SUBDIVISION ORDINANCE

City of Celina
September 10, 2019

Ordinance Number	Date of Adoption	Summary
2018-32	7/10/2018	New Subdivision Ordinance; repealed all previous Subdivision Ordinances and amendments
2019-37	9/10/2019	Revisions to Subdivision Standards

CHAPTER 107.03
SUBDIVISION ORDINANCE
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ARTICLE 10.03.000 .....GENERAL SUBDIVISION AUTHORITY OF THE CITY

Sec. 10.03.001 .....AUTHORITY, PURPOSE & APPLICABILITY.

(a) **Authority.** The regulations of this Subdivision Ordinance are authorized under the TEXAS LOCAL GOVERNMENT CODE, CHAPTER 212 (including Subchapter B) and the City's Charter. The provisions of this Subdivision Ordinance 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 Denton and Collin Counties, in accordance with CHAPTER 242 of the TEXAS LOCAL GOVERNMENT CODE.

(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 Subdivision Ordinance 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, efficient, and coordinated development within the City's limits and its ETJ;

iii. Guide and assist property owners and applicants in the correct procedures to be followed, and to inform them of the required standards;

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 land forms into developments as amenities;

xii. Establish processes that ensure accurate records of land subdivision;

xiii. 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;

xiv. 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;

xv. Encourage the development of residential areas that incorporate a range of housing and lifestyle choices.

(c) **Applicability.**

(1) The provisions of this Subdivision Ordinance apply to any non-exempt (see Section 10.03.031(d), *Exemptions*) division of land, combination of separate land parcels, and/or development of land within the corporate boundaries of the City and within its ETJ.

(2) No permit shall be issued for any building or structure on a property until a plat has been approved unless specifically exempted herein.

(d) **Subdivision Rules.** The provisions of this Subdivision Ordinance, the standards governing constructed facilities applicable to plats in other portions of the Celina Code of Ordinances, and the technical standards contained in the *Engineering Design Standards*, constitute the subdivision rules of the City, which apply to applications for plat approval inside City limits and within the City's ETJ.

(e) **Engineering Design Standards**. The City of Celina has adopted *Engineering Design Standards* and these standards, as they exist or may be amended, shall remain in force of law and effect and are herein incorporated into the Subdivision Ordinance. The *Engineering Design Standards* may be drafted or revised, from time to time, at the discretion and determination of the Director of Engineering, with approval by the City Council. As revised *Engineering Design Standards* are approved and adopted by the City Council, said standards shall be included and substituted for the existing *Engineering Design Standards*, 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 the *Engineering Design Standards* by providing said request in writing to the Director of Engineering. A copy of the current *Engineering Design Standards* shall be kept on file and available for review with the Director of Engineering's 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 Ordinance. 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 Ordinance. Applicable City ordinances and plans with which all applications must comply include, but are not limited to, the following:

(1) *Comprehensive Plan* (Ordinance No. 2013-06), and as amended.

(2) *Zoning Ordinance* (Ordinance No. 2006-57), and as amended.

(3) *Engineering Design Standards*

(4) *International Building, Residential, and Fire Codes*

(5) *National Electrical Code*

(6) *International Energy Conservation Code*

(7) *Impact Fee Ordinance for Water* (Ord. No. 2003-75), and as amended.

(8) *Impact Fee Ordinance for Thoroughfares (Ord. No. 2015-06),* and as amended.

(9) *Drainage Design Manual*

(10) Federal, State, and Local Environmental Regulations.

(11) Other applicable portions of the Celina Code of Ordinances.

(g) **Governmental Agency Design Standards.**

The City of Celina, Celina Independent School District, and Prosper Independent School District, City departments, and any county governmental organization, when developing within the city limits, will be required to make best efforts to meet the City's development regulations related to City infrastructure. However, when the overall benefit to the City is reduced due to full compliance with adopted development standards, modified development standards may be administratively approved. This administrative approval shall be conditioned upon meeting the overall intent of the subject ordinance as determined by the City Manager, or his designee, whose decision may be appealed to City Council. (Ordinance 2017-59, adopted 10/10/17)

(h) **Special Provisions.**

(1) The City of Celina does not issue permits for the installation of septic tanks in the ETJ but may issue permits for installation of septic tanks within the corporate city limits. Permits for septic tanks are limited to lots that are greater than one (1) acre in size exclusive of the house footprint and not located within 600 feet of a City sewer line, unless otherwise allowed by the Director of Engineering based up projected loads and use. Citizens may elect to connect to a sewer line that is greater than 600 feet from the property, but must individually bear the cost of the installation that is in excess of 100 feet. A septic system may not be installed upon any lot in a subdivision for which a Final 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.

(2) No building, repair, plumbing, or electrical permit shall be issued by the City for any structure on a lot in a subdivision for which a Final Plat has not been approved, nor for any structure on a lot within a subdivision in which the standards contained herein or referred to herein have not been complied with in full.

(3) The City Manager and the Director of Engineering may allow sectional development (i.e. phased development) of an approved Final Plat provided that the section of the Final Plat meets all the requirements of this Ordinance in full as though it were a subdivision within itself.

(4) 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.

(5) The City shall not authorize any other person nor shall the City itself sell or supply any water, gas, electricity, or sewerage service within a subdivision for which a Final Plat has not been approved, nor in which the standards contained herein or referred to herein have not been complied with in full.

(6) On behalf of the City, the City Attorney shall, when directed by the City Council, 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 ordinance.

(7) If any subdivision exists for which a Final 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 shall pass a resolution reciting the fact that such noncompliance or failure to secure Final 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 Denton or Collin County in which such subdivision or part thereof lies. If full compliance and Final 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.

(8) 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 Subdivision Ordinance, or to prohibit the repair, maintenance, or installation of any street or public utility services for any residential building, or abutting any sale 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. 10.03.002.....ENFORCEMENT.

(a) **Observation of Construction.**

(1) The Director of Engineering, or his duly authorized representative, shall make periodic observation of the construction of improvements for subdivision. Inspection of improvements by the Director of Engineering or his representative, is not intended to and does not relieve the subdivider or his contractor, from ensuring that the improvements are constructed in accordance with the accepted plans and specifications. The subdivider or his contractor shall maintain contact with the Director of Engineering or his representative during construction of improvements.

(2) No sanitary sewer, water, or storm sewer pipe shall be covered without approval of the Director of Engineering or his representative. No flexible base material, subgrade material, or stabilization shall be applied to the street subgrade without said approval. No concrete shall be poured nor asphaltic surface applied to the base without said approval of Director of Engineering.

(3) The Director of Engineering or his representative, may at any time cause any construction, installation, maintenance, or location of improvements to cease when, in his judgment, the requirements of this article or the standards and specifications as hereinbefore provided have been violated. Any violation may require such reconstruction or other work as may be necessary to correct any such violation at the expense of the developer. The cost of materials testing shall be borne by the developer. (2004 Code, sec. 159.81)

(b) **Maintenance Bond.** The subdivider shall furnish a good and sufficient maintenance bond in the amount of ten percent (10%) of the contract price of all public improvements, with a reputable and solvent corporate surety in favor of the City, to indemnify the City against any repairs which may become necessary to any part of the construction of public improvements in connection with the subdivision, arising from defective workmanship or materials used therein, for a period of two (2) full years from the date of final acceptance of the improvements. Final acceptance will be withheld until said maintenance bond is furnished to the City and approved by the City Attorney. (2004 Code, sec. 159.82)

(c) **Filing, Plat & Other Fees.**

(1) The fees and charges shall be paid to the City when any preliminary plat or final plat or other filing is tendered to the Planning & Zoning Commission or any other authorized board or agency of the City. Each of the fees and charges provided herein shall be paid in advance and no action of the Commission or any other board or agency of the City shall be valid until the fees and charges shall have been paid to the City.

(2) Except as hereinbefore provided, these fees and charges shall be charged on all plats and filings, regardless of the action taken by the Commission 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 Fee Schedule ordinance, which is a bound and separate document. (2004 Code, sec. 159.83)

(d) **Penalty.** Any person, firm or corporation who shall violate any of the provisions of this article or who shall fail to comply with any provisions hereof shall be guilty of a misdemeanor and upon conviction, shall be subject to a fine not to exceed the amounts listed in the City's Fee Schedule, and each day that such violation continues shall constitute a separate offense and shall be punishable accordingly. (2004 Code, sec. 159.99)

Sec. 10.03.003 to Sec. 10.03.009. RESERVED

ARTICLE 10.03.010 .....AUTHORITY OF DECISION-MAKERS

Sec. 10.03.011.....GENERAL PROVISIONS.

(a) **Source of Authority.** Authority under this Subdivision Ordinance shall be vested in and delegated to the officials and decision-makers designated in Section 10.03.012, *Responsible Official Assigned*, and under the City's Charter, the constitution and laws of the State of Texas, and the Celina 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 Subdivision Ordinance 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 Celina Code of Ordinances, or the failure to identify in this article authority conferred by other provisions of this Subdivision Ordinance, 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 and this Subdivision Ordinance, 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 Subdivision Ordinance, 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 Subdivision Ordinance 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 Subdivision Ordinance 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) Variances. Except as expressly provided for in Section 10.03.086, *Variances & Modifications*, this Subdivision Ordinance, 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 variance 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 Subdivision Ordinance 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 his decision may be appealed to the City Manager (see Section 10.03.016, *City Manager & Other Officials*), unless otherwise noted within.

Sec. 10.03.012.....RESPONSIBLE OFFICIAL ASSIGNED.

(a) **Responsible Official.** The responsible official shall be the Director of a designated City department who is assigned responsibility under this Subdivision Ordinance for taking the following actions with regard to a particular type of application authorized under this Subdivision Ordinance.

(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 Subdivision Ordinance with respect to an application, petition, approval, or appeal.

(b) **Delegation.** The responsible official may delegate the official authority under this Subdivision Ordinance to subordinate employees, who shall thereupon be deemed the responsible official for purposes of carrying out the delegated duties.

Sec. 10.03.013.....DIRECTOR OF DEVELOPMENT SERVICES.

(a) **Responsible Official.** The Director of Development Services is the responsible official for the following types of applications, waivers, variances and petitions:

(1) Review and staff report, including a staff recommendation for approval/denial, for any type of plat;
(2) Extension of a plat approval;
(3) Appeal of a decision on any application for which the Director of Engineering is the responsible official;
(4) Vested rights petition for any application when the Director of Development Services is the responsible official.
(5) Review recommendations by the Parks Board, and carry out the Board's decisions, on the following types of applications:
    i. Acceptance of fees in lieu of parkland dedication;
    ii. The portion of an application showing where park land, including trails, is to be dedicated, and whether such dedication is acceptable;
    iii. Any other portions of applications showing items required by Article 10.03.080, *Parks and Open Space*.

(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) Minor Plat, as outlined in Section 10.03.035, *Minor Plats*;
(2) Amending Plat, as outlined in Section 10.03.037, *Amending Plats*;

(3) Extension for a Preliminary Plat approval, as outlined in Section 10.03.033, *Preliminary Plats*; and
(4) Certain types of Vested rights petitions, as outlined in Section 10.03.087, *Vested Rights*.

Sec. 10.03.014.....DIRECTOR OF ENGINEERING.

(a) **Responsible Official.** The Director of Engineering is the responsible official for the following types of applications:
   (1) Review of construction plans, including all engineering plans and related construction tasks, and approval of contracts for public improvements, as outlined in Section 10.03.041, *Construction Plans*;
   (2) Time extensions for construction plans, as outlined in Section 10.03.041(h), *Extension*;
   (3) Construction Releases, as outlined in Section 10.03.041(i), *Construction Release*;
   (4) Development Agreement, as outlined in Section 10.03.044, *Development Agreements*;
   (5) Appeal related to an application for which the Director of Engineering is the responsible official;
   (6) Certain types of Variances (related to construction requirements), as outlined in Section 10.03.086, *Variances & Modifications*; and
   (7) Vested rights petition for an application for which the Director of Engineering is the responsible official, as outlined in Section 10.03.087, *Vested Rights*.

(b) **Final Decision-Maker.** The Director of Engineering is the final decision-maker for the following types of applications (subject to any appeal):
   (1) Approval of construction plans, including all engineering plans and related construction management tasks, and approval of contracts for public improvements;
   (2) Construction Release;
   (3) Extension for construction plans approval; and
   (4) Certain types of Vested Rights petitions for an application for which the Director of Engineering is the initial decision-maker.

Sec. 10.03.015.....DIRECTOR OF PARKS & RECREATION.

(a) **Responsible Official and Initial Decision-Maker.** The Director of Parks & Recreation is the responsible official for the review and recommendation to the Parks Board and for carrying out the Board's decisions, on the following types of applications:
   (1) Acceptance of fees in lieu of parkland dedication;
   (2) The portion of an application showing where park land, including trails, is to be dedicated, and whether such dedication is acceptable; and
   (3) Any other portions of applications showing items required by Article 10.03.080, *Parks and Open Space*.

Sec. 10.03.016.....CITY MANAGER & OTHER CITY OFFICIALS.

(a) **City Manager.** Any decision which is made by a staff person other than the Director of Development Services shall be reviewed first by the Director of Development Services. Any decision that cannot be resolved by the Director of Development Services shall be appealed to the City Manager, who is the appellate decision-maker for any appeal for which the Director of Development Services is responsible.

(b) **Fire Chief.** No provision contained in this Subdivision Ordinance 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

Subdivision Ordinance 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. 10.03.017.....PLANNING & ZONING COMMISSION.

(a) **Organization, Powers and 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 106, *Zoning*), 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 for Deciding Applications.** The Commission shall have the final authority to act on the following types of applications:
   (1) Conveyance Plats;
   (2) Preliminary Plats;
   (3) Final Plats;
   (4) Replats (at a public hearing);
   (5) All other types of plats, with the exception of Minor Plats and Amending Plats (which may be decided by the Director of Development Services, unless deferred to the Commission).

(d) **Authority for Deciding Appeals.** The Commission shall hear and decide the following appeals:
   (1) Any Variance petition on an application for a Preliminary Plat, Final Plat or Replat;
   (2) Minor Plat or Amended Plat that is deferred by the Director of Development Services, as outlined in Section 10.03.035(h), *Appeal of Decision on Minor Plat Application*, or Section 10.03.038(i), *Appeal of Decision on Amending Plat Application,* as applicable;
   (3) Any other appeal so authorized by this Ordinance.

Sec. 10.03.018.....CITY COUNCIL.

(a) **Authority for Deciding Appeals.** The City Council shall hear and decide appeals from decisions made by the Commission when such appeals are authorized by this Ordinance.

Sec. 10.03.019.....RESERVED.

ARTICLE 10.03.020 SUBMITTAL PROCESS

Sec. 10.03.021.....PRE-SUBMITTAL MEETING (Development Review Committee Meeting).

(a) **Optional Development Review Committee Meeting.** Prior to the official submission of an application for review and consideration, applicants are strongly encouraged to contact the Development Services staff to schedule a Development Review Committee (DRC) Meeting. This meeting will alert the applicant to the ordinances that apply to the specific project.

(b) **Members of DRC**. Members of DRC are made up of representatives from the departments that have direct communication with all aspects of the development process: Planning, Engineering, Fire, Public Works, and Parks.

(c) **Meeting Request.** To schedule a DRC Meeting, the applicant requests a DRC Meeting with the Development Services staff, 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.** There shall be no vested rights based on the DRC Meeting.

(e) **Effect.** Following the DRC Meeting, the applicant may proceed with the submittal of the appropriate application(s), including, but not limited to, the Conveyance or Preliminary Plat, Final Plat, Civil Plans, and Building Plans.

Sec. 10.03.022.....APPLICATION CONTENTS.

(a) **Application Contents Generally.** All applications shall be submitted on a form supplied by the Development Services staff with the required information and exhibits as stated on the application form. Incomplete applications shall not be accepted.

(b) **Application Timing**.

(1) Development Services staff shall establish submittal deadlines for all applications decided by the Director of Development Services and by the Commission. Such submittal schedule will be posted on the City website.

(2) An application must be considered officially complete in accordance with Section 10.03.023(c), *Determination of Completeness*, of this Subdivision Ordinance prior to being processed for review and consideration.

(c) **Fees Required**. Every application shall be accompanied by the prescribed fees set forth in the City's 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 processed by the City.

Sec. 10.03.023.....APPLICATION SUBMITTAL PROCESS.

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

(b) **Applicability.** The procedures within this Chapter shall apply to all applications that are required by the City and submitted in accordance with this Subdivision Ordinance.

(c) **Official Filing Date.** The 30-day time period established by State law and by this Subdivision Ordinance

shall begin on the "Official Filing Date." The Official Filing Date is further defined as the date on which the plat has met all the requirements of the Subdivision Ordinance following staff or administrative review, fees have been paid, and that plat is scheduled for final approval by the Planning & Zoning Commission by placing the plat on the Commission agenda.

(d) **Owners Dedication Language**. Refer to the Development Handbook (available online) for the appropriate owner dedication language to include on the plat and all other plat signature block wording and form.

Sec. 10.03.024.....REVISIONS & APPROVAL.

(a) **Action by Responsible Official.** 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 may be necessary to bring the application into compliance with City regulations in preparation for consideration by the appropriate decision-maker.

(b) **Revisions to Exhibits**. The responsible official may enumerate to the applicant such revisions to the plat exhibits as are necessary to bring the exhibit into compliance with the Subdivision Ordinance. Such revisions shall be made by the applicant or his agent in a timely fashion.

(c) **Decision.** The decision-maker for the application shall approve, approve with conditions, or deny the application within the time period prescribed by this Subdivision Ordinance.

(d) **Conditions Attached.** The decision-maker may attach such conditions to the approval of an application as are reasonably necessary to ensure compliance with all applicable requirements of this Subdivision Ordinance. These conditions of approval shall be completed prior to the plat being filed for record in Denton or Collin County.

(e) **Notification of Decision.** The City shall send written notice of a decision on an application within fourteen (14) calendar days following the approval date. This written notice will include any future steps the applicant must take.

(f) **Notification of City Appeal.** Whenever an appeal is requested from a final decision on an application following a public hearing, or whenever the City is to consider revocation of an application that was obtained following a public hearing, personal notice of the appeal or revocation proceeding shall be provided to the applicant.

Sec. 10.03.025.....AMENDMENTS & EXPIRATION OF CURRENT PROJECTS.

(a) **Amendments/Revisions to an Approved Application.** Unless another method is expressly provided by this Subdivision Ordinance, any request to amend or revise an approved application shall be considered a new application, which must be 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.

(b) **Expiration.**

(1) Unless otherwise expressly provided by this Subdivision Ordinance, an approved application for a plat or civil plans shall automatically expire one (1) year following the approval date of the application (see Section 10.03.041(g), *Expiration of Construction Plans*), and shall become null and void, and all activities under the application thereafter shall be deemed in violation of this Subdivision Ordinance, if:

i. The applicant fails to satisfy any condition that was imposed by this Subdivision Ordinance or as part of the approval of the application or that was made under the terms of any

Development 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 Subdivision Ordinance within the time so required; or

iii. A Development Agreement has not been approved for the development.

(2) The Director of Engineering may extend the time of expiration for the 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 Planning & Zoning Commission and the Commission's decision shall be final.

(1) 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.

(2) 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 (Section 10.03.087, *Vested Rights*).

(c) **Effect of Expiration.** Upon the expiration of an approved application, all previously approved applications for the same land shall also expire on the expiration date if the filing of an application was required to avoid expiration for the previously approved application(s), except as provided in Section 10.03.027, *Expiration*. 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. 10.03.026.....EXPIRATION (Projects Approved Prior to the Establishment of this Subdivision Ordinance).

(a) **Two-Year Expiration Established.** Notwithstanding any other provision of this Subdivision Ordinance, for any approved application for which no expiration date was in effect on the date this Subdivision Ordinance 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 10.03.087, *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 Subdivision Ordinance, once an 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 10.03.087, *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. 10.03.027 to 10.03.029.....RESERVED.

ARTICLE 10.03.030 .....SUBDIVISION PROCEDURES

Sec. 10.03.031.....SUBDIVISION PROCEDURES & PLAT TYPES.

(a) **Approval Required.**

(1) Unless and until any plat, plan, or replat shall has 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; 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, sewers, lights, gas, etc., which may be owned, controlled, distributed, franchised, or supplied by the City.

(2) No building permits will be issued for the construction of any building on any unplatted land within the City and the City's extraterritorial jurisdiction (ETJ). Minor repair permits may be issued for an existing structure. When additions, alterations, or repairs within any twelve (12) month period exceed fifty percent (50%) of the value of an existing building or structure on previously unplatted 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 of the improvements required under these regulations, or improvements specified in the *Comprehensive Plan* of the City, or improvements which, in the judgment of the Director of Engineering, 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 and accepted by the Director of Engineering prior to filing the associated plat, unless otherwise specified in a binding contractual 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 Development Agreement.

(2) Plats Prior to Development. Plats may not be used as a mechanism to establish boundaries without the dedication of required infrastructure, such as public utilities easements, right-of-way dedication, and any other requirement of this Subdivision Ordinance. Platting of property is reserved for those properties that are anticipating immediate development, with the exception of Conveyance Plats.

(c) **Types of Plats Required.**

(1) Final Plat or a Minor Plat. A Final Plat or Minor Plat must be approved prior to any land division that is subject to these regulations and prior to commencement of any new development or construction project. A Conveyance Plat may be approved for the reasons enumerated in Section 10.03.032(a), *Purpose*, but no vertical construction may occur until an associated Final Plat or Minor Plat is approved.

(2) Replat. A Replat in accordance with State Law and the provisions of Section 10.03.036, *Replats*, shall be required any time a platted, recorded lot is further divided or expanded, thereby changing the boundary and dimensions of the property. In the case of minor revisions to recorded plats or lots, a Minor Plat or Amending Plat may also be utilized if allowed by State Law and if in accordance with Section 10.03.035, *Minor Plats*, Section 10.03.036, *Replats*, and 10.03.037, *Amending Plats*, respectively.

(d) **Exemptions.** The following land divisions are exempt from the requirements of this Subdivision Ordinance that apply to plats:

(1) Use of existing cemeteries complying with all State and local laws and regulations; and

(2) A division of land created by order of a court of competent jurisdiction, provided however, that prior to construction of improvements, a plat meeting the requirements of this Ordinance shall be approved and recorded prior to the issuance of 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 or plat must be in conformance with all standards and requirements prescribed in the City's zoning ordinance and this division.

(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. The applicant may request approval from the Director of Development Services to submit a plat application simultaneously with the zoning change request, in which case the application for the zoning amendment shall be acted upon first.

ii. In the event that the requested zoning amendment is denied, the plat application shall also be denied.

iii. 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.

iv. 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.

(3) Site Plan Approval. Where Site Plan or Concept Plan approval is required by the Zoning Ordinance, a Conveyance Plat or Preliminary Plat shall be submitted prior to or concurrently with the Site Plan or Concept Plan application so the interrelated plans may be reviewed to determine if they will function together. A Final Plat may be submitted concurrently with the Site Plan application or at a later date.

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

(1) Preliminary and Final Plats. The platting process of land not previously platted typically involves two (2) approval stages: submission and approval of a Preliminary Plat (or Conveyance Plat under certain circumstances) and subsequent submission and approval of an associated Final Plat. However:

i. An applicant may proceed with the plat to be recorded 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. A Concept Plan for a multi-family, single-family attached or nonresidential development is submitted and approved in accordance with the Zoning Ordinance.

c. The lot in question is less than two acres in size and will be developed in one phase.

ii. An applicant may submit construction plans and a Final Plat (or Minor Plat) simultaneously in lieu of a Preliminary Plat if a Development Agreement and appropriate surety (see Section 10.03.044, *Development Agreements*) are submitted along with the application.

(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 Subdivision Ordinance and any other applicable ordinances of the City.

ii. The Director of Development Services shall direct other City staff to review all applications for conformance with this Subdivision Ordinance and with other applicable City regulations and supply to the applicant a list of revisions necessary for compliance with the Subdivision Ordinance, if warranted.

(3) Approval. Authority for the approval of plats is granted by the State to either the Planning & Zoning Commission or the Director of Development Services. See individual plat descriptions, below, for the appropriate approval authority.

(4) Signatures Required on Filed Plats. When any plat is prepared for filing with Denton or Collin County, each copy to be certified by the County must be signed by the Chairman of the Planning & Zoning Commission and a City Official of Celina, defined as being one of the following: the Mayor, the City Manager, or an Assistant City Manager. Both signatures shall be attested by the City Secretary.

(5) Director of Engineering Signature Required. When any plat is prepared for filing with Denton or Collin County, and the installation of public improvements is required prior to the recordation of the plat, the Director of Engineering shall also endorse the plat after all conditions of approval of the plat have been satisfied and all public improvements completed to the City's specifications. There shall be written evidence that the required public improvements have been installed in a manner satisfactory to the City as shown by a certificate signed by the Director of Engineering stating that the necessary dedication of public lands and installation of public improvements has been accomplished.

Sec. 10.03.032.....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 it in the near future. 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 establish a general layout of lots as a preliminary step to Final Platting. In this case, the Conveyance Plat shall establish and show necessary fire lanes and other easements when a portion of the Conveyance Plat tract is being Final Platted. For example, a Conveyance Plat lays out the tract into multiple lots and only one of those lots will be Final Platted. However, no vertical construction may occur on any portion of a Conveyance Plat that has not subsequently been Final Platted. This function of a Conveyance Plat eliminates the necessity of filing legal Separate Instruments with Denton or Collin County for off-site improvements necessary for the development of the lot being Final Platted (see Diagram 10.03.112, *Median and Cross Access*).

(3) To record the remainder of a tract that is larger than five (5) acres, and that is created by the Final Platting of a portion of the property, provided that the remainder is not intended for immediate development.

(4) To record the subdivision of property into parcels, five (5) acres or smaller in size, that are not intended for immediate development, provided all required public improvements exist to the City's current standards prior to approval and minimum frontage requirements are met. All public rights-of-way, fire lanes, and access easements must be dedicated and all abutting streets and utilities must be installed and accepted by the City. Installation of on-site improvements may be deferred if development of other tracts is not affected.

(b) **Review and Consideration**.

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

(2) Specific requirements for the plat exhibit may be found on the City of Celina Development Services webpage under *Plat Checklists*.

(3) A Conveyance Plat shall be accompanied by a Concept Plan (see Section 10.03.047) regardless if the development of the tract is to be postponed in order to ensure that accepted development practices will be applied to the parcel in the future and the Conveyance Plat will not create an undevelopable tract of land.

(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) 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 must be filed for building and development permits and for utility service.

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

(e) **Standards for Approval**.

(1) 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. All lots created by a Conveyance Plat shall provide points of access as required by the Zoning Ordinance and/or by this Ordinance.

(2) Reservation of Rights-of-Way. Conveyance plats must provide for the reservation of future rights-of-way of planned roadways, as shown on the Master Thoroughfare Plan. Right-of-way reservation acknowledges the future obligation to dedicate right-of-way for public thoroughfares and streets specified on the City's Thoroughfare Plan or approved Concept Plan. 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 may be adjusted upon Final Platting in order to meet the standards of the *Engineering Design Standards*.

(3) 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 the 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 and what is considered to be roughly proportional to the impact of the development (see Section 10.03.088, *Rough Proportionality*, for more information). The Director of Engineering or Fire Marshal may require a temporary paved turn-around if a street is stubbed pending future construction.

(f) **Approval of Conveyance Plats**. The Planning & Zoning Commission is authorized to approve, approve with conditions, or disapprove Conveyance Plats.

(g) **Effect of Approval**.

(1) The approval 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 Subdivision Ordinance upon future

development of the property including, but not limited to, all requirements for platting, required public improvements, utility extensions, street improvements or assessments, right-of-way and easement dedications, and all other requirements in this Subdivision Ordinance.

(2) Neither reservation nor dedication of right-of-way shall relieve the property owner 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. Notwithstanding the above, the Building Official may authorize temporary building permits, temporary occupancy permits, and temporary utility service prior to Final Plat approval and recordation, if deemed appropriate.

Sec. 10.03.033.....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 Subdivision Ordinance and the Zoning Ordinance regulations for each zoning district. A Preliminary Plat is not recorded in the County. If a development is to be constructed in phases, a Conveyance Plat may be substituted for a Preliminary Plat should the lots be Final Platted separately and off-site easements need to be filed for record.

(b) **Exceptions.**

(1) A Preliminary Plat is not required when a Minor Plat or Amending Plat is adequate.

(2) A Preliminary Plat is not required when the proposed development is a single phase and/or less than 300 lots, if the Concept Plan associated with a Development Agreement or Planned Development contains sufficient data as required by the Engineering Department, or at the discretion of the Director of Engineering.

(3) A Final Plat in accordance with Section 10.03.034, *Final Plats*, along with construction plans in accordance with Section 10.03.041, *Construction Plans*, may be submitted in lieu of a Preliminary Plat if a Development Agreement and appropriate surety are submitted along with the application.

(c) **Accompanying Applications.**

(1) An application for a Preliminary Plat shall be accompanied by a Preliminary Drainage Plan, a Preliminary Utility Plan, and other plans deemed necessary for thorough review by the Director of Development Services or the Director of Engineering. However, approval of each shall be separate and in accordance with this Section 10.03.033, *Preliminary Plats* and with Section 10.03.041, *Construction Plans*.

(2) The applicant shall furnish as part of the Preliminary Plat submittal a current title commitment issued by a title insurance company authorized to do business in Texas, a title opinion letter from an attorney licensed to practice in Texas, or some other acceptable proof of ownership, identifying all persons having an ownership interest in the property that is the subject of the Preliminary Plat.

(3) Specific requirements for the plat exhibit may be found on the City of Celina Development Services webpage under *Plat Checklists*.

(d) **Review by Director of Development Services.** The Director of Development Services shall:

(1) Initiate review of the plat and materials submitted (including the required Preliminary Drainage Plan and Preliminary Utility Plan).

(2) Request written comments from other City departments, such as Engineering, Fire, Parks & Recreation, or other departments, as deemed necessary, which will be submitted to the applicant for compliance and revisions.

(3) Provide and make available the plat exhibit and reports to the Commission for review.

(4) Upon determination that the application is ready to be acted upon, schedule the Preliminary Plat for consideration on the agenda of the next available meeting of the Planning & Zoning Commission.

(e) **Action by Planning & Zoning Commission.** The Commission shall:

(1) Review the Preliminary Plat application, the findings and recommendation of the Director of Development Services, and any other information available. From all such information, the Commission shall determine whether the Preliminary Plat conforms to the regulations of this Subdivision Ordinance.

(2) Act within thirty (30) calendar days following the official filing 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 to be approved.

(3) Take one of the following actions:

i. Approve the Preliminary Plat;

ii. Approve the Preliminary Plat with conditions, which shall mean that the Preliminary Plat shall be considered to have been approved once such conditions are fulfilled; or

iii. Deny the Preliminary Plat.

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

(1) The Preliminary Plat is consistent with all zoning requirements for the property, including any applicable Planned Development zoning standards, and with any approved Development Agreement, if applicable;

(2) The proposed provision and configuration of public improvements including, but not limited to, roads, water, wastewater, storm drainage, park facilities, open spaces, habitat restoration, easements and rights-of-way are adequate to serve the development, meet applicable standards of this Subdivision Ordinance, and conform to the City's adopted master plans for those facilities;

(3) The Preliminary Plat is in accordance with the City's interlocal agreement with Denton or Collin County if the proposed development is located in whole or in part in the ETJ of the City;

(4) The Preliminary Plat has been duly reviewed and accepted as meeting the requirements of the Subdivision Ordinance by City staff;

(5) The Preliminary Plat conforms to design requirements and construction standards as set forth in the *Engineering Design Standards*;

(6) The Preliminary Plat is consistent with the *Comprehensive Plan*, except where application of the Plan may conflict with State law (e.g., land use in the ETJ); and

(7) The proposed development represented on the Preliminary Plat does not endanger public health, safety or welfare.

(g) **Approval of Preliminary Plats**. The Planning & Zoning Commission is authorized to approve, approve with conditions, or disapprove Preliminary Plats.

(h) **Effect of Approval.** The approval of a Preliminary Plat shall allow the applicant to proceed with the next step in the development and platting process by submitting a Final Plat and Construction Plans, and later submit an application for a Building Permit. Approval of the Preliminary Plat shall be deemed general approval of the subdivision's layout only, and shall not constitute approval or acceptance of construction plans or the associated Final Plat.

(i) **Appeal of the Decision on a Preliminary Plat Application.**

(1) Initiation of an Appeal. The applicant may appeal the decision of the Commission by submitting a written notice of appeal to the Director of Development Services within fourteen (14) calendar days following the date of the Commission's decision. A letter stating the reasons for the appeal, citing

the specific applicable section(s) of the Subdivision Ordinance, shall be submitted by the applicant to the Director of Development Services.

(2) Council Decision. 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 published deadline of the City Secretary. 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.

(j) **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 for a portion or all of the land area shown on the Preliminary Plat. 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. When a project is phased, the Preliminary Plat may be extended for a period of one (1) year, during which time a subsequent Final Plat and construction plans must be approved. Preliminary Plats may be extended automatically for a period of one (1) so long as substantial activity on the property continues.

(3) Relationship to Construction Plans. A Preliminary Plat shall remain valid for the period of time in which approved construction plans are valid.

(4) Action on Final Plat. Should a Final Plat application be submitted within the two (2)-year period, but not be acted upon by the Commission within the two (2)-year period, the Preliminary Plat shall expire unless an extension is granted as provided below in Section 10.03.033(k), *Extension*, and in Section 10.03.026, *Amendments and Expiration of Current Projects*.

(5) Void If Not Extended. If the Preliminary Plat is not extended as provided above, it shall expire and shall become null and void after a period of two (2) years of the date of approval.

(k) **Extension.** A Preliminary Plat may be extended for a period not to exceed one (1) year beyond the Preliminary Plat's expiration date. A request for extension shall be submitted to the Development Services Department in writing within sixty (60) calendar days following the 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, or deny the extension request within thirty (30) calendar days following the official filing date of the request.

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) 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 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 considered 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 be appealed to the Commission. A written request for such appeal shall be received by Development Services Department within fourteen (14) calendar days following the denial. 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.

ii. *Appeal of the Commission's Decision.* The denial of an extension by the Commission may be appealed to the City Council. A written request for such appeal shall be received by the Director of Development Services within fourteen (14) calendar days following the denial. 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 published deadline of the City Secretary. 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) **Amendments to Preliminary Plat Following Approval.**

(1) Minor Amendments. Minor amendments to the design of the subdivision subject to an approved Preliminary Plat may be incorporated in an application for approval of the associated Final Plat without the necessity of submitting a new application for reconsideration of a Preliminary Plat. Minor amendments include, but are not limited to, minor adjustments in street or alley alignments, street lengths and paving details, 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.

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

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

Sec. 10.03.034.....FINAL PLATS.

(a) **Purpose.** The purpose of a Final Plat is to ensure that the proposed subdivision and development of the land is consistent with all standards of this Subdivision Ordinance pertaining to the adequacy of public facilities, that public improvements to serve the subdivision or development have been installed and accepted by the City or that provision for such installation has been made, that all other requirements and conditions have been satisfied or provided for to allow the Final Plat to be recorded. The Director of Engineering may allow the grading and flatwork on the subject property following the approval of a Final Plat by the Planning & Zoning Commission.

(b) **Exceptions.** A Final Plat is not required when a Minor Plat is sufficient (refer to Section 10.03.035, *Minor Plats*).

(c) **Ownership.**

(1) The applicant shall furnish to the City a current title document issued by a title insurance company authorized to do business in Texas, a title opinion letter from an attorney licensed to practice in Texas, or some other acceptable proof of ownership, identifying all persons having an ownership interest in the property subject to the Final Plat.

(2) The Final Plat 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 reimburse the City for all related legal costs for review. This reimbursement shall be paid in full prior to filing of the Final Plat.

(d) **Complete Applications for Final Plats in the Extraterritorial Jurisdiction (ETJ).** Where the land to be platted lies within the ETJ of the City, pursuant to the existing or amended interlocal agreement with Denton or Collin County under State law, a complete application shall be submitted to the City.

(e) **Accompanying Applications.** An application for a Final Plat may be accompanied by construction plans if also accompanied by a Development Agreement and appropriate surety in accordance with Section 10.03.044, *Development Agreements*. However, approval of each shall be separate and in accordance with this section for Final Plats and with Section 10.03.041, *Construction Plans*.

(f) **Prior Approved Conveyance Plat or Preliminary Plat.** The Final Plat and all accompanying data shall conform to the associated Conveyance Plat or Preliminary Plat as approved by the Commission, or as the initial plats may have been amended subsequently incorporating all conditions imposed or required by the Commission.

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

(1) Initiate review of the plat and materials submitted.

(2) Determine that the Final Plat substantially conforms to the associated Conveyance Plat or Preliminary Plat.

(3) Determine that the Final Plat conforms to the Zoning Ordinance and other applicable regulations.

(4) Request written comments from other City departments, such as Engineering, Fire, and Parks & Recreation, as deemed necessary.

(5) Make available plats and reports to the Commission for review.

(6) Upon determination that the application is ready to be acted upon, schedule the Final Plat for consideration on the agenda of the next available meeting of the Commission.

(7) A Final Plat may not be used to nullify any of the conditions, covenants and restrictions (CCRs) of any governing association, such as a HOA.

(h) **Action by Planning & Zoning Commission.** The Commission shall:

(1) Review the Final Plat application, the findings and recommendation of the Director of Development Services, and any other information provided. From this information, the Commission shall determine whether the Final Plat conforms to the regulations of this Subdivision Ordinance.

(2) Act within thirty (30) calendar days following the official acceptance date of Final Plat. If no decision is rendered by the Commission within the thirty (30) day period, the Final Plat, as submitted, shall be deemed to be approved.

(3) Take one of the following actions:

i. Approve the Final Plat;

ii. Approve the Final Plat with conditions, which shall mean that the Final Plat shall be considered to have been approved once such conditions are fulfilled; or

iii. Deny the Final Plat.

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

(1) Prior Approved Conveyance or Preliminary Plat.

i. The Final Plat conforms to the associated, approved Conveyance Plat or Preliminary Plat except for minor amendments that are authorized under Section 107.04.03(k), *Amendments to Preliminary Plats Following Approval*, and that may be approved without the necessity of revising the approved associated plat;

ii. All conditions imposed at the time of approval of the Conveyance Plat or Preliminary Plat, as applicable, have been satisfied;

iii. The construction plans conform to the requirements of Section 10.03.041, *Construction Plans*, and have been approved by the Director of Engineering;

iv. Where public improvements have been installed, the improvements conform to the approved construction plans and have been approved for acceptance by the Director of Engineering;

v. Where the Director of Engineering has authorized public improvements to be deferred, a Development Agreement has been executed and submitted by the property owner in conformity with Section 10.03.044, *Development Agreements*;

vi. The final layout of the subdivision or development meets all standards for adequacy of public facilities contained in this Ordinance;

vii. The Final Plat meets all applicable County standards to be applied under an interlocal agreement between the City and Denton or Collin 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;

viii. The plat conforms to design requirements and construction standards as set forth in the *Engineering Design Standards*; and

ix. The plat includes all information in the Development Services' subdivision application checklists.

(2) Final Plat Approval with No Prior Approved Conveyance Plat or Preliminary Plat. A Final Plat may be approved without prior approval of a Conveyance Plat or a Preliminary Plat when the following conditions are met:

i. The construction plans conform to the requirements of Section 10.03.041, *Construction Plans*, and have been approved by the Director of Engineering;

ii. A Development Agreement or surety for installation of public improvements has been prepared and executed by the property owner in conformance with Section 10.03.044, *Development Agreements*;

iii. The final layout of the subdivision or development meets all standards for adequacy of public facilities contained in this Ordinance;

iv. The Final Plat meets all applicable County standards to be applied under an interlocal agreement between the City and Denton or Collin County under State law, where the proposed development is located in whole or in part in the ETJ of the City and in the applicable County; and

v. The Final Plat conforms to the Development Services application checklist.

(j) **Approval of Final Plats**. The Planning & Zoning Commission is authorized to approve, approve with conditions, or disapprove Final Plats. Upon approval, a certificate stating that the Final Plat has been reviewed and approved by the Planning & Zoning Commission shall be provided to the applicant, as required by State law.

(k) **Procedures for Recordation of Final Plat Documents upon Approval.** The applicant shall supply to

Development Services Department the required number of signed and executed copies of the Final Plat documents (whether Mylar or paper originals, as required by both the City and Denton or Collin County) that will be needed to file the Plat, upon approval, with Denton or Collin County. No copies of the exhibits 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 Denton or Collin County.

iii. *Recording Upon Acceptance of Public Improvements.* The Final Plat shall be recorded after:

a. The Final Plat is approved by the City;

b. All required public improvements have been completed and accepted by the City (or a Development Agreement has been executed and appropriate surety provided in accordance with Section 10.03.044, *Development Agreements*;

c. All Denton or Collin County filing requirements are met.

(2) Submittal of Final Plat Documents for Filing When Improvements Installed. When all required public improvements have been installed prior to recording of the Final Plat, the applicant shall meet all requirements in accordance with Section 10.03.045, *Inspection, Maintenance and Acceptance of Public Improvements*.

(3) Submittal of Final Plat Documents for Filing When Improvements Have Not Been Installed. When some of or all required public improvements are not yet completed in connection with an approved Final Plat, the applicant shall submit the Final Plat documents for filing as approved by the Commission, revised to reflect any conditions imposed by the Commission as part of approval.

(4) Update of Proof of Ownership. If there has been any change in ownership since the time of the Proof of Ownership provided under Section 10.03.044(c), *Ownership*, the applicant shall submit a new consent agreement executed by each owner consenting to the platting of the property and the dedications and covenants contained in the plat. The title commitment or title opinion letter and consent agreement shall be subject to review and approval by the City Attorney, and the applicant 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.

(l) **Effect of Approval.** The approval and filing of a Final Plat:

(1) Supersedes any prior approved Conveyance Plat or 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 Development Agreement (refer to Section 10.03.044, *Development Agreements*), if applicable.

(3) Authorizes the applicant to seek Construction Release (refer to Section 10.03.041(i), *Construction Release*) and/or issuance of a Building Permit for vertical construction.

(m) **Appeal of Decision of Final Plat Application.** Appeal of a decision on a Final Plat application shall be brought to the City Council. Council's decision shall be final.

(n) **Revisions Following Recording/Recordation.** Revisions may only be processed and approved as a Replat or Amending Plat, as applicable.

Sec. 10.03.035.....MINOR PLATS.

(a) **Purpose.** The purpose of a Minor Plat is to simplify divisions of land under certain circumstances as outlined in State law.

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

(1) The proposed division results in four (4) or fewer lots;

(2) All lots in the proposed subdivision front onto an existing public street and the construction or extension of a street or alley is not required to meet the requirements of this Subdivision Ordinance; and

(3) Except for right-of-way widening and easements, the plat does not require the extension of any municipal facilities to serve any lot within the subdivision.

(c) **Application Requirements.** The requirements for the submittal of a Minor Plat shall be the same as the requirements for a Final Plat, as outlined in Section 10.03.034, *Final Plats*.

(d) **Review by Director of Development Services.** The Director of Development Services shall:

(1) Initiate review of the plat and materials submitted.

(2) Request written comments from other City departments, such as Engineering, Public Works, Fire Department, and Parks & Recreation, if deemed necessary.

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

(1) Determine whether the Minor Plat meets the regulations of this Subdivision Ordinance.

(2) Act within thirty (30) calendar days following the official filing date of a completed application for a Minor Plat. If no decision is rendered by the Director of Development Services, or if the Director has not deferred the application to the Planning & Zoning Commission for decision, within the thirty (30) day period, the Minor Plat, as submitted, shall be deemed to be approved.

(3) The Director of Development Services is authorized to make one of the following actions:

i. Approve the Minor Plat;

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 prior to expiration of the required 30-day approval period.

(f) **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:

(1) The Minor Plat is consistent with all zoning requirements for the property (if applicable), any approved Development Agreement (if applicable), and all other requirements of this Subdivision Ordinance that apply to the plat;

(2) All lots to be created by the plat already are adequately served by an improved public street access and by all required City utilities and services and by alleys, if applicable;

(3) The ownership, maintenance and allowed uses of all designated easements have been stated on the Minor Plat; and

(4) Except for right-of-way widening and easements, the plat does not require the extension of any municipal facilities to serve any lot within the subdivision.

(g) **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 Planning & Zoning Commission. Upon approval, a certificate stating that the Minor Plat has been reviewed and approved by the either the Director of Development Services or the Planning & Zoning Commission shall be provided to the applicant, as required by State law.

(h) **Procedures for Recordation Following Approval.** The procedures for recordation of a Minor Plat shall be

the same as the procedures for recordation of a Final Plat, as outlined in Section 10.03.034(j), *Procedures for Recordation of Final Plat Documents upon Approval*.

(i) **Appeal of Decision on Minor Plat Application.**

(1) Commission Decision. If the Director of Development Services defers the Minor Plat application to the Planning & Zoning Commission, the Commission shall consider the application at a regular meeting no later than thirty (30) calendar days after the date on which the Director of Development Services deferred the application to the Commission. The Commission shall, upon simple majority vote, take one of the following actions:

i. Approve the Minor Plat;

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. Deny the Minor Plat.

(2) Appeal. The decision of the Commission may be appealed to the City Council in accordance with the procedures for an appeal on a Final Plat decision. 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 published deadline of the City Secretary. 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.

(j) **Revisions Following Approval.** Revisions submitted by the applicant following initial approval may only be processed and approved as a Replat or Amending Plat, as applicable.

Sec. 10.03.036.....REPLATS.

(a) **Applicability and Terminology.**

(1) The procedures outlined in this section and in subsequent Sections 10.03.037, *Residential Replats*, and 10.03.038, *Amending Plats*, shall apply only if a property owner seeks to change any portion of a plat that has been filed for record with Denton or Collin 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 10.03.039, *Plat Vacation*) and approving a new application.

(b) **City Action Required.** Unless otherwise specified, any change to a recorded plat shall be subject to approval by the Planning & Zoning Commission.

(c) **Construction Management.** If the subdivision, as replatted, requires construction of additional public improvements, the provisions of the Development Agreement between the City and the developer shall apply (see Section 10.03.044, *Development Agreements*). If 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.

(d) **Application and Approval Procedures.** Unless otherwise specified, application and all related procedures and approvals, including recordation, for a Replat shall be the same as specified for a Final Plat.

(e) **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.

(f) **Replats Requiring a Variance or Exception**. Replats requiring a Variance or Exception must be considered as a public hearing item. In these cases, notification in the official newspaper of the City a minimum of fifteen (15) days prior to the public hearing is required. In addition, written notices of the proposed residential replat requiring a Variance or Exception shall be mailed to all property owners located within

200 feet of the subject property a minimum of fifteen (15) days prior to the public hearing. 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) **Special Requirements for Residential Replats.** State law offers an option for notification for residential replats. Cities may opt to notify residents in one of the following manners:

(1) Written notices of the proposed residential replat shall be mailed to all property owners located within 200 feet of the subject property a minimum of fifteen (15) days prior to the public hearing. 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; OR

(2) As a courtesy to the neighboring property owners, written notices of the approved residential replat shall be mailed to all property owners located within 200 feet of the subject property a minimum of fifteen (15) days following the decision by the Planning & Zoning Commission. In this case, no public hearing is required and the plat may be considered on the Consent Agenda.

(h) **Special 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 Variance or Exception.

(i) **Approval of Replats**. The Planning & Zoning Commission is authorized to approve, approve with conditions, or disapprove Replats. Upon approval, a certificate stating that the Replat has been reviewed and approved by the Planning & Zoning Commission shall be provided to the applicant, as required by State law.

(j) **Effect of Approval.** Upon approval and recording of the Replat, it is controlling over the previously recorded plat for the portion replatted.

Sec. 10.03.037.....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 within 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, hearing or approval of adjacent lot owners.

(e) **Review by Director of Development Services.** The Director of Development Services shall:
   (1) Initiate review of the plat and materials submitted.
   (2) Request written comments from other City departments, such as Engineering, Public Works, Fire Department, and Parks & Recreation, if deemed necessary.

(f) **Action by Director of Development Services.** The Director of Development Services shall:
   (1) Determine whether the Amending Plat meets the regulations of this Subdivision Ordinance.
   (2)
   (3) The Director of Development Services is authorized to take one of the following actions:
      i. Approve the Amending Plat;
      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 prior to expiration of the required 30-day approval period.

(g) **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.

(h) **Procedures for Recordation Following Approval.** The procedures for recordation of an Amending Plat shall be the same as the procedures for recordation of a Final Plat.

(i) **Effect of Approval.** Upon approval, an Amending Plat shall be recorded and is controlling over the previously recorded plat without vacation of that plat. Upon approval, a certificate stating that the Amending Plat has been reviewed and approved by either the Director of Development Services or the Planning & Zoning Commission shall be provided to the applicant, as required by State law.

(j) **Appeal of Decision on Amending Plat Application.**

(1) Commission Decision. If the Director of Development Services defers the Amending Plat application to the Planning & Zoning Commission, the Commission shall consider the application at a regular meeting no later than thirty (30) calendar days after the date on which the Director of Development Services deferred the application to the Commission. The Commission shall, upon simple majority vote, take one of the following actions:

i. Approve the Amending Plat;

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. Deny the Amending Plat.

(2) Appeal. The decision of the Commission may be appealed to the City Council in accordance with the procedures for an appeal on a Final Plat decision. The City Council decision is final.

Sec. 10.03.038 .....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 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.

(3) City Initiation. If the Planning & Zoning Commission, on its own motion, determines that the plat should be vacated in the interest of and to protect the public's health, safety and welfare; and:

i. No lots within the approved plat have been sold within five (5) years following the date that the Final Plat was approved by the City; or

ii. The property owner has breached a Development Agreement, and the City does not appropriate funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by the property owner or its successor; or

iii. The plat has been recorded in Denton or Collin County for more than five (5) years, and the Planning & Zoning Commission determines that the further sale of lots within the subdivision or addition presents a threat to public health, safety and welfare, except that the vacation shall apply only to lots owned by the property owner or its successors.

(c) **Notice**. Published notice of the public hearing on the Plat Vacation application shall be given in accordance with State law. The hearing shall be conducted by the Planning & Zoning Commission.

(d) **Review by Director of Development Services**. The Director of Development Services shall:

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

(2) Request written comments from other City departments, such as Engineering, Public Works, Fire Department, and Parks & Recreation, if deemed necessary.

(e) **Action by the Planning & Zoning Commission**. The Planning & Zoning Commission shall:

(1) Review the Plat Vacation application, the findings and recommendation of the Director of Development Services, and any other information provided. From all such information, the Planning & Zoning Commission shall conduct a public hearing and make a finding as to whether or not the plat should be vacated. The Planning & Zoning Commission decision on a Plat Vacation shall be final.

(2) Take one of the following actions:

i. Approve the Plat Vacation;

ii. Approve the Plat Vacation with conditions, which shall mean that the Plat Vacation shall be considered to have been approved once such conditions are fulfilled; or
iii. Deny the Plat Vacation.

(f) **Approval of Plat Vacations**. The Planning & Zoning Commission is authorized to approve, approve with conditions, or disapprove Plat Vacations. Upon approval, a certificate stating that the plat vacation has been reviewed and approved by the Planning & Zoning Commission shall be provided to the applicant, as required by State law.

(g) **Procedures for Recordation Following Approval.** If the Planning & Zoning Commission adopts a resolution vacating a plat in whole, it shall record a copy of the resolution in the Denton or Collin County Clerk's Office. If the Planning & Zoning Commission adopts a resolution vacating a plat in part, it shall cause a revised Final Plat to be recorded along with the resolution which shows that portion of the original plat that has been vacated and that portion that has not been vacated.

(h) **Effect of Approval.**

(1) On the execution and recording of the vacating instrument, the previously filed plat shall have no effect. Regardless of the Planning & Zoning Commission'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 except as may have previously been agreed to by the Planning & Zoning Commission.

(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 Planning & Zoning Commission, 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 Planning & Zoning Commission shall consider plat vacation upon satisfactory conveyance of easements and/or rights-of-way in a separate legal document using forms provided by the City Attorney's office.

(4) Once a plat is duly vacated, according to the regulations above, the property lines of the adjacent properties shall extend to the centerline of the plat, unless specific arrangements between or among the adjacent property owners has been agreed upon.

Sec. 10.03.039 .....RIGHT-OF-WAY VACATION.

(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 Transportation Code § 311.007, the City may choose to vacate, abandon, or close a street or alley on its own accord or upon receipt of a petition of property owners adjacent to, abutting or directly served by the right-of-way sought to be closed and/or abandoned.

(b) **Notice.** Prior to the vacation of a public street or alley right-of-way, a public hearing shall be held by the City Council. Written notices of the proposed right-of-way vacation shall be mailed to all property owners located within 200 feet of the subject property a minimum of ten (10) days prior to the public hearing. 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.

(c) **Review by Director of Development Services**. The Director of Development Services shall:

(1) Initiate review of the right-of-way vacation application and materials submitted.

(2) Request written comments from other City departments, such as Engineering, Public Works, Fire Department, and Parks & Recreation, if deemed necessary.

(3) The Director shall consider issues of utility placement, traffic access, and the number of property

owners in favor or against the request.

(d) **Retention of Easements.** The applicant for a right-of-way vacation or alley abandonment shall verify with the appropriate entity that the right-of-way to be vacated is free of all public and private utilities including, but not limited to water, sanitary sewer, storm sewer, electricity, gas, and franchise utilities. 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 Engineering, will be retained. A drainage easement may also be retained, as determined by the Director of Engineering.

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

(f) **Effect of Approval.**

(1) 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.

(2) 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.

(3) Zoning of the adjacent property shall also automatically extend to the centerline of the right-of-way.

ARTICLE 10.03.040 .....CONSTRUCTION PLANS & PROCEDURES

Sec. 10.03.041.....CONSTRUCTION PLANS.

(a) **Purpose.** This construction plan section which includes design criteria and standards for the City of Celina is intended primarily for use by the developer's engineer. These criteria and standards should enable the engineer to design the required 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) **Submitting Plans.** Plans shall be submitted in accordance with the policies of the Engineering Department. A checklist of necessary items and exhibits to be included in the construction plans is available online on the Development Services webpage. Incomplete plans will not be accepted and such plans shall be returned to the applicant.

(c) **Responsible Official and Decision.** The Director of Engineering shall be the responsible official for review and approval of construction plans. The Director of Engineering shall also be the initial decision-maker for construction plans. In this capacity, therefore, the Director of Engineering shall approve, approve subject to modifications, or deny the construction plans.

(d) **Approval Required & Timing of Construction.** Construction plans must be approved in accordance with this section prior to the approval and/or recordation of the Final Plat, unless otherwise stated within the Subdivision Ordinance or a Development Agreement.

(e) **Criteria for Approval.** The Director of Engineering shall approve construction plans if:

(1) Compliance Required. Prior to the Commission's approval of the Final Plat, the subdivider shall comply or provide for compliance with the policies and procedures set forth in these regulations and the *Engineering Design Standards* for construction of street improvements and utilities. No building, sewer, electrical or plumbing permit shall be issued by the City as to any property in the subdivision until:

i. The plans are consistent with the approved Preliminary Plat or the proposed Final Plat;

ii. The plans conform to the subject property's zoning and planned development standards, if applicable, and to the standards for adequate public facilities, contained in this Subdivision Ordinance, and all other applicable Code of Ordinances.

iii. The working drawings, specifications and agreements required herein have been reviewed and approved by the affected City departments and, as required, by the City Attorney.

(2) Engineering Design Standards. The *Engineering Design Standards* are hereby adopted by reference 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 *Engineering Design Standards* shall mean and include those standards and specifications, together with all exhibits, charts, drawings and diagrams appertaining thereto, which have been approved by the Director of Engineering, adopted by the City Council, and placed on file in the office of the City Secretary and displayed on the Engineering webpage.

(3) Conformance to NCTCOG Standards. When the *Engineering Design Standards* 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 shall apply.

(4) Installation and Financing. The subdivider 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 subdivider 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) **Effect.** Approval of construction plans authorizes the applicant to schedule a Pre-Construction Meeting in accordance with Section 10.03.042, *Pre-Construction Meeting*, and apply for Construction Release in accordance with Section 10.03.041(i), *Construction Release*.

(g) **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 progress toward completion of the project continues to be demonstrated, unless the plans are extended in accordance with Section 10.03.041(h), *Extension of Expiration Date*.

(h) **Extension of Expiration Date.** Construction plans may be extended for a period of six (6) additional months beyond the expiration date. A request must be made in writing to the Director of Engineering for such extension prior to expiration of the plans, and shall include reasons why the plans should be extended.

(1) Decision by the Director of Engineering.

i. The Director of Engineering 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 Engineering 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 Engineering shall extend construction plans approval for a period of six (6) additional months beyond the plans' expiration date if all of the following conditions are met:

i. The Final Plat has been submitted, approved or filed of record for any portion of the property shown on the construction plans;

ii. The construction plans comply with new ordinances that impact the health, safety and general welfare of the community;

iii. Demonstrable forward progress has been made to proceed with construction or required improvements; and

iv. A Development Agreement (Section 10.03.044, *Development Agreements*), if applicable, is still valid and in full effect.

(3) Conditions. In granting an extension, the Director of Engineering 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 applicant waiving any vested rights.

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

(i) **Construction Release.** Upon approval of the Preliminary Plat and the construction plans, receipt of all documentation (e.g., insurance information, bonds, etc.), receipt of required fees, and park land dedication, if applicable, and after the Pre-Construction Meeting with City staff, the Director of

Engineering 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.

Sec. 10.03.042.....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 will also be furnished to the applicant prior to the meeting.

(b) **Notice.** The applicant shall receive written notice from the Director of Engineering that construction plans have been approved and that the project is eligible for a Pre-Construction Meeting.

(c) **Required Attendance.** The applicant, along with key construction managers, must attend a Pre-Construction Meeting with the Director of Engineering or his designee and other appropriate City officials following the approval of construction plans, the approval of the Final Plat, 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 Engineering shall authorize Construction Release, allowing the applicant to commence with construction of the project. The applicant may also be issued a Building Permit, if appropriate, provided that a Building Permit application has been submitted and approved and all other Building Permit requirements have also been met.

(e) **Fees Due.** Fees for the Development application and any associated permits are due prior to the Pre-Construction Meeting. These include, but are not limited to, Roadway and Utility Impact Fees and Park Land Dedication Fees-in-lieu of Land.

Sec. 10.03.043.....TIMING OF PUBLIC IMPROVEMENTS.

(a) **Completion Prior to Final Plat Recordation.** Completion of all required public improvements, in accordance with the approved Final Plat and the approved construction plans, shall occur prior to Final Plat recordation with Denton or Collin County. Final Plat exhibits will not be accepted for filing with the County prior to completion of such improvements except as provided below.

(b) **Completion after Final Plat Recordation.** The Director of Engineering, upon written request by the applicant, may allow construction of public improvements after Final Plat recordation. Such postponement shall be conditioned on execution of a Development Agreement and provision of security. It shall be at the Director of Engineering's discretion to determine whether postponing construction of public improvements until after Final Plat recordation is appropriate, and therefore, whether financial guarantee is acceptable through a Development Agreement.

(c) **Deferral of Obligation.** The Director of Engineering may defer the developer's obligation to dedicate rights-of-way or easements for, or to construct, public improvements to serve a new development upon execution of a Development Agreement and upon provision of adequate security.

(d) **Phased Development.** If the development is being platted and constructed in phases, improvements shall be completed as platted areas are approved and phases are constructed. Also refer to Section 10.03.033(k), *Expiration*, for details regarding phased development and Preliminary Plat validity.

(e) **Easements for Utility Providers.** The applicant is responsible for contacting all utility providers prior to

beginning construction, and for securing all necessary easements for same prior to Final Plat approval and recordation. The applicant's engineer shall provide the Director of Engineering with written certification that all necessary easements are secured for the various utility providers, and such easements shall be shown on the Final Plat with the recording information for each (if previously platted) or established through the recordation of the Final Plat.

(f) **Off-Site Easements.** All necessary off-site easements required for installation of required off-site public improvements to serve the development shall be acquired by the applicant prior to the Pre-Construction Meeting, or prior to approval and recordation of the Final Plat, whichever occurs first. Off-site easements shall be conveyed and recorded in Denton or Collin County by filing the off-site easement in a Conveyance Plat prior to filing the Final Plat. At the discretion of the Director of Engineering, a Separate Instrument may be used for the purposes of recording off-site easements. If the property on which the off-site easement is required has been platted prior to the granting of the easement, a replat is required to dedicate the easement.

(g) **Oversized Facilities.** When the City sees fit to request that the developer upsize any required infrastructure for the use of future development within the City, the difference in cost of the required infrastructure for the development and the cost of upsizing shall be borne by the City. (See Section 10.03.044(b)(2), *Oversizing of Infrastructure*, below).

Sec. 10.03.044.....DEVELOPMENT AGREEMENTS.

(a) **Purpose**. A subdivider shall be required to enter into a Development Agreement with the City, which shall govern the subdivision if there are pro rata payments or other financial agreements, subject to the TEXAS LOCAL GOVERNMENT CODE, SUBCHAPTER C, *DEVELOPER PARTICIPATION IN CONTRACT FOR PUBLIC IMPROVEMENTS*. City participation in cost, escrow deposits, or other future considerations, will be not issued prior to filing the Development Agreement in the Denton or Collin County records.

(b) **Applicability**.

(1) Improvements Delayed. When any of the required public improvements will be postponed and constructed after Final Plat recordation, the Final Plat shall not be accepted for filing for recordation with Denton or Collin County unless and until the applicant enters into a Development Agreement to ensure the completion of all required public improvements.

(2) Oversizing of Infrastructure. The City requires a Development Agreement pertaining to any public improvement for which the developer may request reimbursement from the City for oversize costs as for water and sewer improvements or all other required improvements not necessitated by the project itself. The City Council may authorize the approval of such agreement as meeting the City's future requirements, and the City will not withhold approval as a means of avoiding compensation due under the terms of this code.

(c) **Authority of the City to Complete Work**. This agreement shall be based upon the requirements of this chapter, and shall provide the City with specific authority to complete the improvements required in the agreement in the event of default by the subdivider, and to recover the full legal costs of such measures. The City may subordinate its Development Agreement to the prime lender if provided for in said agreement.

(d) **Joint Obligations**. The Development Agreement shall be a legally binding agreement between the City and the subdivider specifying the individual and joint responsibilities of both the City and the subdivider. Unusual circumstances relating to the subdivision shall be considered in the Development Agreement such that the purpose of this chapter is best served for each particular subdivision. The subdivider shall

include in such an agreement a hold harmless and indemnity clause agreeing to hold the City harmless against any claim arising out of the subdivision of the property or any actions taken therein.

(e) **Security for Completion of Improvements.**

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

(2) Estimated Cost and Security Approval.

i. Security shall be issued in the amount of 110% of the cost to construct, complete, and maintain all required public improvements to the City's standards as estimated by the applicant's professional engineer, and as approved by the Director of Engineering.

ii. Security shall be subject to the review and approval of the City Attorney. The applicant shall reimburse the City for all related legal costs for the City's legal review prior to filing the Final Plat.

iii. Upon the dedication of and acceptance by the City of all required public improvements, the City shall authorize a reduction in the cash security to ten percent (10%) of the original amount if the property owner is not in breach of the Development Agreement. The remaining cash security shall ensure that the owner will warrant that the required public improvements are free from defect for a period of two (2) years following acceptance by the City.

(3) Letter of Credit. In certain circumstances and at the discretion of the Director of Engineering, an applicant may submit a letter of credit in lieu of cash security. In this case, the letter of credit shall:

i. Be irrevocable.

ii. Be in a form approved by the City Attorney.

iii. Be for a term sufficient to cover the completion, maintenance and warranty periods of the improvements covered by the letter of credit, but in no event less than two (2) years.

iv. As portions of the public improvements are completed in accordance with the *Engineering Design Standards* and the approved engineering plans, the applicant may request that the Director of Engineering reduce the amount of the original letter of credit. If the Director of Engineering is satisfied that such portion of the improvements has been completed in accordance with City standards, the Director of Engineering may (but is not required to) cause the amount of the letter of credit to be reduced by such amount that the Director of Engineering deems appropriate, so that the remaining amount of the letter of credit adequately ensures the completion of the remaining public improvements.

(4) 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 in a form and shall contain such terms as are consistent with the City's interlocal agreements with Denton or Collin County under TEXAS LOCAL GOVERNMENT CODE, CHAPTER 242. In cases where the requirements governing the form and terms of the security are defined in such an agreement, they will supersede any conflicting provisions within this Subdivision Ordinance.

(f) **Escrow Policies and Procedures.**

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

(2) Escrow Deposit with the City. When the Director of Engineering requires or agrees to accept escrow deposits, the developer shall deposit in escrow with the City an amount equal to 110% of the total costs including, but not limited to, the design, construction, any required studies performed by a third party, permitting, acceptance and inflation costs related to the improvements. The Director of Engineering shall review and approve the amount, which shall be approved and paid to the City prior to recordation of the Final Plat.

(3) City Usage of Escrowed Funds. The City may also use the escrowed funds in participation with another entity (such as TxDOT, Denton or Collin County, etc.) to jointly construct the public improvements.

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

(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, the remaining unused escrowed funds, upon written request, shall 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, the City shall retain all of the interest accrued by the funds, if any.

(7) Escrow Fee Agreement. The Director of Engineering, at his discretion, may require an escrow fee agreement be executed.

(g) **Authority of City Council**. The City Council has the sole authority to approve Development Agreements.

(h) **Agreement to Run with the Land.** The Development Agreement shall provide that the covenants and other terms of agreement contained therein shall run with the land and shall bind all successors, heirs and assignees of the current applicant. All existing owners shall be required to execute the agreement or provide written consent to the covenants and other terms contained in the agreement.

(i) **Termination of Agreement**. The subdivider shall have a continuing responsibility under the Development Agreement after the filing of any Final Plat with Denton or Collin County until all facilities and improvements required under the Development Agreement have been completed, inspected and accepted by the City. When the construction of required improvements has proceeded to the point that certain parts of the subdivision are adequately served, the Director of Engineering 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 Development Agreement shall remain in force for all portions of the subdivision for which a release has not been executed.

(j) **Development Agreement Fee**. The City shall impose a fee for processing Development Agreements. The amount of the fee shall be as specified in the City's Fee Schedule that may be amended from time to time by ordinance. The direct cost of the City Attorney review of the Development Agreement shall be passed through to the applicant.

Sec. 10.03.045.....CITY PARTICIPATION

(a) The City may participate with the developer on major items of construction, such as lift stations, bridges or streets adjacent to the subdivision which benefit existing or future development in addition to that being subdivided. The amount of financial responsibility of each party and the terms of discharging such responsibility may be provided for in a facilities agreement.

(b) The construction of certain facilities required by the provisions of this article may not be possible or practical at the time the developer prepares his plans for public improvements. Such deletion or delay of improvements may be specified in the facilities agreement, together with provisions for escrow deposits or future payment by the City and/or developer. (2004 Code, sec. 159.23)

Sec. 10.03.046.....INSPECTION, MAINTENANCE & ACCEPTANCE OF PUBLIC IMPROVEMENTS.

(a) **Inspections.**

(1) The Director of Engineering shall inspect the construction of improvements while in progress, as well as upon completion. The applicant, or his contractor, shall maintain contact with the Director of Engineering 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 applicant's engineer, and shall be subject to approval by the Director of Engineering.

(3) Any changes in design required during construction should be made by the engineer whose signature and seal are shown on the plans. Another engineer may make revisions to the original engineering plans if so authorized by the owner of the plans and if those revisions are noted on the plans or documents. All revisions must be approved by the Director of Engineering.

(4) If the Director of Engineering finds, upon inspection, that any of the required public improvements have not been constructed properly and in accordance with the approved construction plans, the applicant shall be responsible for completing and/or correcting the public improvements to bring such into compliance.

(b) **Maintenance during Construction.** The applicant shall maintain all required public improvements during construction of the development phases or until the City approves the improvements and accepts same.

(c) **As-built Plans and Submission of Record Drawings for Filing.**

(1) After construction is completed, the developer shall provide the commission a set of as-built plans of all streets, alleys, sidewalks, drainage, underground utilities, signs, signals, street lighting and any other pertinent physical improvement of the subdivision. (2004 Code, sec. 159.67)

(2) The City shall accept required public improvements when the applicant's engineer has certified to the Director of Engineering, through submission of detailed “record” or “as built” drawings of the project and filed copies of any off-site easements, unless otherwise noted within the Subdivision Ordinance, that the public improvements have been built in accordance with the approved construction plans. Unless otherwise provided in a Development Agreement, the City will not submit the approved Final Plat for recordation in Denton or Collin County until all required improvements have been accepted by the Director of Engineering.

(d) **Revisions Documented on 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 date. Detailed requirements for such drawings and stamps are available on the Celina Engineering website.

(e) **Acceptance or Rejection of Improvements by Director of Engineering.**

(1) Responsible Official. Using the *Final Acceptance Checklist* (online on the Development Services webpage), the Director of Engineering shall be responsible for inspecting all required public improvements shown in the construction plans, and for accepting completed subdivision improvements intended for dedication to the City.

(2) Final Inspection. After completion of all improvements, franchise utilities, grading, and erosion

control, the Director of Engineering 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 Subdivision Ordinance and with the City's *Engineering Design Standards*, then the Director of Engineering shall issue a Letter of Final Acceptance to the applicant, thereby notifying the applicant of the City's acceptance.

(4) Effect of Acceptance. Acceptance of the improvements shall mean that the applicant 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 Engineering shall reject the complete set until the failure is remedied.

(f) **Disclaimer.** Approval of a Preliminary Plat or Final Plat by the Commission, or construction plans by the Director of Engineering, 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 Development Agreement are located within the City's ETJ and are to be dedicated to Denton or Collin County, the Director of Engineering 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 applicant shall furnish to the Director of Engineering 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 ten percent (10%) of the value of the work constructed. The applicant 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).

Sec. 10.03.047.....BUILDING PERMITS and CERTIFICATES OF OCCUPANCY.

(a) No building permit shall be issued for a lot or building site unless the associated Final Plat has been approved by the City of Celina and all public improvements as required for the Final Plat approval have been completed, except as permitted below:

(1) Building permits may be issued for nonresidential and multiple-family development provided that a Final Plat is approved by the Planning & Zoning Commission and construction plans have been released by the Director of Engineering. Building construction will not be allowed to surpass the construction of fire protection improvements.

(2) The Director of Development Services may authorize residential building permits for a portion of a subdivision, provided that a Final Plat has been approved by the Planning & Zoning Commission 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. Notwithstanding, no lot may be sold or title conveyed until a Final Plat approved by the Planning & Zoning Commission has been recorded.

(3) No certificate of occupancy shall be issued for a building permit or the use of a property unless all subdivision improvements have been completed and the Final Plat approved by the Planning & Zoning Commission has been recorded in the County. Notwithstanding the above, the Director of Development Services may authorize the temporary occupancy of a structure provided that an agreement providing cash escrow, a letter of credit, or other sufficient surety is approved by the

City for the completion of all remaining public improvements. The certificate of occupancy may be revoked if the Final Plat approval and filing process is not completed.

(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. 10.03.048 - 10.03.059.....Reserved for future use.

ARTICLE 10.03.060 ..... SPECIAL EXTRATERRITORIAL JURISDICTION POLICIES & REGULATIONS

Sec. 10.03.061.....GENERAL POLICIES IN THE EXTRATERRITORIAL JURISDICTION (ETJ).

(a) **Application of Requirements.** Unless otherwise stated within this Subdivision Ordinance, 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 Celina 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 the City's standards and all other applicable City master plans (e.g., *Water Reuse Master Plan*, the *Comprehensive Plan*, etc.).

Sec. 10.03.062.....DENTON & COLLIN COUNTY REGULATIONS.

(a) The City has executed interlocal cooperation agreements, as authorized under CHAPTER 242 of the TEXAS LOCAL GOVERNMENT CODE, with Denton or Collin County.

(b) Denton or Collin County has assigned to the City its authority to approve plats in the City's ETJ. The agreement also provides for the City to enforce its subdivision regulations, together with specified regulations of Denton or Collin County, within the City's ETJ via Interlocal Cooperation Agreements.

(c) In the event that the subdivision rules and regulations of Denton or Collin County provide a more stringent standard than those of the City, then the more stringent standards shall apply.

Sec. 10.03.063.....CITY PARTICIPATION IN IMPROVEMENTS IN THE ETJ.

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

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

(1) A Certificate of Occupancy for non-residential and multiple-family projects within the City's ETJ shall not be issued until a Letter of Final Acceptance has been issued by the City, and a copy of such Letter has been submitted to the Building Official by the developer, unless otherwise authorized by the City Manager or designee (refer to Section 10.03.046(d), *Acceptance or Rejection of Improvements by the Director of Engineering*).

(2) Utility connections for all developments in the City's ETJ shall not be issued until a Letter of Final Acceptance has been issued by the City or appropriate utility district, as applicable, and a copy of such letter has been submitted to the Building Official by the developer, unless otherwise authorized by the City Manager (refer to Section 10.03.046(f), *Acceptance or Rejection of Improvements by the Director of Engineering in ETJ*).

Sec. 10.03.064.....OTHER ETJ REGULATIONS.

(a) **Minimum Lot Size without Platting**. Any subdivision of land within the ETJ must be platted unless the resulting subdivided lots are a minimum of ten (10) acres each, each subdivided lot has access to a public street, and no public improvements are being dedicated. 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. 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.

Sec. 10.03.065.....TREE PRESERVATION IN THE ETJ.

(a) **Purpose**. The purpose of this section is to encourage the preservation of mature trees which, once removed, cannot be replaced by equivalent trees, to preserve the health and viability of retained trees during construction, and to control the removal of protected trees when necessary. It is the intent of this section to achieve the following:

(1) Prohibit the indiscriminate clearing of property;

(2) Protect and increase the value of residential and commercial properties within the City;
(3) Maintain and enhance a positive image for the attraction of new business enterprises to the City;
(4) Protect healthy quality trees and promote the natural ecological environmental and aesthetic qualities of the City; and
(5) Help provide needed shaded areas in order to provide relief from the heat by reducing the ambient temperature.

(b) **Construction Regulations**.
(1) Tree pruning restrictions. No protected tree shall be pruned in such a manner which significantly disfigures the tree or in a manner which would reasonably lead to the death of a tree, except where such pruning is necessary for the safety of the public or to maintain utility service. Utility companies may prune trees as necessary to re-establish disrupted utility service. The practice of "topping" trees, either ornamental or canopy, is absolutely prohibited except when necessary for utility provision, public safety or some other official nuisance.
(2) Fill and grading. The area within the drip line of a protected tree shall not be filled or graded.
(3) Maintenance after development. If any of the trees required to be retained or trees planted as a part of this division should die within a period of one year after completion of the activities associated with construction, the owner of the property shall replace the trees within six (6) months at a ratio of three-to-one (3:1) with an approved large canopy tree from the recommended plant materials chart, which is the same size as the tree removed.

(c) **Regulations Prior to Construction**.
(1) Tree flagging. All protected trees on the subject property within forty (40) feet of a construction area or surface improvements such as driveway, walks, etc., shall be flagged with bright fluorescent colored vinyl tape wrapped around the main trunk at a height of five (5) feet or more such that the tape is highly visible to workers operating construction equipment. This shall not include the flagging of protected trees adjacent to ROW within approved residential subdivisions during the construction of the roadway.
(2) Protective fencing. Solid, protective fencing a minimum of three (3) feet in height will be located at the drip lines of all protected trees that border the limits of construction. In situations where a protected tree is located within the immediate area of intended construction, protective fencing will be located at or beyond the drip line.

(d) **Regulations During Construction**. The following activities shall be prohibited within the limits of the critical root zone of any protected tree, subject to the requirements of this division:
(1) Material storage. No materials intended for use in construction or waste materials accumulated due to excavation or demolition shall be placed within the limits of the critical root zone of any protected tree.
(2) Equipment cleaning/liquid disposal. No equipment shall be cleaned or other liquids deposited or allowed to flow overland within the limits of the critical root zone of a protected tree. This would include paint, oil, solvents, asphalt, concrete, mortar or similar materials.
(3) Tree attachments. No signs, wires or other attachments, other than those of a protective nature shall be attached to any protected tree.
(4) Vehicular traffic. No vehicular and/or construction equipment traffic or parking shall take place within the limits of the critical root zone of any protected tree other than on an existing street pavement. This restriction does not apply to single incident access within a critical root zone for purposes of clearing underbrush, emergency restoration of utility service, or routine mowing operations.
(5) Grade changes. No grade changes (cut or fill) shall be allowed within the limits of the critical root

zone of any protected tree unless adequate construction methods are approved by the Director.

(6) Impervious paving. No paving with asphalt, concrete or other impervious materials in a manner which may reasonably be expected to kill a tree shall be placed within the limits of the critical root zone of a protected tree.

(7) Removal of protective fencing. Protective fencing may only be removed from the construction site at the time of the installation of additional, permanent landscaping features.

(e) **Permanent Construction Methods & Standards**.

(1) Boring. Boring of utilities under protected trees may be required in certain circumstances. When required, the length of the bore shall be the width of the critical root zone at a minimum and shall be a minimum depth of 48 inches.

(2) Trenching. All trenching where possible shall be designed to avoid trenching across the critical root zone of any protected tree. This shall not inhibit the placement of necessary underground services such as electric, telephone, gas, etc.

(3) Root pruning. It is recommended that all roots two (2) inches or larger in diameter which are exposed as a result of benching or other excavation be cut off square with a sharp medium tooth saw and covered with pruning compound within two (2) hours of initial exposure.

(f) **Fees**. Any fees for removal or destruction of trees pursuant to this Section are listed in the Master Fee Chart.

Sec. 10.03.065 to 10.03.069.....RESERVED.

ARTICLE 10.03.070 ....SUBDIVISION REQUIREMENTS

Sec. 10.03.071.....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 Master Thoroughfare Plan. All Plats within the City and its ETJ, and corresponding construction plans, shall provide for thoroughfares as shown in the *Master Thoroughfare Plan*. Minor adjustments to thoroughfare alignments may be allowed without amending the *Master Thoroughfare Plan* if the Director of Engineering determines the new alignment meets the spirit and intent of the *Master 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 City's *Engineering Design Standards*, and is subject to approval by the Director of Engineering. 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 *Master Thoroughfare Plan* is proposed, then the *Master Thoroughfare Plan* shall be amended prior to any plat approval. 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 Engineering determine that such an analysis is necessary to fully assess the impact of the proposal upon 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 *Engineering Design Standards.* The design is subject to approval by the Director of Engineering prior to approval of the construction plans and the Final 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, with the City's storm drainage policies (*Water Reuse Master Plan*), and with the *Engineering Design Standards.* The design is subject to approval by the Director of Engineering prior to approval of the construction plans and the Final Plat.

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

(1) 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, and park and recreational facilities. Land shall not be approved for platting or development until adequate public facilities necessary to serve the development exist or provisions have been made for the facilities, whether the facilities are to be located within the property being developed or offsite.

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.

b. Except for lots that are provided access from an approved cul-de-sac, all lots within a development shall have at least two (2) means of access or approach. Where development phasing or constraints of the land prevent the provision of a second, separate means of access, the 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.

c. In certain circumstances where providing two (2) means of access to a site is not feasible, the Planning & Zoning Commission 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 10.03.112, *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 where 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.

d. Plats for residential lots greater than one (1) acre in size may use private well water, at the discretion of the Director of Engineering.

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 for residential lots greater than one (1) acre in size may use authorized private septic systems, at the discretion of the Director of Engineering.

iv. *Storm Drainage.* Increased storm water runoff attributable to new development shall not cause impacts to 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 Engineering Design Standards, as it exists or may be amended.

(2) 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 third party, the cost of such review shall be passed through to the developer or applicant.

(3) Property Owner's Responsibilities. The property owner shall be responsible for, but not limited to, the following:

i. *Dedication and Construction of Improvements*. The property owner 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 *Engineering Design Standards*.

ii. *Abutting Substandard Streets*. Where a substandard street abuts or traverses a proposed development, the City may require the property owner to dedicate additional right-of-way and to improve the street to the current City design and construction standards as set forth in the *Engineering Design Standards*. 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.

iii. 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.

iv. *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 applicant request a waiver from this requirement, the applicant must provide to the City a study by an acceptable third party that justifies the elimination of the required free right turn lane.

v. *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 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 applicant.

vi. *Timing and Approval of Studies*. Any outside study shall be subject to approval by the Director of Engineering prior to approval of the Preliminary Plat and the construction plans. The City also may require, at the time of approval of subsequent applications (e.g., Final Plat), an update of a facilities impact studies that were approved in conjunction with a prior application (e.g., Preliminary Plat).

vii. *Future Extension of Public Facilities*. The property owner shall make provisions for future expansion of the public facilities as needed to serve future developments, subject to the City's oversize participation policies, if applicable.

viii. *Operations and Maintenance of the Public Facilities*. The property owner shall provide for all operations and maintenance of the shared public facilities located on private property, or shall provide proof that a separate entity will be responsible for the operations and maintenance of the facilities.

ix. *Fiscal Security*. The property owner shall provide all fiscal security required for the construction of the public facilities.

x. *Approvals from Utility Providers*. The property owner 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.

xi. *Compliance with Utility Providers*. The property owner shall comply with all requirements of the utility providers, including the City and applicable utility districts.

(c) **Provision of Utilities**. All electrical, cable, and other telecommunications systems shall be located

underground with the exception of regional transmission lines.

Sec. 10.03.072.....WATER, WASTEWATER & DRAINAGE REQUIREMENTS & ENVIRONMENTAL STANDARDS.

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

(1) Construction Requirements.

i. All public water and wastewater mains shall be located in the frontage of the property along streets, or in easements adjacent to the development in order 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 Engineering. 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 Engineering.

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 Engineering for cause.

vi. Easements shall be dedicated for exclusive use for water and wastewater facilities and shall be shown on the Final Plat for the specific purpose intended. When it is necessary for additional utilities to be placed within such utility easement, additional width shall be provided and the easement shall be labeled for its additional intended purpose on the Final 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 for oversize participation.

(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 *Engineering Design Standards*, the regulations of the Texas Commission on Environmental Quality (TCEQ), National Sanitation Foundations (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 Engineering.

(3) Acquisition of Easements. The developer shall be responsible for the acquisition of all required off-site easements. If the developer is unable to acquire the necessary off-site easement, the City shall be provided with easement or right-of way survey documents and exhibits, documentation, including evidence of a reasonable offer made to the affected property owner. Upon receiving a written request for assistance, the 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, expert fees, and title searches.

(b) **Preliminary Utility Plan.**

(1) Submittal of Plans. Concurrent with the submission of a Preliminary Plat, Final Plat, Replat or Minor 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 *Engineering Design Standards*.

(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.

ii. *Minor Plat, Replat*. 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 filed with Denton or Collin County until a letter has been provided from the utility provider stating that they have accepted the plans for construction.

(c) **Miscellaneous Requirements.**

(1) No building or structure shall be constructed within or over an existing wastewater, lateral, water main or storm drain easement unless approved in writing by the Director of Engineering in a signed and executed Development Agreement, approved by City Council, stating that any damage to the lines within or over the easement caused by the erection of the sign or construction of any building or structure shall be repaired to City standards at the property owner's expense. Additionally, should the City, the County and/or franchise utility company require access to said easement that any repairs to the affected building, sign or structure shall be solely at the expense of the property owner.

(2) Monument signs may be constructed over an existing wastewater, lateral, water main or storm drain easement if approved by the City Manager or designee in a signed and an executed 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 sign requires that the sign owner make all necessary repairs to the sign, including the entire replacement of the sign, at the owner's sole expense.

(3) 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 under the public roadway or pavement. When replacement is determined to be necessary by the Director of Engineering, the City shall assume the responsibility for replacement of that portion under the pavement.

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.

(4) The City makes no guarantee that water supply or wastewater capacity will be available at any particular time or place.

(5) The service lines shall extend across the lot in question to provide future service connections to the adjacent lot.

(6) Water and wastewater service lines shall be maintained by the property owner.

(7) 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 those agencies.

(d) **Water.**

(1) Design & Construction.

i. *Installation of Water Facilities*. Where water is to be provided through the City system, the property owner shall install adequate water facilities, including fire hydrants, in accordance with the City's *Engineering Design Standards,* the adopted Fire Code, the current Rules and Regulations for Public Water Systems of the Texas Commission of 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 *Engineering Design Standards*. 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 standards in the City's *Engineering Design Standards*.

c. Design and construction of a fire protection and suppression system shall be in accordance with the standards in the *Engineering Design Standards*, 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. *Variance from Requirement*. If new subdivisions will never be constructed beyond a developing subdivision due to physical constraints, the Director of Engineering may approve a Minor Variance for this requirement in accordance with Section 10.03.086, *Variances*, 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 Development Agreement, if applicable (refer to Section 10.03.044, *Development Agreements*).

(4) Cost of Extension for Single Customer.

i. When it is necessary to extend a water line to serve a new single customer where only one meter will be installed, the City at its own expense will extend the said water line up to 100 feet.

ii. If a distance is equal to or greater than 100 feet is required to reach the nearest property line of the new single customer, the said single customer shall pay one hundred percent (100%) of cost extension in excess of 100 feet.

iii. If more than one single customer is served by the main extension, 100 feet of main will be allowed for each single customer thus served, and any excess footage will be paid for at one hundred percent (100%).

iv. No more than one single customer credit of 100 feet will be allowed each lot or tract of record so served regardless of the number of buildings, occupied or otherwise, which might be located on said lot or tract.

v. Payment will be made in advance of construction.

(5) Cost of Extension to Serve Developers.

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

ii. The developer will pay one hundred percent (100%) of the construction cost of the size mains required to serve his development, including the design, construction, and City inspection of the approach main(s).

iii. When the developer desires that water mains be extended to serve his property, he will submit a request in writing to the Director of Engineering. The property to be served shall be listed showing the lot, block and subdivision. 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. The cost estimate will be made on that portion of the subdivision to be served immediately.

(6) 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 Denton or Collin County health official, and this approval shall be documented by the health official's signature on the water system statement on the Preliminary and Final Plat. The property owner must submit with the Preliminary and Final Plat applications a certificate from a professional engineer who is registered or a geoscientist who is licensed to practice in the State of Texas verifying the adequacy of the proposed well water supply and potability prior to Preliminary Plat and construction plans approvals.

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.

(7) Alternative Water Systems. Developments may be approved with alternative water facilities according to the following criteria:

i. Water well operation and quality shall meet the minimum requirements of the Texas Commission on Environmental Quality (TCEQ), Denton or Collin County, City health ordinances, and all other regulatory agencies, as applicable.

ii. Water wells may not be used for commercial sale of water.

iii. The cost to tie onto the public water system must exceed the certified initial capital cost of a well by twenty-five percent (25%). All costs and engineering designs shall be submitted by a licensed professional engineer and are subject to review and approval by the Director of Engineering. If a residence is located within 1,000 feet of a domestic water supply, that residence must be connected to that service.

(e) **Wastewater.**

(1) Extension of and Connection to the City's Wastewater Collection System. Extension of, and connection to, the City's sanitary sewer system shall be required for all new developments within the City limits. Extension of, and connection to, the municipal sewer 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) acre in size. The City is not in any way obligated to allow extension of municipal sewers outside the City limits. The required extension of, and connection to, the municipal sewer system may be waived as a Minor Variance, in accordance with Section 10.03.086, *Variances*, by the Director of Engineering if the Director of Engineering determines that such extension would require unreasonable expenditures and that an on-site wastewater disposal system (see Section 10.03.072(e)(5), *On-Site Wastewater Disposal Systems*) will function properly and safely.

(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 Engineering. 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 Engineering.

(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 Development Agreement, if applicable.

(1) Community Sanitary Sewerage Collection Systems. All subdivisions developed subsequent to this ordinance must be served by community sanitary sewerage collection, treatment and disposal systems approved by the City with exceptions granted only if all of the following conditions exist:

i. The subdivision in question is less than five (5) parcels of land;

ii. The existing community type collection, treatment and disposal system is not and cannot feasibly, in the opinion of the Director of Engineering, be made available to the area of development; and,

iii. Percolation tests run by an independent testing laboratory are submitted to both the City and County health department with results showing that a septic tank and spreader field can be developed to provide adequate disposal of the sewage.

(2) Sewer Extensions, Generally. All sewer 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 sewers shall be designed with consideration for serving the full drainage area subject to collection by the sewer in question except as modified with the concurrence of the Director of Engineering because of the projected rate of development or the financial feasibility of the proposed extension.

(3) Sewer Extensions for Single Customers.

i. Where it is necessary to extend a sewer line to serve a new single customer, the City, at its own expense, will extend said sewer up to 100 feet.

ii. If a distance is equal to or greater than 100 feet should be required to extend the line to the nearest property line of the customer, said single customer shall pay the excess over the 100 feet allowable at the rate of one hundred percent (100%)of cost.

iii. If more than one single customer is served by the main extension, 100 lineal feet of sewer will be allowed for each single customer thus served, and any excess footage will be paid for at one hundred percent (100%) of cost.

iv. No more than one single customer credit of 100 feet will be allowed for each lot or tract of record so served regardless of the number of buildings, occupied or otherwise, which might be located on said lot or tract.

v. Payment will be made in advance of construction.

vi. All service lines shall be designed and constructed in accordance with the Wastewater Master Plan.

(4) Extensions to Serve Developers. The developer shall pay one hundred percent (100%) of the construction cost of all sewers including the design and construction of "approach mains," but excepting "service lines."

i. The developer will also pay one hundred percent (100%) of the cost of service lines to all lots to be served by a sewer located in the street. Said service lines will be constructed at the same time as a part of the same contract as all other sewers in the developer's addition. If the sewers are being constructed by City forces, the service lines will be constructed by City forces at the time all other sewers within the addition are constructed.

ii. The Director of Engineering shall determine the size of the approach main required to serve 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, the developer will not be charged for the additional upsizing.

iii. The amount of developer's payment shall be determined using unit bid prices contained in the award contract.

iv. All service lines shall be designed and constructed in accordance with the Wastewater Master Plan.

(5) Required Stub-Out to Adjacent Properties. All lateral and sewer 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.

(6) 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 sewer from the existing system.

(7) Connections. No connection shall be made to any sanitary sewerage system within the City which will permit the entrance of surface water or waste of other than domestic sewage characteristics without the specific authorization by the City Council.

(8) On-Site Wastewater Disposal Systems.

i. In cases where the Director of Engineering determines that extension of and connection to the City's sewer system is impractical or not feasible, and where the Director of Engineering approves the use of an on-site wastewater disposal systems, such on-site systems 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 for such system shall be acquired prior to Preliminary Plat and construction plans approvals.

iii. On-site wastewater disposal facilities requiring soil absorption systems may be prohibited where such systems will not function properly in conditions of high ground water, flooding, unsuitable soil characteristics, or other topographical or environmental issue.

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) 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.

(f) **Stormwater.**

(1) Adoption. This Ordinance is in compliance with the adopted Floodplain Regulations Ordinance and Engineering Design Standards Ordinance of the City of Celina.

(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 Celina. The policies and standards are included in the most recent version of the *City of Celina, Texas Engineering Standards* manual ("*Engineering Standards*") 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 Celina 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 *Engineering Standards*.

iii. Stormwater design shall evaluate flow rate, volume, and velocity characteristics considering the maximum results from a design storm as specified in the *Engineering Standards*.

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

(4) Responsibility of Owner or Developer for Storm Drainage.

i. The owner or 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 10.03.071(f)(2) and the *Engineering Standards*, at such time as any property effected 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 property owner proposed development or use of only a portion of his property, provision for storm drainage in accordance with Section 10.03.071(f)(2) and the *Engineering Standards*, 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 *Engineering Standards*. Final determination of easement requirements shall be made by the Director of Engineering.

v. In the event that an 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 Engineering;
b. The 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 hazards related to the lake, pond, or lagoon constructed;
c. The 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 or owners 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;
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, upon acquisition of the drainage easement and the completion of improvements as hereinabove provided, assume full responsibility for the maintenance of such drainage facilities.

(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 *Engineering Standards* 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 the *Engineering Standards*.
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 the *Engineering Standards*. Design of open channel systems in lieu of a closed system shall adhere to the requirements set forth in the *Engineering Standards.*
iii. The criteria for drainage improvements as hereinabove set forth in paragraphs i. and ii. of this section shall be applicable to publicly owned lands solely at the discretion of the City of Celina.
iv. 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 requirements of this Ordinance and the *Engineering Standards*.

(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. 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. 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 Finish Floor Elevations. The Director of Engineering may require minimum finish 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. The minimum finish floor elevation shall conform with the requirements set forth in the Floodplain Ordinance and the *Engineering Standards*. The following note or an amended version appropriate to the specific plat shall be added to any plat upon which the Director of Engineering requires the establishment of minimum finish floor elevations:

> "The City reserves the right to require minimum finish 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 the *Engineering Standards*.

(11) Building or Structure Setback Requirement. Any building or structure constructed, reconstructed, or relocated adjacent to an open drainage channel shall conform to the set-back requirements established in the *Engineering Standards*.

(12) Construction Over Drainage Facilities. No building or structure shall hereafter be constructed, reconstructed, or relocated over or across any storm drainage facility, unless specifically approved by the Director of Engineering and pursuant to the criteria established in the *Engineering Standards.*

(13) Stormwater Storage. Temporary storage of stormwater on-site is allowable pursuant to the criteria established in the *Engineering Standards.*

(g) **Preliminary Stormwater Management Plan.**

(1) A preliminary stormwater management plan (SWMP) shall be prepared for all developments in accordance with the *Engineering Standards*. The purpose of the SWMP is to identify permanent water quality feature opportunities for the development.

(2) The preliminary SWMP shall be prepared in coordination with the preliminary drainage plan on all projects where both are required. The preliminary SWMP and the preliminary drainage plan may be shown on the same sheet.

(3) The preliminary SWMP must comply with the standards and criteria outlined in this Ordinance, the *Engineering Standards*, and the Floodplain Ordinance. The plan may satisfy the stormwater management portion of the SWPPP that is required for construction activities; however, the SWMP is not a substitution for the SWPPP. The City's review of the preliminary SWMP does not constitute acceptance of the final SWMP or the final development plans.

(4) The developer shall provide a preliminary SWMP for the area proposed for development. For

amended plats or plats with a previously accepted preliminary SWMP, the accepted preliminary SWMP shall be enforced unless a revised preliminary SWMP is required.

(5) Electronic copies of the preliminary SWMP plan shall be submitted with the submittal of a preliminary plat, replat, or minor plat for review and acceptance. The plan shall be labeled as "Preliminary." Upon acceptance of the plan, the plan shall be signed, sealed, and dated by the engineer, or shall contain a statement showing the engineer's name and license number and affirming the plan was prepared under the direction of the engineer and that the plan is preliminary. At the discretion of the Director of Engineering, an earthwork permit may be issued prior to the plat being filed so long as a floodplain development permit, if necessary, and a SWPPP have been approved. The developer takes the financial risk of grading the tract prior to final approval of the plat and construction plans.

(h) **Preliminary Drainage Plan.**

(1) The Director of Engineering may require a Hydrologic and Hydraulic Analysis and reserves the right to review.

(2) This plan shall show the watershed affecting the development and how stormwater will be conveyed to, through, and from the development. It must comply with the standards outlined in this Ordinance and the drainage design criteria found in the *Engineering Standards*. 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 a variance to this Subdivision Ordinance.

(3) 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 Engineering 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 applicant requests a variance in writing, a copy of any previous drainage plan shall be provided.

(4) At the request of the City, the property owner 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 developer or applicant.

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. Flood Study; and
ix. Downstream Assessment Study.

(5) Electronic copies of the preliminary drainage plan shall be submitted with the submittal of a preliminary plat, replat, or minor plat for review and acceptance. 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 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 "Major Creek" map maintained by the City of Celina and available to developers upon request.

(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 *Engineering Standards* and the additional following requirements for all types of development:

i. The 100-year floodplain and Erosion Hazard Setback shall be dedicated on the Final Plat to the City as a single lot or shall be owned and maintained by an HOA or POA, pursuant to Section 10.03.079(d), *HOA Requirements*, of this Ordinance.

ii. At no time shall any portion of the 100-year floodplain encroach upon any single-family or two-family residential lot.

iii. The Commission may waive any of these dedication requirements for a Replat that was originally platted prior to the adoption of this Subdivision Ordinance.

(3) Access. Public access to parks and open space shall be dedicated for maintenance purposes as required by the Director of Engineering.

(j) **Floodplain Development Requirements.**

(1) 100-Year Floodplain Restrictions. All development proposed adjacent to or within the 100-year floodplain shall be in accordance with this Ordinance, the City's Floodplain Ordinance, and the *Engineering Design Standards*. A floodplain development permit and earthwork permit must be submitted and approved by the Director of Engineering prior to any construction on the site.

(k) **Detention & Compensatory Flood Storage Facilities**.

(1) Intent. The City of Celina encourages the use of detention basins and compensatory flood storage areas for the benefits of the community outlined below:

i. *Control of flood discharges.* The intent of detention basin and compensatory flood storage 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. This storage method serves as a key strategy of the stormwater management plan.

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 and storage areas offer many 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.

iv. *Aesthetics.* As an integral part of the City of Celina, 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 and compensatory flood storage facilities shall be designed and constructed according to the requirements set forth in the *Engineering Design Standards.*

ii. Detailed engineering studies of the drainage basin according to the requirements set forth in the *Engineering Standards* 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 and flood storage facilities on upstream water surface elevations.

iii. All detention and compensatory flood storage 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 forty (40) linear feet.

Sec. 10.03.073.....STREET & ALLEY STANDARDS.

(a) **Streets Basic Policy.**

(1) Street Improvements. In platting a new development, the property owner shall provide additional right-of-way needed for existing or future streets as required by the *Engineering Design Standards* and as shown on the Thoroughfare Plan (see Table A, *Thoroughfare Types & Standards*).

(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 10.03.044, *Development Agreements*, 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 on the requirements, alignment, rights-of-way, and number of lanes shown on the Master Thoroughfare Plan, as it exists or may be amended. The TIA may be used to justify amendments to the Thoroughfare Plan, but in no case shall dictate such amendments.

(3) New Perimeter Streets.

i. When a proposed residential or nonresidential development is developed abutting an existing or planned major thoroughfare, minor thoroughfare or collector street as shown on the Master Thoroughfare Plan, the developer shall construct a portion 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 *Engineering Design Standards*). If the Director of Engineering 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 10.03.044, *Development Agreements*, funds for the future construction of the street as a condition of Final 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.

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 in Section 10.03.073(a)(4), *New Internal Streets*, below, 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 developments shall have a divided entrance with the median being a common area lot to be owned and maintained by the HOA. An entrance monument sign 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 *Engineering Design Standards*. If oversizing of an internal street is deemed necessary by the Director of Engineering for traffic safety or efficiency (such as adjacent to a school or park site), then the City and/or the applicable entity may participate in such oversizing costs as part of a Development Agreement/Facilities Agreement with the developer.

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 10.03.044, *Development Agreements*.

iii. When, in the judgment of the Director of Engineering, 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 10.03.044, *Development Agreements*.

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

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

(1) Application of Requirements. Street design requirements are subject to the provisions included in the *Engineering Design Standards*, Development Agreements and Planned Development Ordinance (if applicable to the subject property) as well as the regulations contained within this Subdivision Ordinance.

(2) Conformity to the Master Thoroughfare Plan. The general location of streets shall conform to the *Master Thoroughfare Plan*. For streets that are not shown on the *Master Thoroughfare Plan*, 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 10.03.073(b)(8), *Stub Streets*, and connectivity requirements in Section 10.03.073(b)(9), *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; and

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 *Engineering Design Standards*.

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 major and minor arterials and such existing collector and local streets as may be necessary for convenience of traffic circulation and emergency ingress and egress.

(4) Maximum Street Length. No street shall be more than 1,000 feet in length without an intersection

with another street which will provide some degree of flexibility in traffic patterns and public convenience.

i. See the *Engineering Design Standards* for specific design requirements.

ii. In certain circumstances, the City may consider minor exemptions to the maximum street lengths if sought by the applicant. These circumstances include, but are not limited to:

a. Rerouting of streets;

b. Decreasing the lot count by five percent (5%) or more from the previously approved Preliminary Plat or Final Plat; or

c. Approval by the Planning & Zoning Commission through a Subdivision Ordinance Variance. Any variance approved by the Planning & Zoning Commission shall include the curvilinear requirement and street calming methods, described below.

(5) Curvilinear Requirement. When a residential street length exceeds 500 feet but is less than 1,000 feet in length, the design of the street shall include a curve of between 100 to 200 feet radius for a length equal to the curve radius.

(6) Additional Street Calming Methods. When a residential street length exceeds 500 feet but is less than 1,000 feet in length, one or more of the following street calming methods shall be 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 Engineering:

i. Street width narrowing with landscaped islands placed approximately every 400 feet;

ii. Roundabouts placed approximately in the center of the street length or near a major entrance to the development; and/or

iii. Landscaped medians that include pedestrian crossing oases included for a minimum of one-third (⅓) of the street length.

iv. Speed humps/bumps are prohibited from being installed in alleys, private aisles, and any fire lanes, unless approved in writing by the Director of Engineering.

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

i. *Master Thoroughfare Plan* (existing, and as amended);

ii. Planned Development Ordinance (if applicable to the subject property); and

iii. All streets shall be constructed in accordance with the *Engineering Design Standards*.

(8) 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. All street names shall be approved by the Director of Development Services prior to any plat approval, and prior to approval of the construction plans and should comply with the City's approved street name policy, as it exists or 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).

(9) Traffic Studies. The Director of Engineering may require a Traffic Impact Analysis (TIA) or other type of engineering study from the developer prior to any approval for plats or construction plans to ascertain technical data pertaining to the potential traffic impact of the proposed development on the City's street system. 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 developer or applicant.

(10) Stub Streets.

i. See the *Engineering Design Standards* for all design requirements.

ii. Future connections are required to adjacent vacant properties at locations as approved by the Director of Development Services and the Director of Engineering.

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 equipment.

iv. A note shall be clearly placed on the Final Plat indicating that the stub street will be extended with future development (see requirements for temporary turn-arounds in the *Engineering Design Standards*).

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 Engineering, and

b. Installation and cost of the signs shall be the responsibility of the developer.

(11) 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 as recommended in the *Comprehensive Plan*.

ii. Residential developments shall not have direct vehicular access to adjacent commercial or retail developments. Pedestrian and/or bicycle access may be provided, as approved by the Director of Development Services.

iii. Commercial developments shall provide off-street connections to other businesses through mutual access easements and shared access drives to thoroughfares.

(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 *Engineering Design Standards*.

ii. The developer is responsible for the installation of street lighting and they 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 Engineering shall be the responsible official for decisions related to street lighting, and may authorize a minor variance to these regulations, in accordance with Section 10.03.086, *Variances*, for a street lighting requirement if such Variance will not compromise public health, safety, security and convenience.

(2) New Subdivisions. New subdivisions are required to prepare and submit a street lighting plan. This plan is reviewed by Staff to ensure conformance with current street lighting policies. Financial responsibility for purchase of lighting equipment and construction is the responsibility of the developer. In the City of Celina, power is provided franchise utility companies. Upon completion of the street light system, the appropriate power server will be the owner and maintenance provider of the street light equipment and the City of Celina will become responsible for the monthly electrical and maintenance expenses.

(3) Street Lighting Placement. Street lighting shall be chosen and installed according to the *Engineering Design Standards*.

(4) Subdivisions with Existing Street Lighting.

i. Residents or a Home Owners Association (HOA) of a subdivision with existing street lighting may request additional light or lights by completing a petition and request for additional street lighting form. The petition must be signed by adjacent property owners of each proposed light location and by at least eighty percent (80%) of the overall property owners within 300 feet in each direction of the proposed light location.

ii. Upon receipt of the petition and request form, City Staff will contact the appropriate power 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 HOA or residents requesting the additional street light shall be responsible for obtaining all required signatures for easements and shall be financially responsible for all costs to purchase and install additional lighting.

iv. Upon receipt of executed easement documents and deposit of funds with the City based on the installation estimate, the City will issue a request to the electric provider for installation.

v. Following installation and acceptance of the lighting facilities, the City will pay for all future electrical charges, repair and maintenance.

(5) Subdivisions without Existing Street Lighting.

i. Residents of subdivisions without existing street lighting or infrastructure required to support street lighting should submit a petition for street lighting form to the Department of Development Services (form available online).

ii. Upon receipt of the petition, City Staff will contact the appropriate power 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. Private streets within the City and/or the ETJ may be allowed in accordance with the Zoning Ordinance. Private streets shall be designed and constructed to the same standards as for public streets, in accordance with the *Engineering Design Standards*.

(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, except where specific approval is given by action of the City Council for properties within the City's extraterritorial jurisdiction and upon approval of a Specific Use Permit for properties within the City limits. The City Council may add any conditions as deemed appropriate as part of the approval of a Private Street Development.

(3) Private Street Development.

i. Private Street Developments are subject to provisions of the Master Thoroughfare Plan and the Subdivision Ordinance, as it exists or may be amended. Private Street Developments shall only be permitted by the approval of a Specific Use Permit or through a Planned Development District. Private Street Developments shall be restricted to an area that is surrounded on at least three (3) sides, and in any event no less than approximately seventy-five percent (75%) of the perimeter, by natural barriers or similar physical barriers created by man. Examples of natural barriers would be creeks and floodplains. Examples of similar barriers created by man would be a golf course, school location, park, railroad tracks or a limited access roadway. Non-qualifying man-made barriers include screening walls, local roadways, man-made drainage

ditches, detention ponds, landscape easements, earthen berms, utility easements and rights-of-way. Private Street Developments may not cross an existing or proposed thoroughfare as shown on the City's adopted *Master Thoroughfare Plan* nor shall a private street development disrupt an existing or proposed hike & bike route.

ii. Private Street HOA 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).

(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. 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 site within the development that will be accessed by both developments.

(5) Criteria for Approval for Private Streets in New Developments. Private Street Developments within the City may be considered through the Specific Use Permit (SUP) process or through a Planned Development District. The Planning & Zoning Commission and City Council shall use any of the following criteria:

i. Non-disruption of planned public roadways 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 Engineering, 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/sewer 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. Existence of natural and/or qualifying man-made boundaries around seventy-five percent (75%) of the development; and/or

x. Absence of a concentration of Private Street Developments in the vicinity of the requested Private Street Development.

(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 property owners' association 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 Celina 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 Specific Use Permit;

iv. All documents are subject to the review and approval of the City Attorney; and/or

v. Subsequent to the approval of the Private Street designation, the entire subdivision affected shall be re-platted to reflect the right-of-way ownership changes.

(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) 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 documents or declarations).

ii. All of the infrastructure shall be in a condition that is acceptable to the Director of Engineering.

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 Development Services for review. Upon approval, the HOA shall file the replat to dedicate the streets and appurtenances to the City.

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.

(7) HOA Requirements. Private Street developments and the related HOA shall meet all requirements of Section 10.03.079, *HOA 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 sixty (60) 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 sixty (60) feet in width at the front building line. When so utilized, alleys shall be constructed according to design criteria in the *Engineering Design Standards*.

(3) Alleys Required for Single-Family Attached Residences. Alleys are required for all duplex (two-family residences) and townhomes.

(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. 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 Engineering.

(f) **Mews Streets.**

(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. The common area of the mews shall be a minimum of forty (40) feet in width.

(3) 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. This door shall have a doorbell or means to alert the occupant.

(4) Maximum Mews Length. The maximum mews length is 500 feet. Minor modifications may be considered by the Fire Department and Director of Engineering.

(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 trucks shall be provided at the terminus of the mews street.

(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 sidewalks are provided on each side of the mews.

(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, 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 wayfaring signs and individual house numbers shall be illuminated for nighttime viewing. All such signage is subject to the discretionary review and approval by the Fire Department.

Sec. 10.03.074.....SIDEWALKS & TRAIL STANDARDS.

Sidewalks are required adjacent to all public streets, shall be provided according to the regulations in the *Engineering Design Standards,* and shall stub out to the adjacent property. No meter valves or drainage inlets may encroach into sidewalks. Bicycle and pedestrian trails shall be a minimum of twelve (12) feet in width and be constructed of an improved surface. Any portion of a sidewalk or trail located on private property shall be shown on the filed plat. Trails and sidewalks shall comply with any City adopted Parks or Trail Plans. See also Section 10.03.084, *Hike & Bike Trail Requirements*.

Sec. 10.03.075.....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, shall be designed, constructed and maintained in accordance with standards in the City's *Engineering Design Standards*, Zoning Ordinance, and Planned Development Ordinance (if applicable to the subject property).

(b) **Driveways, Residential**.

(1) Residential driveway widths and curb cuts shall not be wider than the combined width of the garage

door or doors. In certain large lot cases, additional pad sites may be allowed for vehicle parking, at the discretion of the Director.

(2) Residential tracts 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 *Engineering Design Standards*. Fire lane easements shall be shown on the Site Plan (see the *Zoning Ordinance*) and on any Conveyance Plat, Preliminary Plat, or Final 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) **Access Easements.** Access easements shall be provided as directed by the Director of Engineering and Director of Development Services.

Sec. 10.03.076.....LANDSCAPING & SCREENING ADJACENT TO ROADWAYS.

(a) **Median Landscaping Improvements Required**. Landscaping improvements shall be installed within the medians of all proposed or planned or divided roadways within the city limits as shown on the City Master Thoroughfare Plan. Frontage is wherever a property abuts the right-of-way of the divided thoroughfare, and separate frontages exist on each side of the thoroughfare.

(1) Developer obligation. The subdivider or developer shall be fully responsible for the construction and installation of the required landscaping and maintenance of the improvements for a period of one year. During the first year following installation, the subdivider or developer shall replace any tree, shrub, sod, groundcover or hardscape in substandard condition. Following the first year, the Director of Engineering shall inspect the installation and determine what, if any, plant materials and/or hardscape must be replaced prior to the city taking over maintenance.

(2) Installation or deferment. In the event that the Director of Engineering, in his sole discretion, determines that the installation of improvements at any given time period is impractical due to further road construction or other factors, the subdivider or developer shall pay a fee-in-lieu into an escrow account for future median landscaping and/or maintenance. This fee-in-lieu of installation is collected once from each frontage and described more fully in Section 10.03.075(d).

(3) City participation. At the discretion of the Director of Engineering, the subdivider may install the median landscaping across the full width of the median, and be reimbursed by the City for the landscaping provided for the second frontage at the per linear foot of frontage rate or the actual cost of the improvements, whichever is less, if funds are available.

(4) Plan design burden/escrowed cost. In the case where undeveloped land exists on both sides of a divided public street, the first to develop shall carry the burden of submitting plans for landscaping, hardscape and irrigation of the median, along with escrowing the fee-in-lieu, as described in Section 10.03.075(d). At the discretion of the Director of Engineering, the city or county may contribute to this escrow account in order to facilitate the implementation of the landscape plan.

(5) Installation burden. If the City declines to participate in the immediate landscaping of the median in question, 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 improvements, using the escrowed account from the first developer and shall

contribute an equal amount to the overall cost of the median landscaping. In the event that the original escrow amount has fallen short of current material and/or installation costs, the City will make up the difference in cost or the plans shall be modified to be installed within the cost allotted. Any surplus funds shall be placed in the City's landscape maintenance account.

(6) Design. The median design shall be approved by the Director of Engineering and the City may elect to create the design for the landscaped median in house.

(b) **Minimum Requirements for Median Landscaping**.

(1) Only developments or subdivisions abutting or adjacent to a divided roadway, as defined in the Master Thoroughfare Plan, shall be subject to this section.

(2) All trees and plant materials shall be chosen from the City's approved plant list;

(3) One 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 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;

(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 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 Engineering. 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.

(c) **Roadway Landscape Easements or Buffers.** Roadway landscape easements/buffers are defined as open, landscaped areas between the property line (right-of-way) and any built structure on a lot. The roadway 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 sewer lines and electrical wiring, respectively. In some cases, underground utilities will be placed entirely or in part within the landscape easement/buffer and therefore this easement/buffer shall be shown on the associated plat. The following easement standards apply unless a more stringent standard applies due to the lot being located in an overlay district.

(1) Minimum width of landscape easements along roadways.

i. Adjacent to all six-lane divided streets and limited access roadway service roads, as shown on the Thoroughfare Plan, the landscape easement shall be a minimum forty (40) feet wide.

ii. Adjacent to all four-lane divided streets, as shown on the Thoroughfare Plan, the landscape easement shall be a minimum of thirty (30) feet wide.

iii. Adjacent to all other streets called out on the Thoroughfare Plan, the landscape easement shall be a minimum twenty (20) feet wide.

iv. Adjacent to residential streets and other streets not called out on the Thoroughfare Plan, the landscape easement shall be a minimum of ten (10) feet wide.

(2) Setbacks. The following setbacks apply based on zoning district adjacency:

i. Adjacent to single-family district (either attached or detached districts).

a. Any non-residential building that is one (1) or two (2) stories in height shall be setback from the single-family district property line a minimum of forty (40) feet.

b. Any non-residential building that is three (3) stories in height shall be setback from the single-family district property line a minimum of sixty (60) feet.

c. Any non-residential building that is four (4) stories in height or greater shall be setback from the single-family district property line a minimum of eighty (80) feet.

d. Parking and/or drive aisles may be located within these setbacks.

ii. Adjacent to any district other than single-family district. When a non-residential building is adjacent to a similar land use, the setbacks shall be the minimum allowed by the adopted Building Codes and Fire Codes.

(3) Intent & application of the Ordinance. When circumstances exist that may restrict the ability of an applicant to comply with the precise minimum widths referenced above, the Director may allow some flexibility so long as the overall intent of the ordinance is met.

(4) Landscaping & screening within easements or buffers. Street trees, native grasses, sod, and shrubs may be planted within the landscape easement, avoiding conflicts with any utility service, as shown on the approved site plan or concept plan.

(5) Signs located within easements or buffers. Any applicant who places a monument sign within a landscape easement that may also be the location of underground or above ground infrastructure shall be required to allow the City and/or utility company access the facilities located beneath or above the monument sign and must sign an agreement authorizing the City and/or utility company to carry out needed repairs or replacement with no obligation to rebuild or compensate the owner/applicant for the removal, repair, or loss of the sign.

(d) **Minimum Requirements for Landscaping within Roadway Landscape Easements**.

(1) Landscape easements shall be made up of an attractive mix of sod, native grasses, berms, and trees 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 three-inch (3") 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.

(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 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) No drainage retention or detention for the property shall be placed in the landscape easement.

(10) Landscape and installation plans shall be subject to review and approval by the Director of Development Services and the Director of Engineering. 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.

(e) **Fee-in-Lieu**. Should the Director of Engineering, at his sole discretion, determine that the immediate installation of median or roadway easement landscaping is impractical; a fee-in-lieu of installation shall be collected and placed in escrow at the rate listed in the current Fee Schedule. The fee-in-lieu shall be collected prior to plat filing. Said fees-in-lieu of installation shall be applied to construction, reconstruction, upgrading, and installation of median landscaping of divided roadways within the adjacent median landscape areas and any roadway easement or landscape buffers.

(f) **Refund of Fees**. Any fees not expended within ten (10) years of collection shall be returned to the developer or subdivider 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. 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. (Ordinance 2015-78 adopted 12/7/15)

(g) **Screening Requirements.**

(1) Screening adjacent to roadways.

i. Non-residential (both commercial and multiple-family) uses adjacent to roadways. A solid masonry screening wall is required, minimum six (6) foot and maximum eight (8) foot, when used to screen the use from any roadway.

ii. Maintenance easement. A three (3) foot wide maintenance easement shall be provided on any boundary line where a required screening wall or devise may be installed currently or in the future, to allow access for repairs or replacement.

iii. Residential fences adjacent to roadways. All wood residential fences that face a street must be minimum of six (6) feet in height and constructed of cedar board-on-board with a decorative cap and support poles facing the inside of the lot. Residential fences that only face the interior of the lot are not required to be board-on-board construction.

iv. Conflict of fences. No parallel, adjacent fencing is allowed. 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 becomes the mutual boundary line between the properties.

(2) Screening between land uses.

i. Non-residential and multiple-family uses adjacent to single family detached zoning districts or uses.

a. A solid masonry screening wall is required, minimum eight (8) feet in height, along the property line.

b. In some cases, at the Director's discretion, a decorative iron or wrought iron screening walls may be allowed in lieu of a solid masonry screening wall. This decorative iron or wrought iron screening shall have masonry columns to be spaced no greater than thirty (30) feet on center, along with medium-sized evergreen plants that will grow to a

minimum height of six (6) feet within two (2) years of planting.

c. In some cases, at the Director's discretion, enhanced wooden fences constructed of cedar board-on-board with a decorative cap, and support poles facing the inside of the lot may be allowed.

d. In some cases due to topography or other natural land features, at the Director's discretion, industrial quality metal fencing or welded wire fence panels may be allowed, such as *DesignMaster®* fencing products.

ii. Non-residential uses adjacent to other similar non-residential zoning districts or uses. No screening wall is required.

iii. Uniformity. Each development shall have a uniform screening wall in terms of materials and height, subject to approval by the Director during the site plan process.

iv. Maintenance easement. A three (3) foot wide maintenance easement shall be provided on any boundary line where a required screening wall or devise may be installed currently or in the future, to allow access for repairs or replacement.

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

a. Double trash & recycling enclosures shall be a minimum of twenty-five (25) by fourteen (14) feet in size.

b. Single trash & recycling enclosures shall be a minimum of twelve (12) by fourteen (14) feet in size.

c. The number of enclosures required for each development shall be determined by staff.

(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 iron with masonry columns to be spaced no greater than thirty (30) feet on center or industrial quality metal fencing or welded wire fence panels, such as DesignMaster® fencing products, with Director approval.

(5) Prohibited screening elements. No screening wall visible from a public street shall be:

i. Screening walls shall not be located within any required visibility triangle;

ii. Screening walls shall not be constructed with any of the following materials: Surface painted or coated concrete, chain-link, concertina wire, barbed wire, corrugated metal, or fiberglass panels.

iii. In no case shall a screening wall be 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 access easements provided for maintenance to be shown on the associated plat.

Sec. 10.03.077.....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 Denton or Collin 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 10.03.102, *Definitions*. Retaining walls may be allowed on lots adjacent to natural drainage areas, as approved by the Director of Engineering.

(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 10.03.113).

(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 to street right-of-way lines to the greatest extent possible (side lot lines may vary from 80° to 100° angles from the street frontage - see Diagrams 10.03.115 and 10.03.116). 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.** Major and Minor Arterials.

(1) No single-family, two-family, or townhome lots shall front onto or have a driveway onto Major or Minor Arterials or any street with a right-of-way of sixty (60) feet or greater, as described within the *Engineering Design Standards*, unless the house was existing prior to the roadway being designated as such on the City's *Master Thoroughfare Plan*.

(2) No residential lots shall face a Collector or higher designation street.

(f) **Lot Frontages.**

(1) Street Frontage.

i. *Adequate Frontage.* Each lot 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 shall also have a minimum frontage of forty (40) feet at the building setback line, unless approved by the Director of Engineering.

ii. *Frontage Exception.* For non-residential developments ten (10) acres or greater, the lots may be platted to a private street or access easement instead of a dedicated street.

(2) Double Frontage.

i. *Single-Family, Two-Family and Townhome Lots.* Double frontage lots are prohibited, except that single-family, two-family or townhome lots may back or side onto a Collector street or larger thoroughfare, as described within the *Engineering Design Standards*, with appropriate screening. 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 Section 10.03.081, *Applicability and General Requirements*. 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 Variance, in accordance with Section 10.03.086, *Variances*, if unusual circumstances exist on the subject property or on adjacent property that make it difficult to comply with this requirement.

(g) **Lots in Relation to Parks/Open Space.** 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.

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

(3) Subsequent replat numbering shall be indicated with an "R" suffix for the first revision (e.g. from Lot 3 to Lot 3**R**) 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.).

(j) **Building Setback Lines.** Building setback lines shall be shown only on residential Preliminary and Final Plats within Celina's ETJ. Building setback lines need not be shown on any plats for commercial development.

(k) **Addressing.** The Director of Development Services, in conjunction with the Geographic Information Systems department, shall assign addresses that are in compliance with standards established by the *U.S. Postal Service*.

(l) **Other Block Requirements.** See the *Engineering Design Standards*.

Sec. 10.03.078..... OTHER SUBDIVISION REGULATIONS.

(a) **Easements.**

(1) Easements Shown on Plats. The type, size, and location of easements shall be determined by the Director of Engineering. All existing and proposed easements shall be shown on the Preliminary, Final Plats, and Replats. All easements shall be labeled on the plat and dedicated for the specific purpose intended (e.g., "City Utility Easement," "City Drainage Easement," "CoServ Electric Easement," etc.).

(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 the Conveyance Plat or Final Plat and shall be approved as to size and location by the Director of Engineering. In certain circumstances, a separate instrument may be accepted to dedicate required off-site easements, if approved by the Director of Engineering. If the abutting property is already platted, then a Replat of that property shall be required to establish the new off-site easement.

(3) Maintenance Easements. When a retaining wall is proposed for construction, the associated plat must show a minimum three (3) foot maintenance easement on both sides of the proposed wall.

(b) **Reservations.**

(1) Permitted Uses. No land contained in the proposed subdivision shall be reserved for any use other than a use permitted by the Zoning Ordinance for the district in which the land to be reserved is located or for future roadways as shown on the *Master Thoroughfare Plan*.

(2) Designation on Plat. The specific use for which each parcel 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.

(3) Parks and Open Space. The location and size of parks and open space areas shall be in conformance with this Article 10.03.080, *Parks & Open Space*, and the *Zoning Ordinance*. All areas retained as floodway shall be reserved for public use, unless other provisions are approved by the City Council.

(4) Schools. The location and size of school sites shall be in conformance with the *Comprehensive Plan* and the recommendations of the applicable school district.

(5) 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* and the recommendations of the Director of Development Services.

(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 *Engineering Design Standards*. The corners so marked should be at opposing ends of the property unless otherwise approved by the Director of Engineering.

(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 Engineering 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 Engineering.

(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 seven and a half feet (7½') unless specifically reduced by the Director of Engineering.

(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.

(4) Installation and Financing. The subdivider 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 subdivider 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 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 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 Engineering.

(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.

SEC. 10.03.079 .....REQUIRED SUBDIVISION AMENITIES.

(a) **Description & Definition.** The term "amenity" is defined within Section 10.03.102, *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) Plans and illustrations, along with a written statement of such concepts, shall be submitted for review and approval with the construction plans.

(2) Plans for amenities shall be incorporated into the Screening Plan and Landscape Plans, when applicable, for submittal as part of the construction plans.

(3) Structural elements shall be sealed by a licensed professional engineer and shall be approved by the City.

(4) Any screening or retaining wall shall be located in a common area lot or within a wall-maintenance easement (minimum three (3) feet wide) to facilitate repair as needed.

(5) A Site Plan, reviewed and approved in accordance with the *Zoning Ordinance*, is required for private recreational facilities, amenity centers and parks.

(6) 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 10.03.046, *Inspection, Maintenance & Acceptance of Public Improvements*).

(7) 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. 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.

(8) Every residential unit must be located within two (2) miles of an outdoor siren early warning system.

(9) Every residential and multiple-family development shall have, at the minimum, security cameras located at entrances to the community.

(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. The primary entry feature, with identifying monument sign and/or other identifying branding or focal point, shall be placed within a separate HOA-owned (i.e. common area) lot within a divided entry access point. An entry feature having a water pond, fountain, or other water feature shall only be allowed if approved by the Director of Engineering and the Fire Chief.

(2) No entry feature, other than screening walls or extensions of screening walls, may be constructed on any portion of a single-family, two-family, or townhome lots. 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.

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

(4) Private recreation facilities, if provided in a development, shall, to the greatest extent possible, be centrally located within the overall development. (See Diagram 10.03.117)

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

(1) <u>Purpose</u>**.** 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) Applicability**.** An HOA shall be established for any development that contains any of the following: a minimum of six (6) housing units, a private amenity (such as a clubhouse or pool), private street, a major creek or tributary, or thoroughfare screening. For purposes of this section, the terms "Homeowners Association," "HOA," and "Association" are interchangeable with the term "Property Owners' Association" for multi-family and non-residential developments.

(3) Elements Requiring an HOA**.** 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:

i. *Amenities*. Where proposed in conjunction with a development, the word "amenity" shall be as defined in Section 10.03.102, *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;
e. Ponds and detention features;
f. Water fountains or features;
g. Hike & bike trails; and
h. Other commonly owned facilities.

ii. *Major Creeks*. As defined in Section 10.03.102, *Definitions*, and as generally regulated by Section 10.08.02(j), *Major Creeks*, of this Ordinance, major creeks that run adjacent to or within a subdivision shall be maintained by the HOA.

iii. *Private Streets*. (Also see Sections 14.03.301(i) and (j) of the Zoning Ordinance) As defined in Section 10.03.102, *Definitions*, and as generally regulated by Section 10.03.073(c), *Private Streets*, of this Ordinance, private streets shall be owned and maintained by the HOA. 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.

(4) Maintenance Agreement. All detention facilities shall be owned and maintained by the HOA and the HOA 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 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 shall be submitted to the City for conformance with this and other applicable ordinances prior to submission of the Final Plat, and prior to issuance of a Letter of Final Acceptance for the development. HOA documents shall include descriptions of any amenities, private streets, stub streets, thoroughfare screening, major creeks or tributaries, 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 documents shall be reviewed by the City Attorney prior to recordation of the Final Plat. The applicant shall reimburse the City for all related legal costs

incurred by the City for review of the HOA documents. This reimbursement shall be paid in full prior to recordation of the Final Plat.

(3) Recordation. All HOA documents shall be recorded in Denton or Collin County prior to or with the recordation of the Final Plat. All copies of the HOA documents shall be submitted to Development Services along with the appropriate County fees and current tax certificates (with raised seals) for staff to complete the Final Plat recordation process.

(4) Additional Phases. An additional phase to an existing subdivision is not required to establish a separate and distinct HOA, provided that:

i. The existing, recorded Association documents are amended to incorporate the area of the new subdivision phase and to adopt the responsibility of its amenities, private streets, major creeks and tributaries, thoroughfare screening, and other areas for which the HOA is responsible for maintenance.

ii. The applicant 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 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 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 amenities, private streets, major creeks and tributaries, thoroughfare screening, 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 amenity, on the private streets, within or adjacent to any Major Creek or tributary, associated with any thoroughfare screening or common landscaping, 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 10.03.079(h), *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, or by requiring landscape materials that do not comply with *Zoning Ordinance* landscape requirements.

(2) Compliance with the *Neighborhood Design Guidelines*. Association documents shall comply with the adopted *Neighborhood Design Guidelines*.

(3) Amenities. The following regulations shall apply to any subdivision that includes an amenity, as described in Section 10.03.078, *Required Subdivision Amenities*, and defined in Section 10.03.102, *Definitions*:

i. Where amenities are proposed in conjunction with a development, the applicant shall comply with those regulations outlined in Section 10.03.078, *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 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 Ordinance.

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 approval of the Specific Use Permit for the Private Street Development is revoked or the private streets are otherwise converted to

public streets, the reserve fund shall become the property of the City (see the City's *Engineering Design Standards* for conversion process).

iii. In addition to any other requirements set forth in this section, the HOA'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 Engineering.

d. That failure to bring the subdivision into compliance with these regulations may cause the City to revoke the approval or the Specific Use Permit for the Private Street Development and take appropriate action.

iv. The HOA 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 *Engineering Design Standards*, 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 100-year 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 100-year floodplain in the event they are not being properly maintained, as determined by the Director of Engineering; 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.**

(1) The City will notify the HOA of violations of any of the regulations specified within this section.

(2) 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.

(3) 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.

(4) Should the Association fail to carry out its duties as specified in this Ordinance, 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 10.03.080.....PARKS & OPEN SPACE

SEC. 10.03.081 ..... PARK LAND REQUIREMENTS FOR NEW RESIDENTIAL DEVELOPMENTS

(a) **Purpose**. This Section is intended to meet 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 all new residential development within the City for which a Final Plat or Preliminary Plat is required to be submitted to the City for approval.

(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 Design Requirements**: **Neighborhood and Linear Parks and Connections to Parks.**

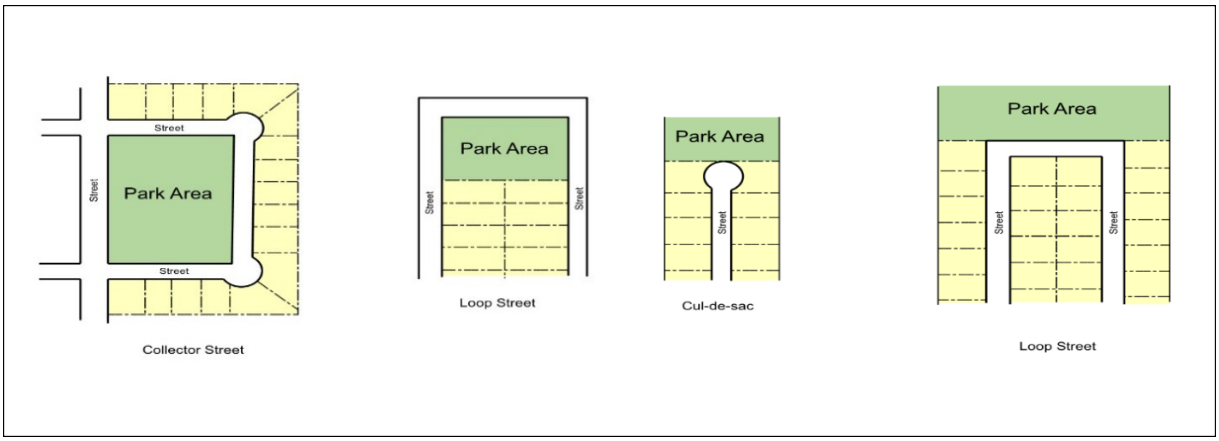
(1) Parks must be easy to access and open to public view to benefit area development, enhance the visual character of the City, protect public safety and minimize conflict with adjacent land uses.

(2) The following standards shall be used in designing parks and adjacent development:

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

ii. 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.

iii. Residential lots may back to a park 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 park shall only be allowed upon a recommendation from the City Manager or designee and approval by the Planning & Zoning Commission.

iv. 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 (20) foot level surface shall be provided for all public Hike & Bike trails. The twenty (20) 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 (20) foot wide level surface.
ix. All proposed Hike & Bike trails shall be shown on the Preliminary Plat. The Parks and Recreation 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. 10.03.082..... PARK LAND DEDICATION REQUIREMENTS.

(a) **Land Conveyance or Payment in Lieu of Land Required**. The owner of any property to be developed for residential or multiple-family purposes shall convey land for park 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 (the "park land dedication fee").

(b) **Proposed Number of Dwelling Units**. All plats, lots of record, replats, site plans or proposed improvements of land for new residential development shall indicate the number of proposed dwelling units to be constructed or placed within the development on such plat, lot of record, replat, or site plan.

(c) **Determination or Requirements**. In reviewing any lot of record, plat, site plan, or proposed improvements of land for a new residential development (including townhome or multi-family developments), the City Manager or designee shall make a determination of whether a conveyance of land, payment of money in

lieu of land or a combination of both shall be made to meet the requirements of this article.

(d) **Factors Considered**. In making a determination of which type of dedication, or combination thereof, shall be made, the City Manager or designee shall evaluate what would be in the best interest of the City, based upon relevant factors that may include, but not be limited to, the following:

(1) Whether the proposed land to be conveyed for park purposes would be suitable as a regional, neighborhood, linear, community, or city park;

(2) Any adopted park plan or sub-area plan for the area in which the development is located;

(3) Whether the proposed land to be conveyed for park purposes is adjacent to an existing or proposed school site.

(4) Whether there is sufficient existing public or private park land in the area of the proposed development;

(5) Whether the park needs of the area where the proposed development is located would be best served by expanding or upgrading existing parks;

(6) Whether the land is located adjacent to a greenbelt park which is intended to be preserved in its natural state; and

(7) Whether the development of a park in the location proposed reflects the guidelines of the *Comprehensive Plan*.

(e) **Dedication: Conveyance of Land Requirements.** The City Manager or his designee shall make the determination regarding whether a conveyance of land shall be accepted in whole or in part or whether it would be more beneficial to the City to accept the market-based cash equivalent. When the City elects to accept the conveyance of land to meet the Park Land Dedication requirement, the following provisions shall apply:

(1) Amount.

i. The required conveyance of land shall be one (1) acre of land per fifty (50) residential single-family units, or a dollar amount per square foot of the land in lieu of land dedication, as listed in the Master Fee Schedule.

ii. The required conveyance of land for multi-family units shall be a flat per unit fee, as listed in the Master Fee Schedule.

(2) Manner and Method. Plats required to be submitted to the City for approval shall show thereon a fee simple conveyance to the City of the land required for park purposes as a condition to approval of such plat by the Commission. The City may further require the conveyance of the park property by general warranty deed. As a condition to acceptance of the plat or deed by the City, the Subdivider shall provide the City with an owner's title policy of insurance in an amount equal to the value of the land conveyed, which amount shall be determined by the City.

(3) Credit for Private Recreation Facilities. Where private recreation facilities are built for the residents for the subdivision or development, a credit may be granted with a recommendation from the City Park Board and approval by the City Council. The value of these private recreation facilities shall be determined by the City Council, but shall not exceed fifty percent (50%) credit of conveyance.

(4) Credit for Prior Dedications. Where a gift of land was made prior to the effective date of the ordinance from which this article is derived by the owner of land required to convey land under the provisions of this article, the former gift of land shall be credited on a per-acre basis toward the required conveyance provided by this article when the City Council finds that:

i. The gift was made within five (5) years of the effective date of this ordinance;

ii. The land given was within one-half mile of the new development for which land is required to be conveyed;

iii. The land given is not being presently used for purposes incompatible with park purposes and

is suitable for park purposes; and

iv. A credit may be given for on-site improvements that are compatible with long-range development plans for the proposed park.

v. The credit provided for herein shall not be transferable and shall only be given to the donor of the land who is the owner of the property being developed for which a conveyance of land is required by this article, unless said prior conveyances were included as a part of an executed facilities and/or development agreement between the City and the developer.

(5) Credit for Conveyance of Floodplains. In cases where floodplain and or property is proposed to be conveyed to satisfy the Park Land Dedication requirements, a credit will be given based upon the following formula or ratio: three (3) acres of floodplain shall equal one (1) acre of land outside the floodplain, if approved by the Park Board.

(6) Suitability of Land for Neighborhood Parks, Community Parks, or Linear Parks. The Park Board shall be the arbiter of what land is suitable for park land dedication, subject to final approval by the City Council. A proposed conveyance of land shall not be considered suitable for Neighborhood Parks, Community Parks, or Open Space purposes if it has one or more of the following characteristics:

i. Located within the 100-year floodplain, as shown on the latest flood insurance rate map or Floodplain Ordinance adopted by the City on which the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. The City may accept no more than the twenty percent (20%) floodplain land, unless a greater percentage of land within the floodplain is determined in the best interest of the City.

ii. The proposed dedication is less than seven and a half (7.5) acres for a neighborhood park or less than twenty (20) acres for a community park, unless the proposed dedication is located in such a manner in which it could be combined with other dedications to create a park of adequate size.

iii. It has unusual topography or slope or has utility easements that render it unsuitable for organized recreational activities or passive park needs, depending on the City's intended use for the property.

iv. It does not, or would not, front an improved public street or would not be readily accessible, in whole or in part, to the public.

(f) **Dedication: Payment in Lieu of Land Provisions.** Where the City Manager or designee determines that a payment of money in lieu of land shall be made, the following provisions shall apply:

(1) Determining the Amount of Payment.

i. Any payment of money required to be paid shall be in an amount equal to the average per-acre value of the whole property included within the residential development or the amount set forth in the Fee Schedule, as it currently exists or may be amended, whichever is greater.

ii. In determining the average per-acre value of the total land included within the proposed residential development, the City Manager or designee may base its determination on one or more of the following:

a. The most recent appraisal of all or part of the property made by the county central appraisal district; or

b. Confirmed sale prices of all or part of the property to be developed, or comparable property in close proximity thereof, which has occurred within two (2) years immediately preceding the date of determination; or

iii. Where, in the judgment of the City Manager or designee, Section 10.03.082(f)(1)(i) or 10.03.082(f)(1)(ii) above would not, because of changed conditions, be a reliable indication of the current value of the land being developed, an independent appraisal of the whole

property obtained by the City and paid for by the Developer; or

(2) Time of Payment. Any payment of money required herein shall be paid as a condition to the approval of any Final Plat or replat. Payment shall be made prior to the filing of the plat unless otherwise stated in an agreement approved by the City Council.

(3) Park Land Dedication Fund. All cash payments paid to the City in accordance with this Section shall be deposited in a separate Park Land Dedication Fund. The City shall account for all such payment with reference to each development for which the payment is made.

(4) Use of Funds. Any payments made to the park development fund must be used for the acquisition and development of parks, Hike & Bike trails, or public open space located within the City.

(g) **Compliance, Penalties, Sanctions and Redeterminations**.

(1) Requirements to be Satisfied Prior to Development. It shall be unlawful for any person who is required to convey land, or pay money in lieu of land, as required by this article, to begin, or allow any other person or contractor to begin, any construction or improvements on any land within any development to which this article applies until the required conveyance of land or payment of money in lieu of land is made to the City in accordance with this article.

(2) Permits and Services to be Withheld. No building permits shall be issued for, and no permanent utility services shall be provided to any land within any land within any development to which this article applies until the required conveyance of land or payment of money in lieu of land is made to the City in accordance with this article.

(3) Redetermination of Requirements for Proposed Additional Dwelling Units. After the City Council has made a determination of the requirements of this article, or after the requirements of this article have been met, based upon the proposed number of residential dwelling units for any land to which this article applies, any person who desires to construct a number of dwelling units in excess of the number of dwelling units for which the requirements of this article were determined or met must submit to the City Council a revised calculation for the total number dwelling units in the development. If the additional number of dwelling units changes the density of the development, a zoning change may be required. If the additional dwelling units are accepted by the City through a process determined by the City Manager or his designee, the developer shall either convey the additional park land through a plat or replat or shall pay a fee in lieu of park land for the additional dwelling units at the issuance of the first building permit for all the additional units, regardless of whether all of the units are being constructed at one time.

Sec. 10.03.083..... PARK IMPROVEMENT FEES

(a) **Purpose**.

(1) A park improvement fee ("park fee") is hereby imposed on residential development for the purpose of ensuring that City, community, neighborhood, and linear park facilities are available and adequate to meet the needs created by new residential development.

(2) The park fee is imposed in conjunction with and in addition to requirements for the dedication of neighborhood and linear park land and the construction of neighborhood and linear park improvements for which contributions the Property Owner may be reimbursed from proceeds of park fees imposed, as provided in Section 10.03.083(f), *Use of Park Improvement Fee*.

(3) Park improvement fees are collected on a per unit basis prior to the issuance of a building permit and are listed in the Master Fee Schedule.

(b) **Applicability of Park Fee**. In all cases in which parkland is dedicated or cash is paid in lieu of parkland dedication, the subdivider shall also pay to the City a sum of money, as set forth by Section 10.03.083(d), *Amount of Park Improvement Fee*. This subsection does not apply to activities involving the replacement,

reconstruction, remodeling, rehabilitation or other improvements to an existing residential structure, or to the rebuilding of a damaged structure or to permits required for accessory uses, unless such activity results in a change in the type or increase in the number of dwelling units.

(c) **Imposition of Park Fee**. Imposition of the park fee does not alter, negate, supersede or otherwise affect any other requirements of City, county, state or federal legislation or regulations that may be applicable to a residential development, including City zoning and/or subdivision regulations that may impose open space and park requirements and standards.

(d) **Amount of Park Improvement Fee**. The established park fee for single-family, duplex, townhome and multifamily dwelling units as listed in the Fee Schedule.

(e) **Timing and Processing of Park Improvement Fees**.

(1) The park improvement fee shall be a paid by the home builder prior to the issuance of a Building Permit.

(2) The amount of the park improvement fee for single-family, two-family, and multi-family units is set forth in the City's Master Fee Schedule, as it currently exists or may be amended.

(3) All park improvement fee payments shall be segregated in a separate fund to be spent only for the improvement of park facilities, funding of staff, or purchase of park land within the City.

(4) The City shall maintain and keep financial records for park improvement fees, which shall show the source and disbursement of all fees collected.

(f) **Use of Park Improvement Fees**. Park fees must be used for the following purposes:

(1) To acquire, develop, and provide equipment for Parks.

(2) To repay Developers for the reasonable costs of any park improvements constructed and accepted by the City.

(g) **Additional Voluntary Park Improvements**. A developer may request permission to construct, at his own expense, additional park improvements. The City may accept or reject voluntary dedications of park land and/or additional park improvements. Such voluntary dedications and/or improvements shall be considered for approval by the Park Board. All improvements in public parks and open spaces shall be consistent with the design criteria and objectives of the City and any adopted park plan, and shall, upon installation, become the property of the City. Prior to constructing such additional park improvements, the developer shall enter into a development agreement with the City that defines, among other things, the work to be performed, construction schedules, improvement costs, performance surety, the amount to be reimbursed by the City (if any), and the timing of such reimbursement (if any).

(h) **Appeals and Variances**.

(1) The Developer may appeal the following decisions of the City Manager to the Board of Adjustment:

i. The applicability of the park fee;

ii. The amount of the fee due; or

iii. The amount of refund due, if any.

(2) The Developer must file a notice of appeal with the City Council within thirty (30) days following the determination by the City Manager. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the City Attorney in an amount equal to the park fee due as calculated by the City Manager, the development application shall be processed. The filing of an appeal shall not stay the collection of the fee due, unless a bond or other sufficient surety has been filed.

(3) The Board of Adjustment may grant variances from any requirements of this Chapter, upon written request by a Property Owner, following a public hearing, and only upon a finding that a strict application of such requirement would result in a substantial hardship that is not common to

similarly situated property owners.

(i) **Park Fee as Additional and Supplemental Requirement**. The Park Fee is in addition and supplemental to and not in substitution of Park Land dedication or fees in lieu of land conveyance, or any other requirements imposed by the City on the residential development of the land.

Sec. 10.03.084.....HIKE & BIKE TRAIL REQUIREMENTS.

(a) **Hike & Bicycle Trail 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 Parks & Recreation 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-year floodplain.

(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 Parks & Recreation.

(3) Low water crossings for the Hike & Bike trail may be allowed upon approval from the Director of Engineering and the Director of Parks & Recreation.

(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 *Engineering Design Standards*.

(6) Hike & Bike trails shall be shown on the Final Plat and dedicated as "trail easements."

(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 Parks & Recreation and the Director of Development Services.

(1) The Director of Parks & Recreation 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.

(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, open space, must provide a pedestrian access easement to allow future Hike & Bike Trails to transverse the property.

(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 Parks & Recreation 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 Parks & Recreation 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 10.03.085 ....RELIEF PROCEDURES

Sec. 10.03.086.....VARIANCES & MINOR MODIFICATIONS.

(a) **Purpose.** The purpose of these relief procedures is to allow an applicant to differ from a particular standard or requirement of this Ordinance that would substantially limit the applicant's ability to utilize the land in a manner requested.

(1) The rules and regulations of this Subdivision Ordinance are the standard requirements of the City. Suspension of any of these rules and regulations may be granted upon a good and sufficient showing by the applicant 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 welfare or injurious to other property or property rights in the vicinity.

(2) Each and every application for Variance shall be decided solely and entirely on its own merits and the disposition of any prior or pending application for Variance 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 Variance.

(b) **Definitions of Levels of Relief.** The Director of Development Services shall be responsible for classifying any relief procedure as "minor" or "major." Minor modifications may be acted upon by the Director of Development Services or the Director of Engineering. Variances, as required by State Law, and as defined in Section 10.03.102, *Definitions*, of this Ordinance, require consideration by the Board of Adjustment.

(c) **Decision-Makers & Appeals.**

(1) Minor Modifications. A minor modification is acted upon by the Director of Development Services or the Director of Engineering. An appeal to a decision on a minor modification by the Director of Development Services or the Director of Engineering (as applicable) shall be considered by the Board of Adjustment. The Board of Adjustment will be the final decision maker.

(2) Variances. A variance is acted upon by the Board of Adjustment. An appeal to a variance decision by the Board of Adjustment shall be considered by a District or County Court.

(d) **Applicability.**

(1) An applicant may request relief from a particular standard or requirement applicable to a Conveyance Plat, Preliminary Plat, Construction Plans, Final Plat, or a Replat. The relief petition shall be specific in nature, and shall only involve relief consideration for one particular standard or requirement. An applicant may, if desired, submit more than one relief petition if there are several standards or requirements at issue.

(2) A petition for relief shall not be accepted in lieu of a vested rights petition (Section 10.03.087, *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.

(e) **Variance Submission Procedure.**

(1) A request for relief shall be submitted in writing by the applicant with the submittal of a Conveyance Plat, Preliminary Plat, Construction Plans, Final Plat, or Replat, as applicable. No relief may be considered or granted unless the applicant has made such written request and paid the applicable fee.

(2) The applicant's request shall state the grounds for the relief request and all of the facts relied upon by the applicant. Failure to do so will result in denial of the associated plat application.

(f) **Variance Criteria.**

(1) A variance to regulations within this Ordinance may be approved only when, in the Board of Adjustment's opinion, undue hardship will result from strict compliance to the regulations.

(2) The Board of Adjustment 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 variance might have upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.

(3) No variance shall be granted unless the Board of Adjustment 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 variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, and that the granting of the Variance will not be detrimental to the public health, safety or welfare or injurious to other property in the area; and

iii. That the granting of the variance will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this Ordinance.

(4) A variance may be granted only when in harmony with the general purpose and intent of this Ordinance so that the public health, safety and welfare may be secured and substantial justice done. Financial hardship to the applicant shall not be deemed to constitute undue hardship.

(5) No variance shall be granted unless it represents the minimum degree of variation of requirements necessary to meet the needs of the applicant.

(6) The Board of Adjustment shall not authorize a variance 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 applicant shall be cause for the variance request to be denied. If the variance request is approved based upon false information, whether intentional or not, discovery of such false information shall nullify prior approval of the variance, and shall be grounds for reconsideration of the variance request.

(g) **Burden of Proof.** The applicant bears the burden of proof to demonstrate that the requirement for which a variance is requested, if uniformly applied, imposes an undue hardship or disproportionate burden on the applicant. The applicant shall submit the burden of proof with the original submittal.

(h) **Decision.** The decision-maker shall consider the variance petition and, based upon the criteria set forth in Section 10.03.086(g), *Variance Criteria*, shall take one of the following actions:

(1) Deny the petition, and impose the standard or requirement as it is stated in this Subdivision Ordinance; or

(2) Grant the petition, and waive in whole or in part the standard or requirement as it is stated in this Ordinance.

(i) **Notification of Decision on Petition.** The applicant shall be notified of the decision on the variance by the Director within fourteen (14) calendar days following the decision.

(j) **Appeal Process.**

(1) Initiation of an Appeal. The applicant or City Staff may appeal a variance decision. A written letter of appeal shall be submitted to the Director of Development Services within fourteen (14) calendar days following the decision by the Board of Adjustment, as allowed by State law.

(2) Appeal to District or County Court. The written appeal petition shall be brought before the Court of Record for final decision

(k) **Minor Modification Procedure**. The Director of Development Services shall determine what criteria apply

for any relief petition that is considered "minor" in nature on a case-by-case basis. Appeals to his decision shall be heard by the Board of Adjustment.

(l) **Effect of Approval.** Following the granting of a minor modification or variance, the applicant may submit or continue the processing of a plat or construction plans, as applicable. The minor modification or variance granted shall remain in effect for the period the plat, concept plan, 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 minor modification or variance. The approval of a minor modification or variance relieves the applicant of the imposition of the particular standard or requirement for which a minor modification or variance was sought following the finding of just cause for such minor modification or variance to be allowed. A variance shall not be approved solely based on monetary interests. Minor modifications or variances are heard on a case-by-case basis and do not establish precedent.

Sec. 10.03.087.....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 Ordinance.

(2) A vested rights petition cannot be submitted by an applicant 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 10.03.023(g), *Application Submittal Process* in accordance with State law. Submission of a vested rights petition shall be deemed as an automatic variance of the applicant's right, and the City's obligation, to process and act upon applications as required by State law and as provided in Section 10.03.087(e), *Form of Petition*, of this Ordinance. Submission of such petition shall stay further proceedings on 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 Ordinance.

(e) **Form of Petition.** The vested rights petition shall allege in writing that the applicant 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. The petition shall include the following information and documents:

(1) A written vested rights petition form, with a notarized original signature of the property owner;

(2) 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;

(3) 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;

(4) The official filing date of the application;

(5) The date the subdivision for which the application was submitted was commenced;

(6) Identification of all standards otherwise applicable to the application from which relief is sought;

(7) Identification of any current standards which applicant agrees can be applied to the application at

issue;

(8) 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;

(9) A copy of any prior vested rights determination involving the same land; and

(10) 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. 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.

(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 10.03.089, *Dormant Projects*. Where more than one (1) application is authorized to be filed simultaneously by this Ordinance, 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 10.03.027, *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. 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 filing of the Final Plat.

(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 applicant shall be notified of the decision within fourteen (14) calendar days following the date the vested rights petition was filed at the City.

iii. The responsible official may defer making a decision on the vested rights petition and instead forward the petition to the Commission for a decision, in accordance with the process outlined in Section 10.03.087(g)(3), *Decision by Planning & Zoning Commission*.

(3) Decision by Planning & Zoning Commission. If the original application is to be decided by the Commission, or if the responsible official defers making a decision on a vested rights petition, the responsible official for that type of application shall submit a report in the form of a recommendation on the vested rights petition to the Planning & Zoning Commission. The Commission shall render a decision on the vested rights petition within thirty (30) calendar days following the date the petition was filed with the City. The Commission's decision on a vested rights petition shall be upon a simple majority vote of the full Commission's voting members.

(4) Decision by City Council. Where the City Council is the final decision-maker on the related application, or for any petition submitted pursuant to Section 10.03.089, *Dormant Projects*, the responsible official for that type of application shall submit a report in the form of a recommendation on the vested rights petition to the City Council. The Council shall render a decision on the vested rights petition within thirty (30) calendar days following the date the petition

was filed with the City. The City Council's decision on a vested rights petition shall be upon a simple majority vote of the full Council's voting members, and shall be final.

(5) Appeal of Decision. The applicant may appeal to City Council the responsible official's or Commission'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. Approval of an appeal by the City Council shall only be upon a favorable vote of at least four (4) of the Council's voting members, and shall be final (see Section 10.03.087(k), *Appeal*).

(6) Effect on Related Applications. A final decision on the vested rights petition or appeal under this section must be achieved prior to further processing, and prior to any consideration of, or decision on, the related application. Upon such final resolution and decision on a vested rights petition, 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 the current Subdivision Ordinance 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 10.03.027 of this Ordinance, *Expiration for Projects Approved Prior to the Adoption of Subdivision Ordinance*, whether any of the events in Section 10.03.027 have occurred;

viii. Any other applicable provisions of State law.

(2) Conditions. If the claim of vested rights is based upon a pending application, subject to standards that have been superseded by current standards of this Ordinance, the decision-maker may condition any relief granted on the vested rights petition on the approval of the pending application.

(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 10.03.027, *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 10.03.027, *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 Commission by submitting a written notice of appeal to the Director of Development Services within fourteen (14) calendar days following the date of the Commission's decision.

i. For a City Council-initiated appeal, the Council shall consider and act on whether it will appeal the Commission'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) that occurs after the Commission meeting at which the decision was made.
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 Subdivision Ordinance, 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. 10.03.088.....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 property owner 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. 10.03.089.....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 Ordinance: Preliminary Plat, construction plans, Construction Release, Variances to any requirement in this Subdivision Ordinance, 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 approved under this Subdivision Ordinance, 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 Subdivision Ordinance shall expire on the effective date of this Subdivision Ordinance.

(c) **Reinstatement.** The property owner of the land subject to an initial permit that expires under Section 10.03.089, *Dormant Projects*, may petition the Commission to reinstate such permit by filing a written petition within sixty (60) calendar days following the effective date of this Subdivision Ordinance. 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 Subdivision Ordinance, 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 Subdivision Ordinance, 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 Subdivision Ordinance, but before the expiration date specified in Section 10.03.089(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 10.03.089(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 10.03.089(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 10.03.089(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 10.03.089(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 10.03.090 ....AMENDMENTS; FEES; VIOLATIONS; CONFLICTS

Sec. 10.03.091.....TEXT AMENDMENTS.

The City may initiate changes to the Subdivision Ordinance through a call for public hearing. Any case that considers amending the Subdivision Ordinance is considered during a public hearing by the Planning & Zoning Commission, which will make a recommendation on the case to City Council. City Council will consider the Commission's recommendation during a public hearing, upon which the City Council will make a decision whether to direct staff to prepare an Ordinance amending the section(s) of the Subdivision Ordinance.

Sec. 10.03.092.....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 10.03.092(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 ordinance, as amended.

(2) These fees shall be charged on all plats and applications authorized by this Ordinance, regardless of the action taken by the decision-making authority and whether the application is approved, denied, withdrawn, or otherwise closed.

ARTICLE 10.03.100 ..... DEFINITIONS, USAGE AND INTERPRETATION

Sec. 10.03.101.....USAGE & INTERPRETATION.

(a) **Usage.** The definitions within this Article 10.03.102 are intended to provide descriptions for words and terms used within this Subdivision Ordinance. Absent any conflict, words and terms used in this Subdivision Ordinance shall have the meanings ascribed thereto in this Article 10.03.101.

(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 Section10.03.102 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) **Words Not Defined.** For any definition not listed in this Article 10.03.112, the definition found within the latest edition of Webster's Dictionary shall be used.

(f) **Certain Terms & Words.** Certain terms and words are to be used and interpreted as described and/or defined within the sections of this Subdivision Ordinance wherein they apply to certain regulations.

(g) **Words of Gender.** Words of masculine gender shall include the feminine gender and vice versa.

Sec. 10.03.102.....DEFINITIONS.

The following definitions shall apply to terms and words used within this Subdivision Ordinance:

100-Year Hazard Setback. An erosion hazard setback is to reduce the potential for any damage to a private lot or street right-of-way caused by the erosion of a stream bank. The erosion hazard setback shall be determined as follows: for stream banks composed of material other than rock, locate the toe of the natural stream bank and project a 4:1 line sloping away from the bank until it intersects finished grade. From this intersection, add fifteen (15) feet away from the bank. This shall be the limit of the erosion hazard setback.

100-Year Floodplain. 100-Year Floodplain is defined as 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 a Major Creek (http://www.celina-tx.gov/DocumentCenter/View/1416).

Abutting. Also defined as adjacent, adjoining and contiguous to. It may also mean having a lot line in common with a right-of-way or easement, or with a physical improvement such as a street, waterline, park, or open space.

Access. A means to enter a property or the ability to traverse a property (such as in the use of a mutual access easement.

Acreage, Gross. Means the total acreage included within the boundary line of a particular subdivision, tract, parcel, lot, etc. without any exclusions.

Acreage, Net. Means the acreage included within the boundary line of a particular subdivision, tract, parcel, lot, etc., but excluding all public ways.

Alley. A minor right-of-way, generally dedicated to public use, 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 10.03.079(c)(1), *Elements requiring a*

HOA, of this Ordinance.

Appeal. A request for review of and relief from any decision applying a provision of this Ordinance.

Applicant. The person or entity responsible for the submission of an application. The applicant must be the actual owner of the property for which an application is submitted, or shall be 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 filled out and executed by the Applicant and submitted to the City along with other required materials as a part of an application.

Approval. Approval constitutes a determination by the official, board, commission or City Council responsible for such determination that the application complies with the minimum provisions of this Ordinance. *NOTE:* Such approval does not constitute approval of the engineering or surveying 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 (see Street), 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 lanes. Such streets shall also be as described within the *Engineering Design Standards*, and as shown on the Thoroughfare Plan Map. Also is referred to as "Type A-1."

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 *Engineering Design Standards*, and as shown on the Thoroughfare Plan Map. Also is referred to as "Type B."

Block. A grouping of buildings that are partially or fully surrounded by one or more streets. Lots separated only by an alley are within the same block.

Building. Any structure intended for shelter, occupancy, housing or enclosure for 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 that a building may be erected.

Building Permit. An official certificate issued by the City through the Chief Building Official that indicates conformance with or approved conditional variance 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 that a building may be erected. This distance is generally used in urban areas where wide sidewalks abut the building facades.

Building Official. The person so designated by the City Manager to provide oversight for and have responsibility of

the Building Inspections; such official issues Building Permits and Certificates of Occupancy and enforces the Zoning Ordinance, Building Code, and any applicable provisions of this Subdivision Ordinance. This term shall also include any designee of the Building Official.

Centerline, Streets or Alleys. An imaginary line erected midway between the bounding right-of-way lines of a street or alley. Where the bounding right-of-way lines are irregular, the centerline is to be determined by the Director of Engineering.

Certificate of Occupancy. An official certificate issued by the City through the Chief Building Official that indicates conformance with or approved conditional variance 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 Denton or Collin County Clerk.

City. The municipal corporation of the City of Celina, 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 Celina, Texas.

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.

Code. Shall mean the entire City of Celina'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 Celina. See *Planning & Zoning Commission*.

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.

Construction Plans. The drawings and technical specifications that conform to this Ordinance and all other applicable ordinances of the City. Construction plans, including bid documents, contract conditions, 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.

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 circulations.

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 or improvement of land and/or other activities covered by this Subdivision Ordinance 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*.

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 Agreement. A legally binding document authorized and in accordance with Section 212.172 of the TEXAS LOCAL GOVERNMENT CODE between the City and a property owner whenever public improvements to serve a development are deferred until after Final Plat approval and recordation. Such document outlines the developer's acknowledged responsibility to complete and warranty improvements and to provide financial security for such improvements.

Development Application. An application for any type of plat or construction plan/drawing authorized or addressed by this Subdivision Ordinance. Also may be referred to as a *permit* within the TEXAS LOCAL GOVERNMENT CODE, CHAPTER 245.

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 Subdivision Ordinance, 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 Subdivision Ordinance, 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 of the Parks & Recreation Department. As used for responsibility and review purposes within this Subdivision Ordinance, this term shall also include any designee of the Director of Parks & Recreation.

Director of Planning. The person so designated by the City Manager to provide oversight for and have responsibility of the Planning Department. As used for responsibility and review purposes within this Subdivision Ordinance, this term shall also include any designee of the Director of Planning.

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.

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.

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*.)

Engineering Design Standards. A document adopted by the City that is intended to establish standards for the design and construction of public facilities within the City of Celina.

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 a flood situation unless major channel stabilization has occurred.

ETJ. See *Extraterritorial Jurisdiction*.

Exemption. A specified reason why a particular development is not subject to the requirements to plat or to a specific provision of this Ordinance.

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 Subdivision Ordinance.

Facilities. Infrastructure and other structures that support a development including, but not limited to, water distribution lines, sanitary sewer collection lines, storm sewer lines and other storm water management devices, thoroughfares, sidewalks, private utilities, etc.

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 Subdivision Ordinance, this term shall also include any designee of the Fire Chief.

Fire Lane. See definition in the City's adopted Fire Code.

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.

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, sewer lines, and other utilities, streets and roads, communications, and public facilities, such as fire houses, civic buildings, parks, and schools.

iSWM. The acronym for integrated Storm Water Management, which is a guide for the construction and design of developments. This guide is intended to help mitigate the impact of developments on storm water runoff by considering such runoff during early site planning and design phases and was created by the North Central Texas Council of Governments (NCTCOG).

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.

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 Denton or Collin 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*.

Maximum. For the purposes of this Ordinance, "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 Ordinance, "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.

Minor Modification. A minor change to the standards, but not the intent, of this Subdivision Ordinance, which involves Director's approval unless otherwise noted.

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.

MS4. The acronym for the City's Municipal Separate Storm Sewer System.

Official Filing Date. Defined as the date on which the plat has met all the requirements of the Subdivision Ordinance 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.

Ordinance (also referred to as "this Ordinance"). Refers to this Subdivision Ordinance of the City, as may be amended in the future.

Park. An area developed for active or passive play and recreation that includes open space, sports courts or fields, play equipment, and trails.

Park, Community. A park of approximately 40 to 100 acres, serving an area two (2) to three (3) miles in diameter, serving a population of approximately 20,000 persons and encompassing the service areas of four or more neighborhood parks. 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. These parks may be located adjacent to existing or proposed greenbelt areas and proposed junior and senior high school sites.

Park, Neighborhood. A park of approximately 10 to 20 acres, serving an area one (1) to two (2) miles in diameter and serving a population of approximately 5,000 persons. Neighborhood parks should be designed to service a specific neighborhood area and may include playground apparatus and other space for active recreational purposes, along with some areas for passive use. Whenever possible, neighborhood parks should be located adjacent to existing or proposed greenbelt areas and proposed elementary school sites.

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.

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 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 decision-making 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 Ordinance and any other applicable City ordinance, and which is subject to approval by the Planning & Zoning Commission, unless otherwise specified.

Plat, Amending. A map, drawing or exhibit that modifies a recorded final plat, record plat, or minor plat in accordance with the provisions of this Chapter.

Plat, Conveyance. A map, drawing or exhibit which conforms to Section 10.03.032, *Conveyance Plats*, of this Subdivision Ordinance 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, Final. A map, drawing or exhibit which conforms to Section 10.03.034, *Final Plats*, of this Subdivision Ordinance and is submitted to the City for consideration for final approval by the Planning & Zoning Commission. The plat illustrates that the subdivision of land is consistent with all standards of this Subdivision Ordinance 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 Denton or Collin 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 10.03.035, *Minor Plats*, of this Ordinance. 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 10.03.033, *Preliminary Plats*, of this Subdivision Ordinance and is submitted to the City for consideration for initial approval by the Planning & Zoning Commission. 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, 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 10.03.036, *Replats*, of this Subdivision Ordinance. A Replat may function as a Final Plat for a property.

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.

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.

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.

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).

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.

Stacking Area. A vehicle setback measured from a point on a building designed for drive-up service and the area assigned for queuing.

Street. 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 the *Engineering Design Standards*.

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 *Engineering Design Standards*.

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 10.03.073(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 *Engineering Design Standards*. 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 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 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 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.

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.

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.

Thoroughfare Plan Map. A component of the *Master 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.

Tributary. A riparian branch that feeds (i.e., flows into) a Major Creek, as identified and defined in the City's Riparian Study, as amended.

TxDOT: The acronym for the Texas Department of Transportation.

Utility Easement. An easement dedicated to the public for access, construction, reconstruction, and maintenance to water lines, sanitary sewer lines, storm sewers, 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.

Variance. An exception to a particular standard or requirement of the Subdivision Ordinance that is granted because compliance with the Ordinance requirements would substantially limit the applicant's ability to utilize the land in a manner requested and requires Board of Adjustment approval.

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 Subdivision Ordinance.

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 Celina Zoning Ordinance.

Sec. 10.03.103.....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)
GIS. Geographical Information Systems (mapping)
HOA. Homeowners' Association
MFF. Minimum Finished Floor Elevation (relates to floodplain)
NCTCOG. North Central Texas Council of Governments
P&Z. Planning & Zoning Commission
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)
UE. Utility easement
WME. Wall maintenance easement

Table 10.03.111: Applications - Responsible Officials, Initial Decision-Makers, and Appeals

Type of Application or Petition	Approval Authority	Appeal
Amending Plat *Section 10.03.037*	Development Services Director	P&Z Commission
Construction Plans *Section 10.03.041*	n/a	n/a
Construction Plans, Extension *Section 10.03.041(h)*	n/a	n/a
Construction Release *Section 10.03.041(i)*	n/a	n/a
Conveyance Plat *Section 10.03.032*	P&Z Commission	City Council
Development Agreement *Section 10.03.044*	City Council	n/a
Final Plat *Section 10.03.034*	P&Z Commission	City Council
Minor Plat *Section 10.03.035*	Development Services Director	P&Z Commission
Plat Vacation *Section 10.03.038*	P&Z Commission	City Council
Alley or ROW Vacation *Section 10.03.039*	City Council	n/a
Preliminary Plat *Section 10.03.033*	P&Z Commission	City Council
Preliminary Plat Approval, Extension *Section 10.03.033(k)*	Development Services Director	n/a
Replats *Section 10.03.036*	P&Z Commission	City Council
Variances to Subdivision Ordinance *Section 10.03.086*	Board of Adjustment	Court of Record
Minor Modifications to Subdivision Ordinance *Section 10.03.086*	City Staff	Board of Adjustment
Vested Rights Petition *Section 10.03.087*	City Staff	City Council

Diagram 10.03.112: Median & Cross Access

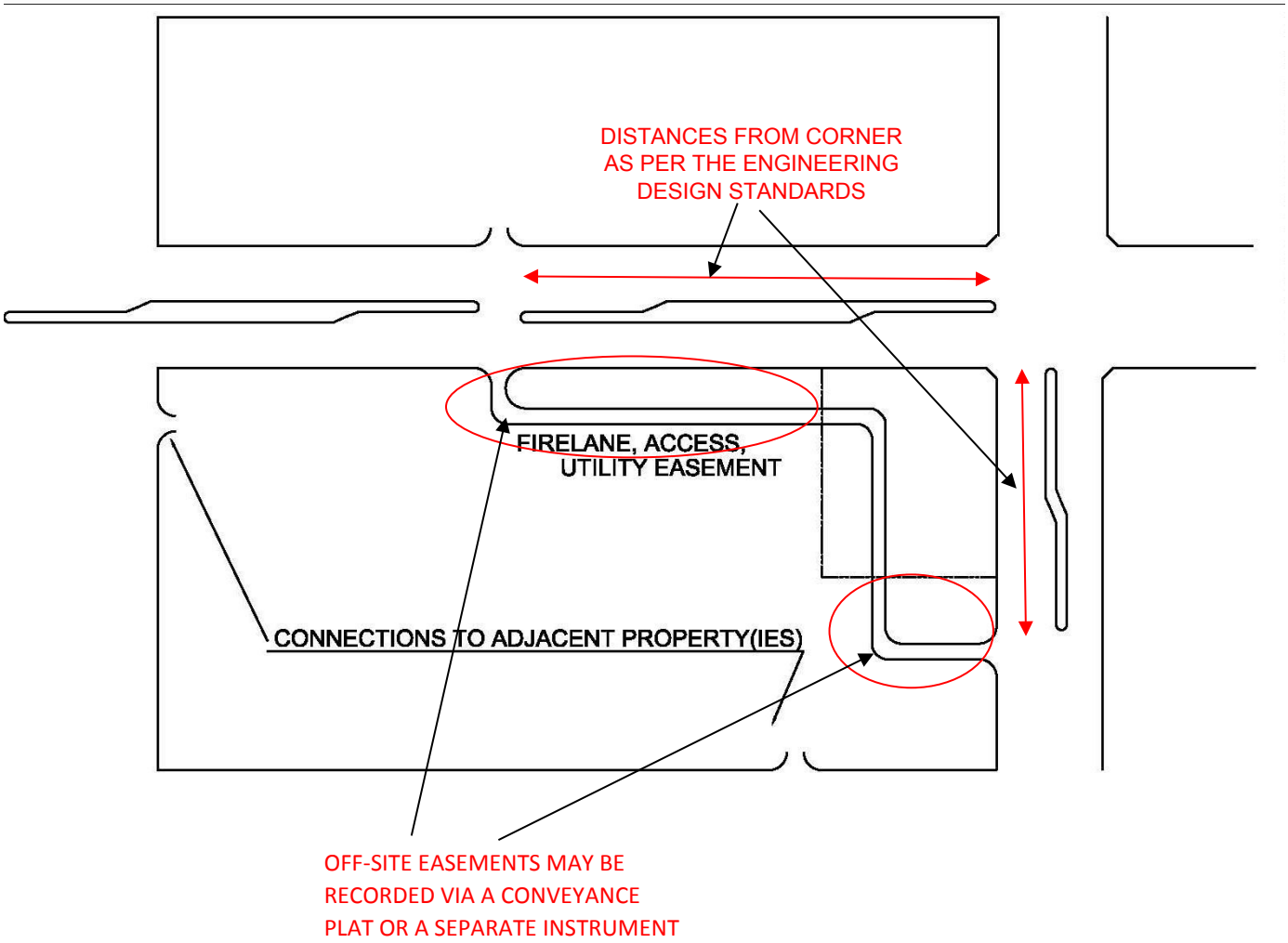


Diagram 10.03.113 - Flag Lots

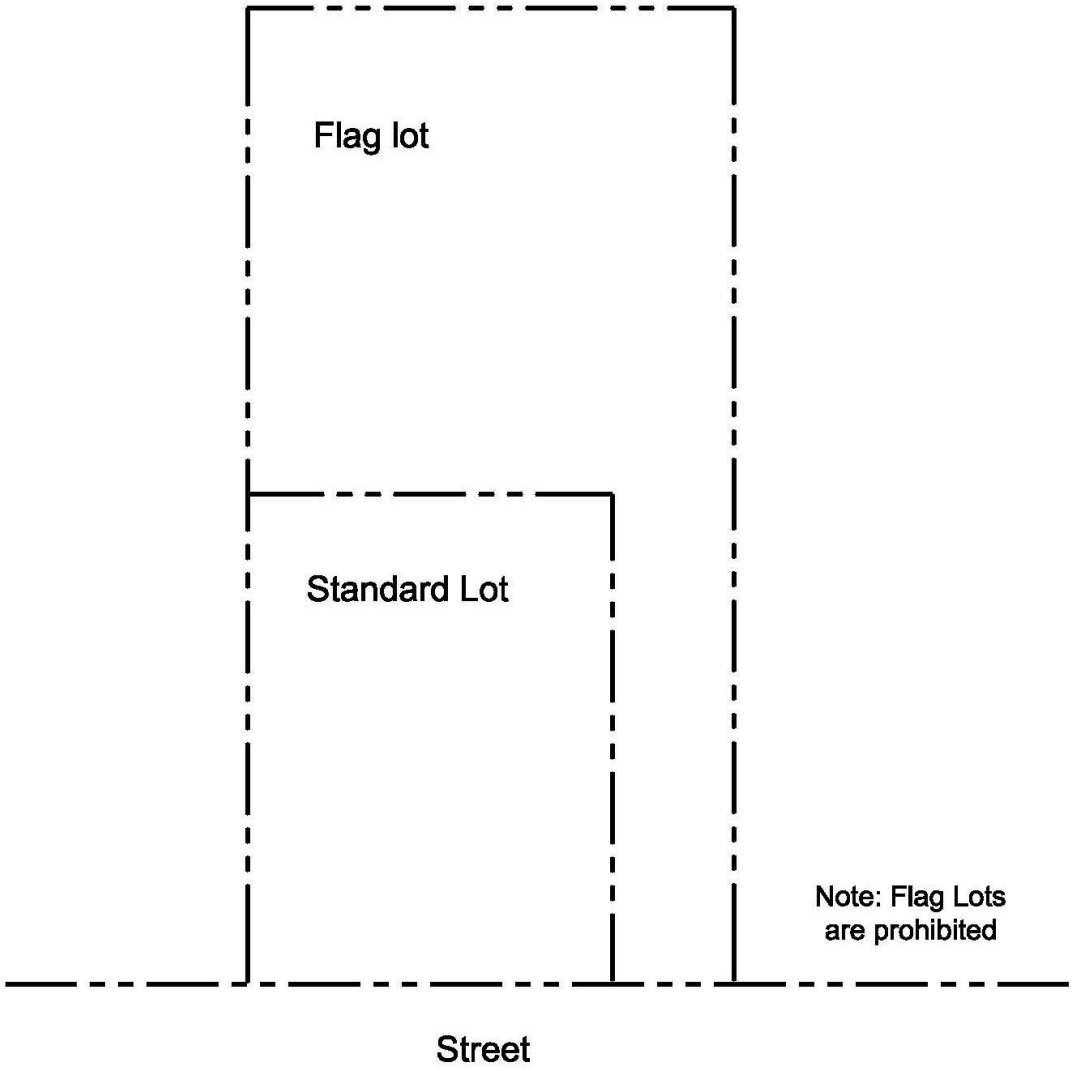


Diagram 10.03.114 - Determining Lot Depth on an Irregular-Shaped Lots

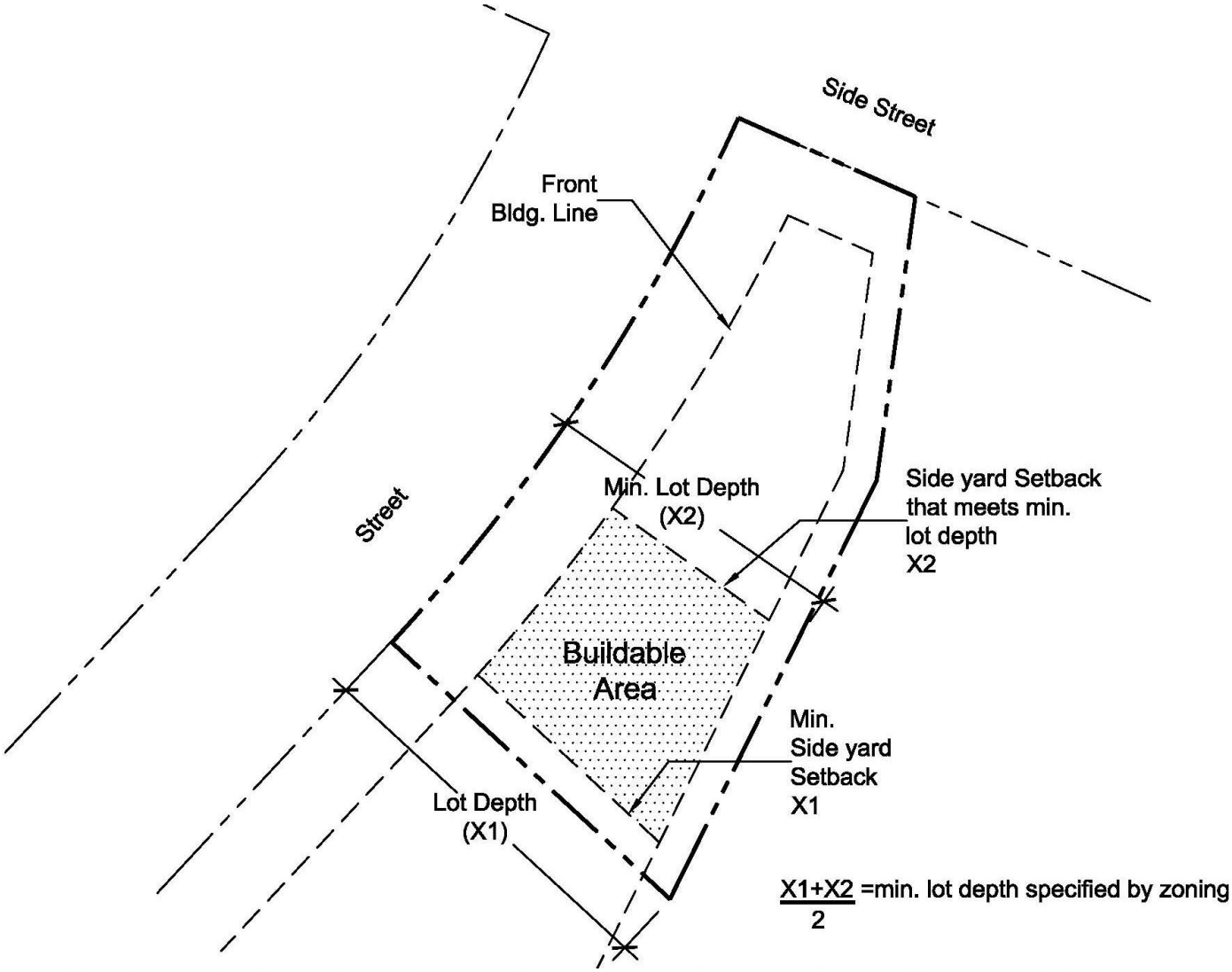


Diagram 10.03.115 - Lot Street Frontage – Curved Streets

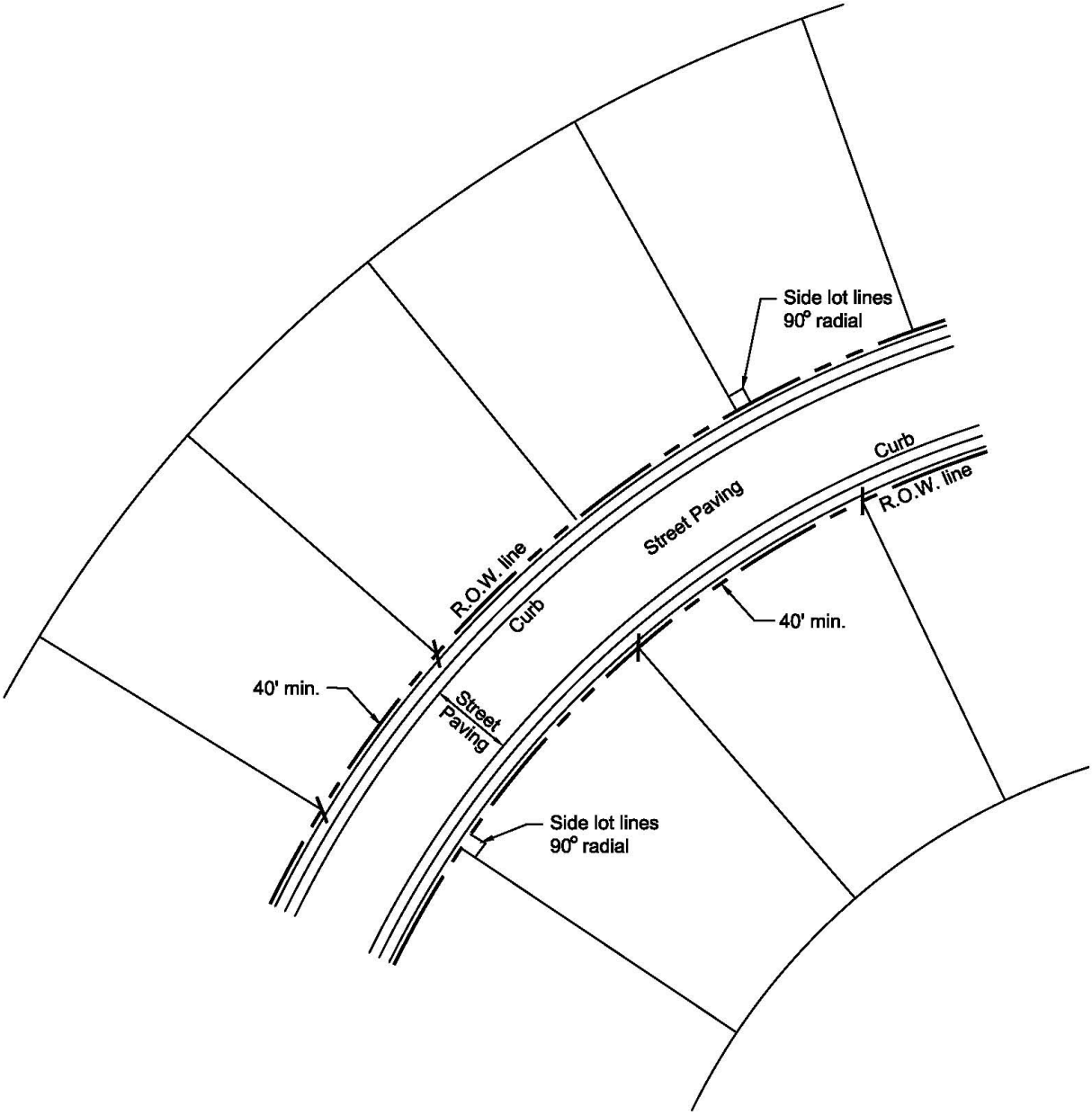


Diagram 10.03.116 – Lot Frontage - Cul-de-Sac Lots, Minimum Dimensions

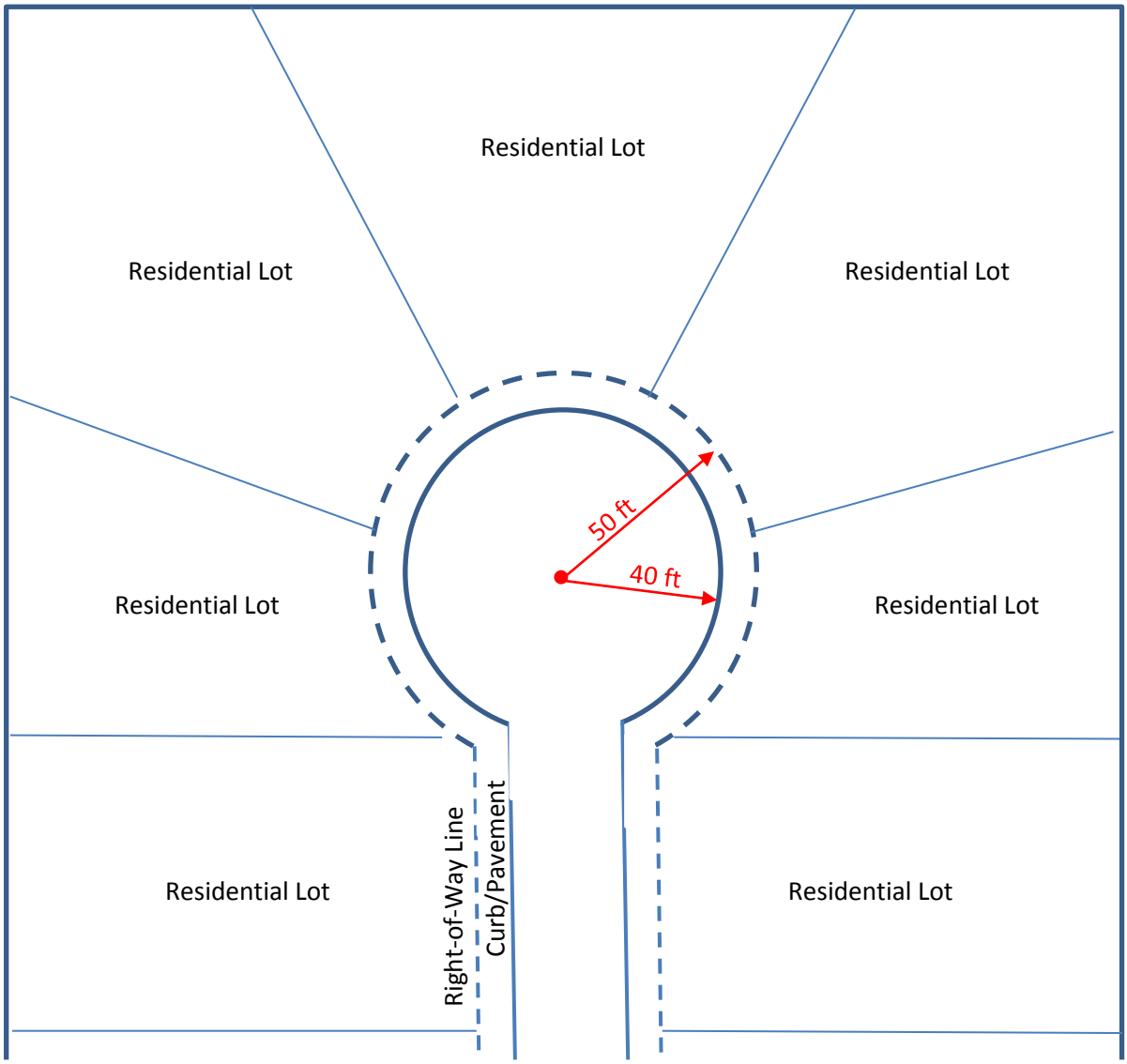


Diagram 10.03.117 - Centrally Located Amenity Center

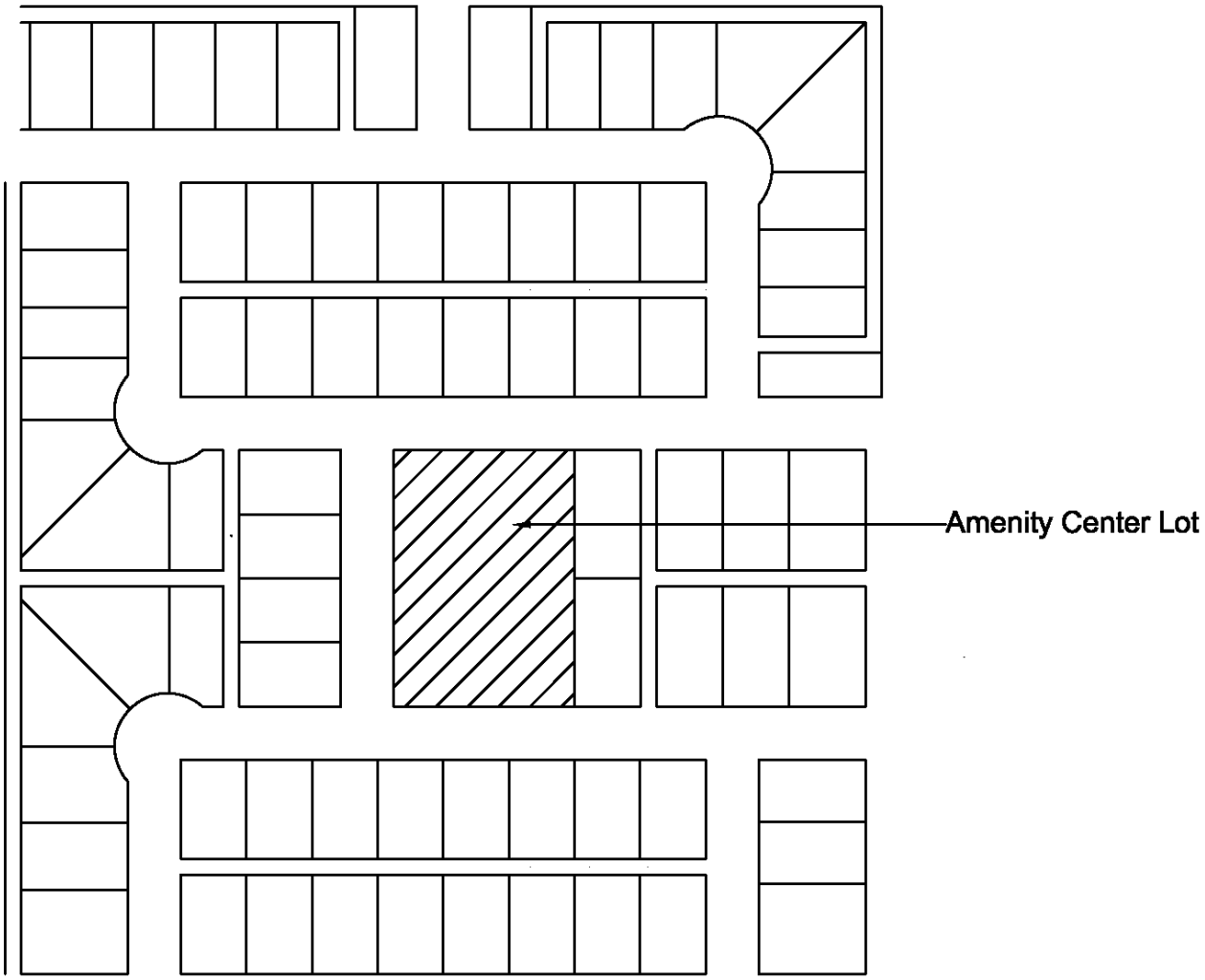
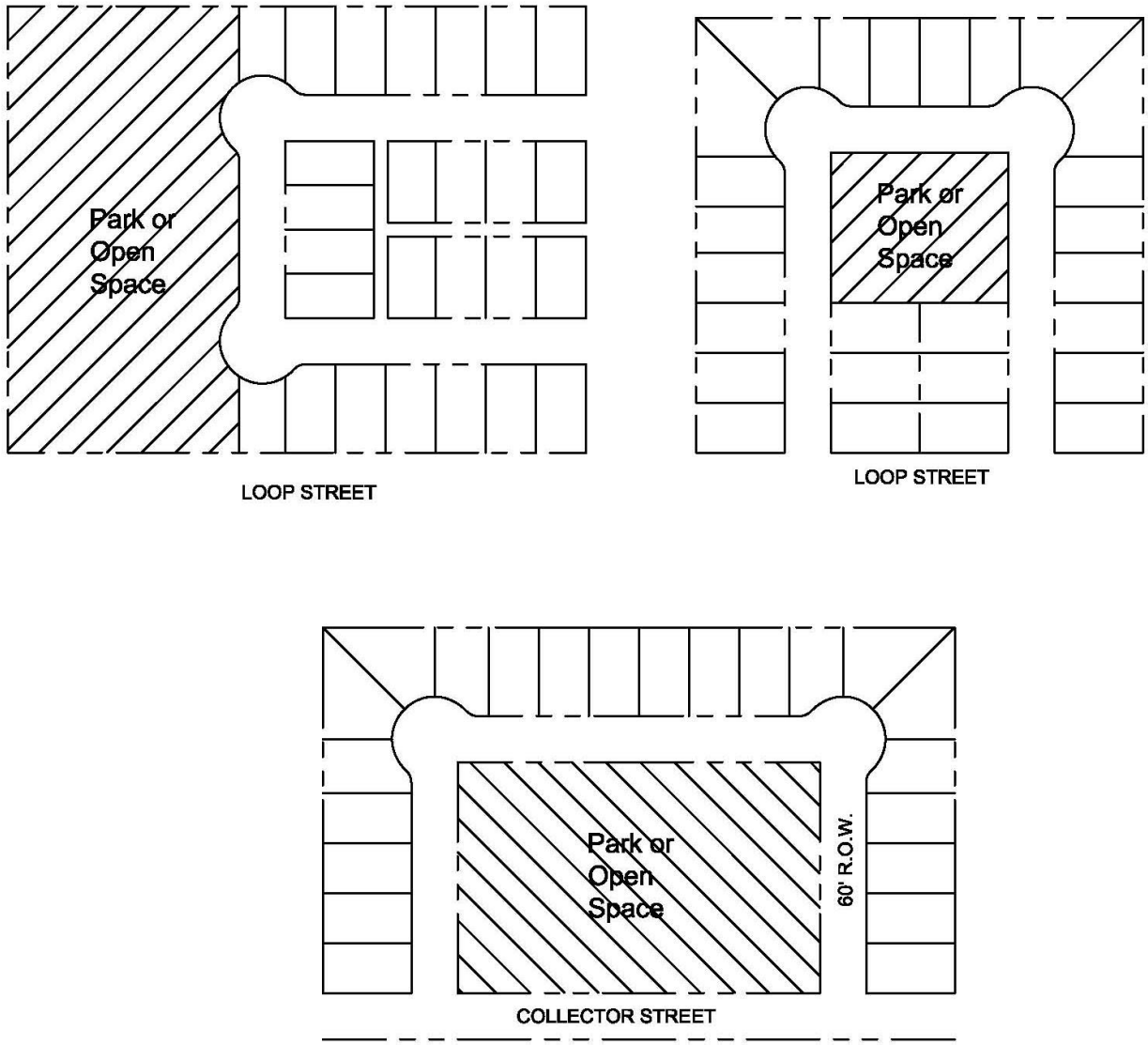



Diagram 10.03.118 - Access & Lot Orientation to Parks and/or Open Space