownership interest in the property that is the subject of the Land Study;
  - (2) The Land Study Application shall be signed by each owner, or by the representative of the owners authorized to sign legal documents for the owners, effectively denoting that they are consenting to the Platting of the property and to the dedications and covenants that may be contained in the Preliminary Plat. Such consent shall be subject to review and approval by the City Attorney; the Applicant shall provide such documentation requested by the City for use in determining legal ownership of the property, and shall reimburse the City for all related legal costs for review. This reimbursement shall be paid in full as a condition of approval, if applicable;
  - (3) The Director of Development Services, the Director of Public Works and/or the City Engineer may require the submission of additional documents as set forth on the City's Adopted Table 02.03.112 Required Land Study Features, and as determined necessary to allow a full

review of the Application for compliance with City Regulations;

(4) Specific feature requirements for the Land Study exhibit are outlined in Table 02.03.112, *Required Land Study Features*;

(5) The Land Study and all accompanying data shall conform to any associated approved Conveyance Plat and shall incorporate all conditions imposed or required at time of approval, and/or per any previously approved concept plan, associated Facilities and/or Development Agreement, and/or a Planned Development district.

(e) **Standards for Approval.** The following criteria shall be used by staff, the Commission and Council to determine whether the Land Study exhibit shall be approved, approved with conditions, or denied:

- (1) All documentation required as outlined above in Section 02.03.033(d) *Accompanying Applications*;
- (2) The Land Study conforms to the associated Plat exhibit;
- (3) The Land Study meets all applicable County standards to be applied under an interlocal agreement between the City and Kaufman County under State law, where the proposed development is located in whole or in part in the ETJ of the City and in the County;
- (4) The Land Study is consistent with the *Comprehensive Plan* and any other approved plan or regulation, except where Application of the Plan may conflict with State law (e.g., land use in the ETJ);
- (5) All lots located within the corporate City limits shall meet all of the minimum zoning requirements for the district in which the lot(s) are located in addition to other applicable provisions of the City's *Zoning Ordinance*, including all applicable Planned Development zoning standards and all requirements contained within an approved Facilities and/or Development Agreements, as applicable;
- (6) The Land Study conforms to all conditions imposed at the time of the approval of any associated Conveyance Plat and/or Preliminary Plat, or per any previously approved concept plan, as applicable;
- (7) The preliminary layout of the subdivision development meets all standards for adequacy of public facilities contained in this Chapter;
- (8) The proposed provision and configuration of Public Improvements satisfy the requirements of the *Standards of Design and Construction*, including, but not limited to roads, water, wastewater, storm drainage, park facilities, open spaces, habitat restoration, Easements and Rights-of-Way that are adequate to serve the development, meet applicable standards of this Chapter, and conform to the City's adopted master plans for those facilities;
- (9) Compliance with specific feature requirements for the Land Study Exhibit as outlined in Table 02.03.112, *Required Land Study Exhibit Features*; and
- (10) The proposed development represented on the Land Study exhibit does not endanger public health, safety, or welfare.

(f) **Action by Staff.**

- (1) Initiate review of the Land Study exhibit, material and/or documents outlined in Section 02.03.032(d), *Accompanying Applications* submitted along with any other plans necessary for review by the Director of Development Services, Director of Public Works and/or the City Engineer as set forth on the City's adopted Table 02.03.112, *Required Land Study Features*;
- (2) Prepare written review comments and request comments also be provided from the City

Engineer and other City departments, as deemed necessary, which will be submitted to the Applicant for compliance and revisions;

- (3) Process the review of subsequent resubmittals to ensure all review comments have been addressed to ensure compliance with the applicable regulations;
- (4) Determine whether the Land Study substantially conforms to any associated approved Conveyance Plat, the Preliminary Plat or Development Plat as applicable, the requirements of this Chapter, the zoning requirements (as applicable), the requirements of Kaufman County (as applicable), any approved concept plan,, and any associated Facilities Agreement and/or Development Agreement;
- (5) statuteProvide and make available the Land Study exhibit and report to the Commission for review;
- (6) Determine that the requirements of submission have been met and accept the Land Study exhibit; and
- (7) Schedule the Land Study exhibit in conjunction with the appropriate Preliminary or Development Plat Application for consideration on the agendas of the next available meetings of the Planning and Zoning Commission and City Council.

(g) **Action by Planning and Zoning Commission and City Council.**

- (1) Planning and Zoning Commission:
  - i. Consider the Land Study exhibit, the findings and recommendation of staff, and any other information available. From all such information, the Commission shall determine whether the Land Study conforms to the regulations of this Chapter;
  - ii. Act within thirty (30) calendar days following the official submittal date of the appropriate Plat Application. If no decision is rendered by the Commission within the thirty (30) day period, the Land Study is considered approved;
  - iii. Take one of the following actions:
    - a. Recommend for approval the Land Study exhibit; or
    - b. Recommend for approval the Land Study exhibit with conditions (including a citation to ordinance, statute, or regulation that is the basis for the conditions), which shall mean that the Land Study shall be considered to have been approved once such conditions are fulfilled; or
    - c. Recommend denial, including a citation to ordinance, statute or regulation that is the basis for the conditions of the Land Study exhibit with reasons for denial; or
    - d. Approve or deny an extension of consideration of the Land Study exhibit upon receipt of a written request by the Plat Applicant for a thirty (30) day extension when received fifteen (15) days prior to the meeting date.
- (2) City Council: The decision of the City Council is final.
  - i. Take one of the following actions:
    - a. Approve the Land Study exhibit in conjunction with the appropriate Plat Application; or
    - b. Approve the Land Study exhibit in conjunction with the appropriate Plat Application with conditions (including a citation to ordinance, statute, or regulation that is the basis for the conditions), which shall mean that the Land Study shall be considered to have been approved once such conditions are fulfilled; or
    - c. Deny the Land Study exhibit in conjunction with the appropriate Plat Application with reasons for denial (including a citation to ordinance, statute, or regulation that is the basis for the denial); or

(h) **Land Study Expiration.**

(1) **Two-Year Validity:**

- i. The approval of a Land Study exhibit in conjunction with the appropriate Plat Application shall remain in effect for a period of two (2) years following the date of approval, during which period the Applicant shall submit and receive approval for Construction Plans; and
- ii. Any proposed use or development depicted in the Land Study exhibit shall not be deemed authorized or approved unless the development is part of the approved appropriate Plat Application.

(2) **Phased Developments.** A Final Plat and Construction Plans must be approved within two (2) years of the approval of the Land Study exhibit in conjunction with a Preliminary Plat Application, or the Land Study exhibit shall automatically expire;

- i. If a project is phased and bona fide progress has been made toward the installation of infrastructure in one or more phases of the project, then upon approval the Director of Development Services, the Land Study exhibit in conjunction with the approved Preliminary Plat may be extended for a period of one (1) year from the date of the expiration, during which time a subsequent Final Plat and Construction Plans must be approved.

(3) **Void If Not Extended.** If the Land Study exhibit in conjunction with the approved Preliminary Plat is not extended as provided herein, it shall expire and shall be null and void after a period of two (2) years of the date of approval.

(i) **Land Study Extension.** A Land Study exhibit in conjunction with the approved Preliminary Plat may be extended pursuant to Section 02.03.34(i) Preliminary Plat Extension.

**SEC. 02.03.034 ...PRELIMINARY PLATS.**

(a) **Purpose.** The purpose of a Preliminary Plat is to determine the general layout of the subdivision, the adequacy of public facilities needed to serve the intended development, and the overall compliance of the land division with applicable requirements of this Chapter and the *Zoning Ordinance* regulations for each zoning district. A Preliminary Plat is not recorded in the County.

(b) **Exemptions.**

- (1) A Preliminary Plat is not required when a Minor Plat has the following conditions:
  - i. No Right-of-Way dedication is required;
  - ii. No extensions of public utilities are required;
  - iii. No public drainage improvements are required; or
- (2) The property in question will include no more than four (4) lots and will be entirely developed in one single phase. A Preliminary Plat is not required when a Final Plat has the following conditions:
  - i. The property in question will be entirely developed in one single phase.

(c) **Accompanying Applications.**

- (1) The Applicant shall furnish as part of the Preliminary Plat acceptable proof of ownership, identifying all persons having an ownership interest in the property that is the subject of the Preliminary Plat;
- (2) The Preliminary Plat Application shall be signed by each owner, or by the representative of the owners authorized to sign legal documents for the owners, effectively denoting that they are consenting to the Platting of the property and to the dedications and covenants that may be contained in the Preliminary Plat. Such consent shall be subject to review and approval by the City Attorney; the Applicant shall provide such documentation requested by the City

for use in determining legal ownership of the property and shall reimburse the City for all related legal costs for review. This reimbursement shall be paid in full as a condition of approval, if applicable;

- (3) As applicable, submit the proposed Professional Services Agreement for review and approval. A Professional Services Agreement shall be prepared in accordance with Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances and Construction Contracts for Public Improvements*, of this Chapter;
- (4) As a prerequisite to the submission of an Application for a Preliminary Plat, the associated preliminary drainage plan, the preliminary utility plan, and other plans and documents as set forth on the City's adopted Table 02.03.113, *Required Plat Features* shall be submitted, reviewed, and approved by the Director of Development Services, the Director of Public Works and/or the City Engineer;
  - i. The Director of Public Works and/or the City Engineer may allow the Preliminary Plat Application to be submitted and to proceed through the approval process while the preliminary plans are still in review if the Director of Public Works and/or the City Engineer have determined that the only remaining items are minor and expected to be addressed prior to approval of the Plat;
  - ii. The Director of Development Services, the Director of Public Works, and/or the City Engineer may require the submission of additional documents as set forth on the City's adopted Table 02.03.113, *Required Plat Features* ;
- (5) An Application for a Preliminary Plat, if applicable, shall be accompanied by a Land Study exhibit in accordance with Section 02.03.033(b), *Land Study Procedures and Requirements* and with Table 02.03.112, *Required Land Study Exhibit Features*;
- (6) Specific feature requirements for the Plat exhibit are outlined in Table 02.03.113, *Required Plat Features*;
- (7) The Preliminary Plat and all accompanying data shall conform to the requirements of this Chapter, the zoning requirements (as applicable), the requirements of Kaufman County (as applicable), any associated approved Conveyance Plat (including all conditions imposed or required at time of approval), any previously approved concept plan, and any associated Facilities and/or Development Agreement.

(d) **Standards for Approval.** The following criteria shall be used by staff, the Commission and Council to determine whether the Application for a Preliminary Plat shall be approved, approved with conditions, or denied:

- (1) All documentation required as outlined above in Section 02.03.034(c) Accompanying Applications;
- (2) The Preliminary Plat shall conform to any associated Conveyance Plat or any previously approved concept plan and incorporate all conditions imposed at the time of approval;
- (3) The Preliminary Plat meets all applicable County standards to be applied under an interlocal agreement between the City and Kaufman County under State law, where the proposed development is located in whole or in part in the ETJ of the City and in the County;
- (4) The Applicant has provided to the City original, stamped tax certificate(s) from the Kaufman County Tax Assessor indicating that all taxes, assessments, debts and/or obligations from each taxing entity have been paid for the current year for all properties included in the Plat;
- (5) The Preliminary Plat is consistent with the *Comprehensive Plan* and any other approved plan or regulation, except where Application of the *Plan* may conflict with State law (e.g., land use in the ETJ);

- (6) All lots located within the corporate City limits shall meet all of the minimum zoning requirements for the district in which the lot is located in addition to other applicable provisions of the City's *Zoning Ordinance*, including all applicable Planned Development zoning standards;
- (7) The Plat shall comply with all requirements contained within an approved Facilities Agreement and/or Development Agreement, as applicable;
- (8) The proposed provision and configuration of Public Improvements satisfy the requirements of the *Standards of Design and Construction*, including, but not limited to roads, water, wastewater, storm drainage, park facilities, open spaces, habitat restoration, as required, Easements and Rights-of-Way are adequate to serve the development, meet applicable standards of this this Chapter, and conform to the City's adopted master plans for those facilities;
- (9) The Preliminary Plat conforms to design requirements and construction standards as set forth in the *Standards of Design and Construction*;
- (10) The ownership, maintenance responsibility, and allowed uses of all designated Easements shall be stated on the Preliminary Plat;
- (11) All affected lots shall have Access to an improved public street that meets the City's minimum design and paving standards applicable thereto. All created lots shall provide points of Access as required by the *Zoning Ordinance* and/or this Chapter, including without limitation driveway standards. Notwithstanding the foregoing, in the event of a conflict between Access requirements set forth herein and those set forth in the regulations of a Planned Development District, the regulations the Planned Development District shall control;
- (12) The proposed Facilities Agreement and/or Professional Services Agreement are approved by City in accordance with applicable City policies;
- (13) Compliance with specific feature requirements for the Plat exhibit are outlined in Table 02.03.113, *Required Plat Features*; and
- (14) The proposed development represented on the Preliminary Plat does not endanger public health, safety, or welfare.

**(e) Action by Staff.**

- (1) Initiate review of the Preliminary Plat exhibit, materials, and/or documents outlined in Section 02.03.034(c), *Accompanying Applications* submitted along with any other plans necessary for review by the Director of Development Services, the Director of Public Works and/or the City Engineer as set forth on the City's adopted Table 02.03.113 *Required Plat Features*;
- (2) Prepare written review comments and request comments also be provided from the City Engineer and other City departments, as deemed necessary, which will be submitted to the Applicant for compliance and revisions;
- (3) Process the review of subsequent resubmittals to ensure all review comments have been addressed to ensure compliance with the applicable regulations;
- (4) Determine whether the Preliminary Plat substantially conforms to any associated approved Conveyance Plat, the requirements of this Chapter, the zoning requirements (as applicable), the requirements of Kaufman County (as applicable), any approved concept plan, and any associated Facilities Agreement and/or Development Agreement;
- (5) Statute Provide and make available the Plat exhibit and reports to the Commission for review;

- (6) Determine that the requirements of submission have been met and accept the Preliminary Plat; and
- (7) Schedule the Preliminary Plat for consideration on the agendas of the next available meetings of the Planning and Zoning Commission and City Council.

**(f) Action by Planning and Zoning Commission and City Council.**

**(1) Planning and Zoning Commission:**

- i. Consider the Preliminary Plat Application, the findings and recommendation of staff, and any other information available. From all such information, the Commission shall determine whether the Preliminary Plat conforms to the regulations of this Chapter;
- ii. Act within thirty (30) calendar days following the official submittal date of the Preliminary Plat Application. If no decision is rendered by the Commission within the thirty (30) day period, the Preliminary Plat, as submitted, shall be considered approved;
- iii. Take one of the following actions:
  - a. Recommend for approval the Preliminary Plat;
  - b. Recommend for approval the Preliminary Plat with conditions (including a citation to ordinance, statute or regulation that is the basis for the conditions), which shall mean that the Preliminary Plat shall be considered to have been approved once such conditions are fulfilled; or
  - c. Recommend denial of the Preliminary Plat with reasons for denial (including citations to ordinance, statute, or regulation that is the basis for the denial); or
  - d. Approve or deny an extension of consideration of the Preliminary Plat upon receipt of written request by the Applicant for a thirty (30) day extension when received fifteen (15) days prior to the meeting date.

**(2) City Council: The decision of the Council is final.**

- i. Take one of the following actions:
  - a. Approve the Preliminary Plat;
  - b. Approve the Preliminary Plat with conditions, including a citation to ordinance, statute or regulation that is the basis for the conditions, which shall mean that the Preliminary Plat shall be considered to have been approved once such conditions are fulfilled; or
  - c. Deny the Preliminary Plat, with reasons for denial, including a citation to ordinance, statute, or regulation that is the basis for the denial; or

**(g) Procedure for Execution of Preliminary Plat Documents upon Approval.** The Applicant shall supply to Development Services Department the required number of original signed and executed copies of the Preliminary Plat documents (whether Mylar or paper originals, as required by the City). All documents shall be originals and no copies of the exhibits will be accepted.

**(1) General.**

- i. *Signatures.* After approval of the Preliminary Plat, the Director of Development Services shall procure the appropriate City signatures on the Preliminary Plat;
- ii. *Filing Upon Approval by City Council.* The Preliminary Plat shall be filed in the City records once all conditions have been satisfied, all required plat originals with signatures have been provided to the City by the Applicant, and all City signatures have been obtained.

**(h) Expiration.**

**(1) Two-Year Validity.** The approval of a Preliminary Plat shall remain in effect for a period of two (2) years following the date of approval, during which period the Applicant shall submit and receive approval for Construction Plans and a Final Plat of the land area shown on the Preliminary Plat, except as specifically provided in subsection (2) below for phased development. If Construction Plans and a Final Plat Application have not been approved

within the two (2)-year period, the Preliminary Plat shall automatically expire.

- (2) **Phased Developments.** A Final Plat and Construction Plans must be approved within two (2) years of the approval of the Preliminary Plat, or the Preliminary Plat shall automatically expire;
  - i. If a project is phased and bona fide progress has been made toward the installation of infrastructure in one or more phases of the project, then upon approval by the Director of Development Services, the Preliminary Plat may be extended for a period of one (1) year from the date of expiration, during which time a subsequent Final Plat and Construction Plans must be approved.
- (3) **Void If Not Extended.** If the Preliminary Plat is not extended as provided herein, it shall expire and shall become null and void after a period of two (2) years of the date of approval.
- (i) **Extension.** Pursuant to the provisions of this Section, upon written request of an Applicant, a Preliminary Plat may be extended for a period not to exceed one (1) year beyond the Preliminary Plat's expiration date. A request for extension shall be submitted to the Development Services Department in writing no less than sixty (60) calendar days prior to the date of expiration of the Preliminary Plat and shall include reasons why the Preliminary Plat should be extended.
  - (1) **Decision by the Director of Development Services.**
    - i. The Director of Development Services will review the extension request and shall approve it, approve it with conditions to be met during the extension period, or deny the extension request within thirty (30) calendar days following the official filing date of the request.
  - (2) **Considerations.** In considering an extension, the Director of Development Services shall consider whether the following conditions exist:
    - i. A Final Plat has been submitted and/or approved for any portion of the property shown on the Preliminary Plat;
    - ii. Construction Plans have been submitted and/or approved for any portion of the property shown on the Preliminary Plat;
    - iii. Construction is occurring on the subject property;
    - iv. The Preliminary Plat complies with new ordinances that impact the health, safety, and general welfare of the community; and/or
    - v. If there is a need for a park, school, or other public facility or improvement on the property.
  - (3) **Additional Conditions.**
    - i. In granting an extension, the decision-maker may impose such conditions as are needed to ensure that the land will be developed in a timely fashion and that the public interest and safety is served. Any extension may be predicated upon compliance with new development regulations and/or the Applicant waiving any vested rights.
    - ii. All applicable City taxes shall be current prior to the consideration of any extension of the Preliminary Plat expiration date. Time extensions will not be considered for any property on which taxes are delinquent. Proof of payment shall be entered into the file.
  - (4) **Appeal of Denial for Extension.**
    - i. ***Appeal of the Director's Decision.*** The denial of an extension by the Director of Development Services may beAppealed to the Commission.
      - a. A written request for such an Appeal shall be received by the Development Services Department within fourteen (14) calendar days following the denial.
      - b. The Commission shall hear and consider such an Appeal at the first scheduled public meeting that meets the published deadlines of the Development Services Department.

- c. The Commission shall affirm, modify, or deny the decision of the Director of Development Services by simple majority vote.
- ii. ***Appeal of the Commission's Decision.*** The denial of an extension by the Commission may beAppealed to the City Council.
  - a A written request for such an Appeal shall be received by the Director of Development Services within fourteen (14) calendar days following the denial.
  - b Once the formal Appeal is made, staff will schedule the hearing to be heard by the City Council at the first scheduled public meeting that meets the agenda item deadline of the City Secretary.
  - c The City Council shall affirm, modify, or reverse the decision of the Commission by simple majority vote. The decision of the Council is final.

(j) **Effect of Approval.** The approval of a Preliminary Plat shall allow the Applicant to proceed with the following:

- (1) Submit to the City for review a set of complete, signed, and sealed Construction Plans in accordance with *Standards of Design and Construction* and as outlined in Attachment "E".
- (2) After the Construction Plans are approved by the Director of Public Works and/or the City Engineer, the Final Plat Application may be submitted to the Development Services Department for review and consideration.
- (3) Submit the draft Facilities Agreement in accordance with Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances and Construction Contracts for Public Improvements*, of this Chapter in conjunction with the Final Plat Application.
- (4) Approval of the Preliminary Plat shall be deemed general approval of the subdivision's layout only and shall not constitute approval or acceptance of the Construction Plans or the associated Final Plat.

(k) **Minor Modifications to Preliminary Plat Following Approval.**

- (1) **Minor Modifications.** Minor Modifications approved by the Director of Development Services, the Director of Public Works and/or City Engineer to the design of the subdivision subject to an approved Preliminary Plat may be incorporated in an Application for the associated Final Plat without the necessity of submitting a new Application for reconsideration of a Preliminary Plat. Minor Modifications include, but are not limited to, minor adjustments in street or Alley alignments, street lengths and paving details, adjustments to the boundaries of phases and minor adjustments to lot lines that do not result in creation of additional lots or any non-conforming lots (that do not comply with Zoning standards), provided that such amendments are consistent with the intent of the previously approved Application. (See Section 02.03.086, *Modifications, Appeals and Exceptions*)
- (2) **Major Modifications.** Any proposed Major Modifications to an approved Preliminary Plat cannot be approved by the Director of Development Services, the Director of Public Works and/or City Engineer, and/or the City Manager thereby requiring new submittal and approval of a Preliminary Plat. Staff may also refer the matter to the Council for final determination. (See Section 02.03.086, *Modifications, Appeals and Exceptions*)

## **SEC. 02.03.035 ...FINAL PLATS.**

- (a) **Purpose.** The purpose of a Final Plat is to ensure that the proposed subdivision and development of the land is consistent with all standards of this Chapter and the *Standards of Design and Construction* pertaining to the adequacy of public facilities, that all requirements and conditions have been satisfied or provided for to allow the Final Plat to be recorded.
- (b) **Exceptions.**

(1) A Final Plat is not required when a Minor Plat or a Development Plat is sufficient (refer to Section 02.03.036, *Minor Plats* or Section 02.03.039, *Development Plat*).

(c) **Accompanying Applications.**

(1) Construction Plans. As a prerequisite to the submission of an Application for a Final Plat, the associated Construction Plans and other documents as set forth in the Standards of Design and Construction shall be submitted, reviewed, and approved by the Director of Public Works and/or the City Engineer.

i. The Director of Public Works and/or the City Engineer may allow the Final Plat to be submitted and proceed through the approval process prior to the approval of the Construction Plans if they have determined that the only remaining items are minor and expected to be addressed prior to the consideration of the Plat;

(2) As part of the Final Plat Application, the Applicant shall furnish acceptable proof of ownership, identifying all persons having an ownership interest in the property that is the subject of the Final Plat;

(3) The Final Plat Application shall be signed by each owner, or by the representative of the owners authorized to sign legal documents for the owners, effectively denoting that they are consenting to the Platting of the property and to the dedications and covenants that may be contained in the Final Plat. Such consent shall be subject to review and approval by the City Attorney, and the Applicant shall provide such documentation requested by the City for use in determining legal ownership of the property, and shall reimburse the City for all related legal costs for review. This reimbursement shall be paid in full prior to filing of the Final Plat;

(4) As applicable, submit the proposed Facilities and Professional Services Agreements for review and approval. Facilities and Professional Services Agreements shall be prepared in accordance with Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements*, of this Chapter;

(5) The Director of Development Services, the Director of Public Works, and/or the City Engineer may require the submission of additional documents as set forth on the City's adopted Table 02.03.113, *Required Plat Features*, and as determined necessary to allow a full review of the Application for compliance with City regulations;

(6) Specific feature requirements for the Plat exhibit are outlined in Table 02.03.113, *Required Plat Features*; and

(d) **Standards for Approval.** The following criteria shall be used by staff, the Commission, and Council to determine whether the Application for a Final Plat shall be approved, approved with conditions, or denied:

(1) Final Plat Approval with Prior Approved Conveyance Plat, Concept Plan, Land Study, or Preliminary Plat.

i. All documentation required as outlined above in Section 02.03.035(c) Accompanying Applications;

ii. The Final Plat conforms to the associated approved Conveyance Plat (as applicable), the associated approved Concept Plan (as applicable), the associated approved Land Study (as applicable), or the associated approved Preliminary Plat (as applicable), including any minor amendments that are authorized under Section 02.03.034(k), *Amendments to Preliminary Plats Following Approval*, and including those changes that may be approved without the necessity of revising the approved associated Plat;

iii. The Final Plat meets all applicable County standards to be applied under an interlocal agreement between the City and Kaufman County under State law, where

the proposed development is located in whole or in part in the ETJ of the City and in the County; The Applicant has provided to the City original, stamped tax certificate(s) from the Kaufman County Tax Assessor indicating that all taxes, assessments, debts and/or obligations from each taxing entity have been paid for the current year for all properties included in the Plat;

- iv. The Final Plat is consistent with the *Comprehensive Plan*, the *Thoroughfare Plan*, and any other approved plan or regulation, except where application of the Plan may conflict with State law (e.g., land use in the ETJ);
- v. All lots located within the corporate City limits shall meet all of the minimum zoning requirements for the district in which the lot is located, in addition to other applicable provisions of the City's *Zoning Ordinance*, including all applicable Planned Development zoning standards and any associated conditions;
- vi. The Plat shall comply with all requirements and conditions contained within an approved Facilities Agreement and/or Development Agreement, as applicable;
- vii. The Final Plat conforms to all conditions imposed at the time of approval of the Conveyance Plat, Concept Plan, Land Study, or Preliminary Plat, and shall incorporate all conditions imposed or required at time of approval;
- viii. The Final Plat conforms to the Construction Plans as approved by the Director of Public Works and/or the City Engineer;
- ix. The proposed provision and configuration of Public Improvements satisfy the requirements of *Standards of Design and Construction*, including, but not limited to roads, water, wastewater, storm drainage, park facilities, open spaces, habitat restoration as required, Easements and Rights-of-Way that are adequate to serve the development, meet applicable standards of this Chapter, and conform to the City's adopted master plans for those facilities;
- x. The Final Plat conforms to design requirements and construction standards as set forth in *Standards of Design and Construction*;
- xi. The Construction Plans conform to the requirements of Section 02.03.041, *Construction Plans, Standards of Design and Construction*;
- xii. The ownership, maintenance responsibility, and allowed uses of all designated Easements shall be stated on the Final Plat;
- xiii. All affected lots shall have Access to an improved public street that meets the City's minimum design and paving standards applicable thereto. All created lots shall provide points of Access as required by the *Zoning Ordinance* and/or by this Chapter, and/or the Standards of Design and Construction, including without limitation driveway standards. Notwithstanding the foregoing, in the event of a conflict between the Access requirements set forth herein and those set forth in the regulations of a Planned Development District, the regulations of the Planned Development District shall control;
- xiv. As applicable, the proposed Facilities Agreement and Professional Services Agreement are approved by the City in accordance with applicable City policies;
- xv. Compliance with specific feature requirements for the Final Plat exhibit as outlined in Table 02.03.113, *Required Plat Features*; and
- xvi. The proposed development represented on the Final Plat exhibit does not endanger the public health, safety, or welfare.

(2) Final Plat Approval with No Prior Approved Conveyance Plat, Concept Plan, Land Study, or Preliminary Plat.

- i. All documentation required as outlined above in Section 02.03.035(c) Accompanying Applications;
- ii. A Final Plat may be approved without prior approval of a Preliminary Plat when in

accordance with Preliminary Plats, Section 02.03.034(b) *Exemptions*;

- iii. The Final Plat meets all applicable County standards to be applied under an interlocal agreement between the City and Kaufman County under State law, where the proposed development is located in whole or in part in the ETJ of the City and in the County;
- iv. The Applicant has provided to the City original, stamped tax certificate(s) from the Kaufman County Tax Assessor indicating that all taxes, assessments, debts and/or obligations from each taxing entity have been paid for the current year for all properties included in the Plat;
- v. The Final Plat is consistent with the *Comprehensive Plan*, the *Thoroughfare Plan*, and any other approved plan or regulation, except where application of the Plan may conflict with State law (e.g., land use in the ETJ);
- vi. All lots located within the corporate City limits shall meet all of the minimum zoning requirements for the district in which the lot is located in addition to other applicable provisions of the City's *Zoning Ordinance*, including all applicable Planned Development zoning standards and any associated conditions;
- vii. The Plat shall comply with all requirements and conditions contained within an approved Facilities Agreement and/or Development Agreement, as applicable;
- viii. The Final Plat conforms to the Construction Plans as approved by the Director of Public Works and/or the City Engineer;
- ix. The proposed provision and configuration of Public Improvements satisfy the requirements of *Standards of Design and Construction*, including, but not limited to roads, water, wastewater, storm drainage, park facilities, open spaces, habitat restoration as required, Easements and Rights-of-Way that are adequate to serve the development, meet applicable standards of this Chapter, and conform to the City's adopted master plans for those facilities;
- x. The Construction Plans conform to the requirements of Section 02.03.041, *Construction Plans*, and the *Standards of Design and Construction*;
- xi. The Final Plat conforms to design requirements and construction standards as set forth in *Standards of Design and Construction*;
- xii. The ownership, maintenance responsibility, and allowed uses of all designated Easements shall be stated on the Final Plat;
- xiii. All affected lots shall have Access to an improved public street that meets the City's minimum design and paving standards applicable thereto. All created lots shall provide points of Access as required by the *Zoning Ordinance* and/or by this Chapter, and/or the Standards of Design and Construction, including without limitation driveway standards. Notwithstanding the foregoing, in the event of a conflict between the Access requirements set forth herein and those set forth in the regulations of a Planned Development District, the regulations of the Planned Development District shall control.
- xiv. The proposed Facilities Agreement and Professional Services Agreement, as applicable, are approved by City in accordance with applicable City policies;
- xv. Compliance with specific feature requirements for the Final Plat exhibit as outlined in Table 02.03.113, *Required Plat Features*; and
- xvi. The proposed development represented on the Final Plat exhibit does not endanger the public health, safety, or welfare.

(e) **Facilities Agreement.** The Developer shall be required to execute a Facilities Agreement as a condition of Plat approval and filing whenever the installation of Community Facilities or Public Improvements is required. A Facilities Agreement shall be prepared after the Director of Public Works and/or the City Engineer have approved the construction plans and have determined the

appropriate cost amounts and quantities roughly proportional to the impact of the development of Public Improvements all in accordance with Section 02.03.045, *Facilities and Professional Service Agreements, Financial Assurances, and Construction Contracts for Public Improvements*, of this Chapter. The proposed Facilities Agreement shall be approved by the City in accordance with applicable City policies.

(f) **Early Grading.** The Director of Development Services may approve a grading permit of the subject property prior to the approval of a Final Plat subject to the following conditions:

- (1) Execution of a waiver or other documentation required by the City;
- (2) The approval of a grading permit by the Director of Development Services, the Director of Public Works and/or the City Engineer in accordance with Section 02.03.042, *Grading Permit*; and
- (3) Approval of the Construction Plans by the Director of Public Works and/or the City Engineer; or
  - i. The Director of Public Works and/or the City Engineer recommends that the Director of Development Services allow a grading permit to be submitted and to proceed through the approval process, because the remaining Construction Plans review comments are minor as determined by the Director of Public Works and/or the City Engineer.

(g) **Action by Staff.**

- (1) Initiate review of the Final Plat exhibit, materials and/or documents outlined in Section 02.03.035(c), *Accompanying Applications* along with any other plans necessary for review by the Director of Development Services, Director of Public Works and/or the City Engineer as set forth on the City's adopted Table 02.03.113, *Required Plat Features*;
- (2) Determine that the requirements of submission have been met and accept the Final Plat;
- (3) Prepare written review comments and request comments also be provided from the City Engineer and other City departments, as deemed necessary, which will be submitted to the Applicant for compliance and revisions;
- (4) Process the review of subsequent resubmittals to ensure all review comments have been addressed to ensure compliance with the applicable regulations;
- (5) Determine whether the Final Plat substantially conforms to any associated approved Conveyance Plat, Preliminary Plat, and/or Land Study (incorporating all conditions imposed or required at the time of approval), the requirements of this Chapter, the zoning requirements (as applicable), the requirements of Kaufman County (as applicable), any approved Concept Plan, any approved Site Plan or Site Plan being considered for contemporaneous approval, and any associated Facilities Agreement and/or Development Agreement;
- (6) Statute provide and make available the Final Plat exhibit and report to the Commission and Council for review;
- (7) Schedule the Final Plat for consideration on the agenda of the next available meeting of the Planning and Zoning Commission and City Council, and schedule a public hearing for a Final Plat with a variance when required by State law.

(h) **Action by the Planning and Zoning Commission and City Council.**

(1) Planning and Zoning Commission:

- i. Consider the Final Plat Application, the findings and recommendation of staff, and any other information available. From all such information, the Commission shall determine

- ii. whether the Final Plat conforms to the regulations of this Chapter;
- iii. Act within thirty (30) calendar days following the official submittal date of the Final Plat Application, in accordance with State law;
- iii. Take one of the following actions:
  - a. Recommend for approval the Final Plat;
  - b. Recommend for approval the Final Plat with conditions (including a citation to ordinance, statute, or regulation that is the basis for the conditions), which shall mean that the Final Plat shall be considered to have been approved once such conditions are fulfilled;
  - c. Recommend denial of the Final Plat with reasons for denial (including a citation to ordinance, statute, or regulation that is the basis for the denial); or
  - d. Approve or deny an extension of the Final Plat upon receipt of a written request by the Applicant for a thirty (30) day extension when received fifteen (15) days prior to the meeting date.

(2) **City Council:** The decision of the Council is final.

- i. Take one of the following actions:
  - a. Approve the Final Plat;
  - b. Approve the Final Plat with conditions (including a citation to ordinance, statute, or regulation that is the basis for the conditions), which shall mean that the Final Plat shall be considered to have been approved once such conditions are fulfilled; or
  - c. Deny the Final Plat, with reasons for denial (including a citation to ordinance, statute or regulation that is the basis for the denial).

(i) **Procedures for Recordation of Final Plat Documents upon Approval.** The Applicant shall supply to the Development Services Department the required number of original signed and executed copies of the Final Plat documents (whether Mylar or paper originals, as required by both the City and Kaufman County) that will be needed to file the Plat, upon approval, with Kaufman County. All documents and signatures shall be originals and no copies of the exhibits or signatures will be accepted.

(1) **General.**

- i. *Signatures.* After approval of the Final Plat, the Director of Development Services shall procure the appropriate City signatures on the Final Plat;
- ii. *County Requirements.* It is the responsibility of the Applicant to comply with the Platting requirements of Kaufman County, including but not limited to:
  - a. Supplying the required number of Plat originals in the requested plat types and sizes;
  - b. Providing space on each Plat page for the County's recording information;
  - c. Providing tax certificates for the current tax year indicating all taxes have been paid on the subject property for the current tax year; and
  - d. Payment of the recording fee.
- iii. *Recording Upon Approval by City Council.* The Final Plat shall be recorded by the City after:
  - a. The Final Plat is approved by the City and all conditions have been satisfied;
  - b. The signed and executed originals of the Plat in the requested quantities, types, and sizes, along with the current tax certificates and recording fee are provided to the City by the Applicant;
  - c. All required City signatures have been obtained; and
  - d. All Kaufman County filing requirements are met.

(j) **Effect of Approval.** The approval and recordation of a Final Plat:

- (1) Supersedes any prior approved Preliminary Plat for the lots Final Platted;
- (2) Authorizes the Applicant to install any improvements in public Rights-of-Way in conformance with approved Construction Plans and under a Facilities Agreement (refer to Section 02.03.045, *Facilities and Professional Service Agreements, Financial Assurances, and Construction Contracts for Public Improvements*), or under a Development Agreement, as applicable;
- (3) Authorizes the Applicant to implement the physical change to the property as approved by the Construction Plans in accordance with the Section 02.03.041, *Construction Plans, and Standards of Design and Construction*;
- (4) Authorizes the Applicant to seek Construction Release (refer to Section 02.03.041(j), *Construction Release*); and
- (5) After acceptance of the Public Improvements by the City, apply for a Building Permit for vertical construction in accordance with an associated, approved Facilities Agreement and/or Development Agreement, as applicable.

(k) **Revisions Following Approval.** Revisions submitted by the Developer following Final Plat approval shall only be processed and approved as a Replat or Amending Plat, as applicable.

**SEC. 02.03.036 ...MINOR PLATS.**

- (a) **Purpose.** The purpose of a Minor Plat is to simplify divisions of land under certain circumstances as outlined in State law. A subdivision meeting the following requirements is considered a Minor Plat:
  - (1) The proposed subdivision results in four (4) or fewer lots;
  - (2) All lots in the proposed subdivision front onto an existing public street and the construction of a new street or the extension of an existing street or Alley is not required to meet the requirements of this Chapter; and
  - (3) The proposed development does not require the extension of any public facilities. As such, a Minor Plat is not allowed in situations in which a Development Agreement and/or Facilities Agreement exists or is required.
- (b) **Exemptions.**
  - (1) A Final Plat is required when the proposed Plat does not meet the definition of a Minor Plat as described above in Section 02.03.036(a), *Purpose*;
  - (2) A Minor Plat may be approved without prior approval of a Preliminary Plat when in accordance with Preliminary Plats, Section 02.03.034(b), *Exemptions*.
- (c) **Accompanying Applications**
  - (1) As a prerequisite to the submission of an Application for a Minor Plat, the associated site plan, if applicable, and other construction type plans (i.e., grading, drainage or utility plans) as set forth on the City's adopted Table 02.03.113, *Required Plat Features*, and deemed necessary for thorough review by the Director of Development Services, Director of Public Works and/or the City Engineer shall be submitted;
  - (2) The Director of Development Services, the Director of Public Works, and/or the City Engineer may require the submission of additional documents as set forth on the City's adopted Table 02.03.113, *Required Plat Features*, and as determined necessary to allow a full review of the Application for compliance with City regulations;
  - (3) As part of the Minor Plat Application, the Applicant shall furnish acceptable proof of ownership, identifying all persons having an ownership interest in the property that is the

subject of the Minor Plat;

(4) The Minor Plat Application shall be signed by each owner, or by the representative of the owners authorized to sign legal documents for the owners, effectively denoting that they are consenting to the Platting of the property and to any applicable covenants that may be contained in the Minor Plat. Such consent shall be subject to review and approval by the City Attorney, the Applicant shall provide such documentation requested by the City for use in determining legal ownership of the property, and shall reimburse the City for all related legal costs for review. This reimbursement shall be paid in full prior to filing of the Minor Plat;

(5) Specific feature requirements for the Plat exhibit are outlined in Table 02.03.113, *Required Plat Features*;

(6) The Minor Plat and all accompanying data shall conform to the associated approved Conveyance Plat (as applicable), the associated approved Concept Plan (as applicable), and the associated approved Site Plan (as applicable), and shall incorporate all conditions imposed or required at the time of approval.

(d) **Standards for Approval.** The following criteria shall be used by the Director of Development Services to determine whether the Application for a Minor Plat shall be approved, approved with conditions, or denied or deferred to the Commission for consideration and recommendation to City Council:

(1) Minor Plat with Prior Approved Conveyance Plat, Concept Plan, or Site Plan.

- i. All documentation required as outlined above in Section 02.03.036(c), Accompanying Applications;
- ii. The Minor Plat conforms to the associated approved Conveyance Plat (as applicable), the associated approved Concept Plan (as applicable), and the associated approved Site Plan (as applicable), and shall incorporate all conditions imposed or required at the time of approval;
- iii. The Minor Plat meets all applicable County standards to be applied under an interlocal agreement between the City and Kaufman County under State law, where the proposed development is located in whole or in part in the ETJ of the City and in the County;
- iv. The Applicant has provided to the City original, stamped tax certificate(s) from the Kaufman County Tax Assessor indicating that all taxes, assessments, debts and/or obligations from each taxing entity have been paid for the current year for all properties included in the Plat;
- v. The Minor Plat is consistent with the *Comprehensive Plan*, the *Thoroughfare Plan*, and any other approved plan or regulation, except where application of the Plan may conflict with State law (e.g., land use in the ETJ);
- vi. All lots located within the corporate City limits shall meet all of the minimum zoning requirements for the district in which the lot is located in addition to other applicable provisions of the City's *Zoning Ordinance*, including all applicable Planned Development zoning standards and any associated conditions; The Minor Plat conforms to design requirements and construction standards as set forth in the *Standards of Design and Construction*;
- vii. The ownership, maintenance responsibility and allowed uses of all designated Easements shall be stated on the Minor Plat;
- viii. The final layout of the subdivision or development is already adequately served by an improved public street frontage and by all required City utilities and services and by Alleys, if applicable that meet all the standards of this Chapter and the *Standards of Design and Construction*;

- ix. All affected lots shall have Access to an improved public street that meets the City's minimum design and paving standards applicable thereto. All created lots shall provide points of Access as required by this Chapter, and/or the *Standards of Design and Construction*, and/or the *Zoning Ordinance*;
- x. All created lots in the proposed subdivision shall front onto an existing public street meeting the requirements of this Chapter and the *Thoroughfare Plan*, and the construction of a new street or the extension of an existing street or Alley is not required;
- xi. Any associated Construction Plans deemed necessary in Section 02.03.036(c)(1) conform to the requirements of Section 02.03.041, *Construction Plans*, the *Standards of Design and Construction*, and have been approved by the Director of Public Works and/or the City Engineer;
- xii. Compliance with specific feature requirements for the Plat exhibit are outlined in Table 02.03.113, *Required Plat Features*; and
- xiii. The proposed development represented on the Minor Plat does not endanger the public health, safety, or welfare.

(2) **Minor Plat Approval with No Prior Approved Conveyance Plat, Concept Plan, or Site Plan.** A Minor Plat may be approved without prior approval of a Conveyance Plat, Concept Plan, or Site Plan when the following conditions are met:

- i. All documentation required as outlined above in Section 02.03.036(c) Accompanying Applications;
- ii. The Minor Plat meets all applicable County standards to be applied under an interlocal agreement between the City and Kaufman County under State law, where the proposed development is located in whole or in part in the ETJ of the City and in the County;
- iii. The Minor Plat is consistent with the *Comprehensive Plan*, the *Thoroughfare Plan*, and any other approved plan or regulations, except where Application of the Plan may conflict with State law (e.g., land use in the ETJ);
- iv. All lots located within the corporate City limit shall meet all of the minimum zoning requirements for the district in which the lot is located in addition to other applicable provisions of the City's *Zoning Ordinance*, including all applicable Planned Development zoning standards and any associated conditions;
- v. The Minor Plat conforms to design requirements and construction standards as set forth the Standards of Design and Construction;
- vi. The ownership, maintenance responsibility and allowed uses of all designated Easements shall be stated on the Minor Plat;
- vii. The final layout of the subdivision or development is already adequately served by an improved public street frontage and by all required City utilities and services, and by Alley, if applicable that meet all the standards of the Chapter and the *Standards of Design and Construction*;
- viii. All affected lots shall have Access to an improved public street that meets the City's minimum design and paving standards applicable thereto. All created lots shall provide points of Access as required by this Chapter, and/or the *Standards of Design and Construction*, and/or the *Zoning Ordinance*;
- ix. All created lots in the proposed subdivision shall front onto an existing public street meeting the requirements of the Chapter and the *Thoroughfare Plan*, and the construction of a new street or the extension of an existing street or Alley is not required;
- x. Any associated Construction Plans deemed necessary in Section 02.03.036(c)(1) conform to the requirements of Section 002.03.041, *Construction Plans*, the *Standards of Design and Construction*, and have been approved by the Director of

- xi. Public Works and/or the City Engineer;
- xi. Compliance with specific feature requirements for the Plat exhibit are outlined in Table 02.03.113, *Required Plat Feature*; and
- xii. The proposed development represented on the Minor Plat does not endanger the public health, safety, or welfare.

(e) **Early Grading.** The Director of Development Services may approve a grading permit of the subject property prior to the approval of the Minor Plat subject to the following conditions:

- (1) Execution of a waiver or other documentation required by the City;
- (2) The approval of a grading permit by the Director of Public Works, and/or the City Engineer in accordance with Section 0.03.042, *Grading Permit*; and
- (3) Approval of the Construction Plans by the Director of Public Works and/or the City Engineer; or
  - i. The Director of Public Works and/or the City Engineer recommends that the Director of Development Services allow a grading permit to be submitted and to proceed through the approval process, because the remaining Construction Plans review comments are minor as determined by the Director of Public Works, and/or the City Engineer.

(f) **Action by Staff.**

- (1) Initiate review of the Minor Plat exhibit, materials and/or documents outlined in Section 02.03.036(c), *Accompanying Applications* submitted along with any other plans necessary for review by the Director of Development Services, the Director of Public Works, and/or the City Engineer as set forth on the City's adopted Table 02.03.113, *Required Plat Features*;
- (2) Determine that the requirements of submission have been met and accept the Minor Plat;
- (3) Prepare written review comments and request comments also be provided from the City Engineer and other City departments, as deemed necessary, which will be submitted to the Applicant for compliance and revisions;
- (4) Process the review of subsequent resubmittals to ensure all review comments have been addressed to ensure compliance with the applicable regulations;
- (5) Determine whether the Minor Plat substantially conforms to any associated approved Conveyance Plat (incorporating all conditions imposed or required at the time of approval), any approved Concept Plan or Site Plan (incorporating all conditions imposed or required at the time of approval), the requirements of this Chapter, the zoning requirements (as applicable), and the requirements of Kaufman County (as applicable); and
- (6) Statute Approval of a Minor Plat is outlined below in Section 02.03.036(h), *Approval of Minor Plats*.

(g) **Action by Director of Development Services.** The Director of Development Services shall:

- (1) Determine that the requirements of submission have been met and, if so, accept the Minor Plat, which shall begin the thirty (30) calendar day process; and
- (2) The Director of Development Services is authorized to take one of the following actions:
  - i. Approve the Minor Plat and submit to appropriate City officials for signatures;
  - ii. Approve the Minor Plat with conditions, which shall mean that the Minor Plat shall be considered to have been approved once such conditions are fulfilled; or
  - iii. Defer the Minor Plat to the Commission for consideration and recommendation to Council prior to expiration of the required thirty (30) day approval period.

(h) **Approval of Minor Plats.** The Director of Development Services is authorized to approve,

approve with conditions, or disapprove Minor Plats. However, the Director of Development Services may defer the decision of any Minor Plat for any reason to the Commission and Council in accordance with the Section 02.03.036(i), *Deferral on Minor Plat Application*. A Minor Plat may be approved on the Consent Agenda.

(i) **Deferral of Decision on Minor Plat Application.** The Director of Development Services may defer the Minor Plat Application to the Commission for consideration and recommendation to Council.

(1) Planning and Zoning Commission:

- i. Consider the Minor Plat Application, the findings and recommendation of staff, and any other information available. From all such information, the Commission shall determine whether the Minor Plat conforms to the regulations of this Chapter;
- ii. Act within thirty (30) calendar days following the official submittal date of the Minor Plat Application in accordance with State law;
- iii. Take one of the following actions:
  - a. Recommend for approval the Minor Plat; or
  - b. Recommend for approval the Minor Plat with conditions (including a citation to ordinance, statute, or regulations that is the basis for the conditions), which shall mean that the Minor Plat shall be considered to have been approved once such conditions are determined by the City to be fulfilled; or
  - c. Recommend for denial the Minor Plat with reasons for denial (including a citation to ordinance, statute, or regulation that is the basis for the denial); or
  - d. Approve or deny an extension of consideration of the Minor Plat upon receipt of written request by the Developer for a thirty (30) day extension when received fifteen (15) days prior to the meeting date.

(2) Council Decision: The decision of the Council is final.

- i. Take one of the following actions:
  - a. Approve the Minor Plat;
  - b. Approve the Minor Plat with conditions (including a citation to ordinance, statute, or regulations that is the basis for the conditions), which shall mean that the Minor Plat shall be considered to have been approved once such conditions are determined by the City to be fulfilled; or
  - c. Deny the Minor Plat with reasons for denial (including a citation to ordinance, statute, or regulations that is the basis for the conditions).

(j) **Procedures for Recordation of Minor Plat Following Approval.** The Applicant shall supply to the Development Services Department the required number of original signed and executed copies of the Minor Plat documents (whether Mylar or paper originals, as required by both the City and Kaufman County) that will be needed to record the Plat, upon approval, with Kaufman County. All documents and signatures shall be originals and no copies of the exhibits or signatures will be accepted.

(1) General.

- i. *Signatures.* After approval of the Minor Plat, the Director of Development Services shall procure the appropriate City signatures on the Minor Plat.
- ii. *County Requirements.* It is the responsibility of the Applicant to comply with the Platting requirements of Kaufman County, including but not limited to:
  - a. Supplying the required number of Plat originals in the requested plat types and sizes;
  - b. Providing space on each Plat page for the County's recording information;
  - c. Providing tax certificates for the current tax year indicating all taxes have been paid on the subject property for the current tax year; and

- d. Payment of the recording fee.
- iii. **Recording Upon Approval by City Council.** The Minor Plat shall be recorded after:
  - a. The Minor Plat is approved by the City and all conditions have been satisfied;
  - b. The signed and executed originals of the Plat in the requested quantities, types, and sizes, along with the current tax certificates and recording fee are provided to the City by the Applicant;
  - c. All required City signatures have been obtained; and
  - d. All Kaufman County filing requirements are met.

(k) **Effect of Approval.** The approval and recordation of a Minor Plat:

- (1) Authorizes the Developer to implement the physical changes to the property as approved by the Construction Plans in accordance with Section 02.03.041, *Construction Plans and Standards of Design and Construction*;
- (2) Authorizes the Developer to seek Construction Release (refer to Section 02.03.041(j), *Construction Release*);
- (3) After acceptance of physical changes to the property by the City, apply for a Building Permit for vertical construction in accordance with the zoning regulations and an associated, approved site plan, as applicable.

(l) **Revisions Following Approval.** Revisions submitted by the Developer following initial Minor Plat approval shall only be processed and approved as a Replat or Amending Plat, as applicable.

#### **SEC. 02.03.037 ...REPLATS.**

- (a) **Purpose.** The purpose of a Replat is to allow division to a previously recorded Final Plat, Minor Plat, Development Plat, or Amending Plat, or a combination of subdivisions previously approved, or expanding a previously recorded Plat to include territory not previously platted, ensuring the subdivision and development of the land is consistent with all the standards of this Chapter. Unless otherwise specified, any change to a recorded Plat shall be subject to approval by the City Council in accordance with the applicable procedures set forth in this Chapter.
- (b) **Applicability and Terminology.**
  - (1) The procedures outlined in this section, and 02.03.038, *Amending Plats*, shall apply only if a Developer seeks to change any portion of a Plat that has been filed for record with Kaufman County;
  - (2) The term "Replat" includes changes to a recorded Final Plat, whether the change is effected by Replatting without vacation or Replatting by vacating the recorded Plat (Section 02.03.039, *Plat Vacation*) and approving a new Application.
- (c) **Exemptions.** A Replat is not required when an Amending Plat is sufficient as outlined in Section 02.03.038, *Amending Plats*.
- (d) **Partial Replat Application.** If a Replat is submitted for only a portion of a previously Platted subdivision, the Replat must reference the previous subdivision name and recording information and must state on the Replat the specific lots that are being changed along with a detailed "Purpose for Replat" statement.
- (e) **Replats Requiring a Zoning Ordinance Variance or Subdivision Ordinance Exception.** Replats requiring a *Zoning Ordinance* variance or *Subdivision Ordinance* Exception must be considered as a public hearing item.
  - (1) In these cases, notification in the official newspaper of the City a minimum of fifteen (15) days prior to the public hearing is required;

- (2) In addition to Replat notices, a written notice of any requested variance(s) to the *Zoning Ordinance* and/or any requested Major Modification(s)/Exception(s) to the *Subdivision Ordinance* shall be mailed to all property owners located within two-hundred (200) feet of the subject property a minimum of fifteen (15) days prior to the public hearing;
- (3) Notice of the public hearing shall also be posted with the agenda at the City Hall and on the City's website within the prescribed time limits, as required by State law;
- (4) If the variance is protested, the Replat must receive, in order to be approved, the affirmative vote of at least three-fourths (3/4) of the members present of the Commission and Council;
- (5) A legal protest consists of written instruments signed by the owners of at least twenty percent (20%) of the area of the lots or land immediately adjoining the area covered by the proposed Replat and extending two-hundred (200) feet from that area, but within the original Subdivision, and must be filed with the Commission and/or Council prior to the close of the public hearing;
  - i. In computing the percentage of land area, the area of streets and Alleys shall be included.

(f) **Requirements for Residential and Non-Residential Replats.**

- (1) Written notices of the proposed residential Replat shall be mailed to all property owners located within two-hundred (200) feet of the subject property a minimum of fifteen (15) days prior to the public hearing;
- (2) In addition, a notice shall be published in the official newspaper of the City a minimum of fifteen (15) days prior to the public hearing;
- (3) Notice of the public hearing shall also be posted with the agenda at the City Hall and on the City's website within the prescribed time limits, as required by State law;

(g) **Requirements for Non-Residential Replats.** Non-residential Replats do not require noticing by newspaper or to adjacent property owners. However, a public hearing shall be held on any non-residential Replat that requires a *Zoning Ordinance* Variance or *Subdivision Ordinance* Exception.

(h) **Construction Management.** If the subdivision, as Replatted, requires construction of additional Public Improvements, the provisions of the Facilities Agreement between the City and the Developer shall apply (see Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements*). If in the determination of the City, the subdivision as Replatted does not require any appreciable alteration or improvement of utility installations, streets, Alleys, building setback lines, etc., then no additional Construction Plans shall be required.

(i) **Accompanying Applications.**

- (1) Construction Plans. If the subdivision, as Replatted, requires construction of additional Public Improvements, as a prerequisite to the submission of an Application for a Replat, the associated Construction Plans and other documents as set forth on the City's adopted adopted Table 02.03.113, *Required Plat Features* shall be submitted, reviewed, and approved by the Director of Public Works and/or the City Engineer.
  - i. The Director of Public Works and/or the City Engineer may allow the Final Plat to be submitted and proceed through the approval process prior to the approval of the Construction Plans if they have determined that the only remaining items are minor and expected to be addressed prior to the consideration of the Replat;
- (2) As part of the Replat Application, the Applicant shall furnish acceptable proof of ownership, identifying all persons having an ownership interest in the property that is the subject of the Replat;

- (3) The Replat Application shall be signed by each owner, or by the representative of the owners authorized to sign legal documents for the owners, effectively denoting that they are consenting to the Platting of the property and to the dedications and covenants that may be contained in the Replat. Such consent shall be subject to review and approval by the City Attorney, and the Developer shall provide such documentation requested by the City for use in determining legal ownership of the property, and shall reimburse the City for all related legal costs for review. This reimbursement shall be paid in full prior to filing of the Replat;
- (4) As applicable, submit the proposed Facilities Agreement and Professional Services Agreement for review and approval. A Facilities Agreement and Professional Services Agreement shall be prepared in accordance with Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements*, of this Chapter;
- (5) The Director of Development Services, the Director of Public Works, and/or the City Engineer may require the submission of additional documents as set forth on the City's adopted Table 02.03.113, *Required Plat Features*, and as determined necessary to allow a full review of the Application for compliance with City regulations;
- (6) Specific feature requirements for the Plat exhibit are outlined in Table 02.03.113, *Required Plat Features*; and

(k) **Standards for Approval.** The following criteria shall be used by staff, the Commission and Council to determine whether the Application for a Replat shall be approved, approved with conditions, or denied:

- i. All documentation required as outlined above in Section 02.03.037(j) Accompanying Applications;
- ii. The Replat conforms to the associated, previously approved Final Plat, Minor Plat, Development Plat, or Amending Plat, incorporating all conditions required at the time of approval;
- iii. The Replat meets all applicable County standards to be applied under an interlocal agreement between the City and Kaufman County under State law, where the proposed development is located in whole or in part in the ETJ of the City and in the County;
- iv. The Applicant has provided to the City original, stamped tax certificate(s) from the Kaufman County Tax Assessor indicating that all taxes, assessments, debts and/or obligations from each taxing entity have been paid for the current year for all properties included in the Plat;
- v. The Replat is consistent with the *Comprehensive Plan*, the *Thoroughfare Plan*, and any other approved plan or regulation, except where application of the Plan may conflict with State law (e.g., land use in the ETJ);
- vi. All lots located within the corporate City limits shall meet all of the minimum zoning requirements for the district in which the lot is located, in addition to other applicable provisions of the City's *Zoning Ordinance*, including all applicable Planned Development zoning standards and any associated conditions;
- vii. The Plat shall comply with all requirements contained within an approved Facilities Agreement and/or Development Agreement, as applicable;
- viii. The Replat conforms to all applicable Construction Plans as approved by the Director of Public Works and/or the City Engineer;
- ix. The proposed provision and configuration of Public Improvements satisfy the requirements of the *Standards of Design and Construction*, including but not limited to roads, water, wastewater, storm drainage, park facilities, open space, habitat

restoration as required, Easements and Rights-of-Way that are adequate to serve the development, meet applicable standards of this Chapter, and conform to the City's adopted master plans for those facilities;

- x. The Replat conforms to design requirements and construction standards as set forth in the *Standards of Design and Construction*;
- xi. The Construction Plans conform to the requirements of Section 02.03.041, *Construction Plans*, the *Standards of Design and Construction*;
- xii. The ownership, maintenance responsibility, and allowed uses of all designated Easements shall be stated on the Replat;
- xiii. All affected lots shall have Access to an improved public street that meets the City's minimum design and paving standards applicable thereto. All created lots shall provide points of Access as required by the *Zoning Ordinance*, and/or by this Chapter, and/or the *Standards of Design and Construction*, including without limitation driveway standards. Notwithstanding the foregoing, in the event of a conflict between the Access requirements set forth herein and those set forth in the regulations of a Planned Development District, the regulations of the Planned Development District control;
- xiv. The proposed Facilities Agreement, and Professional Services Agreement, as applicable, are approved by City in accordance with applicable City policies;
- xv. Compliance with specific feature requirements for the Replat exhibit as outlined in Table 02.03.113, *Required Plat Features*; and
- xvi. The proposed development represented on the Replat does not endanger public health, safety, or welfare.

(l) **Facilities Agreement.** The Developer shall be required to execute a Facilities Agreement as a condition of Plat approval and filing whenever the installation of Community Facilities or Public Improvements is required. A Facilities Agreement shall be prepared after the Director of Public Works and/or the City Engineer have approved the Construction Plans and have determined the appropriate cost amounts and quantities roughly proportional to the impact of the development of Public Improvements all in accordance with Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements*, of this Chapter. The proposed Facilities Agreement shall be approved by the City in accordance with applicable City policies.

(m) **Early Grading.** The Director of Development Services may approve a grading permit of the subject property prior to the approval of a Replat subject to the following conditions:

- (1) Execution of a waiver or other documentation required by the City;
- (2) The approval of a grading permit by the Director of Development Services, the Director of Public Works, and/or the City Engineer, in accordance with Section 02.03.042, *Grading Permit*; and
- (3) Approval of the Construction Plans by the Director of Public Works and/or the City Engineer; or
  - i. The Director of Public Works and/or the City Engineer recommends that the Director of Development Services allow a grading permit to be submitted and to proceed through the approval process, because the remaining Construction Plans review comments are minor as determined by the Director of Public Works and/or the City Engineer.

(n) **Action by Staff.**

- (1) Initiate review of the Replat exhibit, materials and/or documents as outlined in Section 02.03.037(j), *Accompanying Applications* along with any other plans necessary for review by

the Director Development Services, Director of Public Works and/or the City Engineer as set forth on the City's adopted Table 02.03.113 *Required Plat Features*;

- (2) Determine that the requirements of submission have been met and accept the Replat;
- (3) Prepare written review comments and request comments also be provided from the City Engineer and other City departments, as deemed necessary, which will be submitted to the Applicant for compliance and revisions;
- (4) Process the review of subsequent resubmittals to ensure all review comments have been addressed to ensure compliance with the applicable regulations;
- (5) Determine whether the Replat substantially conforms to the associated approved Final Plat, Minor Plat, Development Plat, or Amending Plat, incorporating all conditions required at the time of approval;
- (6) Provide and make available the Replat exhibit and report to the Commission and Council for review.
- (7) As applicable, prepare public hearing notifications as outlined in Section 02.03.037(f) *Replat Requiring a Zoning Ordinance Variance or Subdivision Ordinance Exception*, Section 02.03.037(g) *Requirements for Residential Replats*, Section 02.03.037(h), *Requirements for Non-Residential Replats*; and
- (8) Schedule the public hearing for the Replat for consideration on the agenda of the next available meeting of the Planning and Zoning Commission and City Council.

(o) **Action by the Planning and Zoning Commission and City Council.**

(1) Planning and Zoning Commission:

- i. Conduct a public hearing and consider the Replat Application, the findings and recommendation of staff, and any other information available. From all such information, the Commission shall determine whether the Replat conforms to the regulations of this Chapter;
- ii. Act within thirty (30) calendar days following the official submittal date of the Replat Application, in accordance with State law;
- iii. Take one of the following actions:
  - a. Recommend for approval the Replat;
  - b. Recommend for approval the Replat with conditions (including a citation to ordinance, statute, or regulation that is the basis for the conditions), which shall mean that the Replat shall be considered to have been approved once such conditions are fulfilled;
  - c. Recommend denial of the Replat with reasons for denial (including a citation to ordinance, statute or regulation that is the basis for the denial); or
  - d. Approve or deny an extension of consideration of the Replat upon receipt of a written request by the Developer for a thirty (30) day extension when received fifteen (15) days prior to the meeting date.

(2) City Council: The decision of the City Council is final.

- i. Conduct a public hearing and take one of the following actions:
  - a. Approve the Replat;
  - b. Approve the Replat with conditions (including a citation to ordinance, statute, or regulation that is the basis for the conditions), which shall mean that the Replat shall be considered to have been approved once such conditions are fulfilled; or
  - c. Deny the Replat, with reasons for denial (including a citation to ordinance,

statute or regulation that is the basis for the denial).

(p) **Procedures for Recordation of Replat Documents upon Approval.** The Applicant shall supply to the Development Services Department the required number of original signed and executed copies of the Replat documents (whether Mylar or paper originals, as required by both the City and Kaufman County) that will be needed to record the Plat, upon approval, with Kaufman County. All documents and signatures shall be originals and no copies of the exhibits or signatures will be accepted.

(1) **General.**

- i. *Signatures.* After approval of the Replat, the Director of Development Services shall procure the appropriate City signatures on the Replat;
- ii. *County Requirements.* It is the responsibility of the Applicant to comply with the Platting requirements of Kaufman County, including but not limited to:
  - a. Supplying the required number of Plat originals in the requested plat types and sizes;
  - b. Providing space on each Plat page for the County's recording information;
  - c. Providing tax certificates for the current tax year indicating all taxes have been paid on the subject property for the current tax year; and
  - d. Payment of the recording fee.
- iii. *Recording Upon Approval by City Council.* The Replat shall be recorded after:
  - a. The Replat is approved by the City and all conditions have been satisfied;
  - b. The signed and executed originals of the Plat in the requested quantities, types, and sizes, along with the current tax certificates and recording fee are provided to the City by the Applicant;
  - c. All required City signatures have been obtained; and
  - d. All Kaufman County filing requirements are met.

(q) **Effect of Approval.** Upon approval and recording of the Replat, it is controlling over the previously recorded Plat for the portion Replatted without vacation of the previously recorded Plat.

(1) Upon approval, a certificate stating that the Replat has been reviewed and approved by the City shall be provided to the Applicant, as required by State law;

(2) Authorizes the Developer to install any improvement in public Right-of-Way in conformance with approved Construction Plans and under an associated Facilities Agreement and/or Development Agreement (refer to Section 02.03044, *Facilities and Professional Services Agreements, Financial Assurances and Construction Contracts for Public Improvements*), as applicable;

(3) Authorizes the Developer to implement the physical changes to the property as specified in the approved Construction Plans in accordance with Section 02.03.041, and *Standards of Design and Construction*;

(4) Authorizes the Developer to seek Construction Release (refer to Section 02.03.041(j), *Construction Release*) and

(5) After acceptance of the Public Improvements by the City, apply for a Building Permit for vertical construction in accordance with an associated, approved Facilities Agreement and/or Development Agreement, as applicable

#### **SEC. 02.03.038 ...AMENDING PLATS.**

(a) **Purpose.** The purpose of an Amending Plat shall be to provide an expeditious means of making minor revisions to a recorded Plat consistent with the provisions of State law.

(b) **Applicability.** The procedures for an Amending Plat shall apply only if the sole purpose of the

Amending Plat is to achieve one or more of the following:

- (1) To correct an error in a course or distance shown on the preceding Plat;
- (2) To add a course or distance that was omitted on the preceding Plat;
- (3) To correct an error in a real property description shown on the preceding Plat;
- (4) To indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
- (5) To show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding Plat;
- (6) To correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving Plats, including lot numbers, acreage, street names, and identification of adjacent recorded Plats;
- (7) To correct an error in courses and distances of lot lines between two (2) adjacent lots if:
  - i. Both lot owners join in the Application for amending the Plat;
  - ii. Neither lot is abolished;
  - iii. The amendment does not attempt to remove recorded covenants or restrictions; and
  - iv. The amendment does not have a material adverse effect on the property rights of any of the owners in the Plat;
- (8) To relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or Easement;
- (9) To relocate one (1) or more lot lines between one (1) or more adjacent lots if:
  - i. The owners of all those lots join in the Application for amending the Plat;
  - ii. The amendment does not attempt to remove recorded covenants or restrictions; and
  - iii. The amendment does not increase the number of lots;
- (10) To make necessary changes to the preceding Plat to create six (6) or fewer lots in the subdivision or a part of the subdivision covered by the preceding Plat if:
  - i. The changes do not affect applicable zoning and other regulations of the municipality;
  - ii. The changes do not attempt to amend or remove any covenants or restrictions; and
  - iii. The area covered by the changes is located in an area that the Commission or other appropriate governing body of the municipality has approved, after a public hearing, as a residential improvement area; or
- (11) To Replat one (1) or more lots fronting on an existing street if:
  - i. The owners of all those lots join in the Application for amending the Plat;
  - ii. The amendment does not attempt to remove recorded covenants or restrictions;
  - iii. The amendment does not increase the number of lots; and
  - iv. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

(c) **Certificates of Correction.** Certificates of Correction are prohibited.

(d) **Notice.** In accordance with State law, the approval and issuance of an Amending Plat shall not require notice, public hearing, or approval of adjacent lot owners.

(e) **Accompanying Applications.**

- (1) As a prerequisite to the submission of an Application for an Amending Plat, the associated site plan, if applicable, and other applicable revised construction type plans (i.e. grading, drainage, or utility plans) as set forth on the City's adopted Table 02.03.113, *Required Plat Features*, and deemed necessary for thorough review by the Director of Development

Services, Director of Public Works, and/or the City Engineer shall be submitted;

- (2) The Director of Development Services, the Director of Public Works, and/or the City Engineer may require the submission of additional documents as set forth on the City's adopted Table 02.03.113, *Required Plat Features*, and as determined necessary to allow a full review of the Application for compliance with City regulations;
- (3) As part of the Amending Plat Application, the Applicant shall furnish acceptable proof of ownership, identifying all persons having an ownership interest in the property that is the subject of the Amending Plat;
- (4) The Amending Plat Application shall be signed by each owner, or the representative of the owners authorized to sign legal documents for the owners, effectively denoting that they are consenting to the Platting of the property and to any applicable covenants that may be contained in the Amending Plat. Such consent shall be subject to review and approval by the City Attorney, the Developer shall provide such documentation requested by the City for use in determining legal ownership of the property, and shall reimburse the City for all related legal costs for review. This reimbursement shall be paid in full prior to filing of the Amending Plat;
- (5) Specific feature requirements for the Amending Plat exhibit are outlined in Table 02.03.113, *Required Plat Features*.

(f) **Standards for Approval.** The following criteria shall be used by the Director of Development Services to determine whether the Application for an Amending Plat shall be approved, approved with conditions, or denied or deferred to the Commission for consideration and recommendation to City Council:

- (1) All documentation required as outlined above in Section 02.03.038(e) Accompanying Applications;
- (2) The Amending Plat conforms to the associated previously approved Final Plat, Minor Plat, Replat, Development Plat, or Amending Plat, incorporating all conditions required at the time of approval;
- (3) The Amending Plat meets all applicable County standards to be applied under an interlocal agreement between the City and Kaufman County under State law, where the proposed development is located in whole or in part in the ETJ of the City and in the County;
- (4) The Applicant has provided to the City original, stamped tax certificate(s) from the Kaufman County Tax Assessor indicating that all taxes, assessments, debts and/or obligations from each taxing entity have been paid for the current year for all properties included in the Plat;
- (5) The Amending Plat is consistent with the *Comprehensive Plan*, the *Thoroughfare Plan*, and any other approved plan or regulation, except where application of the Plan may conflict with State law (e.g., land use in the ETJ);
- (6) All lots located within the corporate City limits shall meet all of the minimum zoning requirements for the district in which the lot is located in addition to other applicable provisions of the City's Zoning Ordinance, including all applicable Planned Development zoning standards and any associated conditions;
- (7) The Amending Plat shall comply with all requirements contained within an approved Facilities Agreement and/or Development Agreement, as applicable;
- (8) The proposed provision and configuration of Public Improvements satisfy the requirements of the *Standards of Design and Construction*, including, but not limited to roads, water, wastewater, storm drainage, park facilities, open spaces, habitat restoration as required,

Easements and Rights-of-Way that are adequate to serve the development, meet applicable standards of this Chapter, and conform to the City's adopted master plans for those facilities;

- (9) The Amending Plat conforms to all applicable Construction Plans as approved by the Director of Public Works and/or the City Engineer;
- (10) The Amending Plat conforms to design requirements and construction standards as set forth in the *Standards of Design and Construction*;
- (11) The ownership, maintenance responsibility, and allowed uses of all designated Easements shall be stated on the Amending Plat.;
- (12) All affected lots shall have Access to an improved public street that meets the City's minimum design and paving standards applicable thereto. All created lots shall provide points of Access as required by this Chapter, and/or the *Standards of Design and Construction* and/or the *Zoning Ordinance*;
- (13) Compliance with specific feature requirements for the Amending Plat exhibit as outlined in Table 02.03.113, *Required Plat Features*; and
- (14) The proposed development represented on the Amending Plat does not endanger public health, safety, or welfare.

(g) **Action by Staff.**

- (1) Initiate review of the Amending Plat exhibit, materials and/or documents as outlined in Section 02.03.038(e), *Accompanying Applications* along with any other plans necessary for review by the Director of Development Services, Director of Public Works and/or the City Engineer as set forth on the City's adopted Table 02.03.113 *Required Plat Features*;
- (2) Determine that the requirements of submission have been met and accept the Amending Plat;
- (3) Prepare written review comments and request comments also be provided from the City Engineer and other City departments, as deemed necessary, which will be submitted to the Applicant for compliance and revisions;
- (4) Process the review of subsequent resubmittals to ensure all review comments have been addressed to ensure compliance with the applicable regulations;
- (5) Determine whether the Amending Plat substantially conforms, as applicable, to the associated approved Final Plat, Minor Plat, Replat, Development Plat, or Amending Plat (incorporating all conditions required at the time of approval), any approved Site Plan (incorporating all conditions imposed or required at the time of approval), the requirements of this Chapter, the zoning requirements (as applicable), a Facilities and/or Development Agreement (as applicable), and the requirements of Kaufman County (as applicable); and
- (6) Approval of an Amending Plat as outlined below in Section 02.03.038(i), *Approval of Amending Plat*.

(h) **Action by Director of Development Services.** The Director of Development Services shall:

- (1) Determine that the requirements of submission have been met and, if so, accept the Amending Plat, which shall begin the thirty (30) calendar day process; and
- (2) The Director of Development Services is authorized to take one of the following actions:
  - i. Approve the Amending Plat and submit to appropriate City officials for signatures;
  - ii. Approve the Amending Plat with conditions, which shall mean that the Amending Plat shall be considered to have been approved once such conditions are fulfilled; or

- iii. Defer the Amending Plat to the Commission for consideration and recommendation to Council prior to expiration of the required thirty (30) day approval period.

(i) **Approval of Amending Plats.** The Director of Development Services is authorized to approve, approve with conditions, or disapprove Amending Plats. However, the Director of Development Services may defer the decision of any Amending Plat for any reason to the Planning & Zoning Commission and City Council in accordance with Section 02.033.038(j), *Deferral of Amending Plat Application*. An Amending Plat may be approved on the Consent Agenda.

(j) **Deferral of Decision on Amending Plat Application.** The Director of Development Services may defer the Amending Plat Application to the Commission for consideration and recommendation to Council.

(1) Planning and Zoning Commission:

- i. Consider the Amending Plat Application, the findings and recommendation of staff, and any other information available. From all such information, the Commission shall determine whether the Amending Plat conforms to the regulations of this Chapter;
- ii. Act within thirty (30) calendar days following the official submittal date of the Amending Plat Application in accordance with State law;
- iii. Take one of the following actions:
  - a. Recommend for approval the Amending Plat; or
  - b. Recommend for approval the Amending Plat with conditions (including a citation to ordinance, statute, or regulations that is the basis for the conditions), which shall mean that the Amending Plat shall be considered to have been approved once such conditions are determined by the City to be fulfilled;
  - c. Recommend for denial the Amending Plat with reasons for denial (including a citation to ordinance, statute, or regulation that is the basis for the denial); or
  - d. Approve or deny an extension of consideration of the Amending Plat upon receipt of written request by the Developer for a thirty (30) day extension when received fifteen (15) days prior to the meeting date.

(2) Council Decision: The decision of the Council is final.

- i. Take one of the following actions:
  - a. Approve the Amending Plat;
  - b. Approve the Amending Plat with conditions (including a citation to ordinance, statute, or regulations that is the basis for the conditions), which shall mean that the Amending Plat shall be considered to have been approved once such conditions are determined by the City to be fulfilled; or
  - c. Deny the Amending Plat with reasons for denial (including a citation to ordinance, statute, or regulations that is the basis for the conditions).

(k) **Procedures for Recordation of Amending Plat Following Approval.** The Applicant shall supply to the Development Services Department the required number of original signed and executed copies of the Amending Plat documents (whether Mylar or paper originals, as required by both the City and Kaufman County) that will be needed to record the Plat, upon approval, with Kaufman County. All documents and signatures shall be originals and no copies of the exhibits will be accepted.

(1) General.

- i. *Signatures.* After approval of the Amending Plat, the Director of Development Services shall procure the appropriate City signatures on the Amending Plat;
- ii. *County Requirements.* It is the responsibility of the Applicant to comply with the Platting requirements of Kaufman County, including but not limited to:
  - a. Supplying the required number of Plat originals in the requested plat types and

- sizes;
- b. Providing space on each Plat page for the County's recording information;
- c. Providing tax certificates for the current tax year indicating all taxes have been paid on the subject property for the current tax year; and
- d. Payment of the recording fee.

- iii. *Recording Upon Approval by City Council.* The Amending Plat shall be recorded after:
  - a. The Amending Plat is approved by the City and all conditions have been satisfied;
  - b. The signed and executed originals of the Plat in the requested quantities, types, and sizes, along with the current tax certificates and recording fee are provided to the City by the Applicant;
  - c. All required City signatures have been obtained; and
  - d. All Kaufman County filing requirements are met.

(I) **Effect of Approval.** Upon approval and recording of the Amending Plat, it is controlling over the previously recorded Plat for the portion included in the Amending Plat without vacation of the previously recorded Plat.

- (1) Upon approval, a certificate stating that the Amending Plat has been reviewed and approved by the City shall be provided to the Applicant, as required by State law;
- (2) As applicable, authorizes the Developer to implement the physical changes to the property as set forth in the approved and/or revised Construction Plans in accordance with Section 02.03.041, *Construction Plans* and the *Standards of Design and Construction*;
- (3) Authorizes the Developer to seek Construction Release (refer to Section 02.03.041(j), *Construction Release*); and
- (4) After acceptance of the Public Improvements by the City, apply for a Building Permit for vertical construction in accordance with an associated, approved Facilities Agreement and/or Development Agreement, as applicable.

## SEC. 02.03.039 ...DEVELOPMENT PLATS.

- (a) **Purpose.** This section is adopted pursuant to the TEXAS LOCAL GOVERNMENT CODE, CHAPTER 212, SUBCHAPTER B, Section 212.041 through 212.050, as amended. The purpose of a Development Plat is to ensure that the proposed development complies with the applicable standards of the *Zoning Ordinance*, this Chapter, and the *Standards of Design and Construction*, including but not limited to requirements for Easements, infrastructure, setbacks, adjacency standards, and that there are no property line encroachments. For the purposes of this section, the term "development" means the new construction of any building, structure, or improvement of any nature (residential or nonresidential), or the enlargement of any external dimension thereof. This section shall apply to any land lying within the City limits or within its extraterritorial jurisdiction in the following circumstances:
  - (1) The development of any tract of land which has not been Platted or Replatted prior to the effective date of this Chapter, unless expressly exempted herein;
  - (2) The development of any tract of land for which the Developer claims an exemption from the City's Subdivision Ordinance (see SUBCHAPTER A of Section 212 of the TEXAS LOCAL GOVERNMENT CODE, as amended), including requirements to Replat, which exemption is not expressly provided for in such regulations;
  - (3) The division of any tract of land resulting in parcels or lots, each of which is greater than five (5) acres in size, and where no Public Improvement is proposed to be dedicated.
- (b) **Exemptions.** A Development Plat shall not be required where the land to be developed has received Plat approval prior to the effective date of this Ordinance.
- (c) **Accompanying Applications.**

- (1) **Construction Plans.**
  - i. As a prerequisite to the submission of an Application for a Development Plat, the associated site plan, if applicable, and other construction type plans (i.e. grading, drainage or utility plans) as set forth on the City's adopted Table 02.03.113, *Required Plat Features*, and deemed necessary for thorough review by the Director of Development Services, Director of Public Works and/or the City Engineer shall be submitted;
  - ii. If public improvements are being extended, the Development Plat Application shall be accompanied by approved Construction Plans, in accordance with Section 02.03.041, *Construction Plans and Standards of Design and Construction* ;
- (2) As applicable, the Applicant shall submit the proposed Facilities Agreement and/or Professional Services Agreement for review and approval. A Facilities Agreement and/or Professional Services Agreement shall be prepared in accordance with Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements*, of this Chapter;
- (3) As part of the Development Plat Application, the Applicant shall furnish acceptable proof of ownership, identifying all persons having an ownership interest in the property that is the subject of the Development Plat;
- (4) The Development Plat Application shall be signed by each owner, or by the representative of the owners authorized to sign legal documents for the owners, effectively denoting that they are consenting to the Platting of the property and to any applicable covenants that may be contained in the Development Plat. Such consent shall be subject to review and approval by the City Attorney, the Developer shall provide such documentation requested by the City for use in determining legal ownership of the property, and shall reimburse the City for all related legal costs for review. This reimbursement shall be paid in full prior to filing of the Development Plat.;
- (5) As applicable, the Applicant shall submit the proposed Facilities and Professional Services Agreement for review and approval. A Facilities Agreement and Professional Services Agreement shall be prepared in accordance with Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements*, of this Chapter;
- (6) The Director of Development Services, the Director of Public Works, and/or the City Engineer may require the submission of additional documents as set forth on the City's adopted Table 02.03.113, *Required Plat Features*, and as determined necessary to allow a full review of the Application for compliance with City regulations;
- (7) Specific feature requirements for the Plat exhibit are outlined in Table 02.03.113, *Required Plat Features*; and
- (8) The Development Plat and all accompanying data shall conform to the associated approved Conveyance Plat (as applicable), and shall incorporate all conditions imposed or required at time of approval by City Council, and/or per any previously approved concept plan, an associated Facilities Agreement, and/or Development Agreement and/or a Planned Development District.

(d) **Standards for Approval.**

- (1) All documentation required as outlined above in Section 02.03.039(e) Accompanying Applications;
- (2) The Development Plat conforms to the associated approved Conveyance Plat (as applicable) or approved concept plan (as applicable), including any conditions imposed at the time of approval;
- (3) The Development Plat meets all applicable County standards to be applied under an

interlocal agreement between the City and Kaufman County under State law, where the proposed development is located in whole or in part in the ETJ of the City and in the County;

- (4) The Applicant has provided to the City original, stamped tax certificate(s) from the Kaufman County Tax Assessor indicating that all taxes, assessments, debts and/or obligations from each taxing entity have been paid for the current year for all properties included in the Plat;
- (5) The Development Plat is consistent with the *Comprehensive Plan*, the *Thoroughfare Plan*, and any other approved plan or regulation, except where application of the Plan may conflict with State law (e.g., land use in the ETJ);
- (6) All lots located within the corporate City limits shall meet all of the minimum zoning requirements for which the district in which the lot is located in addition to other applicable provisions of the City's Zoning Ordinance, including all applicable Planned Development zoning standards and any associated conditions;
- (7) The Plat shall comply with all requirements contained within an approved Facilities Agreement and/or Development Agreement, as applicable;
- (8) If applicable, the Development Plat conforms to the Construction Plans as approved by the Director of Public Works and/or the City Engineer;
- (9) The proposed provision and configuration of Public Improvements satisfy the requirements of the *Standards of Design and Construction*, including, but not limited to roads, water, wastewater, storm drainage, park facilities, open spaces, habitat restoration as required, Easements and Rights-of-Way that are adequate to serve the development, meet applicable standards of this Chapter, and conform to the City's adopted master plans for those facilities have been provided;
- (10) The applicable Construction Plans conform to the requirements of Section 02.03.041, *Construction Plans*;
- (11) The Development Plat conforms to design requirements and construction standards as set forth in the *Standards of Design and Construction*;
- (12) The ownership, maintenance responsibility, and allowed uses of all designated Easements shall be stated on the Development Plat;
- (13) All affected lots shall have Access to an improved public street that meets the City's minimum design and paving standards applicable thereto. All created lots shall provide points of Access as required by this Chapter, the *Standards of Design and Construction*, and the *Zoning Ordinance*, including without limitation driveway standards. Notwithstanding the foregoing, in the event of a conflict between the Access requirements set forth herein and those set forth in the regulations of a Planned Development District, the regulations of the Planned Development District shall control;
- (14) As applicable, the proposed Facilities Agreement and Professional Services Agreement are approved by City in accordance with applicable City policies;
- (15) Compliance with specific feature requirements for the Development Plat exhibit are outlined in Table 02.03.113, *Required Plat Features*; and
- (16) The proposed development represented on the Development Plat exhibit does not endanger the public health, safety, or welfare.

(e) **Action by Staff.**

- (1) Initiate review of the Development Plat exhibit, materials and/or documents outlined in Section 02.03.039(c), Accompanying Applications submitted along with any other plans

necessary for review by the Director of Development Services, the Director of Public Works and/or the City Engineer as set forth on the City's adopted Table 02.03.113 *Required Plat Features*;

- (2) Determine that the requirements of submission have been met and accept the Development Plat;
- (3) Prepare written review comments and request comments also be provided from the City Engineer and other City departments, as deemed necessary, which will be submitted to the Applicant for compliance and revisions;
- (4) Process the review of subsequent resubmittals to ensure all review comments have been addressed to ensure compliance with the applicable regulations;
- (5) As applicable, determine whether the Development Plat substantially conforms to an associated approved Conveyance Plat (incorporating all conditions imposed or required at the time of approval), the requirements of this Chapter, the zoning requirements (as applicable), the requirements of Kaufman County (as applicable), an approved Concept Plan and/or Site Plan (as applicable), and an associated Facilities Agreement and/or Development Agreement (as applicable);
- (6) Provide and make available the Development Plat exhibit and reports to the Commission for review; and
- (7) Schedule the Development Plat for consideration on the agenda of the next available meeting of the Planning and Zoning Commission and City Council.

(f) **Facilities Agreement.** The Developer shall be required to execute a Facilities Agreement as a condition of Plat approval and filing whenever the installation of Community Facilities or Public Improvements is required. A Facilities Agreement shall be prepared after the Director of Public Works and/or the City Engineer have approved the construction plans and have determined the appropriate cost amounts and quantities roughly proportional to the impact of the development of Public Improvements all in accordance with Section 02.03.045, Facilities and Professional Service Agreements, Financial Assurances, and Construction Contracts for Public Improvements, of this Chapter. The proposed Facilities Agreement shall be approved by the City in accordance with applicable City policies.

(g) **Early Grading.** The Director of Development Services may approve a grading permit of the subject property prior to the approval of a Development Plat subject to the following conditions:

- (1) Execution of a waiver or other documentation required by the City;
- (2) The approval of a grading permit by the Director of Development Services, the Director of Public Works and/or the City Engineer in accordance with Section 02.03.042, *Grading Permit*; and
- (3) Approval of the Construction Plans by the Director of Public Works and/or the City Engineer;  
or
  - i. The Director of Public Works and/or the City Engineer recommends that the Director of Development Services allow a grading permit to be submitted and to proceed through the approval process, because the remaining Construction Plans review comments are minor as determined by the Director of Public Works and/or the City Engineer

(h) **Action by the Planning and Zoning Commission and City Council.**

- (1) Planning and Zoning Commission:
  - i. Consider the Development Plat Application, the findings and recommendation of staff,

and any other information available. From such information, the Commission shall determine whether the Development Plat conforms to the regulations of this Chapter;

- ii. Act within thirty (30) calendar days following the official submittal date of the Development Plat Application in accordance with State law;
- iii. Take one of the following actions:
  - a. Recommend for approval of the Development Plat;
  - b. Recommend for approval of the Development Plat with conditions (including a citation to ordinance, statute, or regulation that is the basis for the conditions), which shall mean that the Development Plat shall be considered to have been approved once such conditions are fulfilled; or
  - c. Recommend denial of the Development Plat with reasons for denial (including a citation to ordinance, statute, or regulation that is the basis for the denial); or
  - d. Approve or deny an extension of consideration of the Development Plat upon receipt of a written request by the Developer for a thirty (30) day extension when received fifteen (15) days prior to the meeting date.

(2) **City Council:** The Decision of the Council is final.

- i. Take one of the following actions:
  - a. Approve the Development Plat;
  - b. Approve the Development Plat with conditions (including a citation to ordinance, statute, or regulation that is the basis for the conditions), which shall mean that the Development Plat shall be considered to have been approved once such conditions are fulfilled; or
  - c. Deny the Development Plat, with reasons for denial (including a citation to ordinance, statute, or regulation that is the basis for the denial).

(i) **Procedures for Recordation of Development Plat Documents upon Approval.** The Applicant shall supply to the Development Services Department the required number of original signed and executed copies of the Development Plat documents (whether Mylar or paper originals, as required by both the City and Kaufman County) that will be needed to record the Plat, upon approval, with Kaufman County. All documents and signatures shall be originals and no copies of the exhibits or signatures will be accepted.

(1) **General.**

- i. ***Signatures.*** After approval of the Development Plat, the Director of Development services shall procure the appropriate City Signatures on the Development Plat;
- ii. ***County Requirements.*** It is the responsibility of the Applicant to comply with the Platting requirements of Kaufman County, including but not limited to:
  - a. Supplying the required number of Plat originals in the requested plat types and sizes;
  - b. Providing space on each Plat page for the County's recording information;
  - c. Providing tax certificates for the current tax year indicating all taxes have been paid on the subject property for the current tax year; and
  - d. Payment of the recording fee.
- iii. ***Recording Upon Approval by City Council.*** The Development Plat shall be recorded after:
  - a. The Development Plat is approved by the City and all conditions have been satisfied;
  - b. The signed and executed originals of the Plat in the requested quantities, types, and sizes, along with the current tax certificates and recording fee are provided to the City by the Applicant;
  - c. All required City signatures have been obtained; and

d. All Kaufman County filing requirements are met.

(j) **Effect of Approval.** The approval and recordation of a Development Plat:

- (1) Authorizes the Applicant to install any improvements in public Rights-of-Way in conformance with approved Construction Plans and under a Facilities Agreement (refer to Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances and Construction Contracts for Public Improvements*) and/or under a Development Agreement, as applicable;
- (2) Authorizes the Applicant to implement the physical changes to the property as set forth in the approved Construction Plans in accordance with Section 02.03.041, *Construction Plans, and Standards of Design and Construction*;
- (3) After acceptance of the Public Improvements by the City, apply for a Building Permit for vertical construction in accordance with an associated, approved Facilities Agreement and/or Development Agreement, as applicable.

#### **SEC. 02.03.0391...PLAT VACATION.**

- (a) **Purpose.** The purpose of a Plat Vacation is to provide an expeditious means of nullifying a recorded Plat in its entirety, consistent with provisions of State law.
- (b) **Initiation of a Plat Vacation.**
  - (1) By Property Owner. The property owner or Developer of the tract covered by a Plat may submit an Application to vacate the Plat at any time before any lot in the Plat is sold;
  - (2) By All Lot Owners. If lots in the Plat have been sold, an Application to vacate the Plat must be submitted by **ALL** the owners of Lots in the Plat. All Plat Vacations require the signatures of one-hundred percent (100%) of the property owners in the Subdivision who own intact original Lots as shown on the original plat as required by State law per Section 212.013 of the TEXAS LOCAL GOVERNMENT CODE;
  - (3) City Initiation. City Council may take such action to vacate a Plat to protect the public health, safety, and welfare, or as otherwise allowed by law.
- (c) **Notice.** Published notice of the public hearing on the Plat Vacation Application shall be given in accordance with State law. The hearing shall be conducted by the Planning and Zoning Commission and City Council.
- (d) **Accompanying Applications.**
  - (1) PDF file copy of current filed plat;
  - (2) PDF file copy of current recorded deed(s);
  - (3) Original and PDF file copy of Declaration of Petition of Vacation of Plat;
  - (4) As a prerequisite to the submission of an Application for a Plat Vacation, the Developer shall provide written documentation/certification from each appropriate entity evidencing that any Right-of-Way to be vacated, abandoned, and relinquished is free of all public and private utilities including, but not limited to water, wastewater, storm water, electricity, gas, and franchise utilities;
    - i. If public or private utilities are present within the Right-of-Way, a utility Easement of an appropriate size and location, as determined by either the Director of Public Works and/or the City Engineer, or the appropriate entity shall be retained. A drainage Easement shall also be retained, as determined by the Director of Public Works and/or the City Engineer;
      - a. As a prerequisite of a Plat Vacation, submit a metes and bounds description and

visual depiction, or exhibit, showing the location and limits of the Right-of-Way and/or Easement proposed to be vacated;

- b. As a prerequisite of a Plat Vacation submit a metes and bound description and visual depiction, or exhibit, showing the location and limits of any required Easements necessary to be retained for purposes of filing with the County Clerk of Kaufman County;

(5) Plat attributes survey form;

(6) The Applicant shall furnish as part of the Plat Vacation acceptable proof of ownership, identifying all persons having an ownership interest in the property that is the subject of the Plat Vacation, which may include current title report, or attorney's title opinion showing ownership of Lot(s) or Plat to be vacated;

(7) Original, stamped tax certificate(s) from the Kaufman County Tax Assessor indicating that all taxes, assessments, debts and/or obligations from each taxing entity have been paid for the current year for all properties included in the Plat to be vacated;

(8) All documents shall bear appropriate seals, stamps or other validations/certifications of work as applicable in accordance with State law and local requirements;

(9) Short statement as to the reason that Plat Vacation is being requested;

(10) The Plat Vacation Application shall be signed by each owner, or by the representative of the owners authorized to sign legal documents for the owners, effectively denoting that they are consenting to the Vacation of the Plat. Such consent shall be subject to review and approval by the City Attorney; the Applicant shall provide such documentation as requested by the City for use in determining legal ownership of the property, and shall reimburse the City for all related legal costs for review. This reimbursement shall be paid in full as a condition of approval, if applicable;

(11) The Director of Development Services, the Director of Public Works and/or the City Engineer may require the submission of a plat exhibit indicating what is proposed to be vacated and associated planning documents as set forth on the City's adopted Table 02.03.113, *Required Plat Features*, and as determined necessary to allow a full review of the Application for compliance with City regulations;
 

- i. Requirements for Plat Vacation for Purpose of Replatting:
  - a. Submit a Final Plat exhibit in accordance with the City's adopted Table 02.03.113, *Required Plat Features*;
  - b. The title shall identify the document as " \_\_\_\_\_ Addition, Block \_\_\_\_\_, Lot(s) \_\_\_\_\_, Being a Vacation of \_\_\_\_\_ Addition, Block \_\_\_\_\_, Lot(s) \_\_\_\_\_, an addition to the City of Kaufman, as recorded in Volume/Cabinet \_\_\_\_\_, Page/Slide \_\_\_\_\_ of the Plat Records of Kaufman, County, Texas.
- ii. Requirements for Plat Vacation Not for the Purpose of Replatting:
  - a. Submit finalized versions of item (5)(a) above: surveyor signed and sealed metes and bounds description and visual depiction or exhibit showing the limits of the Right(s)-of-Way and/or Easement(s) proposed to be vacated. These documents will be exhibits to an ordinance which will be filed in the office of the County Clerk of Kaufman County;
  - b. Submit finalized versions of item (5)(b) above surveyor signed and sealed metes and bounds description and visual depiction(s), or exhibit(s) showing the location and limits of any required Easements necessary to be retained for purposes of filing with the County Clerk of Kaufman County.

(12) As a prerequisite to the submission of a Plat Vacation, the Applicant may be required to

amend an associated Development Agreement and/or Facilities Agreement, Professional Services Agreement, Planned Development, Concept Plan, or other plan or agreement related to the Plat to be vacated, subject to the provisions of the plan or agreement and/or the conditions of approval;

(e) **Standards for Approval.**

- (1) All required documentation has been provided as outlined above in Section 02.03.0391(d) *Accompanying Applications*;
- (2) Written documentation from each appropriate entity evidencing that the Right-of-Way to be vacated, abandoned, and relinquished is free of all public and private utilities including, but not limited to water, wastewater, stormwater, electricity, gas, and franchise utilities has been provided;
  - i. A utility Easement of an appropriate size and location, as determined by the Director of Public Works and/or the City Engineer, shall be retained for any present public or private utilities within the Right-of-Way that need to remain;
- (3) The Plat Vacation meets all applicable County standards to be applied under an interlocal agreement between the City and Kaufman County under State law, where the Plat to be vacated is located in whole or in part in the ETJ of the City and in the County;
- (4) The Applicant has provided to the City original, stamped tax certificate(s) from the Kaufman County Tax Assessor indicating that all taxes, assessments, debts and/or obligations from each taxing entity have been paid for the current year for all properties included in the Plat;
- (5) The Plat Vacation is consistent with the *Comprehensive Plan*, the *Thoroughfare Plan*, and any other approved plan or regulation, except where application of the Plan may conflict with State law (e.g., land use in the ETJ);
- (6) As a prerequisite to the submission of a Plat Vacation, any associated Development Agreement and/or Facilities Agreement, Professional Services Agreement, Planned Development, Concept Plan, or other plan or agreement related to the Plat to be vacated is amended to reflect the vacation of the Plat, subject to the provisions of the plan or agreement and/or the conditions of approval;
- (7) The ownership, maintenance responsibility, and allowed uses of all designated easements that are required shall be stated on the instrument(s) retaining or establishing the easements;
- (8) The Plat Vacation exhibit clearly shows and defines the area to be vacated; and
- (9) The proposed Plat Vacation does not endanger public health, safety, or welfare.

(f) **Action by Staff.**

- (1) Initiate review of the Plat Vacation Application, exhibits, materials and/or documents outlined in Section 02.03.0391, *Accompanying Applications* submitted along with any other associated plans necessary for review by the Director of Development Services, the Director of Public Works and/or the City Engineer;
- (2) Determine that the requirements of submission have been met and accept the Plat Vacation;
- (3) Prepare written review comments and request comments also be provided from the City Engineer and other City departments, as deemed necessary, which will be submitted to the Applicant for compliance and revisions;
- (4) Process the review of subsequent resubmittals to ensure all review comments have been addressed to ensure compliance with the applicable regulations;

- (5) The Director shall consider issues of utility and drainage Easements, franchise utilities, and traffic Access to determine whether to retain all or specific portions of road Rights-of-Way or Easements shown on the Plat being considered for Plat Vacation. If determined all or any portion of Easements and/or Rights-of-Way are to be retained as a condition of approval, they shall be conveyed to the City in a separate legal document using forms provided by the City Attorney's office;
- (6) Determine if the Plat Vacation violates any of the conditions imposed or required by City Council for the associated Plat, or per any previously approved concept plan, an associated Facilities Agreement, and/or Development Agreement, and/or Planned Development District;
- (7) Provide and make available the Plat Vacation exhibit and report to the Commission and Council for review; and
- (8) Schedule the public hearing for consideration on the agenda of the next available meeting of the Planning and Zoning Commission and City Council.

**(g) Action by the Planning & Zoning Commission and Council.**

**(1) Planning and Zoning Commission:**

- i. Consider the Plat Vacation Application, the findings and recommendation of staff, and any other information provided. The Commission shall conduct a public hearing and from all such information make a finding as to whether or not the Plat should be vacated;
- ii. Act within thirty (30) calendar days following the official submittal date of the Plat Vacation Application, in accordance with State law;
- iii. Take one of the following actions:
  - a. Recommend for approval the Plat Vacation;
  - b. Recommend for approval the Plat Vacation with conditions (including a citation to ordinance, statute, or regulation that is the basis for the conditions), which shall mean that the Plat Vacation shall be considered to have been approved once such conditions are fulfilled;
  - c. Recommend denial of the Plat Vacation with reasons for the denial (including a citation to ordinance, statute, or regulation that is the basis for the denial); or
  - d. Approve or deny an extension of the Plat Vacation upon receipt of a written request by the Applicant for a thirty (30) day extension when received fifteen (15) calendar days prior to the meeting date.

**(2) City Council: The decision of Council is final.**

- i. Take one of the following actions:
  - a. Approve the Plat Vacation;
  - b. Approve the Plat Vacation with conditions (including a citation to ordinance, statute, or regulation that is the basis for the conditions), which shall mean that the Plat Vacation shall be considered to have been approved once such conditions are fulfilled; or
  - c. Deny the Plat Vacation with reasons for the denial (including a citation to ordinance, statute, or regulation that is the basis for the denial).

**(h) Action by the City Council.** If the City Council chooses to approve a Plat Vacation, an ordinance shall be adopted and said ordinance shall be filed for record with the Kaufman County Clerks' Office. A metes and bounds description and a visual depiction or exhibit showing the location and limits of the vacated Right-of-Way shall be attached to the ordinance. If the City Council adopts an ordinance vacating a Plat in part, it shall cause a revised Final Plat to be recorded along with the ordinance and filing number which shows that portion of the original Plat that has been

vacated and that portion that has not been vacated.

(i) **Procedures for Recordation of Vacation Plat Documents upon Approval.** The Applicant shall supply to the Development Services Department the required number of original signed and executed copies of the Plat Vacation documents (as required by both the City and Kaufman County) that will be needed to record the Plat Vacation, upon approval, with Kaufman County. All documents and signatures shall be originals and no copies of the exhibits or signatures will be accepted;

(1) General.

- i. *Signatures.* After approval of the Plat Vacation, the Director of Development Services shall procure the appropriate City Signatures on the Plat Vacation;
- ii. *County Requirements.* It is the responsibility of the Applicant to comply with the recording requirements of Kaufman County, including but not limited to:
  - a. Supplying the required number of originals in the requested types and sizes;
  - b. Providing space on each page for the County's recording information;
  - c. Providing tax certificates for the current tax year indicating all taxes have been paid on the subject property for the current tax year; and
  - d. Payment of the recording fee.
- iii. *Recording Upon Approval by City Council.* The Development Plat shall be recorded after:
  - a. The Plat Vacation is approved by the City and all conditions have been satisfied;
  - b. The signed and executed originals of the Plat Vacation in the requested quantities, types, and sizes, along with the current tax certificates and recording fee are provided to the City by the Applicant;
  - c. All required City signatures have been obtained; and
  - d. All Kaufman County filing requirements are met.

(j) **Effect of Approval.**

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

**SEC. 02.03.0392 .RIGHT-OF-WAY VACATION, ABANDONMENT AND RELINQUISHMENT.**

- (a) **Purpose.** From time to time, as the City's vehicular circulation needs and traffic patterns change, rights-of-way previously dedicated to, or acquired by, the City for public travel may no longer be necessary. Therefore, in accordance with the TEXAS LOCAL GOVERNMENT CODE, CHAPTER 272 and the TEXAS TRANSPORTATION CODE, CHAPTER 311.007, the City may choose to vacate, abandon, relinquish, or close a street or Alley on its own accord or upon receipt of a petition from property owners or Developer adjacent to, Abutting or directly served by the Right-of-Way sought to be closed and/or abandoned.
- (b) **Notice.** Prior to the vacation, abandonment, and relinquishment of a public street, or Alley Right-of-Way, a public hearing shall be held by the City Council;

- (1) Written notices of the proposed Right-of-Way vacation abandonment and relinquishment request shall be mailed to all property owners immediately adjacent to the subject property a minimum of ten (10) days prior to the public hearing; and
- (2) A notice shall be published in the official newspaper of the City a minimum of fifteen (15) days prior to the public hearing in accordance with State law.

(c) **Accompanying Applications.**

- (1) As a prerequisite of the submission of an Application for a Right-of-Way Vacation, Abandonment, and Relinquishment Plat, the Applicant shall provide written documentation from each appropriate entity evidencing that the Right-of-Way to be vacated, abandoned, and relinquished is free of all public and private utilities including, but not limited to, water, wastewater stormwater, electricity, gas, and franchise utilities;
  - i. If public or private utilities are present within the Right-of-Way, a utility Easement of an appropriate size and location, as determined by the Director of Public Works and/or the City Engineer, will be retained. A drainage Easement shall also be retained, as determined by the Director of Public Works and/or the City Engineer;
- (2) A metes & bounds description and visual depiction or exhibit showing the limits of the Right(s)-of-Way proposed to be vacated, signed and sealed by a registered surveyor. These documents will be exhibits to an ordinance which will be filed in the office of the County Clerk of Kaufman County;
- (3) As a prerequisite to the submission of an application for Right-of-Way Vacation, Abandonment, and Relinquishment, the Applicant may be required to amend an associated Development Agreement and/or Facilities Agreement, Professional Services Agreement, Planned Development, Concept Plan, or other plan or agreement related to the Right-of-Way to be vacated, abandoned, and relinquished, subject to the provisions of the plan or agreement and/or the conditions of approval;

(d) **Standards for Approval.**

- (1) All required documentation has been provided as outlined above in Section 02.03.0392(c) Accompanying Applications;
- (2) Written documentation from each appropriate entity evidencing that the Right-of-Way to be vacated, abandoned, and relinquished is free of all public and private utilities including, but not limited to water, wastewater stormwater, electricity, gas, and franchise utilities has been provided;
  - i. A utility Easement of an appropriate size and location, as determined by the Director of Public Works and/or the City Engineer, shall be retained for any present public or private utilities within the Right-of-Way that need to remain;
- (3) The Right-of-Way Vacation, Abandonment, and Relinquishment meets all applicable County standards to be applied under an interlocal agreement between the City and Kaufman County under State law, where the proposed development is located in whole or in part in the ETJ of the City and in the County;
- (4) The Right-of-Way Vacation, Abandonment, and Relinquishment is consistent with the *Comprehensive Plan*, the *Thoroughfare Plan*, and any other approved plan or regulation, except where application of the Plan may conflict with State law (e.g., land use in the ETJ);
- (5) The ownership, maintenance responsibility, and allowed uses of all designated easements that are required shall be stated on the instrument(s) retaining or establishing the easements;
- (6) As a prerequisite to the submission of an application for Right-of-Way Vacation, Abandonment, and Relinquishment, any associated Development Agreement and/or

Facilities Agreement, Professional Services Agreement, Planned Development, Concept Plan, or other plan or agreement related to the Right-of-Way to be vacated, abandoned, and relinquished is amended to reflect the vacation, abandonment, and relinquishment of the Right-of-Way, subject to the provisions of the plan or agreement and/or the conditions of approval;

(7) The proposed Right-of-Way Vacation, Abandonment, and Relinquishment does not endanger public health, safety, or welfare

(e) **Action by Staff.**

- (1) Initiate review of the Right-of-Way Vacation, Abandonment and Relinquishment Application, exhibits, materials and/or documents outlined in Section 02.03.0391, *Accompanying Applications* submitted along with any other associated plans necessary for review by the Director of Development Services, the Director of Public Works and/or the City Engineer;
- (2) Determine that the requirements of submission have been met and accept the Application for Right-of-Way Vacation, Abandonment and Relinquishment;
- (3) Prepare written review comments and request comments also be provided from the City Engineer and other City departments, as deemed necessary, which will be submitted to the Applicant for compliance and revisions;
- (4) Process the review of subsequent resubmittals to ensure all review comments have been addressed to ensure compliance with the applicable regulations;
- (5) The Director shall consider issues of utility and drainage Easements, franchise utilities, and traffic Access to determine whether to retain all or specific portions of road Rights-of-Way, or Easements included in the area being considered for Right-of-Way Vacation, Abandonment and Relinquishment. If determined all or any portion of Easements and/or Rights-of-Way are to be retained as a condition of approval, they shall be conveyed to the City in a separate legal document using forms provided by the City Attorney's office;
- (6) Determine if the Right-of-Way Vacation, Abandonment and Relinquishment violates any of the conditions imposed or required by City Council for the associated Plat, or per any previously approved concept plan, an associated Facilities Agreement, and/or Development Agreement, and/or Planned Development District;
- (7) Provide and make available the Right-of-Way Vacation, Abandonment, and Relinquishment exhibit and report to the Commission and Council for review; and
- (8) Schedule the public hearing for consideration on the agenda of the next available meeting of the City Council.

(f) **Action by the Planning & Zoning Commission and Council.**

- (1) Planning and Zoning Commission:
  - i. Consider the Application for Right-of-Way Vacation, Abandonment, and Relinquishment, the findings and recommendation of staff, and any other information provided. The Commission shall conduct a public hearing and from all such information make a finding as to whether or not the Right-of-Way should be vacated, abandoned, and relinquished;
  - ii. Act within thirty (30) calendar days following the official submittal date of the Application for Right-of-Way Vacation, Abandonment, and Relinquishment, in accordance with State law;
  - iii. Take one of the following actions:
    - a. Recommend for approval the Right-of-Way Vacation, Abandonment, and Relinquishment;

- b. Recommend for approval the Right-of-Way Vacation, Abandonment, and Relinquishment with conditions (including a citation to ordinance, statute, or regulation that is the basis for the conditions), which shall mean that the Right-of-Way Vacation Abandonment, and Relinquishment shall be considered to have been approved once such conditions are fulfilled;
- c. Recommend denial of the Right-of-Way Vacation, Abandonment, and Relinquishment with reasons for the denial (including a citation to ordinance, statute, or regulation that is the basis for the denial); or
- d. Approve or deny an extension of the Right-of-Way Vacation, Abandonment, and Relinquishment upon receipt of a written request by the Applicant for a thirty (30) day extension when received fifteen (15) calendar days prior to the meeting date.

(2) **City Council:** The decision of Council is final.

- i. Take one of the following actions:
  - a. Approve the Right-of-Way Vacation, Abandonment, and Relinquishment;
  - b. Approve the Right-of-Way Vacation, Abandonment, and Relinquishment with conditions (including a citation to ordinance, statute, or regulation that is the basis for the conditions), which shall mean that the Right-of-Way Vacation, Abandonment, and Relinquishment shall be considered to have been approved once such conditions are fulfilled; or
  - c. Deny the Right-of-Way Vacation, Abandonment, and Relinquishment with reasons for the denial (including a citation to ordinance, statute, or regulation that is the basis for the denial).

(g) **Action by the City Council.** If the City Council chooses to vacate, abandon, and relinquish a Right-of-Way, an ordinance shall be adopted and said ordinance shall be filed for record with the Kaufman County clerk. A metes & bounds description and a visual depiction or exhibit showing the location and limits of the vacated Right-of-Way shall be attached to the ordinance.

(h) **Procedures for Recordation of Right-of-Way Vacation, Abandonment, and Relinquishment Documents upon Approval.** The Applicant shall supply to the Development Services Department the required number of original signed and executed copies of the Right-of-Way Vacation, Abandonment, and Relinquishment documents (as required by both the City and Kaufman County) that will be needed to record the Right-of-Way Vacation, Abandonment, and Relinquishment, upon approval, with Kaufman County. All documents and signatures shall be originals and no copies of the exhibits or signatures will be accepted;

- i. **Signatures.** After approval of the Right-of-Way Vacation, Abandonment, and Relinquishment, the Director of Development Services shall procure the appropriate City Signatures on the Right-of-Way Vacation, Abandonment, and Relinquishment;
- ii. **County Requirements.** It is the responsibility of the Applicant to comply with the recording requirements of Kaufman County, including but not limited to:
  - a. Supplying the required number of originals in the requested types and sizes;
  - b. Providing space on each page for the County's recording information;
  - c. Providing tax certificates for the current tax year indicating all taxes have been paid on the subject property for the current tax year; and
  - d. Payment of the recording fee.
- iii. **Recording Upon Approval by City Council.** The Development Plat shall be recorded after:
  - a. The Plat Vacation is approved by the City and all conditions have been satisfied;
  - b. The signed and executed originals of the Plat Vacation in the requested quantities, types, and sizes, along with the current tax certificates and recording fee are provided to the City by the Applicant;
  - c. All required City signatures have been obtained; and

d. All Kaufman County filing requirements are met.

(i) **Effect of Approval.**

- (1) The Right-of-Way is vacated, abandoned, and relinquished when a signed, acknowledged instrument vacating, abandoning, and relinquishing the Right-of-Way is approved and recorded in the manner prescribed in Section 02.03.0392 (f), (g), and (h);
- (2) The City Council, at its discretion, shall have the right to retain all or specific portions of Right-of-Way or Easements being considered for vacation or abandonment;
- (3) Once a Right-of-Way is duly vacated, according to the regulations above, the property lines of the adjacent properties shall extend to the centerline of the Right-of-Way or as otherwise approved by Council;
- (4) The zoning of the adjacent property extending into the previous Right-of-Way shall be designated in accordance with the *Zoning Ordinance*;
- (5) Any subsequent Platting or Replatting shall include the ordinance and subsequent filing number of the Right-of-Way vacation.

## ARTICLE 02.03.040 ..... CONSTRUCTION PLANS & PROCEDURES

### SEC. 02.03.041 ...CONSTRUCTION PLANS.

(a) **Purpose.** This Construction Plans section, which includes design criteria and standards for the City of Kaufman is intended primarily for use by the Developer's engineer. The adopted *Standards of Design and Construction*, as amended, shall also be used in designing the Construction Plans. These criteria and standards should enable the engineer to design the required Public Improvements and Community Facilities in a manner acceptable to the City. There may be special circumstances which would call for requirements in excess of those outlined. In most cases, additional requirements will be apparent to the Developer's engineer while preparing the plans for the subdivision or during conferences/discussions with the City staff.

(b) **Applicability.** Construction Plans for Public Improvements shall be submitted to the City prior to the Application for the associated Final, Replat, Minor or Development Plat, as applicable.

(c) **Submitting Plans.** Signed and sealed, engineered Construction Plans shall be submitted in accordance with the policies of the Development Services Department. Specific feature requirements, necessary items and exhibits to be included in the Construction Plans are included in the Standards of Design and Construction. Incomplete Construction Plans will not be accepted, and such plans shall be returned to the Developer.

(d) **Responsible Official and Decision.** The Director of Public Works and/or the City Engineer shall be responsible for the overall final approval of Construction Plans. The Director of Development Services shall oversee the official review from other City departments and the City Engineer, as deemed necessary.

(1) The Director of Public Works and/or the City Engineer shall also be the initial decision-maker for Construction Plans. In this capacity, therefore, the Director of Public Works and/or the City Engineer shall approve, identify required modifications, or deny the Construction Plans.

(e) **Approval Required & Timing of Construction.** Construction Plans shall be approved in accordance with this Chapter and *Standards of Design and Construction*, as amended, prior to the submittal of an Application for the associated Plat, unless otherwise stated within this Chapter or in a Facilities and/or Development Agreement.

(f) **Criteria for Approval.** Listed below is the criteria for Construction Plans approval:

(1) **Compliance Required.** Prior to making an Application for the associated Plat, the Construction Plans shall be submitted and approved by the Director of Public Works and/or the City Engineer in accordance with Section 02.03.044(d)(1), *Responsible Official and Decision*. The Director of Public Works and/or the City Engineer may allow the Plat to be submitted prior to the Construction Plans being approved if they have determined that the remaining revisions required are minor and expected to be addressed in less than 30 days (prior to the Plat moving forward for approval). The Developer shall comply, or provide for compliance, with the policies and procedures set forth in these regulations and the *Standards of Design and Construction* for construction of public and private improvements, and shall meet the following criteria:

- i. As applicable, the plans are consistent with the associated, approved Preliminary Plat, and the preliminary grading, utility, and drainage plans;
- ii. If located in the City limits, the plans conform to the subject property's zoning and planned development district standards;
- iii. If located in the City's ETJ, the plans conform to Kaufman County's regulations and requirements, as applicable;
- iv. The plans conform to the standards for adequate public facilities, contained in this Chapter, and all other applicable regulations as stated in the Code of Ordinances;

- v. The working drawings, specifications, and Facilities and/or Development Agreement required herein have been reviewed and approved by the Director of Public Works and/or the City Engineer, affected City departments, and as required, by the City Attorney; and
- vi. No building, permit shall be issued by the City prior to approval of the associated Plat, Facilities Agreement, and Construction Plans, as applicable.

(2) **Standards of Design and Construction.** Appendix 1, *Standards of Design and Construction* are hereby adopted and incorporated into and made a part of these regulations, design criteria, and standards which shall be controlling in design, construction, and installation of street paving, curbs and gutters, sidewalks, utilities, and other Public Improvements required herein. All references to *Standards of Design and Construction* shall mean and include those standards and specifications, together with all exhibits, charts, drawings, and diagrams, adopted by the City Council, and placed on file in the office of the City Secretary.

(3) **Conformance to NCTCOG Standards.** When the *Standards of Design and Construction* lack the specificity required in certain circumstances, the specifications of the latest edition of the Standard Specifications for Public Works Construction, published by the North Central Texas Council of Governments (NCTCOG), shall apply.

(4) **Installation and Financing.** The Developer shall sequence all construction in accordance with the approved Facilities and/or Development Agreement.

(g) **Effect.** Approval of Construction Plans authorizes the Developer to submit an Application for the associated Plat, then after approval of the associated Plat and Facilities Agreement, schedule a Pre-Construction Meeting in accordance with Section 02.03.043, *Pre-Construction Meeting*, and apply for Construction Release in accordance with Section 02.03.041(j), *Construction Release*.

(h) **Expiration.** The approval of Construction Plans shall remain in effect for a period of one (1) year from the date of approval, or for the duration of construction of the project, provided that construction of the project has commenced and is continuous without a lapse of more than ninety (90) days in any six (6) month period, unless an extension is granted in accordance with Section 02.03.041(i), *Extension of Expiration Date*.

(i) **Extension of Expiration Date.** Construction Plans may be extended for a period of one (1) additional year beyond the expiration date. A request shall be made in writing to the Director of Development Services for such extension two (2) months prior to expiration of the plans and shall include reasons why the plans should be extended.

(1) **Decision by the Director of Development Services.**

- i. The Director of Development Services will review the extension request, and shall approve, approve with conditions, or deny the extension request within thirty (30) calendar days following the date the request for extension is received;
- ii. Should the Director of Development Services fail to act on an extension request within thirty (30) calendar days, the extension shall be deemed to be approved.

(2) **Consideration.** The Director of Development Services shall extend Construction Plans approval for a period of one (1) additional year beyond the plans' expiration date if all of the following conditions are met:

- i. The associated Plat has been approved and recorded for any portion of the property shown on the Construction Plans;
- ii. The Construction Plans comply with all ordinances, statutes, and regulations that impact the health, safety, and general welfare of the community;
- iii. Demonstrable forward progress has been made to proceed with construction of required improvements; and

- iv. A Facilities Agreement (Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements*) and/or Development Agreement, if applicable, is still valid and in full effect.
- (3) **Conditions.** In granting an extension, the Director of Development Services may impose such conditions as are needed to ensure that the land will be developed in a timely manner and that the public interest is served. Any extension may be predicated upon compliance with new development regulations and/or the Developer waiving any vested rights.
- (j) **Construction Release.** Upon approval of the associated Plat and the Construction Plans, approval of the Facilities Agreement, approval of any required Homeowners' Association or Property Owners' Association covenants, receipt of all required documentation (e.g., insurance information, bonds, etc.), receipt of all required fees, completion and approval of required park land dedication or receipt of fees in lieu of (if applicable), and after the Pre-Construction Meeting with City staff, the Director of Public Works and/or the City Engineer may release the plans for construction if all City requirements pertaining to construction have been met. The Construction Release shall remain in effect for a period of one (1) year from the date of issuance, or for the duration of construction of the project, provided that progress toward completion of the project continues to be demonstrated. Expiration, and possible extension, of the Construction Release shall be the same as for the Construction Plans in Section 02.03.041(i), *Extension of Expiration Date*.

## **SEC. 02.03.042 ...GRADING PERMIT**

- (a) **Purpose.** The purpose of a grading Permit is to allow the Developer to begin brush removal, erect any required Protective Fencing, remove approved trees, conduct fill and excavation work, and conduct site grading prior to Construction Release, or prior to the final approval and recordation of a Final Plat, Minor Plat, Replat, or Development Plat Application that has been submitted to the City, and subject to the following conditions:
  - (1) Construction Plans have been approved by the Director of Public Works and/or the City Engineer,; or
  - (2) The Construction Plans have not yet been approved, but the Director of Public Works and/or the City Engineer has approved early grading to proceed because the remaining Construction Plan review comments are deemed minor and close to completion as determined by the Director of Public Works and/or the City Engineer.
- (b) **Application Submittal Requirements.**
  - (1) Completion and execution of a grading Permit Application;
  - (2) Completion of contractor registration;
  - (3) Payment of grading Permit fee;
  - (4) Execution of a waiver or other documentation as required by the City;
  - (5) Aerial exhibit outlining the area of disturbance, as approved by the City;
  - (6) Stormwater Pollution Prevention Plan (SWPPP), as approved by the City;
  - (7) Silt fencing plan, as approved by the City;
  - (8) Tree Preservation and Tree Removal Plans; and
  - (9) Other exhibits as determined and approved by the City .
- (c) **Pre-Grading Meeting.** In addition to compliance with the application submittal requirements in

Section 02.03.042 (b), the Developer is required to meet with City staff (to include members of the Development Services and Public Works Departments, as well as the City Engineer, and any other members of City staff as deemed appropriate) for a pre-grading meeting to discuss the construction policies and procedures prior to approval of the grading Permit.

- (d) **Responsible Official and Decision.** Upon compliance with Sections 02.03.042 (b) and 02.03.042 (c), the Director of Development Services may approve a grading Permit once the Director of Public Works and/or the City Engineer have either approved the Construction Plans, or the remaining Construction Plan review comments are deemed minor or close to completion. Approval of a grading Permit prior to Plat approval & recordation, and prior to Construction Release, is considered to be early grading and is at the sole discretion of the City.
- (e) **Criteria for Approval.** Listed below is the criteria for the grading Permit approval:
  - (1) Approval of Construction Plans for the subject property by the City Engineer and/or Director of Public Works, or clearance to submit for a grading Permit because the remaining review comments are deemed minor and close to completion;
  - (2) Submission of an Application for a Final Plat, Minor Plat, Replat, and/or Development Plat for the subject property and the initial round of Plat review comments has been issued by the City;
  - (3) Compliance with the application submittal requirements listed in Section 02.03.042 (b) and approval of all application materials and exhibits by the Director of Development Services;
  - (4) Participation in a pre-grading meeting with City staff as noted in Section 02.03.042 (c);
  - (5) Satisfaction of any other requirements by the City. Approval of a grading Permit prior to Plat approval & recordation, and prior to Construction Release, is considered to be early grading and is at the sole discretion of the City.
- (f) **Effect.** Approval of a grading Permit allows the Developer to begin brush removal, erect any required Protective Fencing, remove approved trees, conduct fill and excavation work, and conduct site grading in accordance with the City-approved plans and exhibits attached to the grading permit, after participation in a pre-grading meeting with City staff.

#### **SEC. 02.03.043 ...PRE-CONSTRUCTION MEETING.**

- (a) **Purpose.** The purpose of the Pre-Construction Meeting is to discuss administrative, communication, and operating procedures for the project prior to the onset of construction. A list of typical inspection items, procedures, and acceptance criteria for items in public Right-of-Way and Easements are included in the *Standards of Design and Construction*. The list shall be furnished to the Developer prior to the pre-construction meeting.
- (b) **Notice.** The Developer shall receive written notice from the Director of Public Works and/or the City Engineer that the Construction Plans have been approved. The project is eligible for a Pre-Construction Meeting once the associated Plat (and Facilities and/or Development Agreement, as applicable) have been approved.
- (c) **Required Attendance.** The Developer, along with key construction managers, shall attend a Pre-Construction Meeting with the Director of Public Works, the City Engineer, the Director of Development Services (or their designees) and other appropriate City officials following the approval of Construction Plans, the approval of the associated Plat, the approval of the Facilities and/or Development Agreement (as applicable), and prior to commencement of any construction on the property.
- (d) **Effect.** Following the Pre-Construction Meeting and upon approval of the Construction Plans and

full compliance with all pre-construction requirements, the Director of Public Works and/or the City Engineer shall authorize Construction Release, allowing the Developer to commence with construction of Community Facilities and Public Improvements of the project. The Developer may also be issued a Building Permit in accordance with an approved Facilities and/or Development Agreement, provided that a Building Permit Application has been submitted and approved and all other Building Permit requirements have also been met.

- (e) **Fees Due.** Fees for the Development Application, fees identified Section 02.03.041(j) *Construction Release*, and fees for any associated permits to be issued are due prior to the Pre-Construction Meeting.

#### **SEC. 02.03.044 ...TIMING OF PUBLIC IMPROVEMENTS.**

- (a) **Final Inspection of Public Improvements.** When the applicable public and/or private improvements such as street, Alley, drainage, water, and sanitary sewer improvements have been completely constructed, the contractor shall notify the Director of Public Works and/or the City Engineer, requesting a final inspection of such improvements. The Director of Public Works and/or the City Engineer and/or his designee(s) shall inspect all the applicable required improvements to ensure compliance with all the specifications herein, the approved associated Plat, the Construction Plans, and the Facilities and/or Development Agreement as applicable. The inspection shall find either:
  - (1) The work is not satisfactory and issue in writing to the Developer and the contractor a punch list denoting items remaining to be completed;
    - i. The contractor shall notify the Director of Public Works and/or the City Engineer requesting another Final Inspection when all the items on the punch list have been completed;
    - ii. If the work is again not satisfactory, a written punch list shall be issued to the Developer and the contractor denoting the items remaining to be completed. This process may be repeated to ensure compliance with all the specifications herein, the approved associated Plat, the Construction Plans, and the Facilities and/or Development Agreement, as applicable; or
  - (2) The work is satisfactorily completed and in accordance with all the applicable Construction Plans, documentation, and specifications herein, then the Director of Public Works and/or the City Engineer shall issue a letter of acceptance to the Developer and contractor in accordance with Section 02.03.047(e)(3), *Letter of Final Acceptance* after City Council has voted to accept the construction of the Public Improvements and the subdivision for development permit(s).
- (b) **Phased Development.** If the development is being Platted and constructed in phases, improvements shall be completed as Platted areas are approved and phases are constructed. Also refer to Section 02.03.034(i), *Expiration*, for details regarding phased development and Preliminary Plat validity.
- (c) **Easements for Utility Providers.** The Developer is responsible for contacting all utility providers prior to beginning construction, and for securing all necessary Easements for same prior to the associated Plat approval and recordation. The Developer's engineer shall provide the Director of Public Works and/or the City Engineer with written certification that all necessary Easements are secured for the various utility providers, and such Easements shall be shown on the associated Plat with the recording information for each (if previously dedicated by separate instrument) or established through the recordation of the associated Plat.
- (d) **Off-Site Easements.** All necessary off-site Easements required for installation of required off-site Public Improvements to serve the development shall be acquired by the Developer prior to the

approval and recordation of the Final Plat. Off-site Easements shall be conveyed and recorded in Kaufman County by filing the off-site Easement in a separate instrument prior to filing the Final Plat. The instrument recording information shall be included on the associated Plat prior to its recordation. If there is an existing off-site Easement that has been dedicated by Plat that needs to be modified, an Amending Plat may be required to modify the Easement.

- (e) **Oversized Facilities.** At its sole discretion, the City may participate with the Developer on major items of construction, such as oversizing of water and wastewater lines, lift stations, bridges, or streets adjacent to the subdivision, which benefit existing or future development in addition to that being subdivided, in accordance with a Development and/or Facilities Agreement. (See Section 02.03.045(d)(2), *Oversizing of Infrastructure*, and Section 02.03.046, *City Participation* below).
  - (1) All extensions and/or oversizing of any water or wastewater facility deemed necessary by the Director of Public Works and/or the City Engineer for future developments shall be in accordance with the *Kaufman Code of Ordinances, Chapter 12 Utilities, Water and Sewer Main Extensions, Division 2, Extension Policies*.

## **SEC. 02.03.045 ...FACILITIES AND PROFESSIONAL SERVICES AGREEMENTS, FINANCIAL ASSURANCES, AND CONSTRUCTION CONTRACTS FOR PUBLIC IMPROVEMENTS.**

- (a) **Required Contract Purpose.** A Property Owner and/or Developer shall be required to execute a Facilities Agreement and Professional Services Agreement with the City as a condition of the associated Plat approval whenever the installation of Community Facilities or Public Improvements is required.
- (b) **Approval of contract.**
  - (1) The Property Owner and/or Developer shall be required to execute a Facilities Agreement as a condition of Plat approval whenever the installation of Community Facilities or Public Improvement is required. A Facilities Agreement shall be prepared after the final construction plans and cost estimates have been approved by the City.
  - (2) No construction work shall begin on a development before the Facilities Agreement is approved and executed by the City, before a Pre-Construction Meeting is held, and before a Construction Release is granted by the City. This provision may exclude the moving of dirt, clearing of land and tree removal when such work is done pursuant to a grading permit approved by the City as provided in Section 02.03.042.
- (c) **Changes in contract/scope of project.** Any subsequent changes in the plans and specifications of the approved project which result in an increase in the project scope shall necessitate an amendment to the Facilities Agreement and amendments to all required financial assurance instruments. An increase in the project scope shall also require an increase in the inspection fee, as applicable and authorized in Section 02.03.045(g)(4), *Performance Bonds, Payment Bonds, Maintenance Bonds and Financial Assurances* below. The Developer shall bear the full cost of any additional work required by the City Attorney and/or the City Engineer in revising and/or reviewing the revised documents, and approval shall not be granted until such additional fees are paid.
- (d) **Applicability.**
  - (1) **Improvements.** Prior to commencement of required Public Improvements, the Developer shall execute a Facilities Agreement, subject to City approval, to ensure the completion of all required Public Improvements. The associated Plat shall not be filed until the applicable Facilities Agreement has been approved by the City.
  - (2) **Oversizing of Infrastructure.** Any required oversizing of infrastructure (and responsibility for costs) may be documented in the Development and/or Facilities Agreement. The provisions

providing for oversizing of infrastructure as adopted in Kaufman's *Code of Ordinances, Chapter 12, Utilities*, as amended.

- (e) **Authority of the City to Complete Work.** This Facilities Agreement shall be based upon the requirements of this Chapter and shall provide the City with specific authority to complete, and financial assurances to pay for the costs of completion of, the improvements required in the Facilities Agreement in the event of default by the Developer, or its contractors. Completion of infrastructure by the City shall be at the sole discretion of the City.
- (f) **Joint Obligations.** The Facilities Agreement shall be a legally binding agreement between the City and the Developer specifying the individual and joint responsibilities of both the City and the Developer. Unusual circumstances relating to the subdivision shall be considered in the Facilities Agreement such that the purpose of this Chapter is best served for each particular subdivision. The Facilities Agreement shall include a hold harmless and indemnity clause requiring the Developer to hold the City harmless against any claim arising out of the subdivision of the property or any actions taken therein.
- (g) **Performance Bonds, Payment Bonds, Maintenance Bonds and Financial Assurances.**
  - (1) **Performance Bonds.** Performance bonds, sureties, or irrevocable letters of credit on forms approved by the City Attorney meeting the requirements of the V.T.C.A. GOVERNMENT CODE, CHAPTER 2253, where applicable shall be required for all Public Improvements or Community Facilities prior to the execution of the Facilities Agreement, the filing of the associated Plat and issuance of any building permits. Bonds, irrevocable letters of credit, certificates of deposit or cash deposits shall be provided by the Developer, or by a single general contractor for the development. The amount of the performance bond or other financial assurance shall be one hundred percent (100%) of the value of the public infrastructure for the development and shall also provide coverage for costs of adjustments necessary for increases in actual construction costs. The Director of Public Works and/or the City Engineer shall be responsible for verifying the construction costs of all Public Improvements and Community Facilities to be constructed for the development and may require modifications to reflect costs of construction more accurately.
    - i. A cash deposit may be made with the City in lieu of the performance bond. The cash deposit shall be in an amount equal to one hundred percent (100%) of the value of the public infrastructure for the development (subject to the verification of the Director of Public Works and/or the City Engineer as provided above) and shall also provide coverage for costs of adjustments necessary for increases in actual construction costs.
      - a. The cash deposit shall be held in escrow by the City in a regular insured savings account and shall accrue interest at the then-current available regular savings account rate of interest. Interest shall accrue in the account to the benefit of the Developer and shall be returned to the Developer with the cash deposit upon satisfactory completion of the facilities and acceptance by the City.
    - ii. A letter of credit may be submitted in lieu of the performance bond in an amount equal to one hundred percent (100%) of the value of the public infrastructure for the development (subject to the verification of the Director of Public Works and/or the City Engineer as provided above) and shall also provide coverage for costs of adjustments necessary for increases in actual construction costs. The letter of credit shall:
      - a. Be irrevocable;
      - b. Be in a form approved by the City Attorney;
      - c. Be for a term sufficient to comply with the timeframe for the completion of the

- improvements covered by the letter of credit, but in no event less than two (2) years;
- d. As portions of the Public Improvements are completed in accordance with *Standards of Design and Construction* and the approved Construction Plans, the Developer may request the Director of Public Works and/or the City Engineer reduce the amount of the original letter of credit. If the Director of Public Works and/or the City Engineer is satisfied that such portion of the improvements have been completed in accordance with the requirements of this Chapter and all other regulations, the Director of Public Works and/or the City Engineer may (but is not required to) cause the amount of the letter of credit to be reduced by such amount that the Director of Public Works and/or the City Engineer deems appropriate so that the remaining amount of the letter of credit adequately ensures the completion of the remaining Public Improvements.

(2) **Payment Bonds.** The Developer shall provide a material and labor payment bond on a form approved by the City Attorney meeting the requirements of CHAPTER 2253 of the V.T.C.A. GOVERNMENT CODE in the amount of one hundred percent (100%) of the contract price for the public infrastructure for the development and shall also provide coverage for costs of adjustments necessary for increases in actual construction costs.

(3) **Maintenance Bonds.** The Developer shall provide a maintenance bond on a form approved by the City Attorney guaranteeing and agreeing to pay any necessary maintenance for a period of two (2) years after final acceptance by the City and shall be in the amount equal to one hundred percent (100%) of the value of the construction costs of all facilities to be constructed by the Developer, and such bond shall also provide coverage for costs of adjustments necessary for increases in actual construction costs. The Developer may submit any of the other forms of financial guarantee described above in subsection (1)(i), and (ii), of this section in lieu of providing the maintenance bond; providing, however, that the same conditions shall prevail as under subsection (1)(i), and (ii) as applicable, for an irrevocable letter of credit or a cash deposit.

(4) **Inspection Fees and all Other Fees.** The Developer shall pay all development-related fees, including but not limited to Plat application and recording fees, reimbursement of engineering review fees for Plat and Construction Plan reviews, reimbursement of engineering and attorney review fees for Development and/or Facilities Agreements or any other items pertaining to the development, and the engineering/infrastructure inspection fees in accordance with the City's adopted fee schedule. The Developer shall be responsible for obtaining any other permits which may be required by other Federal, State, or local authorities.

(5) **Financial Assurances.** The Developer shall furnish and maintain at all times prior to the City's final acceptance of the Public Improvements and Community Facilities, an owner's protective liability insurance policy naming the City as additional insured for property damage and bodily injury. Coverage shall be on an "occurrence" basis and shall be issued with a combined bodily injury and property damage minimum limit of six hundred thousand dollars (\$600,000.00) per occurrence and one million dollars (\$1,000,000.00) aggregate. The City shall be named as an additional insured on that policy.

(6) **Approved Forms.** All financial assurance provided under this section shall be submitted on a form approved by the City Attorney. Each financial assurance submitted by a Developer on a form other than the one which has been previously approved by the City as "acceptable" shall be submitted to the City Attorney at the Developer's expense.

(7) **Third Party Assurances.** As an alternative means for compliance with the requirements contained in the subsections (1), (2), and (3) of this section, the Developer may submit to the City financial assurances for performance, payment, and maintenance from a single general contractor for the project provided that such assurances meet all other requirements and name the City as dual obligee.

(8) **Type of Security.** The Developer shall guarantee proper construction of all improvements, in accordance with the City's *Standards of Design and Construction* and with this Chapter, by providing financial assurances for performance, payment, and maintenance as required by Section 02.03.045 *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements*.

(9) **Cost and Security Approval.**

- i. Security shall be issued in the amount of one hundred percent (100%) of the cost to construct, complete, and maintain all required Public Improvements to the City's standards as approved by the Director of Public Works and/or the City Engineer and in accordance with Section 02.03.045 *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements*.
- ii. Security shall be subject to the review and approval of the City Attorney. The Developer shall reimburse the City for all related legal costs for the City's legal review.

(h) **Security for Construction in Extraterritorial Jurisdiction (ETJ).** Where all or some portion of the proposed development is located in the City's ETJ, the security shall be provided in accordance with Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements*. Escrow Policies and Procedures.

(1) **Request for Escrow.** The City may require, or the Developer may petition the City, to defer construction of some of the required Public Improvements for a development in exchange for a deposit of escrow when the Developer can demonstrate that construction of the improvements would be untimely and would result in a hardship or damage to the public infrastructure due to a planned future Public Improvement project of the City, County, State or other governmental entity. The Director of Public Works and/or the City Engineer may require the Developer to provide studies and other supporting information determined necessary to evaluate the request to support the Developer's request to delay construction and escrow funds.

(2) **Escrow Deposit with the City.** When the Director of Public Works and/or the City Engineer requires, or agrees to accept escrow deposits, the Developer shall deposit in escrow with the City an amount equal to one hundred percent (100%) of the total costs including, but not limited to, (i.) the design, (ii.) construction, (iii.) any required studies performed by a qualified third party, (iv.) permitting, (v.) acceptance, and (vi.) inflation costs related to the improvements. The Director of Public Works and/or the City Engineer shall review and approve the amount, which shall be approved and paid to the City prior to the pre-construction meeting.

- i. The Developer shall deposit an amount equal to their share of the cost of design and construction in escrow with the City. Such an amount shall be paid prior to the release of Construction Plans by the City. The obligations and responsibilities of the Developer shall become those of the Developer's transferees, successors, and assigns; and the liability therefore shall be joint and several. The amount of escrow shall be determined by using the average of several comparable bids that were awarded by the City in the preceding six (6) months, or if none exist then in the preceding year or, if none exist, by using current costs of construction as proposed by the Developer's civil engineer and reviewed and approved by the Director of Public

Works and/or the City Engineer.

- (3) **City Usage of Escrowed Funds.** The City may use the escrowed funds, including accrued interest thereon, in participation with another entity (such as TxDOT, Kaufman County, etc.) to jointly construct the Public Improvements for which funds have been escrowed. Additionally, the City may use the escrowed funds for a City project to construct all of the improvements for which funds have been escrowed, or if such City project is for the construction of a portion of the Public Improvements for which funds have been escrowed, the City may utilize a proportionate share of such escrow funds.
- (4) **Termination of Escrow.** Escrows, or portions of escrowed amounts, including accrued interest, which remain unused after a period of ten (10) years following the date of such payment shall, upon written request, be refunded to the Developer. Such refund of escrowed funds does not remove any obligations of the Developer for construction of the required improvements. Notwithstanding the foregoing, if a project for Public Improvements for which funds have been escrowed has commenced prior to the expiration of the ten (10) year period described above, then the escrowed funds allocated to the project, including interest thereon, shall not be refunded. Project commencement shall occur upon any one or more of the following events:
  - i. A contract for the construction of Public Improvements for which funds have been escrowed is awarded by the City or other governmental entity in conjunction with the City;
  - ii. Engineering design work has commenced and/or will be completed within one (1) year after the date that such engineering design work is commenced.
- (5) **Refund.** If all or a portion of a street or other type of Public Improvement for which escrow is deposited is constructed by a party other than the City or other governmental entity in conjunction with the City, the remaining unused escrowed funds, including accrued interest thereon, shall upon written request, be refunded to the Developer after completion and City acceptance of the street or Public Improvement.
- (6) **Interest on Escrowed Funds.** When escrowed funds are returned or refunded to the escrowing Developer pursuant to this section, the accrued interest shall be paid to the Developer.
- (7) **Escrow Fee Agreement.** An Escrow Fee Agreement shall be executed as a condition of escrow approval.

(i) **Professional Services Agreement.** The City will utilize consulting firms to assist City staff in the review for compliance with any report and/or study requirements as established by this Chapter, Standards of Design and Construction, review of Plats and Construction Plans, review of Easement documents, review of Development and/or Facilities Agreements, review of financial assurances, and/or any applicable City regulations relating to development of Property. The cost of the reviews, by the consultants, shall be borne by the Developer.

- (1) Before commencement of any work on a proposed Development Agreement or as otherwise required by City policy, the Developer shall enter into a Professional Services Agreement with the City to retain consultants to provide a wide variety of professional services including, but not limited to engineering, financial, and legal services as needed to review and analyze the development project.
  - i. The City shall provide periodic invoices that describe the work performed by date and time entries as the study progresses;
  - ii. The Developer shall deposit funds as set forth in the Professional Services Agreement and shall replenish such funds as required by the terms of the Professional Services Agreement. Failure of the Developer to fund the Professional

Services Agreement in accordance with its terms will result in the suspension of the City's work on the project;

- iii. Any unused funds deposited with the City pursuant to the Professional Services Agreement shall be refunded to the Developer upon completion of review and analysis of the development project, or as otherwise as provided by the Professional Services Agreement.

(j) **Authority.** The City Council has the sole authority to approve the following types of agreements unless such authority has been delegated to the City Manager:

- (1) Facilities Agreements and/or;
- (2) Escrow Fee Agreement and/or;
- (3) Maintenance Bond Agreement and/or;
- (4) Development Agreement and/or;
- (5) Professional Services Agreement.

(k) **Agreement to Run with the Land.** Such Agreements as listed above shall provide that the covenants and other terms of agreement contained therein shall run with the land and shall bind the Developer and all successors, heirs, and assignees. All existing owners and/or Developers shall be required to execute such agreement or provide written consent to the covenants and other terms contained in such agreements.

(l) **Termination of Agreement.** The Developer shall have a continuing responsibility under the Facilities Agreement, the Escrow Fee Agreement, or the Development Agreement until all facilities and improvements required under the Facilities or Escrow Fee Agreement have been completed, inspected, and accepted by the City and the maintenance period has expired. When the construction of required improvements has proceeded to the point that certain parts of the subdivision are adequately served, the Director of Public Works and/or the City Engineer may release specified portions of the subdivision for use prior to the completion of all improvements, unless the release of such improvements will jeopardize or hinder the continued construction of required improvements. Any approved and signed agreement as required by Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements*, shall remain in force for the entire subdivision until all public facilities and improvements required under the applicable agreement are completed, inspected, and accepted by the City, and the maintenance period has expired.

(m) **Agreement Review and Fees.** The Developer shall be responsible for reimbursing the City for all legal and engineering costs associated with the review of Facilities, Professional Services, Development, Escrow Fee, and Maintenance Bond Agreements. Additionally, the Developer shall be responsible for reimbursing the City for all recording fees associated with recording the agreements with Kaufman County. The direct cost of third-party review, including without limitation, the City Attorney's, the City's Financial Consultant, and the City's Engineer review of the applicable agreements shall be passed through to the Developer.

#### **SEC. 02.03.046 ...CITY PARTICIPATION**

(a) At its sole discretion, the City may participate with the Developer on major items of construction, such as oversizing of water and wastewater lines, lift stations, bridges, or streets adjacent to the subdivision, which benefit existing or future development, in addition to the property being subdivided and/or developed by the Developer. The amount of financial responsibility of each party and the terms of discharging such responsibility shall be provided for in a Facilities Agreement, Development Agreement, and/or other agreement as approved by the City.

- (b) The construction of certain facilities required by the provisions of this Chapter may not be possible or practical at the time the Developer prepares his plans for Public Improvements. Such deletion or delay of improvements shall be specified in the Facilities Agreement, Development Agreement, Escrow Fee Agreement, and/or other agreement as approved by the City, together with provisions for escrow deposits or future payment by the City and/or Developer.
- (c) All extensions and/or oversizing of a wastewater facility deemed necessary by the Director of Public Works and/or the City Engineer for future developments shall be in accordance with Kaufman's *Code of Ordinances, Chapter 12 Utilities, Water and Sewer Main Extensions, Division 2, Extension Policies*.

**SEC. 02.03.047 ...INSPECTION, MAINTENANCE & ACCEPTANCE OF PUBLIC IMPROVEMENTS.**

- (a) **Inspections.**
  - (1) The Director of Public Works and/or the City Engineer and/or their designees shall inspect the construction of improvements while in progress, as well as upon completion. The Developer, or his contractor, shall maintain contact with the Director of Public Works and/or the City Engineer and/or their designees during all phases of construction.
  - (2) Construction shall be in accordance with the approved Construction Plans. Any significant change in design required during construction shall be made by the Developer's engineer and shall be subject to approval by the Director of Public Works and/or the City Engineer.
  - (3) Any changes in design required during construction should be made by the engineer whose signature and seal are shown on the approved Construction Plans. Another engineer may make revisions to the original Construction Plans if so authorized by the owner of the Construction Plans and if those revisions are noted on the Construction Plans or documents. All revisions must be approved by the Director of Public Works and/or the City Engineer. Any associated Facilities, Professional Services, Development, Escrow Fee, or Maintenance Agreements shall be reviewed and revised as needed and shall be subject to City approval.
  - (4) If the Director of Public Works and/or the City Engineer finds, upon inspection, that any of the required Public Improvements have not been constructed properly and in accordance with the approved Construction Plans, the Developer shall be responsible for completing and/or correcting the Public Improvements to bring such into compliance.
- (b) **Maintenance During Construction.** The Property Owner and/or the Developer shall maintain all required Public Improvements during construction of the development phases or until the City approves the improvements and accepts same.
- (c) **As-Built Construction Plans and Submission of Record Drawings for Filing.**
  - (1) After construction is completed, the Property Owner and/or Developer shall provide the City a signed and sealed digital copy and one (1) signed and sealed eleven inches by seventeen inches (11" x 17") paper set of as-built Construction Plans of all streets, Alleys, sidewalks, drainage, underground utilities, signs, signals, street lighting and any other pertinent physical improvement of the subdivision.
  - (2) The City shall accept the required Public Improvements when the Developer's engineer has certified to the Director of Public Works and/or the City Engineer, through submission of detailed "record" or "as built" drawings of the project and recorded copies of any off-site Easements, unless otherwise noted within the Chapter, that the Public Improvements have been built in accordance with the approved Construction Plans. Unless otherwise provided in any associated Facilities Agreement and/or Escrow Fee Agreement and/or Development Agreement, the City will not release the subdivision for development until all required

improvements have been accepted by the City Council.

- (d) **Revisions Documented on As-Built Construction Plans Plat.** Each record drawing sheet shall document all changes made in the plans during construction, and on each sheet, there shall be a "record" stamp bearing the signature of the engineer and the date. Detailed requirements for such drawings and stamps are outlined in the *Standards of Design and Construction Table 02-03.0116 Final Acceptance Checklist*.
- (e) **Acceptance or Rejection of Improvements by the Director of Public Works and/or the City Engineer.**
  - (1) **Responsible Official.** Using the *Standards of Design and Construction*, the Director of Public Works and /or the City Engineer and/or their designees shall be responsible for inspecting all required Public Improvements shown in the approved Construction Plans, and for accepting completed subdivision improvements intended for dedication to the City.
  - (2) **Final Inspection.** After completion of all improvements, franchise utilities, grading, and erosion control, the Director of Public Works and/or the City Engineer and other designated representatives (as applicable) will perform a final inspection before recommending acceptance of the improvements.
  - (3) **Letter of Final Acceptance.** If all improvements are completed, inspected, tested (when applicable), and determined by the City to be in conformance with this Chapter and the *Standards of Design and Construction*, then the Director of Public Works and/or the City Engineer shall recommend Council accept all the improvements. The Director of Public Works and/or the City Engineer, after Council acceptance, shall issue a Letter of Final Acceptance on behalf of the Council, to the Developer, thereby notifying the Developer of the City's acceptance.
  - (4) **Effect of Acceptance.** Acceptance of the improvements shall mean that the Developer has transferred all rights to all the Public Improvements to the City for title, use, and maintenance.
  - (5) **Rejection.** If any portion of the Construction Plans fails to comply with the City's standards and specifications, the Director of Public Works and/or the City Engineer shall reject the complete set until the failure is remedied.
- (f) **Disclaimer.** Approval of the associated Plat by Council, or Construction Plans by the Director of Public Works and/or the City Engineer, shall not constitute acceptance of any of the Public Improvements required to serve the subdivision or development. No Public Improvements shall be accepted for dedication by the City except in accordance with this section.
- (g) **Acceptance or Rejection of Improvements in Extraterritorial Jurisdiction (ETJ).** Where the improvements to be constructed under a Facilities Agreement, and/or Development Agreement, and/or an Escrow Fee Agreement are located within the City's ETJ and are to be dedicated to Kaufman County, the Director of Public Works and/or the City Engineer shall inform the County officials that the Public Improvements have been constructed in accordance with approved Construction Plans and are ready for acceptance by the County.
- (h) **Maintenance Bond Following Acceptance.** The Developer shall furnish to the Director of Public Works and/or the City Engineer a sufficient maintenance bond with a reputable and solvent corporate surety registered with the State of Texas, in favor of the City, to indemnify the City against any repairs. The bond shall be in effect for two (2) years from the date of final acceptance of the entire project. The bond, which is a part of the requirements for final acceptance, shall be a minimum of one hundred percent (100%) of the value of the work constructed. The Developer shall reimburse the City for all related legal costs for review (this reimbursement shall be paid in

full prior to final acceptance of the subdivision or development. The direct cost of the City Attorney's review of the maintenance bond shall be passed through to the Developer.

**SEC. 02.03.048 ...BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY.**

(a) No building permit shall be issued for a lot or building site unless the associated Plat has been approved by the Council and recorded at the County and all Public Improvements as required for the associated Plat approval have been completed, except as permitted below:

- (1) Building permits may be issued for nonresidential and multiple-family development provided that the associated Plat is approved by Council and Construction Plans have been approved by the Director of Public Works and/or the City Engineer. Building construction will not be allowed to surpass the construction of fire protection improvements. The decision to issue a building permit prior to the acceptance of Public Improvements is at the sole discretion of the City.
- (2) The Director of Development Services may authorize the issuance of residential building permits for a portion of a subdivision, provided that the associated Plat has been approved by Council and all Public Improvements have been completed for that portion of the development, including but not limited to those required for fire and emergency protection, access, water and sanitary sewer service, and drainage. The allotment of residential building permits allowed for early release shall be specified in an approved Development and/or Facilities Agreement. Notwithstanding, no lot shall be sold, nor title conveyed, until all the Public Improvements have been completed, inspected, and have been accepted by Council.
- (3) No certificate of occupancy or final inspection approval shall be issued for a building permit unless the approved associated Plat has been recorded in the County and all subdivision improvements have been completed and accepted for the affected area. Notwithstanding the above, the Director of Development Services may authorize the temporary occupancy of a structure provided that a Facilities and/or a Development Agreement providing cash escrow, a letter of credit, or other sufficient surety is approved by the City for the complete construction of all remaining Public Improvements. The temporary certificate of occupancy may be revoked if the remaining Public Improvements have not been completed or the Construction Plans are not accepted by Council.
- (4) The temporary certificate of occupancy shall state on its face that the recipient accepts all liability resulting from occupancy of the building or space and indemnifies the City thereof.

**SEC. 02.03.049 - 02.03.059.. Reserved for future use.**

## ARTICLE 02.03.060 ..... SPECIAL EXTRATERRITORIAL JURISDICTION POLICIES & REGULATIONS

### SEC. 02.03.061 ...KAUFMAN & KAUFMAN COUNTY REGULATIONS

- (a) The City has executed interlocal cooperation agreements, as authorized under CHAPTER 242 of the TEXAS LOCAL GOVERNMENT CODE, with Kaufman County.
- (b) Kaufman County has assigned to the City its authority to approve Plats in the City's extra-territorial jurisdiction (ETJ). The agreement also provides for the City to enforce its *Subdivision Regulations*, together with the adopted *Subdivision and Land Development Regulations of Kaufman County*, as amended from time to time, and the *Kaufman County Thoroughfare Plan*, as amended from time to time, within the City's ETJ via Interlocal Cooperation Agreements.
- (c) In the event that the *Kaufman County Subdivision and Land Development Regulations* and/or the *Kaufman County Thoroughfare Plan* provide a more stringent standard than those of the City, then the more stringent standards shall apply.
- (d) Adopted International Fire Codes apply to all ETJ properties for health, life, and safety purposes.

### SEC. 02.03.062 ...GENERAL POLICIES IN THE EXTRATERRITORIAL JURISDICTION (ETJ).

- (a) **Application of Requirements.** Unless otherwise stated within this Chapter, all standards, specifications, and regulations herein shall apply to development within the City's extra-territorial jurisdiction (ETJ).
- (b) **Extension of City Services.** Given that land proposed for development in the City's ETJ must be served adequately by essential public facilities and services, including those related to adequate water distribution, wastewater collection and treatment, streets, pedestrian circulation, storm drainage conveyance, and park and recreational facilities, the following policies for the provision of infrastructure services provided by the City of Kaufman into the City's ETJ shall apply:
  - (1) It is in the City's best interest to encourage development in areas adjacent to compatible development already receiving City services, and particularly where those services have excess capacity.
  - (2) It is in the City's best interest to annex areas that:
    - i. Need to be protected in order to prevent or reduce flood damage in existing urban areas;
    - ii. Possess unique physical characteristics;
    - iii. Have requested City services; or
    - iv. Minimize the City's fiscal liability.
  - (3) It is in the City's best interest to withhold all water and sewer extensions outside the City's limits except in instances where the extension will serve a large-volume user who has agreed in writing to annexation at a predetermined date, and who has demonstrated that a significant community benefit will accrue to the City if it provides such service outside the City's limits, and where no significant fiscal liabilities will be incurred by the City.
  - (4) It is in the City's best interest to provide services, other than water and wastewater service, to individual users beyond the City's limits:
    - i. Upon request and under contracts or cost-sharing arrangements that minimize future City fiscal liability;
    - ii. Upon request and under contracts or cost-sharing arrangements that encourage compact development;
    - iii. Upon request and under contracts or cost-sharing arrangements that ensure compliance with City subdivision, building, electrical, plumbing and fire codes; and

- iv. When it is not in the City's best interest to annex the areas to be served.

(5) The City shall therefore provide for extension of public facilities and services only under the following circumstances:

- i. Such extension is part of an Annexation Agreement that provides for development consistent with established City objectives and policies, as described and illustrated in the *Comprehensive Plan*;
- ii. Such extension allows the City to retain its right under State law to annex the property in the future;
- iii. The quality of the development that is occurring or will be occurring is consistent with City standards;
- iv. The use or development offers significant public benefits to the City; and
- v. The proposed development and land uses comply with City Building and Fire Codes (as agreed to in an Annexation Agreement with the City).
- vi. The area to be served is, or becomes a part of, the City's Certificates of Convenience and Necessity (CCN) when required by State law.

(c) **Design and Construction Standards for Public Improvements in the City's Extraterritorial Jurisdiction (ETJ).** All Public Improvements constructed in conjunction with a new development in the City's ETJ shall be designed, engineered, and constructed in accordance with this Chapter, the *Standards of Design and Construction*, and all of the City's regulations, standards, and all other applicable City master plans (e.g., the *Comprehensive Plan*, *Thoroughfare Plan*, *Parks Recreation and Open Space Master Plan*, *Trail Concept Master Plan*, *Water and Wastewater Master Plan*, Fire Codes, etc.).

#### **SEC. 02.03.063 ...CITY PARTICIPATION IN IMPROVEMENTS IN THE ETJ.**

(a) **Improvements.** The City shall not be required to participate in the cost of any Public Improvements where such improvements required by this Chapter are outside the corporate limits of the City (i.e., they are within the City's ETJ area).

(1) At its sole discretion, the City may participate with the Developer on major items of construction, such as oversizing of water and wastewater lines, lift stations, bridges, or streets adjacent to the subdivision, which benefit existing or future development in addition to that being subdivided, in accordance with a Development and/or Facilities Agreement. (See Section 02.03.045(d)(2), Oversizing of Infrastructure, and Section 02.03.045, City Participation below).

(b) **Certificates of Occupancy/Utility Connections.**

(1) Utility connections for all developments in the City's ETJ shall not be issued until a letter of final acceptance for any Public Improvements has been issued by the City or appropriate utility district, as applicable, and a copy of such letter has been submitted to the Director of Development Services by the Developer, unless otherwise authorized by the City Manager (refer to Section 02.03.046(e), *Acceptance or Rejection of Improvements by the Director of Public Works and/or the City Engineer in ETJ*).

#### **SEC. 02.03.064 ...OTHER ETJ REGULATIONS.**

(a) **Minimum Lot Regulations.**

(1) Lot sizes greater than five (5) acres each. Any subdivision of land within the ETJ must be Platted unless the resulting subdivided lots are divided into parts greater than five (5) acres each with no Public Improvements being dedicated.

(2) Lot sizes less than five (5) acres. A subdivision of land within the ETJ in which the lot sizes are smaller than five (5) acres must be Platted and meet the a minimum required lot size, minimum

net usable acreage for a septic system, building setback line, direct road frontage, minimum driveway spacing requirements, and other requirements per the *Kaufman County Subdivision and Land Development Rules and Regulations*. This regulation is to encourage Platting of land within the ETJ.

- (b) **No Land Uses Shown on Plats.** Proposed land uses may not be shown on Plats within the ETJ, unless specifically allowed by the Director of Development Services. Proposed land uses that may be shown on Plats prior to the adoption of this ordinance do not in any way establish zoning or vest any rights to the use of the property in the future.
- (c) **Tree Preservation in the ETJ.** The requirements of Section 02.03.072, *Tree Preservation* are applicable to all development within the ETJ.

**SEC. 02.03.065 to 02.03.069 RESERVED.**

## ARTICLE 02.03.070 SUBDIVISION REQUIREMENTS

### SEC. 02.03.071 ...GENERAL SUBDIVISION POLICIES.

#### (a) Conformance to Plans.

- (1) Public Improvements. Proposed Public Improvements serving new development shall conform to and be properly related to the public facility elements of the *Comprehensive Plan*, other adopted Master Plans for public facilities and services, and applicable capital improvements plans, and shall at a minimum meet the service levels specified in such plans;
- (2) Conformance with Thoroughfare Plan. All property within the City and its extra-territorial jurisdiction (ETJ), and any corresponding Plats and/or Construction Plans, shall provide for thoroughfares as shown in the City of Kaufman *Thoroughfare Plan* and the *Kaufman County Thoroughfare Plan*. Minor adjustments to thoroughfare alignments may be allowed without amending the *Thoroughfare Plan* if the Director of Public Works and/or the City Engineer determines the new alignment meets the spirit and intent of the *Thoroughfare Plan* and will not compromise public safety or traffic efficiency. The design and construction of all proposed thoroughfares shall be in conformance with the *Standards of Design and Construction* and is subject to approval by the Director of Public Works and/or the City Engineer. Such approvals shall be required prior to any Plat approval;
- (3) Master Thoroughfare Plan Amendment. If a significantly different roadway alignment or a road type other than what is shown on the *City of Kaufman Thoroughfare Plan* or the *Kaufman County Transportation Plan* is proposed, then the applicable *Plan* shall be amended prior to any Construction Plan approval or Plat Application submittal. Submission of a Traffic Impact Analysis (TIA) of the proposed amendment by the Developer may be required if the Director of Development Services and the Director of Public Works and/or the City Engineer determine that such an analysis is necessary to fully assess the impact of the proposal upon the public health, safety, and welfare, and the City's overall thoroughfare network;
- (4) Water and Wastewater Plans. The design and construction of the water system and wastewater system to serve the development shall be in conformance with the City's master plans for water and wastewater facilities and with the *Standards of Design and Construction*. The design is subject to approval by the Director of Public Works and/or the City Engineer prior to approval of the Construction Plans and the associated Plat;
- (5) Storm Drainage Standards. The design and construction of the storm drainage system to serve the development shall be in conformance with, but not limited to, the City's Master Plans for storm water drainage (as applicable), the City's storm drainage policies, and the *Standards of Design and Construction*. The design is subject to approval by the Director of Public Works and/or the City Engineer prior to approval of the Construction Plans and the associated Plat.

#### (b) Provision of Adequate Public Facilities.

- (1) Developer's Responsibilities. The Developer shall be responsible for, but not limited to, the following:
  - i. Facilities Impact Studies. The City may require that a Developer prepare a comprehensive Traffic Impact Analysis (TIA), flood or drainage study or downstream assessment, or other facilities impact studies in order to assist the City in the evaluation of public health, safety, and welfare impact and in determining whether a proposed development will be supported with adequate levels of public facilities and services concurrent with the demand for the facilities created by the development. The cost of such study or studies shall be borne by the Developer;

- ii. *Timing and Approval of Facilities Impact Studies.* Any outside study shall be subject to approval by the Director of Public Works and/or the City Engineer prior to approval of the Preliminary Plat and prior to the approval of the Construction Plans. The City also may require, at the time of approval of subsequent Applications (e.g., Final Plat), updates to facilities impact studies that were approved in conjunction with a prior Application (e.g., Preliminary Plat). Although not explicitly required as part of the Plat Application process, the Developer shall be required to provide facilities impact studies as specified in this Chapter, the *Standards of Design and Construction*, and any other applicable regulation as a part of the Construction Plan review process;
- iii. *Future Extension of Public Facilities.* The Developer shall make provisions for future expansion of the public facilities, as needed, to serve future developments, subject to the City's oversize participation policies (see *Kaufman Code of Ordinances, Chapter 12 Utilities, Water and Sewer Main Extensions, Division 2, Extension Policies*), if applicable;
- iv. *Approvals from Utility Providers.* The Developer shall obtain all necessary approvals from the applicable utility providers other than the City and shall submit written verification of such approvals to the City with the Construction Plans;
- v. *Compliance with Utility Providers.* The Developer shall comply with all requirements of the utility providers, including the City and all applicable utility districts;
- vi. *Dedication and Construction of Improvements.* The Developer shall dedicate all rights-of-way and Easements for, and shall construct and extend, all necessary on-site and off-site Public Improvements for water distribution, wastewater collection and treatment, streets, storm drainage conveyance, and other improvements that are necessary to adequately serve each phase of a proposed development at service levels that are consistent with the City's applicable master facilities plans and the *Standards of Design and Construction*;
- vii. *Fiscal Security.* The Developer shall provide all fiscal security required for the construction of the public facilities in accordance with Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements*;
- viii. *Operations and Maintenance of the Public Improvements, Infrastructure, and/or Facilities.* For any public infrastructure, facilities, or improvement within an Easement that is on private property, the Developer shall provide Access for maintenance. The Developer is responsible for maintaining their property in a condition that allows the City to readily Access and maintain public infrastructure located upon such private property;
- ix. *Abutting Substandard Streets.* Where a substandard street abuts or traverses a proposed development, the City may require the Developer to dedicate additional Right-of-Way and to improve the street to the current City design and construction standards as set forth in the *Standards of Design and Construction*. Such requirements to improve the substandard street to the City's current standards shall only be imposed following careful review of factors including, but not limited to:
  - a. The impact of the new development on the street;
  - b. The timing of the development in relation to need for the street; and
  - c. The likelihood that adjoining property will develop in a timely manner;
- x. In the case of frontage or service roads for State or Federally designated highways, the entire Abutting Right-of-Way shall be dedicated to the City and improved to the County, State or Federal agency's applicable construction design standards if such improvement is approved by the agency;
- xi. *Right-turn Lanes Mandatory.* The City reserves the right to require free right turn

lanes into any development from a Collector or higher category roadway. Should the Developer request Major Modification/Exception from this requirement, the Developer must provide to the City a Traffic Impact Analysis by a qualified third party that justifies the elimination of the required free right turn lane. The determination of necessity is within the sole discretion of the City based upon public health, safety, and welfare impact. The cost of such study or studies shall be borne by the Developer; and

xii. *Operations and Maintenance of Privately Owned Amenities and Improvements.* The Developer, Homeowners' Association (HOA), Property Owners Association (POA), or Property Owner, as applicable, shall provide for all operations and maintenance of the privately owned amenities and improvements located on private property, or shall provide proof that a separate entity will be responsible for the operations and maintenance of the facilities. Privately owned amenities and improvements shall include but are not limited to open space, parks, detention facilities, privately owned utilities, sidewalks, trails, Amenity Centers, recreational facilities, landscaping, screening, signage, retaining walls, parking lots and Access Easements.

(2) **Adequate Services for Areas Proposed for Development.** Land proposed for development in the City and in the City's ETJ shall be served adequately by essential public facilities and services, including but not limited to, water distribution, wastewater collection and treatment, roadways, pedestrian circulation, storm drainage conveyance, open space/park and recreational facilities. Land shall not be approved for Platting or development until adequate public facilities necessary to serve the development exist or provisions have been made for the facilities, whether the facilities are to be located within the property being developed or off-site.

- i. **Street Access.** A Plat will not be approved unless all of the proposed lots have safe and reliable street Access or frontage for daily use and emergency purposes.
  - a. A Plat will not be approved unless all of the proposed lots have Access-to an improved public street (or a public street that will be improved during construction of the proposed development) that meets the City's minimum design and paving standards, or to an approved public way or mutual Access Easement that is connected to an improved public street.
    - 1. In the case of a property located in the City's ETJ and/or on a County-maintained roadway, a Plat will not be approved unless all of the proposed lots meet the County's minimum lot frontage requirements.
  - b. All development shall have at least two (2) means of Access or approach. Where development phasing or constraints of the land prevent the provision of a second, separate means of Access, the City may, but is not required to, accept a temporary, paved street connection provided that a second permanent Access point can be reasonably anticipated with future development of adjacent properties. Such Access will be secured by a public Right-of-Way or Access Easement during the Platting process either as a condition of Plat approval or Plat recording. Notwithstanding the foregoing, Access shall be provided in accordance with applicable regulations and codes including, without limitation, the Fire Code, and an approved Traffic Impact Analysis, as applicable.
  - c. In certain circumstances where providing two (2) means of Access to a development is not feasible, the City Council may waive this requirement if staff can demonstrate that the site can be adequately served by emergency vehicles and that life and safety issues have not been compromised.
  - d. For properties situated adjacent to an existing or planned median-divided

thoroughfare, at least one (1) of the required Access points shall occur at, or through Access Easement connection to, a median opening. (See Diagram 02.03.114, *Median & Cross Access*)

- ii. **Water.** A Plat will not be approved unless all of the proposed lots are connected to a public water system which is capable of providing adequate water for health and emergency purposes.
  - a. Except for lots along an approved cul-de-sac, all lots shall be provided service connections from a looped water main providing water flow from two (2) directions or sources.
  - b. Water service shall be sufficient to meet the fire flow requirements of the proposed development, except in special circumstances in which the fire flow requirements cannot be met and only if a suitable alternative means of fire protection is approved by the Fire Chief.
  - c. The City may require the phasing of development and/or improvements to the water system to ensure adequate fire protection.
- iii. **Wastewater.** A Plat will not be approved unless all of the proposed lots are served by an approved means of wastewater collection and treatment.
  - a. The projected wastewater discharge of a proposed development shall not exceed the proposed capacity of the wastewater system;
  - b. The City may require the phasing of development and/or improvements to the sanitary sewer system so as to maintain adequate wastewater capacity;
  - c. Plats located within three hundred (300) feet of the sanitary sewer system are required to pay adopted fees and make connection thereto in the manner and at the location required by the ordinances of the City;
  - d. Plats for lots located in the ETJ are required to have a minimum of one (1) net acre (excluding area used for structures, driveways, right-of-way dedications, utility easements, drainage facilities, ponds/wetlands/floodplain, etc.), for installation of an aerobic septic system or other on-site sewerage facilities. Aerobic septic systems are allowed for those lots not within three-hundred feet (300) feet of the City's sewer district. Kaufman County, per the adopted interlocal cooperation agreement, permits and inspects all on-site sewerage facilities in the ETJ.
- iv. **Storm Drainage.** Increased storm water runoff attributable to new development shall not cause impacts to the adjoining, upstream, or downstream properties. Impacts are defined as the change (delta) in runoff between pre- and post-development counts. Where the projected runoff from a new development exceeds runoff from pre-development conditions, the City may require the phasing of development, the use of control methods such as retention or detention, obtaining off-site drainage Easements, and/or the construction of off-site drainage improvements as means of mitigation. All designs shall comply with the *Standards of Design and Construction*, as existing or as may be amended.

(3) **City's Cost of Review.** Should the City deem that adequate review of the roadway, water, wastewater, or drainage submittal should be outsourced to a qualified third party, the cost of such review shall be passed through to the Applicant or Developer.

(c) **Provision of Utilities.** All electrical, cable, telecommunications, and other similar utility systems for new development shall be located underground, with the exception of regional transmission and feeder lines in accordance with the requirements of this Chapter.

## **SEC.02.03.072 ....TREE PRESERVATION REQUIREMENTS.**

- (a) **Purpose.** Trees provide vital benefits by cleaning the air, conserving energy, preventing soil erosion, and providing shade, thus, the City has determined that trees, both within its corporate limits and in its extraterritorial jurisdiction, should be protected as vital assets of the community as they serve the public health, safety, and welfare by protecting the environment and providing aesthetic beauty. This section establishes rules and regulations to protect and preserve trees within the City and its extraterritorial jurisdiction.
- (b) **Applicability.** The provisions of this section apply to:
  - (1) All vacant and undeveloped property, and
  - (2) All property to be redeveloped, including additions and/or alterations.
- (c) **Exemptions.**
  - (1) This section does not apply to individual single-family, duplex, and townhouse lots after initial Development and final inspection of the dwelling units by the Development Services Department. Individual single-family and duplex lots ten (10) acres or less in size created through a Minor Plat in accordance with the City's Subdivision Regulations are also exempt. However, Clear-Cutting is prohibited on all individual single-family, duplex and townhouse lots ten (10) acres or larger in size;
  - (2) For all new single-family developments, the Buildable Area, as defined in Section 02.03.102, *Definitions*, plus the area needed to establish proper drainage, detention and retention areas, sidewalks, septic systems and lateral lines, fences, screening walls, swimming pools and decking, driveways, public street Rights-of-Way, private street lots and utility Easements are exempt. Sufficient area to allow the normal operation of construction equipment for these improvements is also exempt;
  - (3) For all nonresidential and multifamily developments, the Building Pads, proposed public street Rights-of-Way, utility Easements, areas needed to establish property drainage, detention and retention areas, drive aisles, sidewalks and fire lanes are exempt. Sufficient area to allow the normal operation of construction equipment for these improvements is also exempt;
  - (4) During the period of an emergency such as a tornado, severe thunderstorm, ice storm, flood, or other natural disaster, the requirements of this section may be waived as deemed necessary by the City Manager or designee;
  - (5) In addition to rights granted by Easement, utility companies franchised by the City may remove trees during the period of an emergency that are determined by the company to be a danger to public safety and welfare by interfering with utility service;
  - (6) Any plant nursery (growing for commercial sales) shall be exempt from the terms and provisions of this section only in relation to those trees planted and growing on the premises for the sale or intended sale to the public;
  - (7) Utility and drainage Easements required by the City and utility companies to install and maintain infrastructure;
  - (8) Trees that are diseased or dead unless the tree was required to be planted as part of an approved landscape plan or tree mitigation plan;
  - (9) The City may approve selective thinning of trees protected by this section, upon the recommendation of a certified arborist engaged by the Developer, that will enhance the

likelihood of survival of a larger tree or trees;

(10) **Exempt Tree Species:** the following tree species are exempt from the provisions of this section if less than eight (8) Caliper Inches in DBH, or if located in a Floodplain, or as otherwise determined in writing by the City Manager or designee:

<b>Exempt Tree Species if &lt; 8 Caliper Inches in DBH or Located in a Floodplain</b>	
<b>Scientific Name</b>	<b>Common Name</b>
<i>Acer saccharinum</i>	Silver Maple
<i>Celtis occidentalis</i>	Common Hackberry
<i>Maclura Pomifera</i>	Bois d'Arc
<i>Melia azedearach</i>	Chinaberry
<i>Morus alba</i>	Mulberry
<i>Populus spp.</i>	Cottonwood

(d) **Tree Preservation Requirements.** The following requirements must be met:

- (1) In all zoning districts, no Clear-Cutting of land is allowed without a permit. An approved Tree Preservation Plan or approved site plan is the permit that allows the removal of trees subject to this section;
- (2) Removal and clearing of underbrush (but not Grubbing) is allowed and does not require a permit;
- (3) No tree eighteen (18) Caliper Inches in DBH may be removed unless located in areas specifically exempted by this section, the City has approved removal based on the tree's health and condition, or the City has approved removal after assessment of a Tree Mitigation Fee.

(e) **Tree Survey and Preservation Plan Requirements.**

- (1) **Tree Survey:** A Tree Survey must be submitted with all site plan, and Preliminary Plat Applications. A Tree Preservation Plan, if applicable, shall be submitted with all Final Plat Applications. The Development Services Department is authorized to maintain a list of required information for tree surveys and tree preservation plans. The Tree Survey shall include the exact location, size, condition if damaged or diseased, and common name of each tree protected by this section, including those located in a Floodplain. Trees that will be used to qualify for tree preservation incentives in accordance with subsection (i) below must also be shown on the Tree Survey. The Tree Survey for properties with ten (10) or fewer protected trees may be shown on the site plan or Preliminary Plat instead of a separate plan.
  - i. In lieu of a Tree Survey, the Developer may submit a statement from a certified arborist certifying that there are no protected trees on a property;.
  - ii. **Tree Preservation Plan:** The Tree Preservation Plan shall indicate which trees are to be preserved, which are to be removed and the manner in which they will be protected during the construction period. A tree mitigation plan, if required, must be included as part of the Tree Preservation Plan.

(f) **Requirements for Tree Preservation.** Developers shall adhere to the following tree protection measures on all construction sites:

- (1) Prior to grading, brush removal, or construction, the Developer shall clearly tag or mark all trees to be preserved;

- (2) The Developer shall erect Protective Fencing around each tree or group of trees to prevent the placement of debris or fill within the root protection zone. The fence shall be installed prior to the release of any permit. If the protection fence is found removed, down, or altered at any time during construction prior to final inspection or landscape installation, a stop work order may be issued;
- (3) During the construction phase of Development, the Developer shall prohibit cleaning, parking, or storage of equipment or materials under the canopy of any tree or group of trees being preserved. The Developer shall not allow the disposal of any waste material such as, but not limited to, paint, oil solvents, asphalt, concrete, mortar, etc. in the canopy area;
- (4) No attachments or wires of any kind, other than those of a protective nature shall be attached to any tree;
- (5) No fill or excavation may occur within the Drip Line of a tree to be preserved unless there is a specific approved plan for use of tree wells or retaining walls. Major changes of grade (six (6) inches or greater) will require additional measures to maintain proper oxygen and water exchange with the roots;

(g) **Tree Replacement and Mitigation.**

- (1) If protected trees eighteen (18) Caliper Inches and larger DBH are removed from a property, Replacement Trees a minimum of three (3) Caliper Inches must be planted to equal three (3) times the aggregate diameter of the tree(s) removed. If trees protected by this section less than eighteen (18) Caliper Inches in DBH are removed from a property, Replacement Trees a minimum of three (3) Caliper Inches must be planted to equal the aggregate diameter of such tree(s) removed. Replacement Trees are a credit towards the trees removed from the property and shall be in addition to trees required by other landscape requirements of the City's Code of Ordinances.
- (2) Replacement Trees planted to mitigate tree removal may be located on the property being developed or in a location mutually agreed upon by the City and Developer.
- (3) If all Replacement Trees cannot be properly located, the Developer may pay a Tree Mitigation Fee to the City in lieu of tree replacement. All fees shall be paid prior to the issuance of any building permits associated with the Development or project.

(h) **Incentives for Preservation of Protected Trees:** These incentives are designed to maintain a more natural and less manicured aesthetic through the preservation of existing trees. These incentives shall not be used to reduce the landscaping requirements in the City's Code of Ordinances.

- (1) **Tree Preservation.** The following incentives are applicable for existing trees that are protected by this section and that are preserved:
  - i. Reduction in parking. For developments requiring fifty (50) parking spaces or more, the number of parking spaces may be reduced by two (2) spaces for every one (1) protected tree preserved. However, in no case shall the parking requirement be reduced by more than twenty percent (20%).
  - ii. Tree credits. Credit toward the total number of trees required as outlined in the following:

Tree Credits	
DBH of Existing Tree	Credit Against Tree Requirement
4 inches to 6 inches	1.5 trees
Over 6 inches to 8 inches	2 trees
Over 8 inches to 10 inches	2.5 trees
Over 10 inches to 12 inches	3 trees
Over 12 inches to 15 inches	4 trees
Over 15 inches	5 trees

(i) **Tree Mitigation Fee.** The Tree Mitigation Fee shall be in the amount deemed necessary to purchase, plant, and irrigate a new tree, as provided below. The fee shall be reviewed on an annual basis to ensure its adequacy for its designated uses by the Development Services Director. The fee shall be assessed and collected from the owner of the property to be developed as provided for in these Subdivision Regulations. The Director of Development Services, or designee, shall collect the fee and deposit the fee into the Tree Mitigation Fund.

Tree Mitigation Fee		
Tree Mitigation	In City	Out City
Tree Mitigation Fee (per Caliper Inch of a protection tree that is removed)	\$125.00	\$125.00

(j) **Penalty; Enforcement.** In addition to the penalties provided by Section 02.03.002, *Enforcement, Violations, & Penalties* of the City's Subdivision Regulations, no building permit(s), certificate of occupancy, or acceptance of Public Improvements shall be issued or authorized by the City until any and all violation(s) have been mitigated by replacement of the protected tree or payment of the Tree Mitigation Fee in accordance with this section. Unless otherwise specifically set forth herein, or in state law as adopted, allegation and evidence of culpable mental state are not required for the proof of an offense defined by this section. Each tree removed or transplanted without a permit shall constitute a separate offence. Violation of this Section shall not constitute an exemption to the replacement requirements of this Section.

## SEC. 02.03.073 ...WATER, WASTEWATER & DRAINAGE REQUIREMENTS & ENVIRONMENTAL STANDARDS.

(a) **Water & Wastewater Basic Policy.**

(1) Construction Requirements.

- i. All public water and wastewater mains shall be located at the frontage of the property along streets, or in Easements adjacent to the development, in order to provide service to adjacent property;
- ii. Public water and/or wastewater mains shall not be located within a private street, drive, or Access Easement, unless a public utility Easement is provided;
- iii. The minimum Easement width for water or wastewater mains shall be fifteen (15) feet, or as determined by the Director of Public Works and/or the City Engineer. Where it is necessary for water and wastewater facilities to be located within the same Easement, the Easement shall be a minimum of twenty (20) feet in width, or as determined by the Director of Public Works and/or the City Engineer;
- iv. No portion of a structure (including, but not limited to, walls, foundations, porches/patios and porch/patio covers, canopies, roof extensions/overhangs,

chimneys, fire flues, etc.) shall encroach over or into any Easement, except that wall-attached window awnings, "bay" style windows, and roof eaves shall be allowed to encroach into an Easement a maximum of twenty-four (24) inches;

- v. A water or wastewater Easement between two (2) lots must fall entirely on a single lot and shall not straddle the lot line unless specifically approved by the Director of Public Works and/or the City Engineer;
- vi. Easements shall be dedicated for exclusive use for water and wastewater facilities and shall be shown on the associated Plat for the specific purpose intended. When it is necessary for additional utilities to be placed within such utility Easement, additional width shall be provided, and the Easement shall be labeled for its additional intended purpose on the associated Plat;
- vii. When it is necessary to relocate or replace an existing water or sewer facility to accommodate a proposed subdivision, the Developer is responsible for all costs associated with the relocation, except as agreed to by City Council as specified in a Development Agreement and/or Facilities Agreement (see Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances and Construction Contracts for Public Improvements*).

(2) **Construction Plans.** Plans for construction of all water and wastewater facilities required by these regulations shall be prepared in accordance with the requirements and specifications contained in the *Standards of Design and Construction*, the regulations of the Texas Commission on Environmental Quality (TCEQ), National Sanitation Foundation (NSF), Texas Department of Insurance, Insurance Services Office, and the City's current adopted Fire Code, which are incorporated by reference and made a part hereof. Plans for the improvements must be prepared by a licensed engineer and accepted by the Director of Public Works and/or the City Engineer.

(b) **Acquisition of Easements.** The Developer shall be responsible for the acquisition of all required off- site Easements. If the Developer is unable to acquire the necessary off-site Easement, the City shall be provided with Easement or right-of-way survey exhibits and documentation, including evidence of a reasonable offer made to the affected property owner. Upon receiving a written request for assistance, the City may, at its option, acquire these Easements, either through negotiations or through condemnation in appropriate situations. The Developer shall reimburse the City for the costs of acquiring the necessary Easements, including but not limited to attorney fees, engineering fees, survey costs, expert fees, the price paid to the affected property owner(s) to acquire the easement, recording fees, and title searches.

(c) **Preliminary Utility Plan.**

- (1) **Submittal of Plans.** Prior to the submission of a Preliminary Plat, Final Plat, Replat, Minor Plat, or Development Plat, the Developer shall submit a plan showing the location and size of water, wastewater, and storm drainage mains that will be required to provide adequate service and fire protection to the lots specified in the proposed plat. Plans and specifications for fire hydrant systems shall be submitted to the Fire Marshal for review prior to construction;
- (2) **Plan Document.** The plan shall conform to the *Standards of Design and Construction*;
- (3) **Coordination with other Utility Providers;**
  - i. ***Preliminary Plat.*** When the subdivision is located in an area served by a utility provider other than the City, the Developer must provide a water system analysis that supports domestic service and fire protection;
  - ii. ***Minor Plat, Replat, Development Plat.*** When a subdivision is located in an area served by a utility provider other than the City, the Developer must provide a letter from the utility provider stating that the existing facilities provide adequate domestic

service and fire protection. If the City has reason to believe that there may be water supply or pressure concerns, a water system analysis may be required;

- iii. *Final Plat.* The Final Plat will not be recorded with Kaufman County until a letter has been provided from the utility provider stating that they have accepted the plans for construction.

**(d) Miscellaneous Requirements.**

- (1) No new building or building expansion shall be constructed or placed within or over an existing wastewater, lateral, water main, or storm drain Easement;
- (2) In the case of an existing building or structure located over an existing wastewater, lateral, water main, storm drain line or Easement, the City, the County and/or public utility provider has the authority to enter the Easement property to make the necessary repairs or improvements to the line. Additionally, should the City, the County and/or public utility provider require Access to said Easement, that any repairs to the affected building or structure shall be solely at the expense of the Developer or Property Owner;
- (3) Monument signs, flatwork, fencing, screening walls, vegetation, and other appurtenances may be constructed over an existing wastewater, lateral, water main, or storm drain Easement, if approved by the Director of Public Works and/or the City Engineer in an approved and executed Facilities Agreement stating that should any disturbance, repair, or realignment conducted by the City or a franchise utility company within the Easement that may affect the improvement requires that the Developer make all necessary repairs to the improvement, including the entire replacement of the improvement, at the Property Owner's sole expense;
- (4) Ownership and maintenance of water and wastewater mains and service connections shall be regulated as follows:
  - i. The title to all wastewater lines constructed, including wastewater service connections located in a Right-of-Way or dedicated Easement, shall be vested in the City or the applicable utility provider;
  - ii. The Developer, or single customer, shall be responsible for all maintenance of the wastewater service connection, unless replacement of the service is required in the Right-of-Way. When replacement is determined to be necessary by the Director of Public Works and/or the City Engineer, the City shall assume the responsibility for replacement of that portion in the Right-of-Way under the pavement; and
  - iii. The title to all water mains and water meters constructed, and installed, including the title to service connections, shall be vested in the City or the applicable utility provider.
- (5) The City makes no guarantee that water supply or wastewater capacity will be available at any particular time or place;
- (6) The service lines shall extend across the lot in question to provide future service connections to the adjacent property;
- (7) Water and wastewater service lines shall be maintained by the Property Owner; and
- (8) Public water and wastewater mains adjacent to federal, state, or county roadways shall be constructed outside the Right-of-Way in a separate Easement unless otherwise agreed upon by the agency.

**(e) Water.**

**(1) Design & Construction.**

- i. *Installation of Water Facilities.* Where water is to be provided through the City system, the Developer shall install adequate water facilities, including fire hydrants,

in accordance with the City's *Standards of Design and Construction*, the adopted Fire Code, the current Rules and Regulations for Public Water Systems of the Texas Commission on Environmental Quality (TCEQ), and the firefighting standards of the Texas Board of Insurance. If any such requirements conflict, the most stringent requirement shall apply;

- ii. *Facilities for Health and Safety Emergencies; Alternative Water Sources.* All water facilities connected to the City's water system shall be capable of providing water for health and emergency purposes, including fire protection and suppression. Water supply facilities shall be in accordance with the *Standards of Design and Construction*. The design and construction of water system improvements and alternative water sources shall also comply with the following standards:
  - a. Design and construction of a water source on the site shall be in accordance with applicable regulations of the Texas Commission on Environmental Quality (TCEQ);
  - b. Design and construction of water service from the City shall be in accordance with the City's *Standards of Design and Construction*; and
  - c. Design and construction of a fire protection and suppression system shall be in accordance with the City's *Standards of Design and Construction*, and in accordance with the City's Fire Department and adopted Fire Code.

**(2) Location**

- i. *Shown on Construction Plans.* The location and design of all fire hydrants, all water supply improvements and the boundary lines of special districts, private systems, and certified water service areas, indicating all improvements proposed to be served, shall be shown on the Construction Plans;
- ii. *Extension of Lines.* Extension of water lines shall be made along the entire frontage of the development adjacent to a street. If the subdivision is not adjacent to a street, the extension of water lines shall be accomplished in such a manner as to allow convenient future connections to said lines by new subdivisions and the Developer shall provide stub out connections at the property line at the time of water infrastructure installation;
- iii. *Exception from Requirement.* If new subdivisions will never be constructed beyond a developing subdivision due to physical constraints, the Director of Public Works and/or the City Engineer may approve an Exception for this requirement in accordance with Section 02.03.086, Modifications, Appeals and Exceptions, of this Ordinance prior to action on the Construction Plans or prior to action on any Plat.

**(3) Cost of Installation.** The cost of installing all water supply improvements to be made by the Developer, including off-site improvements, shall be included in the performance guarantees and Facilities Agreement, if applicable (refer to Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements*).

**(4) Cost of Extension to Serve Developers.**

- i. Where the City's water distribution system is not extended in time to serve a proposed new development, all necessary water facilities to serve such development shall be provided by and at the expense of the Developer;
  - a. All extension and/or oversizing of a water facility deemed necessary by the Director of Public Works and/or the City Engineer for future developments shall be in accordance with the *Kaufman Code of Ordinances, Chapter 12 Utilities, Water and Sewer Main Extensions, Division 2, Extension Policies*. At its sole discretion, the City may participate in such oversizing costs as part

of a Development Agreement, a Facilities Agreement, and/or an Escrow Agreement.

- ii. The Developer will pay one hundred percent (100%) of the construction cost of the water facilities required to serve their development, including the design, construction, and City inspection of the approach main(s). Water lines to all lots to be served by water facilities located in the Right-of-Way will be constructed at the same time as a part of the same contract as all other Public Improvements in the Developer's addition.
- iii. When the Developer desires that water mains be extended to serve their property, they will submit a request in writing to the Director of Public Works and/or the City Engineer showing the following:
  - a. The property to be served, including the lot, block, and subdivision;
  - b. If the area to be served is a part of a larger area that is owned or controlled by the Developer and which is reasonably expected to be served by water in the future, a tentative design of a main layout will be made of the entire area;
  - c. The cost estimate will be made on that portion of the subdivision to be served immediately;
  - d. The Director of Public Works and/or the City Engineer shall approve the size of the approach main required to serve the Developer's property and the actual size to be constructed. Should the City elect to construct a main larger than the Developer's required approach main, said upsizing and responsibility for costs shall be in accordance with Chapter 12.08.033 of the City's Code of Ordinances or as specified in an approved Development Agreement and/or Facilities Agreement and/or Escrow Agreement.
- iv. The amount of the Developer's payment shall be determined using unit bid prices contained in the award contract.

**(5) Individual Wells in ETJ.**

- i. *Well Approval.* Individual wells to provide potable water within the City's ETJ shall be subject to approval by the Kaufman County health official, and this approval shall be documented by the health official's signature on the water system statement on the Plat. The Developer must submit with the Plat Application a certificate from a professional engineer or a geoscientist (who are licensed to practice in the State of Texas) verifying the adequacy of the proposed well water supply and potability prior to a Plat Application submittal or Construction Plan approval; and
- ii. *Compliance with Other Regulations.* Installation, operations, and maintenance of individual wells shall comply with City standards, regulations of the Texas Commission on Environmental Quality (TCEQ), and any other applicable County or State rules and regulations. In the event of conflict among these regulations, whichever is the most stringent shall apply.

**(f) Wastewater.**

- (1) *Extension of and Connection to the City's Wastewater Collection System.* Extension of, and connection to, the City's wastewater collection system shall be required for all new developments within the City limits. Extension of, and connection to, the municipal wastewater collection system shall also be required for new developments within the City's ETJ for any proposed development, lot, tract, or parcel that is less than one (1) net acre in size. The City is not in any way obligated to allow extension of municipal wastewater collection lines outside the City limits. The required extension of, and connection to, the municipal wastewater collection system may be waived only in accordance with a Development Agreement approved by City Council after determining that such extension would require unreasonable expenditures and

that an on-site wastewater disposal system (see Section 02.03.073(f)(9), *On-Site Wastewater Disposal Systems*) will function properly and safely. The decision to allow an exception is at the sole discretion of the City;

- (2) **Design & Construction.** It is the policy of the City to require all wastewater collection lines to have gravity flow. The use of lift stations and force mains is prohibited unless a gravity design is impractical, as determined by the Director of Public Works and/or the City Engineer. The location, design and sizing of all wastewater improvements shall be shown on the Construction Plans and are subject to approval by the Director of Public Works and/or the City Engineer;
- (3) **Cost of Installation.** The cost of installing all wastewater improvements to be made by the Developer, including off-site improvements, shall be included in the performance guarantees and Facilities Agreement, if applicable;
- (4) **Wastewater Collection Line Extension, Generally.** All wastewater collection line extensions shall be designed in accordance with the latest applicable rules and regulations as published by the Texas State Department of Health and Texas Commission for Environmental Quality (TCEQ). All wastewater collection lines shall be designed with consideration for serving the full drainage area subject to collection by the wastewater collection system in question except as modified with the concurrence of the Director of Public Works and/or the City Engineer because of the projected rate of development or the financial feasibility of the proposed extension;
- (5) **Cost of Extensions to Serve Developers.**
  - i. Where the City's wastewater collection system is not extended in time to serve a proposed new development, all necessary wastewater facilities to serve such development shall be provided by, and at the expense of, the Developer:
    - a. All extension and/or oversizing of a wastewater facility deemed necessary by the Director of Public Works and/or the City Engineer for future developments shall be in accordance with the *Kaufman Code of Ordinances, Chapter 12 Utilities, Water and Sewer Main Extensions, Division 2, Extension Policies*. At its sole discretion, the City may participate in such oversizing costs as part of a Development Agreement, a Facilities Agreement, and/or an Escrow Agreement;
    - ii. The Developer will pay one hundred percent (100%) of the construction cost of the wastewater facilities required to serve their development, including the design, construction, and City inspection of the approach main(s). Wastewater lines to all lots to be served by wastewater facilities located in the Right-of-Way will be constructed at the same time as a part of the same contract as all other Public Improvements in the Developer's addition;
    - iii. When the Developer desires that the wastewater mains be extended to serve their property, they will submit a request in writing to the Director of Public Works and/or the City Engineer showing the following information:
      - a. The property to be served, including the lot, block, and subdivision;
      - b. If the area to be served is a part of a larger area that is owned or controlled by the Developer and which is reasonably expected to be served by the wastewater collection system in the future, a tentative design of a main layout will be made of the entire area;
      - c. The cost estimate will be made on that portion of the subdivision to be served immediately.
      - d. The Director of Public Works and/or the City Engineer shall approve the size of the approach main required to serve the Developer's property and the actual size to be constructed. Should the City elect to construct a main larger than

the Developer's required approach main, said upsizing and responsibility for costs shall be in accordance with Chapter 12.08.033 of the City's Code of Ordinances or as specified in an approved Development Agreement and/or Facilities Agreement and/or Escrow Agreement.

- iv. The amount of the Developer's payment shall be determined using unit bid prices contained in the award contract.

(6) **Required Stub-Out to Adjacent Properties.** All lateral and wastewater mains installed within a subdivision must extend to the borders of the subdivision as required for future extensions of the collecting system regardless of whether or not such extensions are required for service within the subdivision;

(7) **Lift Stations or Separate Treatment Facilities.** The provision for lift stations or separate treatment facilities will not be permitted unless the cost of constructing such lift stations or separate facilities is at least twenty percent (20%) less than the costs of constructing an adequate outfall or approach wastewater from the existing system;

(8) **Connections.** No connection shall be made to any wastewater collection system within the City which will permit the entrance of surface water or waste other than domestic wastewater characteristics without the specific authorization by the City Council;

(9) **On-Site Wastewater Disposal Systems.**

- i. In cases where the Director of Public Works and/or the City Engineer determines that extension of and connection to the City's wastewater collection system is impractical or not feasible, and where the Director of Public Works and/or the City Engineer approves the use of an on-site wastewater disposal system, such on-site system shall provide adequate sewage disposal for all lots, tracts, parcels, and structures in the development that cannot be connected to the City's sewer system;
- ii. All on-site wastewater disposal systems shall be designed, permitted, constructed, operated, and maintained in compliance with all applicable local, County and State regulations, and a permit from TCEQ for such system shall be acquired prior to submission of Applications for a Preliminary Plat and/or Construction Plans;
- iii. On-site wastewater disposal facilities requiring soil absorption systems may be prohibited where such systems will not function properly in conditions of high groundwater, flooding, unsuitable soil characteristics, or other topographical or environmental issues.
- iv. Each lot, tract, parcel, and structure that utilizes an on-site wastewater disposal system shall have a minimum land area of at least one (1) net acre;
- v. No portion of any on-site wastewater disposal system shall be constructed within a minimum 150-foot radius around any water well either on-site or on other properties.
- vi. In order to protect the public health, safety, and welfare, an existing on-site wastewater disposal system shall be upgraded, or reconstructed, if necessary, to comply with the City's standards by the owner, at the owner's expense, if the operation of the facility does not comply with government regulations or if it causes objectionable odors, unsanitary conditions, pollution, etc.

(g) **Stormwater.**

(1) **Adoption.** This Ordinance is in compliance with the adopted *Flood Damage Prevention Ordinance, Standards of Design and Construction*, and the *Code of Ordinances* of the City of Kaufman;

(2) **Purpose and Scope.** The purpose of policies and design standards set forth herein is to ensure adequate stormwater drainage and flood control within the City of Kaufman. The policies and standards are included in the most recent version of *Standards of Design and Construction*

and are intended to protect public health and safety, to prevent property damage due to flooding, to equitably distribute the cost of necessary drainage improvements, and to minimize the maintenance cost of drainage facilities constructed. Any development or improvement of property affecting storm drainage and flood control in the City of Kaufman is subject to the provisions of this Ordinance;

- i. The development of land shall consider all drainage elements normally used in the engineering standards of design;.
- ii. Evaluation of stormwater runoff characteristics shall consider development conditions of the watershed as specified in the *Standards of Design and Construction*;
- iii. Stormwater design shall be in accordance with the *Standards of Design and Construction* and should evaluate drainage for existing and proposed conditions using ultimate (fully developed) land use conditions;

(3) **Standard Provisions for Storm Drainage.** All construction for storm drainage in the development or improvement of real property within the City of Kaufman shall conform to the requirements set forth in the *Standards of Design and Construction*;

(4) **Responsibility of Developer for Storm Drainage.**

- i. The Developer of property to be developed or used shall be responsible for all storm drainage flowing through or Abutting such property. This responsibility includes the drainage directed to that property by prior development as well as the drainage naturally flowing through the property by reason of topography. It is the intent of this Ordinance that provision be made for storm drainage in accordance with Section 02.03.073(g)(2) above and the *Standards of Design and Construction*, at such time as any property affected is proposed for development use;
- ii. Where the improvement or construction of a storm drainage facility is required along a property line common to two (2) or more owners, the owner hereafter proposing development or use of his property, shall be responsible for the required improvements at the time of development, including the dedication of all necessary Right-of-Way or Easements, to accommodate the improvements;
- iii. Where a Developer's entire proposed development or use of only a portion of their property, provision for storm drainage in accordance with Section 02.03.073(g)(2) above and the *Standards of Design and Construction*, shall only be required in that portion of the property proposed for immediate development or use, except as construction or improvements of a drainage facility outside that designated portion of the property is deemed essential to the development or use of that designated portion;
- iv. The owner or owners shall dedicate to the City the required drainage Easements. Minimum Easement requirements are set forth in the *Standards of Design and Construction*. Final determination of Easement requirements shall be made by the Director of Public Works and/or the City Engineer.
- v. In the event that a Property Owner or Developer desires to impound stormwater by excavation, filling, or construction of a dam within a property, thereby creating a lake, pond, or lagoon as a part of the planned development of that property, the following provisions shall apply:
  - a. An engineering plan for such construction, accompanied by complete drainage design information, prepared by a registered professional engineer, shall have been approved by the Director of Public Works and/or the City Engineer;
  - b. The Property Owner or Developer shall have agreed to retain under private ownership the lake, pond, or lagoon constructed, and to assume full responsibility for the protection of the general public from any health or safety

- c. hazards related to the lake, pond, or lagoon constructed;
- c. The Property Owner or Developer shall have agreed to assume full responsibility for the maintenance of the lake, pond, or lagoon constructed;
- d. The obligations herein shall run with the land and shall be a continuing obligation of the owner(s) of such land;
- e. The requirements of the Texas Water Code pertaining to impoundment of surface water are complied with including the design, construction, and safety of the impounding structure; and
- f. On any existing structure, the owner will furnish a study or design prepared by a professional engineer for the City for approval.

**(5) Responsibility and Participation of the City in Storm Drainage Improvements.**

- i. The City may, in its sole discretion, participate in the cost of such improvements as are required by this Ordinance;
- ii. The City may, in its sole discretion, participate in any project of improvements by the levy of a special assessment against the lands to be enhanced in value by such improvements;
- iii. The City may acquire drainage Easements necessary for such improvements by acceptance of dedication, purchase, or condemnation;
- iv. The City may, at its sole discretion, upon acquisition of the drainage Easements and the completion of improvements as hereinabove provided, assume full responsibility for the maintenance of such drainage facilities except for detention ponds;

**(6) Engineering Design. The design of all storm drainage facilities in the development or improvement of real property shall be in accordance with the requirements set forth in the *Standards of Design and Construction* and the following requirements:**

- i. Storm sewer inlets shall be provided along paved streets at such intervals as are necessary to limit the depth of flow according to the requirements set forth in *Standards of Design and Construction*;
- ii. A closed storm sewer system shall generally be required to accommodate a run-off exceeding the street capacity, as provided above and as specified in *Standards of Design and Construction*. Design of open channel systems in lieu of a closed system shall adhere to the requirements set forth in the *Standards of Design and Construction*; and
- iii. Excavation, fill, and grading operations within the city limits shall be undertaken only after a proper permit has been obtained from the City.

**(7) Easements. Drainage Easements shall be dedicated for public drainage features in accordance with the requirements of this Ordinance and the *Standards of Design and Construction*;**

**(8) Stormwater Quality. Designs for new development shall manage stormwater in a manner that protects water quality by addressing the development's potential to cause erosion, pollution, siltation, and sedimentation in the Municipal Separate Storm Sewer System (MS4) and natural waterways.**

- i. The goal is to maintain after development, to the maximum extent practical, the predevelopment characteristics in the waterway, which ultimately receives stormwater runoff from the development;
- ii. It is the Developer's responsibility to ensure that designs for new development meet the stormwater management requirements in the General Permit for Stormwater Discharges Associated with Construction Activities (TXR150000) issued by the TCEQ and its successor agencies. This permit includes the requirement for measures that will be installed during construction to control pollutants in stormwater

discharges after construction operations have been completed.

- (9) **Minimum Finished Floor Elevations.** The Director of Public Works and/or the City Engineer may require minimum finished floor elevations (MFF) to provide flood protection on certain lots contained within the subdivision. The MFFs shall be shown on the Plat. These elevations shall incorporate the most current floodplain management criteria or other criteria as necessary to avoid damages.
  - i. The minimum finished floor elevation shall conform with the requirements set forth in the Flood Damage Prevention Ordinance (see Kaufman *Code of Ordinances, Article 4.05 of the Building Regulations*, as amended) and the *Standards of Design and Construction*. The following note or an amended version appropriate to the specific Plat shall be added to any Plat upon which the Director of Public Works and/or the City Engineer requires the establishment of minimum finished floor elevations:
 

"The City reserves the right to require minimum finished floor elevations on any lot contained within this addition. The minimum elevations shown are based on the most current information available at the time the Plat is filed and are subject to change."
- (10) **Off-Site Drainage.** When any proposed development requires off-site grading where stormwater runoff has been collected or concentrated, it shall not be permitted to drain onto adjacent property except in existing creeks, channels, storm sewers, or streets. In such a case, a drainage Easement shall be dedicated and shall be of a width sufficient to comply with the criteria outlined in this Ordinance and in the *Standards of Design and Construction*;
- (11) **Building or Structure Setback Requirement.** Any building or structure constructed, reconstructed, or relocated adjacent to an open drainage channel shall conform to the setback requirements established in the *Standards of Design and Construction*;
- (12) **Construction Over Drainage Facilities.** No building or structure shall hereafter be constructed, reconstructed, expanded over, or relocated over or across any storm drainage facility, unless specifically approved by the Director of Public Works and/or the City Engineer and pursuant to the criteria established in *Standards of Design and Construction*; and .
- (13) **Stormwater Storage.** Temporary storage of stormwater on-site is allowable pursuant to the criteria established in the *Engineering Standards*.

(h) **Preliminary Drainage Plan.**

- (1) The preliminary drainage plan shall show the watershed affecting the development and how stormwater will be conveyed to, through, and from the development.
  - i. It must comply with the standards outlined in this Chapter and the drainage design criteria found in the *Standards of Design and Construction*.
  - ii. The preliminary drainage plan is a guide for the detailed drainage design. The review of the preliminary drainage plan does not constitute final drainage plan approval or authorize an exception to this Chapter.
- (2) For any property involved in the development process, a preliminary drainage plan shall be provided, at the Developer's expense, for the area proposed for development. For property with a previously accepted preliminary drainage plan, the accepted preliminary drainage plan may be submitted and enforced unless a revised preliminary drainage plan is required by the City due to lot reconfiguration or other conditions created by the new Plat. The Director of Public Works and/or the City Engineer may waive the requirement for a preliminary drainage plan if the submitted Plat is not anticipated to cause any significant change in runoff characteristics from a previously accepted drainage study or for single residential properties where no drainage problems are anticipated. If the Developer requests an exception in

writing, a copy of any previous drainage plan shall be provided.

- (3) At the request of the City, the Developer shall submit additional studies, including but not limited to the following, as deemed appropriate and necessary by the City, as part of the Preliminary Plat submittal requirements. These studies shall be considered during review and approval of the Preliminary Plat. For any study required by the City that is outsourced to a third party, the cost of such study shall be passed through to the Property Owner or Developer.
  - i. Environmental Assessment;
  - ii. Wetland Delineation Study;
  - iii. Habitat Study;
  - iv. Vegetative Study;
  - v. Erosion Hazard Setback Study;
  - vi. Storm Drainage Study;
  - vii. Riparian (i.e., Tributary) Study;
  - viii. Hydrologic and Hydraulic Analysis;
  - ix. Flood Study; and
  - x. Downstream Assessment Study.
- (4) Electronic copies of the preliminary drainage plan shall be submitted for review and acceptance by the City prior to the submittal of a Preliminary Plat. The plan shall be labeled as "Preliminary." The plan shall be stamped and dated by the engineer and be accompanied by a floodplain development Application (if applicable) describing the hydrologic and hydraulic impacts of the development and all associated supporting data files.

**(i) Major Creeks.**

- (1) Definition. Major creeks shall be defined by the most recent FEMA Flood Insurance Rate maps.;
- (2) Major Creek Restrictions. All major creeks shall be maintained in an open natural condition. All major creeks are subject to the requirements set forth in the *Standards of Design and Construction* and the additional following requirements for all types of development:
  - i. The one-hundred-year (100-year) floodplain and Erosion Hazard Setback shall be dedicated on the Final Plat to the City as a single lot (only if the City is agreeable to accept the land dedication) or shall be established as an open space lot to be owned and maintained by a Homeowners' Association (HOA) or Property Owners' Association (POA), pursuant to Section 02.03.0791(d), *HOA Requirements*, of this Chapter;
  - ii. At no time shall any portion of the one-hundred-year (100-year) floodplain encroach upon any single-family or two-family residential lot; and.
  - iii. The Council may waive any of these dedication requirements for a Replat that was originally Platted prior to the adoption of this Chapter.
- (3) Access. Public Access and maintenance Access to parks and open space shall be provided as required by the Director of Public Works and/or the City Engineer.

**(j) Floodplain Development Requirements.**

- (1) One-Hundred-Year (100-Year) Floodplain Restrictions. All development proposed adjacent to or within the one-hundred-year (100-year) Floodplain shall be in accordance with this Chapter, the City's Flood Damage Prevention Ordinance, and the *Standards of Design and Construction*. A floodplain development permit must be submitted and approved by the Director of Public Works and/or City Engineer prior to any construction on the site.

**(k) Stormwater Detention Facilities.**

- (1) Intent. The City of Kaufman encourages the use of detention facilities for the benefits of the

community outlined below:

- i. *Control of flood discharges.* The intent of detention basin design shall be to reduce flood discharges for the ultimate watershed development conditions without increasing peak discharges above the peak discharges for undeveloped watershed conditions;
- ii. *Environment.* As development occurs, there is a loss of wildlife and bird life habitat. It is possible to create a natural micro-environment around ponds and storage areas that can offset this loss of habitat. These "natural" environmental pockets in conjunction with natural open space areas can help maintain the rural setting of the City. Detention ponds also benefit downstream water quality by allowing the sedimentation of pollutants;
- iii. *Recreation.* Detention basins may offer recreational opportunities in an urban setting; for example, a normally dry detention basin could be used for athletic fields or picnic areas, while the banks of a pond offer valuable park space; and
- iv. *Aesthetics.* As an integral part of the City of Kaufman, a detention basin or flood storage area needs to blend into the landscape and into the community. Measures such as gentle side slopes, planting of trees and shrubs, and other landscaping features can transform the detention facility into an attractive Amenity for the neighborhood.

**(2) Requirements.**

- i. All detention facilities shall be designed and constructed according to the requirements set forth in the *Standards of Design and Construction*;
- ii. Detailed engineering studies of the detention facility according to the requirements set forth in the *Standards of Design and Construction* shall be required to evaluate the timing of hydrographs from regional and on-site facilities, as well as backwater calculations to determine the effect of the detention/retention facilities on upstream water surface elevations;
- iii. All detention facility designs shall be performed by a professional engineer registered in the State of Texas and shall meet the requirements of Permanent Rule 31, TEXAS ADMINISTRATION CODE (TAC) CHAPTER 299, and other requirements, as applicable;
- iv. Detention ponds shall have trees planted on the perimeter of the facility at a rate of one large canopy tree for every fifty (50) linear feet;
- v. Detention ponds shall be designed in a manner to be an Amenity to the development by providing a gentle six-to-one (6:1) slope. Detention "pits" with sheer exterior walls are prohibited for residential subdivision designs. The Director of Public Works and/or the City Engineer may provide a Minor Modification to the slope requirements of a detention pond, such as retention ponds with aerators; and
- vi. Detention ponds may not be located in a required landscape buffer area adjacent to perimeter roadways.

**SEC. 02.03.074 ...STREET & ALLEY STANDARDS.**

**(a) Street Basic Policy.**

- (1) **Street Improvements.** In Platting a new development, the Developer shall provide additional Right-of-Way needed for existing or future streets as required by the *Standards of Design and Construction* (Figures 2.1) and as shown on the City of Kaufman Thoroughfare Plan and/or the Kaufman County Transportation Plan, as applicable.

**(2) Existing Substandard Streets.**

- i. When a proposed residential or nonresidential development abuts one (1) or both

sides of an existing substandard street, the Developer shall be required to improve the substandard street and its appurtenances (such as curbs and gutters, sidewalks, barrier-free ramps, street trees, etc.) to bring the same to City standards, or to replace it with a standard City street, at no cost to the City other than as may be provided in the City's cost-sharing policies, including any ordinances that are in effect at the time of Final Plat approval;

- ii. If the proposed development is located along only one (1) side of a substandard street, and if the City makes a determination that it is not feasible to improve the full width of said substandard street at that time, the City may require the Developer to pay into escrow, in accordance with Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements*, funds for the future improvement of the street as a condition of Final Plat approval for the development;
- iii. When a Traffic Impact Analysis (TIA) is required or voluntarily submitted, the findings determined shall not be imposed upon, alter, or supersede the requirements, alignment, Right-of-Way widths, and number of lanes shown on the Master Thoroughfare Plan, as it exists or may be amended, except as expressly approved by the City. The TIA may be used to justify amendments to the Thoroughfare Plan, but in no case shall the TIA dictate such amendments.

(3) New Perimeter Streets and Entryways.

- i. When a proposed residential or nonresidential development is developed Abutting an existing or planned Thoroughfare as shown on the City of Kaufman and/or Kaufman County Thoroughfare Plans (as applicable), the Developer shall construct a portion (representing at least half of the width of the full street section) of the Abutting street and its appurtenances (such as curbs and gutters, sidewalks, barrier-free ramps, street trees, etc.) to the City's standards for that type of street (per the *Standards of Design and Construction*);
  - a. If the Director of Public Works and/or the City Engineer determines that it is not feasible to construct the Abutting street and its appurtenances at the time of development, the City may require the Developer to pay into escrow, in accordance with Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances and Construction Contracts for Public Improvements*, funds for the future construction of the street as a condition of associated Plat approval for the development. The funds placed in escrow, or the value of the lanes constructed shall be roughly proportional to the amount of traffic estimated to be generated by the development itself;
  - b. If the Developer elects or if the Director of Public Works and/or the City Engineer determine that constructing the full street section of an Abutting Thoroughfare is required for traffic safety or efficiency, then the Developer may be eligible for cost sharing with the City and/or future reimbursement from benefitting property owners on the other side of the Thoroughfare at the time those properties develop in accordance with a Development Agreement and/or Facilities Agreement and/or Escrow Fee Agreement.
- ii. When a proposed residential or nonresidential development is constructed and has designed an unplanned perimeter street in order to provide Access to the site and/or adjacent land, the Developer shall construct a portion of the Abutting street as described below in Section 02.03.074(a)(4), *New Internal Streets*, and under the same conditions.;
- iii. Streets at the entrance to residential, multiple-family, and non-residential developments shall have decorative pavers or stamped concrete to delineate the

entrance. Single-family, two-family, and townhome residential developments shall also have a divided entrance with the median being a common area lot to be owned and maintained by the HOA. An entrance monument sign and landscaping may be located on this lot.

(4) **New Internal Streets.**

- i. All new streets and their appurtenances internal to a proposed residential or nonresidential development shall, at a minimum, be built to a width and design that will adequately serve the development and shall conform to the City's standards as described in the *Standards of Design and Construction*;
  - a. If oversizing of an internal street is deemed necessary by the Director of Public Works and/or the City Engineer for traffic safety or efficiency (such as establishment of a new collector street not identified on the Thoroughfare Plan that will carry significant traffic volumes, or a street adjacent to a school or park site), then the City and/or the applicable entity may, at their sole discretion, participate in such oversizing costs as part of a Development Agreement and/or Facilities Agreement and/or Escrow Fee Agreement;
- ii. Streets which temporarily dead end at power lines, railroads or similar Rights-of-Way shall be constructed for at least one-half (½) the distance across these Rights-of-Way, or provision shall be made to place the construction cost for said improvements in escrow with the City in accordance with Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements*;
- iii. When, in the judgment of the Director of Public Works and/or the City Engineer, it is not feasible to construct an internal street or appurtenances at the time of development of the subdivision, the City may require the Developer to pay into escrow funds for the future construction of the street or its appurtenances as a condition of Final Plat approval for the development, in accordance with Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances and Construction Contracts for Public Improvements Facilities Agreements*.

(5) **Impact Fees.** All impact fees due on the project shall be paid in accordance with the City's Impact Fee Ordinance and/or executed Development Agreement and/or Facilities Agreement.

(b) **Street Design & Appurtenances.**

- (1) **Application of Requirements.** Street design requirements are subject to the provisions included in the *Standards of Design and Construction*, the City of Kaufman's and/or Kaufman County's *Thoroughfare Plan* (as applicable), a Development Agreement and/or Facilities Agreement and/or a Planned Development Ordinance (if applicable to the subject property), as well as the regulations contained within this Chapter.
- (2) **Conformity to the Thoroughfare Plans.** The general location of streets shall conform to the City of Kaufman's and Kaufman County's *Thoroughfare Plan*. For streets that are not shown on the *Thoroughfare Plans*, such as local residential streets, the arrangement of such streets shall:
  - i. Provide for the continuation or appropriate continuation of existing streets or street stubs from or into surrounding areas – refer to street stub requirements outlined in Section 02.03.074(b)(11), *Stub Streets*, and connectivity requirements in Section 02.03.074(b)(12), *Street Connectivity*;
  - ii. Conform to any plan for the neighborhood approved or adopted by the City to address a particular situation where topographical or other conditions make continuance or conformity to existing streets impractical;

- iii. Not conflict with existing or proposed streets or driveway openings, including those on the opposite side of an existing or planned Thoroughfare, as described within the *Standards of Design and Construction*; and
- iv. New streets that intersect with divided Arterials shall align to the greatest extent possible with opposite streets such that median openings can be shared.

(3) **Relation to Adjoining Street System.** The proposed street system shall extend all existing Thoroughfares and local streets as may be necessary for safe and efficient traffic circulation and emergency ingress and egress.

(4) **Maximum Street Length.** No street shall be more than twelve hundred (1,200) feet in length without an intersection with another street, which will provide some degree of flexibility in traffic patterns, improved traffic circulation, and public convenience;

- i. See *Standards of Design and Construction* for specific design requirements;
- ii. In certain circumstances, the City may consider Exceptions to the maximum street lengths if sought by the Applicant. These circumstances include, but are not limited to:
  - a. Rerouting of streets;
  - b. Large areas of open space/park land on one or both sides of the street;
  - c. Intersecting trails that provide pedestrian access at mid-block locations;
  - d. Decreasing the lot count by five percent (5%) or more from the previously approved Preliminary Plat or Final Plat; or
  - e. Approval by the Council through a Subdivision Ordinance Major Modification/Exception. Any Major Modification/Exception approved by the Council shall include the curvilinear requirement and street calming methods, as described below in Section 02.03.074(b)(6) and (7).

(5) **Maximum Cul-de-Sac Length.** No cul-de-sac shall exceed six hundred (600) feet in length, measured from the center of the cul-de-sac to the center of the intersecting street, as described in the *Standards of Design and Construction*;

- i. In certain circumstances, the City may consider an Exception to the maximum cul-de-sac length if sought by the Developer. These circumstances include, but are not limited to:
  - a. Rerouting of streets;
  - b. Large areas of open space/park land on one or both sides of the street;
  - c. Intersecting trails that provide pedestrian access at mid-block locations;
  - d. Decreasing the lot count by five percent (5%) or more from the previously approved Preliminary Plat or Final Plat; or
  - e. Approval by the Council through a Subdivision Ordinance Major Modification/Exception. Any Major Modification/Exception approved by the Council shall include the curvilinear requirement and street calming methods, described in Section 02.03.074(b)(6), *Curvilinear Requirement and (7), Additional Street Calming Methods*.

(6) **Curvilinear Streets.** In situations where curvilinear streets are provided, the design of the street shall include a curve of between one hundred to two hundred (100 to 200) foot radius for a length equal to the curve radius.

- i. Curvilinear streets may be used as a traffic calming method in situations where the street length exceeds 1,200 feet.

(7) **Additional Street Calming Methods.** One or more of the following street calming methods (or other methods not listed here as approved by the Director of Public Works and/or the City Engineer) may be required by the City and incorporated into the design, in addition to the curvilinear requirement (above), in order to reduce traffic velocity and increase safety to

pedestrians and cyclists, subject to the review and approval of the Director of Public Works and/or the City Engineer:

- i. Stop signs;
- ii. Street width narrowing with landscaped islands placed approximately every 400 feet or other distances as necessary to provide traffic calming;
- iii. Roundabouts placed approximately in the center of the street length or near a major entrance to the development; and/or
- iv. Landscaped medians that include pedestrian crossing oases to be determined by the Director of Public Works and/or the City Engineer on a cases by case basis depending on the length and width of the street;
- v. Speed humps/bumps are **prohibited** from being installed in public and private streets, Alleys, private aisles, and any fire lanes, unless approved in writing by the Director of Public Works and/or the City Engineer.

(8) Street Widths & Rights-of-Way. Street widths and related Rights-of-Way shall be designed in accordance with the following:

- i. City of Kaufman's and Kaufman County's *Thoroughfare Plans* (existing, and as amended);
- ii. Associated Development Agreement and/or Facilities Agreement, and/or Escrow Agreement;
- iii. Planned Development Ordinance (if applicable to the subject property); and
- iv. *The Standards of Design and Construction.*

(9) Street Names, Street Name Signs, and Traffic Control Signs.

- i. *Street Names.* New streets shall be named so as to provide naming continuity with existing streets, and so as to prevent conflict or "sound-alike" confusion with similar street names;
  - a. All street names shall be approved by both the City and Kaufman County's 911 Addressing division prior to any Plat Application submittal, and prior to submittal of the Construction Plans and should comply with the approved street name policies of both the City and the County, as they exist or as may be amended.
- ii. *Cost of Signs.* The cost of street name signs and traffic control signs shall be paid for and installed by the Developer;
- iii. *City Standards.* All street name signs, and traffic control signs shall conform to the City's details for street name sign design and the latest edition of the Texas "Manual of Uniform Traffic Control Devices" (TMUTCD).

(10) Traffic Studies. The Director of Public Works and/or the City Engineer may require a Traffic Impact Analysis (TIA) or other type of engineering study from the Developer prior to Construction Plan approval or the submittal of any associated Plat Applications to ascertain technical data pertaining to the potential traffic impact of the proposed development on the City's street system;

- i. For any study required by the City that is outsourced to a qualified third party, the cost of such study shall be passed through to the Developer. See specific Traffic Impact Analysis requirements as outlined in the *Standards of Design and Construction*

(11) Stub Streets.

- i. See *Standards of Design and Construction* for all design requirements;
- ii. Future connections are required to adjacent vacant properties at locations as approved by the Director of Public Work and/or the City Engineer, and the Director of Development Services;

- iii. When a residential development is constructed in phases requiring a temporary stubbed street, a paved temporary turn-around shall be provided for maneuvering by emergency vehicles (see requirements for temporary turn-arounds in the *Standards of Design and Construction*), as determined by the City's Fire Chief (for properties in the city limits) or the County's Fire Marshal (for properties in the ETJ);
- iv. A note shall be clearly placed on the Final Plat indicating that the stub street will be extended with future development;
- v. All stub streets shall have barricades that meet TMUTCD standards;
- vi. All stub streets shall have a sign prominently posted at the terminus of the street to indicate no through traffic and that the street will be extended in the future;
  - a. The sign shall comply with standards established by the Director of Public Works and/or the City Engineer, and
  - b. Installation and cost of the signs shall be the responsibility of the Developer.

**(12) Connectivity.**

- i. New residential developments shall provide street connections to adjacent developments, as determined by the Director of Development Services, allowing Access between developments for neighborhood traffic and to enhance pedestrian and bicycle connectivity;
- ii. Commercial developments shall provide off-street connections to other businesses through mutual Access Easements and shared Access drives to surrounding streets;
- iii. Connectivity between different land uses to create mixed-use developments is encouraged, but in some situations, it may be appropriate to have a street serve as a buffer between residential and non-residential land uses.

**(c) Street Lighting.**

**(1) Street Lighting Required.**

- i. Street lighting shall be provided by the Developer along all streets and thoroughfares in accordance with the *Standards of Design and Construction*. Perimeter sidewalks, site entrances, parks, trails, amenities, and other public areas and parking lots shall be adequately illuminated (minimum average of three (3) foot candle visibility).
- ii. The Developer is responsible for the installation of street lighting, and shall be installed to City standards prior to the City accepting responsibility for the future provision of electricity to the street lights;
- iii. The Director of Public Works and/or the City Engineer shall be the responsible official for decisions related to street lighting, and may authorize Minor Modifications to these regulations, in accordance with Section 02.03.086, *Modifications, Appeals and Exceptions*, for a street lighting requirement if such exception will not compromise public health, safety, security, and convenience.

**(2) New Subdivisions.**

- i. New subdivisions are required to prepare and submit a street lighting plan as a part of the Construction Plan submittal. This plan is reviewed by the Director of Public Works and/or the City Engineer to ensure conformance with current street lighting policies;
- ii. Financial responsibility for the purchase of lighting equipment and construction is the responsibility of the Developer;
- iii. In the City of Kaufman, electricity is provided by franchise utility companies. Upon completion of the street light system, the appropriate electric service provider will be the owner and maintenance provider of the street light equipment and the City of Kaufman will become responsible for the monthly electrical and maintenance expenses.

- (3) **Street Lighting Placement.** Street lighting shall be chosen and installed according to the *Standards of Design and Construction*.
- (4) **Subdivisions without Existing Street Lighting.**
  - i. Residents of subdivisions located within the City limits without existing street lighting or infrastructure required to support street lighting who request to have street lighting added should submit a petition for street lighting to the Director of Development Services;
  - ii. Upon receipt of the petition, City staff will contact the appropriate electricity provider to prepare an estimate of the cost to install the requested lighting. Additionally, the provider will be requested to provide information about necessary Easements for light pole and other facilities required for installation;
  - iii. The petition and request form will be presented to the City Council during the budgeting process. At this time, Council will determine if the City will participate in the funding to complete the lighting request or establish assessments to the property owners for the cost to construct the requested lighting system.

(d) **Private Streets.**

- (1) **Private Streets.**
  - i. Private streets within the City may be allowed in accordance with a Planned Development District, a Development Agreement, and/or a Facilities Agreement;
  - ii. All streets in the ETJ that are not designated as a Thoroughfare on the Kaufman County Thoroughfare Plan, or a Farm to Market Road, or any other State or Federal road, shall be a private street;
  - iii. Private streets shall be designed and constructed to the same standards as for public streets, in accordance with the *Standards of Design and Construction*.
- (2) **City Council Action Required.** Dedicated streets and Rights-of-Way shall not be designated or used as private streets and such use is prohibited. A request to convert public streets to private streets shall be in accordance with Section 02.03.074.(d)(6).
- (3) **Private Street Development.**
  - i. Private Street Developments are subject to provisions of the *Thoroughfare Plans* and this Chapter, as they exist or may be amended;
  - ii. Private Street Developments in the City limits shall only be permitted through the approval of a Planned Development District with any conditions at the sole discretion of City Council;
  - iii. Private Street Developments in the ETJ shall be permitted through the Platting process and the approval of a Development Agreement and/or a Facilities Agreement as applicable, with any conditions at the sole discretion of City Council;
  - iv. Private Street Developments may not cross an existing or proposed thoroughfare as shown on the City's and/or County's adopted *Thoroughfare Plan*, nor shall a private street development disrupt an existing or proposed hike & bike route; and
  - v. Private Street HOA or a POA Fund. A Developer requesting private streets must show that adequate funds will be set aside and held in reserve for private street maintenance and replacement costs by the associated Homeowners Association (HOA) or Property Owners Association (POA).
- (4) **Connectivity.** The *Comprehensive Plan* calls for all plans for development in the City to include a high degree of connectivity within developments and between one development and another;
  - i. Any proposed Private Street Development adjacent to an existing public street subdivision that can be reasonably connected, including by constructing a bridge or

culvert, for example, should not be approved as a Private Street Development. The two adjacent subdivisions should allow cross-connectivity using public streets. This is especially important when one of the two adjacent subdivisions has a school and/or park site within the development that will be Accessed by both developments.

- (5) **Criteria for Approval for Private Streets in New Developments.** When considering a Private Street Development, the Planning & Zoning Commission and City Council shall use any of the following criteria:
  - i. Non-disruption of planned public streets and/or facilities/projects (thoroughfares, parks, park trails, public pedestrian pathways, etc.);
  - ii. Non-disruption to and from properties of future developments either on-site or off-site to the proposed subdivision;
  - iii. No negative effect on traffic circulation on nearby public streets;
  - iv. Not less than one hundred (100) feet of street frontage on which to locate the main entrance gate;
  - v. No more than two (2) gated street entrances, subject to approval by the Director of Public Works and/or the City Engineer, may face the same Thoroughfare;
  - vi. No impairment of Access to and from public facilities including schools or public parks;
  - vii. No impairment of the adequate and timely provision of essential municipal services (emergency services, water/wastewater improvements or maintenance, etc.);
  - viii. The main entrance to the Private Street Development shall have adequate throat depth to provide for residents, their guests, and any accidental Access and have an escape aisle for those vehicles not admitted into the subdivision;
  - ix. Adequate perimeter landscaping and screening in accordance with this Chapter.
- (6) **Conversion of Public Streets to Private Streets.** The criteria for converting existing public streets to private streets includes all the criteria, issues, and procedures involved with new developments, listed above, plus:
  - i. Submittal of a petition signed by one hundred percent (100%) of the owners in the existing subdivision requesting conversion to private streets;
  - ii. Existence of a HOA or POA that would be responsible for owning and maintaining the converted streets and Rights-of-Way;
  - iii. Applicants must agree to contract with the City for the purchase of the installed infrastructure and Rights-of-Way from the City of Kaufman at fair market appraised value for cash in full payment, and agree to maintain the infrastructure and Rights-of-Way at City standards thereafter prior to the approval of the Development Agreement;
  - iv. All documents are subject to the review and approval of the City Attorney;
  - v. Submittal of a Development Agreement shall first be considered for approval by City Council before proceeding to the vacating and replatting process;
  - vi. Subsequent to the approval of the Private Street designation, the affected Right-of-Way shall be vacated and the entire subdivision affected shall be Replatted concurrently to reflect the conversion of Right-of-Way to private streets.
- (7) **Conversion of Private Streets to Public Streets.** The City may, but is in no way obligated to, accept private streets for public Access and maintenance. Requests to convert private streets to public streets shall be subject to all of the following provisions:
  - i. The homeowners' association (HOA) or property owners' association (POA) shall submit a petition signed by at least sixty-seven percent (67%) of its members/lot owners (or a greater number of signatures, if required by the HOA or POA documents or declarations).

- ii. All of the infrastructure shall be in a condition that is acceptable to the Director of Public Works and/or the City Engineer.
- iii. All security stations and other structures not consistent with a public street development shall be removed by the HOA, at its cost, prior to acceptance of the streets and appurtenances by the City.
- iv. All monies in the reserve fund for private street maintenance shall be delivered to the City. Money in the reserve fund in excess of what is needed to bring the streets and appurtenances up to City standards will be refunded to the HOA. Private Street Developments that exist as of the adoption of this ordinance are not required to deliver a reserve fund balance to the City.
- v. The HOA shall prepare and submit a Replat to the City for review and approval. The City may also require a Development Agreement, as applicable;
- vi. The HOA shall modify and re-file, at its cost, the HOA documents to remove requirements specific to Private Street developments. The City Attorney shall review the modified HOA documents prior to their filing. The HOA shall be responsible for the cost of review by the City Attorney.

(8) **HOA and POA Requirements.** Private Street developments and the related HOA or POA shall meet all requirements of Section 02.03.079, *HOA and POA Requirements*, of this Ordinance

(e) **Alleys.**

- (1) **When Alleys are Optional.** Alleys are optional for all single-family residential lots that are equal to or greater than fifty (50) feet in width at the front building line.
- (2) **When Alleys are Required.** Alleys are required for single-family residential lots that are less than fifty (50) feet in width at the front building line, except as otherwise approved through a Planned Development District or Development Agreement. When so utilized, Alleys shall be constructed according to design criteria in *Standards of Design and Construction*.
- (3) **Alleys Required for Single-Family Attached Residences.** Alleys are required for all townhome buildings with four (4) units or more, except as otherwise approved through a Planned Development District or Development Agreement. When so utilized, Alleys shall be constructed according to design criteria in the *Standards of Design and Construction*.
- (4) **Alley Design.** Permanent dead end and "hammerhead" Alleys are **prohibited**. All Alleys shall have adequate turnouts and street entrances such that vehicular traffic flow is continuous and efficient.
  - i. Where a temporary dead end Alley situation is unavoidable (such as due to project phasing), a temporary, paved turn-around bulb or turnout onto a street, either of which will require a temporary Alley Easement, shall be shown on the Plat
- (5) **Street Access when Alleys are Present.** No driveway shall Access a street when an Alley is available unless specifically allowed in writing by the Director of Public Works and/or the City Engineer.

(f) **Mews Streets.** A development incorporating mews streets and Alleys shall be approved through a Planned Development District in the City limits or through a Development Agreement in the ETJ.

- (1) **Definition.** A mews street is a grassy, landscaped area on which houses, or housing units may face in lieu of facing a paved street.
- (2) **Minimum Width of Mews Street.** The common area of the mews shall be a minimum of forty (40) feet in width.
- (3) **Mews Alley - Fire & Emergency Access.** Since fire and other emergency vehicles must

Access the homes from the Alley, the Alley shall be a minimum of twenty-four (24) feet in width within a thirty (30) foot right-of-way.

- i. The mews Alley shall be striped as a fire lane.
- ii. Fire hydrants shall be placed in the Alley and spaced as they would on any similar residential street.
- iii. No parking is allowed within the fire lane.
- iv. A rear door to the home shall be provided that is a minimum of thirty-six (36) inches wide and is not through the garage.

(4) **Maximum Mews Length**. The maximum mews length is five-hundred (500) feet. Minor Modifications may be considered by the Fire Department and Director Public Works and/or City Engineer.

(5) **Garage Set-Back**. Garages shall be set back either a minimum of twenty (20) feet to allow tandem parking or a maximum of three (3) feet where no parking, tandem or parallel, is allowed.

(6) **Trash Receptacles**. Trash receptacles shall be placed on a concrete pad that is outside the limits of the fire lane.

(7) **Parking**. Additional parking for visitors and delivery vehicles shall be provided at the terminus of the mews street or at another nearby acceptable location as approved by the City.

(8) **Vehicle Access**. Dead-ended mews streets and Alleys are prohibited.

(9) **Sidewalks**. Sidewalks within the mews street shall be a minimum of six (6) feet in width if located at or near the center of the mews or a minimum of five (5) feet if two (2) sidewalks are provided on each side of the mews. Sidewalk connections to each residential unit's front door shall be provided.

(10) **Side Yards**. No side yard shall be paved.

(11) **Signage**. Wayfinding signs that include address numbers shall be provided at the end of the mews to direct pedestrians to the houses facing the mews.

(12) **Addressing**. Individual house or unit addressing shall be provided at the entrance to the mews Alley, with an additional street number and street name sign on each house or unit's rear and side façade. Addresses shall be posted on the building prominently. Both wayfinding signs and individual house numbers shall be illuminated for nighttime viewing. All such signage is subject to the discretionary review and approval by the Development Services and Fire Departments.

#### **SEC. 02.03.075 ... SIDEWALKS & TRAIL STANDARDS.**

- (a) Sidewalks are required adjacent to all public streets (on both sides of the street), and shall be provided according to the regulations in the *Standards of Design and Construction*, and shall stub out to the adjacent property. No meter valves or drainage inlets may encroach into sidewalks.
- (b) Bicycle and pedestrian trails shall be a minimum of twelve (12) feet in width and be constructed of an improved surface unless otherwise approved by the City through a Development Agreement and/or Planned Development District. Any portion of a sidewalk or trail located on private property shall be shown on the filed Plat and placed within a pedestrian access easement. Trails and sidewalks shall comply with the City's adopted Parks Recreation and Open Space Master Plan and Kaufman Trail Concept Master Plan.
- (c) Sidewalks perpendicular to and in front of head-in parking shall be a minimum six (6) feet in width

to accommodate the over-hang of vehicles. Sidewalks in front of buildings directly adjacent to public Right-of-Way shall be a minimum of 10' in width. Any trails near a cul-de-sac or other sidewalk shall provide a connection, including any barrier-free-ramp that may be needed. See also Section 02.03.084, *Hike & Bike Trail Requirements*.

#### **SEC. 02.03.076 ...DRIVEWAYS, FIRE LANES, RETAINING WALLS, & ACCESS.**

- (a) **Driveways, Generally.** All driveway approaches, curbs, gutters, pavements, and appurtenances necessary to provide Access to properties shall be provided by the Developer and shall be designed, constructed, and maintained in accordance with the City's *Standards of Design and Construction*, *Zoning Ordinance*, and Planned Development Ordinance (if applicable to the subject property).
- (b) **Driveways, Residential.**
  - (1) Residential driveway approach widths and curb cuts shall not be wider than the combined width of the garage door or doors, or the edge of house on driveway past the garage door. In certain large lot cases, additional pad sites may be allowed for vehicle parking, at the discretion of the Director of Development Services.
  - (2) Residential tracts smaller than 1/4 acre in size may have only one drive per lot.
- (c) **Fire Lanes.** Fire lanes are to be designed in accordance with the City's adopted Fire Code and *Standards of Design and Construction*. Fire Lane Easements shall be shown on the Site Plan (see the *Zoning Ordinance*) and on any associated Plat, and shall be maintained to the City's standards by the Property Owner. For safety and emergency accessibility reasons during construction, developments other than single-family detached or two-family residential subdivisions shall not be allowed to proceed with vertical structural construction above the foundation prior to:
  - (1) Completion and City inspection of all fire lanes and fire hydrants on the site (unless otherwise approved by the Fire Chief); and
  - (2) Issuance of a Building Permit for the structure.
- (d) **Retaining Walls.** Any retaining wall over four (4) feet in height requires engineered plans. Contractors shall incorporate a form liner or add a brick or stone façade. Plain concrete retaining walls are prohibited.
- (e) **Cross Access & Access Easements.** Vehicular cross Access shall be provided between all properties through the use of Access Easements. For safety, emergency response purposes, improved value for all tracts, and increased connectivity, cross Access between adjacent (single-family residential, non-residential, and multi-family residential) parcels is required, as determined by staff.
  - (1) Properties that abut an undeveloped tract shall provide a paved stub-out for future connections, including the Access Easement.
  - (2) Adjacent properties shall be provided cross Access unless the Director of Development Services or the Director of Public Works and/or the City Engineer provides a Minor Modification for a challenging geographical feature (e.g., creek) or for when a single-family residential neighborhood is adjacent to a multi-family residential or non-residential parcel, unless the parcels are part of a mixed-use development in which the land uses are more integrated. All other instances require cross Access via an Access Easement. Pedestrian cross Access is required in all instances, even single-family residential adjacency, except for when a Minor Modification is provided by the Director for a geographic frustration.

## **SEC. 02.03.077 ...LANDSCAPING & SCREENING ADJACENT TO STREETS.**

Landscaping, hardscaping (i.e., man-made features such as sidewalks, trails, paths, entryway signage, decorative lighting and/or screening walls and fencing, as well as non-vegetative natural features such as decorative boulders, rocks, or stones), and irrigation improvements shall be installed within street medians, parkways, and Street Buffer Lots which shall front along all proposed, or planned Thoroughfares within the City limits and the ETJ, as shown on the City's and County's *Thoroughfare Plans* and all other streets within the City Limits and the ETJ.

(a) **Definition.** A Street Buffer Lot, as defined in this section, shall be owned and maintained by a home owners' association or a property owners' association (HOA or POA), and serve as a landscape and screening buffer area between the private property line and the Right-of-Way line. The minimum lot width is defined in Section 02.03.077(d), *Street Landscape Buffer Lots*. Such lots shall front along the Right-of-Way of divided Thoroughfares, with separate frontages to exist on each side of the Thoroughfare, only within single-family residential developments.

(b) **Street Landscaping Improvements Required.**

- (1) **Developer obligation.** The Developer shall be fully responsible for the design, construction, and installation of all required perimeter/street landscaping, hardscaping, and irrigation. The Developer shall be responsible for the maintenance of these improvements for a period of two (2) years after City Council has accepted the Subdivision.
  - a. During the first two (2) years following installation, the Developer shall replace any tree, shrub, sod, groundcover, or hardscape element in substandard condition.
  - b. Following the first two (2) years, the Director of Public Works and/or the City Engineer and/or their designee(s) shall inspect the installation and determine what, if any, plant materials and/or hardscape elements are in substandard condition and must be replaced by the Developer prior to an HOA or POA taking over maintenance.
- (2) **Plan Design.** The proposed landscape, hardscape, and irrigation design of a development's street medians, parkways, and/or Street Buffer Lots shall be submitted in conjunction with the associated Plat's Construction Plans. The Director of Development Services and/or their designee shall be responsible for the review of the landscape, hardscape, and irrigation plans for compliance with this Chapter, the *Standards of Design and Construction*, any previously-approved preliminary landscape plan set, the zoning requirements (including any Planned Development zoning regulations, as applicable), and any associated Development Agreement. The Director of Public Works and/or the City Engineer, or their designee(s), shall also review the plans and provide review comments to the Director of Development Services to forward on to the Applicant/Developer. Once all plan review comments have been fully addressed, the Director of Development Services shall approve the plans..
- (3) **Plan Design Burden.** In the case where undeveloped land exists on both sides of a divided Thoroughfare or street, the first to develop shall carry the burden of submitting design plans for landscaping, hardscaping, and irrigation of the median and parkways..
- (4) **Installation or deferment of Landscaping, Hardscaping, and Irrigation.** The required landscaping, hardscaping, and irrigation of all medians, parkways, and/or Street Buffer Lots shall be installed during the construction of the associated Plat. In the event that the Director of Public Works and/or the City Engineer, in their sole discretion, determine that the design and installation of landscaping, hardscaping, and irrigation improvements at any given time period is impractical due to further road construction and/or other factors, the Developer shall deposit in escrow with the City an amount equal to one-hundred percent (100%) of the total costs of the deferred improvements. The Director of Public Works and/or the City

Engineer shall determine the appropriate cost amount to guarantee the installation of required deferred landscaping, hardscaping, and irrigation improvements to all the associated Plat's street median(s), parkways and/or Street Buffer Lots. The cost amount to be determined shall include, but not be limited to:

- i. the design;
- ii. the construction;
- iii. the installation;
- iv. the acceptance;
- v. the inflation costs related to the improvements; and
- vi. the maintenance costs prior to being transferred to an HOA or POA.

(5) **Installation burden.** In the case where undeveloped land exists on both sides of a divided Thoroughfare or street, the second to develop will utilize the approved plans (or modify the approved plans with City approval of the modifications) and shall be responsible for the purchase and installation of the median and parkway landscape, hardscape, and irrigation improvements, using the escrowed account from the first Developer and shall contribute an equal amount to the overall cost of the median and parkway landscaping. In the event that the original escrow amount has fallen short of current material and/or installation costs, the second Developer will make up the difference in cost or the plans shall be modified to be installed within the cost allotted at the sole discretion of the City. Any surplus funds shall be placed a City account for the purpose of landscape maintenance.

(a) **Minimum Requirements for Street Median Landscaping.**

- (1) Only developments or subdivisions Abutting or adjacent to a divided Thoroughfare, as defined in the City and County's *Thoroughfare Plans*, shall be subject to this section.
- (2) All trees and plant materials shall be chosen from the City's approved plant list;
- (3) One small ornamental tree per forty (40) linear feet of median. Ornamental trees shall be a minimum two-inch (2") caliper and eight feet (8') in height at time of planting and shall be used primarily as accent trees near the median nose and dispersed within the canopy trees;
- (4) One large canopy tree per forty (40) linear feet of median, with a minimum of four-inch (4") caliper trunk, and a well-formed canopy that is typical of the species. Canopy trees shall be planted no closer than thirty (30) feet from streetlights located in the median, no closer than twenty (20) feet to an intersection, and no closer than fifteen (15) feet from any overhead electrical line;
- (5) Ornamental and canopy trees need not be evenly spaced and may be clustered for a more pleasing aesthetic effect, so long as shade is provided to all pedestrian areas;
- (6) A minimum of twenty percent (20%) of the landscaped area shall be planted in evergreen shrubs, ground cover and/or native grasses;
- (7) Planting beds shall be separated from turf grass using fourteen-gauge (14-gauge) steel edging to define ground cover beds and reduce weed incursion;
- (8) Irrigation installation shall include bubblers or drip irrigation for all canopy and ornamental trees and irrigation to uniformly water the planting beds and shall be equipped with rain-freeze sensors; and
- (9) Landscape and installation plans shall be subject to review and approval by the Director of Development Services and the Director of Public Works and/or the City Engineer. The location and placement of landscaping shall conform to the City street design standards and shall be placed to accommodate the ultimate number of traffic lanes, although shrubs, native grasses and ornamental trees may be placed in future traffic lanes if it is determined that

these lanes will likely not be constructed in less than ten (10) years.

(b) **Street Buffer Lots.** Street Buffer Lots as defined in Section 02.03.077(a), *Definition* are open, landscaped areas between the private property line and the Right-of-Way. The street parkway is the portion of Right-of-Way that is typically sodded and kept clear of trees or deep-rooted shrubs since this is often the location of underground or above-ground infrastructure, such as water and wastewater collection lines and electrical wiring, respectively. In some cases, but rarely, underground utilities be placed entirely or partially within the Street Buffer Lot and therefore the Street Buffer Lot and Easements shall be shown on the associated Plat. The following standards apply, unless a more stringent standard applies due to the lot being located in a Planned Development District or an overlay district. Street Buffer Lots are only required along Thoroughfares adjacent to single-family residential, two-family residential, and townhome residential developments.

- (1) **Minimum width of Street Buffer Lots.**
  - i. Adjacent to all six (6)-lane divided streets and limited Access service roads, as shown on the *Thoroughfare Plan*, the Street Buffer Lot shall be a minimum of thirty (30) feet wide.
  - ii. Adjacent to all four (4)-lane divided streets, as shown on the *Thoroughfare Plan*, the Street Buffer Lot shall be a minimum of twenty (20) feet wide.
  - iii. Adjacent to all other streets called out on the *Thoroughfare Plan*, the Street Buffer lot shall be a minimum fifteen (15) feet wide.
  - iv. Adjacent to residential streets and other streets not called out on the *Thoroughfare Plan*, the Street Buffer Lot shall be a minimum of ten (10) feet wide.
  - v. A Street Buffer Lot width may need to be increased a proportionate amount to accommodate the location of Easements for utilities, the presence of a trail, the usage of berms, etc.
- (2) **Landscaping Within Street Buffer Lots.** Canopy trees, ornamental trees, shrubs, native grasses, groundcover, decorative boulders, and sod may be planted within the Street Buffer Lot, avoiding conflicts with any utility service.
- (3) **Screening Walls within Street Buffer Lots.** Required screening walls or fences shall generally be placed on the property line between the Street Buffer Lot(s) and the private property lines of the residential lots that back up to the Street Buffer Lot(s). In some instances (such as the usage of berm or live screening treatments with a split-rail or decorative metal fence located closer to the street, or the usage of an articulated screening wall), fencing or screening walls may extend further into the Street Buffer Lot(s) as allowed by the approved preliminary landscape plan, zoning regulations (including Planned Development zoning regulations, as applicable), and/or a Development Agreement.
- (4) **Signs Located Within Street Buffer Lots.** Any Developer who places a monument sign within a Street Buffer Lot that may also be the location of underground or above-ground infrastructure shall be required to allow the City and/or utility company Access to the facilities located beneath or above the monument sign and must sign a Facilities Agreement authorizing the City and/or utility company to carry out needed repairs or replacement with no obligation to rebuild or compensate the owner/Developer for the removal, repair, or loss of the sign. The Developer shall make every effort to design Street Buffer Lots so that monument signs are not placed in conflict with utility lines or infrastructure.

(c) **Minimum Requirements for Landscaping within Street Buffer Lots.**

- (1) Street Buffer Lots shall be made up of an attractive mix of canopy trees, ornamental trees, shrubs, native grasses, groundcover, sod, berms, and boulders between the Right-of-Way and the screening wall.

- (2) All trees and plant materials shall be chosen from the City's approved plant list.
- (3) One large, canopy tree per forty (40) linear feet of street frontage, with a minimum of four-inch (4") caliper trunk, and a well-formed canopy that is typical of the species.
- (4) One small, ornamental tree per forty (40) linear feet of street frontage. Ornamental trees shall be a minimum two-inch (2") caliper and eight feet (8') in height at time of planting and shall be used primarily as accent trees dispersed within the canopy trees.
- (5) Ornamental and canopy trees need not be evenly spaced and may be clustered for a more pleasing aesthetic effect within the landscape Easement or buffer.
- (6) A minimum of twenty percent (20%) of the landscaped area shall be planted in evergreen shrubs, ground cover, and/or native grasses.
- (7) Planting beds shall be separated from turf grass using fourteen-gauge (14-gauge) steel edging to define ground cover beds and reduce weed incursion.
- (8) Irrigation installation shall include bubblers or drip irrigation for all canopy and ornamental trees and irrigation to uniformly disperse water over the planting beds and shall be equipped with rain- freeze sensors.
- (9) If drainage facilities are required, the Street Buffer Lot(s) shall be increased a proportionate width to accommodate the drainage facilities, as well as the required landscaping. In addition, the drainage facilities shall be enhanced in design, which could include gentle sloping berms around the banks of a detention basin, pond aerators or fountains, naturalized detention basins, lush landscaping around the perimeter of the drainage facility, and stone retaining walls and decorative metal fencing.
- (10) Landscape and installation plans shall be subject to review and approval by the Director of Development Services and the Director of Public Works and/or the City Engineer. The location and placement of landscaping shall conform to the City street design standards and shall be placed to accommodate the ultimate number of traffic lanes, although shrubs, native grasses and ornamental trees may be placed in future traffic lanes if it is determined that these lanes will likely not be constructed in less than ten (10) years; and
- (11) At corner intersections, a subdivision entrance sign is required for branding and identification.

(d) **Street Trees.** In order to provide for a more attractive streetscape, shade for streets and pedestrians, and more vegetation to soften areas of impervious surface, the City encourages the use of Street Trees within developments. Street Trees are generally defined as canopy or ornamental trees located in the Right-of-Way and generally placed in the strip of grass between the street and sidewalk. If the use of Street Trees is sought by the Developer or required by the City, the following requirements shall apply:

- (1) The location, spacing, species, and allowed distribution of canopy and ornamental trees shall be specified in a Development Agreement and/or Planned Development and further detailed in preliminary and final landscape plans to be approved by the Director of Development Services concurrent with the Construction Plans.
- (2) The Street Trees shall be maintained by a Homeowners' Association and/or Property Owners' Association.
- (3) In order to accommodate the Street Trees at full maturity, the landscape strip between the street and the sidewalk will need to be widened by 5' (particularly for landscape strips including canopy trees). To achieve this, the Right-of-Way width shall be increased by 10' and the required building setback shall be reduced by 5' on either side; or a 5' pedestrian

access easement shall be dedicated along the frontage of the affected lots to allow for the sidewalk to be shifted out of the Right-of-Way and onto the affected lots.

- (e) **Escrow Funds.** Should the Director of Public Works and/or the City Engineer, in their sole discretion, determine that the immediate installation of median, parkway, or Street Buffer Lot landscaping, hardscaping, and irrigation is impractical, funds shall be collected and placed in escrow at the rate listed in the current Fee Schedule. The funds shall be collected prior to acceptance of the public improvements by the City. Said funds shall be applied to the design, construction, reconstruction, upgrading, installation, and maintenance of median, parkway, or Street Buffer Lot landscaping, hardscaping, and irrigation.
- (f) **Refund of Fees.** Any escrowed funds not expended within ten (10) years of collection shall be returned to the Developer who deposited the fees with the City. The time period for the expenditure of fees escrowed with the City for the construction of median landscaping shall not begin to run until such time as the roadway medians have been constructed on such divided roadways, the roadway medians have been accepted by the City, and the roadway medians are ready for standard median landscaping and irrigation.
  - (1) Notwithstanding the provisions of this subsection, the City shall not be required to return fees that have not been expended if roadway medians have not been constructed on divided roadways within the adjacent roadway benefit area thus preventing the purchasing, planting, growing and/or irrigation of the required standard median landscaping and irrigation.

(g) **Screening Requirements.**

- (1) Screening adjacent to roadways.
  - i. Single-family residential land uses adjacent to roadways shall install a solid masonry screening wall that has a minimum height of six (6) feet and a maximum height of eight (8) feet.
  - ii. Maintenance Easement. A five (5) foot-wide wall maintenance Easement shall be provided along the private property line where a required screening wall or device may be installed currently or in the future, to allow Access for repairs or replacement.
  - iii. Residential fences adjacent to Thoroughfares. All wood residential fences that face a Thoroughfare identified on the City or County's *Thoroughfare Plans* must be a minimum of six (6) feet in height and constructed of cedar board-on-board with a decorative cap and metal support poles with caps facing the inside of the lot. Residential fences that only face a local street not identified on the *Thoroughfare Plan* (anything less than a collector) are not required to have this treatment.
  - iv. Conflict of fences. No parallel, adjacent fencing (i.e., back-to-back fencing) is allowed, nor is the creation of a "maintenance gap" between two (2) fencing devices. When a non-residential use is proposed adjacent to an existing residential wooden fence, the wooden fence shall be removed and the masonry screening wall (or other approved fencing) becomes the mutual boundary line between the properties.
  - v. When single-family residential land uses are adjacent to perimeter roadways that are not part of the *Thoroughfare Plan*, then a ten (10) feet wide landscape buffer applies, and enhanced wooden fencing (6' tall cedar, board-on-board fence with a decorative cap, with metal posts on the inside, with periodic masonry columns; all to be maintained by the HOA) may be installed in lieu of the masonry wall. In this instance, evergreen shrubs shall be planted along the enhanced wooden fence in addition to the standard landscaping already required. The City may also approve alternate screening through a Development Agreement and/or Planned Development zoning.
  - vi. The City allows for additional options such as decorative metal fencing (with masonry columns and associated landscaping) in lieu of the masonry wall along

open spaces, floodplains, cul-de-sacs, and U-shaped streets.

(2) Screening in the ETJ.

- i. The requirements of Section (1) above apply to all single-family residential developments in the ETJ
- ii. Non-residential and multi-family residential uses adjacent to single-family residential uses:
  - a. A solid masonry screening wall is required, minimum six (6) feet in height, along the property line;
  - b. In some cases, at the sole discretion of the Director of Development Services, decorative metal or wrought-iron screening fence may be allowed in lieu of a solid masonry screening wall. This decorative metal or wrought-iron screening fence have regularly spaced masonry columns, along with medium- sized evergreen plants spaced every five (5) feet on-center that will grow to a minimum height of six (6) feet within two (2) years of planting;
  - c. In some cases, at the sole discretion of the Director of Development Services, enhanced wooden fences between six (6) and eight (8) feet in height, constructed of cedar board-on-board with a decorative cap, and metal support poles with caps facing the inside of the lot, with regularly-spaced masonry columns, may be allowed;
  - d. In some cases due to topography or other natural land features, at the sole discretion of the Director of Development Services, industrial quality metal fencing or welded wire fence panels may be allowed, such as *DesignMaster®* fencing products.
- iii. Uniformity. Each development shall have a uniform screening wall in terms of materials and height, subject to approval by the Director of Development Services during the Construction Plan review process.
- iv. Maintenance Easement. A five (5) foot wide wall maintenance Easement shall be provided on both sides of a screening wall where a required screening wall or devise may be installed currently or in the future, to allow Access for repairs or replacement.
- v. Generally speaking, decorative columns should be spaced every one-hundred (100) linear feet (and at transitions) for masonry walls, decorative metal fences, and enhanced wooden fences for all land uses and situations within the Screening section. Staff may provide minor modifications to this.

(3) Site elements in the ETJ required to be screened. The following site elements shall be screened from the public view:

- i. Mechanical & Utility equipment.
  - a. Ground located equipment. A solid masonry "wing" wall of sufficient height to effectively screen the equipment.
  - b. Roof-mounted equipment. Roof-mounted equipment shall be screened from view from the adjacent Right-of-Way. Appropriate screening includes wall extensions, such as a parapet wall.
- ii. Utility Substations & Tower Facilities in the ETJ only. For electric substations, wastewater pump stations, communication towers, generator plants, or any other free-standing utility facility, the above ground mechanical equipment shall be screened to mitigate its negative visual impact and safely secure the site. The screening device shall be scaled accordingly to the height, size, scope, and area of the proposed facility, to be no less than six (6) feet in height and might be up to twelve (12) feet in height, subject to discretionary review and approval by the Director of Development Services. Generally, masonry screening walls are required

with the allowance for decorative metal in limited Application for visibility, ventilation, and Access points. Larger facilities shall also provide large evergreen screening trees every twenty (20) feet on center. Concrete vehicle Access shall be provided, in addition to associated Easements necessary for development. Any associated utility lines shall be buried, with the exception of regional transmission lines.

iii. Trash & recycling enclosures in the ETJ only. Screening enclosures shall consist of a solid masonry wall or architectural element of the building on at least three (3) sides that is a minimum six (6) feet in height with the fourth side a solid metal gate (primed and painted) that is to remain closed at all times other than servicing.

- a. Single trash & recycling enclosures shall be a minimum of twelve (12) by fourteen (14) feet in size.
- b. Adequately reinforced paved areas shall be provided for refuse facilities and their approaches for loading and unloading.

(4) Screening adjacent to open space, creeks, or other view corridors. Notwithstanding the obligation of a Developer to construct a solid masonry screening wall surrounding the property, when portions of that property are adjacent to a dedicated open space, natural land feature such as a creek, or other notable views such as a golf course, the screening shall be decorative metal or wrought-iron with regularly spaced masonry columns or industrial-quality metal fencing or welded wire fence panels, such as DesignMaster® fencing products, or wooden split-rail fencing with Director of Development Services approval.

(5) Prohibited screening elements in City limits and in the ETJ. No screening wall visible from a public street shall be:

- i. Located within any required visibility triangle;
- ii. Constructed with any of the following materials: Surface painted or coated concrete, chain-link, concertina wire, barbed wire, corrugated metal, or fiberglass panels; and
- iii. Placed parallel and in the immediate vicinity of an existing residential fence causing a close back-to-back fence arrangement. When a residential fence exists at the time of commercial development, the required masonry screening wall shall replace the residential fence, with wall maintenance Easements to be shown on the associated Plat.

#### **SEC. 02.03.078 ...LOT AND BLOCK DESIGN.**

(a) **Zoning Compliance.** All lots shall conform to the zoning district requirements, unless located in the ETJ, in which they shall comply with any interlocal agreements between the City and Kaufman County.

(b) **Residential Lots Adjacent to Drainage Areas.** Lots shall be exclusive of any portion of a natural drainage area (i.e., major creek, stream, tributary, etc.), maintenance Access, and/or erosion hazard setback, as defined in Section 02.03.102, *Definitions*. Retaining walls may be allowed on lots adjacent to natural drainage areas, as approved by the Director of Public Works and/or the City Engineer.

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

- (1) Lots shall be generally rectangular in shape; sharp angles between lot lines shall be avoided.
- (2) Flag lots are prohibited (See Diagram 02.03.115).
- (3) Irregularly shaped lots shall have sufficient width at the building line to meet minimum lot

width and frontage requirements for the appropriate zoning district (if applicable), and shall provide the minimum building pad required by zoning without encroachment into front, side, or rear yard setbacks or into any type of Easement.

(d) **Lot Lines and Legal Buildable Lots.**

- (1) **Side Lot Lines.** Side lot lines shall be generally perpendicular (ninety-degree (90°) angle) to street Right-of-Way lines to the greatest extent possible (side lot lines may vary from eighty-degree (80°) to one-hundred-degree (100°) angles from the street frontage (see Diagrams 02.03.116 and 02.03.117). The Director of Development Services may grant a minor modification if unusual circumstances exist on the subject property or on adjacent property that make it difficult to comply with this requirement.
- (2) **Lot Lines and Jurisdictional Boundaries.** All lot lines, to the greatest extent possible, shall align along county, school district, and other jurisdictional boundary lines such that lots are fully within one county, school district, or other jurisdiction. The Director of Development Services may grant a minor modification to this requirement if a county, school district, or other jurisdictional boundary line will bisect a lot, provided that the entire residential dwelling or main structure is constructed entirely within one county, school district, or other jurisdiction (i.e., the structure does not "straddle" school district or jurisdictional boundary line even though the lot line may straddle the jurisdictional line).
- (3) **Legal Buildable Lots.** Any portion of a lot that is non-buildable for any reason shall be clearly shown as such on the Preliminary and Final Plats. A typical detail shall be submitted along with the Preliminary and Final Plats, and shall verify that the buildable portion of such a lot can accommodate a dwelling or main structure that complies with applicable City zoning regulations (if located within the City limits) and building codes (if located either within the City limits or the ETJ).

(e) **Lot Orientation Restrictions in the City Limits.**

- (1) No single-family residential lots shall front onto or have a driveway onto any Thoroughfare with a Right-of-Way of seventy (70) feet or greater, as identified on the City's *Thoroughfare Plan* and described within the *Standards of Design and Construction*, unless the house was existing prior to the roadway being designated as such on the City's *Thoroughfare Plan*.
- (2) No two-family residential or townhome residential lots shall have a driveway onto any Thoroughfare with a Right-of-Way of sixty (60) feet or greater, as identified on the City's *Thoroughfare Plan* and described within the *Standards of Design and Construction*, unless the dwelling was existing prior to the roadway being designated as such on the City's *Thoroughfare Plan*.

(f) **Lot Frontages.**

- (1) **Street Frontage.**
  - i. *Adequate Frontage in the ETJ.* Per the requirements of Kaufman County, each lot in the ETJ shall have a minimum lot frontage of seventy-five (75) feet at the street Right-of-Way line. This minimum lot width shall extend to at least the building setback before any further lot width reductions are allowed.
  - ii. *Adequate Frontage in the City limits.* Each lot within the City limits shall have Access to a street (or an approved public way) by having frontage on such a street that is not less than fifty (50) feet at the street Right-of-Way line, or as otherwise specified in the *Zoning Ordinance* or a Planned Development (PD) Ordinance, if applicable. Lots fronting onto an eyebrow or bulb portion of a cul-de-sac may have a reduced minimum frontage of forty (40) feet.
  - iii. *Frontage Exceptions in the City limits.*
    - To encourage infill development, smaller developments of no more than

three (3) lots located within the City limits may share a common Access Easement, with only one of the lots being required to have street frontage. The common Access Easement will need to be paved in concrete, also dedicated as a Fire Lane, maintained by the Property Owners, and meet all the requirements of the Fire Chief. In addition, utility Easements are required to provide utility services to each lot.

- Lots that front on a Mews and back to an Alley are exempted from the street frontage requirement. These lots shall meet the Mews and Alley requirements stated in this Chapter.
- Lots within non-residential developments may be exempted from the street frontage requirement, as long as the lots are part of a larger development in which at least one (1) of the lots has street frontage, each lot is served by a private street or common Access Easement (which shall also be platted as a Fire Lane) that provides Access to a public street, and the development includes at least two points of Access to a public street.

(2) **Double Frontage.**

- i. *Single-Family Residential, Two-Family Residential, and Townhome Residential Lots.* Double frontage lots are prohibited. In cases where a single-family residential, two-family residential, or townhome residential lot backs or sides onto a Collector street or larger Thoroughfare, a Street Buffer Lot is required as specified in Section 02.03.078 of this Chapter. Where lots back or side onto a Collector street or larger Thoroughfare, no driveway Access is allowed onto the Thoroughfare from the rear or side of the lot.
- ii. *Establishment of Building Lines.* Where any lot has frontage on more than one (1) street, a front building line shall be established for each street, regardless of orientation of the structure.

(3) **Lots Facing Other Lots.** Whenever feasible, each residential lot shall face the front of a similar lot, or shall face or side onto a park or open space if one exists or is planned (see Diagram 02.03.1191, *Access & Lot Orientation to Parks and/or Open Space*). In general, an arrangement placing adjacent lots at right angles to each other should be avoided. The Director of Development Services may grant a Minor Modification, in accordance with Section 02.03.086, *Modifications, Appeals and Exceptions*, if unusual circumstances exist on the subject property or on adjacent property that make it difficult to comply with this requirement. Council may also authorize exceptions to this requirement through approval of a Planned Development zoning district that specifically authorizes this deviation.

(g) **Lots in Relation to Parks/Open Space/Creeks.** All lots that are located directly across a street from a park/open space shall face or side onto the park/open space, where feasible (See Diagram 02.03.1191, *Access & Lot Orientation to Parks and/or Open Space*). For streets adjacent to floodplain or creeks, a minimum of one-hundred feet (100') or ten percent (10%) of street length, whichever is greater, shall be single-loaded (i.e. residential lots on only one side of the street with open space on the other side). Concrete pedestrian connections from trails in the open space areas into the neighborhood should be integrated into the design.

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

(i) **Lot and Block Numbering.**

- (1) All lots within each phase of a development are to be numbered consecutively within each

block. Each block shall have an alphabetical designation (e.g., "Block A, B, C" etc.). Each lot shall have a numeric designation (e.g., Lot 1, 2, 3, etc.).

(2) Each open space lot (i.e. park land to be dedicated to the City or open space lots to be owned and maintained by a HOA or POA) shall be numbered with an X after the lot (i.e. Lot 1X). These lots shall be numbered in sequential order within the rest of the block as described in i.1 above (i.e. Lot 1X, Lot 2, Lot 3, Lot 4, Lot 5X, Lot 6, etc.).

(3) Different phases shall begin with different block numbers – in other words, a single block may not straddle more than one construction phase.

(4) Subsequent Replat numbering shall be indicated with an "R" suffix for the first revision (e.g., from Lot 3 to Lot 3R) and any additional Replatting changes to the lot shall be indicated with a numeric suffix following the "R" designation (e.g., Lot 3R-1) and continue numerically as changes occur (Lot 3R-2, Lot 3R-3, etc.).

(5) With the exception of multi-family residential developments (in which multiple dwellings may be on the same lot), all other dwelling units shall be located on an individually Platted lot with its own lot number.

(j) **Building Setback Lines.** Building setback lines adjacent to public Rights-of-Way and Alleys shall be shown on all Plats.

(k) **Addressing.** The Director of Development Services, in conjunction with the Kaufman County 911 Addressing and Geographic Information Systems division, shall assign addresses that are in compliance with standards established by the *U.S. Postal Service*. Only one address shall be issued to each lot, and only one electric meter shall be provided for each address, with the exception of multi-family residential developments and multi-tenant non-residential developments.

(l) **Other Block Requirements.** See the *Standards of Design and Construction*.

## SEC. 02.03.079...OTHER SUBDIVISION REGULATIONS.

(a) **Easements.**

(1) Easements Shown on Plats. The type, size, and location of Easements shall be determined by the Director of Public Works and/or the City Engineer. All existing and proposed Easements shall be shown on the associated Plat. All Easements shall be labeled on the Plat and dedicated for the specific purpose intended (e.g., "Utility Easement," "Drainage Easement," "Electric Easement," etc.).

i. In areas of the City that call for a dense development, the Director of Public Works and/or the City Engineer shall work with the Director of Development Services, Fire Chief, and utility providers, as applicable, to devise smaller and/or overlapping Easements that allow for the dense development to occur as envisioned, while also ensuring adequacy of infrastructure, public health, and safety.

(2) Off-Site Easements. Off-site Easements that are necessary to fulfill City requirements, or are required by the City, shall be dedicated to the City by separate instrument on forms approved by the City Attorney and shall be approved as to size and location by the Director of Public Works and/or City Engineer. The off-site easement documents shall be submitted to the City for review and approval prior to execution and recordation. The off-site easements shall be shown on the Plat and the recording information for the off-site easements shall be added to the Plat prior to the Plat being executed by all parties and recorded by the City. If the Abutting property is already Platted, then a Replat or Amending Plat of that property shall be required to establish the new off-site Easement.

(3) **Maintenance Easements.** When a retaining wall or screening wall is proposed for construction, the associated Plat must show a minimum five (5) foot maintenance Easement on both sides of the proposed wall. In areas where one side of the wall is an open space lot (owned and maintained by the City or an HOA/POA), the maintenance Easement is only necessary on the private property side of the wall.

(b) **Reservations.**

(1) **Permitted Uses.** No land contained in the proposed subdivision and located within the City limits shall be reserved for any use other than a use permitted by the *Zoning Ordinance* or a Planned Development for the district in which the land to be reserved is located.

(2) **Future Uses.**

- i. Reservations in the proposed subdivision and located within the City limits or in the ETJ shall be required for future roadways as shown on the City's *Thoroughfare Plan* and the Kaufman County *Thoroughfare Plan*;
- ii. Reservations in the proposed subdivision and located within the City limits or in the ETJ shall be required for future utility easements as shown on Utility Master Plans of the City or by franchise utilities;
- iii. Reservations in the proposed subdivision and located within the City limits or in the ETJ shall be required for future drainage easements as shown on any Master Plan of the City.

(3) **Designation on Plat.** The specific use for which each portion of land is to be reserved must be shown on the Plat by an appropriate label or description. Provision for abandonment of a reservation in the future, as may be appropriate, must likewise be shown on said Plat.

(4) **Parks and Open Space.** The location and size of parks and open space areas shall be in conformance with Article 02.03.080, *Parks and Open Space*, the *Zoning Ordinance*, a Planned Development and/or Development Agreement, the *Comprehensive Plan*, the *Parks, Recreation, and Open Space Master Plan*, and the *Kaufman Trail Concept Master Plan*, and subject to the recommendations of the Parks and Recreation Board and the approval of the City Council. All areas retained as floodway shall be reserved for public use, unless other provisions are approved by the City Council.

(5) **Schools.** The location and size of school sites shall be in conformance with the *Comprehensive Plan* and the recommendations of the Kaufman Independent School District.

(6) **Public Facilities.** The location and size of sites for public buildings, major utility facilities, and related Community Facilities shall be in conformance with the *Comprehensive Plan* or a *Capital Improvement Plan*, and subject to the recommendations of City staff and the approval of City Council.

(c) **Monuments & Markers**

(1) **General Placement.** Monuments consisting of a minimum three-eighths (3/8) inch diameter steel rods, at least twenty-four (24) inches in length shall be placed at all:

- i. Lot and block corners (wherever a lot line bearing changes);
- ii. Intersection points of Alley and block lines; and
- iii. Curve and tangent points along block, lot, and Right-of-Way lines within the subdivision.

(2) **Subdivision Monumentation.** At least two (2) property corners shall be marked with monuments of three (3) dimensional coordinates established from the City's *Standards of Design and Construction*. The corners so marked should be at opposing ends of the property unless otherwise approved by the Director of Public Works and/or the City Engineer.

(d) **Subdivision Names.** New subdivisions shall be named so as to prevent conflict or "sound-alike" confusion with the names of other subdivisions. Subdivisions with similar names (e.g., Preston Lakes and Preston Hills) shall be located in proximity to each other, not in different areas of the City. Subdivision names shall be reviewed and approved by the Director of Development Services to ensure that the proposed subdivision name will not cause confusion or misdirection, especially for emergency responders.

(e) **Franchise Utility Policy.**

- (1) **General Requirements.** The Director of Public Works and/or the City Engineer may require Easements for poles, wires, conduits, gas, telephone, cable TV, internet, or other utility lines, if necessary or advisable in the opinion of the Director of Public Works and/or the City Engineer.
- (2) **Locations.** Utility Easements may be located as follows:
  - i. Utilities shall be located in the Alley Rights-of-Way along the rear property lines of lots or tracts whenever an Alley is provided.
  - ii. Utilities shall be located in Easements adjacent to the street Rights-of-Way along the front of lots or tracts whenever an Alley is not provided. Utility Easements shall be a minimum width of ten (10) feet unless specifically reduced by the Director of Public Works and/or the City Engineer.
- (3) **Ground-Mounted Equipment.** Ground-mounted equipment shall not be placed in visibility, Access, or maintenance Easements.
  - i. All ground-mounted equipment within view of a public street Right-of-Way shall be screened from the adjacent street by minimum five (5) gallon evergreen shrubs, or larger, placed three (3) feet on center on the side facing the Right-of-Way, as well as along both sides of the equipment such that it will be fully screened from view from the street.
  - ii. Planting materials selected shall be such that will grow at least to the height of the equipment height and will provide a continuous and generally solid/opaque living screen, within two (2) growing seasons from the date planted. The planting material shall be selected from the list of approved materials set forth in the City's *Zoning Ordinance*.
  - iii. Any planting material used for screening that may be removed or damaged due to repairs and/or maintenance to the ground-mounted equipment shall be replaced after such repairs or maintenance is completed.
- (4) **Installation and Financing.** The Developer shall arrange with the City and with utility companies franchised to serve the area in which the subdivision is located for the construction costs of streets and Alleys, utility lines and other Public Improvements. The Developer shall also arrange for the sequence of work so that underground utilities shall be installed in those portions of streets intended for vehicular traffic before such streets shall be surfaced. If the several improvements required herein have not been installed or constructed prior to submission of the Final Plat, then the Final Plat shall bear a restriction that no lot shall be occupied and that no municipal services shall be extended thereto until the specified utilities and improvements have been constructed as required.

(f) **Fiber Optic Network Conduit and Fiber Optic Cable.** All residential and multiple-family subdivisions must make best efforts to install fiber optic capability before receiving a Certificate of Occupancy. In addition, the Developer must inform the City of the provider chosen to serve the development and specify both the overall speed (minimum 1 GB) and the speed to each individual house or unit.

(g) **Retaining Walls.** On any development, whether residential or non-residential, the slopes located at the perimeter of the property shall be graded so that there shall be no retaining walls necessary between the development being constructed and future adjacent developments, unless approved

by the Director of Public Work and/or the City Engineer.

(h) **Amenity Lot Irrigation.** Residential subdivisions containing 500 lots or more shall irrigate their common area lots from on-site wells or detention/retention devices. All open space areas that are not left in a riparian condition shall be irrigated. The Director of Public Works and/or the City Engineer may provide Minor Modifications for this.

**SEC. 02.03.0791 .REQUIRED SUBDIVISION AMENITIES.**

(a) **Description & Definition.** The term "Amenity" is defined within Section 02.03.102, *Definitions*, of this Ordinance.

(b) **Requirements.** Where Amenities are proposed in conjunction with a development, such amenities shall be reviewed and approved in accordance with the following:

- (1) The City may require conceptual plans for amenities to be included in the Development Agreement and/or Planned Development zoning exhibits, as applicable. Plans and illustrations, along with a written statement of such concepts, shall be included. In instances where a Development Agreement and/or Planned Development do not apply, these conceptual amenity plans shall be provided prior to the Preliminary Plat submittal.
- (2) Detailed plans for Amenities shall be incorporated into the Landscape and Screening Plans, submitted concurrently with the Construction Plans. These detailed plans shall include Site Plans and detailed Landscape Plans for all amenity centers, private recreational facilities, parks, trail systems and trail heads, and similar elements, with elevations and floor plans for any structures. These plans shall be reviewed and approved by the Director of Development Services and/or their designee. The Director, at their discretion, may defer final approval to the City Council.
- (3) Structural elements shall be sealed by a licensed professional engineer and shall be approved by the City. All structures, fences/walls, and swimming pools require approval of a Building Permit prior to construction.
- (4) Any screening or retaining wall shall be located in a common area lot (or along the common area lot line), with a wall-maintenance Easement (minimum five (5) feet wide) on the private property side to facilitate repairs, as needed.
- (5) City review and approval of plans for Amenities shall be required prior to issuance of a Letter of Final Acceptance for the subdivision improvements (refer to Section 02.03.046, *Inspection, Maintenance & Acceptance of Public Improvements*).
- (6) All open space, landscaped areas, common areas, screening walls, subdivision signs, and other Amenities proposed and/or built with a residential development shall be owned and maintained by the HOA and shall not be closed, removed from the system, shut down, inaccessible to residents, abandoned, or otherwise discontinued or have operations cease without express approval from the City Council, excluding general and routine maintenance and adjustments for construction projects.
  - i. Should any private/public financing partnership be in place, the common areas, open space, and Amenities may benefit from such lawful financing reimbursements or payments. At no time shall the ownership of any open space, landscaped areas, entry features, common areas or other Amenities associated with the development pass to the City, unless specifically approved by the City Council.

(c) **Design of Amenities.** The design of amenities shall conform to the following:

- (1) Entry features shall be constructed entirely on privately owned property (i.e., not within public Right-of-Way), and shall not suspend over a public Right-of-Way, unless otherwise

approved by a license agreement approved by the City. In addition, all decorative pavement at entry ways shall be maintained by the HOA.

(2) The primary entry features, including landscaping, hardscaping, identifying monument sign and/or other identifying branding or focal points, shall be placed within separate HOA-owned (i.e., common area) lots. Medians that are part of divided entry ways shall be Platted as HOA-owned common area lots and shall include entry features. An entry feature having a water pond, fountain, or other water feature shall only be allowed if approved by the Director of Public Works and/or the City Engineer and the Fire Chief.

(3) No entry feature, other than screening walls or extensions of screening walls, may be constructed on any portion of a single-family residential, two-family residential, or townhome residential lot. These screening walls shall generally only be located along residential lot lines. All such features shall be constructed on lots that are Platted as "non-buildable" common-area lots and dedicated to an HOA for private ownership and maintenance.

(4) Entry features for multi-family residential and non-residential developments that are located in a median placed within a right-of-way shall be dedicated as private property lots or common area lots to be maintained by the property owner or a POA.

(5) Entry features shall not encroach into visibility Easements or otherwise impair pedestrian, cyclist, or driver visibility.

(6) Private recreational facilities, if provided in a development, shall, to the greatest extent possible, be centrally located within the overall development. (See Diagram 02.03.118)

(d) **Homeowners Association (HOA) Requirements.**

(1) Purpose. The purpose for the establishment of an HOA (also referred to as "Association") for residential developments is to create an organization that owns and is responsible for maintaining commonly owned properties and Amenities including, but not limited to, private Rights-of-Way, club houses, recreational facilities, open space lots, and riparian areas used for the communal good of the development's property owners and residents. The ownership and maintenance of said property and Amenities shall be organized and established to exist in perpetuity.

(2) Definition. For purposes of this section, the terms "Homeowners Association," (HOA), and "Association" are interchangeable with the term "Property Owners' Association" (POA) for multi-family and non-residential developments

(3) Applicability. An HOA or POA shall be established for any development that contains any of the following:

- i. An open space lot not owned by the City;
- ii. A detention pond or other drainage feature not owned or maintained by the City;
- iii. A private Amenity (such as a clubhouse, pool, playground, etc.);
- iv. A private street;
- v. A major creek or tributary;
- vi. A thoroughfare screening wall or fence;
- vii. A Street Buffer Lot;
- viii. Street Trees;
- ix. A median at a divided entry way with entry features or landscaping;
- x. Monument signage or other branding/identification elements for the entire development;
- xi. Alleys that are not to be dedicated to or maintained by the City;
- xii. Common Access Easement(s) (driveway(s)) to be shared amongst multiple single-family residential, two-family residential, or townhome residential lots;

- a. Common Access Easements on multi-family residential or non-residential lots shall be maintained by the Property Owner for the portion located on their lot, unless the Property Owners form a POA whose responsibilities include maintenance of the Common Access Easement.

(4) **Elements Requiring an HOA or POA.** Any one (1) or more of the following elements created as part of the development shall require formation and continued operation of a mandatory HOA or POA:

- i. **Amenities.** Where proposed in conjunction with a development, the word "Amenity" shall be defined in Section 02.03.0102, Definitions, and shall include, but not be limited to the following:
  - a. Amenity center (e.g., private swimming pool, club house, conference or assembly rooms, tennis courts, etc.);
  - b. Private recreational facility;
  - c. Entry features, including signage and screening walls and other perimeter fencing;
  - d. Open space lots;
  - e. Ponds and detention features;
  - f. Drainage facilities not owned and maintained by the City;
  - g. Water fountains or features;
  - h. Street Trees;
  - i. Hike & bike trails not owned and maintained by the City; and
  - j. Parking lots, parking spaces, and sidewalks serving amenity centers, open space lots, and private recreational facilities;
  - k. Mews
  - l. Other commonly owned facilities not owned and maintained by the City.
- ii. **Major Creeks.** As defined in Section 02.03.102, *Definitions*, and as generally regulated by Section 02.03.073(i), *Major Creeks*, of this Ordinance, major creeks that run adjacent to or within a subdivision shall be maintained by the HOA or POA;
- iii. **Private Streets.** As generally regulated by Section 02.03.074(d), *Private Streets*, of this Ordinance, private streets shall be owned and maintained by the HOA/POA. This shall include all infrastructure including streets, Alleys, sidewalks, and other appurtenances within designated Access Easements, as well as associated structures as follows:
  - a. Security station structures and equipment (including gates, access card readers, perimeter security fencing, etc.);
  - b. Greenbelts; and
  - c. Other infrastructure necessary for vehicular circulation and neighborhood security.
- iv. **Alleys not owned and maintained by the City.**
- v. **Common Access Easement(s)** (driveway(s)) to be shared amongst multiple single-family residential, two-family residential, or townhome residential lots
  - a. Common Access Easements on multi-family residential or non-residential lots shall be maintained by the Property Owner for the portion located on their lot, unless the Property Owners form a POA whose responsibilities include maintenance of the Common Access Easement.

(5) **Maintenance Agreement.** All detention facilities shall be owned and maintained by the HOA/POA and the HOA/POA Board shall enter into a Maintenance Agreement with the City to ensure that adequate maintenance will be forthcoming over the life of the facility.

(e) **Procedure for Establishing an HOA.** The establishment of a required HOA/POA shall occur in

conjunction with the recordation of the subdivision Final Plat, and shall generally be established as follows:

- (1) Documents Submitted for Review. The declaration, covenants, and other necessary documents establishing the HOA/POA shall be submitted to the City for conformance with this and other applicable ordinances prior to submission of the Final Plat, and no later than prior to plat recordation. HOA/POA documents shall include a site plan with descriptions of any open space lots, amenities, private streets, Thoroughfare screening, entry features and signage, Major Creeks or tributaries, detention facilities, Alleys or Mews, Common Access Easements, Street Trees, and other areas or structures for which the Association has maintenance responsibility, and shall outline the organization and board of the Association.
- (2) Approval by City Attorney. All HOA/POA documents shall be reviewed by the City Attorney and approved by the City prior to recordation of the Final Plat. The Developer shall reimburse the City for all related legal costs incurred by the City for review of the HOA documents. This reimbursement shall be deducted from the Professional Services Agreement. In the event there is no Professional Services Agreement associated with the development, the Developer shall reimburse the City within 30 days of being invoiced. Failure of the Developer to reimburse the City within 30 days of being invoiced may result in the withholding of building permits until the City is reimbursed.
- (3) Recordation. All HOA documents shall be recorded in Kaufman County prior to or concurrent with the recordation of the Final Plat. All copies of the HOA documents shall be submitted to the Development Services Department, along with the appropriate County fees and certified current tax certificates for staff to complete the Final Plat recordation process.
- (4) Additional Phases. An additional phase of an existing subdivision is not required to establish a separate and distinct HOA/POA, provided that:
  - i. The existing, recorded Association documents are amended to incorporate the area of the new subdivision phase (unless this has already been provided for) and to adopt the responsibility of its open space lots and associated landscaping, Amenities, Private Streets, Thoroughfare screening, entry features and signage, Major Creeks or tributaries, detention facilities, Alleys or Mews, Common Access Easements, Street Trees, and other areas or structures for which the Association has maintenance responsibility.
  - ii. The Developer shall provide a draft of the amended covenants to the City Attorney for review prior to the recordation of the associated Plat.
- (5) Revisions to HOA/POA Documents. As revisions are made to the HOA documents, a copy of the revised documents shall be forwarded to the Director of Development Services for the City's files.

(f) **Notice to Purchasers.** The Developer shall be required to post notice in a prominent place at all model homes and sales offices stating the following:

- (1) That an HOA has been established for the subdivision;
- (2) That membership in the HOA is mandatory for all lot owners;
- (3) That the Developer and/or builder is required to provide to any potential buyer, upon their request, a complete copy of the Association documents and a five (5) year projection (at a minimum) of HOA dues, income, and expenses; and
- (4) Any other assessment on the property which may have resulted from a PID, TIRZ, or other public/private financial agreement with the City, including the duration of said assessment and manner of collection.

(g) **General Requirements.** The following shall be set forth in the HOA/POA documents:

- (1) A statement that membership in the Association is mandatory for all owners of property within the subdivision;
- (2) A listing of all required maintenance responsibilities, and where possible, the lot numbers, legal descriptions, street names, etc. as shown on the approved Plat for areas to be the responsibility of the Association;
- (3) By-laws related to the governance of the Association;
- (4) Covenants for maintenance assessments, which shall run with the land;
- (5) Responsibility for liability insurance and local taxes;
- (6) Statement that the authority for enforcement of Association rules and regulations is solely the responsibility of the Association and is not, in any way, the responsibility of the City;
- (7) Authority for the Association to secure funds from its members sufficient to meet its responsibilities. This authority shall include the ability to collect dues, to increase dues, to charge special assessments (such as fees associated with a Public Improvement District), and to place liens against property for failing to pay dues, assessments, and fines.
  - i. Dues shall be calculated based on a cost projection for the maintenance of all Amenities and based on eventual build-out of the subdivision;
  - ii. Dues shall not be based on calculations which include monies from the Developer which will not be provided following the transfer of the Association from the Developer to the lot owners.
  - iii. Dues shall be required to be disclosed to all lot owners at the time of property purchase by the lot owners.
- (8) Provision that no amendment of the Association documents relating to maintenance of open space lots and associated landscaping, Amenities, Private Streets, Thoroughfare screening, entry features and signage, Major Creeks or tributaries, detention facilities, Alleys or Mews, Common Access Easements, Street Trees, any other Association- maintained area or facility, or related reserve funds (as applicable) shall occur without prior City approval;
- (9) Written release of liability for maintenance to benefit the City; written indemnification of the City outlining that under no circumstances shall the City be liable to the Association or any individual property owner or their respective heirs, executors, administrators, devisees, personal representatives, successors or assigns for any damages, injuries (including death), and/or liability resulting from any open space lots and associated landscaping, Amenities, Private Streets, Thoroughfare screening, entry features and signage, Major Creeks or tributaries, detention facilities, Alleys or Mews, Common Access Easements, Street Trees, or from any other Association-owned and maintained area or facility;
- (10) Written assurance of adequate funds based on an accredited cost projection analysis within a specific reserve account of the Association for the maintenance and removal of amenities as determined by the City; and
- (11) Written consent giving the City the authority to take appropriate actions for violations as set forth in Section 02.03.079(i), *Violations, Revocations and Liens*.
- (12) Other City requirements as applicable.

(h) **Supplementary Requirements.** The HOA shall also comply with the following regulations, where applicable:

- (1) Compliance with the Zoning Ordinance. Association documents shall not overrule the landscaping or other provisions of the *Zoning Ordinance* by penalizing or restricting water

conserving landscapes, by requiring landscape materials that do not comply with *Zoning Ordinance* landscape requirements, or by violating any other provision of the Zoning Ordinance relative to landscaping, screening, landscape maintenance, neighborhood design, or any other items, unless specifically deviated from in an approved Planned Development and/or Development Agreement.

- (2) Compliance with the *Subdivision Ordinance* and the *Standards of Design and Construction*. Association documents shall comply with this Chapter and the *Standards of Design and Construction*.
- (3) Amenities. The following regulations shall apply to any subdivision that includes an Amenity, as described in Section 02.03.0791, *Required Subdivision Amenities*, and defined in Section 02.03.102, *Definitions*:
  - i. Where Amenities are proposed in conjunction with a development, the Developer shall comply with those regulations outlined in Section 02.03.0791, *Required Subdivision Amenities*, of this Ordinance;
  - ii. All developments that require the provision of common open space shall submit covenants to maintain open space, recreational areas, and other commonly owned facilities for review with the Final Plat Application.
- (4) Private Streets. Whenever a public street becomes private following Plat recordation, an HOA/POA is required to be established, if not already in existence, that would be responsible for owning and maintaining the converted streets and Rights-of-Way. The following regulations shall apply to any subdivision that includes private streets, except those that exist prior to the effective date of this Chapter.
  - i. The Association shall own and be responsible for the maintenance of private streets and appurtenances (such as Alleys, storm sewers, sidewalks, barrier-free ramps, street lights and signs, etc.) and shall provide for the payment of dues and assessments required to maintain the private streets and appurtenances.
  - ii. The Association documents shall state that if the private streets are otherwise converted to public streets, the reserve fund shall become the property of the City (see the City's *Standards of Design and Construction* for conversion process).
  - iii. In addition to any other requirements set forth in this section, the HOA/POA's documents shall specify the following:
    - a. That the streets within the development are private, that they are owned and maintained by the Association, and that the City has no obligation to maintain, repair or reconstruct the private streets.
    - b. A statement that the City may, but is not obligated to, inspect private streets, and require repairs necessary to ensure that the same are safe for travel and are being maintained to City standards.
    - c. A statement that the Association may not be dissolved without the prior written consent of the City Council, which consent shall not be withheld by the City if it determines that an adequate reserve fund exists, and the streets and Alleys are in satisfactory condition for conversion to public streets, as determined by the Director of Public Works and/or the City Engineer.
    - d. That failure to bring the subdivision into compliance with these regulations may cause the City to take appropriate action relative to a default of the Development Agreement and/or Facilities Agreement and/or other instrument allowing the Private Street Development.
  - iv. The HOA/POA documents shall note that certain City services may not be provided in Private Street Developments. The services that may not be provided include, but are not limited to: police enforcement of traffic and parking ordinances and

preparation of accident reports. Depending on the characteristics of the proposed development, other services may not be provided.

v. The HOA documents shall contain a provision that requires the Association to provide unrestricted Access to emergency vehicles, utility personnel, the U.S. Postal Service, and governmental employees, agents, or representatives in the performance of their official duties. All access gates shall be designed and constructed in accordance with emergency access design standards listed in the *Standards of Design and Construction* and shall be equipped with an emergency access-controlled gate opening system (e.g., Opticom® or Knox-Box®) or with another emergency operating system that is acceptable to the Fire Chief.

(5) **Major Creeks, Tributaries, Ponds, and Water Features (100-Year Floodplain)**. For single-family and two- family residential developments, the area within the one-hundred-year (100-yr) floodplain shall be owned and maintained by a Homeowners Association, subject to City approval. The Final Plat shall reflect, and the Association documents shall provide:

- i. City Access for emergency vehicles, equipment, and personnel and for the improvement and maintenance of the one-hundred-year (100-yr) floodplain in the event they are not being properly maintained, as determined by the Director of Public Works and/or the City Engineer; and
- ii. Should the Association fail to maintain the floodplain area to the standards of the City, the Association shall reimburse the City for all costs incurred by the City for adequate maintenance.

(i) **Violations, Revocations & Liens.** The City will notify the HOA/POA of violations of any of the regulations specified within this section.

- (1) Failure to bring the subdivision into compliance with these regulations may cause the City to revoke the specific approval of the Association or take other remedies outlined in this section.
- (2) The City shall have all liens, assessments and enforcement rights granted therein to the Association, and the City shall have the ability to enforce the liens and assessments, and avail itself of any other enforcement actions available to the City pursuant to State law and/or City regulations.
- (3) Should the Association fail to carry out its duties as specified in this Chapter, the City shall have the right and ability, after due notice to the Association, to perform the duties required by this or any other Ordinance, regulation, or agreement with the City in order to bring the Association into compliance therewith. The City shall have the right and ability, after due notice to the Association, to assess the Association for the full amount owed and/or assess the property owners on a pro rata basis for all costs incurred by the City in performing said duties if the Association fails to do so. Said assessment shall constitute a lien, in favor of the City, upon the properties for which the assessment is made.

## ARTICLE 02.03.080 ..... PARKS AND OPEN SPACE.

### SEC. 02.03.081 ...GENERAL PARK LAND GUIDELINES AND REQUIREMENTS.

(a) **Purpose.** This Section is intended to provide open space and recreational areas in the form of parks as a function of subdivision and site development in the City and its Extra-Territorial Jurisdiction (ETJ).

- (1) Open space and recreational areas in the form of trails, parks and preserves are necessary for the health and welfare of the residents and that the only adequate procedure to provide for parks is by integrating such requirements into the procedure for planning and developing property or subdivision in the City and its ETJ to accommodate the associated and proportional impact on the Parks and Recreation System, whether such development consists of subdivision, new construction on vacant land, or rebuilding and remodeling of structures on previously developed property.
- (2) Parks provide for a variety of indoor and outdoor recreational and health living opportunities and are located in various locations throughout the City. The land area of the City being less than nine (9) square miles shall be *prima facie* evidence that any park located therein is within a convenient distance from any residence located therein. The primary cost of purchasing or acquiring, developing, and improving parks shall be borne by the landowners of residential property or projects who, by reason of the proximity of the property to such parks, are the primary beneficiaries of such facilities.
- (3) Due to the City's small size, a typical park is designed to serve the needs of residents from the entire community no matter where the park is or will be located in the City. Parks serve both active and passive leisure and recreation needs of residents and their visitors, in addition to serving the essential purposes of providing open space to maintain the rural character of the City as desired by the community. The purchase, acquisition, development and improvement of the basic infrastructure and facilities for parks are based upon the demand from the residents they are intended to serve.
- (4) Recognizing that there are different sizes, scales, and types of park facilities, the required level of service has been designed based on the smallest of park facilities at existing level of service, a neighborhood park of five (5) to ten (10) acres, to meet the "basic" infrastructure and facilities standards. Any fees collected per these requirements can, however, be utilized in the purchase or acquisition of park land development, and/or improvement of any size or scale park facility as planned for or recommended in the *Parks, Recreation, and Trails Master Plan* (expressly or via intent), as may be amended from time to time, which is hereby adopted by reference and incorporated herein for all purposes. the goals and objectives of the City to meet the additional needs created by new residential development.

(b) **Scope.** The provisions of this Article shall apply to a Developer who subdivides for which a Final Plat, Minor Plat, Replat, Development Plat, or Preliminary Plat is required to be submitted to the City for approval and/or develops land for residential uses located within the City or within its ETJ. The owner of any property to be developed for residential or multiple-family purposes shall convey land for park or open space purposes or make a payment of money in lieu of land, or a combination of both, to the City at the time of Platting to provide for the recreational needs created by such development, in accordance with the provisions of this article

(c) **Exemptions.** The provisions of this Article shall not apply to the following:

- (1) Senior living facilities and senior care facilities, including assisted living facilities, senior congregate care facilities, memory care facilities and nursing homes. However, independent living and retirement communities or age-restricted housing developments shall be subject to the provisions of this Article.

- (2) Residential development for property to be located on a lot of record that was approved prior to the effective date of the ordinance from which this article derives.
- (3) A record Plat, minor Plat, or replat which was approved prior to the effective date of the ordinance from which this article derives.
- (4) Residential development constructed or to be constructed in accordance with a building permit issued prior to the effective date of the ordinance from which this article derives.

**(d) Park Land Guidelines and Requirements.**

- (1) Parks must be easy to Access and open to public view to benefit area development, enhance the visual character of the City, protect public safety, and minimize conflict with adjacent land uses.
- (2) Usable open space (which must be Platted as an HOA X lot) shall have one (1) large canopy tree planted every 5,000 square feet. Staff may authorize minor modifications for tracts with extensive perimeter ROW tree requirements, tracts with extensive tree cover, or for areas intended for active recreation or detention.
- (3) The following guidelines and requirements shall be used in designing and accepting parks and adjacent development:
  - i. Any land dedicated to the City under this Subchapter must be suitable for park and recreation uses.
    - a. This dedication shall be free and clear of any all liens and encumbrances that interfere with its use for park purposes. The City Manager or his designee shall determine whether any encumbrances interfere with park use.
    - b. Mineral may be reserved from the conveyance provided that there is a complete waiver of the surface use by all mineral owners and lessees.
    - c. A current title report must be provided with the land dedication.
    - d. The Developer shall pay all taxes or assessments owed on the property up to the date of acceptance of the dedication by the City. A tax certificate from the Kaufman County Tax Assessor, whichever is applicable, shall be submitted with the dedication or Plat.
  - ii. Land in floodplains or designated greenways is not preferred but can be considered on a fifty percent (50%) basis, at the discretion of the City Council (i.e., four (4) acres of floodplain or greenway will be equal to two (2) acres of potential park land). The following factors shall be considered for potential park land in the floodplain or in designated greenways.
    - a. Sites should not be severely sloping or have unusual topography that would render the land unusable for recreational activities or for improvements. At least fifty percent (50%) of a park land site shall be less than ten percent (10%) grade, well drained and suitable for active play, unless the intent of the dedication is to provide a beneficial connection or to preserve an environmental, natural, or cultural resource/asset.
    - b. Placement of recreational or park land support amenities, including paths or Access for maintenance purposes, can be placed in the area in compliance with applicable watershed requirements.
    - c. It is preferred that the floodplain area provide suitable passive recreation, scenic view, wildlife habitat protection, water quality protection, tree protection, and/or trail connectivity to the more intensive uses in non-floodplain areas.
      - 1. Parks shall have Access to water, wastewater , and electric lines prior to or upon acceptance of the park improvements. Site plans and subdivision Applications must demonstrate sufficient water and wastewater capacity

to serve the park.

2. Where appropriate, sites with existing trees or other scenic elements or natural assets are preferred.
3. Detention/retention areas shall not be utilized to meet dedication requirements unless they are designed in an innovative manner so as to provide for suitable recreational purposes, but they may be accepted in addition to the required dedication. If accepted as part of the park, the detention/retention area design must meet the standards as specified in all City codes and regulations.
4. Where park sites are adjacent to greenways, schools, or existing or proposed subdivision, Access may be required to facilitate public Access and to provide public Access to parks.
5. It is preferred that a minimum fifty percent (50%) of the perimeter of a park should abut a public street. Parks shall have at least a portion of the property adjacent to a public street or shall have associated public Access Easements and improvements to allow for ready Access. Public view of the park from a public street is desirable to facilitate community connections and provide for crime prevention through environmental design.
6. Community scale parks should be accessible from major arterial streets so as to be accessible by large numbers of people.
7. Areas for potential park land that are encumbered by overhead utility lines or Easements of any type which would limit the opportunity for recreational and park development are not preferred.
8. All rubbish, trash, junk, and other offensive materials shall be removed from all dedicated lands and the property returned to its natural condition except as approved construction and improvements thereon.
9. For dedication of more than two (2) acres of land ad upon the request of the City, ad Developer funded environmental or engineering study, audit, or assessment may be required in some cases demonstration that the property is in a condition that would allow the City to utilize the property for public park purposes without expenditures to remove or mitigate environmental or hazardous materials or conditions, suitable and safe for use as a public parks, and free from environmental or engineering related problems.

d. Where physically feasible, parks shall be bound by streets, or by other public uses (e.g., a school, library, recreation center).

iii. Where residential lots are directly adjacent to a park, lots must be oriented to side and not back to the park. In this instance, cul-de-sac and looped streets must be used to Access the lots and park.

iv. Residential lots may back to a park, open space, or greenbelt only when the site's physical character (e.g., shape, topography, drainage) does not reasonably permit an alternative design or the layout of the subdivision complements the use of the park (e.g., lots backing to a golf course). Lots backing to a linear park, neighborhood park, or natural drainage corridor shall only be allowed upon approval by the City Manager or designee. A proposed subdivision adjacent to a park may not be designed to restrict reasonable Access to the park from other area subdivisions.

v. Street connections to existing or future adjoining subdivisions may be required to provide reasonable Access to parks.

vi. Alleys shall not abut a park.

vii. Public Access to a park shall not be less than fifty (50) feet at the curb and in width

to the Base Floodplain and/or Maintenance and/or Access Dedication and shall not be part of a Residential lot. The Developer shall install a Hike & Bike trail connection from the street to the Hike & Bike trail/park prior to final acceptance of the subdivision. This trail must be blocked from motor vehicle traffic. However, the Developer may request to escrow funds for the contracted amount prior to final acceptance of the subdivision with City approval. The escrow amount will remain in place until the trail has been completed and accepted by the City.

viii. A twenty-five (25) foot level surface shall be provided for all public Hike & Bike trails. The twenty-five (25) foot wide level surface can be provided within and/or outside of the Base Floodplain and/or Access Dedication. The parkway for the public street may count towards the twenty-five (25) foot wide level surface.

ix. All proposed Hike & Bike trails shall be shown on the Preliminary Plat. The Public Works Department shall make the final determination of the placement of the public Hike & Bike trail at the time of the Final Plat.

x. No development shall interrupt future trail routes or otherwise hinder efficient public Access to or from an existing or future planned trail. Gated and other limited Access developments shall be designed such that they facilitate, and do not impede, through public Access, emergency ingress and egress, usage, and enjoyment of public trails.

xi. Streets Abutting a park shall be built in accordance with the Thoroughfare Plan, the standards of this Ordinance, and all other applicable construction standards and/or ordinances, as they exist or may be amended. However, the City may require any residential street built adjacent to a park to be constructed to collector street width to ensure Access and prevent traffic congestion.

- a. When park land is acquired, the City shall reserve sufficient land to provide the additional Right-of-Way required for an Abutting collector-size street, sixty (60) feet of Right-of-Way, unless otherwise approved by the City.
- b. The proposed street alignment fronting on City parks is subject to City approval. Land owners shall also provide street Access to all Major Creeks and/or Access Dedications.

#### **SEC. 02.03.082 ...PARK LAND DEDICATION AND DEVELOPMENT REQUIREMENTS.**

- (a) **General.** Generally, the Developer of property with residential uses must address the following requirements: dedication of land for park use or pay of a Fee-In-Lieu thereof and payment of a park development fee for parks or construction of the park improvement to which such fee relates. Requirements herein are based on actual or approved dwelling units for an entire development or project. Increases or decreases in final dwelling unit count may require an adjustment in fees paid or land dedication. If the actual number of dwelling units exceeds the original estimate, additional park land and additional park development fees may be required in accordance with the requirement in this Section.
- (b) **Parks, Recreation and Open Space Master Plan and Kaufman Trail Concept Master Plan.** The *Parks, Recreation and Open Space Master Plan*, and the *Trail Concept Master Plan* as may be amended by Council, comprise the park and trail planning basis for this Chapter. The City shall consider the need to regularly update the *Parks, Recreation and Open Space Master Plan* and the *Trail Concept Master Plan* to ensure that the Plan remains current and provides an equitable, effective framework from which to pursue the acquisition and development of public parks throughout the City.
- (c) **Fee Calculations and Updates.**
  - (1) The schedule of fees and required land dedications, along with the associated methodology and level of service standard, are outlined Table 02.03.083.1 *Park Land Dedication and*

*Park Development Fees*, Table 02.03.083.2 *Park Land Dedication and Park Development Methodology*, and Table 02..03.083.3, *Park Land Development: Neighborhood Park Level of Service Estimate* respectively and are incorporated and made a part of this Article for all purposes.

- (2) A quantifiable and reasonable methodology was established to base the park land dedication requirements, fees-in-lieu of dedication, and park land development fees contained herein on data and levels of service relevant to the City that are based on density as well as best practices. The park development fee is calculated utilizing empirical details of how much the average neighborhood park costs in the City based on the community feedback gathered in the Parks, Recreation Open Space Master Plan, and its associated analysis. The methodology and fees shall be reviewed every three (3) years and updated in tables contained herein.
- (3) Staff shall submit, as directed by the Parks and Recreation Board or Council, a fee derived from a park land dedication requirement per person. The park land dedication requirement per person will be calculated from the variables and formula(s) reflected in Table 02.03.083.2, *Park Land Dedication and Park Development Methodology*. Staff shall submit, as directed by the Parks and Recreation Board or the Council, a fee derived from a land cost per person. The land cost per person will be calculated from the variables and formula(s) reflected in Table 02.03.083.2, *Park Land Dedication and Park Development Methodology*. Staff shall submit, as directed by the Parks and Recreation Board or the Council, a fee derived from a park development cost per person. The park development cost per person will be calculated from the variable and formula(s) reflected in Table 02.03.083.2, *Park Land Dedication and Park Development Methodology*. The updated fees and dedication will be presented for adoption by Council with the City's Fee Schedule.

(d) **Land Dedication.**

- (1) The amount of land to be dedicated for park land purposes shall be as set forth in Table 02.030.083.1, *Park Land Dedication and Park Development Fees*. The required dedication may be met by payment of cash in lieu of land, or dedication of open space, when permitted or required by other provisions of this Article. The total amount of land dedicated for a development or project shall be dedicated to the City in fee simple:
  - i. Prior to the issuance of any building permits for multi-family development on an associated Plat or via a deed or record or separate instrument;
  - ii. Concurrently with the Final Plat for a single-phase single family residential development clearly labeled and dedicated as City park land (or with applicable notes as stipulated in the Section for the ETJ);
  - iii. For a multi-phased single family residential development, the entire park(s) shall be either Platted concurrently with the Plat of the first phase of the development, clearly labeled and dedicated as City park land (or with applicable notes as stipulated in the Section for the ETJ);
  - iv. The Developer may provide the City with financial security against the future dedication by providing a bond, irrevocable letter of credit, or other alternative financial guarantee such as a cash deposit in the amount equal to the number of acres park land required and, in a form acceptable to the City. The amount of the financial guarantee shall be the amount of Fee-in-Lieu of Land Dedication as set forth in Table 02.03.0803.1, *Park Land Dedication and Park Dedication Fees*. The financial guarantee will be released to the Developer, without interest, upon the filing of the final Plat for the phase that dedicates the required park land.
- (2) For development located within the ETJ of the City, the dedication requirements of this Section may be met through the creation of private park land in the same amount required

as set forth in Table 02.03.083.1, *Park Land Dedication and Park Dedication Fees* provided the Developer enters into a written agreement that all such private park land be dedicated to the City at the time of full purpose annexation into the City and provided that any Plat related to such development, is inscribed with a notation regarding same.

- (3) The obligation of a Developer to dedicate park land or make payments or improvements in lieu thereof shall be in addition to/independent of the requirements of the Applicant/Developer to provide open space in accordance with a Planned Development (PD) zoning Application. If the open space in the proposed Planned Development (PD) exceeds thirty thousand (30,000) square feet and is dedicated and accepted by the City as public park land, the required dedication or payment may be reduced in applicable proportion.

**(e) Fee-In Lieu of Land.**

- (1) **Fee In Lieu of Land.** In lieu of dedicating park land, a Developer may request to meet some or all of the park land dedication requirements through payment of a Fee-in-Lieu thereof in the amounts set forth in Table 02.03.083.1, *Park Land Dedication and Park Dedication Fees*. Such fees shall be due prior to filing an associated Plat for record for single family residential uses and prior to the issuance of a building permit for multi-family residential uses.
- (2) **Open Space In Lieu of Land.** In lieu of dedication park land, a Developer may request to meet some or all the park land dedication requirements through dedication of open space in the amounts set for in Table 02.03.083.1., *Park Land Dedication and Park Dedication Fees*.

**(f) City Approval.** The Council shall have the final authority in determining how much, if any, open space, or fee may be accepted in lieu of required park land dedication.

- (1) The Council may, from time to time, require that a fee be submitted in lieu of land dedication in amounts as set forth in Table 02.03.083.1, *Park Land Dedication and Park Dedication Fees*.
- (2) The Council may, from time to time, require that open space land be dedicated in amounts as set forth in Table 02.03.083.1, *Park Land Dedication and Park Dedication Fees*.

**(g) Approval Process for Park Land Dedication.**

- (1) Land dedication equal or exceeding two (2) acres, and dedications of Floodplains and greenways:
  - i. For any proposed required park land dedication equaling or exceeding two (2) acres of land or equaling or exceeding payment of a fee-in-lieu thereof or for any proposed land dedication containing Floodplain or greenway, the Developer must:
    - a. Obtain a recommendation from the Parks and Recreation Board, and
    - b. Obtain approval from the City Council.
  - ii. Should a proposed dedication go before the Planning and Zoning Commission as part of a required project approval, the Planning and Zoning Commission shall consider the recommendation from the Parks and Recreation Board and both recommendations shall be forwarded to the Council for consideration.
- (2) Criteria for consideration.
  - i. For any proposed required park land dedication equaling or exceeding two (2) acres of land or equaling or exceeding payment of a fee in-lieu thereof or for any proposed land dedication containing Floodplain or greenway, the Parks and Recreation Board and Council shall utilize the following criteria for considering approval of the proposed park land dedication:
    - a. The proposed Plat shall clearly identify the proposed public park land to be

- dedicated;
- b. The proposed dedication or fee shall provide a sufficient amount of park land in the area of the proposed development for required park land dedication;
- c. Where the proposed dedication is insufficient for a park site under existing park design standards, some or all of the dedication requirements may be in the form of a fee in amounts as set forth in Table 02.03.083.1, *Park Land Dedication and Park Dedication Fees*.
- d. Determination of acceptability of a proposed park land dedication is based upon the *Parks, Recreation, and Open Space Master Plan* and *Trail Concept Master Plan* as may be amended from time to time, and the criteria contain herein;
- e. The proposed development of the park is at a minimum consistent with the City's level of service for neighborhood parks as set forth in Table 02.03.083.3, *Park Land Development: Neighborhood Park Level of Service Estimate* and in the *Parks and Recreation, and Open Space Master Plan*, as may be amended from time to time;
- f. Land is usable and compatible with the *Comprehensive Plan*, *Parks, Recreation and Open Space Master Plan*, *Trail Concept Master Plan*, and other approved public plans;
- g. There is a level of service need in the immediate vicinity of the proposed park area;
- h. There is no nearby existing park that would be served with the funds better or more by expansion or improvement;
- i. Public Access considerations; and
- j. Whether there is a significant natural resource on the site that should be preserved and/or protected through park land dedication.

(3) Development and maintenance of a park less than two (2) acres in size for public park purposes is impractical and does not allow for appropriate improvements consistent with necessary level of service. Therefore, if fewer than one-hundred (100) dwelling units as specified in the Table 02.03.083.1, *Park Land Dedication and Park Development Fees* under Land Dedication are proposed by a Plat for single family residential or a building permit for multi-family residential, the Developer shall pay the applicable cash in lieu of land dedication.

- i. An exemption may be considered if the dedication is voluntarily greater than two (2) acres or will increase the size of an existing park adjacent to the proposed park land dedication or will provide a beneficial trail connection or Right-of-Way or will provide a synergistic benefit not otherwise listed, at the discretion of the Council.
- ii. Additionally, Council, in its sole discretion, may accept park land dedications of less than two (2) acres upon a determination by Council that the proposed park will meet all other requirements of this Article and upon satisfaction of any additional conditions and/or requirements as approved by Council.

(4) **Park Development Fee.** In addition to the land dedication requirements for parks, there is a park development fee established herein sufficient to develop parks in ways that meet the City's level of service as determined in the *Parks, Recreation, and Open Space Master Plan*.

- i. The park development fee assessed to a Developer, subject to the Section, is as shown in Table 02.03.083.1, *Park Land Dedication and Park Development Fees*. The process for the approval and collection of park development fees shall be the same as for the park land dedication requirements to which the development relates and shall be processed simultaneously with the park land dedication requirements.
- ii. The City shall have the final authority in determining how much, if any, land, or fee may be accepted in lieu of required park development. Table 02.03.083.1, *Park Land Dedication and Park Development Fees* Likewise, the City may, from time to time, require that parks be developed to a level of services as reflecting Table 02.03.083.2,

*Park Land Dedication and Park Development Methodology* and the no fee-in Lieu of park development will be accepted.

(5) **Construction of Park Improvements in Lieu of Park Development Fee.** A Developer may elect to construct required park improvements in lieu of paying the associated Park Development Fee as set forth herein. In such event:

- i. A park site plan, developed in cooperation with staff, must be reviewed and approved by the Parks and Recreation Board and Council upon submission of final Plat for single family residential uses or upon Application for a building permit for multi-family residential uses, whichever is applicable.
- ii. Detailed plans and specifications for park improvements hereunder shall be due and processed in accordance with the procedures and requirements pertaining to Public Improvements for Final Plats and for building permits issuance, whichever is applicable.
- iii. All plans and specifications shall meet or exceed the City's level of service standards and/or scale-specific intent as specified in the *Parks, Recreation and Open Space Master Plan* and in Table 02.03.083.2, *Park Land Dedication and Park Development Methodology* as may be amended from time to time, and the criteria contained herein, in effect at the time of the submission.
- iv. If the improvements are constructed on land that has already been dedicated to and/or is owned by the City, then the Developer must post payment and performance bonds in accordance with Section 02.03.045 *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements* to guarantee the payment to subcontractors and suppliers and to guarantee the Developer completes the work in accordance with the approved plans, specification, ordinance, and other applicable laws.
- v. The construction of all improvements, including any required trails, must be completed in accordance with the requirements relating to the construction of Public Improvements for Final Plats and issuance of building permits, whichever is applicable. This includes the guaranteeing performance in lieu of completing the park improvements prior to final Plat approval and recordation. Notwithstanding any other applicable ordinance, park improvements should be completed within two (2) years from the date of the approval.
- vi. Park development will be considered complete upon Council acceptance after the following requirements are met:
  - a. Improvements have been constructed in accordance with the approved plans and as-built drawings provided to the City;
  - b. All park land upon which the improvements have been constructed has been dedicated as required under the Section; and
  - c. All warranties as specified herein have been provided for any equipment installed in the park as part of these improvements.
- vii. Prior to acceptance by Council, the Developer shall warrant the improvements for a period of two (2) years by providing a maintenance bond in accordance with Section 02.03.045, *Facilities and Professional Service Agreements, Financial Assurances, and Construction Contracts for Public Improvements*, in a form acceptable to the City and City Attorney covering the total cost of improvements.
- viii. The Developer shall be liable for any costs required to complete park development if:
  - a. Developer fails to complete the improvements in accordance with the approved plans;
  - b. Developer fails to complete the improvements within the required timeframe;

and/or

c. Developer fails to complete any warranty work.

(6) **Standards for Private Park Land.**

- i. A Developer may submit an Application satisfy up to one hundred percent (100%) of the park land dedication and development required for a development or project by providing a Public Access and Recreational Easement rather than deeding the land to the City in Fee simple.
- ii. In order to earn credit for private park land, the park shall:
  - a. Provide signage visible from a Right-of-Way frontage to be reviewed and approved through the Application and consideration process, and the sign shall state that the area, including any recreational amenities, is open and available for public use, the park hours and City contact information, and it must be posted at the park entrance or in a location visible to the public; and
  - b. Provide language in the Public Access and Recreational Easement document or associated Plat that specifies maintenance, capital replacement, the right of the City to conduct safety inspections, future construction rights, add penalties and arrangements for lack of compliance and language that specifies that repayment of the credits will be required via alternate land or compensations for release of the Easement.
  - c. Provide a design and features consistent with the guidelines and requirements contained herein.
- iii. The required dedication and development shall be calculated per the requirements in Table 02.03.083.1, *Park Land Dedication and Park Development Fees* and then the proposal shall be evaluated to determine the amount of park land dedication and/or development credit to be given using the following factors:
  - a. The presence of active recreational amenities including, but not limited to, playscapes, sport courts, table game recreation, and climbing or exercise structures or trails.
  - b. The ability of the public to Access and use the land for recreation purposes in perpetuity.
  - c. The presence of group gathering spaces, such as open lawns, seating, picnic areas, plazas, or pavilions.
  - d. Landscaping that enhances the City and the park by providing shade, educational opportunities, trees, and/or wildlife habitat.
  - e. The ability of the City to provide programming in the space.
- iv. If park development fees are credited, recreational amenities and other improvements must be construction on site and approved by the City during site plan or subdivision review at a specific time concurrent or prior to residential uses, as stipulated in the associated Development Agreement and/or Facilities Agreement. Amenities must be shown on the site plan and/or construction plan as determined by the City.
- v. A Developer must post cash escrow or irrevocable line of credit in accordance with Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements in a form approved by the City* for amenities included on private park land during site plan or subdivision review.
- vi. If credited acreage does not satisfy the entire park land requirement, the City will calculate the remaining fee using the same requirements in Table 02.03.083.1, *Park Land Dedication and Park Development Fees* proportionally assessed.

- (7) **Submitting Fee.** Any fees required to be paid pursuant to this Section shall be remitted:
  - i. Prior to the issuance of any building permits for multi-family use or development; or
  - ii. Prior to filing an associated Plat for record for single family residential use or development.
- (8) **Use of Fees.**
  - i. Fees may be used only for the purchase, acquisition, development, and/or improvement of park facilities in the City. Potential park land in underserved areas within one (1) mile of developments that have paid park land dedication fees, which have not yet been refunded, shall be a top consideration (but not the only consideration) when evaluating potential land for purchase or acquisition for future parks.
  - ii. Unimproved park land or parks in need of additional improvements within one (1) mile of developments that have paid park development fees, that have not yet been refunded, will be a top consideration (but not the only consideration) when evaluating parks for potential development and/or improvement. Parks may be purchased, acquired, developed, or improved with park land fees in any portion of the City due to its small size since any existing or future resident in the City is and will be within a convenient distance to any existing or future park in the City.
- (9) **Reimbursement for City Acquired Park Land.** The City may from time to time acquire and/or develop land for parks in or near an area of actual or potential development. If the City does acquire and/or develop park land in a particular area near a development or subdivision that should come forward for consideration, the City may require subsequent dedication to be in fee-in-lieu land and Park Land Development Fees instead of dedication development. This will be to reimburse the City for the cost(s) of acquisition and/or development.

(h) **Prior Dedication or Absence or Prior Dedication.**

- (1) Depending on the circumstances, additional proportionate dedication may be required for the increase in dwelling units from what was originally proposed and may be either land dedication or money in lieu of land or development, at the discretion of the City Council. At the discretion of the City Council, any former gift of land or cash to the City may be credited toward eventual land dedication or development requirements imposed on the Developer.
- (2) The City Council shall consider recommendations of the Parks and Recreation Board in exercising its discretion under this section.

(i) **Planning Considerations.** The City's approved plans, including the *Comprehensive Plan* and the *Parks, Recreation, and Open Space Master Plan*, and the *Trail Concept Master Plan* are intended to provide the Parks and Recreation Board with a guide upon which to base its recommendations and for the City to take action. Because of the need to consider specific characteristics in the site selection process, the park locations and trail locations and sizes indicated in the plans are general. The actual locations, sizes, and number of parks will be determined when development occurs or when sites are acquired by the City, including by donations.

(j) **Special Fund; Right to Refund.**

- (1) All park land dedication fees will be deposited in a fund specifically dedicated to the purchase and/or acquisition of parks in the City. All park development fees will be deposited in a fund specifically dedicated to the improvement and/or development of parks in the City.
- (2) The City shall account for all fees in lieu of land dedication and all park development fees paid under this Article with reference to the individual Plat(s) involved. Any fees paid for

such purposes must be encumbered or expended by the City within ten (10) years from the date received by the City for purchase, acquisition, development, and/or improvement of a park as required herein. Such funds shall be considered to be spent on a first-in, first-out basis.

- i. The Developer of the property on the last day of the ten (10)-year period shall be entitled to a pro rata refund, that includes the original contribution, computed on a per dwelling unit basis, if the fees are not encumbered by contract or purchase order or expended or if the property under which fees were paid has not received benefit from a park acquired or developed within the City with the fees paid. The property owner of the property must request the refund in writing, within one year of entitlement, or the right shall be deemed permanently waived. Any interest earned with these funds shall remain in these funds and be used for the fund's intent.

**(k) Warranty Required.**

- (1) All materials and equipment provided to the City shall be new unless otherwise approved in advance by the City Manager or his designee and all work will be of good quality, free from faults and defects, and in conformance with the designs, plans, specifications, and drawings, and recognized industry standards. This warranty, any other warranties express or implied, and any other consumer rights, shall inure to the benefit of the City only and are not made for the benefit of any party other than the City.
- (2) All work by the Developer not conforming to these requirements, including, but not limited to, unapproved substitutions, may be considered defective.
- (3) This warranty is in addition to any rights or warranties expressed or implied by law.
- (4) Where more than a two (2)-year warranty is specified in the applicable plans, specifications, or submittals for individual products, work, or materials, the longer warranty shall govern.
- (5) This warranty obligation may be covered by any maintenance bond tendered in compliance with this Chapter.
- (6) If any of the work performed by the Developer is found or determined to be either defective, including obvious defects, or otherwise not in accordance with this Chapter, the designs, plans, drawings or specifications within two (2) years after the date of the issuance of a certificate of final completion of the work or a designated portion thereof, whichever is longer, or within two (2) years after acceptance by the City of designated equipment, or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by this ordinance, Developer shall promptly correct the defective work at no cost to the City, as set out in the maintenance bond in accordance with Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements*, which is required before Council acceptance.
- (7) The failure, including cracking or other indication of failure, of an improvement shall be deemed conclusive that the workmanship or product is defective.
- (8) During the applicable warranty period and after receipt of written notice from the City to begin corrective work, Developer shall promptly begin the corrective work. The obligation to correct any defective work shall be enforceable under this Chapter. The guarantee to correct the defective work shall not constitute the exclusive remedy of the City, nor shall other remedies be limited to the terms of either the warranty or the guarantee.
- (9) If within twenty (20) calendar days after the City has notified Developer of a defect, failure, or abnormality in the work, Developer has not started to make, and continuously worked to

complete, the necessary corrections or adjustments, the City is hereby authorized to make the corrections or adjustments, or to order the work to be done by a third party. The cost of the work shall be paid by Developer.

- (10) The cost of all materials, parts, labor, transportation, supervision, special instruments, and supplies required for the replacement or repair of parts and for correction of defects shall be paid by Developer, its contractors, or subcontractors or by the surety.
- (11) The guarantee shall be extended to cover all repairs and replacements furnished, and the term of the guarantee for each repair or replacement shall be two (2) years after the installation or completion. The two (2)-year warranty shall cover all work, equipment, and materials that are part of the improvements made under this Chapter.

**SEC.02.03.083 ....PARK IMPROVEMENT FEES TABLES**

**TABLE 02.03.083.1 – PARK LAND DEDICATION AND PARK DEVELOPMENT FEES**

**(a) Dedication Requirements.**

**(1) Park Land Dedication.**

- i. Single-family: one (1) acre per 26 dwelling units
- ii. Multi-family: one (1) acre per 64.3 dwelling units

OR

**(2) Open Space In Lieu of Park Land Dedication.**

- i. Single-family: one (1) acre per 104 dwelling units
- ii. Multi-family: one (1) acre per 257.2 dwelling units

OR

**(3) Fee-In-Lieu of Park Land Dedication.**

- i. Single-family:  $\$2,455.50 \times 28\% \text{ (City Required Percentage)} = \$687.54$  per dwelling unit
- ii. Multi-family:  $\$2,291.80 \times 12\% \text{ (City Required Percentage)} = \$275.02$  per dwelling unit

**(b) Park Development Fees.**

**(1) Residential Park Development Fees.**

- i. Single-family:  $\$2,862.93 \times 28\% \text{ (City Required Percentage)} = \$801.62$  per dwelling unit
- ii. Multi-family:  $\$2,672.07 \times 12\% \text{ (City Required Percentage)} = \$320.65$  per dwelling unit

OR

**(2) Open Space Development Fees.**

- i. Single-family:  $\$2,862.93 \times 52\% = \$1,488.72$  per dwelling unit
- ii. Multi-family:  $\$2,672.07 \times 22\% = \$587.86$  per dwelling unit

**(c) Total Park Fees.**

- i. **Single-family:**  $\$5,318.43 \times 28\% \text{ (City Required Percentage)} = \$1,489.16$  per dwelling unit
- ii. **Multi-family:**  $\$4,963.87 \times 12\% \text{ (City Required Percentage)} = \$595.67$  per dwelling unit

The City only requires thirty-nine thousandths' percent (.039%) of its single-family land dedication and nine thousandths' percent (.009%) of its multi-family land dedication to satisfy the land dedication requirement of this Article. Additionally, the City only requires twenty-eight percent (28%) of its single-family land and park fees and park fees and twelve per (12%) of its multi-family land and park fees to be paid to satisfy the park dedication requirements under this Article .

**TABLE 02.03.083.2**  
**PARK LAND DEDICATION AND PARK DEVELOPMENT METHODOLOGY**

Variable	Calculation Factor	Description
<b>Park Land Dedication Inputs</b>		
Existing City Population	7,788	2019 City population estimate (US Census Bureau)
Existing City Park Acres	398.047	Acres of dedicated, City-owned park land
Park land Level of Service	20 people per 1 acre (rounded up from 19.56)	Existing City population/ existing City park acres
City Persons per Household -Single-family:	3	2014-2018 Persons per Household per most recently available US Census data
Multi-family:	2.8	
<b>Fee-in-Lieu of Land Inputs</b>		
Existing City Population	7,788	2019 City population estimate (US Census Bureau)
Existing City Park Acres	398.047	Acres of dedicated, City-owned park land
Park land Level of Service	20 people per 1 acre (rounded up from 19.56)	Existing City population/ existing City park acres
Existing City Market Value – Kaufman County	\$16,370.00	October 22, 2020, value of vacant land purchased by the City of Kaufman
Existing City Acres	1,860	City of Kaufman land area, excluding ETJ
Park land Cost Factor	\$825,481.44 per 1 acre	Certified City market value/ existing city acres
City Persons per Household Single-family:	3	2014-2018 Persons per Household per most recently available US Census data
Multi-family:	2.8	
<b>Park Development Fee Inputs</b>		
Existing City Population	7,788	2019 City population estimate (US Census Bureau)
Number of Developed City Parks	9	Count of all City-owned, developed parks
Facilities Level of Service	865 people per developed City park (rounded down from 865.33)	Population/ number of developed City parks
Park Development Cost Factor	\$825,481.44	Cost estimate of developing one Neighborhood Park to desired level of service
City Persons per Household Single-family:	3	City of Kaufman 2014-2018 Persons per Household per most recently available US Census data
Multi-family:	2.8	

**TABLE 02.03.083.2 PARK LAND DEDICATION AND PARK DEVELOPMENT METHODOLOGY (CONTINUED) (Use information from above to insert in the formulas below)**

**(a) Dedication Formulas:**

**(1) Park Land Dedication Formula:**

Park Land Level of Service/City Person Per Household = Park Land Dedication Requirement

- Single-family:  $20 / 3 \times 390\% = 1 \text{ acre per 26 dwelling units}$
- Multi-family:  $20 / 2.8 \times 900\% = 1 \text{ acre per 64.3 dwelling units}$

OR

**(2) Open Space In Lieu of Park Land Dedication Formula:**

Dwelling Units Per 1 Acre of Required Park Land Dedication x City Required Percentage = Open Space Dedication Requirement

- Single-family:  $26 \times 400\% = 1 \text{ acre per 104 dwelling units}$
- Multi-family:  $64.3 \times 400\% = 1 \text{ acre per 257.2 dwelling units}$

OR

**(3) Fee In Lieu of Park Land Dedication Formula**

- STEP 1. Park Land Cost Factor / Park Land Level of Service = Land Cost Per Person  
 $\$16,370 \text{ Per Acre} / 20 \text{ people Per Acre} = \$818.50 \text{ Per Person}$
- STEP 2. (City Persons Per Household x Land Cost Per Person) x City Required Percentage = Fee In-Lieu of Land  
 $\text{Single-family: } 3 \text{ PPH} \times \$818.50 \text{ Per Person} = \$2,455.50 \times 28\% = \$687.54 \text{ Per Unit}$   
 $\text{Multi-family: } 2.8 \text{ PPH} \times \$818.50 \text{ Per Person} = \$2,291.80 \times 12\% = \$275.02 \text{ Per Unit}$

**(b) Development Fee Formulas:**

**(1) Park Land Development Fee Formula:**

- STEP 1. Park Land Development Cost Factor / Facilities Level of Service = Park Development Cost Per Person  
 $\$825,481.44 \text{ Neighborhood Park Cost} / 865 \text{ People Per Developed Park} = \$954.31 \text{ Per Person}$
- STEP 2. (City Persons Per Household x Park Development Cost Per Person) x City Required Percentage = Park Land Development Fee by Density  
 $\text{Single-family: } 3 \text{ PPH} \times \$954.31 \text{ Per Person} = \$2,862.93 \times 28\% = \$801.62 \text{ Per Unit}$   
 $\text{Multi-Family: } 2.8 \text{ PPH} \times \$954.31 \text{ Per Person} = \$2,672.07 \times 12\% = \$320.65 \text{ Per Unit}$

OR

**(2) Open Space Development Fee Formula:**

- Park Land Development Fee by Density x City Required Percentage = Open Space in Lieu of Land Park Development Fee by Density  
 $\text{Single-family: } \$2,862.93 \times 52\% = \$1,488.72 \text{ Per Unit}$   
 $\text{Multi-family: } \$2,672.07 \times 22\% = \$587.86 \text{ Per Unit}$

(The City requires a greater City Required Percentage of development fees when open space is accepted in lieu of park land as the Developer contributes less open space than park land to satisfy this Article.)

**TABLE 02.03.083.2 PARK LAND DEDICATION AND PARK DEVELOPMENT  
METHODOLOGY (CONTINUED)**  
**(Use information from above to insert in the formulas below)**

**(c) Total Park Land Fee Per Unit**

(Fee In-Lieu of Land by Density + Park Land Development Fee by Density X City Required Percent = Total Park Land Fee Per Unit

Single-Family:  $\$2,455.50 + \$2,862.93 = \$5,318.43 \times 28\% = \$1,489.16 \text{ Per Unit}$

Multi-Family:  $\$2,291.80 + \$2,672.07 = \$4,963.87 \times 12\% = \$595.67 \text{ Per Unit}$

(To satisfy this requirements of this Article, a Developer shall dedicate the required park land and pay the required park development fee. If the Council excepts a Developer from dedicating park land, the Developer may dedicate open space or pay a fee in lieu, as approved by the Council. Then, the Developer shall pay the City a park development fee to develop the park land into a park. If a Developer is dedicating open space, such Developer shall abide by the open space development fees provided herein. If a Developer is providing a fee in lieu of park land, such Developer shall pay the fee in lieu and the park land development fee).

**TABLE 02.03.083.3 PARK LAND DEVELOPMENT: NEIGHBORHOOD PARK  
LEVEL OF SERVICE ESTIMATE**

**DUNKIN  
SIMS  
STOFFELS  
INC.**

**Opinion of Probable Cost  
KAUFMAN PARK  
Kaufman, Texas  
January 19, 2021**

ITEM	UNIT	QUANTITY	PER EACH	TOTAL
Earthwork / Site Preparation	L.S.	1	\$ 5,500.00	\$ 5,500.00
8' Concrete Sidewalk (1/2 mile)	S.F.	21,120	\$ 7.00	\$ 147,840.00
Picnic Unit (Slab, Table, Trash Receptacle, Grill)	Each	3	\$ 4,500.00	\$ 13,500.00
Shade Pavilion (Slab and Shelter)	L.S.	1	\$ 60,000.00	\$ 60,000.00
Benches	Each	5	\$ 1,000.00	\$ 5,000.00
Trash Receptacles	Each	3	\$ 700.00	\$ 2,100.00
Drinking Fountain	Each	1	\$ 5,000.00	\$ 5,000.00
Playground (Equipment, Surfacing, and Drainage)	L.S.	1	\$ 175,000.00	\$ 175,000.00
Parking Lot (8 Spaces)	Each	8	\$ 2,500.00	\$ 20,000.00
Site Utilities (Water Meter, Electrical Service, Etc.)	L.S.	1	\$ 10,000.00	\$ 10,000.00
Area Lighting (12' Height)	Each	3	\$ 7,000.00	\$ 21,000.00
Shade Trees	Each	10	\$ 700.00	\$ 7,000.00
Finish Sodding, Grading and Seeding	L.S.	1	\$ 30,000.00	\$ 30,000.00
Irrigation	L.S.	1	\$ 200,000.00	\$ 200,000.00
Subtotal:				\$ 701,940.00
Contingency 5%:				\$ 35,097.00
Construction Total:				\$ 737,037.00
Soft Costs (Design, Surveying, Geotechnical, Engineering) 12%:				\$ 88,444.44
Typical Neighborhood Park Total:				\$ 825,481.44

**SEC. 02.03.084 ...HIKE & BIKE TRAIL REQUIREMENTS.**

- (a) **Trail Concept Master Plan.** Hike & Bike trails located within or adjacent to the development shall be constructed at the Developer's expense in accordance with any adopted master plan, and as amended.
- (b) **Requirements.** Hike & Bike Trails, especially those providing Access to and along a Major Creek and other open spaces, shall be in accordance with the following design criteria unless otherwise approved by the Director of Public Works and the Director of Development Services:
  - (1) A minimum twenty-five (25) foot wide level ground surface shall be provided for a twelve (12) foot wide public Hike & Bike trail, where required. The twenty-five (25) foot wide, level ground surface may be provided within and/or outside of the 100-yearfloodplain.
  - (2) The parkway of a public street may count toward the twenty-five (25) foot wide, level ground surface, upon approval of the Director of Public Works.
  - (3) Low water crossings for the Hike & Bike trail may be allowed upon approval from the Director of Engineering and the Director of Public Works.
  - (4) The Hike & Bike trails shall be designed so as to minimize visibility blind spots from public streets for public safety purposes.
  - (5) Construction Plans for the development shall include engineered drawings of trail cross-sections in accordance with the City's, *Standards of Design and Construction*. Trail geometric design, signage, and safety measures shall be in accordance with AASHTO standards.
  - (6) Hike & Bike trails shall be shown on the Final Plat and dedicated as "Trail Easements."
  - (7) Sidewalks and streets, including cul-de-sacs, adjacent or near a trail shall provide a concrete pedestrian connection to the trail, including any necessary barrier free ramps and bollards.
  - (8) All sidewalks shall be adequately lit for public safety purposes and shaded.
- (c) **Locations & Easements.** Locations of all trails shall be consistent with the locations designated in any adopted Master Plan, and are subject to approval by the Director of Public Works and the Director of Development Services.
  - (1) The Director of Public Works and the Director of Development Services shall have the authority to determine the placement of future Hike & Bike Trails at the time of Conveyance Plat or Preliminary Plat review and approval. If no Conveyance Plat or Preliminary Plat is required, placement shall be determined during the Construction Plan review for the associated Final Plat, Minor Plat, Development Plat, or Replat.
  - (2) No development shall interrupt future trail routes or otherwise hinder efficient public Access to or from an existing or future planned Hike & Bike Trail. Gated and other limited Access developments shall be designed such that they facilitate, and do not impede, through public Access, emergency ingress and egress, usage, and enjoyment of public trails.
  - (3) Residential developments that own, by means of an HOA/POA, open space, must provide a minimum twenty-five (25) feet wide pedestrian Access Easement to allow future Hike & Bike Trails to transverse the property that have plantings and irrigation.
- (d) **Trails Along Major Creeks & Greenways.**
  - (1) Hike & Bike trails shall be located adjacent to Major Creeks or greenways whether shown on the master trails plan or master parks plan or not. These trails shall be staked in the field by the Developer, provide stub outs to any local sidewalk system and approved by both the Director of Public Works and the Director of Development Services prior to the submittal of a Conveyance Plat or Preliminary Plat.

- (2) The location of the trail shall be specified on the Conveyance Plat or Preliminary Plat as the approved location for the Hike & Bike trail, and an Easement for such shall be shown on the Conveyance or Preliminary Plat and the associated Final Plat for any portions of the trail that traverse private property.
- (e) **Trails in Relation to Golf Courses.** When a trail system is extended through a golf course, improvements shall be made to protect and provide separation between users of the trail system and the golfers, at the Developer's expense. Such improvements include, but are not limited to, a series of berms and trees to help protect trail users from airborne golf balls. Upon approval of the Director of Public Works and the Director of Development Services, a golf cart path of sufficient width to accommodate both golf carts and bicycles may serve as a trail.
- (f) **Future Trails and Access for New Developments.** When development is adjacent to an undeveloped property, a pedestrian Access stub-out in conjunction with a street connection to the edge of the development shall be required to allow for future Access between developments.

## ARTICLE 02.03.085 ..... RELIEF PROCEDURES

### SEC. 02.03.086 ...MODIFICATIONS, APPEALS AND EXCEPTIONS.

(a) **Purpose and Applicability.** Unless a specific relief process is provided elsewhere in this Chapter, the following relief procedures shall apply in order to allow a Developer to differ from a particular administrative determination, and/or standard, and/or requirement of this Chapter or the *Standards of Design and Construction* that would substantially limit the Developer's ability to utilize the land in a manner requested.

(1) The rules and regulations of this Chapter are the standard requirements of the City. Modification from any of these rules and regulations may be granted upon a good and sufficient showing by the Developer that there are special circumstances or conditions affecting the property in question, or that enforcement of the provisions of this Article will deprive the Applicant of a substantial property right and that such suspension, if granted, will not be materially detrimental to the public health, safety, or welfare, or injurious to other property or property rights in the vicinity.

(2) Each and every Application for any type of Modification or Exception shall be decided solely and entirely on its own merits and the disposition of any prior or pending Application for any type of Modification or Exception shall not be allowed to enter into or affect any decision on the Application in question.

(3) Pecuniary interests (i.e., financial issues) standing alone shall not be justification for the granting of a Modification or Exception.

(b) **Classifications of Levels of Relief.** The Director of Development Services shall be responsible for classifying any relief procedure as "minor" or "major." Minor Modifications or Appeal of a decision may be acted upon by the Director of Development Services, or the Director of Public Works and/or the City Engineer or the City Manager, as applicable. Major Modifications/Exceptions, as defined in Section 02.03.102, *Definitions*, of this Chapter, require consideration by City Council with a recommendation from the Planning and Zoning Commission. For Major Modifications, see Sections 02.03.086(g) through 02.03.086(k) below.

(c) **Decision-Makers & Appeals.**

(1) **Defer Approval.** The Director of Development Services, the Director of Public Works and/or the City Engineer, as outlined in Sections 02.03.013(b) and 02.03.015(b) respectively, have at their sole discretion, the ability to defer its decision-making authority on specified types of Applications for any reason directly to the Planning and Zoning Commission and City Council. The decision by the City Council is final. A decision made pursuant to this section is not Appealable.

(2) **Minor Modifications and Appeals.** A Minor Modification or Appeal of an administrative determination of a decision-maker is acted upon by the Director of Development Services, or the Director of Public Works and/or the City Engineer, as applicable. Minor Modifications or Appeals shall be considered in conjunction with the associated Application. The procedural process is outlined below in subsection 02.03.086(d), *Minor Modification Procedure*.

i. A Developer must file a written request for reconsideration of a determination by Director of Development Services, the Director of Public Works and/or the City Engineer. The written request must outline the basis for the request and include any supporting documents. If the request for reconsideration is denied, then the Developer may petition for a Minor Modification or Appeal pursuant to subsection (ii) below.

ii. A Developer may petition for a Minor Modification or Appeal an administrative

determination made by the Director of Development Services or the Director of Public Works and/or the City Engineer (as applicable) to the City Manager. The City Manager will be the final staff decision maker for Minor Modifications or an administrative determination. The Developer may Appeal the City Manager's decision to City Council pursuant to subsection (iii) below

- iii. The Developer may petition for a Minor Modification or Appeal an administrative determination made by the City Manager to City Council as outlined below in subsection 02.03.086(d), *Minor Modification or Decision-Maker Appeal Procedure*. The decision by the City Council is final.

- (3) **Major Modifications/Exceptions.** A Major Modification/Exception to the requirements of this Chapter and the *Standards of Design and Construction* is acted upon by the City Council with a recommendation from the Planning and Zoning Commission. The decision by the City Council is final.
- (4) **Vested Rights Petition.** No petition for a Minor, or Major Modification, or Appeal shall be accepted in lieu of a vested rights petition (see Section 02.03.087, Vested Rights). If there is a question as to whether a vested rights petition is required, instead of a petition for relief, such determination shall be made by the Director of Development Services, or the Director of Public Works and/or the City Engineer, as applicable.

(d) **Minor Modification or Decision-Maker Appeal Procedure.**

- (1) A Developer may petition in writing to the Director of Development Services or the Director of Public Works and/or the City Engineer, as applicable; for a Minor Modification or Appeal of an administrative determination to the requirements of (a) this Chapter, or (b) the *Standards of Design and Construction*.
- (2) The written petition for a Minor Modification shall be made by the Developer within five (5) calendar days following the date of the decision. The decision of respective Director shall be final if not timelyAppealed.
  - i. A written petition for a Minor Modification or Appeal of an administrative determination:
    1. May include more than one (1) particular standard or requirement of this Chapter or the *Standards of Design and Construction*, and;
    2. Shall specify in nature (i.e., how much or less),and ;
    3. Shall include detailed grounds of justification for relief consideration that are specific only to the associated Plat, Land Study, or Construction Plans.
  - ii. The Director of Development Services, or the Director of Public Works and/or the City Engineer , as applicable, shall determine what criteria apply for any relief petition that is considered "minor" in nature or Appeal of an administrative determination on a case-by-case basis. A Minor Modification petition or Appeal of an interpretation decision shall not be approved solely based on monetary interests. Minor Modification and Appeal petitions from a final decision-maker are heard on a case-by-case basis and do not establish precedent.
    1. The Director of Development Services, or Public Works, or the City Engineer shall respond in writing to the Minor Modification petition within five (5) business days.
  - iii. A written petition Appealing a respective Director's determination shall be heard by the City Manager. The Appealing petition shall be submitted within five (5) calendar days of the Director's decision.
    1. The City Manager shall respond in writing to the Appeal petition within five (5) business days.
    2. The Developer may Appeal the City Manager's decision directly to City Council. Such written petition shall be submitted within five (5) calendar days and placed

on the next City Council agenda for a final decision.

(3) **Effect of Minor Modification or Appeal Approval.** Following the granting of a Minor Modification or Appeal of a final decision-maker, the Developer may submit or continue the processing of the associated Plat, Land Study, or Construction Plans, as applicable.

- i. The granted Minor Modification or Appeal shall remain in effect for the period the associated Plat, Land Study, or Construction Plans are in effect, and shall expire upon expiration of any of those Applications, unless negated by subsequent Applications, or unless otherwise provided by law. Extension of those Applications shall also result in extension of the Minor Modification or Appeal of a decision-maker.
- ii. The approval of a Minor Modification or Appeal of a final decision-maker relieves the Applicant of the imposition of the particular standard or requirement for which a Minor Modification or Appeal of a decision-maker was sought following the finding of just cause for such Minor Modification to be allowed.

(e) **Major Modification or Exception Applicability.**

- (1) A Developer may petition a Major Modification or Exception to a particular standard or requirement of this Chapter, and/or the *Standards of Design and Construction* applicable to an associated Plat, Land Study, or Construction Plans. The Major Modification or Exception petition shall be:
  - i. Specific in nature as outlined below in Section 02.03.086(f)(2), and
  - ii. Shall only involve relief consideration for one (1) particular standard or requirement.
  - iii. A Developer may, if desired, submit more than one (1) Exception petition, if there are several standards or requirements at issue.

(f) **Major Modification/Exception Petition Procedure.**

- (1) An Exception petition shall be submitted by the Developer in conjunction with the submittal of an associated Plat, Land Study, or Construction Plans, as applicable. No relief may be considered or granted unless the Developer has made such petition request and paid the applicable fee for each Exception.
- (2) The Developer's Exception request shall state (a) the specific section of this Chapter, or the *Standards for Design and Construction* being requested to be exempted from; (b) the specific amount (i.e. number or percentage) requesting to be Excepted; (c) the grounds for the Exception request; (d) all of the facts relied upon by the Developer for making such request and (e) address all of the *Exception Criteria* found below in Section 02.03.086(g). Failure to submit a necessary Exception Application will result in denial of the associated Plat, Land Study, or Construction Plans Application.

(g) **Major Modification/Exception Criteria.**

- (1) A Major Modification/Exception to regulations within this Chapter, and the *Standards of Design and Construction* may be approved only when, in the City Council's opinion, undue hardship will result from strict compliance to the regulations.
- (2) The City Council shall take into account the following factors:
  - i. The nature of the proposed land use involved and existing uses of the land in the vicinity;
  - ii. The number of persons who will reside or work in the proposed development; and
  - iii. The effect such Exception might have upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity.
- (3) No Major Modification/Exception shall be granted unless the City Council finds:
  - i. That there are special circumstances or conditions affecting the land involved or other constraints such that the strict Application of the provisions of this Ordinance would

- deprive the Applicant of the reasonable use of the land; and
- ii. That the Major Modification/Exception is necessary for the preservation and enjoyment of a substantial property right of the Applicant, and that the granting of the Exception will not be detrimental to (1) the public health, safety, convenience, or welfare; and/or (2) injurious to other property in the area; and/or (3) injurious to property rights in the vicinity and
- iii. That the granting of the Major Modification/Exception will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this Chapter.

(4) A Major Modification/Exception may be granted only when in harmony with the general purpose and intent of this Chapter and the *Standards of Design and Construction* so that the public health, safety, and welfare may be secured, and substantial justice done. Financial hardship to the Applicant shall not be deemed to constitute undue hardship.

(5) No Major Modification/Exception shall be granted unless it represents the minimum degree of variation of requirements necessary to meet the needs of the Developer.

(6) The City Council shall not authorize a Major Modification/Exception that would constitute a violation of, or conflict with, any other valid ordinance, code, regulation, master plan, or *Comprehensive Plan* of the City.

(7) Any falsification of information by the Developer shall be cause for the Major Modification/Exception request to be denied. If the Major Modification/Exception request is approved based upon false information, whether intentional or not, discovery of such false information shall nullify prior approval of the Major Modification/Exception, and shall be grounds for reconsideration of the Major Modification/Exception request.

(h) **Burden of Proof.** The Developer bears the burden of proof to demonstrate that the requirement for which a Major Modification/Exception is requested, if uniformly applied, imposes an undue hardship or disproportionate burden on the Developer. The Developer shall submit the burden of proof with the original Major Modification/Exception Application submittal.

(i) **Decision.** The City Council shall consider the Major Modification/Exception Application and, based upon the criteria set forth in Section 02.03.086(g), *Exception Criteria*, and shall take one of the following actions:

- (1) Deny the petition, and impose the standard or requirement as it is stated in this Chapter, and the *Standards of Design and Construction* ; or
- (2) Grant the petition, and waive in whole or in part the standard or requirement as it is stated in this Chapter or in the *Standards of Design and Construction*.

(j) **Notification of Decision on Petition.** The Applicant shall be notified of the decision on the Major Modification/Exception by the Director within fourteen (14) calendar days following the decision.

(k) **Effect of a Major Modification/Exception Approval.** Following the granting of a Major Modification/Exception, the Applicant may submit or continue the processing of an associated Plat, Land Study, or Construction Plans, as applicable. The Major Modification/Exception granted shall remain in effect for the period the associated Plat, Land Study, or Construction Plans are in effect, and shall expire upon expiration of any of those Applications. Extension of those Applications shall also result in extension of the Major Modification/Exception.

## SEC. 02.03.087 ...VESTED RIGHTS.

(a) **Purpose.** The purpose of a vested rights petition is to determine whether an Application should

be processed under the terms of a previous ordinance, to provide a process for determination of possible vested status, and to determine when certain permits are subject to expiration.

- (b) **Applicability.**
  - (1) A vested rights petition may be submitted for any Application authorized under this Chapter.
  - (2) A vested rights petition cannot be submitted by a Developer along with submission of a request for a text amendment to this Ordinance, a Zoning Map amendment, or any other request for a legislative decision by the City Council.
- (c) **Submission.** A vested rights petition shall be submitted to and officially filed with the City's responsible official (see Section 02.03.023(g), *Application Submittal Process* in accordance with State law prior to the filing of an Application. Submission of a vested rights petition as provided in Section 02.03.087(e), *Form of Petition*, of this Chapter shall stay the filing of the related Application until a final decision is reached on the vested rights petition.
- (d) **Effect.** If a properly submitted vested rights petition is approved in whole or in part, the responsible official shall then process the original Application and the decision-maker shall decide the Application in accordance with the standards specified in the relief order based on prior ordinance requirements or development standards existing at the date vesting is established, or shall extend the validity of the original Application that would otherwise be subject to expiration pursuant to this Chapter.
- (e) **Form of Petition.** The vested rights petition shall allege in writing that the Developer has a vested right for some or all of the land subject to the Application under State law that requires the City to review and decide the Application under standards that were in effect prior to the effective date of the currently applicable standards.
  - (1) The Applicant shall reimburse the City for all related legal costs for review of the vested rights petition. This reimbursement shall be paid in full prior to any decision on the petition. The petition shall include the following information and documents:
    - i. A written vested rights petition form, with a notarized original signature of the property owner(s);
    - ii. A narrative description of the grounds for the petition, including a statement as to whether the petition asserts a vested right related to a specific standard or to an entire project;
    - iii. A copy of each approved or pending Application that is the basis for the contention that the City may not apply current standards to the Application;
    - iv. The official filing date of the Application;
    - v. The date the subdivision for which the Application was submitted was commenced;
    - vi. Identification of all standards otherwise applicable to the Application from which relief is sought;
    - vii. Identification of any current standards which Applicant agrees can be applied to the Application at issue
    - viii. A narrative description of how the Application of current standards affect proposed landscaping, open space, or park dedication, shown on the Application for which the petition is filed;
    - ix. A copy of any prior vested rights determination involving the same land; and
    - x. Whenever the Applicant alleges that an Application subject to expiration should not

be terminated, a description of the events constituting progress toward completion of the subdivision for which the Application was approved..

(f) **Timing for Filing Petition.** A vested rights petition shall be filed with an Application for which a vested right is claimed, except that the petition may be filed before the date of expiration of any already approved Application when filed pursuant to Section 02.03.089, *Dormant Projects*. Where more than one Application is authorized to be filed simultaneously by this Chapter, the petition may be filed simultaneously for each Application

(g) **Processing and Decision.**

(1) **Responsible Official.** The responsible official for a vested rights petition is the same as that for processing the Application with which the petition is associated, except where a petition is submitted pursuant to Section 02.03.027, *Expiration for Projects Approved Prior to the Adoption of Subdivision Ordinance*. Where multiple Applications are submitted, and there is more than one (1) responsible official, the decision of each responsible official shall be coordinated with that of any other responsible official on the vested rights petition.

i. The City Attorney shall also be notified of the vested rights petition following its filing and acceptance for processing. The Applicant shall reimburse the City for all related legal costs for review of a vested rights petition. This reimbursement shall be paid in full prior to the filing of the Application for which vested rights is claimed.

(2) **Action and/or Decision by Responsible Official.**

i. If the responsible official is the decision-maker on the original related Application, that official shall determine whether the relief requested in the vested rights petition should be granted in whole or in part, and shall formulate a written report summarizing the official's reasoning and recommendation.

ii. The responsible official may defer making a decision on the vested rights petition and instead forward the petition to the Council for a decision, in accordance with the process outlined below in Section 02.03.087(k)(3), *Decision by City Council*.

iii. The Applicant shall be notified of the decision within thirty (30) calendar days following the date the vested rights petition was filed at the City.

(3) **Appeal of Decision.** The Applicant may Appeal to City Council the responsible official's decision on the vested rights petition by submitting written notice of Appeal to the applicable responsible official within fourteen (14) calendar days following the date of such decision. The City Council shall hear and decide the Appeal within thirty (30) calendar days following receipt of the notice of Appeal by the City. Appeal to the City Council shall be approved or disapproved by a simple majority vote of the City Council and shall be final. The City Council appeal process is outlined in Section 02.03.087(k), *Appeal*.

(4) **Effect on Related Applications.** A final decision on the vested rights petition or Appeal under this section must be achieved prior to filing of the related Application. Upon such final resolution and decision on a vested rights petition, the Application may be filed, and the responsible official shall commence processing, review and consideration for the related Application as provided in this Ordinance.

(h) **Criteria for Approval.**

(1) **Factors.** The decision-maker shall decide the vested rights petition based upon the following factors:

i. The nature and extent of prior Applications filed for the land subject to the petition;

ii. Whether any prior vested rights determinations have been made with respect to the property subject to the petition;

iii. Whether any prior approved Applications for the property have expired or have been terminated in accordance with State law or local ordinances;

- iv. Whether current standards adopted after commencement of the project affect proposed use of the land, landscaping or tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage or building size based upon the proposed Application;
- v. Whether any statutory exception applies to the standards in this Chapter from which the Applicant seeks relief;
- vi. Whether any prior approved Applications relied upon by the Applicant have expired;
- vii. For petitions filed pursuant to Section 02.03.028 of this Chapter, *Expiration for Projects Approved Prior to the Adoption of Subdivision Ordinance*, whether any of the events in Section 02.03.028 have occurred; and
- viii. Any other applicable provisions of State law.

(i) **Action and Record of Action.**

- (1) **Action.** The decision-maker may take any of the following actions:
  - i. Deny the relief requested in the petition, and direct that the Application shall be reviewed and decided under currently applicable standards; or
  - ii. Grant the relief requested in the petition, and direct that the related Application be reviewed and decided in accordance with the standards contained in identified prior regulations; or
  - iii. Grant the relief requested in part, and direct that certain identified current standards be applied to the related Application, while standards contained in identified prior regulations also shall be applied; or
  - iv. For petitions filed pursuant to Section 02.03.028, *Expiration for Projects Approved Prior to the Adoption of Subdivision Ordinance*, specify the expiration date or the conditions of expiration for the related Application(s).
- (2) **Record.** The responsible official's report and the decision on the vested rights petition shall be recorded in writing in an order identifying the following:
  - i. The nature of the relief granted, if any;
  - ii. The related Applications upon which relief is premised under the petition;
  - iii. Current standards which shall apply to the related Application for which relief is sought, if applicable;
  - iv. Prior standards which shall apply to the related Application for which relief is sought, including any procedural standards, if applicable;
  - v. The statutory exception or other grounds upon which relief is denied in whole or in part on the petition;
  - vi. To the extent feasible, subsequent related Applications that are subject to the same relief granted on the petition; and
  - vii. For petitions filed pursuant to Section 02.03.028, *Expiration for Projects Approved Prior to the Adoption of Subdivision Ordinance*, the date of expiration of the related Application.

(j) **Associated Applications Following Final Decision.**

- (1) Following the City's final decision on the vested rights petition, the Applicant shall, if necessary, revise the related Application such that it conforms to the City's decision on the vested rights petition.
- (2) The decision-maker on the related Application shall review and consider the revised Application in accordance with the procedures for deciding that type of Application, as outlined in this Ordinance, and in conformity with any relief granted.
- (3) If the relief granted on the vested rights petition is consistent with the related Application on file, no revisions shall be necessary, and the related Application shall be deemed officially

filed at the time of the final decision on the vested rights petition.

(k) **Appeal.**

- (1) **Initiation of an Appeal.** The Applicant may Appeal the decision of the responsible official by submitting a written notice of Appeal to the either the Director of Development Services and/or the Director of Public Works (dependent upon who made the original decision) within fourteen (14) calendar days following the date of the responsible official's decision.
  - i. For a City Council-initiated Appeal,
    - a. the Council shall consider and act on whether it will Appeal the responsible official's decision at its first regular meeting (for which there is time to include such Appeal on its posted agenda, as required by State law)
  - ii. Written notice of the City Council's vote to Appeal shall be submitted to the Director of Development Services within seven (7) calendar days following the City Council's vote to Appeal the decision.
  - iii. For an Applicant-initiated Appeal, a letter stating the reasons for the Appeal, citing the specific applicable sections of the Chapter, shall be submitted by the Applicant.
  - iv. The Director of Development Services may, on his/her own initiative, Appeal the decision of the Commission by scheduling an Appeal on the City Council's next regular meeting (for which there is time to include such Appeal on its posted agenda as required by State law) that occurs after the Commission meeting at which the decision was made.
- (2) **Council Decision.** The City Council shall consider the Appeal at a public meeting no later than thirty (30) calendar days after the date on which the notice of Appeal is submitted to the Director of Development Services. The City Council may affirm, modify, or reverse the decision of the Commission by simple majority vote. The decision of the City Council is final

(l) **Expiration & Extension.**

- (1) **Expiration.** Relief granted on a vested rights petition shall expire on occurrence of one of the following events:
  - i. The Applicant fails to submit a revised Application that is consistent with the relief granted, if any, within sixty (60) calendar days following the final decision on the vested rights petition;
  - ii. The Application for which relief was granted on the vested rights petition is denied; or
  - iii. The Application for which relief was granted on the vested rights petition expires.
- (2) **Extension.** Extension of the date of expiration for the Application for which relief was granted on a vested rights petition shall result in extension of the relief granted on the vested rights petition for the same time period.

**SEC. 02.03.088 ...ROUGH PROPORTIONALITY.**

- (a) Notwithstanding anything in this Ordinance to the contrary, if the City requires as a condition of approval for a property development project that the Developer bear a portion of the costs of municipal infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs pursuant to this Ordinance, the Developer's portion may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer retained by the City. Municipal infrastructure improvements have the meaning set forth in the TEXAS LOCAL GOVERNMENT CODE SECTION 212.904, as that term is interpreted by the Texas Attorney General and Texas courts.
- (b) The dedication or construction of an infrastructure improvement imposed by the City as a condition of Plat or site plan approval in accordance with the City's adopted subdivision and

development regulations shall be deemed to be the City's determination, upon the advice of a professional engineer duly licensed in this state and retained by the City, that such requirements, together with any impact fees due for the development, are roughly proportionate to the impacts created by the development on the City's municipal infrastructure.

- (c) A Developer who disputes the determination made under subsection (b) above, may Appeal to the City Council. Prior to filing the Appeal, the Developer shall notify the Director of Development Services, in writing, of the pending dispute. The Director shall send the Developer their written response, reviewed and approved by the Engineering Division or other professional engineer on behalf of the City, to the proportionality issues raised by the Developer and in so doing may revise the dedication or construction requirement(s) at issue. If the Developer is not satisfied with the Engineering Division's response, they may file an Appeal to the City Council with the City Secretary. At the Appeal, the Developer may present evidence and testimony under procedures adopted by the City Council.
- (d) The City may not require a Developer to waive the right of Appeal authorized by this section as a condition of approval for a development project.
- (e) For municipal infrastructure improvements for which the City has enacted impact fees, the measure of rough proportionality shall be the maximum impact fee per service unit then in effect for that category of infrastructure improvements, as may be amended from time to time, unless an alternative measure is approved by the Director of Engineering or his designee. To the extent that the impact fee charged against a new development, as may be amended from time to time, is less than the maximum impact fee per service unit, such difference is hereby declared to be founded on policies unrelated to measurement of the impacts of the new development on the City's infrastructure systems. The maximum impact fee per service unit may be used in evaluating any claim by a Developer that the dedication of land for right-of-way or construction of an infrastructure improvement within an impact fee service area, which is imposed as a condition of development approval pursuant to the City's subdivision or development regulations, together with the imposition of an impact fee, is disproportionate to the impacts created by the development on the City's infrastructure system for that category of infrastructure improvements.
- (f) After hearing any testimony and reviewing the evidence, the City Council shall make its determination within thirty (30) days following the final submission of any testimony or evidence by the Developer. The Council shall decide whether requirements imposed by this Ordinance is roughly proportional to the nature and extent of the development proposed. In reaching such determination, the Council shall take into account the information in the evidence supplied by the Applicant, the measure of proportionality in Subsection (e) or any alternative measure proposed by the Director of Engineering or his designee, the total costs to the City for supplying infrastructure capacity to the proposed development and all developments associated with the original Plat of which the proposed development is a part, and the extent to which requirements imposed by the City benefit the proposed development.
- (g) If the City Council finds that the requirement is not roughly proportional to the nature and extent of the development being proposed, it may take any of the following actions:
  - (1) Waive in whole or in part a dedication or construction requirement imposed by the City's development regulations and/or reduce the amount of impact fees due; or
  - (2) Direct that the City participate in the costs of acquiring or constructing such a municipal infrastructure improvement pursuant to standard participation policies; or
  - (3) Require some combination of such measures.

## SEC. 02.03.089 ...DORMANT PROJECTS.

(a) **Definitions.** For purposes of this Chapter only:

- (1) *Initial permit* means any of the following types of approvals granted under this Subdivision Ordinance, or any predecessor subdivision or development-related ordinance that was in effect prior to the adoption of this Chapter: Preliminary Plat, Construction Plans, Construction Release, Exceptions to any requirement in this Chapter, or any other Application that was approved subject to a schematic drawing illustrating the location, arrangement, orientation or design of development, lots or improvements on a site intended for development.
- (2) *Final permit* means a Final Plat, Replat, Minor Plat, Amending Plat, or Development Plat approved under this Chapter, or any predecessor subdivision or development-related ordinance that was in effect prior to the adoption of this Ordinance.

(b) **Expiration of Permits.** Any Application for an initial permit that was approved or filed before, but that was not subject to an expiration date, two (2) years prior to the adoption date of this Chapter shall expire on the effective date of this Chapter.

(c) **Reinstatement.** The Developer of the land subject to an initial permit that expires under Section 02.03.089, *Dormant Projects*, may petition the Council to reinstate such permit by filing a written petition within sixty (60) calendar days following the effective date of this Chapter. The petition shall clearly state the grounds for reinstatement, and shall be accompanied by documentation of one of the following:

- (1) As of two (2) years prior to the effective date of this Chapter, one of the following events had occurred:
  - i. A final permit to continue toward completion of the project was submitted to the City for all or part of the land subject to the approved initial permit and was approved by the City, or was filed and was subsequently approved by the City;
  - ii. An Application for a final permit to continue toward completion of the project was submitted to the City for all or part of the land subject to the expired initial permit, but such Application was rejected on grounds of incompleteness consistent with State law;
  - iii. Costs for development of the land subject to the initial permit, including costs associated with roadway, utility and other infrastructure facilities designed to serve the land in whole or in part, but exclusive of land acquisition costs, were incurred in the aggregate amount of five percent (5%) of the most recent appraised market value of the land;
  - iv. Fiscal security was posted with the City to guarantee performance of obligations required under this Chapter, including the construction of required improvements associated with the proposed development, for all or a part of the land subject to the approved initial permit; or
  - v. Utility connection fees or impact fees for all or part of the land subject to the approved initial permit were paid to the City.
- (2) After two (2) years prior to the adoption date of this Chapter, but before the expiration date specified in Section 02.03.089(b), *Expiration of Permits*, one of the following events had occurred:
  - i. A final permit was approved for all or part of the land subject to the approved Application, and remained in effect for such land on such expiration date; or
  - ii. A complete Application for approval of a final permit for all or part of the land subject to the approved initial permit was pending for decision on such expiration date.

(d) **Commission Action on Reinstatement.** The Commission may take one of the following actions:

- (1) Reinstate the expired initial permit without an expiration date, if it finds that the Applicant has met any of the criteria listed in Section 02.03.089(c), *Reinstatement*;
- (2) Reinstate the initial permit for all or part of the land subject thereto, if it finds that the Applicant has met any of the criteria listed in Section 02.03.089(c), *Reinstatement*, subject to such expiration dates or other conditions that ensure that the remaining land that is not subject to an approved or pending final permit Application will be developed in a timely fashion. In granting relief under this provision, the Commission may require that development of such remaining land is subject to standards enacted after approval of the initial permit;
- (3) Deny the reinstatement petition, if it finds that the Applicant has failed to meet any of the criteria in Section 02.03.089(c), *Reinstatement*, or
- (4) Reinstate the permit for only that part of the land subject to a pending final permit Application, if it finds that the Applicant has met the criteria in Section 02.03.089(c), *Reinstatement* and the pending Application subsequently was approved, and deny the reinstatement petition for the remaining land subject to the expired initial permit.

## ARTICLE 02.03.090 ..... AMENDMENTS; FEES; VIOLATIONS; CONFLICTS

### SEC. 02.03.091 ...TEXT AMENDMENTS.

(a) The City may initiate changes to this Chapter. The Planning & Zoning Commission may review the proposed changes and make a recommendation to the City Council. The City Council will conduct a public hearing, review the proposed changes, consider any recommendation from the Commission and City staff, and take action upon the proposed amendments to the Chapter.

### SEC. 02.03.092 ...FILING FEES & CHARGES.

(a) **General.** Fees shall be paid to the City when any Application authorized by this Ordinance is submitted to Development Services. Each of the fees, as provided in Section 02.03.092(c), *Calculations & Charges*, shall be paid in advance, and no action of the Commission, the City Council, or any other City board or commission shall be valid until all required fees have been paid. Fees paid for the review and consideration of Plats and Applications under this Ordinance are non-refundable.

(b) **Consequence of Non-Payment of Fees.** Fees that are not paid within thirty (30) days of the date they are due shall cause any action or Application to be null and void.

(c) **Calculations & Charges.** Fees and charges shall be calculated in accordance with the following:

- (1) All fees shall be as established by City Fee Schedule Ordinance, as amended.
- (2) These fees shall be charged on all Plats and Applications authorized by this Chapter, regardless of the action taken by the decision-making authority and whether the Application is approved, denied, withdrawn, or otherwise closed.

## ARTICLE 02.03.100 ..... DEFINITIONS, USAGE, AND INTERPRETATION

### SEC. 02.03.101 USAGE & INTERPRETATION.

- (a) **Usage.** The definitions within this ARTICLE 02.03.102 are intended to provide descriptions for words and terms used within this Chapter. Absent any conflict, words and terms used in this Chapter shall have the meanings ascribed thereto in this ARTICLE 02.03.101.
- (b) **Conflicts.** When words and terms are defined herein, and are also defined in other ordinance(s) of the City, they shall be read in harmony unless there exists an irreconcilable conflict, in which case the definition contained in Section 02.03.102 and subject to the terms of this Article shall control.
- (c) **Present & Past Tenses.** Words used in the present tense include the future; words in the singular number include the plural number, and words used in the plural number include the singular number.
- (d) **Usage of Shall & May.** The words shall and must are mandatory and not directory. The word may is directory and not mandatory.
- (e) **Certain Terms & Words.** Certain terms and words are to be used and interpreted as described and/or defined within the sections of this Chapter wherein they apply to certain regulations.
- (f) **Words of Gender.** Words of masculine gender shall include the feminine gender and vice versa.

### SEC. 02.03.102 DEFINITIONS.

The following definitions shall apply to terms and words used within this Chapter:

100-Year Floodplain. A flood having a one percent (1%) chance of being equaled or exceeded in any given year, based upon a fully developed watershed and the City's criteria to accommodate a 100-year storm in any designated drainage way.

Abutting. Adjacent, adjoining, and contiguous; to physically touch or border upon; or to share a common property line with a Right-of-Way or Easement, or with a physical improvement such as a street, waterline, park, or open space, or other property.

Access. A means to enter a property or the ability to traverse a property (such as in the use of an Easement, including without limitation, a mutual Access Easement).

Acreage, Gross. The total acreage included within the boundary line of a particular subdivision, tract, parcel, lot, etc. without any exclusions.

Acreage, Net. The acreage included within the boundary line of a particular subdivision, tract, parcel, lot, etc., but., excluding floodplain, drainage and utility easements, public and private parks, public Rights-of-Way, and private streets.

Agreement, Annexation. A written agreement with the owner(s) of land in which a landowner consents to annexation of its property into the corporate limits of the City and which contains standard for City's provision of services to the property in accordance with State law.

Agreement, Development A written agreement between the City and Developer(s) for the purpose of establishing mutually agreed upon standards and conditions that will govern development of the property and the provisions of development incentives to the property owner. The terms of a Development Agreement may include but are not limited to the following: conditions to mitigate the project impacts, development incentives, clarification of project phasing and timing of Public Improvements, allocation of responsibility for the construction of water, wastewater, and road and drainage infrastructure and the sharing of costs; payment of impact fees, and other charges related to the development; dedication of park land, open space, drainage, conversation and/or greenbelt areas; annexation; intensity of

development, land uses; provisions for City services such as fire protection, emergency medical services, and trash collection.

Agreement, ETJ Development. A written agreement as authorized by and in accordance with the TEXAS LOCAL GOVERNMENT CODE, including Section 212.172 as amended, between the City and the owner of property and/or Developer(s) located within the extraterritorial jurisdiction (ETJ) of the City.

Agreement, Escrow Fee. A written agreement between the City and a Developer(s) of property providing a financial assurance from the Developer(s) to the City as a guarantee that certain Public Improvements will be constructed by the Developer(s) in accordance with City regulations or in lieu of construction of thoroughfares, water, wastewater, stormwater or drainage facilities by the Developer(s) prior to the City's issuance of a permit.

Agreement, Facilities. A written agreement between the City and a Developer(s) that is required as a condition of Plat approval and complies with the requirements of Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements* of this Chapter, the purpose of which includes but is not limited to, ensuring that new development is adequately served by Infrastructure and that Infrastructure improvements are constructed according to City regulations, providing financial guarantees for project completion, payment of contractors and maintenance of Infrastructure improvements after acceptance by the City, providing for fees, dedication of land and other matters related to development of the subject property.

Agreement, Maintenance Bond, or Maintenance Guarantee. A bond, letter of credit, cash escrow, or other financial assurance in the form required by the City and complies with the requirements of Section 02.03.045 *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements*, to ensure that Infrastructure dedicated to the City for public use or as part of a public system, will be maintained and in good repair and working order for a period of two (2) years from the date of final acceptance by City pursuant to action by the City Council, and such guarantee shall be for 100% of the value of such Infrastructure as set forth in an approved Facilities Agreement.

Agreement, Professional Services. A written agreement between the City and a Developer(s) that is required as a condition of submission of Construction Plans and complies with the requirements of Section 02.03.045, *Facilities and Professional Services Agreements, Financial Assurances, and Construction Contracts for Public Improvements*. Whereby the City will retain consultants to provide a wide variety of professional services including, but not limited to engineering services and legal services as needed to (i) assess the City's current ordinances, and potentially draft new ordinances, (ii) assess infrastructure needs and demands, traffic needs and demands, City services needs and demands, and water and wastewater infrastructure needs and demands, and (iii) assess legal issues that will be associated with or necessitated by the possible development of the Property.

Alley. A minor Right-of-Way, generally dedicated to public use, generally owned and maintained by a HOA or POA, which affords a secondary means of vehicular Access to the back or side of properties otherwise Abutting a street, and which may be used for utility service purposes.

Amending Plat. See *Plat, Amending*.

Amenity. Aesthetic or other physical improvements added to a development that increase its quality, desirability, and/or marketability to the public, and that are described within Section 02.03.079(c)(1), *Elements requiring a HOA*, of this Ordinance.

Appeal. A request for review of and relief from any decision or provision of this Chapter when expressly authorized in this Chapter.

Appendix 1, Standards of Design and Construction. A document adopted by the City that is intended to establish standards for the design and construction of public facilities within the City of Kaufman.

Applicant. The person or entity responsible for the submission of an Application who is either the legal

owner of the property for which an Application is submitted or is a duly authorized representative of the property owner. Also, see *Developer*.

Application. The package of materials, including but not limited to an Application Form, exhibits, completed checklist, Tax Certificates or other proof of ownership, Construction Plans, special drawings or studies, and other informational materials, that is required by the City to initiate City review and approval of a development project.

Application, Complete. See *Complete Application*.

Application Form. The written form (as provided by and as may be amended by the City) that is completed and executed by the Applicant and submitted to the City along with other required materials as a part of an Application.

Approval. A determination by the official, board, commission, or City Council, as required by this Chapter and/or applicable City Ordinance, responsible for making the determination that the submitted Application complies with the minimum requirements of this Chapter and/or other applicable City Ordinances. Approval does not mean that the City has approved engineering or surveying information contained in the plans, as the design engineer or surveyor that sealed the plans is responsible for the adequacy of such plans.

Arterial. A general term for a Street or Thoroughfare, which has a more specific meaning when used in conjunction with a class distinction, such as Major, Minor, Type A, Type B, etc. Each class provides a certain degree of continuity, capacity, and accessibility to adjacent land uses.

Arterial, Major. A Thoroughfare designed to accommodate cross-city traffic movement, distributing traffic to and from minor thoroughfares and collector streets. Major Thoroughfares are divided roadways that typically have an ultimate width of six (6) lanes. Such streets shall also be as described within Appendix 1, *Standards of Design and Construction*, and as described and defined in the Thoroughfare Plan. Also is referred to as "Type A-"

Arterial, Minor. A Thoroughfare designed to accommodate neighborhood-to-neighborhood (intra-city) traffic movement, distributing traffic to and from collector streets. Minor Thoroughfares are divided roadways that typically have an ultimate width of four (4) lanes with a median to accommodate turn lanes and landscaping. Such streets shall also be as described within the *Appendix 1, Standards of Design and Construction*, and as described and defined in the Thoroughfare Plan. Also is referred to as "Type B."

Block. A grouping of Lots that are partially or fully surrounded by one or more streets. Lots separated only by an Alley are within the same block.

Buildable Area. The portion of a lot exclusive of required minimum yard and other area requirements, including without limitation, Easements and setbacks, within which a structure or building improvements may be erected.

Building. Any structure intended for shelter, occupancy, housing, or other type of enclosure of persons, animals, or property. When separated by dividing walls without openings, each portion of such structure so separated shall be deemed a separate building.

Building Line. A line parallel, or approximately parallel, to any front lot line at a specific distance therefrom, marking the minimum distance from the front lot line to the point where a building may be erected.

Building Pad. The actual foundation area of a building and a ten foot (10') clear area around the foundation necessary for construction and grade transitions.

Building Permit. An official certificate issued by the City through the Chief Building Official that indicates conformance with or approved conditional exception from City regulations and authorizes construction of Buildings or other described construction on the premises for which it is issued.

Build-to Line. A parallel or approximately parallel line to any front property line at a specific distance determined by zoning district, marking the maximum distance from the front property line to the point where a building may be erected.

Building Official. The person so designated by the City Manager to serve as the Building Official of the City of Kaufman with the authority provided under state law, this Chapter, and other applicable ordinances of the City. This term shall also include any designee of the Building Official.

Caliper Inch. Method of measuring the trunk diameter of a tree. The point of measurement is approximately six (6) inches above the top of the root ball.

Centerline, Streets or Alleys. An imaginary line erected midway between the outer boundary lines of the Right-of-Way area of a street or Alley. Where the bounding Right-of-Way lines are irregular, the centerline is to be determined by the Director of Public Works and/or the City Engineer. Engineering.

Certificate of Occupancy. An official certificate issued by the City through the Building Official that indicates conformance with or approved conditional exception from City regulations and authorizes legal use of the premises for which it is issued; may be referred to as an Occupancy Permit.

Certified Land Division. A map, drawing or chart delineating parcels of land offered for rent or lease for other than agricultural uses and which: is not required by state statute to be filed in the map and Plat records of the county; does not involve or require the dedication of public streets or Alleys; and has been certified by the City Council as having met the conditions of this Chapter. A certified land division shall be treated as a subdivision Plat under these regulations, except that it is properly certified for filing with the City Secretary rather than the county clerk. In addition, a Plat of the property indicating legal boundaries and any public dedications and Easements shall be prepared, reviewed by staff, approved by the City Council, and filed with the Kaufman County Clerk.

Chapter (also referred to as "this Chapter"). Refers to this Subdivision Regulations Ordinance of the City as may be amended in the future.

City. The municipal corporation of the City of Kaufman, Texas.

City Attorney. The person(s) so designated by the City Council to provide oversight for and have legal responsibility for the City. This term shall also include any designee of the City Attorney.

City Council. The duly elected governing body of the City of Kaufman, Texas.

City Engineer. The person so designated by the City Manager to provide oversight for and have responsibility of the Engineering Division/Department. As used for responsibility and review purposes within this Chapter, this term shall also include any designee of the City Engineer.

City Manager. The person so designated by the City Council, or the City Manager's designee.

City Official or Administrator. Any person, elective or appointive, or any employee, or any board or commission authorized or constituted by City ordinance or state law to act on behalf of the municipality.

City Required Percentage. The percentage of land dedication as well as the percentage of fees the City of Kaufman requires to be dedicated and/or paid in order to satisfy the requirements only of Article 02.03.080, *Parks and Open Space*.

Clear-Cutting. The random cutting, plowing, or grubbing of trees without regard to type or size for the purpose of clearing the land.

Code. Shall mean the entire City of Kaufman's Code of Ordinances.

Commencement. The date of the official start of the development of the project – usually considered at the initial disturbance of soils.

Commission. The Planning & Zoning Commission of the City of Kaufman. See *Planning & Zoning*

*Commission.*

**Community Facilities.** Improvements which are not dedicated to the public, but which provide for common use by multiple property owners, such as neighborhood Amenities (Amenity center buildings swimming pools, playgrounds, sports courts, seating areas, shade structures, picnic and grilling area, dog parks, ponds fountains, plaza, etc.), private parks, open space lots, private sidewalks, and trails, private drainage facilities, private water and wastewater collection systems, franchise utilities, landscaping and hardscaping improvements, signage, entryway features, common driveways and Alleys, parking lots, shared trash facilities, etc. The facilities are often owned and maintained by a homeowners' association or other property owners' association, a utility company, or the specific property owners' who benefit from the improvement.

**Comprehensive Plan.** The City's officially adopted *Comprehensive Plan* which includes policies, in written and graphic form, on (but not limited to) thoroughfares, land use, parks, open space, hike and bicycle trails, and other facets of the City's physical form; such policies govern the future development of the City and consist of various components governing specific geographic areas, functions, and services of the City.

**Commercial Building Plans.** (include MF permits

**Construction Plans.** The drawings and technical specifications that conform to this Chapter and all other applicable ordinances of the City. This definition includes but is not limited to Construction Plans for public and/or private infrastructure improvements required as part of the Platting process, wastewater, water, streets, drainage, bid documents, contract conditions, Facilities Agreements, Maintenance Agreements and Escrow Agreements, where applicable, provide a graphic and written description of the character and scope of the work to be performed in construction of a development. Also known as civil construction plans.

**Construction Release.** Official authorization by the City, through the Director of Engineering, that indicates conformance with City regulations and authorizes construction of improvements or other described construction, in conformance with approved Construction Plans, on the premises for which it is given.

**Crosswalk.** A public Right-of-Way, four (4) feet or more in width between property lines, which provides pedestrian circulation.

**Day, Business.** Shall be defined as Monday through Friday, excluding City-recognized holidays. **Day, Calendar.** Each day of a particular calendar year.

**Dead End Street.** A street, other than a cul-de-sac, with only one (1) outlet.

**Deed Restriction.** A limitation on the use of land set forth or referred to in the title deed of such land. Such limitations run with the land and are binding upon present and subsequent owners of the land. Deed restrictions are not enforced by the City.

**Developer.** A person or entity, limited to the property owner or duly authorized representative thereof, who proposes to undertake or undertakes the division, combining, or improvement of land and/or other activities covered by this Chapter so as to constitute a *subdivision*, including the preparation of a Plat showing the layout of the land and the Public Improvements involved therein. The word *Developer* is intended to include the terms *subdivider*, *property owner*, and, when submitting Platting documents, *Applicant*.

**Developer.** As used only in Article 02.03.080, *Parks and Open Space*, a landowner(s) of the subject property containing a proposed development or project.

**Development.** Any activities related to the Platting or physical subdivision of land including the construction, reconstruction, conversion, or enlargement of buildings or structures; the construction of impervious surfaces (e.g., parking lots); the installation of utilities, roadways, drainage facilities or other

infrastructure; or any disturbance of the surface or subsurface of the land in preparation for such construction activities, including grading, drainage, storage, paving, clearing, filling, and/or removal of vegetation or soil, and any mining, dredging, excavation or drilling operations.

Development. As used only in Section 02.03.072 Tree Preservation, Any manmade change to improved or unimproved real estate including, but not limited to, buildings and other structures, paving, drainage, or utilities, and agricultural activities.

Development Agreement. See Agreement, Development.

Development Application. An Application for any type of Plat or construction plan/drawing authorized or addressed by this Chapter. Also may be referred to as a *permit* within the TEXAS LOCAL GOVERNMENT CODE, CHAPTER 245.

Development Review Committee (DRC). Members are representatives from City departments that have direct communication with all aspects of the development process: Planning, Engineering, Building, Fire, Public Works, Health, and Parks and Recreation.

Diameter at Breast Height (DBH). The diameter of the tree trunk diameter measured in inches at a height of four feet (4') above the soil line. For multiple-trunk trees, the diameter of the tree trunk shall be the sum of the diameter of the individual trunks for the purpose of measuring DBH.

Director of Development Services. The person so designated by the City Manager to provide oversight for and have responsibility of the Development Services Department. As used for responsibility and review purposes within this Chapter, this term shall also include any designee of the Director of Development Services.

Director of Engineering. The person so designated by the City Manager to provide oversight for and have responsibility of the Engineering Department. As used for responsibility and review purposes within this Chapter, this term shall also include any designee of the Director of Engineering.

Director of Parks & Recreation. The person so designated by the City Manager to provide oversight for and have responsibility for the Parks & Recreation Division/Department. As used for responsibility and review purposes within this Chapter, this term shall also include any designee of the Director of Parks & Recreation.

Director of Public Works. The person so designated by the City Manager to provide oversight for and have responsibility of the Public Works Department. As used for responsibility and review purposes within this Chapter, this term shall also include any designee of the Director of Public Works.

Drip Line. A vertical line run through the outermost portion of the crown of a tree and extending to the ground.

Driveway. A paved entranceway serving primarily vehicles that allows for Access to a lot or facility and is intended for vehicular movements between the roadway and any portion outside the street Right-of-Way.

Dwelling Unit. Any building, structure or mobile home, or part thereof, which is designed, used, or intended to be used for human occupancy as the living quarters, of one housekeeping unit or family.

Dwelling Unit. As used only in Article 02.03.080, *Parks and Open Space*, any building or portion thereof, which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, as required by this code, for not more than one family. Dwelling units include temporary or quasi-dwelling units such as: suites within hotel or motel-type uses, suites within senior care or assisted care-type facilities, accessory dwelling units, and mobile or semi-mobile living facilities since they all house people who will impact the Parks and Recreation System.

Easement. A specific right in a particular area of real property that exists because of an express or implied agreement between the landowner and another party that grants the right to use or Access the land area,

but not ownership.

Electrical, Transmission Line. Electrical lines operated at voltages of 60,000 volts or higher that bring power from a generating plant to an electrical sub-station.

Electrical, Feeder Line. An electrical line that emanates from an electrical sub-station or hub to distribute power throughout an area.

Electrical, Lateral Line. An electrical line that emanates from a feeder line, typically through a sectionalizing device like a fuse or a disconnect, to distribute power to smaller areas of electric consumers, such line can be either single or three (3) phase.

Electrical, Secondary Service Line. An electrical line which, through a transformer, connects a lateral line to a customer's electrical service entrance.

Engineer. A person who has been duly licensed by the Texas Board of Professional Engineers to engage in the practice of engineering in the State of Texas. (Also known as *Professional Engineer, Registered Engineer, Registered Professional Engineer, or Licensed Engineer.*)

Entry Turnaround. An esplanade opening or other accommodation provided at the entrance to a private street development in order to allow vehicles denied Access to reenter the public street with a forward motion without unduly disturbing other vehicles at the entrance.

Erosion Hazard Setback. A defined area adjacent to a stream on which development is prohibited due to significant hazards associated with flooding unless major channel stabilization has occurred.

ETJ. See *Extraterritorial Jurisdiction.*

Exception. An exception to a particular standard or requirement of this Chapter that may be granted because compliance with the Chapter requirements would substantially limit the Applicant's ability to utilize the land in a manner requested and requires City Council approval Also see the definition of Modification/Exception Major. See Section 02.03.086, *Modifications, Appeals and Exceptions*).

Exemption. A specified reason why a particular development is **not** subject to the requirements to Plat or to a specific provision of this Chapter.

Extraterritorial Jurisdiction (ETJ). The unincorporated area, not a part of any other municipality, which is contiguous to the corporate limits of the City, the outer limits of which are measured from the extremities of the corporate limits of the City outward for the distance as stipulated in CHAPTER 42 OF THE TEXAS LOCAL GOVERNMENT CODE, according to the population of the City, and in which area the City may regulate subdivisions and enjoin violation of provisions of this Chapter.

Facilities. Infrastructure and other structures that support a development including, but not limited to, water distribution lines, wastewater collection lines, stormwater lines and other storm water management devices, thoroughfares, sidewalks, private utilities, etc.

Facilities Agreement. See *Agreement, Facilities.*

File/Filed/Filing. See *Official Filing Date and Submission.*

Fire Chief. The person so designated by the City Manager to provide oversight for and have responsibility of the Fire Department. As used for responsibility and review purposes within this Chapter, this term shall also include any designee of the Fire Chief.

Fire Lane. See definition in the City's adopted Fire Code.

Flood Plain. The area designated as being within the one-hundred (100) year flood plain on the Federal Emergency Management Agency flood insurance map.

Green Belt. An open space area consisting primarily of natural features that may be located in a floodplain

or along a creek channel, be used as a buffer between land uses, or be used as an open space linkage between various land uses.

Grubbing. Excavating or removing a significant part of the root system.

Habitat Study. A completed research project that gathers and compiles information pertinent to the natural habitat for threatened or endangered species and habitats used for nesting birds listed in the Migratory Bird Treaty Act.

Hike & Bike Trail. A paved and maintained pathway for pedestrians and bikers that serves as a linkage for Access to recreational and educational areas and facilities.

Homeowners Association (HOA). A community association that is organized within a development in which individual owners share common interests and responsibilities for open space, landscaping, amenities, or facilities, and which operates under recorded land agreements. This term also includes Property Owners' Associations (POAs) and Property Management Corporations (PMCs) which are more typically formed for multi-family and nonresidential developments.

Improvement. Any man-made fixed item that becomes part of or placed upon real property.

Improvement, Public. Any improvement, facility, or service together with its associated public site, Right-of-Way, or Easement necessary to provide transportation, storm drainage, public or private utilities, parks or recreational, energy or similar essential public services and facilities, for which the City ultimately assumes the responsibility, upon a Letter of Final Acceptance being issued, for maintenance, operation and/or ownership.

Infrastructure. Facilities and services needed to sustain industrial, residential, commercial and all other land use activities. The term infrastructure includes but is not limited to water, wastewater collection lines, and other utilities, streets and roads, communications, and public facilities, such as fire houses, civic buildings, parks, and schools.

Landscape Buffer. An area of permanent vegetation that is adjacent to a residential subdivision, non-residential property, vacant land, but not thoroughfare.

Land Planner. Any person skilled in the art and science of arranging and designing the layout of land so as to create adequate and desirable building sites, a coordinated street system, and space appropriate to the efficient removal of stormwater and the provision of public services and utilities, all consistent with long range goals and the objectives of the *Comprehensive Plan*. A land planner may be trained in any of several specialties; and, where appropriate to his experience, the term may include architects, engineers, landscape architects, and surveyors.

Land Preparation. Means any grading, site work, paving (including all-weather material), filling, alterations to the elevation, tree removal, utility extensions or work, or other activity that lends itself to making land more development ready or augments its natural state. Legitimate private agricultural activities and their associated facilities are excluded from this definition.

Lot. An undivided tract or parcel of land that is or may be offered for sale, conveyance, or improvement and is occupied or intended to be occupied by a building or group of buildings. A lot has its principal frontage on a public street or on an officially approved private street, as shown on a Plat of record, or described by metes and bounds.

Lot Depth. The horizontal distance measured perpendicularly between two (2) points on the front lot line and two (2) points on the rear lot line which creates an area that meets (or exceeds) the zoning district's minimum width and depth requirements. Lot depth shall not include Easements that are located behind the front building line that impair the use of the lot surface as a yard.

Lot Frontage. That dimension of a lot or portion of a lot Abutting on a street, excluding the side dimension of a corner lot.

Lot Lines. The lines bounding a lot as defined herein. May also be referred to as a *Property Line*.

Lot Line, Front. The narrower side of the lot Abutting a street. Where two (2) lot lines Abutting streets are of equal length, the owner shall have a choice in designating which shall be designated as the *Front Lot Line*, and therefore the lot frontage. For a lot which has a boundary line which does not abut the front street line, is not a rear lot line and lies along the same general directional orientation as the front and rear lot lines, said line shall be considered a front lot line in establishing minimum setback lines. (see *Zoning Ordinance*, Appendix A, Illustrations).

Lot Line, Rear. The lot line farthest from and most parallel to the front lot line. For triangular lots, the point opposite the front lot line shall be considered the rear lot line and have a value of zero. (see *Zoning Ordinance*, Appendix A, Illustrations).

Lot Line, Side. Any lot line not the front or rear lot line.

Lot of Record. A lot which is part of a subdivision, the Plat of which has been recorded in the office of the County Clerk of Kaufman County or a lot subdivided by metes and bounds description prior to February 1984.

Lot Width. The horizontal distance measured between side lot lines parallel to the front lot line, and measured from the point on the building line that is closest to the front lot line.

Lot, Corner. A lot which has at least two (2) adjacent sides Abutting for their full lengths on a street, provided that the interior angle at the intersection of such two (2) sides is less than one hundred thirty-five degrees (135°).

Lot, Double Frontage. A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

Lot, Flag. A lot having Access to a street by means of a parcel of land having a depth greater than its frontage, and having a width less than the minimum required lot width. May also be referred to as a Panhandle Lot.

Lot, Interior. A lot other than a corner lot.

Lot, Key. A corner lot that is designed such that the lots located directly behind it face the side street of the corner lot and are not separated by an Alley.

Major Arterial. See *Arterial, Major*.

Master Plan. Any plan adopted by the City regulating or related to transportation, land use, park land, recreation, open space, water, sanitary sewer, storm sewer, sidewalks, etc. as identified in Section 02.03.001(f) *Compliance with City Plans & Ordinances Required*.

Maximum. For the purposes of this Chapter “the maximum” is the amount that is the upper limit allowed by this ordinance less than the maximum may be allowed, unless otherwise specified.

Metes and Bounds. A method of describing the boundaries of land by directions and distances from a known point of reference.

Minimum. For the purposes of this Chapter, “the minimum” is the amount that is the least amount required of a Developer, but more than the minimum may be provided, unless otherwise specified.

Mobile Home Park. A tract of land designed, used, or intended for the renting or leasing, but not sales, of sites for the location, occupancy, or accommodation of one or more mobile home dwellings.

Modification/Exception, Major. Major Modification/Exception. A formal request to City Council for a significant deviation and/or relief from a standard or requirement of this Chapter, and/or *Appendix 1, Standards of Design and Construction*, that may be granted, because strict compliance with the Chapter

requirements would create undue hardship, substantially limiting and/or depriving the Applicant the ability to utilize the land in a reasonable requested manner, but not the intent. Major Modification/Exception request procedures and criteria are outlined in Section 02.03.086, *Modifications, Appeals and Exceptions* which requires approval of City Council with a recommendation from the Planning Commission. See *Exception*.

**Modification, Minor.** An administrative determination made on a requested minimal change and/or partial relief from a particular standard or requirement of this Chapter and *Appendix 1, Standards of Design and Construction*, due to an unforeseen condition, but not from the intent of this Chapter. A Minor modification may include, but not limited to, minor adjustments in street or Alley alignments, street lengths and paving details, utility alignments, adjustments to the boundaries of phases and minor adjustments to lot lines that do not result in creation of additional lots, or any non-conforming lots (that do not comply with Zoning standards), provided that such amendments are consistent with the intent of the previously approved Application. A Minor Modification may be determined by the Director of Development Services, Director of Public Works and/or the City Engineer and/or the City Manager as outlined in Section 02.03.086, *Modifications, Appeals and Exceptions*. Any Modification to this Chapter and/or to *Appendix 1, Standards of Design and Construction* are not deemed a Minor Modification shall be deemed a Major Modification and shall follow those requirements outlined in Section 02.03.086, Modifications, Appeals, and Exceptions. Or an administrative Appeal of a final decision-maker's interpretation relieving the Applicant of the imposition of a particular standard and/or requirement of this Chapter and *Appendix 1, Standards of Design and Construction*.

**MS4.** The acronym for the City's Municipal Separate Storm Sewer System.

**Non-Conforming.** Defined as not complying with adopted Zoning standards.

**Official Filing Date.** Defined as the date on which the Plat has met all the requirements of the Chapter following staff or administrative review, fees have been paid, and that Plat is scheduled for final approval by the Planning & Zoning Commission by placement on the Commission agenda.

**Off-Site (also known as "off-premises").** Any premises not located within the area of the property to be subdivided, whether or not in common ownership with the Applicant submitting an Application.

**Open Space.** Any land parcel or natural area that is set aside, dedicated, designated, or reserved for public use and enjoyment, or for private use and enjoyment of owners and occupants of the land adjoining or neighboring such open space area. Open space as used in Article 02.03.080, *Parks and Open Space* includes, but is not limited to greenbelts, trails, landscaped pedestrian paths, bicycle paths, natural or landscaped streams, natural or artificial lakes and other water features. Open Space does not include streets, Alleys, utility Easements, public parks or required building setbacks.

**Parks.** As used in Article 02.03.080, *Parks and Open Space* includes a variety of parks, trails, open spaces, natural preserves, gathering spaces and recreation opportunities and facilities that are open and accessible to the general public and located within a convenient distance of the residences to be served thereby.

**Park, Community.** A park of approximately forty (40) to one-hundred-fifty (150) acres, serving several neighborhoods or specific sections of the community being conveniently accessible by automobile and include provisions for off-street parking.. Community parks may typically contain lighted athletic facilities for more active play purposes, such as ball fields for football, softball, baseball and soccer, and a recreation center or swimming pool. Community Parks may typically contain passive activities such as picnicking facilities, trails, natural areas, ornamental or natural landscape area, play apparatus. Facilities for cultural activities such as plays or concerts, possible provide an amphitheater. Support facilities in a sports complex include restrooms, concessions, multi-purpose building(s). These parks may be located adjacent to existing or proposed greenbelt areas, tree covered areas, flood prone areas and water features. Community Parks should be located in a non-residential area served by major thoroughfares.

**Park, Neighborhood.** A park of approximately five (5) to ten (10) acres, serving an area of one-half (1/2)

mile to one-quarter (1/4) mile, located near the center of a neighborhood area/park planning area. Neighborhood Parks should generally not be located adjacent to heavily traveled major or minor thoroughfare. Such parks typically contain playground equipment for small children, a multiple purpose hard surfaced play area, space for court games, walking/jogging trails, playfield space for non-organized competitive games such as baseball, football, and soccer, passive space, and off-street parking spaces. The allocation of space should be approximately fifty percent (50%) passive and fifty percent (50%) active area.

Parks, Recreation, and Open Space Master Plan. The City's officially adopted Plan that includes policies in graphic and text form; such policies govern the future development of the City's park system, open space, and recreation programs, including the hike-and-bike trail system.

Park, Regional.

Park, Special Use. A Special Use Park are parks that have one special use or purpose like a downtown park, tennis center, golf course, garden, or arboretum. These parks fall into three (3) categories: historical/cultural/social sites, recreational facilities, or outdoor recreational facilities.

Pavement Width. The portion of a street available for vehicular traffic. Where curbs are paved, it is the portion between the face of the curbs.

Pedestrian Access. A specifically designated place, path, means, or way by which pedestrians shall be provided safe, adequate, and usable circulation through the interior of a property or development.

Permit. A license, certificate, approval, registration, consent, permit, contract or other Facilities and/or Development Agreement for the construction or provision of service from a utility owned, operated, or controlled by the City, or other form of authorization required by law, rule, regulation, order, or ordinance, which has been approved by the City, that a person or entity must obtain to perform an action or initiate, continue, or complete a project for which the permit is sought, and for which the Application for the permit or information required to be submitted for consideration provides notice of the project to the City.

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

Planning & Zoning Commission (also referred to as the "Commission"). A recommending body appointed by the City Council which is responsible for subdivision and Plat approval, as permitted by State law, and which has any other authority conferred upon it by the City Charter, this Ordinance, or other regulations of the City.

Plat. A map, drawing or exhibit which shows the exact layout and proposed construction of a proposed development into one (1) or more lots, blocks, streets, parks, school sites, Easements, Alleys and/or any other elements as required by this Ordinance, including any engineering or construction standards for related improvements, and which conforms to all requirements of this Chapter and any other applicable City ordinance, and which is subject to a recommendation by the Planning & Zoning Commission and final approval by the City Council, unless otherwise specified.

Plat, Amending. A map, drawing or exhibit that modifies a recorded Final Plat, record Plat, or Minor Plat which conforms to Section 02.03.038, *Amending Plats* of this Chapter and is submitted to the City for consideration. The Director of Development Services may approve such Plat.

Plat, Conveyance. A map, drawing or exhibit which conforms to Section 02.03.032, *Conveyance Plats*, of this Chapter for the purpose of sale or conveyance. A Conveyance Plat may be the first step in the development of a project, especially if the project will be developed in phases and off-site Easements need to be Platted prior to the Final Platting of the entire tract.

Plat, Development. A map, drawing or exhibit for a parcel of land that is five (5) acres or larger for which the owner or subdivider claims exemption from CHAPTER 212, SUBCHAPTER "A" of the TEXAS LOCAL GOVERNMENT CODE, which conforms to Section 02.03.039, *Development Plats*, of this Chapter and

is submitted to the City for consideration for final approval by the City Council. The Plat illustrates that the subdivision of land is consistent with all standards of this Chapter pertaining to the adequacy of public facilities and the installation of or provision for Public Improvements. Once approved, such Plat is submitted to the County Clerk of Kaufman County for recording.

Plat, Final. A map, drawing or exhibit which conforms to Section 02.03.035 *Final Plats*, of this Chapter and is submitted to the City for consideration for final approval by the City Council. The Plat illustrates that the subdivision of land is consistent with all standards of this Chapter pertaining to the adequacy of public facilities and the installation of or provision for Public Improvements. Once approved, such Plat is submitted to the County Clerk of Kaufman County for recording.

Plat, Minor. A map, drawing or exhibit dividing land into no more than four (4) lots that meets the submission and approval requirements of Section 02.03.036, *Minor Plats*, of this Chapter . The Director of Development Services may approve such Plat. Such Plat is also considered a Final Plat.

Plat, Preliminary. A map, drawing or exhibit which conforms to Section 02.03.034, *Preliminary Plats*, of this Chapter and is submitted to the City for consideration for initial approval by the City Council. Such Plat is not to be recorded, but illustrates the general layout of a proposed subdivision, the adequacy of public facilities needed to serve the proposed subdivision, and the overall compliance of the applicable requirements of this Ordinance. Such Plat is reviewed and decided prior to approval of a Final Plat.

Plat, Right-of-Way Vacation, Abandonment and Relinquishment. A map, drawing, or exhibit which conforms to Section 02.03.0392, *Right-of-Way Vacation, Abandonment and Relinquishment Plat*, of this Chapter and is submitted to the City for consideration in the case where vehicular circulation needs and traffic patterns change, Right-of-Way previously dedicated to, or acquired by the City may no longer be necessary can be vacated if allowed by State law.

Plat, Replat. The re-subdivision of all or part or all of any block or blocks of a previously Platted subdivision, addition, lot, or tract, that is beyond the definition of an Amending Plat, and which does not require the vacation of the entire preceding Plat. Such Plat also conforms to Section 02.03.037, *Replats*, of this Chapter. A Replat may function as a Final Plat for a property.

Plat, Vacation. A map, drawing, or exhibit which conforms to Section 02.03.0391, *Plat Vacation* of this Chapter and is submitted to the City for consideration of nullifying the previously recorded Plat in its entirety by the either the property owner, all lot owners, or by City initiation if deemed necessary to protect the health, safety, and welfare, or as otherwise allowed by State law.

Private Street Development. A Development that if a residential development contains a minimum of six (6) housing units or more, or a commercial or industrial development where all the Rights-of-Way including streets, Alleys, sidewalks and other appurtenances within designated Access Easements are privately owned and maintained by either a Homeowners Association or a Property Owners Association. A Private Street Development shall have a minimum of one-hundred feet (100') of street frontage on which to locate the main entrance gate

Progress (towards completion). Shall have the same meaning set forth in Section 245.005(c) of the TEXAS LOCAL GOVERNMENT CODE, as it exists or may be amended, unless another meaning is specified.

Project. An endeavor over which the City exerts its jurisdiction and for which more than one (1) permit is required to initiate, continue, or complete the endeavor.

Property Owner. The legally recognized proprietor of the land for which an Application is being submitted. (Also, see *Developer*)

Property Owners Association. An organization similar to a Homeowners' Association that is established for the ownership, care, and maintenance of private streets and other private commercial facilities.

Protective Fencing Chain link, orange vinyl construction fence or other fencing at least four feet (4') in height.

Public Improvement. See *Improvement, Public*.

Public Way. An officially approved, privately maintained street or roadway, constructed to City street standards, open to unrestricted and irrevocable public Access, serving two (2) or more lots that provides the primary means of Access and providing fire lane and utility Easements.

Record Drawings. A group of drawings or plans that depicts the final configuration of the installed or constructed improvements of a development, improvements that have been verified by the contractor as their installation or construction occurs during development. The record drawings shall reflect the Construction Plans (or working drawings) used, corrected, and/or clarified in the field.

Replacement Tree. Trees planted to mitigate the loss of protected trees during Development.

Residential Development. The actual or proposed use of land for one or more buildings or structures that are designed or intended to be used, in whole or in part, as dwelling units.

Residential Uses. As used only in Article 02.03.080, *Parks and Open Space* includes single-family residential and multi-family residential uses.

Residential, Multi-Family. As used only in Article 02.03.080, *Parks and Open Space* includes structure(s) or projects with more than one dwelling unit on one lot or mix-use structures containing at least one dwelling unit. Includes two-family or duplex residential. Includes group or community home-type uses. Structures that have restricted usage of one person per room (documentation must be provided with building permit Application), dwelling unit count shall be assessed based on the number of rooms available for residential living, divided by the person per household number stipulated in Table 02.03.083.2 *Park Land Dedication and Development Methodology*, to ascertain number of dwelling units to be utilized in determining dedication and/or fees required. Multi-family residential projects shall be assessed park land fees and pay park land fees in the adopted fee schedule prior to the issuance of a building permit.

Residential, Single-Family. As used only in Article 02.03.080, *Parks and Open Space* includes structure(s) with one dwelling unit on one lot, not to include mixed use or live-work structures. Any one proposed lot containing only one proposed dwelling unit shall be assessed park land fees and pay park land fees prior to filing an associated Plat for record.

Responsible Official. The City staff person who has been designated by the City Manager to perform one or more of the specific tasks (this term also includes designees), including without limitation those persons identified in Section 02.03.012 of this Article.

Right-of-Way. A use of land dedicated by Plat or metes and bounds to and for use by the public, which is separate and distinct from the lots and parcel Abutting it, and which is not included within the dimensions or areas of such lots or parcels. The term *Right-of-Way* generally describes an area used for the provision of streets and utilities. Unless otherwise specified, the term *Right-of-Way* shall refer to a public Right-of-Way.

Riparian Study. An ecologically-based study that addresses the three (3) major components of a stream (channel, Floodplain, and transitional upland fringe).

Road, or Roadway. See *Street*.

Roadway Landscape Easement. An area of permanent vegetation that is adjacent to a thoroughfare that may include utility Easements, sidewalks, and be crossed by drives providing ingress and egress.

Screening. A barrier intended to separate and limit visibility between that which is on either side of the barrier, for example, a thoroughfare and adjacent land uses.

Security Station (i.e., guard house). A building and gate system to control vehicular Access to private street developments, which may be a mechanical device or a manned structure.

Sidewalk. A concrete walking surface of various widths intended primarily for pedestrian use.

Stacking Area. A vehicle setback measured from a point on a building designed for drive-up service and the area assigned for queuing.

Standards of Design and Construction, Appendix 1. A document adopted by the City that is intended to establish standards for the design and construction of Public Improvements within the City of Kaufman and its' extraterritorial jurisdiction (ETJ).

Street or Thoroughfare. A roadway for vehicular traffic and other public uses, whether designated a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated. An Alley is not considered a street.

Street, Centerline. An imaginary line designated midway between the bounding Right-of-Way lines of a street or Alley.

Street, Collector (also feeder streets, secondary thoroughfares, etc.). A paved roadway that provides vehicular circulation within neighborhoods and from minor streets to major thoroughfares. Due to similarity of traffic volume and wheel loadings, streets through commercial and industrial areas are frequently constructed to the same design as collector streets.

Street, Cul-de-Sac. A roadway having but one outlet to another street, and terminated on the opposite end by a vehicular turn-around.

Street, Dead-End. A roadway, other than a cul-de-sac, with only one outlet.

Street, Improved. A roadway that has been constructed or reconstructed to meet the City's minimum standards regarding Right-of-Way width, pavement width, and/or pavement type, as defined in Appendix 1, *Standards of Design and Construction*.

Street, Local Residential (also Minor Thoroughfares or streets, etc.). A paved roadway that is primarily used for providing direct vehicular Access to Abutting residential property.

Street, Local. A roadway that is intended to provide a high level of Access to adjacent developments and, generally, a low level of mobility. Such streets shall also be as described within the *Comprehensive Plan* and *Standards of Design and Construction*.

Street, Major Thoroughfare (also arterial streets, primary thoroughfares, etc.). A paved roadway that provides vehicular movement from one neighborhood to another, to distant points within the urban area or to freeways or highways leading to other communities.

Street, Mews. A mews street is a grassy, landscaped area on which houses, or housing units may face in lieu of facing a paved street (See Section 02.03.073(f), *Mews Streets*, for regulations).

Street, Minor Thoroughfare. A paved roadway that is primarily used for providing through Access from neighborhood to neighborhood or commercial areas.

Street, Private. A privately owned roadway within a subdivision for which the private owners assume full responsibility for maintenance and control and which has not been dedicated to the use of the public. This term is inclusive of related Alleys.

Street, Stub. A roadway that has been designed to allow for the future extension of the street through subsequent subdivisions.

Street, Substandard. An existing street that does not meet the current minimum street standards of the City.

Street, Unimproved. A roadway that does not meet the City's minimum standards regarding Right-of-Way

width, pavement width, and/or pavement type, as defined in the *Standards of Design and Construction*. Most unimproved streets are former country roads that were built before an area was annexed into the City limits and/or before the City implemented thoroughfare design standards.

**Subdivider or Developer.** An individual, firm, association, syndicate, partnership, corporation, or other organization dividing or proposing to divide land, or making improvements to such land, so as to effect a subdivision of land.

**Subdivision.** The division of any lot, tract, or parcel of land into two (2) or more lots or sites for the purpose of sale or of building development, whether immediate or future. The term includes resubdivision, or Replatting of an existing subdivision, building upon, or other development of land, but does not include the division of land into tracts where each resulting lot is more than five (5) acres in size; does not involve or require any new street, Alley or Easement of Access; and no Public Improvement is being dedicated. As part of a subdivision, if any lot is proposed to be five (5) acres in area or smaller, the entire parent tract must be Platted together with such other lots or tracts. When appropriate to context, the term subdivision shall relate to the process of subdividing or to the land subdivided. The definition includes the combining of two (2) or more continuous tracts, lots, sites, or parcels for the purpose of creating one or more legal lots in order to achieve a more developable site, except as otherwise provided herein. (See Section 02.03.001(c), *Applicability*).

**Subdivision Ordinance or Subdivision Regulations** means the Kaufman Subdivision Ordinance duly adopted by the Kaufman City Council, Ordinance No. O-24-99 and O-05-24, as amended, prior to the effective date of this Ordinance.

**Subdivision Plan.** A subdivision development plan, subdivision plan, subdivision construction plan, land development Application, site development plan or site plan require for approval of a Plat, which is authorized under TEXAS LOCAL GOVERNMENT CODE, CHAPTER 212, SUBCHAPTERS A and/or B. A subdivision Plan excludes a Zoning Plan. A Subdivision Plan does not include a site plan required for a Zoning Plan or for building permit approval.

**Substandard.** A condition of a road or other Public Improvement that does not meet the City's current right-of-way, design, capacity, or construction standards.

**Substantial Activity.** Shall have the same meaning set forth in Section 245.005(c) of the TEXAS LOCAL GOVERNMENT CODE, as it exists or may be amended, unless another meaning is specified.

**Surety.** A bond, letter of credit, or letter of financial guarantee from a financial institution authorized to operate in the State of Texas.

**Surveyor.** A person who practices the profession of surveying and is licensed by the State of Texas as a State Land Surveyor or a Registered Public Surveyor.

**TCEQ.** The acronym for the Texas Commission on Environmental Quality.

**TLGC.** The acronym for the TEXAS LOCAL GOVERNMENT CODE.

**Thoroughfare.** See definition of Street.

**Thoroughfare Plan Map.** A component of the *Thoroughfare Plan* that generally represents the proposed grid-system of major and minor thoroughfares that will support the *Future Land Use Plan*. The exact locations of future roadways cannot be determined without engineering and environmental analysis, but the Map should be used as a guide as development occurs in terms of how connections should be made and by what type of thoroughfare. The Thoroughfare Plan Map also shows existing railroads and proposed transit rail stations.

**Tree.** Any self-supporting woody plant which will attain a trunk Caliper of three inches (3") or more Diameter at Breast Height (DBH) and which normally attains a height of at least fifteen feet (15') at maturity, with one (1) or more main stems or trunks and many branches.

**Tree Mitigation Fee.** The Tree Mitigation Fee shall be the amount deemed necessary to purchase, plant, and irrigate a new tree, as provided in Section 02.03.072(k) Tree Mitigation Fee.

**Tree Preservation Plan.** A plan or drawing that illustrates which trees are to be preserved, which trees are to be removed, and the manner in which trees will be protected during the construction process.

**Tree Survey.** A plan or drawing that identifies the size, location, and species of trees eighteen (18) Caliper Inches Diameter at Breast Height (DBH) on a property, as well as smaller trees that will be used to qualify for incentives under Section 02.03.072(j) Incentives for Preservation of Protected Trees.

**Tributary.** A stream branch that feeds (i.e., flows into) a floodplain.

**TxDOT:** The acronym for the Texas Department of Transportation.

**Underground Utilities.** Any public service infrastructures installed beneath the ground surface which includes various types of cables, pipelines and drainage systems that provide essential services such as electricity, gas, water sewer communication and data.

**Vested Rights Petition.** A petition to determine whether an Application should be processed under the terms of a previous ordinance, providing a process for determination of possible vested status, and to determine when certain permits are subject to expiration. This definition shall be subject to any future amendments to TEXAS LOCAL GOVERNMENT CODE, CHAPTER 245, ISSUANCE OF LOCAL PERMITS.

**Utility Easement.** An Easement dedicated to the public for Access, construction, reconstruction, and maintenance to water lines, wastewater collection lines, storm water collection lines, and those franchises granted permission by the City, utility district, or county to occupy the Easement.

**Utility, Private.** Services, and any related facilities (e.g., distribution lines), not customarily provided by the City or public entities; such services generally include electricity, natural gas, and telecommunications.

**Utility, Public.** Services, and any related facilities (e.g., distribution lines), typically provided by the City, County, or publicly owned entity; such services include potable water distribution, wastewater collection, and storm water management.

**Vegetative Study.** A study in which the main purpose is identification and consideration of unique vegetative communities that are important for conserving biotic diversity and are rare due to conversion to other land uses.

**Violation.** Any failure to comply fully with this Chapter.

**Wetland Delineation Study.** A study in which the main purposes are to determine jurisdictional wetlands and to ensure compliance with SEC. 404 OF THE CLEAN WATER ACT and other applicable regulations of the U.S. Army Corps of Engineers.

**Wetland.** An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

**Zoning Ordinance.** The City of Kaufman *Zoning Ordinance*, as amended.

**Zoning Plan.** A concept plan, site plan or similar document required to determine compliance with land use regulations which are authorized under TEXAS LOCAL GOVERNMENT CODE, CHAPTER 211 as amended.

### **SEC. 02.03.103 ...COMMONLY USED ABBREVIATIONS.**

BOA. Board of Adjustment

CA Factor. Coefficient of Run-Off and Drainage

Area CC. City Council

CCN. Certificates of Convenience and Necessity

CCRs. Conditions, Covenants, and Restrictions (limitations placed on homeowners by the subdivision itself)

DRC. Development Review Committee (made up of representatives of various City departments who review development Applications.)

ETJ. Extraterritorial Jurisdiction (the geographical area outside the City limits that the City is allowed to annex into the City limits – the distance from the City limit boundary is set by the state and relates to population)

FEMA Federal Emergency Management Agency

GIS. Geographical Information Systems (mapping)

HOA. Homeowners' Association

MFF. Minimum Finished Floor Elevation

NCTCOG. North Central Texas Council of Governments

P&Z. Planning & Zoning Commission

POA. Property Owner's Association

ROW. Right-of-Way (the paved roadway, grassy area adjacent to the roadway, and the center median) TCEQ. Texas Commission on Environmental Quality

TIA. Traffic Impact Analysis (a study of the future impact of a particular set of circumstances, such as a new subdivision, on the entire traffic network)

TE. Trail Easement

UE. Utility Easement

WME. Wall maintenance Easement

**Table 02.03.111: APPLICATIONS - RESPONSIBLE OFFICIALS, INITIAL DECISION-MAKERS, AND APPEALS**

Type of Application or Petition	Approval Authority	Appeal
<b><u>Amending Plat</u></b> Section 02.03.038	City staff	City Council
<b><u>Construction Plans</u></b> Section 02.03.041	City staff	n/a
<b><u>Construction Plans, Extension</u></b> Section 02.03.041(j)	City staff	n/a
<b><u>Construction Plan Release</u></b> Section 02.03.041(j)	City staff	n/a
<b><u>Conveyance Plat</u></b> Section 02.03.032	City staff	City Council
<b><u>Facilities &amp; Professional Services Agreements, Financial Assurances</u></b> Section 02.03.045	City Council	n/a
<b><u>Development Plat</u></b> Section 02.03.039	City Council	City Council
<b><u>Final Plat</u></b> Section 02.03.035	City Council	City Council
<b><u>Land Study</u></b> Section 02.03.033	City Council	City Council
<b><u>Minor Plat</u></b> Section 02.03.036	City staff	City Council
<b><u>Plat Vacation</u></b> Section 02.03.0391	City Council	City Council
<b><u>Alley or ROW Vacation</u></b> Section 02.03.0392	City Council	n/a
<b><u>Preliminary Plat</u></b> Section 02.03.034	City Council	City Council
<b><u>Preliminary Plat Extension</u></b> Section 02.03.034(i)	City staff	n/a
<b><u>Replots</u></b> Section 02.03.037	City Council	City Council
<b><u>Major Modification/Exceptions to Subdivision Ordinance</u></b> Section 02.03.086	City Council	City Council
<b><u>Minor Modifications to Subdivision Ordinance</u></b> Section 02.03.086	City staff	City Council
<b><u>Vested Rights Petition</u></b> Section 02.03.087	City staff	City Council

**TABLE 02.03.112 - REQUIRED LAND STUDY FEATURES**
**Land Study**

(a) North Arrow;	■
(b) Scale (both graphic and written) appropriate for the level of detail (typically: 1" = 200')	■
(c) Legend identifying and describing all symbols used on the Plat;	■
(d) Location/Vicinity Map showing the location of the subject property by references to existing streets or highways	■
(e) Title Block (located in the lower right corner) including the following information: <ul style="list-style-type: none"> <li>(1) Title of Plat exhibit shall include proposed name of the addition with section or phases which matches the appropriate Plat Application (ex: "Land Study Exhibit of the Preliminary Plat of _____ Addition;</li> <li>(2) Title of Replat exhibit shall include the name of the addition, the name of the addition being Replatted including the Block(s), and Lot(s) numbers with the notation "an addition to the City of Kaufman, Texas, as recorded in Volume/Cabinet _____, Page/Slide _____ of the Plat Records of Kaufman County, Texas"</li> <li>(3) The name, address, phone number and email address of the Developer;</li> <li>(4) The name, address, phone number and email address of the land planner, engineer, or surveyor responsible for the design or survey illustrated on the exhibit;</li> <li>(5) Reference to original survey name and abstract number or previous Plat with recording information;</li> <li>(6) Gross acreage;</li> <li>(7) Total number of lots and HOA/Open Space Lots;</li> <li>(8) Right-of-way acreage, if dedicated and/or reserved; and</li> <li>(9) Date of preparation and subsequent revisions</li> </ul>	■
(f) Subdivision boundary marked with heavy weighted lines with the bearings and length of each boundary line matching the appropriate Plat exhibit;	■
(g) Location, dimensions, purpose, and filing information for all existing and proposed Easements, Rights-of-Way dedications, and Right-of-Way reservations, including, but not limited to streets, highways, Alleys, and railroads, within and Abutting the property;	■
(h) Subdivision name of all adjacent Platted properties (P.R.K.C.T.) within 200 feet shown in dashed lines, labeling the lot and block numbers, subdivision name, street names and Plat record reference or record ownership information of all adjacent unplattd properties (D.R.K.C.T.) within 200 feet, to include owners across any adjacent Right-of-Way with recording information;	■
(i) Proposed street names matching the associative Plat, subject to the review and approval by Kaufman County;	■
(j) Location and dimensions (full width and edge to centerlines) of all existing and proposed streets, thoroughfares, and Alleys including corner clips acceleration/deceleration lanes and turning lanes matching the associative Plat;	■
(k) Location and dimensions of non-residential driveways (full width and edge to centerlines) within the Land Study area and the adjoining land within 200 feet;	■

**TABLE 02.03.112 - REQUIRED LAND STUDY FEATURES**

Land Study

(l)	The uses of adjacent property within 200 feet, a general arrangement of future land uses including the approximate number of lots and any non-residential uses anticipated and a generalized circulation plan.	<input type="checkbox"/>
(m)	All existing, recorded and proposed residential lots, parks, public areas, and/or land dedication within or contiguous to the subject property;	<input type="checkbox"/>
(n)	Location of numbers and dimensions of existing lots, blocks, building lines, water courses, ravines, bridges, culverts, or other existing structures on the subject property;	<input type="checkbox"/>
(o)	The existing zoning and proposed uses of the Land Study area and on adjoining land, existing permanent buildings, and railroad Rights-of-Way;	<input type="checkbox"/>
(p)	Proposed densities, lot sizes and number of residential lots and blocks and the number of multi-family units;	<input type="checkbox"/>
(q)	The topography with existing drainage channels, or creeks, and other important natural features, all substantial natural vegetation, adjacent political subdivisions, or corporation limits, ETJ boundaries and school district boundaries;	<input type="checkbox"/>
(r)	Indicate existing floodplain and floodway boundaries with elevations listed from the FEMA Flood Insurance Rate Maps for Kaufman County,	<input type="checkbox"/>
(s)	Proposed general arrangement of land uses, included but not limited to park and school sites, public facilities, private open space, flood plains, and drainage ways, phasing plan and proposed non-residential and residential densities;	<input type="checkbox"/>
(t)	Note the phasing of development or the order of Platting; and	<input type="checkbox"/>
(u)	Match lines & key map (if more than one sheet). Each sheet of a multi-page Plat should be labeled as Sheet 1 of 3, Sheet 2 of 3, etc. in the lower right corner;	<input type="checkbox"/>

**TABLE 02.03.113 REQUIRED PLAT FEATURES**

For Vacation Plat Features see Section 02.03.0391

For ROW Abandonment Features see Section 02.03.0392

	Amending	Conveyance	Development	Final	Minor	Preliminary	Replat
<b>GENERAL FEATURES</b>							
(a) Legal Description by metes and bounds, of the land to include the current owner's deed record reference, survey name and abstract number, city, county, state, and Gross Acreage;	<input checked="" type="checkbox"/>						
(b) North Arrow;	<input checked="" type="checkbox"/>						
(c) Scale (both graphic and written) appropriate for the level of detail (typically 1" = 100')	<input checked="" type="checkbox"/>						
(d) Legend identifying and describing all symbols used on the Plat;	<input checked="" type="checkbox"/>						
(e) Location/Vicinity Map showing the location of the subject property by references to existing streets or highways	<input checked="" type="checkbox"/>						
(f) Title Block (located in the lower right corner) including the following information: <ul style="list-style-type: none"> <li>(1) Titled with Plat Type (ex: "Final Plat", "Preliminary Plat", etc.)</li> <li>(2) Subdivision name with section or phase, if applicable (Preliminary, Final and Minor Plats shall not have the same spelling as or be pronounced similarly to the name of any other existing subdivision located within the City or ETJ);</li> <li>(3) Total number of lots and HOA/Open Space Lots</li> <li>(4) Reference to original survey name and abstract number or previous Plat with recording information;</li> <li>(5) City, County, State;</li> <li>(6) Gross acreage;</li> <li>(7) Right-of-way acreage, if dedicated and/or reserved;</li> <li>(8) Date of preparation and subsequent revisions</li> </ul>	<input checked="" type="checkbox"/>						
(g) Blocks with the following information: <ul style="list-style-type: none"> <li>(1) Name(s), address, phone number and email of preparer, record owner, Developer, engineer, and/or surveyor</li> <li>(2) 3"X3" block for County recording seal;</li> </ul>	<input checked="" type="checkbox"/>						
(h) Lot and block numbers in consecutive order (lot numbers are numbers; block numbers are letters). Common areas must be assigned a lot number followed by an "X" and a block number;	<input checked="" type="checkbox"/>						
(i) Location and dimensions of all boundary lines, lot lines, the City limit line (if any), and/or the outer border of the City's extraterritorial jurisdiction when such lines or borders traverse or are contiguous to or within 200 feet of the subdivision.	<input checked="" type="checkbox"/>						

**TABLE 02.03.113 REQUIRED PLAT FEATURES**

For Vacation Plat Features see Section 02.03.0391

For ROW Abandonment Features see Section 02.03.0392

	Amending	Conveyance	Development	Final	Minor	Preliminary	Replat
(j) Location, dimensions, purpose, and filing information for all existing and proposed Easements, Rights-of-Way dedications, and Right-of-Way reservations, including, but not limited to streets, highways, Alleys, and railroads, within and Abutting the property;	■	■	■	■	■	■	■
(k) Provide written certification that all necessary Easements are secured for the various utility providers, and include the locations, dimensions, purpose and filing information of such Easements within and Abutting the property	■	■	■	■	■	■	■
(l) An Amending Plat may be required to modify an existing off-site Easement that has be dedicated by Plat that needs to be modified (See Section 02.03.043(d), Off-Site Easements)	■						
(m) Subdivision name of all adjacent Platted properties (P.R.K.C.T.) within 200 feet shown in dashed lines, labeling the lot and block numbers, subdivision name, street names and Plat record reference or record ownership information of all adjacent unplatte properties (D.R.K.C.T.) within 200 feet, to include owners across any adjacent Right-of-Way with recording information;	■	■	■	■	■	■	■
(n) Proposed street names, subject to the review and approval by Kaufman County 911;			■	■		■	■
(o) Acreage or square footage of Right-of-Way dedicated should be shown, including right-of-way corner clips and deceleration/turn lanes on the Plat;			■	■		■	■
(p) Dimensions of each street (full width and edge to centerlines) sidewalk, drive, Alley, square park, or other part of the property intended to be dedicated to public use, or for the use of purchasers, or owners of lots fronting on, or adjacent to the street, sidewalk, Alley square, park, or other part;	■	■	■	■	■	■	■
(q) Show length and radii of all new and existing street segments, drives Alleys and mews;	■	■	■	■	■	■	■
(r) Curve table for existing and proposed streets, drives, Alleys, mews;	■	■	■	■	■	■	■
(s) All existing, recorded and proposed residential lots, parks, public areas, and/or land dedication within or contiguous to the subject property;	■	■	■	■	■	■	■
(t) Location of numbers and dimensions of existing lots, blocks, building lines, water courses, ravines, bridges, culverts, or other existing structures on the subject property;	■	■	■	■	■	■	■

**TABLE 02.03.113 REQUIRED PLAT FEATURES**

 For Vacation Plat Features see Section 02.03.0391  
 For ROW Abandonment Features see Section 02.03.0392

	Amending	Conveyance	Development	Final	Minor	Preliminary	Replat
(u) Subdivision boundary marked with heavy weighted lines with deed record dimensions or field surveyed dimensions if available, matching the legal description;	■	■	■	■	■	■	■
(v) Bearings and length of each boundary line;	■	■	■	■	■	■	■
(w) Acreage and square footage of individual proposed lots to 3 digits for each lot, tract, or site (e.g., 3.657 acres), such information shall be shown in a table on the Plat;	■	■	■	■	■	■	■
(x) Proposed densities, lots size, and number of residential lots and blocks;	■	■	■	■	■	■	■
(y) Indicate existing floodplain and floodway boundaries with elevations listed from the FEMA Flood Insurance Rate Maps, 100-year, the City Master Drainage Plan, or other analyses approved by the Director of Public Works and/or the City Engineer. All minimum finish floor (MFF) shall conform with the requirements set forth in the Flood damage Prevention Ordinance (see Code of Ordinances, Article 4.05, as amended);		■	■	■	■	■	■
(z) Indicate the minimum finished floor (MFF) elevation for all lots adjacent to the floodplain or other significant drainage ways	■		■	■	■	■	■
(aa) Match lines & key map (if more than one sheet). Each sheet of a multi-page Plat should be labeled as Sheet 1 of 3, Sheet 2 of 3, etc. in the lower right corner;	■	■	■	■	■	■	■
(bb) Old lot lines and numbers should be "ghosted" if being abandoned;	■		■	■	■		■
(cc) State Plane Coordinates (grid) – primary control points of descriptions, and monumentation ties to such control points to which all dimensions, angles, bearings, block numbers, and similar data shall be referred;	■	■	■	■	■	■	■
(dd) Locations, materials, and size of all monuments found and set;	■	■	■	■	■	■	■
(ee) Layout of lots and blocks as well as setbacks or Easements for existing and proposed water, wastewater, stormwater, drainage, Access, fire lane, right-of-way corner clips, visibility, and any other Easements with dimensions;	■	■	■	■	■	■	■
(ff) All proposed Rights-of-Way dedication or reservation shall be in conformance with the City of Kaufman and Kaufman County Thoroughfare Plans;	■	■	■	■		■	■

**TABLE 02.03.113 REQUIRED PLAT FEATURES**

 For Vacation Plat Features see Section 02.03.0391  
 For ROW Abandonment Features see Section 02.03.0392

	Amending	Conveyance	Development	Final	Minor	Preliminary	Replat
(gg) All building setbacks along all Rights-of-Way in accordance with the City of Kaufman <i>Zoning Ordinance</i> and Kaufman County Subdivision Ordinance for lots in the ETJ;	■		■	■	■	■	■
(hh) Lot number shall be noted as follows: (1) The first Replat shall include the letter "R" following the lot number, as "Lot 1R, Block A" (2) Any subsequent Replats shall include a number following the "R", as in "Lot 1R-1, Block A";	■						■
(ii) Show each existing and proposed building, structure, or improvement, or proposed modification of the external configuration of the building structure, or improvement involving a change of the building, structure, or improvement;			■				
<b>Standard Plat Notations</b>							
(jj) "All lots comply with the minimum size requirements of the zoning district." (ETJ Plats shall omit);	■	■	■	■	■	■	■
(kk) "All lots comply with the minimum size requirements for aerobic septic systems." (Applicable to ETJ Plats and those lots which the city served by an aerobic septic systems)	■	■	■	■	■	■	■
(ll) "This property is obligated to reserve and/or dedicate future Right-of-Way as required by either the City of Kaufman's and/or Kaufman County's Thoroughfare Plan, and/or this Chapter, and the Standards of Design and Construction."		■					
(mm) "This property may be subject to charges related to impact fees and the Applicant should contact the City regarding any applicable fees due."	■	■	■	■	■	■	■
(nn) "All common areas, drainage Easements, and detention facilities will be owned and maintained by the HOA/POA. Any common areas within the City's Right-of-Way are required to be an HOA "X" lot."	■		■	■	■	■	■
(oo) "All common area/HOA lots or floodplain may contain a public trail and shall provide an Access Easement for the public to use the trail" (only applicable to those Plats where there is an existing or proposed trail);	■		■	■		■	■
(pp) "All drainage and detention Easements shall be maintained, repaired, and replaced by the property owner."	■		■	■	■	■	■
(qq) "Notice – selling a portion of this addition by metes and bounds is a violation of the City of Kaufman's Subdivision Ordinance and State law and is subject to fines and withholding of utilities	■	■	■	■	■	■	■

**TABLE 02.03.113 REQUIRED PLAT FEATURES**

For Vacation Plat Features see Section 02.03.0391

For ROW Abandonment Features see Section 02.03.0392

	Amending	Conveyance	Development	Final	Minor	Preliminary	Replat
and building permits";							
(rr) "This Plat does not alter or remove existing deed restriction, if any, on this property";	<input checked="" type="checkbox"/>						
(ss) "Minimum finished floor elevations are at least 2 feet above the 100-year flood plain."	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>				
(tt) The City reserves the right to require minimum finish floor (MFF) elevations on any lot contained within this addition. The minimum (MFF) elevations shown are based on the most current information available at the time the Plat is filed and are subject to change."	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>				
(uu) "The subject property does not lie within a 100-year flood plain according to Community Panel No. _____, dated _____, of the National Flood Insurance Rate Maps for Kaufman County, Texas." (Indicate which lots are applicable to this notation);	<input checked="" type="checkbox"/>						
(vv) "The purpose of this Plat is _____ (state the purpose) ."	<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>
(ww) "The purpose of the Conveyance Plat is to provide for its legal conveyance without developing the subject property and for land recordation functions only. Approval and the subsequent filing of the Conveyance Plat does not constitute approval of any type of development on the subject property, as no building or development permits shall be issued, nor permanent utility services provided, for land that has only received approval as a Conveyance Plat."		<input checked="" type="checkbox"/>					
(xx) "Bearings are based on the State Plane Coordinate System, Texas North Central Zone (4202), North American Datum of 1983 (NAD'83)."	<input checked="" type="checkbox"/>						
(yy) "No overhead utilities are permitted on the subject property";	<input checked="" type="checkbox"/>						
(zz) If property is located in ETJ and there is private park land include the following notation as required in <b>Section 02.03.080</b> : The Developer has entered into a written agreement that such private park land shall be dedicated to the City at the time of full purpose annexation into the City .				<input checked="" type="checkbox"/>			

**TABLE 02.03.113 REQUIRED PLAT FEATURES**

 For Vacation Plat Features see Section 02.03.0391  
 For ROW Abandonment Features see Section 02.03.0392

	Amending	Conveyance	Development	Final	Minor	Preliminary	Replat
<b>OTHER PLANS</b>							
(Need note reference to refer back to Plat types if these plans will be required)							
(aaa) Preliminary Drainage Plans and if applicable a Preliminary Stormwater Management Plan (SWMP) (may be shown on the same sheet);	<input type="checkbox"/>		<input type="checkbox"/>				
(bbb) Preliminary Utility Plans;	<input type="checkbox"/>		<input type="checkbox"/>				
(ccc) Hydrologic and Hydraulic Analysis						<input type="checkbox"/>	
(ddd) Floodplain Study, if applicable;	<input type="checkbox"/>		<input type="checkbox"/>				
(eee) Environmental Assessment Study, if applicable;			<input type="checkbox"/>				
(fff) Wetland Delineation Study, if applicable;			<input type="checkbox"/>				
(ggg) Habitat Study, if applicable;			<input type="checkbox"/>				
(hhh) Vegetative Study, if applicable;			<input type="checkbox"/>				
(iii) Erosion Hazard Setback Study, if applicable;			<input type="checkbox"/>				
(jjj) Storm Drainage Study, if applicable;			<input type="checkbox"/>				
(kkk) Riparian (i.e., Tributary) Study, if applicable;			<input type="checkbox"/>				
(III) Flood Study, if applicable;			<input type="checkbox"/>				
(mmm) Downstream Assessment Study, if applicable;			<input type="checkbox"/>				
(nnn) Traffic Impact Study, if applicable;			<input type="checkbox"/>				
(ooo) Tree Survey, or statement of no protected trees on site."			<input type="checkbox"/>				
(ppp) Land Study; (*required for road or thoroughfare realignment)			<input type="checkbox"/>		*		<input type="checkbox"/>
(qqq) Phasing Plan;			<input type="checkbox"/>			<input type="checkbox"/>	
(rrr) A survey or site plan (applicable for those lots or tracts with existing structures);	<input type="checkbox"/>						
<b>SIGNATURE BLOCKS (SEE BELOW)</b>							
(sss) Certificate of Registered Professional Land Surveyor	<input type="checkbox"/>						
(ttt) Owner's Acknowledgement and Dedication	<input type="checkbox"/>						
(uuu) Certificate of Plat Approval	<input type="checkbox"/>						
<b>ITEMS REQUIRED FOR FILING A PLAT</b>							
(vvv) Size and number of mylar and black line paper copies of the Plat with all original seals and signatures as required by the City of Kaufman and Kaufman County for filing purposes.;	<input type="checkbox"/>						

**TABLE 02.03.113 REQUIRED PLAT FEATURES**

For Vacation Plat Features see Section 02.03.0391

For ROW Abandonment Features see Section 02.03.0392

	Amending	Conveyance	Development	Final	Minor	Preliminary	Replat
(www) Provide the required number and sizes of Plat exhibits as described in the Plat Applications with all original seals and signatures.;	<input checked="" type="checkbox"/>						
(xxx) Lot addresses assigned by Kaufman County 911 shall be noted on each lot of each original Plat exhibit.	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>				
(yyy) Tax Certificates from each taxing entity, signed and sealed from County Tax Office.	<input checked="" type="checkbox"/>						
(zzz) Filing recordation fee as determined by Kaufman County Clerk's Office	<input checked="" type="checkbox"/>						

(bbb) (Certificate of Registered Professional Land Surveyor example)

CERTIFICATE OF REGISTERED PROFESSIONAL LAND SURVEYOR

STATE OF TEXAS        §  
COUNTY OF \_\_\_\_\_ §

I, the undersigned, a (Licensed Professional Engineer/Registered Professional Surveyor) in the State of Texas, hereby certify that this plat is true and correct and was prepared from an actual survey of the property made under my supervision on the ground.

(Engineer or Surveyor's Seal)

---

Licensed Professional Engineer  
Or Registered Professional Surveyor

---

Date

STATE OF TEXAS        §  
COUNTY OF \_\_\_\_\_ §

BEFORE ME, the undersigned authority, 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 purposes and considerations therein stated.

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

NOTARY PUBLIC

\_\_\_\_\_ County, Texas

(ccc) (Owner's Acknowledgement and Dedication example)

**OWNER ACKNOWLEDGEMENT AND DEDICATION**

STATE OF TEXAS                   §  
 COUNTY OF \_\_\_\_\_ §

I (we), the undersigned, owner (s) of the land shown on this plat within the area described by metes and bounds as follows:

(Metes and Bounds Description Boundary)

**NOW, THEREFORE, KNOW ALL PERSON BY THESE PRESENTS:**

THAT \_\_\_\_\_, acting herein by and through its duly authorized officer, does hereby adopt this plat designating the hereinabove described property as \_\_\_\_\_ (lot/block/subdivision), an addition to the City of Kaufman, Texas, and does hereby dedicate to the public use forever by fee simple title, free and clear of all liens and encumbrances, all streets, thoroughfares, alleys, fire lanes, drive aisles, parking spaces, parks and trails, and to the public use forever Easements for sidewalks, storm drainage facilities, floodways, water mains, wastewater mains, and other utilities and facilities, and any other property necessary to serve the plat and to implement the requirements of the subdivision regulations and other City codes and do hereby bind ourselves, our heirs, successors and assigns to warrant and to forever defend the title on the land so dedicated. Further, the undersigned covenants and agrees that he/she shall maintain all Easements and facilities in a state of good repair and functional condition at all times in accordance with City codes and regulations. No buildings, fences, trees, shrubs or other improvements or growths shall be constructed or placed upon, over, across the Easements as shown, except that landscape improvements may be installed, if approved by the City of Kaufman. At no point shall any overhead utilities be installed on the subject property. The City of Kaufman and public utility entities shall have the right to access and maintain all respective Easements without the necessity at any time of procuring permission from anyone.

By: \_\_\_\_\_ (Company Name if applicable) \_\_\_\_\_

Owner: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF TEXAS                   §  
 COUNTY OF \_\_\_\_\_ §

BEFORE ME, the undersigned authority in and for \_\_\_\_\_, County, Texas, on this day personally appeared \_\_\_\_\_, known to me to be the person and officer whose name is subscribed to the foregoing instrument known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she is \_\_\_\_\_, and that he/she is authorized to execute the foregoing instrument for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
 Notary Public in and for the State of Texas

\_\_\_\_\_  
 Type or Print Notary's Name

My Commission Expires: \_\_\_\_\_

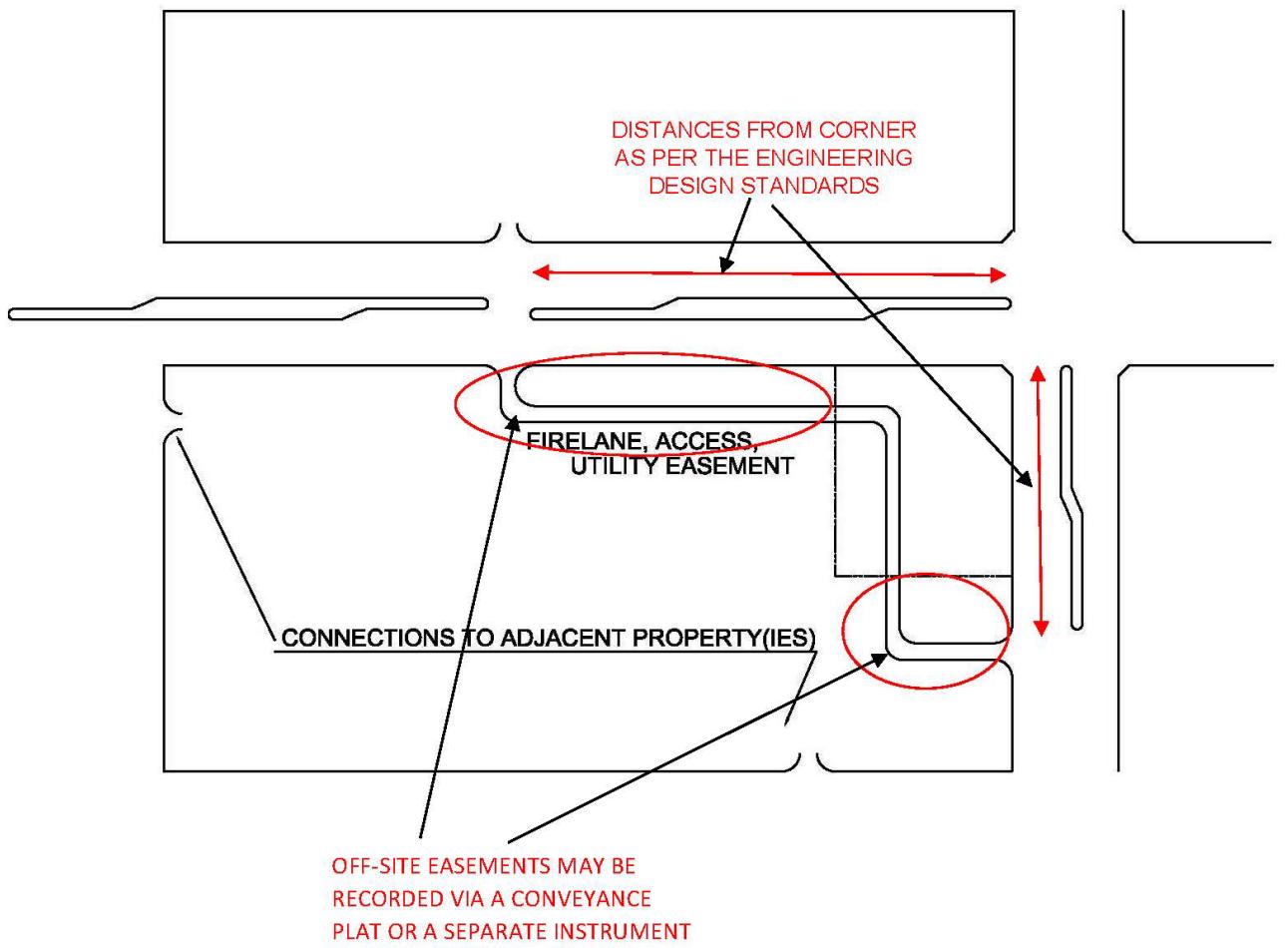
(ddd) (Certificate of Plat Approval example for **Amending, Conveyance and Minor Plats**)

CERTIFICATE OF PLAT APPROVAL	
Approved	
_____ City Official City of Kaufman, Texas	_____ Date
Witness by hand this _____ day of _____, 20_____.	
_____ City Secretary City of Kaufman, Texas	

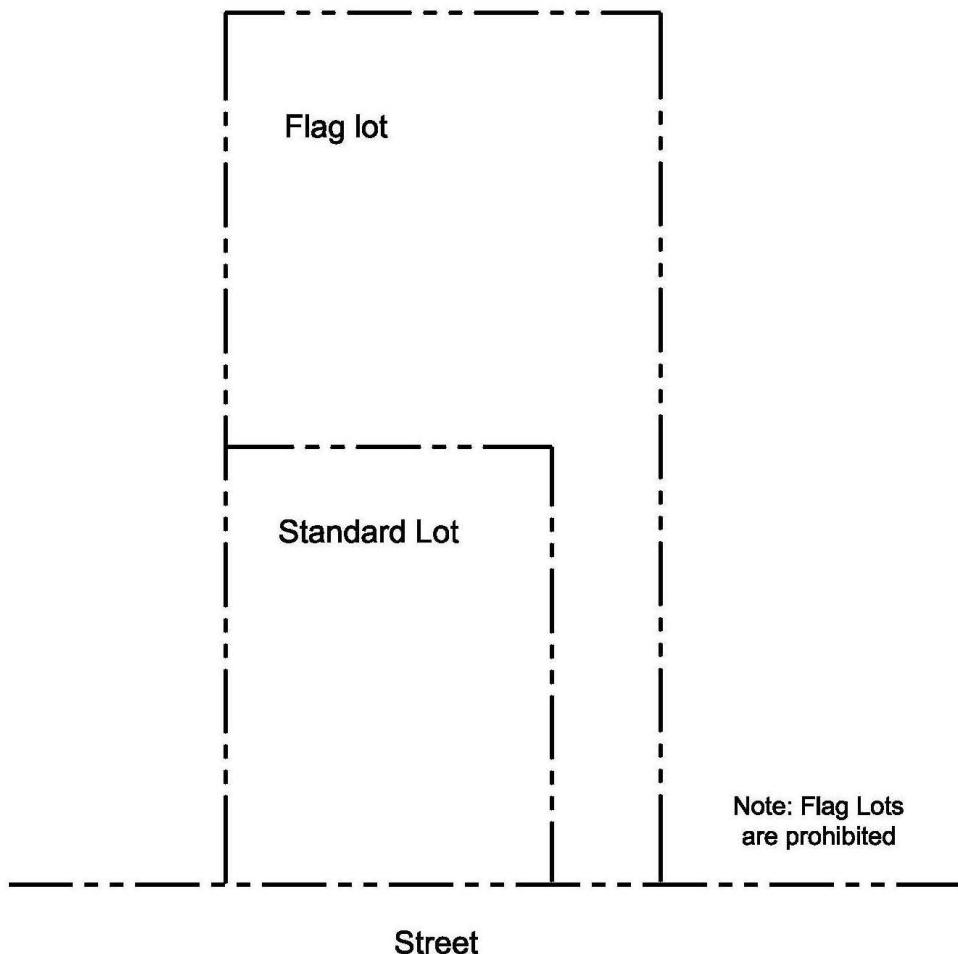
(ddd) (Certificate of Plat Approval example for **Preliminary, Final, Replats, Development and Vacation Plats**)

CERTIFICATE OF PLAT APPROVAL	
Approved	
_____ Planning and Zoning Commission Chairperson City of Kaufman, Texas	_____ Date
_____ Mayor City of Kaufman, Texas	_____ Date
Witness by hand this _____ day of _____, 20_____.	
_____ City Secretary City of Kaufman, Texas	

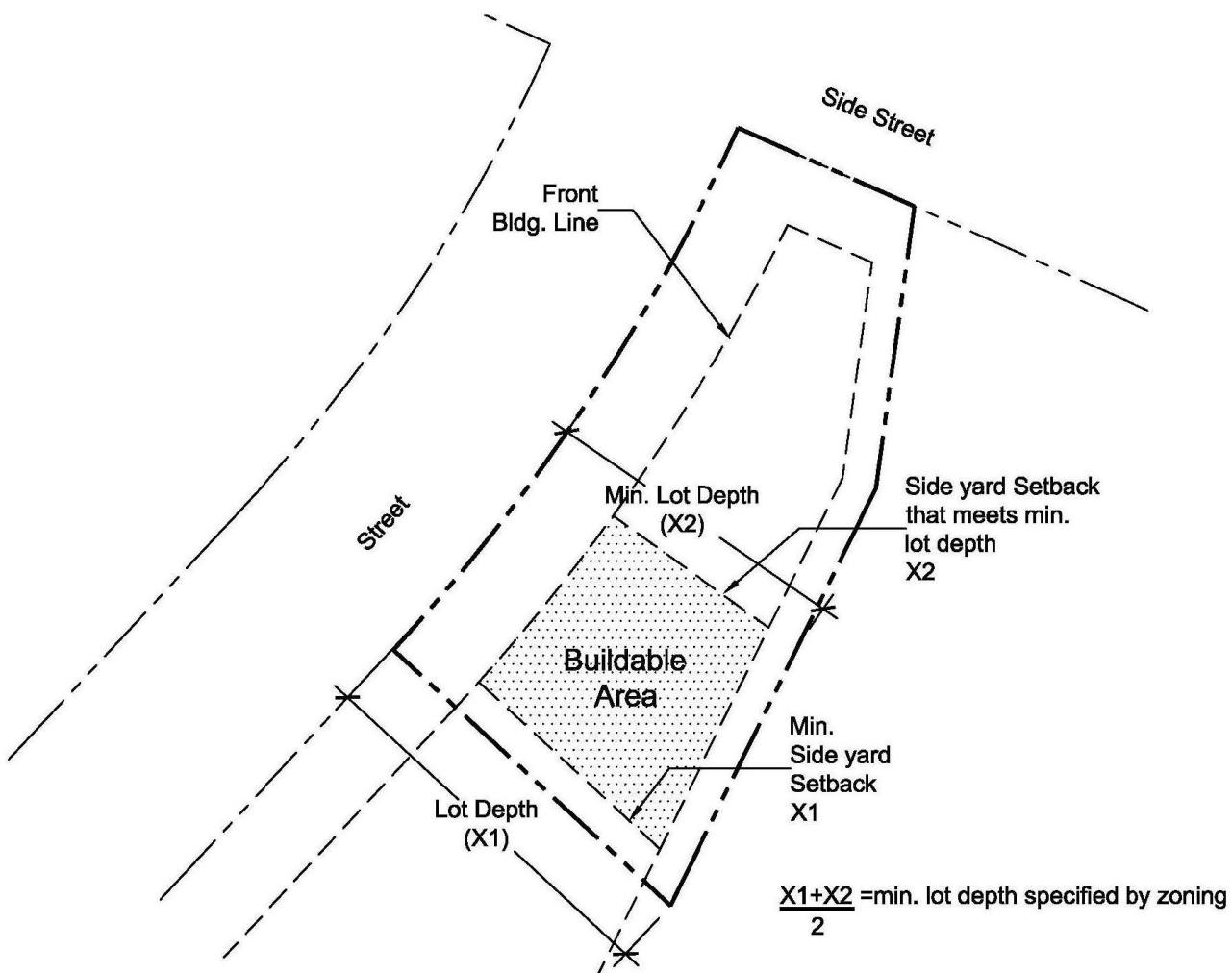
### Diagram 02.03.114 - Median & Cross Access



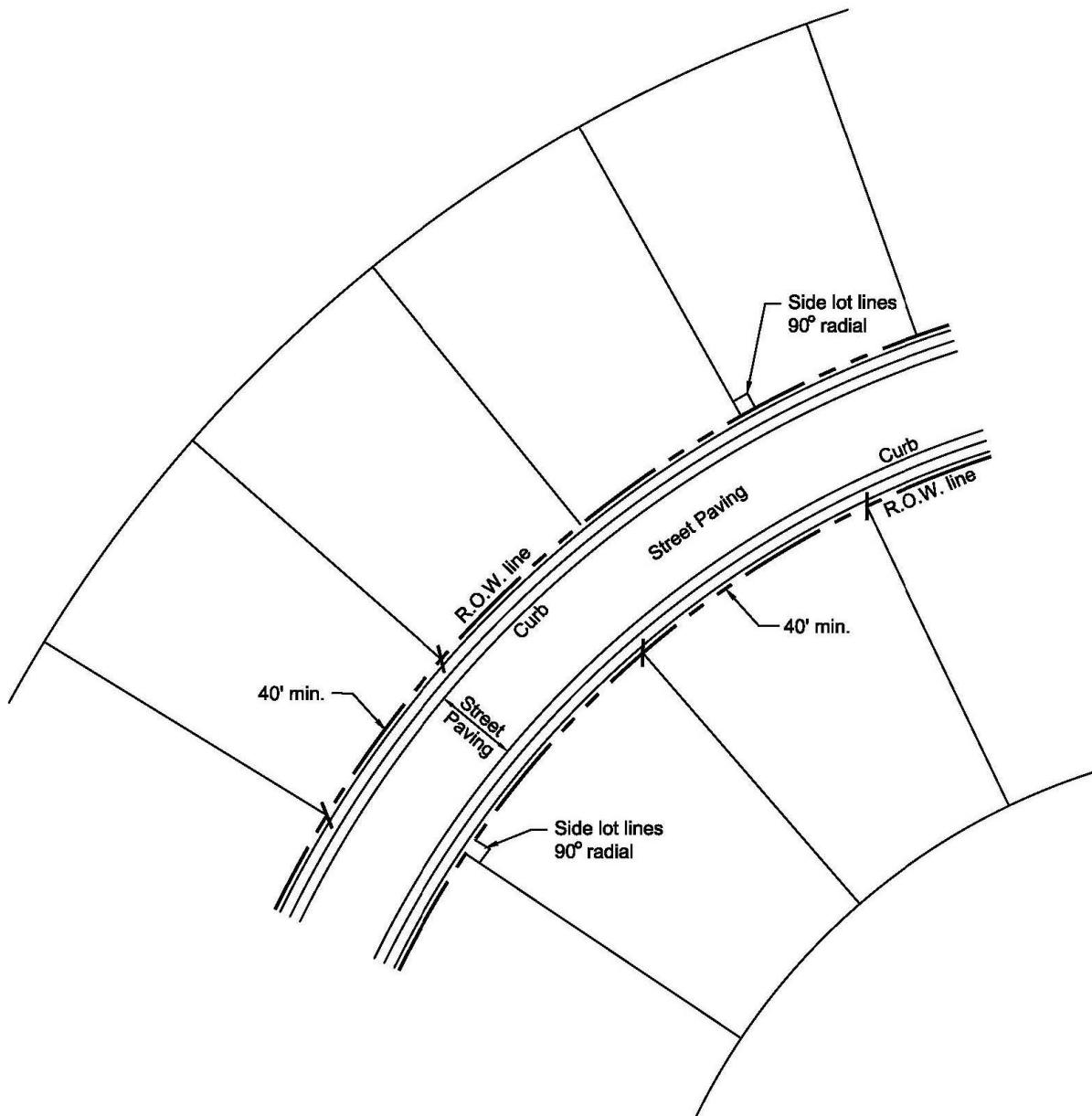
### Diagram 02.03.115 Flag Lots



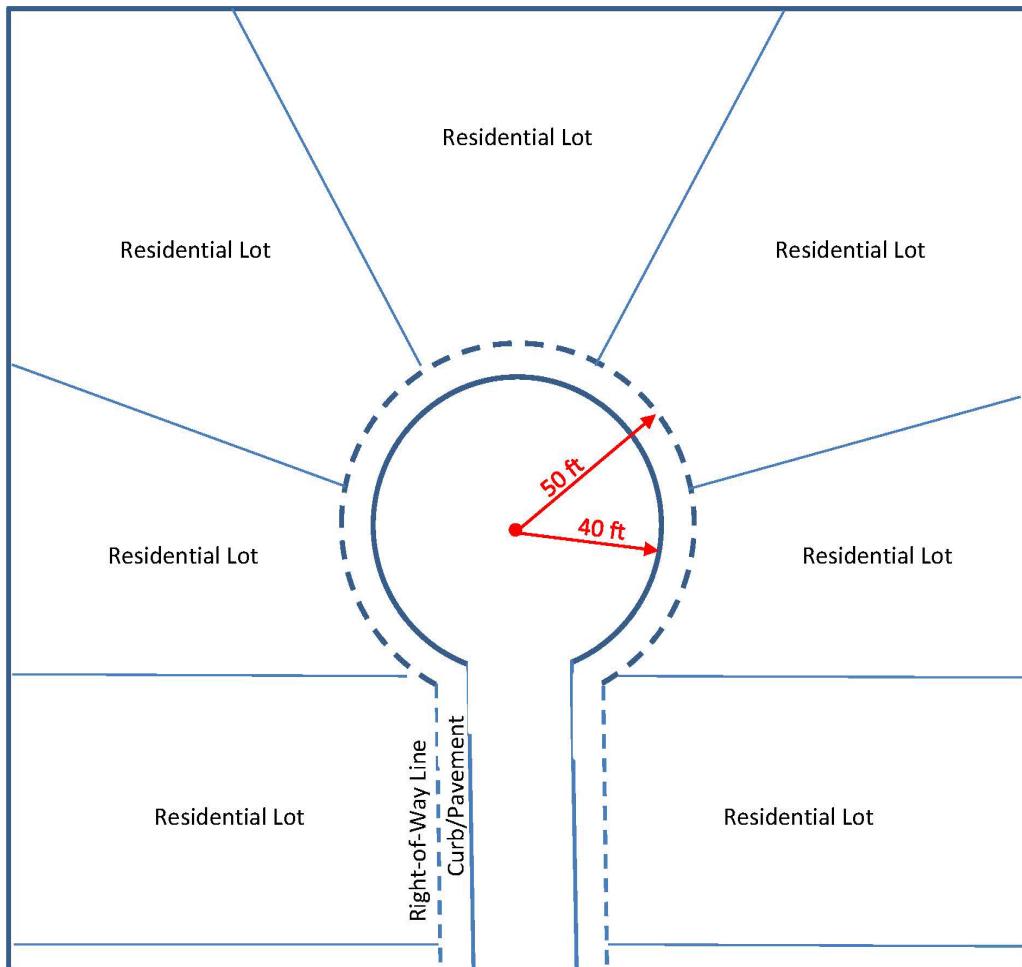
## Diagram 02.03.116 Determination of Lot Depth on an Irregular Shaped Lot



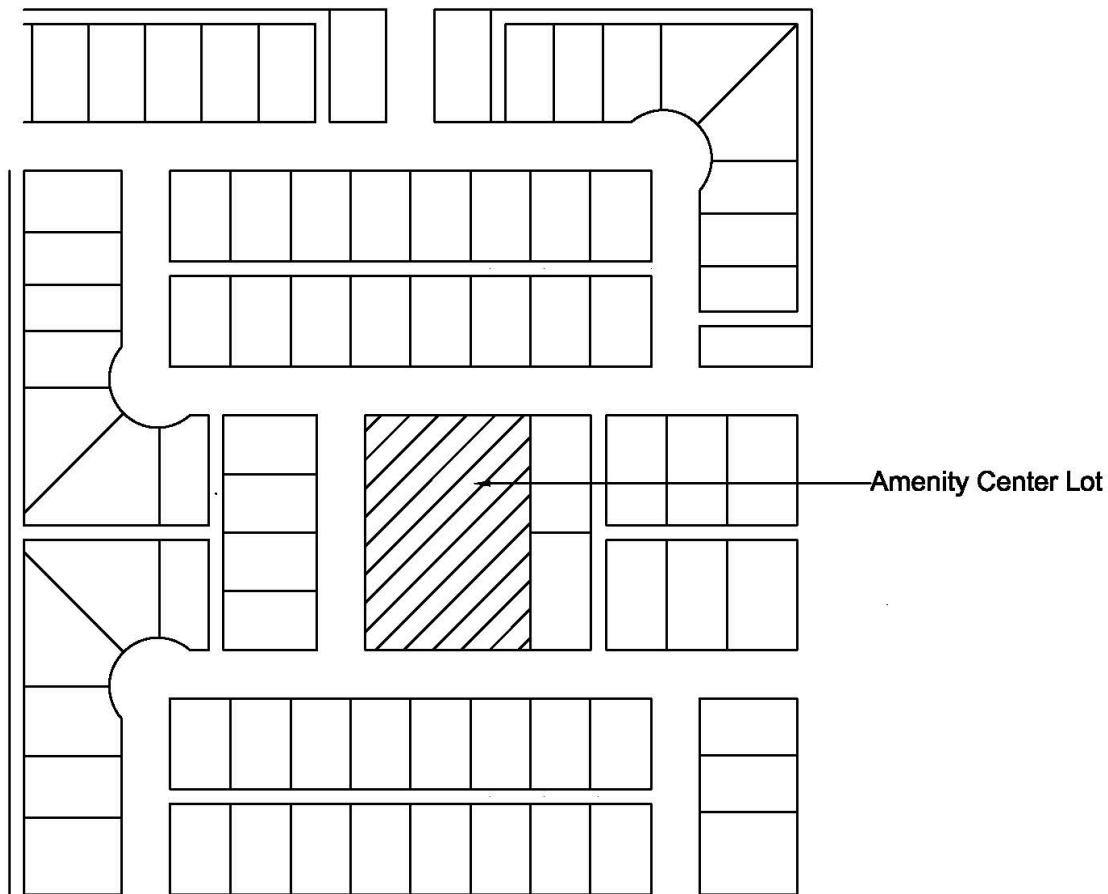
### Diagram 02.03.117 Lot Frontage – Curved Streets



## Diagram 02.03.118 Lot Frontage – Cul-de-Sacs Minimum Dimensions



### Diagram 02.03.119 Centrally Located Amenity Center Siting



## Diagram 02.03.1191 Access & Lot Orientation to Parks and/or Open Space

