

CHAPTER 10 SUBDIVISION REGULATIONS

ARTICLE 10.01 GENERAL PROVISIONS

Sec. 10.01.001 Authority; extension to extraterritorial jurisdiction.

- (a) Authority. This Chapter and the following rules and regulations (sometimes referred to as the “subdivision regulations”) is adopted under the authority of the Constitution and laws of the State of Texas, including Chapter 212 of the Texas Local Government Code, and other applicable law.
- (b) Application in the ETJ. The City Council hereby extends the application of this Chapter and these subdivision regulations to the extraterritorial jurisdiction or ETJ of the City, as that area may exist from time to time. Such regulations shall be applicable to the filing of plats and the subdivision of land, as those terms or activities are defined herein and in Chapter 212 of the Texas Local Government Code, within the corporate limits of the City and its extraterritorial jurisdiction as they may be from time to time adjusted by annexation, disannexation, or otherwise. The City shall have all remedies and rights provided by said Chapter 212 with regard to the control and approval of subdivisions, plats, and other development both within the City and within its extraterritorial jurisdiction.
- (c) Interlocal Agreement with Grayson County. The City has executed an interlocal cooperation agreement with Grayson County as authorized under Chapter 242 of the Texas Local Government Code. Grayson County has assigned the City its respective authority to approve subdivision plats in the City’s ETJ. The agreement generally provides for the City to enforce its subdivision regulations within the applicable areas of the ETJ. These subdivision regulations will therefore be enforced to the fullest extent possible in the ETJ as agreed upon with Grayson County.

Sec. 10.01.002 Interpretation and purpose.

- (a) Minimum requirements. In the interpretation and application of the provisions of these subdivision regulations, it is the intention of the City that the principles, standards and requirements provided for herein shall be minimum requirements for the platting and developing of subdivisions within the City and its ETJ.
- (b) Purpose.
 - (1) The subdivision and platting of land is one of the first steps in the process of development. The distribution and relationship of residential, nonresidential and agricultural uses throughout the community, along with the system of improvements for streets, utilities, public facilities and community amenities, determine, in large measure, the quality of life enjoyed by the residents of the City.
 - (2) Health, safety, economy, amenities, environmental sensitivity, and convenience are all factors which influence and determine a community’s quality of life and overall character. A community’s quality of life is of the public interest. Consequently, the subdivision of land, as it affects a community’s quality of life, is an activity where regulation is a valid function of municipal government.
 - (3) The regulations contained herein are intended to encourage the development of a quality municipal environment by establishing standards for the provision of adequate light, air, open space, storm water drainage, transportation, public utilities

and facilities, and other needs necessary for ensuring the creation and continuance of a healthy, attractive, safe and efficient community that provides for the conservation, enhancement and protection of its human and natural resources.

- (4) Through the application of these regulations and procedures, the interests of the public, as well as those of public and private parties, both present and future, having interest in property affected by these subdivision regulations, are protected by the granting of certain rights and privileges. By establishing a fair and rational procedure for developing land, these subdivision regulations provide for stability in the regulatory system governing development of land for its most beneficial and safest use in accordance with existing social, economic and environmental conditions and in furtherance of the public health, safety and welfare.
- (c) Minimum standards. Minimum standards for development are contained in the Engineering Design Standards Manual, the building regulations, and the other development regulations in this Chapter. In addition, the Comprehensive Plan (including the future land use plan, thoroughfare plan, parks master plan, and other related plans, and amendments) contains policies designed to achieve an optimum quality of development in the City and its extraterritorial jurisdiction. If only the minimum standards are followed, as expressed by the various ordinances regulating land development, a standardization of development will occur. This will produce a monotonous municipal setting and physical environment within the community. Subdivision design shall be of a quality that will carry out the purpose and spirit of the policies expressed within the comprehensive plan and within this Chapter, and shall be encouraged to exceed the minimum standards required herein.

Sec. 10.01.003 Definitions.

For the purpose of interpreting this Chapter, certain words used herein are defined as follows:

Alley. A minor public right-of-way which is used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

Caliper inch, tree. The diameter of the trunk measured twelve (12) inches above grade.

City. The word “City” shall be the City of Sherman, Texas, together with its governing and operating bodies.

City Engineer, City Attorney, City Manager, Director of Development Services, Director of Parks and Recreation. Any office referred to in this Chapter by title, i.e., City Engineer, shall be the person with the authority to act on or delegate to their duly authorized representative the duties assigned by this Chapter. These positions of authority may not and do not need to represent formal job titles these persons may have.

Clear-cutting. The indiscriminate cutting, plowing, or grubbing of trees without regard to type or size for the purpose of clearing the land.

Council. The word “Council” or “City Council” shall be the duly elected governing body of the City.

Critically alter. The uprooting, removing the canopy or severing the main trunk of a tree, or causing damage which may cause a tree to die. This includes but is not limited to the removal of a tree from a property, damage inflicted upon a tree by machinery, storage of materials or the compaction of soil above the root system of a tree, a change in the natural grade above the root

system of a tree, or excessive pruning.

Cul-de-sac. A street having but one outlet to another street and terminated on the closed end by a vehicular turnaround.

Developer. Any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. The term “developer” shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner, of land to be developed.

Development. The construction of new property improvements on a vacant tract of land or a redeveloping tract of land.

Drip line. A vertical line run through the outermost portion of the crown of a tree and extending to the ground. This may also be referred to as the critical root zone.

Extraterritorial Jurisdiction or ETJ. The area recognized by state law statutes as the extraterritorial limits of Sherman.

Final plat. The phrase “final plat” shall be any plat of any lot, tract, or parcel of land requested to be recorded of record in the deed records of Grayson County, Texas.

Floodplain. The area designated as being within the 100-year or 0.10 percent annual chance flood zone on the Federal Emergency Management Agency (FEMA) flood insurance map (FIRM).

Lot. A distinct and separate undivided tract or parcel of land having frontage on a public street, which is, or in the future may be, offered for sale, conveyance, transfer or improvement as a building site.

Master plan. The phrase “master plan” shall be the Comprehensive Plan of the City and adjoining areas as adopted by the Planning and Zoning Commission and City Council, including all its revisions. The plan indicates the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks and other public and private developments and improvements.

May. The word “may” is permissive.

Mitigation, Tree. The method by which trees are replaced whether through replanting on the subject property, planting or transplanting to another location or same property, or through payment of fees-in-lieu of replanting approved by the City.

Parcel of land. Land in the City of Sherman city limits or extraterritorial jurisdiction, whether platted or not platted.

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

Planning and Zoning Commission. The word “Commission” or “Planning Commission” shall be the official City Planning and Zoning Commission of the City, as appointed by the City Council.

Preliminary plat. The phrase “preliminary plat” shall be any plat of any lot, tract or parcel of land that is not to be recorded but is only a proposed division of land and is presented only for review and study by the City.

Professional Engineer. A person duly authorized under state law to practice the profession of

engineering in the State of Texas.

Property Owners' Association (POA). An 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 Homeowners' Associations (HOAs) and Property Management Corporations (PMCs) which are typically formed for multi-family and nonresidential developments.

Protective fencing. Chain link, silt fence, or other fencing used to protect Preserved Trees during construction activities.

Replat. The word "replat" shall be the resubdivision of any part of a previously platted subdivision, addition, lot or tract.

Shall. The word "shall" wherever used in this Chapter will be interpreted in its mandatory sense.

Street. A public right-of-way, however designated, which provides vehicular and/or pedestrian access to adjacent areas.

Street perimeter buffer. A required buffer located at the perimeters of a proposed development site which is directly adjacent to a street. These areas are considered as areas of high visual impact, and preservation of existing vegetation located along the perimeter of the proposed development site is highly encouraged and used to screen the site and minimize potential nuisances between land uses.

Subdivision. The word "subdivision" shall mean the division of any lot, tract, or parcel of land situated within the corporate or extraterritorial limits of the City into two or more lots or sites for the immediate or future purpose of sale or development, or for laying out residential, commercial, or industrial lots, or any lots and streets, alleys, or other portions intended for public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto. It also includes resubdivision or replatting of land, lots, or tracts. The division of land for agricultural purposes, in parcels of five acres or more, shall not be included within this definition unless such division of five acres or more includes the planning or development of a new street, alley or access easement.

Surveyor. A licensed state land surveyor or a registered public surveyor as authorized by state law to practice the profession of surveying in the State of Texas.

Traffic Impact Analysis (TIA). A traffic study performed by a professional engineer to determine the existing level of service of streets and intersections and the impact a proposed development will have on those streets and intersections.

Tree, dead (or declining). A tree that is dead or in severe decline with substantial structural defects, no remedial options available, and no chance of recovery, as determined and documented by a certified arborist or registered landscape architect.

Tree, replacement. Trees planted to mitigate the loss of trees as a result of development or tree removal.

Tree, protected. Any tree of a size and species as outlined in Table 10.1 that is required to be protected under this section.

Tree, shade. The largest tree species in the landscape that provide the overhead structure needed for shading as they mature.

Tree, street. Trees planted within the right-of-way that may be located in a constrained location and should contain root systems and branch growth conducive to growth around pedestrians, vehicles, and public infrastructure.

Tree fund. A City-administered fund established for collection of fees-in-lieu or replacement trees paid as mitigation and may include other contributions made in support of tree protection efforts.

Tree survey. A plan or drawing to scale that identifies the exact size, location, condition (healthy, dead, or declining), and species of protected trees.

Utility easement. An interest in land granted to the City, to the public generally, and/or to a private utility corporation, for installing or maintaining utilities across, over or under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.

Definitions not expressly prescribed herein are to be construed in accordance with customary usage in municipal planning and engineering practices.

Sec. 10.01.004 Adequate Public Facilities.

Infrastructure improvements serving development in the City limits and extraterritorial jurisdiction shall conform to and be properly related to the City's adopted comprehensive plan, public facilities plans, thoroughfare plans, infrastructure master plans, capital improvements plans, and other plans adopted by the City for public facilities and services, and shall, at a minimum, meet the service levels specified in such plans. Land shall not be approved for platting or development until either adequate public facilities necessary to serve the development exist along or are adjacent to the development or plans have been provided to construct such facilities, whether these facilities are to be located within the property being developed or offsite. The City shall not repair, maintain, install or provide any infrastructure for land in which the requirements of this Code have not been fully complied.

Sec. 10.01.005 Plat required.

Pursuant to the authority granted in Chapter 212 of the Texas Local Government Code, the City Charter and other law, prior to the subdivision, resubdivision, assembly or development of any land in the city limits or extraterritorial jurisdiction, a plat and accompanying civil engineering plans shall be approved in accordance with this Chapter.

- (a) The owner of a tract of land located within the city limits or ETJ who divides a tract into two (2) or more parts that requires public improvements as specified in this Chapter shall submit a plat of the subdivision in accordance with this Chapter.
- (b) A division of a tract under this section includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract for sale or other executory contract to convey or by using any other method. The division of any lot or any parcel of land by the use of metes and bounds description for the purpose of development is prohibited unless allowed by an exemption specified in this Chapter.
- (c) No site development plan, building permit, certificate of occupancy, or utility service connection may be approved or issued for the construction or development of any parcel or

tract of land unless such property has been platted or is otherwise in conformity with the regulations of this Chapter.

- (d) The subdivision of any lot or any parcel of land by the use of a metes and bounds description for the purpose of sale, transfer, or lease with the intent of creating a building lot not in accordance with this Chapter shall be a violation.
- (e) Every plat shall be consistent with, and conform to, existing zoning regulations and other adopted plans pertaining to land use and development.
- (f) A plat shall not be submitted to the Planning and Zoning Commission for approval that contains an inconsistent zoning classification. This requirement may be waived by the City Engineer when an application for a zoning change for the property subject to the proposed plat, seeking proper zoning classification, has been filed with the City and is pending in accordance with the Zoning Ordinance.
- (g) Each lot proposed as part of a plat submittal shall meet the minimum size and dimensional requirements in the Zoning Ordinance unless the lot is determined to be a legally existing nonconforming lot of record or a variance has prior approval from the Board of Adjustment.

Sec. 10.01.006 Exemption from plat requirements.

A plat shall not be required for the following:

- (a) A division of land into parts greater than five (5) acres in which no public improvement, including right-of-way, easement, or physical improvement of any kind intended for public use is proposed or required under this Chapter, in accordance with Section 212.004 of the Texas Local Government Code.
- (b) Acquisition of land by a city, county, or state for public improvements by dedication, condemnation, or easement.
- (c) Sale, inheritance, or gift of land by metes and bounds of tracts upon which no improvements, development, subdivision or alteration is intended, provided however, that prior to construction of improvements, a plat meeting the requirements of this Chapter shall be completed, approved, and recorded.
- (d) Use of existing cemeteries complying with all state and local laws and regulations.
- (e) A division of land created by order of a court of competent jurisdiction, including the probate of an estate, provided however, that prior to construction of improvements, a plat prepared in accordance with this Chapter shall be completed, approved, and recorded.
- (f) In lieu of a plat being required, the City Engineer may require an easement or right-of-way dedication that a plat would have required to be dedicated as shown on adopted thoroughfare plans, to continue existing streets or to provide access or connectivity to adjacent properties or subdivisions.

Sec. 10.01.007 Designated Approving Authorities

- (a) City Engineer. The City Engineer, or his/her designee, shall have the authority to review submitted applications in accordance with the procedures of this Chapter and review completed applications to ensure the fulfillment of the requirements of this Chapter. The City Engineer also has the authority to inspect any and all improvements required to be constructed in accordance with this Chapter. The City Engineer has the authority to require

the removal and/or replacement, at the expense of the developer, of any phase of the work which is not in accordance with the requirements of the plat, plans, specifications, or this Chapter.

- (b) Director of Development Services. The Director of Development Services, or his/her designee, may be a contributing reviewer and facilitator of the processing and approval of plats required by this Chapter. The Director may be authorized by the City Manager to make determinations as to the language and intent of this Chapter as it pertains to the relation to the Zoning Ordinance. The Director of Development Services shall act as the staff liaison to the Planning and Zoning Commission.
- (c) Director of Parks and Recreation. The Director of Parks and Recreation, or his/her designee, may be a contributing reviewer to plats required by this Chapter and holds approval authority pertaining to parkland dedication and fees-in-lieu required by this Chapter.
- (d) City Manager. The City Manager holds the authority to designate the City Engineer, Director of Development Services, Director of Parks and Recreation, and other authorities provided approval authorization by this Chapter. The City Manager subsequently confers powers and duties to those persons which may and does not need to be their official job title.
- (e) Planning and Zoning Commission. The Planning and Zoning Commission shall hold meetings and have the powers and duties conferred by City Council, including approval of Final Plats, and as authorized by Chapter 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.
- (f) Board of Adjustment. The Board of Adjustment shall hold meetings and have the powers and duties conferred by City Council, including approval of subdivision variances, and as authorized by Chapter 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.
- (g) City Council. The City Council shall be constituted, have the powers and duties, and conduct all activities in accordance with the Texas Local Government Code, the City Charter, the City of Sherman Code of Ordinances and other law.

Sec. 10.01.008 Enforcement of regulations.

- (a) The City Engineer and the Development Services Director shall be responsible for any interpretation of this Subdivision Ordinance and where a determination is desired to be appealed to City Council, the City Council shall review the determination of the City Engineer and Development Services Director and consider a ruling.
- (b) Appropriate actions may be taken to prevent a violation of this Chapter in accordance with Section 10.05.002 of this Chapter or other law, including the prevention of unlawful construction; to restrain, correct, or abate a violation; or to prevent illegal occupancy of a building structure or premises. Furthermore, water meters, wastewater taps, or other utilities shall not be made available until compliance with this Chapter has been met.

ARTICLE 10.02 DEVELOPMENT PROCEDURES

Sec. 10.02.001 Development application and processing procedures.

- (a) Fee established.
- (1) The City Council shall establish a schedule of fees, charges and expenses, and a collection procedure for the intake and processing of plats, civil plans, engineering inspections, and engineering testing and other matters pertaining to this section.
 - (2) The schedule of fees are set forth in Appendix C, Comprehensive Fee Schedule of the City of Sherman Code of Ordinances.
 - (3) No application shall be accepted or reviewed, any official action taken, or any permits granted until all applicable costs, charges, fees, or expenses have been paid in full.
 - (4) An application shall not be deemed complete, nor shall it be approved, if there are delinquent City taxes on the subject property.
- (b) Pre-development Meeting.
- (1) It is recommended that the applicant meet with an authorized representative of the Development Services Department to allow the applicant to learn the general procedures for approval, but the development/project shall not be discussed in sufficient detail to provide the City with fair notice of the project.
 - (2) No applications may be submitted to or accepted for filing with representatives of the Development Services Department during the meeting.
 - (3) No rights derived from Chapter 245 of the Texas Local Government Code shall accrue from any Pre-development Meeting, Development Review Process or documents offered for review in connection therewith. There shall be no vested rights based on a Pre-development Meeting.
- (c) Application Contents.
- (1) Application Contents Generally. All applications and filings shall meet the requirements as defined by the Development Guide and the Engineering Design Standards Manual, as exists or may be amended, which shall be established and maintained by the Director of Development Services and the Director of Engineering Services, respectively. Incomplete applications shall not be accepted.
 - (2) Filing Procedure.
 - (A) All applications and filings for approval required by this Chapter shall be filed with the Development Services Department.
 - (B) The Development Guide, as it exists or may be amended, shall prescribe the procedures for filing.
 - (C) All applications and filings shall occur only on official Application Accepted Dates, published as part of the Planning and Zoning Schedule.
 - (D) If an application or filing is rejected by the Development Services Department, then it is not considered filed under this Chapter or the law or regulation governing the application or filing, including Chapter 212 of the Texas Local Government Code, if applicable.
 - (E) Any application submitted on a date other than an official Application Accepted Date shall be rejected and shall not be considered filed under this Chapter and the law or regulation governing the application or filing, including Chapter 212 of the Texas Local Government Code, if applicable.
 - (F) An application must be considered complete and officially filed in accordance with Section 10.02 of this Chapter prior to being processed for

review and consideration.

- (3) Application Accepted Dates. The Director of Development Services shall publish schedules of the official Development Review Processing Dates as follows:

- (A) A Planning and Zoning Schedule for all land development applications and filings for the period January 1st to December 31st of each year shall be set by the Planning and Zoning Commission on or before December 1st of the year before such period and shall be published as part of the Development Guide. Any changes or amendments to the approved schedule require Planning and Zoning Commission approval.
- (B) Official Filing Date. The 30-day time period established by state law for taking action on a complete application shall commence on the official filing date for the complete application pursuant to the Planning and Zoning Schedule, published as part of the Development Guide. The official filing date shall be defined as the date the application is deemed complete by the responsible official in the manner prescribed by Article 10.02.
- (C) A Disapproval Development Services Schedule for the period January 1st to December 31st of each year shall be set by the Planning and Zoning Commission on or before December 1st of the year before such period and shall be published as part of the Development Guide. Any changes or amendments to the schedule require Planning and Zoning Commission approval. The Disapproval Development Services Schedule shall govern an applicant's response to the conditional approval or disapproval of a plat subject to Section 212.0093 of the Texas Local Government Code. Any such response submitted on a date other than an official Disapproval Development Services Schedule Date shall be rejected and shall not be considered filed under this Chapter and the law or regulation governing the application or filing, including Chapter 212 of the Texas Local Government Code, if applicable.

- (d) Initiation, Complete Application and Expiration.

- (1) Initiation by Owner. An application required under this Chapter 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.
- (2) Applicability. The procedures within this Section shall apply to all applications that are required by the City and submitted in accordance with this Chapter.
- (3) Determination of Completeness. Every application shall be subject to a determination of completeness by the responsible official for processing the application. An application must be complete in order to be accepted for review by the City.
 - (A) The application shall only be accepted by the responsible official for processing when it is accompanied by all documents required by, and prepared in accordance with, the requirements of this Chapter and as described in the Development Guide. A typographical error shall not, by itself, constitute an incomplete application.

- (B) A determination of completeness shall be conducted in accordance with the following procedures:
 - (i) If the application does not contain all information, as defined by the Development Guide, as it exists or may be amended, and/or does not conform to all standards required by any ordinance, law, or regulation governing the application, then it shall be considered incomplete. The applicant shall be notified in writing within ten (10) business days if the submitted application is incomplete.
 - (ii) The City shall reject all incomplete applications and provide written notice of the rejection to the applicant by one of the following methods:
 - (1) Mail;
 - (2) Email;
 - (3) Delivery service; or
 - (4) Hand delivery or other delivery method of written notice approved by the Director of Development Services.

The written notice need not identify all reasons why the application was deemed incomplete. If the notice contains one or more reasons why the application was deemed incomplete, addressing the reason(s) identified in the notice does not guarantee acceptance of a subsequent application.
 - (iii) If the application is determined to be complete, the application shall be processed as prescribed by this Chapter.
 - (iv) A determination of completeness shall not constitute a determination compliance with the substantive requirements of this Chapter and does not guarantee the application will be approved, if after the application is deemed complete, it is determined that the application does not comply with this Chapter and all other applicable laws or regulations.
- (4) 30-Day Action Extension Request.
 - (A) Request. An applicant may submit in writing a request to extend the 30-day action in relation to the decision time for plats of thirty (30) days, as mandated by state law.
 - (B) Received. If the applicant requests an extension, such request must be received by the municipal authority on or before the eleventh (11th) calendar day prior to the municipal authority's deadline to act at which action would have to be taken on the application (based on the 30-day requirement in state law). Extension requests that are not received by that day shall not be considered properly submitted, and action shall be taken on the application at such meeting as scheduled.
 - (C) Requirements Maintained. Submission of a request to extend the 30-day action, and acceptance of such waiver by the municipal authority, shall not be deemed in any way a waiver of any requirement within this ~~Subdivision~~ Chapter. A waiver from requirements herein is a separate and distinct process.
- (5) Modification of Applications Prior to Approval. The applicant may modify a

complete application following its filing and prior to the expiration of the period during which the City is required to act on the application only in accordance with the following conditions.

- (A) If the modification is for revisions requested by the City, and the modification is received at least fourteen (14) calendar days prior to the time scheduled for decision on the application, the application shall be decided within the original period for decision (from the original official filing date) prescribed by this Chapter.
- (B) Any other modifications to an application will not be accepted.
- (6) Concurrent Applications. Consideration for each application shall remain in the appropriate sequence of development. Any application submitted concurrently is subject to the approval of all related applications. Denial or disapproval of any individual application from a group of concurrently submitted applications shall stop consideration of all subsequent applications, if such approval is necessary for the subsequent applications to proceed.

Sec. 10.02.002 Preliminary Plat.

A Preliminary Plat depicts the layout of a proposed subdivision or any unplatted property and is required prior to approval of any division of land, as specified in this ordinance.

- (a) Processing of Preliminary Plat Application.
 - (1) The submittal of a Preliminary Plat must be complete with accurate information prior to filing for review of the contents. It is the responsibility of the surveyor to prepare the plat with clarity, informed knowledge of the appropriate requirements, and conformance with this Chapter.
 - (2) Upon the determination of a complete application, a Preliminary Plat application shall be processed for review by the City Engineer or his/her designee and applicable public entities to determine that the plat meets or exceeds the requirements of this Chapter and adopted City plans and policies prior to any action taken, per Section 10.02.001.
- (b) Action of the City Engineer.
 - (1) Within 30 days after the Preliminary Plat application is accepted, the City Engineer shall approve or disapprove such plat, or conditionally approve it with modifications. City staff shall inform the applicant through written notice of the action taken within 10 days, stating the reasons for the action taken.
 - (2) The City Engineer's conditional approval of a Preliminary Plat shall be deemed as an expression of approval of the layout submitted on the Preliminary Plat as a guide to the installation of streets, water, wastewater, and other required improvements and utilities, and to the preparation of the Final Plat. Conditional approval of a Preliminary Plat shall not constitute automatic approval of the Final Plat.
 - (3) Approval or conditional approval of a Preliminary Plat shall be effective for a period of 24 months from the date of the approval letter or conditional approval letter. At that point, the Preliminary Plat shall be considered expired.

- (c) Parent Tract Concept Plan. If the proposed subdivision is a portion of a larger tract of land which is intended to be subsequently subdivided with infrastructure connected to the subject plat, the preliminary and Final Plats shall be accompanied by a layout of the entire area, showing a conceptual proposed layout of streets and trails, preliminary drainage, parkland, and similar improvements for such areas. The overall layout shall be reviewed by the City Engineer and attached to and filed with a copy of the approved subdivision plat in the permanent City files. Thereafter, plats of subsequent units of such subdivision shall generally conform to such approved overall layout, at the City Engineer's discretion and consistent with this Chapter.
- (d) Phasing. The City Engineer shall require the developer to file a proposed subdivision phasing plan providing for continuity of development for any individual phases of reasonable proportions. Single-lot Final Plats and plats that create discontinuity within the development may be prohibited by the City Engineer. A preliminary plat shall be required for each subsequent phase of development.
- (e) Form and content of preliminary plat. The submitted Preliminary Plat shall clearly depict the following information:
- (1) Landowner, Applicant, Agent, or Developer's name, as applicable.
 - (2) Surveyor's company name along with the licensed professional's name and RPLS # for the person responsible for the preparation of the plat.
 - (3) The title of the subdivision, which must not be so similar to that of an existing subdivision as to cause confusion.
 - (A) For preliminary replats, the title of the proposed preliminary replat must be unique and reference "being a replat of the [lot(s) of and block(s) of the parent plat]." The title shall not be so similar to that of an existing subdivision as to cause confusion.
 - (4) Date block with submittal date.
 - (5) Plat Summary Table to include total acreage of new plat, and the proposed number of total lots arranged by use and area of each lot to ensure compliance with zoning.
 - (6) Street Summary Table for streets or street rights-of-way to be dedicated with the plat, including street classification type, street name(s), street length, pavement and curb dimensions, and right-of-way.
 - (7) The plat shall be drawn to a scale of not to exceed 1 inch:100 feet on a 24x36 inch document format.
 - (8) North arrow and scale shall be included on each page that depicts the land being platted.
 - (9) When more than one sheet is used for a plat, a key map showing the entire subdivision on a smaller scale shall be shown on the first sheet.
 - (10) Boundary Survey with point of beginning, bearings and distances referenced to survey lines and established subdivisions, and complete and accurate field notes of said boundaries.
 - (11) The location, name, and width of all existing and proposed blocks, street and alley rights-of-way, existing and proposed easements, clearly visually depicted and labeled in the proposed subdivision boundary and within a distance of 200 feet of the proposed subdivision. Widths of existing rights-of-way and existing pavement

shall be identified at two points and determined by found monuments on both sides of the roadway.

- (12) Proposed street stubs to adjacent properties showing a conceptual continued projection of such a street. City staff may request additional information to ensure the projected street can be constructed without obvious constraint.
- (13) Existing physical features within and directly adjacent to the proposed subdivision, including the location and size of watercourses, ravines, bridges, culverts, existing structures, and other features pertinent to the subdivision. Dimensions shall be shown from existing structures to existing and proposed rights-of-way and easements.
- (14) The location, size, and type of all existing city utilities shall be represented as obtained from City of Sherman records.
- (15) Topographic contours, using the City of Sherman Geodetic Control Survey, shall be shown at intervals of not more than two (2) feet unless approved by the City Engineer. Contours shall not interfere with the legibility of other plat information.
- (16) Lots shall be labeled by lot-and-block number with acreage or square footage represented on each lot. A table may be used to display this information on the plat.
- (17) Lots in the ETJ shall show the required building lines per Grayson County Subdivision Regulations.
- (18) Boundaries of existing 1% flood zone (if applicable).
- (19) Proposed phasing boundary lines for subdivisions may be shown on a Master Preliminary Plat. A preliminary plat for each phase shall be required.
- (20) All necessary dimensions, including linear, angular and curvilinear, and other surveying information necessary to reproduce the plat on the ground shall be shown. The linear and curvilinear dimensions shall be shown in feet and decimals of a foot. The angular dimensions shall be shown by true bearings in degrees, minutes and seconds. The length of all straight lines, deflection angles, radii, tangents, central angles of curves, and the chords and arcs of curves shall be shown. All curve information shall be shown for the center line of the street based on arc definitions. Dimensions shall be shown from all angle points and points of curve of lot lines. All lots on curves shall be shown with curve length dimensions based on arc definitions.
- (21) Avigation Release, per the Development Guide (if applicable).
- (22) Notes to be added to the Preliminary Plat:
 - (A) Utility providers and notation as to how water and wastewater will be served to the property (as will be represented on subsequent civil plans).
 - (B) All easements and rights of way dedicated to the City of Sherman by this plat include the following rights:
 - (i) The right of the City to change the size of any facilities installed, maintained, or operated within the area;
 - (ii) The right of the City to relocate any facilities within the area; and
 - (iii) The right of the City to remove from the area vegetation or other obstructions which endanger or may interfere with the efficiency and maintenance of any facilities within the area.

Sec. 10.02.003 Final Plat.

Final Plats are technically complete versions of an approved Preliminary Plat, unless approved changes are authorized, and are prepared for recording if approved by the Planning and Zoning Commission.

- (a) Procedure for approval of final plat.
 - (1) Approval or conditional approval of the Preliminary Plat by the City Engineer is required prior to the submittal of a Final Plat to the City.
 - (2) All changes, alterations, modifications, and all appropriate documentation required on the conditional approval of the Preliminary Plat and from the civil plan review shall be incorporated into the Final Plat.
 - (3) The Final Plat shall be consistent with the approved Preliminary Plat and shall conform to all requirements of this Chapter.
 - (4) A Final Plat application may not be submitted until the civil plans are sufficiently complete and construction of the public infrastructure has commenced, as determined by the City Engineer, and the area proposed for Final Plat will be adequately served by public infrastructure.
 - (5) The final plat should be accompanied by a letter from the electric, gas and phone companies stating that all easements are satisfactory for the installation and maintenance of their respective utilities. The letter shall be accompanied proposed utility plans.
- (b) Processing of Final Plat Application.
 - (1) The submittal of a Final Plat must be complete with accurate information prior to filing for review of the contents. It is the responsibility of the preparing professional surveyor to prepare the plat with clarity, informed knowledge of the appropriate requirements, and conformance with this Chapter.
 - (2) Upon the determination of a complete application, a Final Plat application shall be processed for review by the City Engineer or his/her designee and applicable public entities to determine that the plat meets or exceeds the requirements of this Chapter and adopted City plans and policies prior to any action taken, per Section 10.02.001 of this Chapter.
 - (3) Proposed subdivisions outside of the corporate limits that are adjacent to the Sherman city limits, requesting voluntary annexation, shall be annexed into the City prior to approval of the Final Plat by the Planning and Zoning Commission and the acceptance of the dedication of streets, alleys, and easements.
- (c) Final Plat Sections. A developer, at their option, may obtain approval of a portion or a section of a subdivision provided it meets all the requirements of this Chapter. In the event that a Preliminary Plat and the Final Plat thereof are approved in phased sections, each Final Plat shall carry the name of the entire subdivision, but shall bear a distinguishing letter, number or subtitle. Block numbers shall run consecutively throughout the entire subdivision, even though such subdivision may be approved in sections.
- (d) Action of Planning and Zoning Commission.
 - (1) The City Engineer shall transmit his/her recommendations to the Planning and Zoning Commission in writing ahead of consideration of action at a public meeting.
 - (2) Within 30 days after the Final Plat application is accepted, the Planning and Zoning Commission shall approve or disapprove the plat.

- (3) If the plat is disapproved, the Planning and Zoning Commission shall within 10 days give written notice to the developer, stating the reasons for disapproval.
- (e) Plat Recordation. An approved Final Plat shall be officially recorded at the county clerk's office once the City Engineer has certified all steps for accepting required public infrastructure have taken place and the Planning and Zoning Commission approves the plat.
- (f) Form and content of final plat. The submitted Final Plat shall clearly depict the following information:
 - (1) Landowner, Applicant, Agent, or Developer's name, as applicable.
 - (2) Surveyor's company name along with the licensed professional's name and seal for the person responsible for the preparation of the plat.
 - (3) The title or name of the subdivision, which must not be so similar to that of an existing subdivision as to cause confusion.
 - (A) For replats, the title of the proposed replat must be unique and reference "being a replat of the [lot(s) of and block(s) of the parent plat]." The title shall not be so similar to that of an existing subdivision as to cause confusion.
 - (4) Date block with submittal date and approval date (to be added later).
 - (5) Signature Blocks of the approving authorities and Certifications of the plat preparers as found and specified in the Development Guide.
 - (6) Plat Summary Table to include total acreage of new plat, and the proposed number of total lots arranged by use and size of lot to ensure compliance with zoning.
 - (7) Street Summary Table for streets or street rights-of-way to be dedicated with the plat, including street classification type, street name, street length, pavement and curb dimensions, and right-of-way.
 - (8) The plat shall be drawn to a scale of not to exceed 1 inch:100 feet on a 24x36 inch document format.
 - (9) North arrow and scale shall be included on each page that depicts the land being platted.
 - (10) When more than one sheet is used for a plat, a key map showing the entire subdivision on a smaller scale shall be shown on the first sheet.
 - (11) Boundary Survey with point of beginning, bearings and distances referenced to survey lines and established subdivisions, and complete and accurate field notes of said boundaries.
 - (12) The location, name, and width of all existing and proposed blocks, street and alley rights-of-way, existing and proposed easements, clearly visually depicted and labeled in the proposed subdivision boundary and within a distance of 200 feet of the proposed subdivision. Widths of existing rights-of-way shall be identified at two points and determined by found monuments along both side of the roadway.
 - (13) Proposed street stubs to adjacent properties showing a conceptual continued projection of such a street. City staff may request additional information to ensure the projected street can be constructed without obvious constraint.
 - (14) Existing physical features within and directly adjacent to the proposed subdivision, including the location and size of watercourses, ravines, bridges, culverts, and other features pertinent to the subdivision.
 - (15) The location, size, and type of all easements shall be represented.

- (16) All monuments and control points shall be set or recovered by a licensed surveyor, placed prior to the recording of the plat per the requirements of the Engineering Design Standards Manual.
- (17) Lots shall be labeled by lot-and-block number with acreage or square footage represented on each lot. A table may be used to display this information on the plat.
- (18) Lots in the ETJ shall show the required building lines per Grayson County Subdivision Regulations.
- (19) Boundaries of existing 1% Flood Zone and base flood elevation (if applicable).
- (20) All necessary dimensions, including linear, angular and curvilinear, and other surveying information necessary to reproduce the plat on the ground shall be shown. The linear and curvilinear dimensions shall be shown in feet and decimals of a foot. The angular dimensions shall be shown by true bearings in degrees, minutes and seconds. The length of all straight lines, deflection angles, radii, tangents, central angles of curves, and the chords and arcs of curves shall be shown. All curve information shall be shown for the center line of the street based on arc definitions. Dimensions shall be shown from all angle points and points of curve of lot lines. All lots on curves shall be shown with curve length dimensions based on arc definitions.
- (21) Avigation Release, per the Development Guide (if applicable).
- (22) Owner's certificate of dedication: (To be placed on the plat in a manner that will permit the completion of the certificate by filling in the blank spaces.)

OWNER'S CERTIFICATE OF DEDICATION

That (owner) , acting by and through its duly authorized agent, does hereby certify and adopt this plat designating the herein-described real property as (title of plat) , an addition to the City of Sherman, Grayson County, Texas, Being (acres) acres situated in and being a portion of the (Original survey) , City of Sherman, Grayson County, Texas, and does hereby dedicate to the public use forever the streets and easements shown on this plat. [Owner name] does herein certify the following:

- 1. The streets and alleys are dedicated in fee simple for street and alley purposes.
- 2. All public improvements and dedications shall be free and clear of all debt, liens, and other encumbrances.
- 3. The easements and public use areas, as shown, and created by this plat, are dedicated for the public use forever for the purposes indicated on this plat.
- 4. No buildings, fences, trees, shrubs or other improvements or growths shall be constructed or placed upon, over or across the easements as shown, except that landscape improvements may be placed in landscape easements if approved by the City of Sherman.
- 5. The City of Sherman is not responsible for replacing any improvements in, under, or over any easements caused by maintenance or repair.
- 6. Utility easements may also be used for the mutual use and accommodation of all public utilities desiring to use or using the same unless the easement limits the use

to particular utilities, said use by public utilities being subordinate to the public's and City of Sherman's use thereof.

7. The City of Sherman and public utilities shall have the right to remove and keep removed all or parts of any buildings, fences, trees, shrubs or other improvements or growths which may in any way endanger or interfere with the construction, maintenance, or efficiency of their respective systems in the easements.

8. The City of Sherman and public utilities shall at all times have the full right of ingress and egress to or from their respective easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, reading meters, and adding to or removing all or parts of their respective systems without the necessity at any time procuring permission from anyone.

9. All modifications to this document shall be by means of plat and approved by the City of Sherman.

This plat is approved subject to all ordinances, rules and regulations and resolutions of the City of Sherman, Texas.

WITNESS, my hand at _____, _____ County, Texas, this _____ day of _____, (year).

_____ (owner) _____

By: _____

STATE OF TEXAS
COUNTY OF GRAYSON

Before me, the undersigned authority, a Notary Public in and for the County and State on this day personally appeared _____, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this _____ day of _____, (year).

Notary Public, State of Texas

- (22) Notes to be added to the Final Plat:
- (A) All easements and rights-of-way dedicated to the City of Sherman by this plat include the following rights:
 - (i) The right of the City to change the size of any facilities installed, maintained, or operated within the area;
 - (ii) The right of the City to relocate any facilities within the area; and

(iii) The right of the City to remove from the area vegetation or other obstructions which endanger or may interfere with the efficiency and maintenance of any facilities within the area.

(B) Details regarding a Property Owners' Association (POA) that has been incorporated with the State of Texas responsible for any water detention facility, common properties, and/or amenities.

(g) Final plat expiration and extension.

(1) Expiration. An approved final plat shall expire and shall thereafter be deemed null and void if the final plat has not been recorded as required in Section 10.02.003 within two years from the date of the Planning and Zoning Commission's approval of the final plat. Upon expiration, or upon denial of a timely submitted request for extension of plat approval, a new preliminary plat application shall be required to be submitted, subject to requirements in effect at the time the new application is filed with the City.

(2) Extension. The Planning and Zoning Commission may extend a final plat for a period not to exceed one year on the written request of the applicant. The request must be filed before the final plat expires and must document the reasons for the extension. In determining whether to grant a request, the council shall take into account the reasons for the requested extension, the ability of the applicant to comply with any conditions attached to the original approval, whether extension is likely to result in timely completion of the project, and the extent to which any newly adopted regulations should be applied to the proposed development. In granting an extension, the council may impose such conditions as are needed to assure that the land will be developed in a timely fashion and that the public interest is served, including compliance with one or more new adopted development standards.

Sec. 10.02.005 Replatting

A property owner who proposes to further subdivide all or part of a recorded plat must obtain approval for a Replat as outlined in the procedures below and in conformance with Chapter 212 of the Texas Local Government Code.

(a) Processing of Replat Application. Applications must follow the requirements outlined in Section 10.02.002 Preliminary Plat and Section 10.02.003 Final Plat. All replats shall include Preliminary Plat approval before application can be submitted to the Planning and Zoning Commission for replat approval.

(1) A Replat may not amend or remove any covenants or restrictions relevant to the preceding plat.

(b) Public hearings for certain replats.

Replats containing any area or lot that, during the preceding five (5) years, was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot or in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot, require compliance with Section 212.015 of the Texas Local Government Code and a public hearing with mailed

written notice no less than fifteen (15) days prior to the Public Hearing, to all owners of lots that are part of the original subdivision and located within 200 feet of the boundary of the proposed Replat.

Sec. 10.02.006 Development Plat

- (a) Authority. This section is adopted pursuant to Texas Local Government Code, Chapter 212, Subchapter B, Sections 212.041 through 212.050.
- (b) Applicability. For purposes of this section, the term "development" means the construction of any building, structure or improvement of any nature (residential or nonresidential), or the enlargement of any external dimension thereof. This Section shall apply to any land lying within the City or within its extraterritorial jurisdiction in the following circumstances:
 - (1) The development of any tract of land which has not been platted or replatted prior to June 3, 2024, unless expressly exempted in this section;
 - (2) The development of any tract of land for which the property owner claims an exemption from platting under applicable law, including requirements to replat, which exemption is not expressly provided for in such regulations;
 - (3) The development of any tract of land for which the only access is a private easement or street;
 - (4) The division of any tract of land resulting in parcels or lots each of which is greater than five (5) acres in size, and where no public improvement is proposed to be dedicated or constructed.
- (c) Exceptions. No development plat shall be required where the proposed development conforms to all applicable City plans, including but not limited to. the Comprehensive Plan, Transportation Plan, Future Land Use Plan, Park and Trails Plan, utility plans and applicable capital improvements plans. The responsible authority may, from time to time, exempt other development or land divisions from all or a portion of the requirements of this section. In addition, the City Manager or his/her designee is authorized to exempt development from all or a portion of the requirements of this section where the property owner demonstrates in a written application that the development involves only the following: (1) the new construction of one (1) single-family residential unit and no other building, structure or improvement on property that is not located adjacent to a thoroughfare or other roadway shown on the City's thoroughfare plan: (2) the enlargement of any exterior dimension of one (1) existing, single-family residential unit and no other building, structure or improvement: or (3) the new construction of one (1) single-family residential unit and no other building, structure or improvement on property that is located adjacent to a thoroughfare or other roadway shown on the City's thoroughfare plan and the owner has dedicated or conveyed to the City the necessary right-of-way and easements for such thoroughfare or other roadway and related improvements.
- (d) Prohibition on Development. No development shall commence, nor shall any building permit, utility connection permit, electrical connection permit or similar permit be issued, for any development or land division subject to this section until a development plat has been approved by the City's appointed or elected body with authority over plats and filed with the City Secretary.
- (e) Standards of Approval. The development plat shall not be approved until the following standards have been satisfied:

- (1) The proposed development conforms to all applicable City plans, including but not limited to, the Comprehensive Plan, Transportation Plan, Future Land Use Plan, Park and Trails Plan, utility plans and applicable capital improvements plans;
 - (2) The proposed development conforms to the requirements of the Zoning Ordinance (if located within the City's corporate limits) and this Chapter;
 - (3) The proposed development is adequately served by public facilities and services, parks and open space (to the extent necessary based on the nature of the development) in conformance with City regulations;
 - (4) The proposed development will not create a safety hazard on a public street;
 - (5) Required dedications and/or appropriate agreements for acceptance and use of public dedications to serve the development have been tendered; and
 - (6) The proposed development conforms to the design and improvement standards contained in this Chapter, in the City's Engineering Design Standards Manual and in any other applicable codes or ordinances of the City related to development of a tract of land.
- (f) Conditions. The Planning and Zoning Commission and City Council may impose such conditions on the approval of the development plat as are necessary to assure compliance with the standards in subsection (e) above.
- (g) Approval Procedure. The application for a development plat shall be submitted to the City in the same manner as a final plat, and shall be approved, conditionally approved or denied by the Planning and Zoning Commission. Upon approval, the development plat shall be filed with the county.
- (h) Submittal Requirements. Each development plat shall show all information that is required to be shown on a final plat and shall:
- (1) Be prepared by a registered professional land surveyor;
 - (2) Clearly show the boundary of the development plat;
 - (3) Show each existing or proposed building, structure or improvement or proposed modification of the external configuration of the building, structure or improvement involving a change therein;
 - (4) Show all easements and rights-of-way within or adjacent to the development plat;
 - (5) Be accompanied by the required number of copies of the plat, a completed application form, the required submission fee (in an amount equal to the fee associated with final plat submission) and a certificate or some other form of verification from the Grayson County Appraisal District showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property; and
 - (6) Be submitted to the Department of Development Services for review with the application in the same manner as for a Final Plat; failure to so comply shall result in the application being determined to be incomplete and subject to expiration in the same manner as other plats under this Chapter.

Sec. 10.02.007 Subdivision Variance

A variance of certain subdivision standards of this Chapter, as provided for within this Chapter, may be considered prior to or concurrently with a Preliminary Plat, Final Plat, or Replat to address unforeseen circumstances or other difficulties in developing a property under the specific provisions of this Chapter. The requirements for submitting a subdivision variance application

shall follow the regulations in Section 14.06.006 (Variance Procedures) of this Code.

- (a) Processing of Subdivision Variance Application.
 - (1) The City Engineer shall review the application, consider applicable criteria for approval, and prepare a report to the Board of Adjustment.
 - (2) The City Engineer's report may include a recommendation for final action.

Sec. 10.02.008 Property Owners' Association.

- (a) Purpose. The purpose for the establishment of a Property Owners' Association (also referred to as "Association") for residential developments is to create an organization that owns and is responsible for maintaining, among other things, commonly owned properties, amenities, rights-of-way and thoroughfare screening for the communal good of the development's property owners and residents.
- (b) Applicability. A POA shall be established for any development that contains any amenity, as defined in this section, or thoroughfare screening. For purposes of this section, the terms "Homeowners' Association" and "Association" are interchangeable with the term "Property Owners' Association" for multi-family and non-residential developments.
- (c) Descriptions of Elements Requiring a POA. Any one (1) or more of the following elements created as part of a development shall require formation and continued operation of a mandatory POA:
 - (1) Amenity. Where proposed in conjunction with a development, the word "amenity" shall be as defined as an aesthetic or other physical improvement to a development that increases its quality, desirability, and/or marketability to the public, and shall include, but not be limited to, the following:
 - (A) Amenity center (i.e., private swimming pool, club house, tennis courts, etc.);
 - (B) Private recreational facility;
 - (C) Entry features;
 - (D) Open space - voluntary or as required by zoning, this Chapter or Development Agreement;
 - (E) Ponds and drainage ways, including detention or retention areas;
 - (F) Water fountains;
 - (G) Water features and creek areas;
 - (H) Hike-and-bike trails;
 - (I) Private streets; and
 - (J) Other commonly owned facilities.
 - (2) Thoroughfare Screening. Screening as required and generally regulated by Article 14.04.004 of this Code.
- (d) Procedure. The establishment of a required POA shall occur in conjunction with the recordation of the subdivision Final Plat, and shall generally be established as follows:
 - (1) Documents Submitted for Review. The declaration, covenants and other necessary documents establishing the POA shall be submitted to the City for review by the City Attorney for conformance with this and other applicable ordinances prior to submission of the Final Plat, and prior to issuance of an Acceptance of Public Improvements letter for the development. POA documents shall include descriptions of any amenities, thoroughfare screening, and other areas for which the Association is responsible for maintenance, and shall outline the organization

of the Association.

- (2) Approval By City Attorney. All POA 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 for review of the POA documents. This reimbursement shall be paid in full prior to recordation of the Final Plat.
- (3) Recordation. All POA documents shall be recorded at the County prior to the recordation of the Final Plat. Two (2) copies of the recorded documents shall be submitted to Development Services for City records within five (5) days following recordation.
- (4) Additional Phases. An additional phase to an existing subdivision is not required to establish a separate and distinct POA, provided that:
 - (A) The existing, recorded Association documents are amended to incorporate the area of the new subdivision phase and to adopt the responsibility of its amenities, thoroughfare screening, and other areas for which the Association is responsible for maintenance.
 - (B) The applicant shall provide a draft of the amended covenants to the City Attorney for review prior to the recordation of the plat.
- (e) 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 POA has been established for the subdivision;
 - (2) That membership in the POA is mandatory for all lot owners; and
 - (3) That the developer is required to provide to any person, upon their request, a complete copy of the Association documents and a five (5)-year projection (at a minimum), of Association dues, income and expenses.
- (f) General Requirements. The following shall be set forth in the POA documents:
 - (1) A statement that membership in the Association is mandatory for all owners of property within the subdivision;
 - (2) A listing of all required maintenance responsibilities, and where possible, the lot number(s), legal descriptions, street name(s), 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, and to place liens against property for failing to pay dues and assessments.
 - (A) Dues shall be calculated based on a cost projection for the maintenance of all amenities and based on eventual build-out of the subdivision;
 - (B) 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.
 - (C) 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, 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 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 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 the actions for violations as set forth in Section 10.02.007(h).
 - (12) Other City requirements as applicable.
- (g) Supplementary Requirements. The POA shall also comply with the following regulations, where applicable:
- (1) 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) Amenities. The following regulations shall apply to any subdivision that includes an amenity, as described in Section 10.02.007(3)(a):
 - (A) Where amenities are proposed in conjunction with a development, the applicant shall comply with those regulations outlined in Section 10.03.008 of this Code.
 - (B) 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.
 - (3) Thoroughfare Screening. All subdivisions that are required to provide thoroughfare screening per Section 14.04.004 of this Code shall comply with the following:
 - (A) The Property Owners' Association shall own and be responsible for the maintenance of all required screening walls and fences, landscaping, landscape edges, and landscape irrigation systems, and shall provide for the payment of dues and assessments required to maintain such improvements.
 - (B) The Association documents shall state that the City has no obligation to maintain or reconstruct the screening walls and fences, landscaping, landscape edges, and landscape irrigation systems in the event of damage to such improvements.
 - (C) The Association documents shall state that the City may, but is not obligated to, inspect screening walls and fences, landscaping, landscape edges, and landscape irrigation systems, and that the City may require maintenance and

repairs necessary to ensure that such improvements are maintained to City standards.

(h) Violations, Revocations & Liens

- (1) The City will notify the Property Owners' Association 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 as outlined in this Section 10.02.007(h).
- (3) The City shall have all lien, assessment 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 property for which the assessment is made.

ARTICLE 10.03 PUBLIC INFRASTRUCTURE REQUIREMENTS

Sec. 10.03.001 Minimum Required Improvements.

The standards and criteria established herein for dedication and construction of public improvements, facilities and infrastructure identify certain minimum requirements and sizing of utilities, streets, parks, and other facilities that have been determined by the City of Sherman to be necessary in order to provide the minimum level of service necessary to protect or promote the public health, safety and welfare. It is the intent of this Article that no development shall occur until and unless these minimum levels of service are met, consistent with the City's applicable master facilities plans and construction design standards. Adequate right-of-way and easements, both on- and off-site shall be dedicated in accordance with this Chapter to adequately account for extensions and infrastructure requirements necessary to serve each phase of a proposed development at service levels that meet city criteria. Therefore, each development shall be required to dedicate, construct or upgrade required facilities and infrastructure to a capacity that meets these minimum levels. Unless otherwise specified herein or agreed upon by contract of the City and developer, all required improvements shall be designed and constructed at the sole cost of the property owner or developer, including necessary testing and studies.

Sec. 10.03.002 Engineering Design Standards Manual.

The City's Engineering Design Standards Manual specifies all design criteria for infrastructure required in this Chapter, unless otherwise specified herein. This document may be amended from time to time,. In the event of a conflict between this Chapter and the Engineering Design Standards Manual, this Chapter shall control.

Sec. 10.03.003 Streets and Pedestrian Facilities.

The proposed street system shall extend all existing major streets and such existing secondary and local streets as may be necessary for convenience of traffic circulation and emergency ingress and egress. Dedication of public rights-of way or easements necessary to provide an adequate street and mobility network shall be provided and depicted on plats and/or civil plans. The arrangement, character, extent, width, alignment, and location of all streets, sidewalks, trails, public ways, alleys, and driveways shall be in conformance with the comprehensive plan, thoroughfare plan, and other plans and policies pertaining to mobility. In addition to the requirements of the Engineering Design Standards Manual, all streets and pedestrian facilities shall meet or exceed the guidelines in AASHTO's then-current A Policy on Geometric Design of Highways and Streets.

Street design shall be considered in relation to existing and planned streets, alleys and driveways, topographical and environmental features, scenic views, and the land uses proposed to be served by such streets. Good community design requires quality neighborhood and arrangement of streets, lot, blocks and valuable physical characteristics. Quality subdivisions must have an interconnected system of sidewalks, trails, and streets that are timeless, safe, comfortable, and value-sustaining.

The following subsections provide specific requirements for elements of street and pedestrian infrastructure:

- (a) **Street Types.** There are multiple classifications of streets that may be represented on a plat to ensure compliance with the City's transportation master plans and those of other governmental entities within their area of jurisdiction. These street types include highways, major arterials, minor arterials, commercial collectors, residential collectors, urban streets, rural streets, alleys, and private streets. Each street type provides a certain degree of continuity, capacity, and accessibility to adjacent land uses and may be differentiated by both function and design. These street types are summarized in the Engineering Design Standards Manual, Section 2, including minimum standards, typical cross-sections, and design criteria.
- (b) **Street Access.** A Plat will not be approved unless all of the proposed lots in a subdivision have safe and reliable street access for daily use and emergency purposes. All lots shall have direct access to an improved public street (or a public street that will be improved during construction of the proposed development) to the City's minimum design and paving standards, or to an approved public way that is connected to an improved public street. 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 accept a temporary street connection provided that a second permanent access point can be reasonably anticipated with future development of adjacent properties.
- (c) **Rights-of-way and Easements**
 - (1) Minimum rights-of-way and design considerations required to accommodate needs for property access, future and expanded streets, and pedestrian facilities can be found in the Engineering Design Standards Manual, Section 2. Additional right-of-way or easements for design needs based on street type, intersection type, or other

situation are further specified in the Manual. Additional right-of-way or easement space for these facilities may be required due to the entity requiring or controlling the facility, topography and other design considerations specified by the City Engineer.

- (2) In lieu of constructing a street as part of the subdivision and civil plan process, a developer may enter into a Development Agreement to dedicate the rights-of-way and delay or waive the construction of the public improvements to be dedicated.
- (d) Street Elements
- (1) Curb and gutter. Curb and gutter shall be installed by the developer on both sides of all streets, in accordance with the Engineering Design Standards Manual unless otherwise specified herein or by the City Engineer.
 - (2) Street names. Names of new streets shall not duplicate or cause confusion with the names of existing streets, unless the new streets are a continuation of or in alignment with existing streets, in which case the names of existing streets shall be used.
 - (3) Street signs. The developer shall pay for street signs and installation thereof. The City will install the signs. Alternative street signs may be considered by the City Engineer if maintained by a Property Owner's Association.
 - (4) Streetlights. Street lighting shall be provided along all streets and thoroughfares in accordance with the Engineering Design Standards Manual.
 - (5) Intersections. Intersection design, signalization, right-of-way corner clips, curb radius, and site visibility, among other design elements, shall be in accordance with the standards of the Engineering Design Standards Manual and Section 10.03 of this Chapter.
 - (6) All other street design elements shall be installed in accordance with the Engineering Design Standards Manual.
- (e) Perimeter Streets
- (1) New streets. When a proposed subdivision abuts a planned thoroughfare depicted on the City's future transportation plans, the developer shall dedicate and construct a portion of the street consistent with the Engineering Design Standards Manual.
 - (2) Existing substandard streets. Where a proposed subdivision abuts an existing substandard street, or street that does not meet the future needs of the City per the transportation plan, the developer shall dedicate right-of-way and construct all or 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 design standards for that type of street per the Engineering Design Standards Manual. If the City Engineer makes a determination that it is not feasible to construct the street and its appurtenances to its ultimate cross-section or portion thereof at that time, the City may require the developer to provide a minimum standard paved fire lane and pay in lieu of said improvements into escrow funds in accordance with the Engineering Design Standards Manual and the traffic impact mitigation requirements in Section 10.03.004 of this Chapter for the future construction of the street as a condition of the plat approval. Partial street dedication and construction on an existing street

shall be considered according to the Engineering Design Standards Manual, Section 2.

(f) Block and Street Lengths

- (1) Street Length. Lengths of specific streets and situational intersections shall adhere to the specifications in the Engineering Design Standards Manual.
- (2) Alley Length. Alleys shall not exceed 700 feet in length without an intermediate connection to a local street. No dead-end alleys are permitted.
- (3) Block Length. Blocks shall not exceed 1,200 feet in length, measured from street centerline to street centerline. In the case of nonrectangular blocks, each side of the block with lots fronting it shall not exceed 1,200 feet, measured between the vertices formed by the extension of right-of-way lines at each corner of the block.
- (4) Block Width. Blocks shall be wide enough to allow two (2) tiers of lots with a block width no less than two hundred feet (200'), except when prevented by the size of the property or the need to back up to a major thoroughfare.
- (5) Block Size. Blocks shall not exceed more than 20 lots on one side of a public street before a street crossing.
- (6) Mid-Block Pedestrian Connection. Where a residential block is 800 feet or greater in length, a minimum 15-foot-wide pass-through lot shall be required. The pass-through lot shall contain a minimum five (5)-foot public sidewalk that connects on both ends to a sidewalk or trail located only on a local or collector street, school, park, or compatible land use. This lot shall be owned and maintained by a designated Property Owner's Association with an access easement. The City Engineer shall maintain discretion where such a connection may be undesirable due to topography, incompatible adjacent land use, or similar reason. As an alternative to this pass-through lot, pocket parks, stormwater ponds, or a public street may take the place of the public sidewalk.
- (7) Street Connectivity. New developments shall connect to and provide projected street connections to adjacent properties, both existing and future, to allow access between developments for neighborhood traffic, allow for safe egress, and to enhance pedestrian and bicycle connectivity as recommended in the City's Comprehensive Plan.
 - (A) Street stubs shall be generally provided in each direction of the plat, as applicable and practical.
 - (B) At least two connections provided for subdivisions 30 lots or greater.
 - (C) At least three connections provided for subdivisions 80 lots or greater.
 - (D) As determined by the City Engineer for additional street stubs for larger subdivisions or relief of stubs considering topography, existing conditions, or adjacent land use to ensure compatibility.

(g) Sidewalks

Sidewalks shall be installed as basic infrastructure for each street within or adjacent to a proposed subdivision for residential and non-residential development. The developer or the homebuilder shall pay and construct all sidewalks.

- (1) Sidewalk elements. Sidewalk infrastructure elements may include sidewalk flat-work, curb ramps, railings, retaining walls, lighting, signage, safety elements, grading, etc. necessary to achieve accessible design in public street rights-of-way, access easements and other locations, per the Engineering Designs Standards Manual. Construction of any sidewalk shall conform to the standards and specifications contained in the Engineering Design Standards Manual, this Chapter and the City of Sherman Code of Ordinances.
- (2) Trails. Trails depicted in the Trails Master Plan shall be dedicated and constructed at the time of development as a public improvement in the general locations and alignments depicted therein, as further detailed in Section 10.03.008 of this Chapter.
- (3) Alternative pedestrian improvements. Alternative locations or design variation(s) of sidewalks, pedestrian access facilities, or hike and bike trails to a standard that deviates from the Engineering Design Standards Manual can be requested to the City Engineer.
 - (A) If an alternative is approved by the City Engineer, ownership and maintenance shall be transferred to the property owner or Property Owner's Association and recorded by separate instrument, along with a public access agreement.
 - (B) When the delay of sidewalk or trail construction is deemed appropriate due to a pending street or storm drainage improvement project, escrow funds in lieu of the construction of sidewalks may be approved by the City Engineer.
 - (C) When an administrative alternative cannot be achieved, a subdivision variance pursuant to Section 10.02.005 of this Chapter may be requested for either fees-in-lieu of construction, delay of construction, or waiver. Justifications for the variance include, but are not limited to, the location of the facility in relation to the existing or planned pedestrian network, the need for the facility, and/or topography/natural features.

(h) Lot Access and Frontage

To protect property value and promote safety and compatibility, certain lots may be restricted along streets and other situations represented on a plat.

- (1) Lot size, dimensions, setbacks, and orientation shall be in accordance with the zoning district and use requirement of the City's Zoning Ordinance (Chapter 14 of this Code).
- (2) Residential driveways on all streets shall be positioned away from intersections and curb inlets and may be required by the City Engineer to be larger lots for accommodation.
- (3) Residential lots created by plat shall not front onto a Major Arterial, Minor Arterial, or Commercial Collector.
- (4) Residential lots shall not front onto, nor shall a garage or driveway face onto, a Residential Collector, Urban Street, or Rural Street within 100 feet of the right-of-way line of the nearest Major Arterial or Minor Arterial.

- (5) Residential lots shall not front onto any portion of a Residential Collector or Urban Street that extends into a neighborhood for more than 600 feet.
- (6) Residential lots shall not front onto a roundabout. The City Engineer has the discretion on where the next adjacent lot shall be located from the intersection based on the roundabout design to ensure that the home is sited with adequate distance from the roundabout where driveway access would not interfere with the roundabout approach or a splitter island.
- (7) Lots created adjacent to any roadway in the ETJ shall have a setback per Grayson County Subdivision Regulations.
- (8) Reserve strips of land controlling access to other property or to any street or alley or having the effect of restricting access to the adjoining property are prohibited. Properties shall not be landlocked, and shall have public access to a legal right-of-way.
- (9) In certain instances, the City shall require a cross-access easement for internal drives to address safety and access conflicts. Location of cross-access easements shall be indicated on the plat or site development plan and shall be built to the Engineering Design Standards Manual.
- (10) Lot access to Texas Department of Transportation (TxDOT)-regulated roadways are permitted by the City Engineer, but shall meet access requirements.
- (11) Unless otherwise allowed in the City's Zoning Ordinance, a lot or a division of land fronting a public street shall have a minimum 60 feet of frontage.
- (i) Private Streets. New subdivisions may be constructed with private streets that meet or exceed the specifications set forth in the design standards for similar public streets. The construction of private streets shall be subject to standard City inspections. Any private street subdivisions that were in existence (i.e., platted of record at the county) on June 3, 2024 shall be allowed to remain as private street subdivisions provided that the conditions of the private streets and the maintenance thereof continues to meet or exceed City standards, and provided that a viable Property Owners' Association (POA) or other similar organization continues to exist to maintain the private streets and all appurtenances. The City will not assist in enforcing deed restrictions. The City may periodically inspect private streets and may require the POA or other responsible organization to make any repairs necessary to ensure efficient emergency access and to protect the public health, safety, convenience and welfare.
 - (A) Private streets: Construction and maintenance cost. The City shall not pay for any portion of the cost of constructing or maintaining a private street.
 - (B) Private streets: Traffic-control devices. All private traffic-control devices and regulatory signs shall conform to the Texas Manual of Uniform Traffic Control Devices, as amended, and to City standards.
 - (C) Private streets: Restricted access. The entrances to all private streets shall be clearly marked with a sign, placed in a prominent and visible location, stating that the streets within the subdivision are private, and that they are not maintained nor regularly patrolled by the City. All restricted access entrances shall be manned 24 hours every day, or they shall provide a reliable, alternative means of ensuring

access into the subdivision by the City, by emergency service providers, and by other utility or public service providers, such as postal carriers and utility companies, with appropriate identification. The method to be used to ensure City and emergency access into the subdivision shall be approved by the City's fire department and by any other applicable emergency service providers. If the Property Owners' Association (POA) fails to maintain reliable access as required herein, the City may enter the private street subdivision and remove any gate or device which is a barrier to access at the sole expense of the POA.

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

Sec. 10.03.004 Traffic Impact Analysis.

- (a) Purpose. The purpose of a Traffic Impact Analysis (TIA) is to assess the effects of specific development activity on the existing and planned thoroughfare system. Development activity may include but is not limited to rezoning, preliminary site plans, site plans, driveway permits, certificates of occupancy, and Thoroughfare Plan amendments.
- (b) Pre-submission Meeting. Prior to the commencement of a TIA, an initial or pre-submission meeting with City staff is required to establish a base of communication between the City

and the applicant. This meeting will define the requirements and scope relative to conducting a TIA and ensure that any questions by the applicant are addressed.

(c) Applicability of TIA Requirements

- (1) Zoning. These TIA requirements shall apply to all zoning requests for land uses which will generate 2,500 or more vehicle trips per day or contain a density of 0.75 Floor Area Ratio (FAR) or greater. Applicable requests include zoning requests and Thoroughfare Plan amendments, if no previous traffic assessment was performed. Special circumstances, including but not limited to development with no case history, which do not meet the daily trip generation threshold, may also require a TIA. Such circumstances, as determined by the City Engineer may include, but are not limited to, impacts to residential neighborhoods from nonresidential development, inadequate site accessibility, the implementation of the surrounding Thoroughfare Plan is not anticipated during the estimated time period of the proposed development, the proposed land use differs significantly from that contemplated in the Comprehensive Plan, or the internal street or access is not anticipated to accommodate the expected traffic generation.
- (2) Development Site Plan. These TIA requirements shall apply to all development site plan requests for land uses, which will generate 1,000 or more vehicle trips per day or contain a density of 0.75 Floor Area Ratio (FAR) or generate over 100 total trips during the AM or PM peak hour. Developments that will generate less than 1,000 but 500 or more vehicle trips per day may require a TIA. Applicable development requests include concept plans, preliminary site plans, and site plans. Special cases, in which site generated peak hour trip activity is different from that of the adjacent street (weekdays 7:00-9:00 a.m. and 4:00-6:00 p.m.), may require an additional separate analysis as determined by the City Engineer. Such circumstances may include, but are not limited to, commercial/retail, entertainment or institutional activity. The City Engineer may waive the TIA for a development request if a TIA was performed previously with the Zoning request and conditions listed in the report are still current.
- (3) Daycares and Schools. All development requests and/or specific use permit requests for a daycare, Montessori school, private school, charter school, or public school shall include, at a minimum, a traffic circulation study. This study shall include the estimated maximum peak hour trip generation of the facility, the planned circulation of inbound and outbound traffic during drop-off and pick-up operations, and the estimated length of the queue of cars waiting to pick up students. The design of the site and the circulation plan shall ensure that school traffic does not back up onto any public street. The traffic circulation study shall include a statement that the owner and/or operator of the daycare or school agrees to operate the facility in accordance with the approved circulation plan. The circulation plan must be approved by the City Engineer before the development request or the specific use permit can be approved.

- (4) Determination of Applicability. The need for a TIA shall be determined by the City Engineer based upon the results and recommendation from a pre-application meeting. It shall be the responsibility of the applicant to demonstrate that a TIA should not be required. If a TIA is required, the level of effort for a TIA submission shall be determined by the City Engineer. Depending upon the specific site characteristics of the proposed development, one or more of the following elements may also be required as part of the TIA: an accident analysis, sight distance survey, traffic simulation, traffic signal warrant analysis, queuing analysis, turn lane analysis, and/or traffic circulation plan.
- (d) Requirements for TIA Updates. A TIA shall be completed in accordance the requirements in the Engineering Design Standards Manual.
- (e) Traffic Impact Mitigation. Traffic impact mitigation may be required of the development subject to requirements in the Engineering Design Standards Manual.
- (f) Administration of the TIA. Based on the results of the TIA and actions recommended by the City Engineer, the Planning and Zoning Commission and/or the City Council, as appropriate, may take one or more of the following actions:
 - (1) Approve the zoning or development request, if the project has been determined to have no significant impact or where the impacts can be adequately mitigated;
 - (2) Approve the development request, subject to a phasing plan;
 - (3) Recommend study of the City's Thoroughfare Plan to determine amendments required to increase capacity;
 - (4) Recommend amendment of the Capital Improvement Program (CIP) to expedite construction of needed improvements; or
 - (5) Deny the zoning or development request, where the impacts cannot be adequately mitigated.
- (g) Cost of TIA Review by City. The cost for review of TIA submittals shall be based on the parameters set forth in the City's Development Fee Schedule and paid in full at time of submission.

Sec. 10.03.005 Water and Wastewater.

- (a) Water supply and distribution. The water infrastructure required to serve development shall adhere to the Engineering Design Standards Manual and include, at a minimum, all necessary water mains, fire hydrants, service connections, valves, fitting and miscellaneous parts required to complete the system, or water supply and treatment facilities needed if not connected to the City's water system.
 - (1) The developer shall pay all costs of the water supply and distribution system, unless approved based on Section 10.03.011(b).
 - (2) All easements required by the City shall be dedicated by plat if within the platted boundary, with locations approved by the City Engineer in accordance with the Engineering Design Standards Manual. If outside the platted boundary, easement documents, prepared and accepted by the City, shall be provided prior to receiving plans for construction. Said easements shall be filed by the City with Grayson County.

- (b) Wastewater collection and treatment. The wastewater infrastructure required to serve development shall adhere to the Engineering Design Standards Manual and include, at a minimum, all necessary wastewater collection lines, manholes, lift stations, cleanouts, service connections, and other miscellaneous elements required to complete the system, or wastewater treatment facilities if not connected to the City's wastewater system.
 - (1) The developer shall pay all costs of the wastewater collection and treatment system, except for oversizing of water mains included in the City's water master plans that serve needs projected beyond the development site and exceed the line size needed to serve the development.
 - (2) The amount of participation by the City for oversized improvements will be determined by taking alternate bids for the infrastructure necessary above and fittings versus the cost of the minimum requirement determined by the Engineering Design Standards Manual. The City will pay the difference in cost between the oversized lines and minimum requirement as determined by the alternate bids and funding approved by City Council, subject to a development agreement between the property owner and the City.
 - (3) All easements required by the City shall be dedicated by plat if within the platted boundary, with locations approved by the City Engineer in accordance with the Engineering Design Standards Manual. If outside the platted boundary, easement documents, prepared and accepted by the City, shall be provided prior to receiving plans for construction. Said easements shall be filed by the City with Grayson County.
- (c) On-site wastewater system. In cases where the City Engineer determines that extension of, and connection to, the City's wastewater system is impractical or not feasible, and where the Grayson County approves the use of an on-site wastewater disposal system, such on-site system shall provide adequate sewage disposal for all lots, tracts, parcels and structures in the development as per the requirements of Grayson County.
 - (1) Documentation from Grayson County allowing on-site wastewater for the proposed development, based on size of lot(s) and land use, shall be submitted to the City with civil plans.

Sec. 10.03.006 Storm Drainage.

- (a) Drainage system design. The drainage infrastructure required shall adhere to the Engineering Design Standards Manual and include, at a minimum, all necessary storm sewer lines, inlets, manholes, junction boxes, drainage channels, box culverts, valley gutters and other miscellaneous elements required to complete the system. The developer shall pay all costs of the design and development of stormwater drainage associated with the proposed development.
- (b) 100-year floodplain. For the health, safety and welfare of the City's residents and for the conservation of water, storm drainage and wastewater facilities, the City prohibits development of any portion of a property that lies within the 100-year floodplain, in accordance with all Federal Emergency Management Agency (FEMA) regulations.

- (c) Off-site Drainage. When any proposed development requires off-site grading where storm water runoff has been collected or concentrated, it shall not be permitted to drain onto adjacent property except in existing major creeks, channels, storm sewers or streets unless one of the following is provided:
 - (1) Notarized Letter of Permission. The letter shall state that the permission shall bind the owner of the affected property and be a covenant running with the land. It shall also refer to the plans for the improvements creating the need for the permission. The letter shall be filed with Grayson County.
 - (2) Drainage Easement. A drainage easement, either private or public, shall be dedicated for major creeks, ditches, culvert, or drainage channels and shall be of a width sufficient to comply with the criteria outlined in the Engineering Design Standards Manual.

Sec. 10.03.007 Easements and Right-of-Way.

- (a) Easements and rights-of-way shall be dedicated per the dimensions and specifications established in the Engineering Design Standards Manual either by plat or by separate instrument if the City Engineer determines the need outside of the typical platting process.
- (b) Franchise utilities. Franchise utilities shall be made available for each lot, including electrical, telephone, television, internet, and other wire carrier type utilities. Franchise utilities shall typically be located in public utility easements (U.E.) provided at the locations and widths specified in the Engineering Design Standards Manual.
- (c) Abandonment. Public rights-of-way and easements held by the City shall be abandoned by separate instrument. Abandonment of a public right-of-way upon the request of a developer or property owner requires a process of property owner notification, approval of affected public utility companies and City Council approval, as follows:
 - (1) All property owners abutting the right-of-way or easement proposed for abandonment shall be notified by the applicant by certified letter. A written response from each abutting property owner in support or not in support of the abandonment shall be provided to the City Engineer by the applicant prior to City consideration of the action. If any landowners are not in support of the action and explain their reasons accordingly, the application shall not be considered for action by the City Council.
 - (2) All public utilities, including franchise utilities, must be in support of the abandonment prior to City consideration of the action.
 - (3) The applicant shall describe why the right-of-way or easement is no longer needed to serve a public purpose and explain the proposed new use of the area to be abandoned.
 - (4) The right-of-way/easement abandonment application shall be submitted along with the supporting documentation to the City Engineer for review and submittal to City Council for approval.
- (d) Encroachment Agreements. The City may allow permitting of certain property owner improvements within easements with the execution of an Encroachment Agreement, as detailed in the Engineering Design Standards Manual, Section 1.

Sec. 10.03.008 Trails and Open Space.

(a) Open space required.

The provision of adequate land for use as trails and open space is necessary for the protection of public health, safety, and general welfare of the community. Increased residential development in the city limits and extraterritorial jurisdiction impacts the current standards for recreational resources and creates the need for additional recreation resources as a result of the increased population so that adequate service levels for trails, and open space facilities may be maintained. To offset this impact, the City Council finds that is necessary to require trails and open space, where appropriate.

- (1) Applicability. A contiguous residential subdivision, including a single-family or multifamily residential subdivision, with 2 or more gross acres or 20 or more lots located within the city limits or the extraterritorial jurisdiction shall provide for open space and land for trail and recreational purposes. A contiguous subdivision is defined as abutting or separated only by a local or collector street to the subdivision. Subdivisions separated by rights-of-way, drainage or utility easements in excess of sixty (60) feet in width shall not be considered as contiguous.
- (2) Land area. The minimum amount of land required to be reserved as open space shall be 10 percent of the total gross residential subdivision acreage.
- (3) Location. The open space shall be located within the proposed subdivision. Each phase of the proposed subdivision shall provide the required open space for that phase.
- (4) Standards. Land required for open space reservation for trail and recreational purposes shall meet the following size, character, and location conditions:
 - (A) At least 50 percent of the required open space shall be outside of the 1% floodplain on level, well-draining land that is suitable for use as a playfield or playground, as determined by the City.
 - (B) Required open space should include site features such as shade trees, vistas, visual interest, historic site elements, well-draining and stable soils, and areas suitable for constructing amenities.
 - (C) Open space not suitable for the development of amenities, as determined by the City, may not be accepted by the City as satisfying the open space requirement.
 - (D) Open space should be open to public view to enhance property value, protect public safety, and minimize conflict with adjacent land uses. Open space should be sited open to streets, other public uses such as schools and lots shall face onto the open space instead of backing to them (at least two sides of the open space). Exceptions can be considered due to topography, shape, drainage or other reasons.
 - (E) Required open space shall provide a minimum of 200 feet of frontage on a dedicated public street or of a width acceptable to the City. Secondary frontages to the open space may be smaller, particularly trail connections, and open space connections to multiple streets, sidewalks, and trails.

- (F) The area shall not be subject to any reservation of record, liens or encumbrances of any kind, or easements which will interfere with the use of the land for open space, trail, or recreational purposes, as determined by the City.
 - (G) Perpetual ownership, management, and maintenance of the required open space shall be transferred to a mandatory Property Owners' Association and recorded by separate instrument.
- (5) Usable Open Space Requirements.
 - (A) Open space required to be reserved under this section shall be usable and include recreational facilities such as swimming pools, play equipment for children, ball fields, court games, picnic tables, or similar. Natural areas may be included as usable open space if improved with a minimum eight (8) feet wide concrete walking trail. Such facilities and improvements must be completed and accepted by the City as a condition of the City's final acceptance of the subdivision.
 - (B) Vehicle parking shall be provided along streets abutting the open space. These streets should be sized adequately to accommodate parking (typically parallel parking spaces) on both sides of the street and may require additional right-of-way and pavement at the discretion of the City Engineer based on location and context.
- (6) Alternatives. Alternative design standards, locations, or contexts from the standards of this section may be considered by the Parks and Recreation Director if shown that the proposed alternative is otherwise superior to the standards presented in this Chapter and sufficiently advances the City's recreation goals.
- (b) Citywide Trails.
 - (1) Applicability. All residential and commercial development shall be required to dedicate land and construct trails per the provisions of this section at the time of a plat or site plan.
 - (2) Locations. Trails depicted on the Trails Master Plan shall be dedicated to the City and constructed along with other required public infrastructure improvements. Trails shall be located in the general locations and alignments depicted in the Trails Master Plan. Trails required or proposed adjacent to creeks or greenways shall be coordinated with the Parks and Recreation Department and shall be staked in the field by the developer and approved by the Director of Parks and Recreation prior to the civil plans being issued for construction.
 - (3) Surface Area. If the trail is not located on City-owned property, a minimum of 25 feet of right-of-way or public access easement of suitable level ground surface for trail construction shall be dedicated to the City. This area shall be located outside of the 1% floodplain unless otherwise approved by the Director of Parks and Recreation. In areas of heavy tree cover or significant topography, additional land may be necessary to maintain trees.
 - (4) Trail Standards.

- (A) Trails shown on the Trails Master Plan shall be a minimum of 10 feet to 12 feet in width as determined by the Director of Parks and Recreation, constructed to the standards depicted in the Trails Master Plan, unless otherwise authorized by the Director of Parks and Recreation or in other City-approved plan or agreement.
 - (B) If the trail is not located on City-owned property, a minimum of 20 feet of right-of-way or public access easement or 40 feet adjacent to a creek or other similar water feature, shall be dedicated as approved by the Director of Parks and Recreation.
 - (C) A trail constructed to the City's trail standards may be constructed within the right-of-way or public utility easement as a substitute for a street sidewalk if the Trails Master Plan designates a trail along the street.
- (5) Alternatives. Alternative locations or design variation(s) of sidewalks, pedestrian access facilities, or hike and bike trails to a standard that deviates from the Trails Master Plan can be requested to the City Manager. If approved, ownership and maintenance shall be transferred to the property owner or Property Owners' Association and recorded by separate instrument, along with a public access agreement.
- (c) Common Areas and improvements. A Property Owners' Association (POA) and a recorded declaration of covenants, conditions, and restrictions (CC&Rs) are required in accordance with Section 10.02.008 for any new development in which open space, trails or other areas or improvements are required under this section.

Sec. 10.03.009 Tree Protection

(a) General

- (1) Purpose. The purpose of this section is to preserve, protect and enhance existing trees and mitigate the effects of tree removal within the City of Sherman and its extraterritorial jurisdiction. Trees, particularly native species, add natural beauty and distinct local character, add shade, promote water conservation, provide locations for habitat, and increase property values. The provisions of this section are intended to support the long-term viability of healthy trees and promote natural ecological, environmental, and aesthetic quality in the community.
- (2) Authority. The provisions of this section are adopted in accordance with state law and the City Charter. The provisions of this section shall be administered by the City Manager or his/her designee.
- (3) Applicability. The provisions of this section shall apply to all property within the City limits and its extraterritorial jurisdiction. Applications for approval of subdivisions of land or plats or tree removal permits submitted after December 18, 2023 shall account for protected trees within the subject property in accordance with the provisions of this section and otherwise comply with the requirements of this section.
- (4) Exemptions. Exemptions from the requirements of this section are as follows:
 - (A) Subdivisions of land that total five (5) acres or less, or where no subdivision is proposed, parcels of land five (5) acre or less.

- (B) Trees that a certified arborist has determined and documented are dead, diseased, declining, or safety hazards.
 - (C) Proposed public streets, utility easements, and required fire lanes.
 - (D) As otherwise exempt under applicable law, including Section 212.905 of the Texas Local Government Code.
- (b) Definitions. See Section 10.01.003
- (c) Tree Classifications
- (1) Protected Tree. Any species listed in Table 10.1 that measures 12 caliper inches or larger. Species not so listed do not require protection or replacement.
 - (2) Heritage Tree. Any species listed in Table 10.1 that measures 36 caliper inches or larger.
- (d) Protected Tree Species
- The requirements for tree replacement and mitigation as outlined in this section apply only to the trees listed in Table 10.1.

Table 10.1	
Common Name	Scientific Name
Pecan	Carya illinoensis
Black hickory	Carya texana
Walnut	Juglans nigra
Southern magnolia	Magnolia grandiflora
Texas oak	Quercus buckleyi
Red oak*	Quercus rubra
Bur oak*	Quercus macrocarpa
Chinkapin oak*	Quercus muehlenbergii
Shumard red oak	Quercus shumardii
Post oak	Quercus stellata
Live oak*	Quercus virginiana
Bald cypress	Taxodium distichum
American elm	Ulmus americana
Cedar elm*	Ulmus crassifolia
Lacebark elm*	Ulmus parvifolia
Chinese Pistachio*	Pistacia chinensis
Bigtooth maple	Acer grandidentatum
Caddo maple	Acer saccharum 'Caddo' (Acer barbatum)
Red mulberry	Morus rubra

* Trees that are recommended as appropriate street trees within public right-of-way or in close proximity.

- (e) Tree Removal Permit
- (1) Prohibited Activities. It is unlawful for any person to remove or critically alter a tree without first obtaining a tree removal permit where it is required by this section or unless otherwise authorized in this section. Each tree removed or critically altered without a required permit shall constitute a separate offense.

- (2) Presumption. Where trees are removed or critically altered in violation of this section but evidence of the number of trees so removed or critically altered is unavailable, it shall be presumed that every 1,200 gross square feet of tree canopy removed or critically altered, as shown on an aerial image taken within 36 months of the date of the removal or critical alteration, constitutes the removal or critical alteration of one tree.
- (3) Tree Removal Permit Required. A tree removal permit is required for the removal or critical alteration of any tree on a parcel greater than five (5) acres within the City limits or extraterritorial jurisdiction. A tree removal permit is not required if:
- a. The tree is being removed or critically altered on an existing platted lot being used for a one- or two-family residence.
 - b. The tree endangers the public health, welfare, or safety and immediate removal is required from a certified arborist, including documentation stating the diameter, species and reason for removal;
 - c. The tree has disrupted a public utility service due to a tornado, storm, flood, or other force of nature. Critical alteration shall be limited to the portion of the tree reasonably necessary to re-establish or maintain reliable utility service;
 - d. The tree is being critically altered as part of routine utility maintenance;
 - e. The tree is located on City-owned property and is being critically altered as part of routine maintenance;
 - f. The tree is dead as documented by a certified arborist, including information citing the diameter, species, and reason for removal, unless the tree was required under a landscape plan or was a required replacement tree under this section;
 - g. The tree is located on the property of a plant or tree nursery, or an orchard, where trees are planted and grown on the premises for the sale or intended sale to the general public in the ordinary course of the nursery's or orchard's business; or
 - h. Removing underbrush with hand tools, not including grubbing under drip lines.
- (4) Tree Removal Permit Application. A tree removal permit application and submittal fees shall be submitted to the Development Services Department in conformance with the requirements of this section. All applications and filings shall meet the requirements as defined by the tree removal application checklist, as it exists or may be amended, which shall be established and maintained by the Director of Development Services.
- (5) Approval. The City Manager or his/her designee shall have the authority to issue a tree removal permit if it complies with all the requirements of this Code.
- (6) Appeals. See Subsection 10.03.009(j) for appeals.
- (7) Expiration. A tree removal permit shall expire six months after its issuance.

(f) Tree Survey

- (1) Tree Survey Required. A tree survey shall be submitted concurrent with the submittal of a preliminary plat application or a tree removal permit. The tree survey shall be performed and certified by a certified arborist, registered landscape architect, or registered professional land surveyor. The submitted tree survey shall include the exact size, location, condition (healthy, dead, or declining), and species of each protected tree that measures 12 caliper inches or larger. It is recommended that the tree survey include trees that measure eight (8) caliper inches or larger to retain eligibility for preserved tree credits according to Subsection 10.03.009(g)(1).
- (2) Alternatives to a Tree Survey.
 - (A) No Protected Trees on Site. In lieu of a tree survey, the applicant may submit a sworn affidavit or sworn declaration from a certified arborist, registered landscape architect, or registered professional land surveyor certifying that there are no protected trees on the property or all protected trees on the property are entirely dead or declining. The affidavit or declaration shall be approved by the City Manager or his/her designee to be accepted as an alternative to the required tree survey.
 - (B) Preservation Areas. In lieu of a tree survey, the applicant may submit a landscape plan together with the preliminary plat submittal or a tree removal permit depicting no-disturbance preservation areas that include substantial existing tree canopy coverage that will not be disturbed, removed or critically altered, with the following conditions:
 - (i) The no-disturbance preservation areas shall constitute a minimum of 20 percent of the land subject to the preliminary plat application or tree removal permit that contains a substantial existing tree canopy;
 - (ii) To confirm the existence of substantial existing tree canopy coverage in the designated areas, the alternative plan submittal shall include aerial photographs and on-site photos. City staff may deem it necessary to conduct a visit to the project site for visual confirmation, and if so, the applicant shall allow such visit;
 - (iii) Trees within the designated areas do not need to be identified as a protected tree species;
 - (iv) The areas may be selected by the applicant but shall be located in the following priority order:
 - (1) Floodplains and riparian corridors;
 - (2) Street perimeter buffer areas;
 - (3) Trail corridors, as depicted in the City's adopted Trails Master Plan;
 - (4) Parkland, open spaces, and outdoor amenity spaces; and
 - (5) Other areas, as selected by the applicant.
 - (v) The City Manager or his/her designee must approve the landscape

plan with such preservation areas designated, and such approval may be withheld at the sole discretion of the City Manager or his/her designee.

(g) Tree Replacement Standards

- (1) Mitigation Ratios. Protected trees meeting the minimum size and species requirements shall be replaced according to the mitigation ratios established in Table 10.2, unless an alternative to the tree survey requirement was approved under Section 10.03.009(f). To the extent any provision of this section conflicts with a provision of Section 212.905 of the Texas Local Government Code, the provision in Section 212.905 controls.

Table 10.2	
Caliper Inches	Mitigation ratio
12" - 23"	Replace 1 caliper inch for every 2 caliper inches removed
24" - 35"	Replace 1 caliper inch for every 1 caliper inch removed
36" and above	Replace 3 caliper inches for every 1 caliper inch removed

- (2) Mitigation Limit. The total number of caliper inches required to be mitigated, as calculated according to the mitigation ratios in Table 10.2, shall not exceed 100 caliper inches per acre.
- (3) Replacement Tree Size. All replacement trees required per the mitigation ratios in Table 10.2 shall be a minimum of three (3) caliper inches.
- (4) Landscape Credit. Replacement trees that are planted on site as mitigation for removal of protected trees are eligible to be counted toward the landscaping requirements of Section 14.04.006 of this Code.
- (5) Timing of Mitigation Compliance.
- (A) Replacement trees shall be planted within 90 days of issuance of a tree removal permit. If replacement trees cannot be planted within 90 days, the City Manager or his/her designee may approve a delay in replacement of up to six months after the date of tree removal permit issuance.
- (B) If an applicant cannot replace the mitigation trees required or gain approval to plant on an alternate site, a fee-in-lieu payment into the City Tree Fund shall be required before the tree removal permit can be issued.

(h) Tree Preservation Incentives

- (1) Preserved Tree Credits. Trees listed in Table 10.1 that are preserved onsite and measure eight (8) caliper inches or greater may be credited toward the replacement trees required in Subsection 10.03.009(f)(1) or the landscape requirements in Subsection 14.04.006.
- (2) Preserved tree credits will be granted according to the standards set out in Table 10.3.

Table 10.3

Preserved Tree Size (in caliper inches)	Credits toward replacement tree requirement
8" - 35"	1 caliper inch for every 1 caliper inch preserved
36" and above	36 caliper inches

- (3) Code Conflicts. In certain cases, the preservation of protected trees may be desirable enough to take priority over full compliance of certain conflicting subdivision and zoning regulations, including, but not limited to, setbacks, lot design standards, building heights, sidewalks, lighting, signage, parking spaces, parking lot design, and driveway separation. When a conflict exists between the preservation of a protected tree and other provisions of this Chapter 10 or of Chapter 14, the applicant may request an alternative standard or design. The applicant's request may be considered and approved by the City Manager or his/her designee, provided that a reasonable application of public health and safety standards are maintained with the proposed design.

(i) **Alternative Mitigation Methods**

- (1) Fee-in-Lieu Payment. If replacement tree plantings cannot be fully accommodated on site with adequate space and conditions for long-term health, then an alternative fee-in-lieu payment to the City Tree Fund, which is hereby established, may be considered. If the applicant can demonstrate every effort has been made to plant the required replacement trees on site, the City Manager or his/her designee may consider a fee-in-lieu payment for the remaining balance of replacement tree value. Payments to the fund will be on a per caliper inch basis and are set out in Appendix C, Fee Schedule, of this Code. Payments to the Tree Fund are to be used for the sole purpose of planting trees on public property, including parks, along streets, and in common open spaces, and can also be used for pruning, irrigation, and maintenance of trees on public property. Replacement trees and fee-in-lieu payments may be combined to satisfy the requirement.
- (2) Off-Site Mitigation. If replacement tree plantings cannot be fully accommodated on site, then replacement trees may be proposed to be planted in a location mutually agreed upon by the City Manager or his/her designee and the applicant, including parks and other public places such as streets, medians, and other common open spaces.

(j) **Appeals**

The City Council shall consider an appeal seeking alternative compliance if it determines that all options to achieve compliance with this section have been exhausted and the required mitigation creates an undue hardship for the applicant. An applicant may submit an alternative compliance plan or request for relief from compliance as part of an appeal application to the City Council. The applicant's proposed alternative compliance plan shall clearly delineate any proposed reductions to the standards and depict alternative standards or relief.

(k) **Tree Protection Standards**

To protect designated preserved trees or no-disturbance preservation areas during development, construction or disturbance is prohibited within the dripline area of the trees. During construction, this defined area shall be flagged and encircled with protective

fencing and a three-inch layer of mulch spread beneath the drip line. Trees preserved on site must remain in compliance with the assurance of establishment and vitality requirement in Section 14.04.006 of this Code.

(l) **Enforcement**

- (1) Enforcement. The City shall determine compliance and enforcement in accordance with the provisions of this Code.
- (2) Clear-cutting. Clear-cutting of a property in advance or while seeking approval of annexation, zoning, utility agreement, development agreement, economic incentives, or other discretionary approvals of the Sherman City Council may result in denial or refusal of consideration.

Sec. 10.03.010 Rural Subdivisions.

Single-family development in the extraterritorial jurisdiction or city limits in an estate or agricultural zoning district may be designed with alternative public improvements befitting a rural character. It is the intent that these modified standards be used to maintain a rural design aesthetic atmosphere for a development without sacrificing the integrity of the current or future public infrastructure systems. Subdivisions identified by the nature of their semi-rural location and which conform to the following standards may be allowed:

- (a) The minimum area of each lot shall be one (1) acre.
- (b) Street standards shall be in accordance with the Engineering Design Standards Manual.
- (c) Surface drainage may be handled by open ditch, channel or other approved methods rather than a standard curb and gutter section.
- (d) The subdivision shall be served by an approved water supply and distribution system and an approved wastewater disposal system which may be by municipal wastewater, or lot by lot on-site septic system, subject to the other standards in this Chapter.

Sec. 10.03.011 Responsibility for Cost of Improvements.

- (a) **Developer cost of installation.** For all public improvements required in this Chapter, the developer shall be fully responsible for all costs to design and install the infrastructure, unless otherwise specified in this Chapter or development agreement approved by City Council.
- (b) **Oversizing of roadway, water and/or wastewater infrastructure.** When the City Engineer determines that roadway, water and/or wastewater improvements and facilities should be sized in excess of what is needed for an individual subdivision, either because the larger facility is expressed in a master plan or due to other factors that the City has determined is necessary to accommodate future growth, the City may elect to participate in the construction cost in order to oversize the facility. Subject to approval of the City Council through consideration of funding availability and method of reimbursement, the City shall arrange for the developer to design and construct the identified improvements, whether on-site or off-site of the property desired for development. A developer will not be required to bear the cost of over-sizing facilities beyond those necessary to support the specific development in question.

- (1) The amount of participation by the City for oversized improvements will be determined by taking alternate bids for the infrastructure necessary above and fittings versus the cost of the minimum requirement determined by the Engineering Design Standards Manual. The City will pay the difference in cost between the oversized lines and minimum requirement as determined by the alternate bids and funding approved by City Council, subject to a development agreement between the property owner and the City.
- (c) Pro-rata. All water and wastewater facility extensions will be handled under Article 13.07, Division 4, of the City of Sherman Code of Ordinances.

Sec. 10.03.012 Proportionality Appeal.

- (a) Definitions. For the purposes of this section, the following terms, phrases, words, and their derivatives shall have the meanings given herein.
Public facilities system means the collection of water, wastewater, street, drainage or park facilities owned or operated by or on behalf of the City for the purpose of providing services to the public, including existing and new developments.
Public infrastructure improvement means a water, wastewater, street, drainage or park facility that is a part of one or more of the City's public facilities systems.
- (b) Purpose, applicability and effect.
 - (1) Purpose. The purpose of a proportionality appeal is to assure that a requirement to dedicate, construct or pay a fee for a public infrastructure improvement imposed on a proposed plat as a condition of approval does not result in a disproportionate cost burden on the property owner, taking into consideration the nature and extent of the demands created by the proposed development on the City's public facilities systems.
 - (2) Applicability. An appeal under this section may be filed by a property owner to contest any requirement to dedicate land, to construct improvements or to pay development fees (other than impact fees adopted under Texas Local Government Code Chapter 395), for a public infrastructure improvement, which requirement is imposed under this Chapter to a plat application pursuant to this Chapter, whether the requirement is applicable under uniform standards, or is imposed pursuant to an individual evaluation of the proposed subdivision.
- (c) Proportionality determination by City Engineer. Prior to a decision by the Planning and Zoning Commission on a preliminary plat application, or if no preliminary plat application is required, on a final plat application, the City Engineer (who for the purposes of this subsection (c) must be a licensed professional engineer) shall affirm that public infrastructure improvements being imposed as a condition of plat approval is roughly proportionate to the demand created by the development on the City's public facilities systems, taking into consideration the nature and extent of the development proposed.
 - (1) In making his proportionality determination, the City Engineer may rely upon categorical findings pertaining to on-site improvements; the proposed or potential use of the land; the timing and sequence of development in relation to availability of adequate levels of public facilities; impact fee studies or other studies that measure the demand for services created by the development and the impact on the City's public facilities systems; the function of the public infrastructure

improvements in serving the proposed development; the degree to which public infrastructure improvements to serve the subdivision are supplied by other developments; the anticipated participation by the City in the costs of such improvements; any reimbursements for the costs of public infrastructure improvements for which the proposed development is eligible; or any other information relating to the mitigating effects of the public infrastructure improvements on the impacts created by the development on the City's public facilities.

- (2) Based upon his proportionality determination, the City Engineer shall affirm that the public infrastructure improvement requirements of the subdivision regulations do not impose costs on the developer for such improvements that exceed those roughly proportionate to those incurred by the City in providing public facilities to serve the development.
- (3) The City Engineer may promulgate any application requirements that may assist in making the proportionality determination required by this subsection (c).
- (d) Commission and City Council determination. The Planning and Zoning Commission and City Council shall take into account the City Engineer's report concerning the proportionality of public infrastructure improvement requirements to be applied to a proposed preliminary or final plat application, as the case may be, in making its decision on the plat application, and shall identify any variation to the requirements that are to be included as conditions to plat approval.
- (e) Appeals.
 - (1) Who may appeal. An appeal to the City Council under this subsection (e) may be filed by a property owner or the applicant for a preliminary or final plat, in which a requirement to dedicate land for, construct or pay a fee, other than an impact fee, for a public infrastructure improvement has been applied or attached as a condition of approval, or as grounds for denying the plat application.
 - (2) Time for filing and request for extension of time. The appeal shall be filed in writing within 10 days of the date the Planning and Zoning Commission takes action to recommend applying the public infrastructure improvement requirement to the plat application. The appeal shall be filed with the City Manager or the manager's designee and shall be forwarded to the City Council for consideration in conjunction with its deliberations on the plat application. The applicant may request postponement of consideration of the plat application by the City Council pending preparation of the study required by subsection (4) below, in which case the applicant must officially withdraw the plat application from consideration.
 - (3) Form of appeal. An appeal under this subsection (e) shall allege that application of the standard or the imposition of conditions relating to the dedication, construction or fee requirement (other than impact fees adopted under Texas Local Government Code Chapter 395) is not roughly proportional to the nature and extent of the impacts created by the proposed development on the City's public facilities systems, or does not reasonably benefit the proposed development.
 - (4) Study required. The appellant shall provide a study in support of the appeal that includes the following information within 30 days of the date of appeal, unless a longer time is requested:
 - (A) Total capacity of the City's water, wastewater, street, drainage or park

system to be utilized by the proposed development, employing standard measures of capacity and equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the development. If the proposed development is to be developed in phases, such information also shall be provided for the entire development proposed, including any phases already developed.

- (B) Total capacity to be supplied to the City's water, wastewater, street, drainage or park facilities system by the dedication of an interest in land, construction of improvements or fee contribution. If the plat application is proposed as a phased development, the information shall include any capacity supplied by prior dedication, construction or fee payments.
 - (C) Comparison of the capacity of the City's public facilities system(s) to be consumed by the proposed development with the capacity to be supplied to such system(s) by the proposed dedication of an interest in land, construction of improvements, or fee payment. In making this comparison, the impacts on the City's public facilities system(s) from the entire development shall be considered.
 - (D) The amount of any City participation in the costs of oversizing the public infrastructure improvement to be constructed in accordance with the City's requirements.
 - (E) Any other information that shows the alleged disproportionality between the impacts created by the proposed development and the dedication, construction or fee requirement imposed by the City.
- (f) Land in extraterritorial jurisdiction. Where the subdivision or the public infrastructure improvements are located in the extraterritorial jurisdiction of the City and are to be dedicated to a county under an interlocal agreement under Texas Local Government Code Chapter 242, an appeal or study in support of the appeal shall not be accepted as complete for filing by the City Manager unless the appeal or study is accompanied by verification that a copy has been delivered to Grayson County.
- (g) Decision. The City Council shall decide the appeal in conjunction with its decision on the plat application. The council shall base its decision on the criteria listed in subsection (h) of this section, and may take one of the following actions:
- (1) Deny the appeal, and impose the standard or condition on the plat application in accordance with the City Engineer's recommendation or the Planning and Zoning Commission's recommendation on the plat; or
 - (2) Deny the appeal, upon finding that the proposed dedication, construction or fee requirements are inadequate to offset the impacts of the subdivision on the public facilities system for water, wastewater, street, drainage or park improvements, and either deny the plat application or require that additional public infrastructure improvements be made as a condition of approval of the application; or
 - (3) Grant the appeal, and waive in whole or in part any dedication, construction or fee requirement for public infrastructure improvements to the extent necessary to achieve proportionality; or
 - (4) Grant the appeal, and direct that the City participate in the costs of acquiring land for or constructing the public infrastructure improvement under standard participation policies.

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

ARTICLE 10.04 CIVIL PLANS AND ACCEPTANCE OF IMPROVEMENTS

Sec. 10.04.001 Civil Plan Preparation.

- (a) The developer shall retain a licensed professional engineer, registered in the State of Texas, to prepare the plans and specifications and supervise the construction of the streets and utilities. This professional engineer is responsible for the accuracy, completeness, and conformance to all applicable local, state, and federal standards. The City has no project design or engineering responsibility or liability.
- (b) The developer shall retain a licensed surveyor, registered in the State of Texas, to make all property surveys, prepare the plat, set the property monuments and lot corners and do the necessary construction staking. Monuments shall be set on-site in accordance with the coordinate system, boundary locations, and materials specified in the Engineering Design Standards Manual, prior to City acceptance of the Final Plat.

- (c) The developer shall pay all fees and charges for engineering and surveying services required by this Chapter.
- (d) The provisions of this section will not apply to utilities such as gas, telephone, and electric power, where such utilities are designed and constructed by private companies who are franchised to operate in the City.

Sec. 10.04.002 Civil Plan Application Procedure.

- (a) General.
 - (1) Prior to the construction of any streets or utilities, Civil Plans adhering to the requirements of this Chapter and the Engineering Design Standards Manual shall be submitted to the City Engineer for review and consideration of approval.
 - (2) The specifications and details provided in a complete set of Civil Plans will be reviewed by the City Engineer for conformance with this Chapter and other applicable standards. The plans shall be approved in writing prior to any construction.
 - (3) Prior to construction the developer shall present to the City Engineer a signed and notarized Three Party Agreement in accordance with Section 10.04.004 of this Chapter.
 - (4) The City Engineer shall schedule a pre-construction meeting before a Notice to Proceed (NTP) can be issued for construction of public infrastructure.
 - (5) The City Engineer shall be notified prior to the beginning of construction so that inspections can be arranged.
- (b) Plan submittal process. The Civil Plan set shall be provided to the City in a manner consistent with the fees, application forms, and checklists published in the Development Guide. The plans shall be prepared with the specifications, engineer calculations, plan profiles, details, and other pertinent information necessary for review, as listed in the submittal requirements found in the Engineering Design Standards Manual.

Sec. 10.04.003 Guarantee of Public Improvements.

- (a) Developer's guarantee. Before final acceptance of a subdivision located all or partially within the City or its extraterritorial jurisdiction, the City must be satisfied that all required public improvements have been constructed in accordance with the approved engineering plans and with the requirements of this Chapter.
- (b) Subdivision improvement agreement and guarantee. The City Manager may waive the requirement that the applicant complete and dedicate all public improvements prior to final acceptance of the subdivision and may permit the developer to enter into a subdivision improvement agreement by which the developer covenants to complete all required public improvements no later than two years following the date upon which the remainder of the subdivision is accepted. The City Manager may also require the developer to complete or dedicate some of the required public improvements prior to final acceptance of the subdivision, and to enter into a subdivision improvement agreement for completion of the re-

mainder of the required improvements during such two-year period. The subdivision improvement agreement shall contain such other terms and conditions as are agreed to by the developer and the City.

- (c) Security. Whenever the City permits an applicant to enter into a subdivision improvement agreement, it shall require the applicant to provide sufficient security, covering the completion of the public improvements. The security shall be in the form of cash escrow or, where authorized by the City, a performance bond or letter of credit or other security acceptable to the City Manager and the City Attorney, as security for the promises contained in the subdivision improvement agreement. Security shall be in an amount equal to 110% of the estimated cost of completion of the required public improvements and lot improvements. The City Engineer shall review and approve the cost estimates provided by the developer. Any security instrument, including a bond, letter of credit, or escrow agreement shall be subject to the review and approval of the City Engineer and the City Attorney.
- (d) Performance bond.
 - (1) Requirements. If the City Council authorizes the applicant to post a performance bond as security for its promises contained in the subdivision improvement agreement, the performance bond shall comply with the following requirements:
 - (A) All performance bonds must be in the forms acceptable to the City Engineer and the City Attorney;
 - (B) All performance bonds must be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," as published in Circular 570, as may be amended, by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury;
 - (C) All performance bonds must be signed by an agent, and must be accompanied by a certified copy of the authority for him or her to act;
 - (D) All performance bonds shall be obtained from surety or insurance companies that are duly licensed or authorized in the State of Texas to issue performance bonds for the limits and coverage required.
 - (2) Additional surety. If the surety on any performance bond furnished by the applicant is declared bankrupt, or becomes insolvent, or its right to do business is terminated in the State of Texas, or the surety ceases to meet the requirements listed in Circular 570, the developer shall, within 20 calendar days thereafter, substitute another performance bond and surety, both of which must be acceptable to the City.
 - (3) Withholding until improvements or other surety. The City may withhold building permits, certificates of occupancy or utility connections until such improvements are completed or other surety is provided to the City.
- (e) Letter of credit. If the City Manager authorizes the applicant to post a letter of credit as security for its promises contained in the improvement agreement, the letter of credit shall:
 - (1) Be irrevocable;
 - (2) Be for a term sufficient to cover the completion, maintenance and warranty periods, but in no event less than two years; and

- (3) Require only that the City present the issuer with a signed draft and a certificate signed by an authorized representative of the City certifying to the City's right to draw funds under the letter of credit.
- (f) Reducing amount of surety. As portions of the public improvements are completed in accordance with the design standards and the approved engineering plans, the applicant may make written application to the City to reduce the amount of the original security. If the City is satisfied that such portion of the improvements has been completed in accordance with City standards, the City Manager (or designee) may cause the amount of the security to be reduced by such amount that he or she deems appropriate, so that the remaining amount of the security adequately insures the completion of the remaining public improvements.
- (i) Escrow policies and procedures for streets.
 - (1) Request for escrow. Whenever this Chapter requires a property owner to construct a street or thoroughfare, the property owner may petition the City to construct the street or thoroughfare, usually at a later date, in exchange for deposit of escrow as established in this section.
 - (A) The basis of such petition shall be the existence of unusual circumstance(s), such as a timing issue due to pending street improvements by another agency such as TxDOT or Grayson County that would present undue hardships or that would impede public infrastructure coordination or timing.
 - (B) If more than one street or thoroughfare must be constructed in order to meet adequacy requirements for streets, the City Manager (or designee) may prioritize streets for which escrow is to be accepted and require the deposit of all funds attributable to the development in escrow accounts for one or more of such affected streets.
 - (C) The City Council shall review the particular circumstances involved, and shall determine, at its sole discretion, whether or not provision of escrow deposits will be acceptable in lieu of the property owner's obligation to construct the street or thoroughfare with his or her development.
 - (2) Escrow deposit with the City. Whenever the City Council agrees, under this Chapter, to accept escrow deposits in lieu of construction by the property owner or developer of the street or thoroughfare, the property owner or developer shall deposit in escrow with the City an amount equal to costs of the following:
 - (A) Administration;
 - (B) Advertisements;
 - (C) Bidding;
 - (D) Contingency;
 - (E) Testing;
 - (F) Design;
 - (G) Construction;
 - (H) Permits;
 - (I) Reviews and approvals;

- (J) Inspections;
 - (K) Any additional land acquisition; and
 - (L) An appropriate (and realistic) inflation factor to ensure that the actual “future dollar” costs will be covered when actual construction occurs in the future.
- (3) Determination of escrow amount. The amount of the escrow shall be determined by using the maximum comparable “turn-key” bid price of construction of the street or thoroughfare improvements (including the items listed in subsection (2) above). Such determination of the escrow amount shall be made as of the time the escrow is due hereunder and shall be subject to the review and approval of the City Manager (or designee) and the City Engineer. The escrow amount shall be paid prior to release (approval) of engineering plans by the City Engineer. The obligations, responsibilities, and related liability of the property owner shall become those of the property owner’s transferees, successors and assigns.
- (4) Use of escrow. Escrowed amounts, along with any interest accrued on such amount, may be used for the purposes outlined in subsection (2) above in order to undertake construction of the facilities that are required as part of the development for which the escrow was submitted.
- (5) Termination of escrow. Escrows, or portions of escrowed amounts, which have been placed with the City under this section and which have been held for a period of 10 years from the date of such payment or agreement, in the event that the City has not authorized the preparation of plans and specifications for construction of such street facilities for which the escrow was made, shall, upon written request, be returned to the property owner, along with its accrued interest. Such return does not remove any obligations of the property owner for construction of the required facilities if a building permit has not been issued on the subject lot or if a new building permit is applied for.
- (6) Refund. If any street or highway for which escrow is deposited is constructed by a party other than the City or is reconstructed by another governmental authority at no cost to the City, the escrowed funds and accrued interest shall be refunded to the property owner or applicant who originally paid the escrow amount after completion and acceptance of the public improvements. In the event that a portion of the cost is borne by the City and the other portion of the cost by another party or governmental authority, the difference between the property owner’s actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.
- (7) Interest limitation. If money is refunded within six months of deposit, only the principal shall be refunded. Monies returned after this date will be refunded with 1/2 of its accrued interest.

Sec. 10.04.004 Three-Party Agreement

- (a) Prior to construction, the developer shall present to the City a Three-Party Agreement on a form obtained from and approved by the City Engineer. This contract shall itemize the

- obligations of the developer, contractor, and the City, along with any specific requirements granted for the proposed subdivision.
- (b) No work shall be performed within the proposed subdivision until the Three-Party Agreement has been signed and properly notarized by the developer, contractor, and the City.
 - (c) No work shall be performed within the proposed subdivision until the developer presents to the City all required forms, as specified in Article 10.04. of this Chapter.

Sec. 10.04.005 Inspection and Acceptance of Public Improvements

(a) General procedure.

- (1) The subdivider shall provide inspection service through his/her engineer to ensure that construction is being accomplished in accordance with the plans and specifications approved by the City Engineer.
 - (A) The subdivider shall notify the public works director 48 hours prior to commencement of construction. This notice shall give the location and date of the start of construction.
 - (B) The City shall have the right to inspect any construction work being performed to ensure that it is proceeding in accordance with the intent of the provisions of this Chapter.
 - (C) Any change in design that is required during construction should be made by the licensed professional engineer whose seal and signature are shown on the plans. Another engineer may make revisions to the original engineering plans if so authorized by the owner of the plans, and if those revisions are noted on the plans or documents. All revisions shall be approved by the City Engineer.
 - (D) If the City Engineer finds, upon inspection, that any of the required public improvements have not been constructed in accordance with the approved construction plans, the City's standards and/or the design standards, then the developer shall be responsible for completing and correcting the deficiencies (at his/her expense) such that they are brought into conformance with the applicable standards.
- (2) Testing laboratory services will be arranged by the City and paid for by the developer. It shall be the responsibility of director of public works (or designee) to coordinate the scheduling of all required tests with the testing laboratory. Testing shall be conducted in accordance with the procedures set forth in design standards for like work at the frequency specified thereon as directed by the City Engineer.

(b) Letter of satisfactory completion.

- (1) The City will only deem required public improvements satisfactorily completed when the applicant's engineer has certified to the City Engineer (through submission of detailed sealed "as-built," or record, drawings of the property) drawings that indicate all public improvements and their locations, dimensions, materials and other information required by the City Engineer, and when all required public improvements have been completed.

- (A) The “as-builts” shall also include a complete set of sealed record drawings of the paving, drainage, water, sanitary sewer and other public improvements, showing that the layout of the lines and grades of all public improvements are in accordance with engineering plans for the plat, and showing all changes made in the plans during construction, and containing on each sheet an “as-built” stamp bearing the signature and seal of the licensed professional engineer and the date.
 - (B) One reproducible drawing of the utility plan sheets containing the as-built information shall also be submitted.
 - (C) The developer’s engineer and/or RPLS shall also furnish the City with a copy of the approved final plat and “as-built” engineering plans, in such a digital format (on disk) that is compatible with the City CAD system.
- (2) When the requirements of subsection (1) above have been met to the development services director and City Engineer’s satisfaction, and when a maintenance bond has been received and approved as required in section 10.04.007 of this article, the City Manager shall issue a letter of satisfactory completion.
- (c) Effect of acceptance. Acceptance of the development shall mean that the developer has transferred all rights to all the public improvements to the City for use and maintenance, subject to the two-year maintenance bond.

Sec. 10.04.006 Acceptance of Improvements

- (a) When the public improvements have been installed and final inspection has been acknowledged to meet all City standards, the City Engineer shall indicate to the developer that the streets and utilities are acceptable to the City. The developer shall then provide to the City Engineer a complete set of digital plans of the record drawings. Each sheet of these drawings shall be plainly marked “Plans of Record” which shall include a statement signed by the professional engineer that all improvements have been installed and constructed in accordance with this Chapter signed by the professional engineer who prepared the plans and supervised the construction. Record drawings must include any field changes and show actual built conditions, with additional specification found in the Engineering Design Standards Manual, Section 1.
- (b) Upon receipt of the plans of record drawings and all fees, the City Engineer will issue a formal notice of acceptance of the public improvements.

Sec. 10.04.007 Maintenance of Improvements

- (a) A written guarantee that all workmanship and materials associated with public improvements shall be free of defects for a period of two (2) years from the date of acceptance by the City Engineer shall be provided to the City. A 2-year maintenance bond in the amount of 110 percent of the total construction cost of all workmanship and materials shall be submitted to the City per an approved City form.
- (b) Public improvements constructed to a standard varying from City specifications but approved by the City Engineer shall be accompanied by a maintenance agreement with a Property Owners’ Association for the proper and continuous operation, maintenance, and

supervision of such facilities. A copy of the agreement(s) providing for such shall be presented to the City Engineer and approved as to form by the City Attorney prior to recordation of a Final Plat and shall be filed of record with the plat thereof.

- (c) The City shall not repair or maintain any infrastructure that has not been accepted by the City Engineer with the requisite maintenance guarantee.

Sec. 10.04.008 Withholding City Services and Improvements Until Acceptance.

- (a) General policy. The City hereby defines its policy to be that the City will withhold all City services and improvements of any type until all required improvements are properly constructed according to the approved engineering plans and to City standards, and until such public improvements are dedicated to and accepted by the City. This policy of withholding includes subdivision improvements as well as lot improvements.

- (1) Subdivision improvements. Subdivision improvements include street maintenance, extension of City services from any subdivision or property, and all street, utility, storm drainage and other public improvements.
 - (2) Lot improvements. Lot improvements include retaining walls, grading, and improvements required for proper lot drainage and prevention of soil erosion.

ARTICLE 10.05 ADMINISTRATIVE PROVISIONS

Sec. 10.05.001 Nonconforming Situations

- (a) Nonconforming Lots. A nonconforming lot is a lot of record that does not meet the minimum area or dimensional requirements of either this Chapter or the zoning district in which the lot is located. Such nonconforming lots lawfully existing prior to June 3, 2024, shall be considered a legal nonconforming lot. A legal nonconforming lot may continue to exist indefinitely as is and can be developed as if it were a conforming lot, but only if the proposed land use is permitted in the assigned zoning district and all development standards are met. The owner of a nonconforming lot may eliminate the nonconformity through subdivision of land, rezoning to a different zoning district or seeking a variance. No new division of any lot or parcel shall be made that expands the existing nonconformity or creates a new nonconforming situation.
- (b) Governmental Acquisition of Right-of-Way. A lawful structure, lot or site made nonconforming regarding any requirement of this Chapter due to the acquisition of right-of-way by eminent domain, dedication, or purchase by a city, county, state, or federal agency shall be deemed legal nonconforming. Such exemption shall apply only to noncompliance that is a direct result of the acquisition of right-of-way.

Sec. 10.05.002 Penalty for Violations

- (a) The City may institute appropriate legal action to enforce the provisions of this Chapter or the standards referred to herein with respect to any violation thereof which occurs within the City, within the extraterritorial jurisdiction of the City, or within any area subject to all or a part of the provisions of this Chapter.

- (1) A violation of any of the provisions of this Chapter or failure to comply with any of its requirements shall constitute a class C misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$2,000.00 and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
- (2) A violation of any of the provisions of this chapter by the owner, tenant, occupant or manager of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a class C misdemeanor with a fine of not more than \$2,000.00 per day and each day the violation occurs is a separate offense.
- (3) Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation including temporary restraining orders and temporary and permanent injunctions.
- (4) An owner, occupant, tenant, manager or other person who violates any provision of this chapter or who participates in, assists in or maintains a violation of this Chapter is subject to a civil penalty of up to \$1,000.00 per day for each violation and each day the violation occurs shall be a separate offense.

Sec. 10.05.003 Prior Approvals

- (a) Prior approvals. Conditions and variances approved prior to the adoption of this Chapter are still in effect unless the conditions of the approvals are not met or the use changes.
- (b) Prior violations cited. Violations cited prior to the adoption of this Chapter are still in effect and compliance is enforceable.
- (c) Existing permits under construction. Nothing herein contained shall require any change in the plans, construction, or designated use of a building under construction at the time of the adoption of this Chapter.
- (d) Existing permits not under construction. Nothing herein contained shall require any change in plans, construction, or designated use of a building for which a building permit has been issued within 30 days prior to June 3, 2024, provided construction is started on said building within 120 days after adoption of this ordinance.

Sec. 10.05.004 Estoppel/Waiver

The failure of the City to enforce any term or condition of this Chapter shall not constitute a waiver or estoppel or any subsequent violation of this Chapter.

Sec. 10.05.005 Payment of all indebtedness attributable to a specific property.

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

or obligations have been paid at the time of submission for any application for approval under these subdivision regulations. A tax certificate shall also be provided as required by Section 12.002 of the Texas Property Code.

Sec. 10.05.006 Right to deny hearing and plat.

The City may deny a hearing and any application pursuant to this Chapter if the applicant does not submit all information and fees required by this Chapter.

Sec. 10.05.007 Misrepresentation of facts.

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

Sec. 10.05.008 Diversity of ownership.

Where the desirable development of a residential neighborhood, business park, commercial center, or other planned development is dependent upon coordination of diverse land ownership (i.e., separate tracts of land owned by more than one person), the Development Services Director may require that an overall area or neighborhood study be prepared prior to and as an additional requirement and condition of the submission of any plat application so that individual subdivisions may be developed in harmony with one another and their environs in accordance with the comprehensive plan.